12-0419-TP-ACE 39

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January 17, 2012

PUCO

**Public Utilities Commission of Ohio** Attention: Docketing Division 180 East Broad Street Columbus, OH 43266-0573

RE: Telecommunication Filing and Supplemental Application Form of Toly Digital Networks, Inc., for Carrier Certification and its Motion for Protective Treatment of Financials.

Dear Sir/Madam.

Enclosed for filings are the original and ten (10) copies of the above referenced application form and proposed tariff of Toly Digital Networks, Inc. The company respectfully requests the earliest possible effective date of this application.

Please acknowledge receipt of this filing by returning the extra copy of this cover letter, date stamped in the self-addressed, stamped envelope provided. Any questions you may have pertaining to this application should be directed to my attention at (561) 694-8655 or via email at mark.suto@tolydigital.com. Thank you for your assistance in this matter.

Sincerely,

Mark E. Suto

Toly Digital Networks, Inc.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course Date Processed

# The Public Utilities Commission of Ohio TELECOMMUNICATIONS FILING FORM

(Effective: 01/20/2011)

This form is intended to be used with most types of required filings. It provides cheek boxes with rule references for the most common types of filings. It does not replace or supersede Commission rules in any way.

In the Matter of the Application of Toly Digital Networks, Inc. for authority to Resell Telecommunication Services within Ohio.	) ) )	TRF Docket No. 90- Case No. 12 - 0419 - TP - NOTE: Unless you have reserved a Case #, leave the "Case No" BLANK.		
Name of Registrant(s): Toly Digital Networks, Inc.				
DBA(s) of Registrant(s):				
Address of Registrant(s): 4425 Military Trail Suite 209 Jup	iter, FL	33458		
Company Web Address: www.tolydigital.com				
Regulatory Contact Person(s): Mark E. Suto		Phone (561) 694-8655	Fax (561) 694-8656	
Regulatory Contact Person's Email Address: mark.suto@to	lydigita	l.com		
Contact Person for Annual Report: Mark E. Suto			Phone (561) 694-8655	
Address (if different from above)				
Consumer Contact Information: Mark E. Suto			Phone (561) 694-8655	
Address (if different from above)				
Motion for protective order included with filing? X Yes Motion for waiver(s) filed affecting this case? Yes		te: Waivers may toll any automatic	c timeframe.]	
Notes:				

Section I and II are Pursuant to Chapter 4901:1-6 OAC.

Section III - Carrier to Carrier is Pursuant to 4901:1-7 OAC, and Wireless is Pursuant to 4901:1-6-24 OAC.

Section IV – Attestation.

- (1) Indicate the Carrier Type and the reason for submitting this form by checking the boxes below.
- (2) For requirements for various applications, see the identified section of Ohio Administrative Code Section 4901 and/or the supplemental application form noted.
- (3) Information regarding the number of copies required by the Commission may be obtained from the Commission's web site at <a href="https://www.puco.ohio.gov">www.puco.ohio.gov</a> under the docketing information system section, by calling the docketing division at 614-466-4095, or by visiting the docketing division at the offices of the Commission.
- (4) An Incumbent Local Exchange Carrier (ILEC) offering basic local exchange service (BLES) outside its traditional service area should choose CLEC designation when proposing to offer BLES outside its traditional service area or when proposing to make changes to that service.

All Filings that result in a change to one or more tariff pages require, at a minimum, the following exhibits.

Exhibit	Description:
Α	The tariff pages subject to the proposed change(s) as they exist before the change(s)
В	The Tariff pages subject to the proposed change(s), reflecting the change, with the change(s) marked in the right margin.
С	A short description of the nature of the change(s), the intent of the change(s), and the customers affected.
D	A copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rule(s).

# Section I - Part I - Common Filings

Carrier Type  Other (explain below	λ	For Pro	fit ILEC	□ Not For I	Profit ILEC	CI	LEC
Change terms & condition existing BLES		ATA /- (Auto 30 da		ATA <u>1-6</u> (Auto 30 day			TA <u>1-6-14(H)</u> 30 days)
Introduce non-recurring ch surcharge, or fee to BLES	narge,						ΓΑ <i>1-6-14(H)</i> 30 days)
Introduce or Increase Late	Payment	ATA 1- (Auto 30 da		ATA 1-0 (Auto 30 day			ΓΑ <u>1-6-14(I)</u> 30 days)
Revisions to BLES Cap.		ZTA <u>1-1</u> (0 day Notic	e)		-		
Introduce BLES or expand service area (calling area)	l local	☐ ZTA <u>1-</u> (0 day Notic		O day Notice	<del></del>		A <u>1-6-14(H)</u> Notice)
Notice of no obligation to facilities and provide BLE		ZTA 1-1 (0 day Notic		ZTA <u>1-6</u> (0 day Notice			
Change BLES Rates		TRF <u>1-0</u> (0 day Notic		TRF <u>1-6-</u> (0 day Notice			UF <u>1-6-14(G)</u> Notice)
To obtain BLES pricing fl	exibility	BLS <u>1-6</u> (C)(1)(c) (Auto 30 da	ays)				
Change in boundary		ACB <u>1-</u> (Auto 14 da		ACB <u>1-6</u> (Auto 14 day			
Expand service operation	area						RF <u>1-6-08(G)(</u> 0 day)
BLES withdrawal							A <u>1-6-25(B)</u> Notice)
Other*							
Section I – Part II – Cu	stomer No	tification Of	ferings Pur	suant to Chapt	er <u>4901:1-6-7</u>	OAC	
Type of Notice	Dire	et Mail	Bill	Insert	Bill Nota	tion	Electronic Mail
☐ 15-day Notice							
30-day Notice							
Date Notice Sent:							
Section I – Part III –IOS Offerings Pursuant to Chapter 4901:1-6-22 OAC							
IOS	Introdu	ice New	Tariff	Change	Price Cha	ange	Withdraw
□ ios	[	7			П		П

