



THE **KDW** GROUP

Suite 500  
1200 19th Street, NW  
Washington, DC 20036  
tel (202) 955-9659  
fax (202) 955-9792  
thekdwgroup.com

TC05-052

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MAR 15 2005

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

DIRECT LINE: (202) 955-9600

EMAIL: kbarker@kellydrye.com

March 14, 2005

**VIA UPS**

Ms. Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capitol Avenue  
Pierre, SD 57501

Re: Application of New Rochelle Telephone Corp.

Dear Ms. Bonrud:

Enclosed please find for filing one original and ten (10) copies of the Application of New Rochelle Telephone Corp. to provide Interexchange Telecommunications Services within the State of South Dakota. A check in the amount of \$250 is included to cover the requisite filing fee. Please note that the Applicant's proposed tariff will be late-filed.

Please date stamp the duplicate of this filing and return it in the enclosed self-addressed, postage prepaid envelope. Thank you for your assistance in this matter and please feel free to contact me if you have any questions or concerns.

Respectfully submitted,

Katherine E. Barker

Enclosures

**Before the  
STATE OF SOUTH DAKOTA  
PUBLIC UTILITIES COMMISSION**

**Application of** )  
 )  
**New Rochelle Telephone Corp.** )  
 ) **Docket No.** \_\_\_\_\_  
**for Authority to Provide** )  
**Competitive Local Exchange and** )  
**Interexchange Telecommunications** )  
**Services in the State of South Dakota** )

**APPLICATION OF  
NEW ROCHELLE TELEPHONE CORP.**

New Rochelle Telephone Corp. (“Applicant”, “Company” or “New Rochelle”), by its representatives and pursuant to SDCL Chapter 49-31, Section 3, et al., and to all other relevant Rules and Regulations of the South Dakota Public Utility Commission (“Commission”), respectfully requests that the Commission grant it a Certificate of Public Convenience and Necessity to provide facilities-based competitive local telecommunications services in the State of South Dakota. In support thereof, Applicant provides the following information:

**I. Identification of the Applicant**

1. Applicant’s full name is New Rochelle Telephone Corp. and is headquartered at 75 South Broadway, Suite 302, White Plains, NY 10601. Applicant’s principal corporate officers, located at the same address, are:

<b>Paul H. Riss</b>	<b>Chief Executive Officer and Chief Financial Officer</b>
<b>Mark Richards</b>	<b>Chief Information Officer</b>
<b>Donna Strigler</b>	<b>Operations Manager</b>

2. New Rochelle Telephone Corp. (“New Rochelle” or “Company” or “Applicant”) is a privately held corporation formed under the laws of New York, incorporated on November 3, 1997. A copy of Applicant’s Articles of Incorporation is appended hereto as *Exhibit A*. Applicant is qualified to conduct business within the State of South Dakota as a foreign corporation. A copy of the qualifying document is attached hereto as *Exhibit B*.

3. New Rochelle is a wholly-owned subsidiary of eLEC Communications Corp., a New York corporation formed on July 22, 1964, and is headquartered at the same location. eLEC Communications Corp. does not hold any authorizations to provide telecommunications services in any other jurisdiction.

4. New Rochelle has been granted Certificates of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services in eight jurisdictions. These Certificates have been granted in the following states: Florida, Massachusetts, Michigan, Nevada, New Jersey, New York, Ohio, and Pennsylvania.

## II. Designated Contacts

5. The designated contact for this application is:

Katherine E. Barker  
THE KDW GROUP, LLC  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
Phone: (202) 955-9669  
Fax: (202) 955-9792

6. Copies of all correspondence, notices, inquiries and orders in relation to this Application also should be sent to the following person:

Paul H. Riss  
New Rochelle Telephone Corp.

