

**ORIGINAL**

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August 7, 2000

**VIA OVERNIGHT DELIVERY**

Debra Renner  
Acting Secretary  
New York Public Service Commission  
Agency Building 3  
Three Empire State Plaza  
Albany, NY 12223-1350

Re: Application of TalkingNets Holdings, LLC for Authority to Provide Resold  
and Facilities-Based Local Exchange Service throughout the State of New York

Dear Ms. Renner:

On behalf of TalkingNets Holdings, LLC ("TalkingNets"), enclosed for filing are an original and three (3) copies of the above-referenced Application. Please date-stamp the enclosed extra copy of this filing and return it in the postage paid, self-addressed envelope provided. Should you have any questions, please do not hesitate to contact the undersigned. *ack wew*

Respectfully submitted,



Russell M. Blau  
Counsel for TalkingNets Holdings, LLC

Enclosures

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Debra Renner  
August 7, 2000  
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cc: Steve Goodman  
Benjamin L. Arizmendi

Application Form A

APPLICATION FOR CERTIFICATION AS A COMMON CARRIER

**Instructions:**

Complete this application to the best of your knowledge. Any inaccuracies or deficiencies will be promptly corrected or the application may be returned. The applicant must sign and date the application before mailing an original and three copies to: Honorable Debra Renner, Acting Secretary to the Commission, Three Empire State Plaza, Albany, NY 12223-1350. If this application is granted, the company must comply with all applicable rules and regulations of the Public Service Commission.

**1. Identification of Applicant and principle business office:**

The applicant is TalkingNets Holdings, LLC ("TalkingNets" or "Applicant"), a Delaware company formed on June 1, 2000. Applicant maintains its principal place of business at:

TalkingNets Holdings, LLC  
1213 Culbreth Drive  
Wilmington, NC 28405  
Telephone: (910) 256-0770  
Facsimile: (910) 256-6979

TalkingNets' officers and directors are as follows:

**Officers:**

John Phillips, III	President and Chief Executive Officer
Anatol Surak, Jr.	Secretary/Treasurer

**Directors:**

John Phillips, III  
Anatol Surak, Jr.  
Eric S. Copeland  
Barbara Melera

All Officers and Directors may be reached at the above address.

2. **Provide a copy of the company's certificate of incorporation and, if not incorporated in New York State, a copy of the authority to transact business in New York State (foreign business authority). If not incorporated, attach a list of the names, addresses, and telephone numbers of the company's owners.**

Attached as Exhibits A and B are Applicant's Certificate of Formation and Certificate of Authority to transact business in the State of New York, respectively.

3. **Include a general description of the services to be offered and how it would enhance competition in the area to be served.**

TalkingNets seeks authority to provide resold and facilities-based local exchange telecommunications and intrastate interexchange services to customers throughout the state of New York. TalkingNets seeks authority to provide these services utilizing a combination of its own facilities and, where necessary, resold facilities of other carriers. Applicant plans to offer its services to small and medium-size businesses, as well as residential customers. Exchange services may include, - but will not be limited to - the following: (i) local exchange access services to single-line and multi-line customers (including basic residential and business line service, direct inward/outward PBX trunk service, Centrex services and ISDN service); (ii) local exchange services to customers of Applicant's end user access line services; and (iii) switched and special carrier access services to other common carriers. In addition, Applicant intends, through interconnection with other carriers, to offer 911 and enhanced 911 emergency services, directory assistance and operator assisted calling, dual party relay services, and other miscellaneous services currently provided by existing local exchange carriers, and as required by the Commission's local exchange telecommunication rules. Each of these services will provide dial tone access to the public switched telecommunications network and may be equipped with various features and functions.

The public interest and convenience will be furthered by Commission approval of this Application. Applicant's proposed services will meet the needs of business and individual users for competitively priced superior quality services. Indeed, Commission approval of the instant Application will foster competition in intrastate communications markets and generate significant benefits to New York telecommunications users including the following: (i) low priced and high quality services; (ii) innovative telecommunications services; and (iii) efficient use of existing communications resources, as well as increased diversification and reliability of the supply of communications services.