#### Section II - Part I - Carrier Certification - Pursuant to Chapter 4901:1-6-08, 09 & 10 OAC

	ILEC	CLEC	Telecommunications	CESTC	CETC
Certification	(Out of Territory)		Service Provider		
	,		Not Offering Local		
* See Supplemental	ACE <u>1-6-08</u>	☐ ACE <u>1-6-08</u>	X ACE <u>1-6-</u> 08	ACE <u>1-6-</u> 10	UNC <u>1-6-</u> 09
form	* (Auto 30- day)	*(Auto 30 day)	*(Auto 30 day)	(Auto 30 day)	*(Non-Auto)

<sup>\*</sup>Supplemental Certification forms can be found on the Commission Web Page.

#### Section II - Part II - Certificate Status & Procedural

Certificate Status	ILEC	CLEC	Telecommunications Service Provider Not Offering Local
Abandon all Services		ABN <u>1-6-26</u> (Auto 30 days)	ABN <u>1-6-26</u> (Auto 30 days)
Change of Official Name *	ACN <u>1-6-29(B)</u> (Auto 30 days)	ACN <u>1-6-29(B)</u> (Auto 30 days)	CIO <u>1-6-29(C)</u> (0 day Notice)
Change in Ownership *	ACO <u>1-6-29(E)</u> (Auto 30 days)	ACO <u>1-6-29(E)</u> (Auto 30 days)	CIO <u>1-6-29(C)</u> (0 day Notice)
Merger *	AMT <u>1-6-29(E)</u> (Auto 30 days)	AMT <u>1-6-29(E)</u> (Auto 30 days)	CIO <u>1-6-29(C)</u> (0 day Notice)
Transfer a Certificate *	ATC <u>1-6-29(B)</u> (Auto 30 days)	ATC <u>1-6-29(B)</u> (Auto 30 days)	CIO <u>1-6-29(C)</u> (0 day Notice)
Transaction for transfer or lease of property, plant or business *	ATR <u>1-6-29(B)</u> (Auto 30 days)	ATR <u>1-6-29(B)</u> (Auto 30 days)	CIO <u>1-6-29(C)</u> (0 day Notice)

<sup>\*</sup> Other exhibits may be required under the applicable rule(s). ACN, ACO, AMT, ATC, ATR and CIO applications see the 4901:1-6-29 Filing Requirements on the Commission's Web Page for a complete list of exhibits.

#### Section III - Carrier to Carrier (Pursuant to 4901:1-7), and Wireless (Pursuant to 4901:1-6-24)

Carrier to Carrier	ILEC	CLEC
Interconnection agreement, or amendment to an approved agreement	NAG <u>1-7-07</u> (Auto 90 day)	NAG <u>1-7-07</u> (Auto 90 day)
Request for Arbitration	ARB 1-7-09 (Non-Auto)	ARB 1-7-09 (Non-Auto)
Introduce or change c-t-c service tariffs,	ATA <u>1-7-14</u> (Auto 30 day)	ATA 1-7-14 (Auto 30 day)
Request rural carrier exemption, rural carrier suspension or modification	UNC <u>1-7-04</u> or 05 (Non-Auto)	
Changes in rates, terms & conditions to Pole Attachment, Conduit Occupancy and Rights-of-Way.	UNC 1-7-23(B) (Non-Auto)	
Wireless Providers See 4901:1-6-24	RCC [Registration & Change in Operations]	NAG [Interconnection Agreement or

true and correct to the best of my knowledge.

#### Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

# **AFFIDAVIT** Compliance with Commission Rules I am an officer/agent of the applicant corporation, Toly Digital Networks, Inc. , and am authorized to make this statement on its hehalf. Please Check ALL that apply: ☑ I attest that these tariffs comply with all applicable rules for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio. I attest that customer notices accompanying this filing form were sent to affected customers, as specified in Section II, in accordance with Rule 4901:1-6-7, Ohio Administrative Code. I declare under penalty of perjury that the foregoing is true and correct. Executed on (Date) 1/1/2012 at (Location) Tup: ter, FL 33458 \*(Signature and Title) 1/10 VP (Date) 1/10/2012 This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant. VERIFICATION verify that I have utilized the Telecommunications Filing Form for most proceedings provided by the I, Mark E. Suto Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is

Send your completed Application Form, including all required attachments as well as the required number of copies, to:

applicant.

\*(Signature and Title)Vice President / Suffer (Date) 1/11/2012 \*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the

> Public Utilities Commission of Ohio Attention: Docketing Division 180 East Broad Street, Columbus, OH 43215-3793

Make such filing electronically as directed in Case No 06-900-AU-WVR

# The Public Utilities Commission of Ohio TELECOMMUNICATIONS SUPPLEMENTAL APPLICATION FORM for CARRIER CERTIFICATION

(Effective: 01/20/2011)
(Pursuant to Case No. 10-1010-TP-ORD)
NOTE: This SUPPLEMENTAL form must be used WITH the
TELECOMMUNICATIONS FILING FORM for ROUTINE PROCEEDINGS.

