

ILLINOIS
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ORIGINAL

STENOGRAPHIC TRANSCRIPT OF PROCEEDINGS

Nov 14 10 03 AM '00

BEFORE THE

CHIEF CLERK'S OFFICE

Illinois Commerce Commission

DOCKET NO. 00-0619

IN THE MATTER OF:

TALKINGNETS HOLDINGS, LLC

PLACE: Chicago, Illinois

DATE: November 9, 2000

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BEFORE THE
ILLINOIS COMMERCE COMMISSION

TALKINGNETS HOLDINGS, LLC)
)
Application for a Certificate of)
Local and Interexchange Authority) No. 00-0619
to operate as a Reseller and)
Facilities Based Carrier of)
Telecommunications Services)
throughout the State of Illinois)

Chicago, Illinois

November 9, 2000

Met, pursuant to notice at 11:00 a.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

SWIDLER BERLIN SHEREFF FRIEDMAN, by
MS. TAMAR FINN,
3000 K Street NW,
Washington, DC,
appeared for the Applicant,
telephonically.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>BY EXMNR.</u>
John Philips	4	10	
		12	21

EXHIBITS

<u>APPLICANT'S</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
1	---	24

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call
3 Docket 00-0619. This is an Application by TalkingNets
4 Holdings, LLC for a certificate of local and
5 interexchange authority to operate as a reseller and
6 facilities-based carrier of telecommunications
7 services throughout the State of Illinois.

8 Counsel, for the Applicant, will
9 you enter an appearance for the record, please, name
10 and address.

11 MS. FINN: Tamar Finn with Swidler Berlin
12 Shereff Friedman, located at 3000 K Street NW, Suite
13 300, Washington, DC 20007, appearing on behalf of
14 TalkingNets Holdings, LLC.

15 JUDGE RILEY: Thank you.

16 And are you prepared to call your
17 witness at this time or are there preliminary matters
18 that you wanted to deal with?

19 MS. FINN: No preliminary matters. Prepared to
20 call.

21 JUDGE RILEY: And Mr. Philips is your witness?

22 MS. FINN: Yes, he is.

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(Witness sworn.)

JUDGE RILEY: Please proceed, Ms. Finn.

JOHN PHILIPS,

called as a witness herein, and after being first
duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY

MS. FINN:

Q Please state your name, position, and
business address for the record, Mr. Philips.

A My name is John Philips. I am the Chief
Executive Officer of TalkingNets Holdings, LLC. My
business address is 1111 Military Cutoff Road, Suite
221, Wilmington, North Carolina. My business
telephone is 910-256-0770.

Q Could you please, briefly, describe your
background qualifications?

A Sure.

Prior to joining TalkingNets, I
was vice president of business development at Telco
Systems, which was a subsidiary of World Access.
World Access is a leading supplier of international

1 telecommunications services, switching equipment, and
2 transmission equipment used by CLECs, Internet service
3 providers and long-distance carriers.

4 Prior to that role, I was a
5 founder of a startup company called Synaptyx
6 Corporation, which developed equipment that allowed
7 CLECs to deliver integrated voice and data services
8 across emerging networks. I was involved in the sale
9 of Synaptyx to Telco Systems in the fall of 1998 for
10 \$15 million.

11 And prior to that I spent nine
12 years at TTC, a subsidiary of Dynatech Corporation.
13 TTC is the leading provider of operational tests
14 analysis tools and systems for the telecom service
15 provider market.

16 From an educational experience, I
17 graduated summa cum laude from Duke University in
18 electrical engineering.

19 Q Thank you.

20 Mr. Philips, do you have with you
21 today a copy of a document entitled, "Testimony of
22 John Philips" on behalf of TalkingNets Holdings, LLC?

1 A Yes, I do.

2 Q And was that document prepared by you or
3 under your direction?

4 A Yes, it was.

5 Q If I were to ask you the questions that are
6 contained in that document today, would your answers
7 be the same or if not, do you have any corrections to
8 make?

9 A My answers would be the same except for the
10 following corrections and clarifications:

11 First, with respect to how
12 frequently TalkingNets will update the 9-1-1 database
13 with customer information, found on Page 8, Line 19,
14 the correct answer should be that TalkingNets will
15 update the database on a daily basis, not on a monthly
16 basis.