**4. Description of the plant and system to be constructed and the anticipated construction schedule.**

TalkingNets plans to use Internet Protocol (IP) telecom architecture to provide high-quality voice and data services as well as enhanced web-based applications for its customers. TalkingNets will transport its packet-based voice services to the end user by utilizing bandwidth on high-speed Internet connections. TalkingNets will utilize high-capacity backbone routes to connect to other voice and data carriers and to the long distance network. TalkingNets also plans to link its network to the incumbent LEC in order to facilitate interconnection with the latter's network. To maximize reliability and efficiency of service, TalkingNets will build hub sites and will monitor its network with sophisticated management equipment for transmission errors and deterioration in service.

TalkingNets proposes to provide service through the use of unbundled network elements purchased from other carriers and through the resale of others' services. TalkingNets plans to install a switched network to carry its voice and data traffic. TalkingNets will establish a Hub in each metropolitan area where it intends to provide service.

Construction and installation of TalkingNets' network will take place during the late part of 2000 or the early part of 2001. Until that time, TalkingNets will resell the services of other carriers.

5. **A statement as to whether the company has ever acquired a customer by switching it from another company without the customer's authorization. If the company has ever acquired a customer by switching it from another company without the customer's authorization, please provide an explanation.**

Applicant has never acquired a customer by switching it from another company without the customer's authorization.

6. **A statement as to whether the company was ever the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another. If the company was ever the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another, please provide an explanation.**

Applicant has not been the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service.

7. **Company's Federal Social Security Account Number and/or Federal Employer Identification Number.**

Applicant's Federal Employer Identification Number is 52-2203440

8. **If applying for authorization to provide local exchange service (residential and/or business dialtone) describe how your company will provide access to public safety/emergency telephone services, access to the statewide relay system and lifeline service. In addition, the applicant must comply with the requirements enumerated on pages 30 - 31 of the Commission's Order in Case 94-C-0095, issued May 22, 1996. The Commission will entertain waivers of any of these specific requirements only on a case-by-case basis. Please describe briefly how you plan to comply with these requirements. If you do not plan to provide local exchange services, please state so here.**

As noted above, Applicant seeks authority to provide facilities-based interexchange and facilities-based local exchange telecommunications services within New York. Applicant understands and hereby agrees to comply with the requirements imposed on local exchange

carriers by the Commission in its May 22, 1996 order ("Order"). Applicant also agrees to abide by any rules governing the provision of local exchange service subsequently issued by the Commission.<sup>1</sup>

- A. A local exchange carrier must file tariffs to provide local exchange service (a subscriber's initial access to the "public switched network") within a geographic area or areas defined by the carrier and filed with the Commission.**

Applicant will file a local exchange, interexchange, and exchange access tariff shortly after filing this application. Applicant understands that it cannot initiate services until tariffs have been submitted and approved by the Commission.

- B. All providers of local exchange service must:**

- i) provide, without undue discrimination or preference, service to any willing customer within the carrier's defined service territory;**

Applicant will comply with this requirement upon any future provision of competitive local exchange services.

- ii) provide access to public safety/emergency telephone services (911, E-911, 0-), the statewide relay system, and Lifeline service;**

Applicant intends to provide access to public safety/emergency telephone services, and the statewide relay system. Applicant will also provide Lifeline services to low income customers in conformance with Commission and FCC rules.

- iii) comply with the Commission's Telephone Fair Practices rules (TFPA) (16 NYCRR Part 633, et seq.)**

Applicant intends to comply with Part 633 unless and until the Commission exempts Applicant or waives such rules as they may apply to Applicant's services.

- iv) comply with the Commission's common carrier rules (16 NYCRR Part 605);**

Applicant will abide by the common carrier rules in Part 605.

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<sup>1</sup> The Commission has issued an order temporarily waiving various regulations for non-incumbent facilities-based local exchange companies. In the Matter of Certification Procedures and Requirements for Telephone Corporations, Case 97-C-0568, "Order Waiving Rules on a Temporary Basis" (Sept. 5, 1997). Such waivers should also apply to Applicant.

- v) **comply with the Commission's Statement of Policy on Privacy in Telecommunications (Case No. 90-C-0075, issued March 22, 1991);**

Applicant will comply with this policy statement.

