

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2016-404-C**

Application of)
)
Lightower Fiber Networks II, LLC)
) **DIRECT TESTIMONY OF DAVID L.**
for a Certificate of Public Convenience) **MAYER**
and Necessity to Provide Resold and)
Facilities-Based Local Exchange and)
Interexchange (Including Exchange)
Access) Telecommunications Services in)
the State of South Carolina, and for)
Alternative and Flexible Regulation)

1 **Q. PLEASE STATE YOUR NAME, TITLE, BUSINESS ADDRESS AND**
2 **TELEPHONE NUMBER FOR THE RECORD.**

3 **A.** My name is David L. Mayer. I am General Counsel, Executive Vice President and
4 Secretary of Lightower Fiber Networks II, LLC (“LFN-II” or “Applicant”). My business
5 address is 80 Central Street, Boxborough, Massachusetts 01719. I can be reached by
6 telephone at (401) 965-3006.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL EXPERIENCE.**

9 **A.** I have a Bachelor of Arts degree from Yale University and a Juris Doctor from the
10 University of Texas. I have worked in the telecommunications industry for 25 years.
11 Prior to joining LFN-II, I served as the Executive Vice President of Corporate
12 Development for One Communications. From 1999 through 2006, I was General
13 Counsel and Executive Vice President of Business Development for Conversent
14 Communications.

1 **Q. ARE YOU FAMILIAR WITH THE APPLICATION THAT LFN-II SUBMITTED**
2 **TO THIS COMMISSION?**

3 **A.** Yes. I would like to incorporate the Application and its exhibits into this testimony.

4 **Q. DOES ANY INFORMATION IN THE APPLICATION NEED TO BE UPDATED**
5 **OR REVISED?**

6 **A.** Not at this time.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

8 **A.** The purpose of my testimony is to present evidence in support of LFN-II's application for
9 a Certificate to provide the resold and facilities-based local exchange, interexchange and
10 exchange access services that Applicant proposes to offer in South Carolina and to
11 review issues related to its request for a certificate to provide such services. My
12 testimony specifically demonstrates LFN-II's managerial, financial, and technical
13 competence to provide the telecommunications services for which authority is requested,
14 Applicant's willingness and ability to and its comply with the rules and policies of this
15 Commission, and that the grant of this Application would be in the public interest.

16 **Q. PLEASE DESCRIBE THE AUTHORITY THAT APPLICANT SEEKS FROM**
17 **THE COMMISSION.**

18 **A.** Applicant seeks to offer all forms of resold and facilities-based local exchange and
19 interexchange (including exchange access) telecommunications services in the State of
20 South Carolina. Applicant also requests flexible regulation for its local exchange
21 telecommunications services in accordance with procedures first authorized in Order No.
22 98-165 in Docket No. 97-467-C. Applicant also requests that the Commission regulate its
23 interexchange service offerings in accordance with the principles and procedures
24 established for alternative regulation in Commission Order Nos. 95-1734 and 96-55 in

1 Docket No. 95-661-C, and as modified by Commission Order No. 2001-997 in Docket
2 No. 2000-407-C.

3 **Q. HAS APPLICANT BEEN AUTHORIZED TO PROVIDE SUCH SERVICE IN**
4 **ANY OTHER JURISDICTIONS?**

5 **A.** Yes. LFN-II is currently authorized to provide intrastate telecommunications service in
6 Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts,
7 New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island,
8 Vermont, and Virginia. Applicant has not been denied authority to provide
9 telecommunications services in any state, nor has any state revoked the authority of
10 Applicant to operate therein.

11 **Q. PLEASE DESCRIBE THE CORPORATE STRUCTURE OF APPLICANT.**

12 **A.** Applicant's legal name is Lightower Fiber Networks II, LLC. LFN-II is a New York
13 limited liability company formed on December 24, 2001. A copy of its formation
14 documents was provided with the Application as Exhibit A. LFN-II is a wholly used
15 indirect subsidiary of LTS Group Holdings, LLC ("Holdings"), a Delaware limited
16 liability company.