75 South Broadway, Suite 302  
White Plains, NY 10601  
Telephone: (914) 682-0214 x 1100  
Facsimile: (914) 682-0820

Copies of all correspondence, notice, inquiries and orders relating to consumer issues, regulatory filings and tariff and all other issues should be sent to:

Donna Strigler  
75 South Broadway, Suite 302  
White Plains, NY 10601  
New Rochelle, NY 10801  
Telephone: (914) 682-0214 x 2100  
Facsimile: (914) 682-0820

7. New Rochelle's registered agent in South Dakota is:

National Registered Agents, Inc.  
300 South Phillips Avenue, Suite 300  
Sioux Falls, SD 57104

### **III. Description of Network and Authority Requested**

8. By this Application, New Rochelle Telephone Corp. proposes to provide competitive local exchange service to customers within the State of South Dakota. The Company, may based upon Customer requests, install and maintain a switching location within the state in the near future. In addition, New Rochelle proposes to serve residential and business customers with inbound and outbound resold long distance telecommunications services. The Applicant will not provide operator assisted services.

9. With respect to the geographic coverage area for its intended services, New Rochelle requests authority to operate as a competitive local exchange carrier in all areas defined by the existing exchange areas in which Qwest is authorized to operate within State of South Dakota. New Rochelle anticipates serving both residential and business customers at this time.

10. Applicant plans to provide its service through a combination of resale of ILEC services in combination with a strategic utilization of unbundled network elements (“UNEs”) purchased from the ILEC. The Company may eventually collocate its equipment in central offices and/or carrier hotels insofar as feasible within the changing telecommunications market.

11. Applicant has no plans to construct outside plant or loop distribution equipment at the current time, but may undertake such actions in the future if changes in market conditions and the Company’s business plans dictate.

#### **IV. Qualifications of the Applicant**

12. As demonstrated below, New Rochelle is well-qualified managerially, technically and financially to provide the competitive local exchange telecommunications services for which authority is requested in this Application.

13. New Rochelle’s management team includes individuals with substantive experience in successfully developing and operating telecommunications business. Consequentially, the Company has the adequate internal technical resources to support its South Dakota operations. This expertise in the telecommunications industry makes New Rochelle’s management team well-qualified to construct, operate and manage its local exchange network in South Dakota. Specific details of the business and technical experience of New Rochelle’s officers and management personnel are attached as *Exhibit C*, which also contain biographies and a brief description of the business experiences of key management personnel who will be responsible for New Rochelle’s telecommunications services in South Dakota and throughout the United States.

14. As is evident from the information contained in *Exhibit C*, Applicant is managed by persons with substantial technical expertise in designing, constructing and operating telecommunications networks. This wealth of expertise will enable New Rochelle to provide its local exchange and interexchange customers with advanced, state-of-the-art technology, for its telecommunications services.

15. New Rochelle has attached hereto as *Exhibit D* its current balance sheet and income statement as well as Company projections for the next three years.

16. New Rochelle plans to rely primarily on the use of UNE-P and resale provided through Qwest to provide local service, thereby reducing the need for significant capital expenditures.

17. Company is a privately-held company and, thus, does not issue annual reports or submit any financial filings with the Securities and Exchange Commission.

18. Applicant will bill all of its end-user customers directly. New Rochelle does not intend to utilize a billing agent in issuing bills for services rendered to end users. Applicant will not use a "billing clearinghouse" or other outside entity to issue bills to its customers. All bills sent to end-user customers will bear the Company's name and provide a toll-free number for customer inquiries and complaints.

19. New Rochelle has a toll free number available for its customers to contact the Company with billing and service related issues: 800-808-4999.

20. Customers may contact the Company with billing and service related issues between the hours of 8AM and 6PM Eastern Standard Time by using the toll free number provided in Paragraph 18 or by writing to New Rochelle Telephone Corp., Customer Service, 75 South Broadway, Suite 302, White Plains, New York, 10601. 18.

21. New Rochelle intends to provide facilities-based and resold local exchange and interexchange telecommunications services pursuant to the terms and conditions set forth in its Proposed Tariffs, attached hereto as *Exhibit E*. The Applicant will file a Final Tariffs, in accordance with the Commission's procedures, prior to providing telecommunications services in South Dakota.