- vi) **comply with the Commission's Open Network Architecture (ONA) Principles (Case 88-C-0004, Opinion No. 89-28, issued September 11, 1989);**

Applicant will comply with the Commission's ONA Principles to the extent that the ONA principles apply to new entrants.

- vii) **provide reasonable interconnections for the joint provision of service to any duly certificate carrier requesting such interconnection;**

Applicant will abide by the Commission's rules regarding interconnection.

- viii) **comply with the Commission's service quality standards (16 NYCRR, Part 603).**

Applicant will comply with Part 603 unless and until the Commission exempts Applicant or waives such rules as they may apply to Applicant's services.

9. **If applying for authorization to provide local exchange service (residential and/or business dialtone), indicate whether your company will have "0-" emergency calls processed by the ILEC or other "0-" certified operator services provider, or intends to file a subsequent petition for "0-" certification of its own.**

At this time Applicant intends to have "0-" emergency calls processed by the ILEC or another certificated operator services provider. In the event Applicant wishes to provide these services itself, it will file a subsequent petition for "0-" authority.

10. **If applying for authorization to provide local exchange service (residential and/or business dialtone), include an intraLATA pre-subscription implementation plan.**

Applicant's intraLATA pre-subscription implementation plan is attached hereto as Exhibit F.

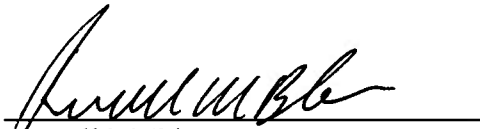
Applicant hereby requests that the Commission consider this Application on an expedited basis and accord the Applicant the same regulatory treatment applicable to other non-dominant

carriers, including exemption from the requirements of 16 NYCRR §§ 21.2 and 21.3, 16 NYCRR § 642, and of 16 NYCRR § 644.3.

This Application is correct to the best of my knowledge. Any inaccuracies or deficiencies will be promptly corrected. If this application is granted, the company will comply with all applicable rules and regulations of the Public Service Commission.

TalkingNets Holdings, LLC

By:



Russell M. Blau

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K Street, N.W., Suite 300

Washington, DC 20007-5116

Telephone: (202) 424-7500

Facsimile: (202) 424-7645

Counsel for TalkingNets Holdings, LLC.

**LIST OF EXHIBITS**

- |                  |  |
|------------------|--|
| <b>Exhibit A</b> | Certificate of Formation   |
| <b>Exhibit B</b> | Certificate of Authority to Transact Business in the State of New York |
| <b>Exhibit C</b> | Interexchange Tariff   |
| <b>Exhibit D</b> | Local Exchange Tariff  |
| <b>Exhibit E</b> | Exchange Access Tariff   |
| <b>Exhibit F</b> | IntraLATA Pre-subscription Implementation Plan                         |

**EXHIBIT A**

**Certificate of Formation**

State of Delaware  
Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "TALKINGNETS HOLDINGS, LLC", FILED IN THIS OFFICE ON THE FIRST DAY OF JUNE, A.D. 2000, AT 4:30 O'CLOCK P.M.



*Edward J. Freel*

Edward J. Freel, Secretary of State

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AUTHENTICATION: 0475045

DATE: 06-02-00

JUN 20 2000 13:01 FR PIPER MARBURY RUD 6

TO 18582#33:91#1#19 P.03/03

JUN 01 2000 16:25 FR PIPER MARBURY RUD 5  
Wednesday, May 31, 2000 5:45 PM

TalkingNets, Inc. (910) 256-6979

TO 999#1#10#1302674 P.02/02  
P.W.

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**CERTIFICATE OF FORMATION  
OF  
TALKINGNETS HOLDINGS, LLC**

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THE UNDERSIGNED, in order to form a limited liability company under and by virtue of the Delaware Limited Liability Company Act, DEL. CODE ANN., TIT. 6, §18-101 et seq., does hereby acknowledge and certify to the Delaware Secretary of State as follows:

1. The name of the limited liability company is:

TalkingNets Holdings, LLC

2. The address of the registered office of TalkingNets Holdings, LLC (the "Company") in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the Company's registered agent is The Corporation Trust Company.

