

# FIBERNET

211 LEON SULLIVAN WAY • CHARLESTON, WV, 25301 • 304.720.2101 • FAX: 304.720.2121

December 10, 2001

VIA OVERNIGHT MAIL

Thomas Dorman  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602-0615

05053200 0505  
22205320 0510  
9500

PUBLIC SERVICE  
COMMISSION

PENDING 0505  
Active 0510

Re: FiberNet, LLC  
Case No. \_\_\_\_\_

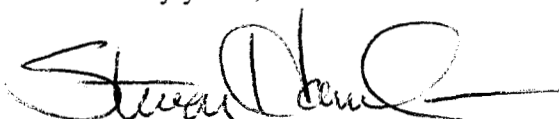
Dear Mr. Dorman:

Enclosed for filing please find an original and five (5) copies of FiberNet, LLC's ("FiberNet") Application for authority to provide local exchange, interexchange, and competitive access telecommunications service in the Commonwealth of Kentucky.

If there are any questions or concerns regarding this filing, please feel free to contact me at your convenience. I may be reached directly by telephone at (304) 720-2159, by facsimile at (304) 720-2121, or by e-mail at [shamula@wvfibernet.net](mailto:shamula@wvfibernet.net).

Please acknowledge receipt of this filing by date stamping the extra copy of this cover letter and returning it to me in the enclosed self-addressed envelope.

Sincerely yours,



STEVEN HAMULA  
Director of Regulatory Affairs  
FiberNet, LLC

SH/s  
Enclosures

cc: Monique Byrnes, Technologies Management, Inc.

328 Neville Street  
Beckley, WV 25801  
304.929.2101  
Fax: 304.929.2114

10 Hale Street  
First Floor  
Charleston, WV 25301  
304.720.2101  
Fax: 304.720.2114

719 Fairmont Avenue  
Suite 203  
Fairmont, WV 26554  
304.333.2101  
Fax: 304.333.2114

1102 Third Avenue  
Huntington, WV 25710  
304.781.2101  
Fax: 304.781.2114

412 Market Street  
Suite 203  
Parkersburg, WV 26101  
304.865.2101  
Fax: 304.865.2114

38 Fifteenth Street  
Suite 200  
Wheeling, WV 26003  
304.230.2101  
Fax: 304.230.2114

Before the  
PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF THE INFORMATIONAL )  
FILING OF FIBERNET, LLC FOR AUTHORITY )  
TO OPERATE AS A RESELLER AND FACILITIES )  
BASED PROVIDER OF INTEREXCHANGE, LOCAL ) Case No.  
EXCHANGE AND COMPETITIVE ACCESS )  
TELECOMMUNICATIONS SERVICE THROUGHOUT )  
THE COMMONWEALTH OF KENTUCKY )

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FiberNet, LLC ("FiberNet") hereby submits this notice of intent to provide facilities-based and resold local exchange service, interexchange service and competitive access service, primarily to business customers located within the Commonwealth of Kentucky. In support of this filing, the following company information is being provided in accordance with the provisions of Administrative Case Nos. 359 and 370. Similarly, FiberNet's proposed tariffs are being provided in accordance with 807 KAR 5:011.

1. The name, post office address, telephone and fax number of the applicant corporation are:

FiberNet, LLC  
211 Leon Sullivan Way  
Charleston, WV 25301

Phone: (304) 720-2100  
Fax: (304) 720-2121

2. Copies of FiberNet's Articles of Organization and Kentucky Certificate of Authority are attached hereto as Exhibits A and B, respectively.

3. The name, street address, telephone number and fax number of the responsible contact person for customer complaints and regulatory issues:

Regulatory Contact:

Steven Hamula  
Director of Regulatory Affairs  
FiberNet, LLC  
211 Leon Sullivan Way  
Charleston, WV 25301

Phone: (304) 720-2159  
Fax: (304) 720-2121  
Email: [shamula@wvfibernet.net](mailto:shamula@wvfibernet.net)

Customer Service Contact:

Joyce Downey, Customer Care Supervisor  
FiberNet, LLC  
211 Leon Sullivan Way  
Charleston, WV 25301

Telephone: (304) 720-2122 or 1-800-320-6144 (toll free)  
Fax: (304) 720-2124  
Email: [jdowney@wvfibernet.net](mailto:jdowney@wvfibernet.net)

4. Correspondence and questions concerning this application should be directed to:

Steven Hamula  
Director of Regulatory Affairs  
FiberNet, LLC  
211 Leon Sullivan Way  
Charleston, WV 25301

Telephone: (304) 720-2159  
Fax: (304) 720-2121  
Email: [shamula@wvfibernet.net](mailto:shamula@wvfibernet.net)

Correspondence and questions concerning the accompanying tariffs should be directed to:

Monique Byrnes  
Consultant for FiberNet, LLC  
210 North Park Avenue  
Winter Park, FL 32789

Telephone: (407) 740-8575  
Fax: (407) 740-0613  
Email: [mbyrnes@tminc.com](mailto:mbyrnes@tminc.com)

5. A notarized statement that FiberNet has not provided or collected for intrastate service in the Commonwealth of Kentucky prior to the filing of its tariffs is attached hereto as Exhibit C.