In the Matter of the Application of Toly D Inc_for Authority to resell Telecommunic in Ohio		Case No	o <b></b> - <b>T</b>	P
Name of Registrant(s): Toly Digital Networks DBA(s) of Registrant(s) Address of Registrant(s): 4425 Military T	·	3458		
Motion for protective order included water (s) filed affecting the			tolls any automa	tic timeframe]
List of Required Exhibits				
Tariffs: (Include all that apply)				
	Local Tariff	Γ	CESTC Tariff	
	☐ Carrier-to-Carrier (Ac	cess) Tariff		
Description of Services	NOTE: All Facil	ities-Based carrie	ers must file an Acc	ess Tariff
Service provisioned via Resale	☐ Service provisioned v	ia Facilities [	Both Resold and	f Facilities-based
Description of Proposed Services	Statement about the p	rovision of	Description of the geographic area	
Explanation of how the proposed services in the proposed market area are in the public interest.	□ Description of the class applicant intends to see		e.g., residence, bus	iness) that the
<b>Business Requirements</b>				
Evidence of Registration with:	Ohio Department of attached email from Dept		Ohio Secretary of Certificate of Go	
Documentation attesting to the applic	ant's financial viability, i	ncluding the foll	owing:	-
An executive Summary describing the internally generated sources of cas subject of this certification application	h and external funds avail			
Copy of financial statements (actual statements are based on a certain g				ndicate if financial
🛛 Documentation to support the applic	ant's cash and funding sou	rces.		
Documentation attesting to the applic	ant's managerial ability a	ınd corporate stı	ructure, including	the following:
Documentation attesting to the ap offering(s) and proposed service an		anagerial experti	ise relative to the	proposed service
	e numbers of officers and	directors, or partn	ers.	
Documentation indicating the applic	ant's corporate structure a	nd ownership		
☑ Information regarding any similar op	erations in other states.			
If this company has been previously	y certified in the State of O	hio, include that c	ertification number	
☐ Verification that the applicant will applicable. <i>Not applicable</i>	follow federal communica	tions commission	n (FCC) accountin	g requirements, if

<sup>&</sup>lt;sup>1</sup> Certification from Ohio Secretary of State (domestic or foreign corporation, authorized use of fictitious name, etc.), and Certificate of Good Standing is required.

Documentation attesting to the applicant's proposed interact	ions with other Carriers
Explanation as to whether rates are derived through (check al	l applicable):
☐ interconnection agreement ☐ retail tar	ffs
Explanation as to which service areas company currently has	an approved interconnection or resale agreement.
A notarized affidavit accompanied by bona fide letters reques Telecommunications Act of 1996 and a proposed timeline for to end users.	
Documentation attesting to the applicant's proposed interact	ions with Customers
A sample copy of the customer bill and disconnection notice to	ne applicant plans to utilize.
Provide a copy of any customer application form required in o	rder to establish residential service, if applicable.
For CLECs, List of Ohio ILEC Exchanges the applicant intend (Use spreadsheet from: <a href="http://www.puc.state.oh.us/puco/form">http://www.puc.state.oh.us/puco/form</a>	
If Mirroring the entire ILEC local service areas, tariffs may in local exchange areas, the CLEC shall specifically define its lo	
<u>Affidavi</u>	<u>L</u>
I am an authorized representative of the applicant corporation Toly Digits and I am authorized to make this statement on its behalf. I attest that I is Form for Carrier Certification provided by the Commission, and that all committed in connection with this case, is true and correct.	ave utilized the Telecommunications Supplemental Application
Executed on $\frac{1/11}{2012}$ at _	
Mark E. Suto, Vice President (E	/11/2012 Date)

#### **Exhibit A**

**TARIFF FILING** 

of

TOLY DIGITAL NETWORKS, INC.

For the

#### RESELL OF TELECOMMUNICATIONS SERVICES

This Tariff contains the rates, terms and conditions applicable to intrastate interexchange services offered by Toly Digital Networks, Inc., within the State of Ohio. The provisions of this tariff apply only to the intrastate interexchange services described in this tariff.

ISSUED BY:

#### **TABLE OF CONTENTS**

Title Sheet	1
Table of Contents	2
Tariff Format	3
Explanation of Symbols	4
Application of Tariff	5
Section 1 - Terms and Abbreviation	
Section 2 – General	7
Section 3 – Limitations of Liability	8
Section 4 Responsibility of the Customer	12
Section 5 - Refusal and Discontinuance of Service	14
Section 6 - Responsibility of the Company	16
Section 7 – Operation, Maintenance and Engineering	
Section 8 Wholesale Services, Rates and Charges	

#### **TARIFF FORMAT**

- A. Page Numbering Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added.
- **B. Page Revision Numbers** Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Ohio Regulatory Authority (hereinafter TRA). For example, the 4th revised page 14 cancels the 3<sup>rd</sup> revised page 14.
- **C. Paragraph Numbering Sequence** There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

2 2.1 2.1.1 2.1.1.A 2.1.1.A.1 2.1.1.A.1.(a) 2.1.1.A.1.(a).l 2.1.1.A.1.(a).l.(i) 2.1.1.A.1.(a).l.(i)

#### **EXPLANATION OF SYMBOLS**

Changes to this tariff shall be identified on the revised page(s) through the use of symbols. The following are the only symbols used for the purposes indicated below:

- (C) To signify changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify an increase.
- (M) To signify matter relocated without change.
- (N) To signify new rate or regulation.
- (R) To signify reduction.
- (S) To signify reissued matter.
- (T) To signify change in text but no change in rate or regulation.
- (Z) To signify a correction.