3. The Company's Limited Liability Company Agreement, and all modifications and amendments thereto, shall be in writing.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the 1<sup>st</sup> day of JUNE, 2000.

  
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John A. Philips, III, Authorized Person

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\*\* TOTAL PAGE.03 \*\*

**EXHIBIT B**

**Certificate of Authority to Transact Business in the State of New York**

CERTIFICATE OF AUTHORITY UNDER SEC. 805 OF THE LIMITED LIABILITY COMPANY LAW

ENTITY NAME: TALKINGNETS HOLDINGS, LLC

DOCUMENT TYPE: APPLICATION FOR AUTHORITY (FOR LLC)

COUNTY: NEWY

SERVICE COMPANY: CT CORPORATION SYSTEM

SERVICE CODE: 07

FILED:07/07/2000 DURATION:\*\*\*\*\* CASH#:000707000651 FILM #:000707000639

ADDRESS FOR PROCESS

EXIST DATE

C/O CT CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011

07/07/2000

REGISTERED AGENT

C T CORPORATION SYSTEM
11 EIGHTH AVENUE
NEW YORK, NY 10011



THIS FILING HAS AN ASSOCIATED PUBLICATION REQUIREMENT. THE NEWSPAPERS IN WHICH THIS PUBLICATION IS TO BE MADE ARE DESIGNATED BY THE COUNTY CLERK OF THE COUNTY IN WHICH THE ENTITY'S OFFICE IS LOCATED. CONTACT THE RESPECTIVE COUNTY CLERK FOR FURTHER INFORMATION.

Table with columns: FILER, FEES, PAYMENTS, and sub-items like FILING, TAX, CERT, COPIES, HANDLING, CASH, CHECK, CHARGE, DRAWDOWN, BILLED, REFUND.

DOS-1025 (11/89)

**EXHIBIT C**

**Interexchange Services Tariff**

**(To be Filed Under Separate Cover)**

**EXHIBIT D**

**Local Exchange Services Tariff**

**(To be Filed Under Separate Cover)**

**EXHIBIT E**

**Exchange Access Tariff**

**(To be Filed Under Separate Cover)**

**EXHIBIT F**

**IntraLATA Pre-subscription Implementation Plan**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF NEW YORK**

**TALKINGNETS HOLDINGS, LLC**

**INTRALATA PRE-SUBSCRIPTION IMPLEMENTATION PLAN**

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**INTRODUCTION**

TalkingNets Holdings, LLC ("TalkingNets") has implemented the following processes which are designed to give end user customers the opportunity to designate a carrier for their intraLATA toll call traffic in those market areas where TalkingNets is a local exchange service provider. IntraLATA toll calls will automatically be directed to the designated carrier without the customer having to dial an access code.

**GENERAL INFORMATION**

TalkingNets will deploy multiple-PIC ("Primary Interexchange Carrier") technology in its switches enabling customers to pre-subscribe to either the same or two different carriers for their intraLATA and interLATA service.

Appropriate tariffs will be filed in accordance with this plan.

TalkingNets will offer customers the ability to access all participating carriers by dialing the appropriate access code (101XXXX).

All eligible TalkingNets end user telephone line numbers will be pre-subscribed and have a PIC associated with them.

**CARRIER INFORMATION**

Carriers will have the option of offering intraLATA service only, or both intraLATA and interLATA service.

Interexchange carriers will have the option of participating in all market areas or in a specific market area.

TalkingNets will not participate in billing disputes for intraLATA service between alternative competing carriers and their customers.

TalkingNets representatives will not initiate or accept three-way calls from an alternative interexchange carrier in order to discuss pre-subscription.

