

P96000022861

FILING COVER SHEET

REFERENCE:

0150.4455

DATE:

11-10-98

CONTACT:

CINDY HICKS

FROM:

CORPORATE & CRIMINAL RESEARCH SERVICES

103 N. MERIDIAN STREET

TALLAHASSEE, FL 32301

TELEPHONE:

222-1173

SUBJECT:

Bluewater Communications,  
Inc

STATE FEES PREPAID WITH CHECK #

3594

FOR \$

78.75

PLEASE FILE:

( ) ARTICLES OF INC.

( ) AMENDMENT

( ) DISSOLUTION

( ) ANNUAL REPORT

(X) MERGER

( ) WITHDRAWAL

( ) QUALIFICATION

( ) LIMITED PARTNERSHIP ( ) ANNUAL REPORT

( ) FICTITIOUS NAME

( ) LIMITED LIABILITY

( ) REINSTATEMENT

( ) TRADEMARK/SERVICE

( ) UCC-1

( ) UCC-3

PROVIDE US WITH:

(X) CERTIFIED COPY

( ) CERTIFICATE OF STATUS

( ) STAMPED COPY

Examiner's Initials

Joe 11/10

FILED  
98 NOV 10 PM 3:19  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

RECEIVED  
98 NOV 10 PM 5:13

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-11/12/98--01071--024  
\*\*\*\*\*78.75 \*\*\*\*\*78.75



RECEIVED

98 NOV 13 PM 2:46

FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham  
Secretary of State

November 13, 1998

CINDY HICKS  
CORPORATE & CRIMINAL RESEARCH SERVICES  
TALLAHASSEE, FL

SUBJECT: BLUEWATER COMMUNICATIONS, INC.  
Ref. Number: P96000022861

We have received your document for BLUEWATER COMMUNICATIONS, INC. and your check(s) totaling \$78.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

The document must have original signatures.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6908.

Teresa Brown  
Corporate Specialist

Letter Number: 298A00054835

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

BWC ACQUISITION CORPORATION, a Florida corporation, P98000036142

INTO

**BLUEWATER COMMUNICATIONS, INC.**, a Florida corporation, P96000022861

File date: November 10, 1998

Corporate Specialist: Teresa Brown

**ARTICLES OF MERGER AND AGREEMENT AND  
PLAN OF MERGER**

**FILED**  
98 NOV 10 PM 3:19  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

This Articles of Merger and Agreement and Plan of Merger ("Agreement of Merger") is made as of November 3, 1998 by and between **Bluewater Communications, Inc.**, a Florida corporation (the "Surviving Corporation"), and **BWC Acquisition Corporation**, a Florida corporation ("Newco"). The Surviving Corporation and Newco are sometimes hereinafter collectively referred to as "Constituent Corporations".

**WITNESSETH:**

**WHEREAS**, the Surviving Corporation is corporation duly organized and existing under the laws of the State of Florida and, as of the date hereof, the authorized capital stock of the Surviving Corporation consists of 1,000 shares of common stock, \$1.00 par value, of which 500 shares are issued and outstanding;

**WHEREAS**, Newco is a corporation duly organized and existing under the laws of the State of Florida and, as of the date hereof, the authorized capital stock of Newco consists of 10,000 shares of common stock, no par value per share ("Newco Common Stock"), of which 1,000 shares are issued and outstanding;

**WHEREAS**, Newco is a wholly-owned subsidiary of iTELSA, Inc., a Delaware corporation ("iTELSA");

**WHEREAS**, the Surviving Corporation, Newco, iTELSA and certain shareholders of the Surviving Corporation (the "Shareholders") have entered into a certain Merger Agreement dated as of November 3, 1998 (the "Merger Agreement"), which sets forth certain representations, warranties, covenants and other agreements in connection with the transactions therein and herein contemplated and which contemplates the merger (the "Merger") of Newco with and into the Surviving Corporation in accordance with this Agreement of Merger; and

**WHEREAS**, the Boards of Directors of each of the Constituent Corporations deem the Merger advisable and in the best interests of each such corporation and their respective shareholders, and the Boards of Directors of each of the Constituent Corporations and the shareholders of each of the Constituent Corporations have adopted and approved the Merger Agreement and this Agreement of Merger in accordance with the laws of Florida.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1**