6. FiberNet does not seek authority to provide operator assisted services to traffic aggregators as defined in Administrative Case No. 330.

7. FiberNet's proposed local exchange and interexchange service tariffs to become effective thirty (30) days after the date of this filing are attached hereto as Exhibits D and E, respectively.

8. FiberNet intends to provide resold and facilities-based local exchange service, resold interexchange service, and competitive access services, primarily to business customers located in the Commonwealth of Kentucky.

WHEREFORE, FiberNet, LLC respectfully requests that the Kentucky Public Service Commission grant unto it the authority to engage in the provision of resold and facilities-based interexchange, local exchange and competitive access telecommunications services to the public in accordance with all applicable laws and regulations currently in effect or hereinafter enacted by the Commission.

Respectfully submitted this 10th day of December, 2001.

FiberNet, LLC

By: 

Steven Hamula  
Director of Regulatory Affairs  
FiberNet, LLC  
211 Leon Sullivan Way  
Charleston, WV 25301

Tele: (304) 720-2159  
Fax: (304) 720-2121  
Email: [shamula@wvfibernet.net](mailto:shamula@wvfibernet.net)



**EXHIBIT A**

**FiberNet, LLC**

**ARTICLES OF ORGANIZATION**

# State of West Virginia



## Certificate

*I, Ken Heckler, Secretary of State of the State of West Virginia, hereby certify that*

FIBERNET, L.L.C.

has filed its "Articles of Organization" in my office according to the provisions of Chapter §1B of the West Virginia Code. I hereby declare the organization to be registered as a limited liability company from its effective filing date and time of November 20, 1997 at 9:44 a.m. until a certificate of cancelation of the term or termination of the company.

Therefore, I hereby issue this

### CERTIFICATE OF A LIMITED LIABILITY COMPANY



*Given under my hand and the Great Seal of the State of West Virginia on this Twentieth day of*

November 20 19 97

*Ken Heckler*

*Secretary of State*

KEN HECHLER  
Secretary of State  
State Capitol, W-139  
1900 Kanawha Blvd. East  
Charleston, WV 25305-0770

**FILED**

**NOV 20 1997**

**WEST VIRGINIA  
ARTICLES OF ORGANIZATION  
WEST VIRGINIA LIMITED LIABILITY COMPANY**

Penney Barker, Supervisor  
CORPORATIONS DIVISION  
Tel: (304) 558-8000  
Fax: (304) 558-0900  
Hours: 8:30 a.m. - 4:30 p.m. ET

IL: SS 000

We, acting as organizers according to West Virginia Code §31B-2-202, adopt the following Articles of Organization for a West Virginia Limited Liability Company:

- The name of the West Virginia limited liability company shall be: (The name must contain one of the required terms such as "limited liability company" or abbreviations such as "LLC" or "P.L.L.C." See instructions for list of acceptable terms.) FiberNet, L.L.C.
- The company will be a:  L.L.C.  professional L.L.C. for the profession of \_\_\_\_\_
- The physical address (not a PO box) in West Virginia of the initial designated office of the company will be: (need not be a place of the company's business)
 

Street:	<u>209 Broad Street</u>
City/State/Zip:	<u>Charleston, WV WV 25301-2432</u>
- The mailing address of the principal office will be:
 

Street/Box:	_____
City/State/Zip:	_____
- The name and street address of the person to whom notice of process may be sent is:
 

Name:	_____
Street:	_____
City/State/Zip:	_____

The mailing address of the above agent of process, if different, is:

Street/Box:	_____
City/State/Zip:	_____

6. The name and address of each organizer is as follows:

<u>Name</u>	<u>No. &amp; Street</u>	<u>City, State, Zip</u>
<u>Jeffrey D. Elberson</u>	<u>1873 South Bellaire St. Suite 1550</u>	<u>Denver, CO 80222</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. The company will be:  an at-will company, for an indefinite period.  
 a term company, for the term of \_\_\_\_\_ years.



WEST VIRGINIA ARTICLES OF ORGANIZATION OF LIMITED LIABILITY COMPANY

8. The company will be:

- member-managed. [Professional LLCs, please list all members on attached sheet to assure compliance with licensing requirements.]
- manager-managed, and the name and address of each initial manager is listed below. [Attach extra sheet if needed.]

TWFanch-one Co. (a Delaware general partnership)

9. All or specified members of a limited liability company are liable in their capacity as members for all or specified debts, obligations or liabilities of the company.

- NO -- All debts, obligations and liabilities are those of the company.
- YES -- Those persons who are liable in their capacity as members for all debts, obligations or liability of the company have consented in writing to the adoption of the provision or to be bound by the provision.

10. The purposes for which this limited liability company is formed are as follows:

(Describe the type(s) of business activity which will be conducted, for example, "real estate," "construction of residential and commercial buildings," "commercial printing," "professional practice of architecture.")