17 JUDGE RILEY: You said Page 8, Line 19?

18 THE WITNESS: That's right.

19 JUDGE RILEY: The Page 8 that I have says, "Does
20 your company have procedures for the transitioning of
21 the 9-1-1 surcharge collection and disbursement to the
22 local 9-1-1 system"?

1 So I'm looking, obviously, at a
2 different copy than the one you have.

3 THE WITNESS: Oh, you know what. I think the
4 problem here is this document was amended, since I
5 wrote my notes up here. Actually, this should be --
6 the same Page 8, Line 11.

7 JUDGE RILEY: "TalkingNets will update the
8 9-1-1 database monthly"?

9 THE WITNESS: Right. And that should state
10 "daily."

11 JUDGE RILEY: Then, it's the same document.

12 THE WITNESS: That's right. It's the same
13 document. I think what's happened here, since I wrote
14 my notes, I think we had -- obviously, it printed out
15 differently or something, so the lines are in a
16 different place.

17 JUDGE RILEY: Okay. Please, proceed.

18 THE WITNESS: Second, with respect to whether
19 TalkingNets will seek to obtain eligible carrier
20 status, the correct answer should be, yes, we do
21 intend to seek that designation. I think it should be
22 on Page 13 of the testimony. It's actually Line 21.

1 JUDGE RILEY: And that's in response to the
2 question, "Does your company plan to obtain eligible
3 telecommunications carrier status to qualify for the
4 federally funded lifeline and link up programs?"

5 THE WITNESS: Right. And the answer should be,
6 yes.

7 JUDGE RILEY: Back to you, Ms. Finn.

8 THE WITNESS: I have one more -- actually, a
9 couple more items.

10 Third, for the purposes of
11 clarification is to whether we will develop written
12 guidelines to prevent unauthorized slamming of
13 customers. TalkingNets will develop such written
14 guidelines prior to initiating services and will
15 develop guidelines applicable to unauthorized
16 cramming, as well.

17 This should be reflected on
18 Page 19.

19 JUDGE RILEY: And was there another correction?

20 THE WITNESS: Lastly, TalkingNets seeks a waiver
21 to Parts 725.500 Section O, and 725.620 Section B, in
22 connection with the installation of call boxes.

1 I just wanted to bring this to
2 your attention in light of the fact that such waivers
3 were not requested as part of our initial Application.

4 JUDGE RILEY: Okay.

5 MS. FINN: Q And Mr. Philips, is that your final
6 clarification?

7 A Yes, it is.

8 MS. FINN: At this time, I have no further
9 questions for the witness. And I would request that
10 his testimony be received in evidence as if it were
11 provided orally today.

12 Also, if it has not already been
13 admitted into the record, I would ask that
14 TalkingNets' Application, which was filed on
15 September 20th, also be admitted into the record.

16 JUDGE RILEY: Okay. The Application is what gave
17 rise to this proceeding, so that's already part of the
18 record.

19 I'll mark the testimony as
20 Applicant's Exhibit 1, and subject to cross-
21 examination, is there any objection from Staff to the
22 admission of it into evidence?

1 MS. LANGFORD: No.

2 JUDGE RILEY: Does that complete the direct
3 examination?

4 MS. FINN: Yes, it does.

5 JUDGE RILEY: And you're turning the witness over
6 for cross-examination now?

7 MS. FINN: Yes.

8 JUDGE RILEY: Staff, who is going to begin with
9 the cross-examination?

10 MS. LANGFORD: This is Barb Langford. I have
11 just a few clarifying questions.

12 CROSS EXAMINATION

13 BY

14 MS. LANGFORD:

15 Q No. 9 of the Application, are you now
16 providing services in any of the states where you're
17 authorized?

18 A We are not, yet, offering services in any of
19 the states. We are soon to begin offering services in
20 Colorado, but nothing as of today.

21 Q And No. 17 of the Application, will you
22 provide detailed billing listing all services,

1 features, taxes, and surcharges?

2 A Yes, we will.

3 Q How do you plan to solicit your customers?

4 A It's going to be a combination of direct
5 sales as well as we also will be offering our services
6 on a wholesale basis through a set of channel partners
7 that will work in conjunction with us.