TOLY DIGITAL NETWORKS, INC ISSUED DATE: November 2011

TRA – RESELL TARIFF
EFFECTIVE DATE: December 2011
ORIGINAL SHEET 5

#### **APPLICATION OF TARIFF**

This Tariff is available for public inspection during normal business hours at the main office of Toly Digital Networks, Inc., located at:

4425 Military Trail #209 Jupiter, FL 33458

This Tariff contains the rates, terms and conditions of service applicable to the furnishing of the within described intrastate interexchange services by Toly Digital Networks, Inc.. This Tariff applies to wholesale interexchange services offered by Toly Digital Networks, Inc. to certificated telecommunications companies only. Toly Digital Networks does not offer or provide any services to the general public.

#### **SECTION 1 - TERMS AND ABBREVIATIONS**

#### 1. Definitions

**CLEC** - Competitive Local Exchange Company

TRA - Refers to the Ohio Regulatory Agency

Company - Toly Digital Networks, Inc., issuer of this tariff

<u>Customer</u> – Any telecommunications provider authorized by the TRA provide local exchange service in Ohio.

End Users - Those users of the Customer's service.

LEC - Local Exchange Company.

Wholesale Service - Services made available by the Company to TRA certificated LECs and CLECs.

#### **SECTION 2 - GENERAL**

#### 2. General

The Company will make local exchange services as identified herein available to certificated LECs and CLECs in the State of Ohio, on a wholesale basis, for Customers to resell to the Customer's end users.

#### 2.1 Limitations

- A. Neither this tariff nor any actions taken by the Company or the Customer in compliance with this tariff shall be deemed to create an agency or joint venture relationship between the Customer and the Company, or any relationship other than that of purchaser and seller.
- B. Neither this tariff, nor any actions taken by the Company or the Customer in compliance with this tariff shall create a contractual, agency, or any other type of relationship between the Company and the Customer's end users, except for those delineated in Section 4.3.
- C. No licenses under patents (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppels, with respect to any service offered under this tariff.
  - D. End users may not purchase services under this tariff.
- E. The Company has no rights against, or obligations, liabilities, or duties to, the Customer's end users under this tariff, except for those delineated in Section 4.3.
- F. Services will be provided to Customers under this tariff only to the extent that the necessary facilities and necessary operational support systems are available.

#### **SECTION 3 – LIMITATIONS ON LIABILITY**

#### 3. Limitations on Liability

- 3.1 Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 6.4.
- 3.2 Except for the extension of allowances to the Customer for interruptions in service as set forth in Section 6.4, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- 3.3 The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

#### SECTION 3 - LIMITATIONS ON LIABILITY (CONT'D.)

#### 3. Limitations on Liability (Cont'd.)

- 3.4 The Company shall be indemnified and held harmless by the Customer or its end users from and against all loss, liability, damage and expense, including reasonable counsel fees, due to:
  - A. Any act or omission of (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen, except as contracted by the Company;
  - B. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
    - C. Any unlawful or unauthorized use of the Company's facilities and services;
  - D. Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the material transmitted by means of Company provided facilities or services; or by means of the combination of Company-provided facilities or services;
  - E. Breach in the privacy or security of communications transmitted over the Company's facilities.

#### SECTION 3 – LIMITATIONS ON LIABILITY (CONT'D.)

#### 3. Limitations on Liability (Cont'd.)

#### 3.4 (Cont'd.)

- F. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in paragraph A. of this Subsection 3.4.
- G. Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- H. Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
  - I. Any non-completion of calls due to network busy conditions;
- J. Any calls not actually attempted to be completed during any period that service is unavailable; and
- K. Any other claim resulting from any act or omission of the Customer or end users of the Customer relating to the use of the Company's services or facilities.
- 3.5 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere.
- 3.6 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.
- 3 .7 Failure by the Company to assert its rights pursuant to one provision of this tariff does not preclude the Company from asserting its rights under other provisions.

#### SECTION 3 - LIMITATIONS ON LIABILITY (CONT'D.)

#### 3. Limitations on Liability (Cont'd.)

3.8 Directory Errors - In the absence of gross negligence or willful misconduct, no liability for damages arising from errors or mistakes in or omissions of directory listings, or errors or mistakes in or omissions of listing obtainable from the directory assistance operator, including errors in the reporting thereof, shall attach to the Company. An allowance for errors or mistakes in or omissions of published directory listings or for errors or mistakes in or omissions of listing obtainable from the directory assistance operator shall be at the monthly tariff rate for each listing, or in the case of a free or no-charge directory listing, credit shall equal two times the monthly tariff rate for an additional listing, for the life of the directory or the charge period during which the error, mistake or omission occurs.

#### 3.9 With respect to Emergency Number 911 Service:

A. This service is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies. The Company is not responsible for any losses, claims, demands, suits or any liability whatsoever, whether suffered, made instituted or asserted by the Customer or by any other party or person for any personal injury or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused by: (1) mistakes, omissions, interruptions, delays, errors or other defects in the provision of service, of (2) installation, operation, failure to operate, maintenance, removal, presence, condition, local or use of any equipment and facilities furnishing this service.

