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May 21, 2002

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**HAND DELIVERED**

Hon. Janet H. Deixler  
Secretary  
New York State Public  
Service Commission  
Three Empire State Plaza  
Albany, New York 12223

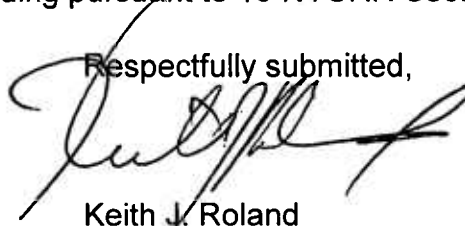
5D67  
Re: Audit and Consulting Services, Inc. - Petition for a Certificate of Public Convenience and Necessity

Dear Secretary Deixler:

Enclosed please find five copies of a Petition for a Certificate of Public Convenience and Necessity filed on behalf of Audit and Consulting Services, Inc. The Certificate seeks authority to resell all forms of intra-state telephone service; to provide facilities-based private line and switched intercity service; and to provide intra-city switched and non-switched services, including local exchange dial tone services as a facilities-based carrier.

Request is made for an expedited proceeding pursuant to 16 NYCRR Section 21.1.

Respectfully submitted,



Keith J. Roland

KJR:tlm  
Enclosures  
cc: John Sweeney

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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In the Matter of )  
 )  
Audit and Consulting Services, Inc. )  
 )  
Petition for a Certificate of Public ) Case No. \_\_\_\_\_  
Convenience and Necessity to operate )  
as a Reseller and Facilities-Based )  
Provider of Telephone Services Under )  
Section 99 of the Public Service Law )

**PETITION FOR A CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY**

Audit and Consulting Services, Inc. (applicant), through its attorneys, hereby petitions for the issuance of a Certificate of Public Convenience and Necessity pursuant to Section 21.7 of the Rules and Regulations of the Commission to permit the Applicant to resell all forms of intra-state telephone service in the State of New York; to provide facilities-based private line and switched intercity service; and to provide intra-city switched and non-switched services, including local exchange dial tone services to business and residential customers, as a facilities-based carrier. In support thereof, the following information is provided:

**Preliminary Statement**

The entry of the applicant into the resale common carrier business, and the facilities-based switched and private line business, will enhance competition in the provision of telephone services in the area to be served by the applicant.

Applicant proposes to acquire and resell various voice and data communications

services and network elements offered by communications common carriers, and other entities, and to package and provide these services for the specialized functions and needs of its customers. The applicant will construct or lease its own transmission and switching facilities, utilizing fiber optics, microwave, copper cables, carrier, digital, analog, and other technologies. In the case of small and medium-size customers, applicant's services will afford such customers the opportunity to acquire many of the services, benefits and cost savings normally available only to large scale telecommunications users.

In particular, services and network elements may also be acquired by applicant from underlying communications common carriers and other entities at bulk or unbundled rates and will be resold to applicant's customers, separately or in conjunction with the applicant's facilities-based service, so that customers will benefit from reduced pricing and new or improved services.

Applicant's initial service offerings, including the provision of facilities-based intercity and intra-city switched services, will represent the provision of new services.

Applicant will provide switched, facilities based service (including local dial tone service) as a Competitive Local Exchange Carrier (CLEC) to business and/or residential customers. The applicant expects to qualify as both a Facilities Based Provider and Full Service Provider under Commission Rules.

Applicant's services will promote competition and lead to greater efficiencies and more rapid introduction of new technology in the use of telephone service. The grant of applicant's petition will enhance competition in telephone services within the State of New York and will be in the public interest.

1. Name And Address of Applicant: Officers

The applicant's name is Audit and Consulting Services, Inc. Its principal business address is 27 Britton Lane, Mt. Kisco, New York 10549. The official contact for the Commission is John Sweeney, President, at the same address. The telephone number is (718) 746-1100 (Fax 718-746-4466). Copies of all correspondence should be sent to Keith J. Roland, Roland, Fogel, Koblenz & Petroccione, LLP, One Columbia Place, Albany, New York 12207.

2. Articles of Organization

The applicant is a New York Corporation. A copy of its Certificate of Incorporation is attached hereto.

3. Services The Applicant Intends To Subscribe To From Communications Common Carriers And Resell To Customers

The applicant will lease or subscribe to and resell various types of exchange and carrier access lines and services, including Unbundled Network Elements, and intra-city, intra-LATA, inter-LATA and interstate services and facilities of communications common carriers and other entities. Services and facilities to be resold may include Message Telephone Service (local and toll), Wide Area Telephone Service, WATS-like services, Foreign Exchange Service, private lines, tie lines, switched and special access service, pay telephone services, cellular service, PCS service, local switched service, centrex-type services, Unbundled Network Elements (including, but not limited to, links, ports, and transport), switching services, information services, Internet services and access, and other services and facilities of

communications common carriers and other entities.