**V. Requested Regulatory Treatment**

22. Applicant hereby agrees to abide by all applicable statutes and all applicable Orders, Rules, and regulations entered and adopted by the Commission. Additionally, as a competitive provider of telecommunications services in South Dakota, Applicant respectfully requests that it be subject to the same streamlined regulatory treatment applicable to other competitive carriers.

23. Applicant respectfully requests that this Petition be given expedited consideration.

**VI. Public Interest**

24. A decision by the Commission to grant Applicant authority to provide competitive local exchange and interexchange telecommunications services is in the public interest. Applicant is well qualified to operate as such a service provider in South Dakota. Consumers of telecommunications services in South Dakota will receive the benefits of downward pressure on prices, increased choice, improved quality of service and customer responsiveness, innovative service offerings, and access to increasingly advanced telecommunications technology. The market incentives for new and existing providers of telecommunications services will be improved through an increase in the diversity of suppliers and competition within the local exchange and interexchange telecommunications market. Granting New Rochelle's Application would enhance the development of competition in the local exchange and interexchange markets and provide the consumers of South Dakota with all of the benefits described above.



WHEREFORE, Applicant respectfully requests that the Commission grant it a Certificate of Public Convenience and Necessity to provide competitive local exchange and interexchange telecommunications services in the State of South Dakota.

Respectfully submitted,

**NEW ROCHELLE TELEPHONE CORP.**

By: *Katherine E. Barker*

Paul H. Riss  
NEW ROCHELLE TELEPHONE CORP.  
75 South Broadway, Suite 302  
White Plains, NY 10601  
Telephone: (914) 633-6500  
Facsimile: (914) 633-6595

and

Katherine E. Barker  
THE KDW GROUP, LLC  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
Phone: (202) 955-9659  
Fax: (202) 955-9792

Dated:

**VERIFICATION**

[Commonwealth/State] of NEW YORK :

: **SS.**

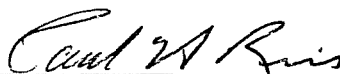
County of WESTCHESTER :

Paul H. Riss, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

He is the President and Chief Executive Officer of New Rochelle Telephone Corp.;

That he is authorized to and does make this affidavit for New Rochelle Telephone Corp.;

That the facts above set forth are true and correct to the best of his knowledge, information, and belief.



\_\_\_\_\_  
Paul H. Riss

Sworn and subscribed before me this 16<sup>th</sup> day of Feb, 2005.



\_\_\_\_\_  
Signature of official administering oath

ROSA PAOLUCCI  
Notary Public, State of New York  
No. 01PA4948981  
Qualified in Westchester County  
Commission Expires Mar. 27, 2007

My commission expires \_\_\_\_\_

# EXHIBIT A

## ARTICLES OF INCORPORATION

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF

Peconic Telco Inc.

*(Insert Name of Domestic Corporation)*

Under Section 805 of the Business Corporation Law

Filer's Name   Maria A. Abbagnaro  

Address   543 Main Street  

City, State and Zip Code   New Rochelle, NY 10801  

NOTE: This form was prepared by the New York State Department of State. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores. The Department of State recommends that all documents be prepared under the guidance of an attorney. The certificate must be submitted with a \$60 filing fee, plus the required tax on shares pursuant to §180 of the Tax Law, if applicable.

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*For Office Use Only*

New York State  
Department of State  
Division of Corporations, State Records  
and Uniform Commercial Code  
41 State Street  
Albany, NY 12231

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF

Peconic Telco Inc.

*(Insert Name of Domestic Corporation)*

Under Section 805 of the Business Corporation Law

FIRST: The name of the corporation is: Peconic Telco Inc.

If the name of the corporation has been changed, the name under which it was formed is: \_\_\_\_\_

SECOND: The date of filing of the certificate of incorporation with the Department of State is:

November 3, 1997

THIRD: (Set forth each amendment in a separate paragraph providing the subject matter and full text of each amended paragraph.) The amendment effected by this certificate of amendment is as follows:

Paragraph First of the Certificate of Incorporation relating to the name of the corporation.

is hereby amended to read in its entirety as follows: The name of the corporation is  
New Rochelle Telephone Corp.