17 **Q. IS APPLICANT LEGALLY AUTHORIZED TO DO BUSINESS IN SOUTH**
18 **CAROLINA?**

19 **A.** Yes. LFN-II is authorized to transact business in the State of South Carolina. A copy of
20 LFN-II's Certificate of Authority to Transact Business in the State of South Carolina was
21 provided to the Commission with the Application as Exhibit B.

22 **Q. PLEASE ADDRESS APPLICANT'S MANAGERIAL AND TECHNICAL**
23 **QUALIFICATIONS.**

24 **A.** LFN-II is technically and managerially qualified to provide competitive local exchange
25 and interexchange services in South Carolina. LFN-II's operations will be directed by its

1 existing corporate management, technical, and operations staffs who are responsible for
2 the telecommunications operations of Applicant and its affiliates, Lighttower Fiber
3 Networks I, LLC (formerly known as Light Tower Fiber Long Island LLC) and Fiber
4 Technologies Networks, L.L.C., in other states. Descriptions of key personnel of LFN-II
5 were provided as Exhibit E to the Application. LFN-II's highly-qualified technical staff
6 will ensure that its operations will meet high standards for service quality and reliability.

7 **Q. PLEASE DESCRIBE APPLICANT'S FINANCIAL QUALIFICATIONS.**

8 **A.** Applicant possesses the requisite financial resources to provide telecommunications
9 services in South Carolina. Applicant does not maintain financial statements separate
10 from the consolidated financial statements of its ultimate parent company, Holdings. For
11 purposes of this Application, Applicant will rely on the financial statements of Holdings
12 to demonstrate Applicant's financial qualification to operate within South Carolina. In
13 support of Applicant's financial qualification, financial information was provided with
14 the Application under seal as Exhibit D.

15 **Q. PLEASE DESCRIBE THE TYPES OF SERVICES THAT APPLICANT WILL**
16 **OFFER IN SOUTH CAROLINA.**

17 **A.** LFN-II will primarily provide SONET, Dark Fiber, Private Line, Ethernet, Wavelength,
18 Dedicated Internet Access and Collocation services to wholesale (e.g., other carriers) and
19 enterprise customers (including but not limited to health care providers, educational
20 institutions, and governmental agencies). To maintain flexibility, however, Applicant
21 seeks authority to provide all forms of facilities-based and resold local exchange,
22 exchange access, and interexchange telecommunications services.

1 **Q. WHAT FACILITIES WILL APPLICANT USE TO PROVIDE ITS PROPOSED**
2 **LOCAL EXCHANGE SERVICES?**

3 **A.** LFN-II will primarily provide services using its own facilities and facilities leased from
4 other carriers, but also seeks authority to provide service for resale.

5 **Q. HAS YOUR COMPANY BEGUN INTERCONNECTION NEGOTIATIONS**
6 **WITH INCUMBENT LECS IN SOUTH CAROLINA?**

7 **A.** At this time, applicant has not begun negotiations with ILECs in South Carolina for
8 interconnection agreement(s). To the extent that Applicant's services require such
9 agreements, or other agreements, Applicant will negotiate with the ILECs in due course.

10 **Q. WHAT GEOGRAPHIC AREAS WILL APPLICANT SERVE?**

11 **A.** Applicant will offer interexchange telecommunications statewide. To the extent
12 Applicant provides switched local exchange (voice) services, it will initially do so in the
13 areas served by AT&T and does not plan to provide service in areas of any small or rural
14 local exchange carriers. However, applicant does seek authority to provide local
15 exchange services in all areas that are currently open, or become open in the future, to
16 competition so that it may expand into other services as market conditions warrant.
17 Applicant intends to mirror the existing local exchange boundaries and established local
18 calling scope of the incumbent local exchange carriers in South Carolina.