8 Q Will these direct sales, will that include
9 telemarketing?

10 A At this time, we do not plan to have
11 telemarketing as part of our internal sales process,
12 but our partners could be using that as part of their
13 sales process.

14 Q Will you be using any type of third-party
15 verifiers?

16 A Yes, we will, particularly with any -- in
17 conjunction with any switching of local services.

18 Q Okay. And I want to clarify who the person
19 would be that the Consumer Services Division of the
20 Illinois Commerce Commission would contact for
21 complaint regulations, who would that person be?

22 A That should be our vice president of

1 regulatory, Steve Goodman. He is listed as one of the
2 contacts on the Application for some other things, as
3 well.

4 Q Okay.

5 A I think, he's basically the proper contact
6 in working on this Application on behalf of our
7 company.

8 Q Are you planning on providing voice-grade
9 service at some point?

10 A Yes.

11 MS. LANGFORD: That's all the questions I have.
12 Thank you.

13 JUDGE RILEY: Thank you.

14 Ms. Marshall, did you want to
15 begin now?

16 MS. MARSHALL: Yes, I do.

17 CROSS EXAMINATION

18 BY

19 MS. MARSHALL:

20 Q Good morning, Mr. Philips.

21 A Good morning.

22 Q I have a few questions, first of all related

1 to the Application.

2 A Okay.

3 Q Beginning with Question 5, it states here
4 that you seek to provide services throughout the State
5 of Illinois. I just want to ask you, first of all, if
6 you're familiar with the rural exemption provisions of
7 the 96 Federal Telco Act?

8 A Actually, I am not.

9 Q Would you agree that in the event that the
10 Applicant wishes to interconnect with a carrier
11 qualifying for a rural exemption, that a separate
12 petition will need to be filed with the Commission
13 prior to that such interconnection?

14 A Yes.

15 Q And now, referring to Question 13 of the
16 Application, at what address will the company maintain
17 its books and records?

18 A Our books and records will be maintained at
19 our corporate headquarters in Wilmington,
20 North Carolina.

21 Q And that's the address on Military Cutoff
22 Road?

1 A Yes.

2 Q And are you aware that you're required to
3 notify the Chief Clerk of the Illinois Commerce
4 Commission if the location of those records should
5 change?

6 A Yes.

7 Q Are you also aware that the Applicant would
8 be required to bear the cost of any inspection, audit,
9 or review of those records that would take place out
10 of state?

11 A Yes, we are.

12 Q Attached to the Application is Appendix B,
13 are some questions and answers, which I understand may
14 be supplemented by your testimony, but Question No. 4
15 asks who will be responsible for building and
16 maintaining the 9-1-1 database for your customers.
17 What we're seeking there is the name of the specific
18 individual.

19 A That would be Steve Goodman, will be the
20 individual in our company responsible for that.

21 Q And his address and phone number are listed
22 elsewhere in the Application, is that correct?

1 A Yes, ma'am.

2 Q And then Question 10, and I understand your
3 testimony also addresses this, but the company now
4 believes it will need a waiver of the call box
5 provisions. What I would like to request is that you
6 make this request in a separate petition so that it
7 can be reviewed by our 9-1-1 specialist.

8 A Okay, we will do that.

9 Q Also attached is Appendix C, Question 6 --
10 and I think your testimony also includes a similar
11 question and answer to Question 6, in both places you
12 state that the chart of accounts demonstrates that
13 it's efficiently detailed. Can you tell us what,
14 specific accounts will provide the required
15 information?

16 A There are a number of actual accounts that
17 are accounts payable, accounts that are shown on
18 the -- go to the second page -- I should give you the
19 third page of the document -- of the actual Appendix,
20 the page starts out with Account 315. And there are a
21 whole group of various local as well as universal fee
22 charge accounts payable starting at 353.

1 Q Okay.

2 A For this particular chart of accounts, I'm
3 not sure if they're for each individual state that the
4 specific account is listed, but it would, obviously,
5 be updated to reflect any additional states where we
6 offer services.

7 Q Okay. I understand that that's where you
8 will recognize your liability.

9 I would like to refer you on to
10 Page 4 of that chart of accounts, to the revenue
11 accounts. Are you aware that for purposes of Illinois
12 gross receipt tax, it will be necessary for you to
13 separately track interstate revenues and intrastate
14 revenues?