Voice, data and video communication

11. Other provisions which may be set forth in the operating agreement or matters not inconsistent with law:

[See Instructions for further information; use extra pages if necessary.]

12. The number of pages attached and included in these Articles is 2

13. The requested effective date is:  the date & time of filing

(Requested date may not be earlier than filing nor later than 90 days after filing.)

the following date \_\_\_\_\_ and time \_\_\_\_\_

14. ACKNOWLEDGMENT: (Articles must be signed in the name of the company by a: (1) manager of a manager-managed company; (2) member of a member-managed company; (3) person organizing the company, if the company has not been formed; or (4) attorney-in-fact for any of the above. Documents with photocopied signature cannot be accepted.)

I, the undersigned, for the purpose of forming a limited liability company under the laws of the State of West Virginia, do make and file this "Articles of Organization" in the name of an on behalf of the company.

Jeffrey D. Elberson  
Name [print or type]

Executive Vice President of a general partner of Manager  
Title/Capacity

Jeffrey D. Elberson  
Signature

[Signer must acknowledge the signature before a notary, and notary must apply seal for document to be recorded.]

STATE OF COLORADO COUNTY OF DENVER

I, CHRISTEN L. MARTIENS a Notary Public, hereby certify that \_\_\_\_\_

JEFFREY D. ELBERSON whose name is signed to the foregoing Articles of Organization, this day personally appeared before me and acknowledged his/her signature.

My commission expires 11-14-00 Christen L. Martiens Notary Public  
56 Exchange Terrace

Articles prepared by David J. Mayer, Esq. (address) Providence, RI 02903

SEAL

**EXHIBIT B**

**FiberNet, LLC**

**CERTIFICATE OF AUTHORITY**



BOB BABBAGE  
SECRETARY OF STATE  
FOREIGN LIMITED LIABILITY COMPANY  
APPLICATION FOR CERTIFICATE OF AUTHORITY

RECEIVED & FILED  
JUN 1 10 51 AM '98  
JOHN Y. SNOOK  
SECRETARY OF STATE  
OFFICE OF THE SECRETARY OF STATE

Pursuant to the provisions of Chapter 275 of the Kentucky Revised Statutes, the undersigned hereby applies for a Certificate of Authority to transact business in Kentucky on behalf of said limited liability company and for that purpose submits the following statements:

The entity is  a limited liability company (LLC)  
 a professional limited liability company (PLLC)

1. The name of the limited liability company is FiberNet, L.L.C.

2. The name of the limited liability company to be used in Kentucky is FiberComm Solutions  
(If "real name" is unavailable for use)

3. West Virginia is the state or country under whose law it is organized.

4. 11/20/97 is the date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which it is to dissolve is \_\_\_\_\_

5. The street address of the office required to be maintained in its state of formation or, if not so required, the principal office address is 209 Broad Street, Charleston, West Virginia 25301-2432

6. The names and usual business addresses of its current managers, if any, are as follows:

<u>WFanch-one Co.</u>	<u>1873 S. Bellaire St., Suite 1550</u>	<u>Denver, CO.</u>	<u>80222</u>
NAME	STREET ADDRESS	CITY	STATE ZIP
NAME	STREET ADDRESS	CITY	STATE ZIP

(If necessary, attach continuation sheet)

7. The street address of its registered office in Kentucky is 400 West Market St., Suite 1800, Louisville, KY., 40202 - Jefferson County

and the name of its registered agent at that office is National Registered Agents, Inc.

I certify that, as of the date of filing, the above-named limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

Dated: Jun 30 19 98

Signature  
Robert E. Fanch, President of a general partner of the Manager.

CONSENT OF REGISTERED AGENT

I, \_\_\_\_\_ consent to serve as the registered agent on behalf of the limited liability company.

Asst. Sec.


**EXHIBIT C**

**FiberNet, LLC**

**STATEMENT OF PREVIOUS SERVICE**

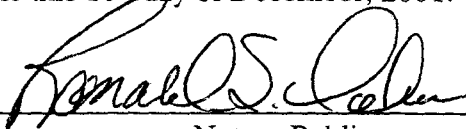
AFFIDAVIT

I, Virgil E. Parsons, Executive Vice President and Chief Operating Officer of FiberNet, LLC, do hereby certify that FiberNet, LLC has not provided or collected for intrastate telecommunications service in the Commonwealth of Kentucky prior to the filing of this Notice of Intent to provide service.



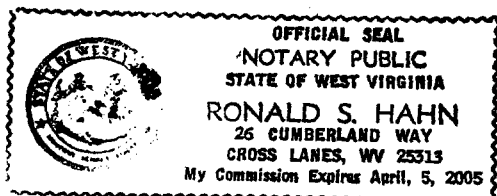
Virgil E. Parsons, Executive Vice President & COO

Taken, sworn to and subscribed before me this 10<sup>th</sup> day of December, 2001.



Notary Public

My Commission expires on April 5, 2005



**EXHIBIT D**

**FiberNet, LLC**

**PROPOSED LOCAL EXCHANGE TARIFF**