1 **Q. WILL APPLICANT OFFER SERVICE TO ALL CONSUMERS WITHIN ITS**
2 **SERVICE AREA?**

3 **A.** LFN-II's markets its services to wholesale (e.g., other carriers) and enterprise business
4 customers. However, Applicant will be prepared to serve any customer in its service area
5 to the extent that it is required, and to the extent that it has facilities available to provide
6 such service.

7 **Q. WILL APPLICANT'S TARIFF CONTAIN ALL OF ITS RATES AND CHARGES**
8 **AS REQUIRED FOR INTRASTATE TELEPHONE SERVICES?**

9 **A.** Yes. LFN-II's illustrative tariff, setting forth the terms and conditions pursuant to which
10 LFN-II proposes to provide regulated telecommunications service was provided as
11 Exhibit C to the Application. All of Applicant's services will be provided on an
12 Individual Case Basis (ICB).

13 **Q. HOW WILL APPLICANT BILL FOR ITS SERVICES?**

14 **A.** Applicant will issue its own monthly invoices to its customers and will include the toll-
15 free customer service number on the customer invoice.

16 **Q. DOES APPLICANT OFFER A DEBIT OR PREPAID CALLING CARD?**

17 **A.** No, Applicant does not currently offer a debit or prepaid calling card services, and does
18 not intend to offer such services in South Carolina. In the event that Applicant decides to
19 offer any such services, it will obtain the bond required by this Commission.

20 **Q. DOES APPLICANT INTEND TO OFFER RESIDENTIAL RETAIL LOCAL**
21 **EXCHANGE SERVICES?**

22 **A.** No. Applicant has no intention of doing so at this time. In the event that Applicant
23 intends to offer any such services in the future, it will obtain a performance bond or other
24 financial instrument required by Commission Rule 103-607, or otherwise satisfy the rule
25 or secure an appropriate waiver of same.
26

1 **Q. DOES APPLICANT AGREE TO ABIDE BY ALL RULES, REGULATIONS,**
2 **POLICIES AND ORDERS OF THIS COMMISSION, AND THE LAWS OF THE**
3 **STATE OF SOUTH CAROLINA, IN ITS PROVISION OF**
4 **TELECOMMUNICATIONS SERVICE?**

5 **A.** Yes. LFN-II agrees to abide by all rules and regulations that are deemed to be applicable
6 to its provision of telecommunications services with the State of South Carolina.

7 **Q. HOW WILL APPLICANT MARKET ITS SERVICES?**

8 **A.** LFN-II's primary method of marketing will involve the use of a direct sales force.

9 **Q. DOES APPLICANT USE TELEMARKETING AS A METHOD FOR SELLING**
10 **ITS SERVICES?**

11 **A.** LFN-II does not currently have plans to use out-bound telemarketing in South Carolina.
12 If Applicant decides to use out-bound telemarketing in the future, it will comply with all
13 applicable telemarketing rules.

14 **Q. HOW ARE CUSTOMER INQUIRIES/DISPUTES HANDLED?**

15 **A.** Customers with billing questions or complaints may reach LFN-II at its toll free number
16 888-583-4237.

17 **Q. HOW WILL A CUSTOMER CONTACT LFN-II REGARDING BILLING AND**
18 **OTHER CUSTOMER SERVICE INQUIRIES?**

19 **A.** LFN-II's Consumer Services Division can be reached at 888-583-4237.

1 **Q. WHY IS APPLICANT SEEKING EXEMPTIONS FROM ANY RULES**
2 **REQUIRING THAT ITS BOOKS BE KEPT IN CONFORMANCE WITH THE**
3 **UNIFORM SYSTEM OF ACCOUNTS?**

4 A. The USOA was developed by the Federal Communications Commission (“FCC”) as a
5 means of regulating telecommunications companies subject to rate base regulation. As a
6 competitive carrier, Applicant will not be subject to rate base regulation and therefore
7 requests Commission approval for Applicant to maintain its books in accordance with
8 Generally Accepted Accounting Principles (“GAAP”).