B. Neither is the Company responsible for any infringement, nor invasion of the right of privacy of any person or persons, caused or claimed to have been caused directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of emergency 911 service features and the equipment associated therewith, or by any services furnished by the Company, including, but not limited to the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing emergency 911 service, and which arise out of the negligence or other wrongful act of the Company, the Customer, its users, agencies or municipalities, or the employees or agents of any one of them.

#### **SECTION 4 - RESPONSIBILITY OF THE CUSTOMER**

#### 4. Responsibility of the Customer

#### 4.1 Ordering Service

- A. The Customer shall be responsible for the accuracy and completeness of all provisioning requests and orders it submits. The Company will not be responsible for service discrepancies resulting from the Customer's failure to place a service order or the placement of an incorrect service order. The Customer will remain responsible for charges for all services on a line until it submits an order to discontinue the provision of such services, whether or not the Customer's end user is still using such services.
- B. The Customer purchasing service under this tariff must place an order or otherwise establish service with the Company through the appropriate operational interfaces established by the Company. The Customer modifying or discontinuing an existing order or service must place an order or provide appropriate information to the Company through the appropriate operational interfaces established by the Company.
- C. All Customers must establish automated interfaces complying with the format specified by the Company in order to accommodate ordering, provisioning, billing and collections, customer service and account management functions.
- 4.2 The Customer shall provide to the Company any information that is reasonable necessary to enable the Company to fulfill its obligations under this tariff and any contract arrangement the two parties may enter into.
- 4.3 Where a Customer discontinues its provision of service to its end users, for any reason, except for customer specific credit or payment problems, the Customer must send advance written notice of such discontinuance to the Company. Such notice must include a verification that the Customer has notified its end users of the discontinuance, and must state the date on which such end user notice was mailed. If the Customer fails to provide notice, the Company will provide continuous service to the discontinued customers followed by a notice that end user's carrier is no longer providing service and that the end user needs to make other arrangements for local service. If the end user fails to make other arrangements, the Company may continue to service the end user at the Company's retail rates and not under this tariff. The Customer must provide the Company with any information necessary to enable the Company to assume the end user accounts.

#### SECTION 4 - RESPONSIBILITY OF THE CUSTOMER (CONT'D.)

#### 4. Responsibility of the Customer (Cont'd.)

- 4.4 To the extent reasonably necessary for the planning of the Company's facilities and operations, the Customer shall provide, on request, forecasts of the approximate number of units of telephone exchange service and other services that the Customer expects to require in particular geographic areas. Such forecasts shall be considered confidential by the Company.
- 4.5 The Customer is responsible for prompt payment of bills for wholesale service. The Company may bill in advance charges for all services to be provided during the ensuing billing period except for charges associated with service usage unless such charges are billed on a forecasted basis to be trued-up at an agreed upon cycle with the Customer.
- 4.6 The Customer is responsible for the payment of any regulatory fees including but not limited to 911, 711, 311, relay services and Universal Service or Targeted Accessibility Funds. The Customer is responsible for the payment of sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated), excluding taxes on the Company's net income, imposed on or based upon the provision, sale or use of local services.

ISSUED BY:

#### **SECTION 5 - REFUSAL AND DISCONTINUANCE OF SERVICE**

#### 5. Refusal and Discontinuance of Service

In addition to any contract termination and penalty clauses, the Company reserves the right to the following:

- 5.1 The Company reserves the right to refuse an application for service from a Customer that is substantially owned, directly or indirectly, by an entity who is indebted to the Company for services previously furnished until the indebtedness is satisfied. The circumstances in which a Customer shall be deemed to be substantially owned, directly or indirectly, by an indebted entity, shall include situations in which the entities are substantially owned directly or indirectly, by the same entity or entities.
- 5.2 If the Customer fails to comply with the rules and regulations of this tariff, or if it fails to pay any sum owing to the Company for more than thirty (30) days beyond the date of rendition of the bill for service, or if the Customer fails to comply with the terms and conditions of the contract for service, then the Company may, on ten (10) days written notice by overnight or certified U S Mail to the person designated by the Customer to receive such notice of noncompliance, refuse additional applications for service and/or refuse to complete any pending orders for service by the non-complying Customer at anytime thereafter. If the Company does not refuse additional applications for service on the date specified in the ten (10) days notice, and the Customer's noncompliance continues, nothing contained herein shall preclude the Company's right to refuse additional applications for service to the non-complying Customer without further notice.
- 5.3 The Company may discontinue service or cancel an application for service without notice in the event the Company is prohibited from furnishing services by order of a court or other government authority having jurisdiction.
- 5.4 In the event of fraudulent use of the Company's network, by the Customer and/or the Customer's end users, including but not limited to fraudulent end user orders for transfer of service, the Company will discontinue service without notice and/or seek legal recourse to recover all costs involved in enforcement of this provision.

# TOLY DIGITAL NETWORKS, INC ISSUED DATE: November 2011

TRA – RESELL TARIFF EFFECTIVE DATE: December 2011 ORIGINAL SHEET 15

#### 5 - Refusal and Discontinuance of Service (Cont'd).

5.5 The Company will not be required to seek payment from the Customer's end users prior to terminating the Customer's service or pursuing any other remedies for nonpayment by the Customer. The Customer will thus be a direct obligor of the Company, and not guarantor or surety for any obligations of the Customer's end user.