### CALL ELIGIBILITY/TOLL DIALING PLAN

A local service customer of TalkingNets will have calls routed according to the following plan:

If a TalkingNets Customer Dials:	The Call is Handled By/Routed to:
911	PSAP on originating line number
411/555-1212	TalkingNets Directory Assistance Operator
0-	TalkingNets Operator
0 + intraexchange	IntraLATA Toll Provider
1 + 7 or 10 digits	IntraLATA Toll Provider
0 + 7 or 10 digits interexchange	InterLATA Toll Provider
101XXXX + 0-	XXXX Carrier
101XXXX + 0 + 7 or 10 digits	XXXX Carrier
101XXXX + 7 or 10 digits	XXXX Carrier

If a TalkingNets customer originates a call to an alternative interexchange carrier's Operator by dialing 00-, the call will be routed to the PIC on that customer's line. If the customer originates a call to an alternative interexchange carrier's Operator by dialing an access code (i.e., 101XXXX + 0-), the call will be routed to the XXXX carrier. In both cases, the carrier's switch is responsible for routing this call to the alternative interexchange carrier's Operator or to an announcement.

### NETWORK INFORMATION

All originating intraLATA traffic will initially be routed via the incumbent Local Exchange Carrier ("LEC") Access Tandem(s). Following conversion, direct trunks between the TalkingNets switch and the carrier location(s) may be provisioned where traffic volumes warrant.

Interexchange carriers must have Feature Group D trunks in place (or ordered) between their point of presence and the incumbent LEC Access Tandem(s).

TalkingNets will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance with regulatory requirements. Requests from carriers to block traffic or to remove customers from their network will not be honored. Calls that cannot be completed to a carrier will be routed to an announcement.

## CUSTOMER CONTACT INFORMATION

TalkingNets customer contact representatives will process customer initiated PIC selections to TalkingNets or to an alternative intraLATA carrier. Carrier will have the option of allowing the TalkingNets representative to process PIC requests on their behalf.

TalkingNets will not ballot or allocate its customer base. At the time of conversion, all customers will be "PIC'd" to TalkingNets unless another carrier is chosen by the particular customer.

TalkingNets customer contact representatives will respond to customer inquiries about intraLATA carriers in a competitively neutral fashion.

If the intraLATA toll carrier selected by the customer permits TalkingNets to process orders on its behalf, TalkingNets will accept the PIC change request. If the customer selects an intraLATA toll carrier that does not allow TalkingNets to process PIC changes on its behalf, TalkingNets will provide the customer with the carrier's toll-free number (if provided by the carrier).

TalkingNets representatives will not discuss alternative carrier rates or services and will not provide customers with Carrier Identification Codes or access code dialing instructions.

## PRE-SUBSCRIPTION INFORMATION

A five (5) dollar PIC change charge will be incurred and billed to the customer for each eligible line, and for each PIC, where a PIC change is made.

New line customers, including customers adding lines, will have the opportunity to select a participating carrier, or they will be assigned a NO PIC designation. If a customer cannot decide upon an intraLATA carrier at the time of order, TalkingNets may extend a 30-day period following placement of the customer's service order for the customer to select an intraLATA carrier without charge. Such a customer will be assigned a NO PIC designation in the interim. After this 30-day period, TalkingNets will assess the \$5.00 PIC change charge as described above. Customers assigned a NO PIC designation, as set forth in this paragraph will be required to dial an access code to reach an intraLATA carrier's network.

If a TalkingNets customer denies requesting a change in intraLATA toll providers as submitted by an intraLATA carrier, and the intraLATA carrier is unable to produce a Letter of Agency signed by the customer, or some other form of verification that is permitted by law, the intraLATA carrier will be assessed a \$ 20 charge for the unauthorized PIC change, and the PIC will be changed as per the customer's request. This penalty is in addition to any other penalties authorized by law.

Alternative interexchange carriers may submit PIC changes to TalkingNets via a facsimile/paper interface.

TalkingNets will process intraLATA and interLATA PIC selections in the same manner and under the same intervals of time. Carriers will be required to submit PIC changes using the Customer Account Record Exchange (CARE) format via paper medium. TalkingNets will provide carriers with PIC order confirmation and reject information using the CARE format. Specific details regarding CARE will be provided to participating carriers.

For customers who change their local service provider from the incumbent LEC to TalkingNets and retain their incumbent LEC telephone number(s), TalkingNets, as part of the CARE PIC process, will provide the selected intraLATA carrier with both the retained (incumbent LEC) telephone number and the TalkingNets telephone number.

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