

BINGHAM

ORIGINAL

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July 10, 2009

Via Federal Express

Honorable Jaclyn A. Brilling, Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Petition of Fiber Technologies Networks, L.L.C.

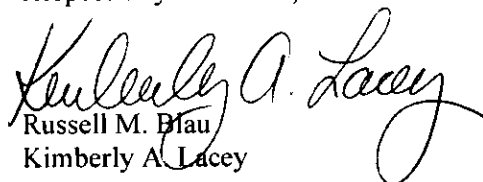
Dear Ms. Brilling:

On behalf of Fiber Technologies Networks, L.L.C. ("Petitioner"), enclosed for filing with the Commission are an original and nine (9) copies of the Petition to transfer Petitioners franchise rights and authorization to hold the stock of Fiber Technologies New York Networks, Inc. which is simultaneously filing an application for certification as a common carrier.

As further discussed in the Petition, the Petitioner respectfully requests inclusion of this request on the agenda for the Commission's August 20, 2009 meeting.

Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided. Should you have any questions, please do not hesitate to contact Russell M. Blau at (202) 373-6035.

Respectfully submitted,


Russell M. Blau
Kimberly A. Lacey

Counsel for Petitioner

cc: Saul Abrams

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**BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION**

Petition of	:	
	:	
Fiber Technologies Networks, L.L.C.	:	Case No.
	:	
For Authority for (1) transfer of Fibertech's	:	
franchise rights and (2) ownership of stock of	:	
Fiber Technologies New York Networks, Inc.	:	

PETITION

Fiber Technologies Networks, L.L.C. ("Fibertech") ("Petitioner"), pursuant to New York Public Service Law §§ 99 and 100, and the Commission's rules respectfully requests Commission approval, to the extent required, (1) for the transfer of certain of Fibertech's rights under its franchise agreements to Fiber Technologies New York Networks, Inc., (2) for Fibertech to form and wholly own all of the stock of Fiber Technologies New York Networks, Inc.; and (3) for Fiber Technologies New York Networks, Inc. to operate as a local exchange and interexchange telephone corporation in the State of New York. As more fully described below, Fibertech also respectfully asks that this Petition be placed on the Commission's agenda for its August 20, 2009 meeting.

In support of this filing, Petitioner provides the following information:

I. DESCRIPTION OF THE PARTIES

A. Fiber Technologies Networks, L.L.C.

Fiber Technologies Networks, L.L.C. ("Fibertech") is a New York limited liability company. Fibertech has its principal office located at 300 Meridian Centre, Rochester, New York 14618 and holds a Certificate of Public Convenience and Necessity as a facilities-based common carrier from the Commission.

B. Fiber Technologies New York Networks, Inc.

Fiber Technologies New York Networks, Inc. is a newly formed New York corporation, which is wholly owned by Fibertech. The principal business office of Fiber Technologies New York Networks, Inc. will be located at 300 Meridian Centre, Rochester, New York 14618.

This entity does not currently hold any telecommunications authorizations in New York or any other jurisdiction. Simultaneously with this petition, Fiber Technologies New York Networks, Inc. is filing an application for a Certificate of Public Convenience and Necessity to provide facilities-based local exchange and interexchange telecommunications services to Fibertech and to Fibertech's customers in New York State.

II. CONTACTS

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following.

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Kimberly A. Lacey
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Washington, D.C. 20006
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Charles B. Stockdale
Vice President & General Counsel
Fiber Technologies New York, L.L.C.
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Rochester, NY
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III. DESCRIPTION OF REQUESTED APPROVALS

A. Transfer of Franchise Rights

Fibertech holds multiple franchises allowing it to use certain public rights-of-way in New York State. In order to facilitate development of new fiber-optic network infrastructure which will be deployed under the rights provided in these franchise agreements, Fibertech requests authority under Section 99 of the New York Public Service Law to assign or transfer

some or all of its rights under these franchise agreements to Fiber Technologies New York Networks, Inc., to the extent such assignments or transfers are permitted under the terms of the franchise agreements. This will allow the newly formed corporation to more quickly and efficiently utilize these rights and construct and provide service to new customers.

B. Ownership of Stock

As a certified telecommunications provider in New York, Fibertech requests authority under Section 100 of the New York Public Service Law to own all of the stock of Fiber Technologies New York Networks, Inc. Fibertech will be the sole stockholder, will appoint all officers and directors, and will retain all authority over the new corporation. The formation of this subsidiary will facilitate the development and provision of new services to customers in New York.