5.6 The Customer agrees to abide by all Commission rules and regulations, FCC rules and regulations and all applicable state and federal statutes and regulations, including but not limited to, rules regarding slamming and cramming.

#### SECTION 6 - RESPONSIBILITY OF THE COMPANY

#### 6. Responsibility of the Company

#### 6.1 Billing

- A. The Company will establish a billing date for each Customer account. Billing is calculated in U. S. dollars. Customers are required to provide payment in Immediately Available U. S. Funds.
- B. The bill will cover non-usage sensitive service charges for the ensuing billing period for which the bill is rendered and any adjustments and credits. Usage charges will be billed in arrears unless the parties have agreed, via contract that forecasted usage charges may be billed. Forecasted usage charges may also be billed in the event the Customer is greater than sixty (60) days past due on bills for two consecutive billing periods.,
- C. If any portion of the payment is received by the Company after the payment date, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment due dates times a late factor the greater of 2% or the maximum rate as allowed by law. Immediately Available U S Funds denotes a corporate or personal check drawn on a bank account and funds which are available for use by the receiving party on the same day on which they are received and include U S Federal Reserve bank wire transfers, US Federal Reserve note (paper cash), U S Coins and U S Postal money orders.

#### 6.2 Customer Deposits

- A. The Company may require any Customer which has previously made a late payment or has an outstanding balance, or which parent company or holding company or successor entity has a history of late payments to the Company, or which does not have established credit, to make a deposit prior to or at any time after the provision of a service under this tariff, or a contracted service which stems from the authority granted in this tariff.
- B. A deposit required under this section may not exceed the actual or forecasted rates and charges for the service(s) for a two month period.
- C. Payment of a deposit does not relieve the Customer from its obligations to comply with the Company's regulations regarding the prompt payment of bills.

#### SECTION 6 - RESPONSIBILITY OF THE COMPANY (CONT'D.)

#### 6. Responsibility of the Company (Cont'd.)

- 6.2 Customer Deposits, (Cont'd.)
- D. At such time as the provision of service to the Customer is terminated, the amount of the deposit will be credited to the Customer account and any credit balance which may remain will be refunded.
- E. Such a deposit will be refunded or credited to the account when the Customer has established credit to the satisfaction of the Company.
  - F. Interest on deposits is set at the late payment fee referenced in this tariff.

#### 6.3 Billing Disputes

- A. In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, all undisputed amounts must be paid in order to avoid termination of service. All disputed amounts must be paid to an independent third party escrow agent identified by the Company while resolution of the dispute occurs, in order to avoid termination of service.
- B. The Customer must submit a documented claim for the disputed amount. The Customer will submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 90 days of receipt of billing for those services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. Unless disputed, the invoice shall be deemed to be correct and payable in full by the Customer.
- C. If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest credits or penalties will apply.

#### SECTION 7 - OPERATION, MAINTENANCE AND ENGINEERING

#### 7. Operation, Maintenance and Engineering

The Company and the Customer are each individually responsible for the installation, operation, and maintenance of the equipment and facilities on their own respective networks. The Company and the Customer will perform functions for each other which are reasonable necessary to engineer, install, maintain, and administer the facilities subject to this arrangement.

#### SECTION 8 - WHOLESALE SERVICES, RATES AND CHARGES

#### 8. Wholesale Services, Rates and Charges

8.1 Wholesale services will be made available to eligible customers at rates to be determined on an Individual Case Basis (ICB).

**ISSUED BY:** 

#### TOLY DIGITAL NETWORKS, INC.

#### MANAGEMENT PROFILES

#### Managerial and Technical Qualifications Biographies of Key Personnel

Mr. Aaron M. Suto, President of Toly Digital Networks, Inc. (TDN) is highly visible in the telecommunications industry. Since joining TDN in February 1997, he leads TDN's sales and service efforts in the ILEC and Commercial markets. As president, he ensures that the products and service of TDN are the leader in the market place. He is also responsible for the strategic alliances with the Carrier and ILEC agreements. Prior to joining RDN, Aaron was responsible for managing the start up of a variety of restaurant chains across the U.S., as well as ensuring customer service training at the management level for corporations such as Lincoln Restaurant Group and Brinker International.

Mr. Mark W. Suto is VP and Treasurer of TDN since founding the company in 1995. His over 30 years of experience in the Telecommunications industry include; Director/General Manager of Commonwealth Long Distance (CLD) from 1990 to 1995, Director of Communications Transmission, Inc, of Austin Texas, Regional Marketing Manager for MCI, and also held management roles at AT&T, Bell South and Verizon Telephone Companies.

Ms. Nancy Suto has been with TDN since the company was founded in 1995. She has held numerous roles including managing technical support and implementation of new systems, carrier platforms and TDN networks and technology. She is also the creative drive behind TDN's marketing efforts, developing promotional materials for TDN and its customer base. Prior to TDN, she spent eight years as Producer and Promotions Director for a top nationally syndicated radio morning show in Atlanta GA (WKHX and WYAY), owned and operated by Capital Cities/ ABC/ Disney.

Mr. Mark E. Suto joined TDN in October 2003. He brought 20 years of experience in the Financial Services Industry. Immediately prior to joining TDN, he was a Director of Call Center Operations/Customer Service with Capital One Financial Services in Tampa, Florida. He started his career with the Federal Reserve Bank as Manager of Operations. He then became the Senior Manager of Call Center Operations for American Express followed by positions with Household Credit Services as VP of Customer Service and Fraud Prevention. He also held the position of VP Fraud Operations and Senior Vice President for Credit Card Customer Services for Bank of America. He handles TDN's regulatory compliance and computer operations. He also serves as the Company's director of technology & Design Development.