4. Description of Facilities-Based Services

The applicant may construct, lease or operate its own transmission and switching facilities, utilizing fiber optic, copper, carrier, micro-wave, digital, analog, and other technologies, using various protocols, to connect customers to inter-exchange carrier Points-of-Presence or to other customers on an intra-city, intra-LATA, or inter-LATA basis. Facilities may be used for both switched and private line traffic and will include the provision of local exchange dial tone service to business and residential customers. The facilities constructed by the applicant may be used separately or in conjunction with similar facilities and Unbundled Network Elements provided by or obtained from other entities.

Applicant's initial operations will be conducted in the New York Metropolitan area, with future expansion into other areas of the state. Accordingly, statewide certification is requested.

Applicant initially intends to commence operations through purchase of Network Elements (Bundled and Unbundled) from underlying incumbent carriers. Thereafter, applicant may purchase its own switching vehicle (either Nortel or Lucent) which will be installed in the New York Metropolitan Area.

5. Operation in Other Jurisdictions

The applicant is not licensed to provide service in this or any other jurisdiction. It has never acquired a customer by switching it from another company without the customer's consent.

6. Absence of Complaints

The applicant has not been the subject of any complaint or investigation (a) related to unauthorized switching of a customer's local or long distance service without authorization, or (b) related to any other aspect of the provision of telecommunications services.

7. Identification Number

The applicant's Federal ID Number is 01-0600231.

8. Public Safety/Emergency Telephone Services; Access to Relay System; Access to Lifeline Service

The applicant's initial operations will be in the form of resale of Bundled Network Elements obtained from the underlying incumbent local exchange carrier. As such, access to public safety/emergency telephone numbers will be provided through the facilities of the underlying incumbent. Applicant's customers will dial E-911, and such calls will be handled and routed by the incumbent in the same manner as the incumbent handles such calls from its own customers.

At such time as the applicant deploys its own switch, such switch will have the appropriate routing software, and all E-911 calls will be routed over direct trunks to the incumbent's appropriate E-911 tandems.

Applicant will offer its customers access to the statewide relay system through the availability of dialing toll free numbers (8XX and 711) designated by the operator of the statewide relay system under contract with the New York State Telecommunications Association. Applicant will participate in funding the statewide relay system through its assessments from the Telecommunications Accessibility Fund

(TAF).

Applicant will offer lifeline service to residential customers who qualify under the standards of the Incumbent Local Exchange Carrier. Information about qualifying for lifeline service will be provided to all prospective residential customers upon their initial contact with the applicant regarding service.

9. Handling of "0-" Emergency Calls

The applicant will have all "0-" emergency calls processed by the ILEC or other "0-" carrier certified by this Commission to provide such services. The applicant does not intend to file its own Petition to provide "0-" service.

10. IntraLATA Presubscription

The applicant's IntraLATA Presubscription Plan is annexed to this application as Attachment "B".

11. Compliance with Commission Operating Requirements

The applicant will comply with the requirements established by the Commission in its Order of February 10, 1994, in Case 94-C-0095, and in the "Opinion and Order Adopting Regulatory Framework", issued on May 22, 1996, in Case 94-C-0095, and in particular the Applicant will:

- (i) provide, without undue discrimination or preference, service to any willing customer within the carrier's's defined service territory;
- (ii) provide access to public safety/emergency telephone services (911, E-911, 0-), the statewide relay system, and Lifeline service;
- (iii) comply with the Commission's Telephone Fair Practices Rules (TEFPA)

(16 NYCRR Part 633, et seq.);

- (iv) comply with the Commission's Common Carrier Rules (16 NYCRR Part 605);
- (v) comply with the Commission's Statement of Policy on Privacy in Telecommunications (Case 90-C-0075, issued March 22, 1991);
- (vi) comply with the Commission's Open Network Architecture (ONA) Principles (Case 88-C-0004, Opinion No. 89-28, issued September 11, 1989);
- (vii) provide reasonable interconnections for the joint provision of service to any duly certified carrier requesting such interconnection; and
- (viii) comply with the Commission's service quality standards (16 NYCRR, Part 603).

12. Service Territory

The applicant's service territory will be set forth in the tariff filed with this Commission.