IV. PUBLIC INTEREST CONSIDERATIONS

Petitioner submits that the requests described herein will serve the public interest. Fibertech has incurred obligations to customers to deploy, within a matter of weeks, extensive broadband network facilities connecting numerous locations in New York State. These facilities include the early stages of a 200+ mile network expansion that will reach far into Western New York and significantly expand services in rural areas. Many of these facilities will be attached to poles located in the State highway right-of-way. Because the New York State Department ("DOT") has asserted that limited liability companies are not entitled to install or maintain facilities in the State highway right-of-way in New York, it is necessary for Fiber Technologies New York Networks, Inc., and not Fibertech (an LLC), to install and own the network facilities whose deployment will allow Fibertech to meet its commitments to its customers. In order to satisfy DOT's standards of legal entitlement to obtain work permits for installation of facilities in the State highway right-of-way, a company must not only be formed

under a law other than a limited liability company law, but it must also have received a CPCN from this Commission. In order that Fibertech may satisfy its commitment to customers to deliver service during August 2009, this petition must be approved and Fibertech Technologies New York Networks, Inc. must receive a CPCN pursuant to a determination reached by this Commission in its session scheduled for August 20, 2009.

Approval of this transfer of franchise rights and stock ownership described herein will serve the public interest in promoting competition among telecommunications carriers by allowing Petitioner the opportunity to maintain and grow its competitive position by providing wider reaching and varied services to rural communities. These changes will in no way impair the ability of Fibertech or Fiber Technologies New York Networks, Inc. to perform their services, are necessary and appropriate, are consistent with the performance by Fibertech of its services to the public, and promote the corporate purposes of the Petitioner. Except for the assignment of franchise rights, Fibertech does not propose to transfer any of its existing assets or assign any of its existing customers to Fiber Technologies of New York Networks, Inc., and service to all existing customers of Fibertech will continue uninterrupted. The proposed transactions will be transparent to customers and will not disrupt service, or cause customer confusion or inconvenience.

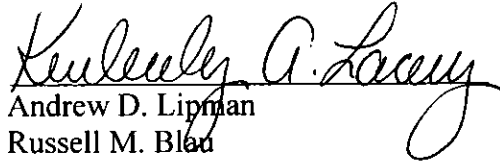
The transactions described herein will not result in a change of carrier for customers or any assignment of existing Commission authorizations. Further, the rates, terms and conditions of services currently provided by Fibertech to its customers will not change as a result of the authorizations.

IV. CONCLUSION

WHEREFORE, for the reasons set forth above, Petitioners request Commission approval (1) for the transfer of Fibertech's rights under its franchise agreement to Fiber

Technologies New York Networks, Inc., and (2) for Fibertech to form and wholly own all of the stock of Fiber Technologies New York Networks, Inc. In addition, Fibertech respectfully requests inclusion of this Petition on the agenda for the Commission's August 20, 2009 meeting in order to resolve these issues as quickly and efficiently as possible.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kimberly A. Lacey", is written over the printed name.

Andrew D. Lipman

Russell M. Blau

Kimberly A. Lacey

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Dated: July 10, 2009

Verification

STATE OF NEW YORK

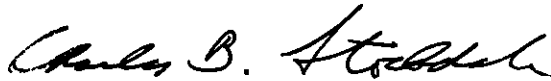
MONROE COUNTY

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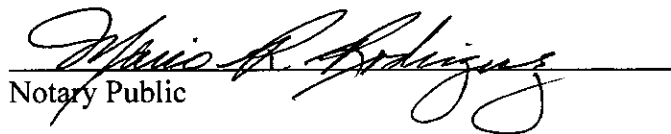
VERIFICATION

I, Charles B. Stockdale, state that I am Vice President and General Counsel of Fibertech Networks, LLC, the sole member of Fiber Technologies Networks, L.L.C. ("Petitioner"); that Petitioner is a Party in the foregoing filing; that I am authorized to make this Verification on behalf of Petitioner; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.



Charles B. Stockdale
Vice President and General Counsel
Fibertech Networks, LLC, the sole member of
Fiber Technologies Networks, L.L.C.

Sworn and subscribed before me this 9TH day of July, 2009.


Notary Public

My commission expires: May 14, 2011

MARIO R. RODRIGUEZ
NOTARY PUBLIC STATE OF NEW YORK
REG. NO. 60366512
QUALIFIED IN MONROE COUNTY
MY COMMISSION EXPIRES MAY 14, 2011