## Toly Digital Networks, Inc.

#### **EXHIBIT B**

## **Company Officers**

The following individuals are officers and directors of Toly Digital Networks, Inc. and can be reached at the company's corporate office at 4425 Military Trail #209 Jupiter, FL 33458:

Directors:	Phone Number		
Mark W. Suto	VP, Treasurer	561-694-8655	
Aaron Suto	President	561-694-8655	
Nancy Suto	Secretary	561-694-8655	
Mark E. Suto	Vice President	561-694-8655	

# Toly Digital Networks, Inc.

#### **EXHIBIT C**

## **Description of Services**

Toly Digital Networks Inc. resell wholesale toll minutes to local carriers such as AT&T, Verizon and Qwest.

#### Exhibit D

## List of States Where Toly Digital Networks is Certified

## States (IXC authority)

Alabama

Florida

Connecticut

Colorado

Georgia

Indiana

Kansas

Kentucky

Louisiana

Michigan

Missouri

Mississippi

North Carolina

Pennsylvania

Texas

Tennessee

Utah

Virginia

Vermont

# Toly Digital Networks, Inc.

# Exhibit E

Ohio Secretary of State Certification

Articles of Incorporation

&

Ohio Dept. of Taxation correspondence



DATE: DOCUMENT ID DESCRIPTION 12/14/2011 201134700081 FOREIGN LICENSE/FOR-PROFIT (FLF)

Receipt

This is not a bill. Please do not remit payment.

CORPORATION GUARANTEE AND TRUST COMPANY 3331 STREET ROAD **SUITE 110** BENSALEM, PA 19020

# STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jon Husted

2067635

It is hereby certified that the Secretary of State of Ohio has custody of the business records for TOLY DIGITAL NETWORKS, INC.

and, that said business records show the filing and recording of:

Document(s)

Document No(s);

FOREIGN LICENSE/FOR-PROFIT

201134700081

Authorization to transact business in Ohio is hereby given, until surrender, expiration or cancellation of this license.



State of Ohio Office of the Secretary of State Witness my hand and the seal of the Secretary of State at Columbus, Ohio this 12th day of December, A.D. 2011.

Ohio Secretary of State

# State of Florida Department of State

Wilder 12

I certify from the records of this office that TOLY DIGITAL NETWORKS, INC. is a corporation organized under the laws of the State of Florida, filed on August 22, 1995.

The document number of this corporation is P95000064993.

I further certify that said corporation has paid all fees due this office through December 31, 2011, that its most recent annual report was filed on April 20, 2011, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the Great Seal of Florida, at Tallahassee, the Capital, this the Twenty Sixin day of October, 2011



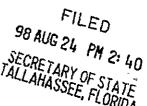
Secretary of State

Authorition ID: 000213699050-102611-P95000064993

To such chiose this certificate, visit the following site, wher this ID, and then follow its instructions displayed.

https://efile.sunblz.org/certauthyer.html

# ARTICLES OF AMENDMENT TO AND RESTATEMENT OF THE ARTICLES OF INCORPORATION OF TOLY DIGITAL NETWORKS, INC.



Pursuant to the provisions of Section 607.1006 of the Florida Business Corporation Act, the undersigned corporation adopts the following Articles of Amendment to and Restatement of its Articles of Incorporation:

- 1. The name of the corporation is TOLY DIGITAL NETWORKS, INC.
- 2. The text of the Articles, as amended and restated, is as follows:

#### "ARTICLE I NAME

The name of this corporation is TOLY DIGITAL NETWORKS, INC.

#### ARTICLE II DURATION

This corporation shall have perpetual existence, commencing on August 22, 1995, the date of filing of the original Articles with the Florida Department of State.

#### ARTICLE III PURPOSE

This corporation is organized for the purpose of transacting any or all lawful business for which corporations may be incorporated under Chapter 607, Florida Statutes, as now exists or may hereafter be amended.

#### ARTICLE IV CAPITAL STOCK

This corporation is authorized to issue 15,100 shares of no par value voting common stock, which shall be designated as "Voting Common Shares" and 45,300 shares of no par value nonvoting common stock, which shall be designated as "Nonvoting Common Shares."

# ARTICLE V REGISTERED AGENT AND OFFICE

The street address of the registered principal office of this corporation is 13901 U.S. Highway #1, Suite 1, Juno Beach, FL 33408, and the name of the registered agent of this corporation is Mark W. Suto.

#### ARTICLE VI BOARD OF DIRECTORS

This corporation shall have four directors constituting the initial Board of Directors. The number of directors may be either increased or decreased from time to time as provided in the By Laws.

#### ARTICLE VII SHAREHOLDERS' AGREEMENT

The shareholders have executed a certain Shareholders' Agreement dated August 1, 1996 and amended October 30, 1997, that imposes certain restrictions on the transfer of shares. Each share certificate issued by the corporation shall have printed or stamped thereon the following legend: "These shares are held subject to certain transfer restrictions imposed by a Shareholders' Agreement dated August 1, 1996, as amended from time to time. A copy of this Shareholders' Agreement as amended is on file at the principal office of the corporation."