FOURTH: The certificate of amendment was authorized by: *[Check the appropriate box]*

The vote of the board of directors followed by a vote of a majority of all outstanding shares entitled to vote thereon at a meeting of shareholders.

The vote of the board of directors followed by the unanimous written consent of the holders of all outstanding shares.

Paul H. Riss  
*(Signature)*

Paul H. Riss, President  
*(Name and Capacity of Signer)*

**Certificate of Incorporation**

**of**

**PECONIC TELCO, INC.**

**Pursuant to Section 402 of the Business Corporation Law**

**BLU-39  
BILLED**

Filed By:

DEBORAH DOTY  
670 WEST CREEK AVE  
PO BOX 1181  
CUTCHOGUE NY 11935-0876

CERTIFICATE OF INCORPORATION

OF

PECONIC TELCO, 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:

PECONIC TELCO, INC.

SECOND: The purpose of the corporation is to engage in the business of offering both residential and business customers a wide assortment of telecommunications services, including sales, installation and maintenance, as well as 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 SUFFOLK 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 THE CORPORATION  
2300 PINE TREE RD.  
CUTCHOGUE, NY 11935

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, this certificate of incorporation has been subscribed by the undersigned this 11/03/97, who affirms the statements made herein are true under the penalties of perjury.

s/ Sharon Babala  
Sharon Babala, Incorporator  
BlumbergExcelsior Corporate  
Services, Inc.  
488 Broadway  
Albany, New York 12207



# **EXHIBIT B**

## **CERTIFICATE OF QUALIFICATION**

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

### Certificate of Authority

ORGANIZATIONAL ID #: FB029363

I, **Chris Nelson**, Secretary of State of the State of South Dakota, hereby certify that the Application for a Certificate of Authority of **NEW ROCHELLE TELEPHONE CORP. (NY)** to transact business in this state duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Authority and attach hereto a duplicate of the application to transact business in this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this February 14, 2005.



*Chris Nelson*

Chris Nelson  
Secretary of State

# EXHIBIT C

## MANAGEMENT BIOGRAPHIES

### Paul H. Riss

Mr. Riss serves as the Chief Executive Officer and Chief Financial Officer. Mr. Riss was one of the original board members of Access One Communications, a Florida-based CLEC incubated by an affiliate of New Rochelle Telephone and sold to Talk America when it had grown to approximately 60,000 local access lines. He also served as President and CEO of Essex Communications, Inc. from 1999 until the present, a CLEC that he built up from its inception and whose selected assets, liabilities and operations were sold to BiznessOnline.com on December 31, 2002. Mr. Riss is a licensed CPA and has worked as an executive with Ernst & Young. He received an MBA with distinction from New York University's Stern School of Business, and received a BA from Carleton College where he was a Magna Cum Laude graduate with distinction.

### Mark Richards

Mr. Richards is the CIO of New Rochelle Telephone. Richards has more than 20 years' domestic and international experience working in senior management positions for Fortune 500 and emerging companies in information technology and telecommunications. He has managed all aspects of telecommunications and information technology companies, and has successfully led businesses through building and implementing customer service support systems, billing platforms and new products for business and residential offerings.

Previously, Richards was the COO of a VoIP wholesaler, Volo Communications. He also served as the acting CEO for Epicus Communications, a UNE-P carrier in the BellSouth territory, where he led the company to profitability and strong growth. Prior to that, he held executive positions with a variety of CLEC and telecom start-ups, including NET-Tel, TCCF, and American Network Exchange.

Richards also served as a consultant to numerous Fortune 500 companies in the U.S. and abroad, including Citibank Card Services, CitiCorp Karten Services, Citibank London, D.G. Durham London, B.P. UK, and Citibank Japan.