1.1 **The Merger.** Upon the terms and subject to the conditions set forth herein and in the Merger Agreement, Newco shall be merged with and into the Surviving Corporation effective as of 11:59 p.m. Eastern Standard Time on November 10, 1998. Such time shall be referred to as the "Effective Time," and the "Effective Date" of the Merger shall be the date of the Effective Time. On or about the Effective Date, the Constituent Corporations shall file with the Secretary of State of Florida articles of merger, together with such other agreements and documents required to be filed otherwise. As of the Effective Date, the separate corporate existence of Newco shall cease and the Surviving Corporation shall be the surviving corporation of the Merger. The separate corporate existence of the Surviving Corporation shall continue unaffected and unimpaired by the Merger.

## **ARTICLE 2**

2.1 Articles of Incorporation. The Articles of Incorporation of the Surviving Corporation, as in effect immediately prior to the Effective Time, shall remain in effect and be the Articles of Incorporation of the Surviving Corporation at and after the Effective Time until duly amended in accordance with the Florida Business Corporation Act (the "FBCA").

2.2 Bylaws. The Bylaws of the Surviving Corporation, as in effect immediately prior to the Effective Time, shall remain in effect and be the Bylaws of the Surviving Corporation at and after the Effective Time until duly amended in accordance with such Bylaws and applicable law.

## **ARTICLE 3**

3.1 Exchange and Cancellation of Securities in the Merger. At the Effective Time:

3.1.1 The shares of common stock (the "Shares") of the Surviving Corporation issued and outstanding immediately prior to the Effective Time (except for Shares which are held by the Surviving Corporation in its treasury) shall be converted at the Effective Time into and represent solely the right to receive that number of shares of Series B 9% Cumulative Convertible Preferred Stock ("Series B Preferred Stock") of iTELSA as set forth in the Merger Agreement.

3.1.2 Each Share of the Surviving Corporation common stock held in its treasury immediately prior to the Effective Time shall be canceled or retired and cease to exist at the Effective Time without any conversion thereof.

3.1.3 Each and every share of Newco Common Stock issued and outstanding immediately prior to the Effective Time shall by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Time into one fully paid and non-assessable Share of common stock of the Surviving Corporation.

3.2 Surrender and Payment.

3.2.1 As soon as practicable after the Effective Date, each holder of record of a stock certificate (a "Certificate") entitled to be exchanged, as set forth in Section 3.1 will be entitled to receive, upon surrender thereof to iTELSA, shares of Series B Preferred Stock of iTELSA as described in Section 3.1. Until so surrendered, each Certificate shall be deemed for all corporate purposes to evidence only the right to receive upon proper surrender (together with a properly completed and duly executed letter of transmittal) the shares of Series B Preferred Stock into which the holder thereof may exchange same.

3.2.2 Upon the Effective Time, the stock transfer books of Newco shall be closed and no transfer of shares of Newco Common Stock shall thereafter be made. No interest shall accrue or be payable to or for the benefit of such holders with respect to any cash or other consideration held by the Surviving Corporation. No dividends or other distributions declared after the Effective Time with respect to shares of iTELSA capital stock and payable to the holder of record thereof after the Effective Time shall be paid to the holder of any unsurrendered certificates representing Shares of Surviving Corporation of such holder which were outstanding immediately prior to the Effective Time, until all such certificates shall be surrendered as provided herein. Upon the surrender of all such outstanding certificates, however, there shall be paid to the record holder of the certificate representing iTELSA capital stock issued in exchange for the shares of Surviving Corporation's previously represented by the surrendered certificates, the aggregate amount of dividends and distributions, if any, which became payable after the Effective Time. No interest shall be payable on or in respect of the payment of such dividends on surrender of outstanding certificates.

3.2.3 If any cash or other consideration is to be paid to a person other than the registered holder of the Certificate surrendered in exchange therefor, it shall be a condition of the payment thereof that the Certificate so surrendered shall be properly endorsed and otherwise in proper form for transfer and that the person requesting such exchange shall pay to the Exchange Agent any transfer or other taxes required by virtue of the payment of said consideration to a person other than the registered holder of the Certificate surrendered.