15 A Yes, we are aware of that.

16 Q And I cannot see on your chart of accounts
17 where, for example, long-distance revenue is separated
18 between inter and intrastate revenue.

19 A Okay, let me see.

20 Q It appears to be in the single account.

21 A Right.

22 Q Would you agree to add additional accounts

1 so that you are tracking, in fact, the intrastate
2 revenues?

3 A Yes, we will. We will do that.

4 Q Okay. Now, attached to the Application are
5 some financial statements. Although at the top they
6 are identified only as TalkingNets'. Is it correct
7 that these are the financial statements of the parent,
8 TalkingNets, Incorporated, rather than the Applicant
9 TalkingNets LLC?

10 A Yes. Let me take a look here and just
11 confirm that. But yes, this would be the financial
12 statements for TalkingNets, Incorporated.

13 Q But there are other subsidiaries or sister
14 corporations that are also related to TalkingNets,
15 Incorporated.

16 A Yes, there are.

17 Q Could you list what other affiliates
18 TalkingNets LLC has and what the relationship is?

19 A You know, I do not have that list here with
20 me. So I would not want to state it incorrectly. But
21 there are -- I know there are, at least, I believe two
22 other subsidiaries, one which is an operating entity

1 for Texas and another one is an operating entity for
2 California. But I believe those to be the only two.
3 But, like I say, I don't have that document with me so
4 I can't be certain.

5 Q Would you like to provide us a late filed
6 exhibit, a list of affiliates describing the
7 relationship to the Applicant?

8 A Yes, we can do that.

9 Q Now, related to these financial statements,
10 these are not audited financial statements. Does
11 TalkingNets, Incorporated have audited financial
12 statements prepared periodically?

13 A We do not at this point have that. We are
14 actually in the process right now of hiring an
15 auditor. We are interviewing candidates right now,
16 but have not, actually, hired one, yet.

17 Q In the event that TalkingNets LLC would be
18 granted a waiver of the Part 710, which is the
19 requirement to comply with this Commission's Uniform
20 System of Accounts, would you agree in the future to
21 provide audited financial statements?

22 A Yes, we will.

1 Q And would it be correct to assume that those
2 would, likely, be subject to -- or included with any
3 consolidated statements of TalkingNets,
4 Incorporated --

5 A Yes, they would.

6 Q -- or would they be separate?

7 Okay.

8 A Actually, at this point, I guess, whether
9 they would be separate or consolidated, I guess, I'm
10 not sure at this point.

11 Q Okay.

12 A If they are not consolidated, we would,
13 obviously, disclose both sets of financial statements,
14 if they were separate.

15 Q Okay. Can you tell me if, looking at this
16 balance sheet as of April 30th the year 2000, if
17 you're aware of any subsequent events that would have
18 any material impact on this balance sheet?

19 A Yes. From an asset perspective, the company
20 now has about \$19 and a half million of cash, close to
21 the \$1.9 million of cash that is shown in this
22 statement.

1 Q And what would the source of that cash be?

2 A It was raised to the issuance of preferred
3 stock in the company.

4 Q And is that a separate series from the
5 Series A stock?

6 A Yes, it is. As of last -- this is a very
7 recent event, last week we, actually, closed our
8 Series B financing.

9 Q And could you tell us the approximate amount
10 of Series of B stock that was issued?

11 A Around 6 million shares.

12 Q What would be the dollar value of that be?
13 Would that --

14 A It was at \$3.32 a share.

15 Q So 20 --

16 A We raised \$20 million at 3.32 a share.

17 Q Okay. Now, I'm moving right around to your
18 testimony. I'm at Page 4 of your testimony.

19 A Okay.

20 Q Where you discuss the financial
21 qualifications. And TalkingNets LLC is the Applicant
22 here and they're relying on the financial capitol of

1 TalkingNets, Incorporated. I wanted to ask you
2 whether there is any written evidence or documentation
3 as to the extent that TalkingNets LLC can rely upon
4 its parent to provide necessary financing? If there's
5 something, for example, like a board resolution or
6 some written document that spells that out.

7 A TalkingNets' holdings is wholly owned by
8 TalkingNets, Incorporated and was intended to be fully
9 funded. I'm not certain whether it's been
10 specifically stated as such in the resolution.