**Donna Strigler**

Ms. Strigler, Operations Manager, came to New Rochelle Telephone in April 2004 with 17 years of telecom experience. She was with Verizon (formerly NYNEX) for 12 of those years, where she gained managerial and experience in customer service, installation, maintenance and provisioning. After Verizon, Ms. Strigler managed a customer service call center for Elizabethtown Gas NUI Corporation for 2 years. Most recently before joining New Rochelle Telephone, Ms. Strigler was with KPMG Consulting for 4 years. Among other projects, there she directed a telecommunications project team responsible for the testing and validation of the ILEC's telecom operational support systems (including Verizon, Ameritech, Qwest and Bell South) in support of FCC docket #271.

# **EXHIBIT D**

## **FINANCIAL STATEMENTS**

New Rochelle Telephone Corp.  
Income Statements

	Year Ending November 30, 2002	Year Ending November 30, 2003	Year Ending November 30, 2004
Revenue	\$218,064.30	\$3,097,563.88	\$5,438,571.11
Cost of Goods Sold	152,820.74	1,520,247.88	2,623,557.61
Gross Margin	<u>65,243.56</u>	<u>1,577,316.00</u>	<u>2,815,013.50</u>
Total SG&A	<u>277,296.80</u>	<u>2,728,533.54</u>	<u>2,836,633.55</u>
EBITDA	<u>(212,053.24)</u>	<u>(1,151,217.54)</u>	<u>(21,620.05)</u>
Depreciation and Amortization	-	-	991.38
EBIT	<u>(212,053.24)</u>	<u>(1,151,217.54)</u>	<u>(22,611.43)</u>
Interest Expenses/(Income)		<u>711.39</u>	<u>(511.48)</u>
EBT	(212,053.24)	(1,151,928.93)	(22,099.95)
Provision for Income Taxes	155.00	155.00	310.17
NET LOSS	<u><u>(\$212,208.24)</u></u>	<u><u>(\$1,152,083.93)</u></u>	<u><u>(\$22,410.12)</u></u>

New Rochelle Telephone Corp.  
Balance Sheets

	November 30, 2002	November 30, 2003	November 30, 2004
<b>ASSETS</b>			
Cash and Cash Equivalents	\$5,884.36	\$95,288.02	\$71,684.41
Accounts Receivable	36,343.90	446,238.95	704,368.85
Other Current Assets	38,555.14	14,601.00	10,290.67
<b>Total Current Assets</b>	<b>80,783.40</b>	<b>556,127.97</b>	<b>786,343.93</b>
Property and Equipment	-	-	10,510.05
Other Assets	-	20,000.00	20,000.00
<b>Total Assets</b>	<b>\$80,783.40</b>	<b>\$576,127.97</b>	<b>\$816,853.98</b>
<b>LIABILITIES AND SHAREHOLDER'S EQUITY</b>			
Accounts Payable	\$65,876.77	\$451,102.93	\$734,225.25
Accrued Payroll & Related Taxes	-	49,747.20	78,317.72
Deferred Reenue	-	77,928.00	173,000.00
Other Current Liabilities	31,910.94	285,201.30	429,054.31
<b>Total Current Liabilities</b>	<b>97,787.71</b>	<b>863,979.43</b>	<b>1,414,597.28</b>
<b>Total Liabilities</b>	<b>97,787.71</b>	<b>863,979.43</b>	<b>1,414,597.28</b>
Capital In Excess of Par	572,912.49	1,454,149.27	1,166,667.54
Retained Earnings	(589,916.80)	(1,742,000.73)	(1,764,410.85)
<b>Total Shareholders' Equity</b>	<b>(17,004.31)</b>	<b>(287,851.46)</b>	<b>(597,743.31)</b>
<b>Total Liabilities and Equity</b>	<b>\$80,783.40</b>	<b>\$576,127.97</b>	<b>\$816,853.97</b>

Note: Audited financial statements are not available.

Approximately \$1 million in additional cash has been provided to New Rochelle Telephone in February 2005

**EXHIBIT E**

**PROPOSED TARIFF**

**TO BE LATE-FILED**