# ARTICLE VIII INDEMNIFICATION

The corporation shall indemnify any officer or director or any former officer or director, to the full extent permitted by law.

# ARTICLE IX AMENDMENT

This corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation, or any amendment thereto, by a majority vote of the shareholders."

- 3. The amendment and restatement was adopted on the 22nd day of August, 1998.
- 4. The amendment and restatement was duly approved by the board of directors and the shareholders in accordance with Section 607.1006.

Dated: August 22, 1998

[CORPORATE SEAL]

LY DIGI<del>TAL NETWORKS</del>, INC

Mark W. Suto, as its President

ATTEST:

Nancy A. Suto, as its Secretary

#### STATE OF FLORIDA COUNTY OF PALM BEACH

The foregoing Articles of Incorporation were acknowledged before me this 22nd day of August 1998, by MARK W. SUTO, who is personally known to me or who produced his driver's license and voter registration care as identification.

**Notary Public** 

My Serial Number is:

My Commission Expires:

[NOTARY] [SEAL]

toly/corporate/artamend.01



This document prepared by: Stephen L. Seftenberg, Esq. 2800 North Flagler Drive, #205 West Palm Beach, FL 33407 Telephone: (561) 804-9970 Facsimile: (561) 804-9518 Florida Bar No: 805246

3

#### Ione Voor

From: Of

Ohio Department of Taxation [taxinfo@tax.state.oh.us]

Sent:

Tuesday, January 10, 2012 9:38 AM

To:

Ione Voor

Subject: RE: General Information/Corporation Franchise (KMM1750907I15977L0KM)

There is no registration required.

Thank you for your eMail inquiry.

Original Message Follows: ----->>>>>>

Do they need to register for sales tax? What are tax filings are they required to file?

Ione Voor, CPA



#### FORREST & RUBIN, LLC

CERTIFIED PUBLIC ACCOUNTANTS

Forrest & Rubin, LLC 5521 University Drive Suite 104 Coral Springs, FL 33067 PH: 954.757.0300

FAX: 954.757.7999

Ione@forrestrubincpa.com

This electronic communication (including any attached files) may contain confidential information. This communication is intended only for the use of the indicated email addressee(s). If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying or any other use of this communication or any attached document is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply email, and promptly destroy all electronic and printed copies of this communication and any attached files. We apologize for any inconvenience, and will do our best to prevent a recurrence.

From: Ohio Department of Taxation [mailto:taxinfo@tax.state.oh.us]

Sent: Tuesday, January 10, 2012 9:19 AM

To: Ione Voor

Subject: RE: General Information/Corporation Franchise (KMM1750888I15977L0KM)

>>>>> >> If you are strictly a wholesaler, you are not required to register for a vendors license.

Thank you for your eMail inquiry.

>>

>>>>

`

>Original Message Follows: -----

Toly digital only sells wholesale toll minutes to companies like AT&T and Sprint who in turn sell it to end users.

# **Toly Digital Networks**

## Exhibit F

Toly Digital Networks Inc. currently has a good financial condition as evidenced by their financial statements and bank statement submitted confidentially.

Financial and Bank Statement Confidentially Submitted under a motion of protective treatment

# **Toly Digital Networks**

Exhibit G

Sample Bill

## INVOICE

Cus	tomer			`		
Name	TDN SAMPLE INV	OICE		. }	Invoice Date	1/4/2012
Address	4425 Military Trail,	Suite 209		-		
City	Jupiter	State FL	ZIP 33458	_	Usage date	12/01/11-12/31/1
Phone	(561) 694-8655			~ )	(	

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Phone	(561) 694-8655		
Qty	Description	Unit Price	TOTAL
	December 2011 Usage		
	Switched 1 + Outbound		
	Intrastate Minutes	\$0.0526	\$92,92
	Interstate Minutes	\$0.0225	\$26.99
	Extended Domestic Minutes	\$0.0795	\$4.32
	International Minutes		\$0.41
25	Directory Assistance	\$0.6500	\$16.25
	Dedicated 1 + Outbound		
61,762.00	Intrastate Minutes	\$0.0162	\$1,000.54
254,870.60	Interstate Minutes	\$0.0096	\$2,446.76
123.40	Extended Domestic Minutes	\$0.0795	\$9.81
5,259.90	International Minutes		\$622.99
12	Directory Assistance	\$0.6500	\$7.80
	Dedicated 800 Inbound		
3,487,10	800 Intrastate Minutes	\$0.0200	\$69.74
-,	800 Interstate Minutes	\$0.0125	\$46.25
•	800 Extended Minutes	\$0.0795	\$27.43
11.80	800 International Minutes	\$0.0750	\$0.89
2	800 Payphone Surcharge	\$0.6500	\$1.30
4	Monthly T1 Charge	\$250.00	\$1,000.00
	<u> </u>	Subtotal	\$5,374.40
Rei	mit Payment	Prior Month	\$4,784.59
ı	Tally Divided Makes des Inc.	Payment	(\$4,784.59)
	Toly Digital Networks Inc. Attn: Jill Jobson	TOTAL	\$5,374.40
	4425 Military Trail, Suite 209	IOIAL [_	\$0,074.4U
	Jupiter, Florida 33458	Payment Date	.: - :
	,	Amount Paid \$	
		Balance \$	

Payments are due upon receipt. Payments not received within twenty (20) days from invoice date, will be charged .05% fee per day until paid.

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