11 Q Would it be possible to provide a copy of
12 that resolution?

13 A Yes.

14 MS. MARSHALL: And that is all the questions that
15 I have. Thank you.

16 A Thank you.

17 JUDGE RILEY: I've got a few questions of my own.

18 EXAMINATION

19 BY

20 JUDGE RILEY:

21 Q With regard to this financial statement,
22 it's my understanding that TalkingNets, Incorporated

1 is the parent, TalkingNets Holdings is the Applicant,
2 is that correct?

3 A That is correct.

4 Q Who raised all the cash by the sale of the
5 stock?

6 A TalkingNets, Incorporated.

7 Q That was the parent.

8 A That's right.

9 Q It's my understanding that the parent past a
10 resolution that it would provide whatever funding is
11 necessary for the Applicant to operate?

12 A Yes, that's our intent.

13 Q And that is what Ms. Marshall asked you for
14 a copy of?

15 A Like I said, I'm not -- I don't have the
16 document in front of me. That's why I couldn't
17 confirm that that's, specifically, what the document
18 says.

19 Q Okay.

20 A That's our intent. It's our intent to
21 operate TalkingNets Holdings via funds that had been
22 provided to TalkingNets, Inc.

1 Q Okay.

2 A That is clearly the intent of the company.

3 Q Okay. What I was going to ask is that for

4 my purposes here, could you obtain simply a statement

5 from the parent to that extent?

6 A Yes, we can.

7 Q And submit that to me and we can mark that

8 as a late filed Exhibit 2.

9 A We will do that.

10 Q Very quickly. Who will do the technical

11 support for the Applicant?

12 A TalkingNets' staff.

13 Q You will do it internally.

14 A That's right.

15 Q And this is a Delaware corporation located

16 in North Carolina and authorized to transact business

17 in Illinois?

18 A Yes, it is.

19 Q Will the Applicant be providing operator

20 assisted services?

21 A Yes, we will through a third-party.

22 JUDGE RILEY: Let's go off the record for a

1 moment.

2 (Whereupon, a discussion
3 was had off the record.)

4 JUDGE RILEY: That's all the questions I have for
5 the witness.

6 I will admit what has been marked
7 as Applicant's Exhibit No. 1, the Testimony of John
8 Philips into evidence. And I await the submission of
9 the late filed Exhibit 1 and 2, that we have just
10 discussed.

11 (Whereupon, Applicant's
12 Exhibit 1 was received
13 in evidence.)

14 JUDGE RILEY: Staff, do you have anything
15 further?

16 MS. MARSHALL: No. At this point Staff knows of
17 no reason why this Petition cannot be granted, subject
18 to the receipt of the late filed exhibits.

19 JUDGE RILEY: Thank you. And Ms. Finn, did you
20 have any redirect examination for the witness?

21 MS. FINN: No, not at this time. Thank you.

22 (Witness excused.)

1 JUDGE RILEY: Thank you.

2 Then, I will direct the Court
3 Reporter to mark this matter heard and taken. I will
4 await the submission of the late filed exhibits and I
5 will prepare an order for the Commission.

6 Thank you, Mr. Philips, Ms. Finn.

7 MS. FINN: Thank you.

8 JUDGE RILEY: Thank you, Staff.

9 HEARD AND TAKEN

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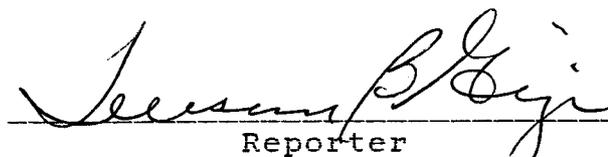
STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

CASE NO. 00-0619

TITLE: TALKINGNETS HOLDINGS, LLC

I, Teresann B. Giorgi, do hereby certify that I am a court reporter employed by SULLIVAN REPORTING COMPANY, of Chicago, Illinois; that I reported in shorthand the evidence taken and the proceedings had on the hearing on the above-entitled case on the 9th day of November A.D. 2000; that the foregoing 25 pages are a true and correct transcript of my shorthand notes so taken as aforesaid, and contains all of the proceedings directed by the Commission or other person authorized by it to conduct the said hearing to be stenographically reported.

Dated at Chicago, Illinois, this 12th day of November A.D. 2000.



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