13. Consent of Local Authorities

Pursuant to §21.1(f) of the Commission rules, the applicant certifies it has obtained, or will obtain, all necessary local consents or franchises prior to placement of any facilities.

14. Waiver of Rules

This application is submitted in accordance with the Commission's Order issued in Case 97-C-0568 on September 5, 1997.<sup>1</sup>

In addition, authority to file tariffs pursuant to 16 NYCRR 630.15, and to enter into contracts with customers in lieu of rates, charges, and regulations set forth in

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<sup>1</sup> "Order Waiving Rules On A Temporary Basis".

tariffs, on a non-discriminatory basis, is also requested.

15. Request For Expedited Proceeding

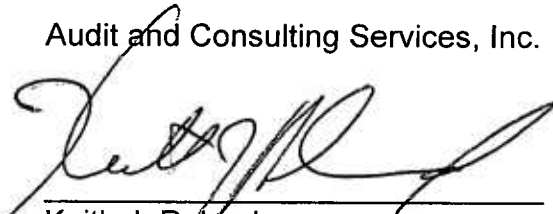
Request is made pursuant to 16 NYCRR 21.10 for an expedited proceeding, with the hearing required by Section 99 of the Public Service Law to be held before the Commission on the application herein without oral testimony.

In view of the foregoing, the applicant respectfully submits that the Public Convenience and Necessity would be served by grant of its petition for certification to operate as a reseller and facilities-based provider of telephone services within the State of New York.

Respectfully submitted,

Audit and Consulting Services, Inc.

By:



Keith J. Roland  
Roland, Fogel, Koblenz  
and Petroccione, LLP  
One Columbia Place  
Albany, NY 12207  
(518) 434-8112  
Its Attorneys

Albany, New York  
May 21, 2002

## FILING RECEIPT

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ENTITY NAME: AUDIT AND CONSULTING SERVICES, INC.

DOCUMENT TYPE: INCORPORATION (DOM. BUSINESS)

COUNTY: WEST

SERVICE COMPANY: BLUMBERG/EXCELSIOR CORPORATE SERVICES

SERVICE CODE: 39 \*

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ADDRESS FOR PROCESS

EXIST DATE

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C/O SEGAN & GARBUIO  
27 BRITTON LANE  
MT. KISCO, NY 10549-----  
02/06/2002REGISTERED AGENT  
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ALBANY, NY 12207

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DOS-1025 (11/89)

CERTIFICATE OF INCORPORATION

OF

**AUDIT AND CONSULTING SERVICES, INC.**

Pursuant to Section 402 of the Business Corporation Law

I, the undersigned, a natural person of at least 18 years of age, for the purpose of forming a corporation under Section 402 of the Business Corporation Law of the State of New York hereby certify:

FIRST: The name of the corporation is:

**AUDIT AND CONSULTING SERVICES, INC.**

SECOND: The purpose of the corporation is to engage in consulting and auditing telephone bills where payment to the corporation will be made from the received savings and also engaging in consulting services and any lawful act or activity for which corporations may be organized under Article IV of the Business Corporation Law, except that it is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

THIRD: The office of the corporation is to be located in the County of **WESTCHESTER** State of New York.

FOURTH: The aggregate number of shares which the corporation shall have the authority to issue is **TWO HUNDRED**, each of which shall be common stock with no par value.

FIFTH: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

**C/O SEGAN & GARBUIO  
27 BRITTON LANE  
MT. KISCO, NY 10549**


SIXTH: No director of the corporation shall have personal liability to the corporation or to its shareholders for damages for any breach of duty in such capacity, provided, however, that the provision shall not eliminate or limit:

(a) the liability of any director of the corporation if a judgment or other final adjudication adverse to him establishes that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled or, with respect to any director of the corporation, that his acts violated Section 719 of the Business Corporation Law of the State of New York, or

(b) the liability of a director for any act or omission prior to the final adoption of this article.

IN WITNESS WHEREOF, the undersigned incorporator has executed this certificate of incorporation.

02/06/02.



Sharon Babala, Incorporator  
BlumbergExcelsior Corporate  
Services, Inc.  
52 South Pearl Street  
Albany, New York 12207

**Audit and Consulting Services, Inc.**  
**INTRALATA TOLL DIALING PARITY PLAN**

**INTRODUCTION**

All customers of Audit and Consulting Services, Inc. (the company) will be able to designate a preferred intraLATA and a preferred interLATA toll carrier. The customer can complete intraLATA or interLATA toll calls over the facilities of such preferred carriers on a "1+" basis without the need to dial any access codes.