9 **Q. WHY ARE YOU SEEKING A WAIVER OF THE REQUIREMENT THAT YOUR**
10 **BOOKS AND RECORDS BE KEPT IN SOUTH CAROLINA PURSUANT TO 26**
11 **REGS. 103-610?**

12 A. Applicant’s principal office is located in Massachusetts, and in the absence of such a
13 waiver, Applicant would have to assume additional expenses to maintain records and
14 reports in an office in South Carolina. Applicant will maintain the required records at its
15 principal place of business. All such books and records shall be provided to the
16 Commission Staff or the Office of Regulatory Staff (“ORS”) at the appropriate applicable
17 office within the State of South Carolina in a timely manner upon request.

18 **Q. HOW WILL APPLICANT GUARD AGAINST SLAMMING?**

19 A. Applicant will prevent unauthorized switching of customers by obtaining a signed letter
20 of authorization (“LOA”), or similar authorization, from all new customers. Applicant
21 will comply with South Carolina law and Federal Communications Commission (“FCC”) regulations regarding how carriers may change a customer’s primary carrier(s).

23 **Q. IS APPLICANT SEEKING FLEXIBLE REGULATORY TREATMENT FOR ITS**
24 **LOCAL EXCHANGE SERVICE OFFERINGS?**

25 A. Yes, Applicant respectfully requests that its local service offerings be regulated in
26 accordance with procedures outlined in Order No. 98-165 in Docket No. 97-467-C.

1 **Q. HAS APPLICANT REQUESTED ALTERNATIVE REGULATION OF ITS LONG**
2 **DISTANCE BUSINESS SERVICE, CONSUMER CARD AND OPERATOR**
3 **SERVICE OFFERINGS?**

4 **A.** Yes, Applicant requests that all of its business service offerings be regulated pursuant to
5 the procedures described and set out in Commission Order Nos. 95-1734 and 96-55 in
6 Docket No. 95-661-C, as modified by Commission Order No. 2001-997 in Docket No.
7 2000-407-C. It is Applicant's intent by this request to have its business services regulated
8 in the same manner as this Commission has permitted for AT&T South Carolina.
9 Specifically, Applicant requests that the Commission:

- 10 a. remove the maximum rate tariff requirements for its business services, consumer
11 card, operator service, private line, and customer network-type 12 offerings
12 (except as set out in Commission Order No. 2001-997);
- 13 b. presume that the tariff filings for these uncapped services be valid upon filing.
14 However, if the Commission institutes an investigation of a particular filing
15 within seven (7) days, the tariff filing would be suspended until further order of
16 the Commission; and
- 17 c. grant Applicant the same treatment as AT&T in connection with any future
18 relaxation of the Commission's reporting requirements.

19 **Q. PLEASE DESCRIBE THE PUBLIC INTEREST BENEFITS ASSOCIATED WITH**
20 **APPLICANT'S PROPOSED OFFERING OF TELECOMMUNICATIONS**
21 **SERVICES IN SOUTH CAROLINA.**

22 **A.** The grant of this Application will promote the public interest by increasing competition
23 in the provision of telecommunications services in South Carolina. In addition to driving
24 prices closer to costs, thereby ensuring just and reasonable rates, competition also
25 promotes efficiency in the delivery of services and in the development of new services.
26 These benefits work to maximize the public interest by providing continuing incentives
27 for carriers to reduce costs while, simultaneously, promoting the availability of
28 potentially desirable services. LFN-II's operations will be overseen by a well-qualified
29 management team with substantial telecommunications experience and technical

1 expertise. LFN-II will provide customers high quality, cost effective telecommunications
2 services, with an emphasis on customer service.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A.** Yes.

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CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day the **Direct Testimony of David L. Mayer** via electronic mail service as follows:

Andrew M. Bateman
abateman@regstaff.sc.gov

Jenny R. Pittman
jpittman@regstaff.sc.gov

s/John J. Pringle, Jr.

December 28, 2016
Columbia, South Carolina