#### **ARTICLE 4**

4.1 **Effect of Merger.** When the Merger has been effected:

4.1.1 The separate existence of Newco shall cease and the corporate existence and corporate identity of the Surviving Corporation shall continue as the surviving corporation of the Merger.

4.1.2 The Surviving Corporation shall have the rights, privileges, immunities and powers, and shall be subject to all of the duties and liabilities, of a corporation under the FBCA.

4.1.3 The Surviving Corporation shall possess all of the rights, privileges, immunities and franchises, of a public as well as a private nature, of Newco, and all property, real (immovable), personal (movable), intangible and mixed, and all debts due on whatever accounts, including subscriptions to shares, and all other choses of action, and all and every other interest belonging to Newco, shall be taken and deemed to be transferred to and vested in the Surviving Corporation without act or deed.

4.1.4 The Surviving Corporation shall be responsible and liable for all liabilities and obligations of Newco, and any claim existing or action or proceeding pending by or threatened against Newco may be prosecuted as if the Merger had not taken place, and the Surviving Corporation may be substituted in its place. Neither the rights of creditors nor liens upon the property of Newco shall be impaired by the Merger.

#### **ARTICLE 5**

5.1 **Counterparts.** This Agreement of Merger may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement.

5.2 **Dates of Shareholder Approval.** This Articles of Merger and Agreement and Plan of Merger, the Merger Agreement and the Merger were duly approved and adopted by (i) unanimous written consent of the shareholders of the Surviving Corporation dated as of November 3, 1998, and (ii) unanimous written consent of the sole shareholder of Newco dated as of November 3, 1998.

5.3 **Dates of Board of Director Approval.** This Articles of Merger and Agreement and Plan of Merger, the Merger Agreement and the Merger were duly approved and adopted by (i) unanimous written consent of the Board of Directors of the Surviving Corporation dated as of November 3, 1998, and (ii) unanimous vote of the Board of Directors of Newco at a meeting held on November 3, 1998.

IN WITNESS WHEREOF, each of the Constituent Corporations have caused this Agreement of Merger to be executed by their respective officers hereunto duly authorized, all as of the date first above written.

ATTEST:

**BWC ACQUISITION CORPORATION**, a Florida corporation

By: 

Name: Claire Ceballos

Title: Secretary

By: 

Name: Claire Ceballos

Title: President

ATTEST:

**BLUEWATER COMMUNICATIONS, INC.**, a Florida corporation

By: 

Name: Jen Williams

Title: Secretary

By: 

Name: Andrew Tiplin

Title: President

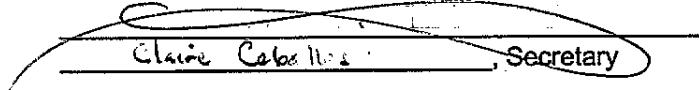
**CERTIFICATE OF THE SECRETARY  
OF  
BWC ACQUISITION CORPORATION**

I, Clair Ceballos, Secretary of BWC Acquisition Corporation, a Florida corporation (the "Corporation"), hereby certify that:

1. The Articles of Merger and Agreement and Plan of Merger to which this Certificate is attached has been duly executed on behalf of the Corporation by its President and Secretary under the corporate seal of the Corporation.

2. The Articles of Merger and Agreement and Plan of Merger was approved and adopted by unanimous written consent of sole shareholder of the Corporation dated as of November 3, 1998.

**IN WITNESS WHEREOF**, the undersigned has executed this certificate as of November 3, 1998.

  
Clair Ceballos, Secretary




**CERTIFICATE OF THE SECRETARY  
OF  
BLUEWATER COMMUNICATIONS, INC.**

I, Edm Phillips, Secretary of Bluewater Communications, Inc., a Florida corporation (the "Corporation"), hereby certify that:

1. The Articles of Merger and Agreement and Plan of Merger to which this Certificate is attached has been duly executed on behalf of the Corporation by its President and Secretary under the corporate seal of the Corporation.

2. The Articles of Merger and Agreement and Plan of Merger was approved and adopted by a unanimous vote of the shareholders of the Corporation pursuant to a special meeting of the shareholders held on October, 1998.

**IN WITNESS WHEREOF**, the undersigned has executed this certificate as of November 3, 1998.

  
\_\_\_\_\_  
Edm Phillips, Secretary

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