Customers will be asked to designate preferred intraLATA and interLATA toll carriers at the time the initial order for service is taken. In addition, customers may change their preferred choices at any time by contacting the company's business office.<sup>1</sup>

For customers served through use of bundled elements obtained by the company from the underlying Incumbent Local Exchange Carrier, designations of primary toll carriers will be taken by the company and forwarded to the underlying incumbent. The underlying incumbent will process orders, and provision service, for the company's customers in the same way as the ILEC does for its own customers.

At such time as the company's local exchange customers are served through switching vehicles owned by the company, the company's switches will be configured to enable "1+" dialing for access to each customer's intraLATA and interLATA preferred toll carriers.

**POLICIES**

Appropriate tariffs will be filed in accordance with this plan.

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<sup>1</sup> The company's policies and procedures for interLATA presubscription will parallel those for intraLATA presubscription.

The company will also offer customers the ability to access all participating carriers (i.e., carriers other than the customer's preferred carriers) by dialing the appropriate access code (10XXX/101XXXX).

All eligible end user telephone line numbers will be pre-subscribed and have a PIC associated with them, unless specifically requested otherwise by the customer.

### **CARRIER INFORMATION**

Interexchange carriers will have the option of offering either intraLATA service by itself, interLATA service by itself, or both intraLATA and interLATA service.

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

Interexchange carriers will be required to return to the company a completed Non-Disclosure Agreement and Participation Agreement(s).

The company will not participate in billing disputes for intraLATA service between a competing interexchange carrier and its customers.

The company's representatives will not initiate or accept three-way calls from a competing interexchange carrier in order to discuss pre-subscription.

Carriers wishing to participate will be requested to submit Access Service Requests/Translation Questionnaires to the Access Tandem owner and to the company.

Interexchange carriers which accept traffic from, or deliver traffic to, the company's customers, either on a presubscribed or access code basis, will be deemed

to have ordered service from the company under the terms of its applicable tariffs or rate schedules.

### **CUSTOMER CONTACT INFORMATION**

The company's customer contact representatives will process customer initiated PIC selections to the company's own toll service or to the toll service of other carriers. Carriers will have the option of allowing the company's representative to process PIC requests on their behalf.

The company will not ballot or allocate its customer base.

The company's customer contact representatives will respond to customer inquiries about intraLATA carriers in a competitively neutral fashion. If a customer requests information on carriers other than the company, a list of participating carriers will be read to that customer in random order.

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

The company's representatives will not discuss another carrier's rates or services and will not provide customers with Carrier Identification Codes or access code dialing instructions.

## **PRE-SUBSCRIPTION INFORMATION**

The initial selection of a PIC, if made when service is first ordered, will not result in any charge to the customer. A \$5.00 PIC change charge will be incurred and billed to the company's customer for each eligible line where a PIC change is made. After the initial choice is made by a customer, the company will assess the \$5.00 PIC change charge for each PIC change made. The company will offer interexchange carriers the option of having the PIC charge billed to the carrier or directly to the customer.

New 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 the initial order, the company 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, the company 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 customer denies requesting a change in the intraLATA toll provider 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 \$30.00 charge for the unauthorized PIC change and the PIC will be changed as per the customer's request. This charge is in addition to any other penalties or procedures authorized by law.

Carriers shall submit PIC changes to the company via a fax/paper interface. The company will provide carriers with PIC order confirmation and reject information.

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

#### **CALL ELIGIBILITY/TOLL DIALING PLAN**

All local service customers of the company will have calls routed according to the following plan:

If the Company's Customer Dials	The Call is Handled By/Routed To:
911	PSAP on originating line number
411/555-1212	The company's directory assistance operator
0-	The company's operator
0 + intraexchange number	IntraLATA Toll Provider
1 + 7 or 10 digits	IntraLATA Toll Provider
10XXX or 101XXXX + 0 -	XXX/XXXX Carrier
10XXX or 101XXXX + 0 + 7 or 10 digits	XXX/XXXX Carrier
10XXX or 101XXXX + 7 or 10 digits	XXX/XXXX Carrier

If the company's 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 (e.g., 10XXX/101XXX + 0-), the call will be routed to the XXX/XXX carrier. In both cases, the company's switch is responsible for routing this call to the alternative interexchange carrier's Operator or to an announcement.

#### **NETWORK INFORMATION**

Once the company activates its own switch, all originating intraLATA traffic will initially be routed via the incumbent Local Exchange Carrier (LEC) Access Tandem(s). Direct trunks between the company's switch and the interexchange carrier location(s) may be provided when warranted by traffic volume.

The company 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.

Dated: May 21, 2002