



0000047048

NEW APPLICATION

ORIGINAL

RICH, MAY, BILODEAU & FLAHERTY, P.C.

176 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110-2223

TELEPHONE (617) 482-1360

FAX (617) 556-3889

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2000 APR -6 P 1:57

Eric J. Krathwohl, Esq.
Direct Line- (617) 556-3857
Email- ekrathwohl@richmaylaw.com

AZ CORP COMMISSION
DOCUMENT CONTROL

April 5, 2000

BY FEDERAL EXPRESS

Arizona Corporation Commission
Docket Control Center
1200 West Washington
Phoenix, AZ 85007-2996

DOCKET NO. T-03832A-00-0220

Re: Application and Petition for Certificate of Convenience and Necessity to Provide Local Exchange Services (Form A) and Interexchange Services (Form B) as a Reseller in the State of Arizona for essential.com, inc.

Dear Sir or Madam:

We respectfully file herewith on behalf of essential.com, inc. ("Essential"), an original and ten copies (10) copies of the above-referenced Applications, along with a Docket Control Cover Sheet for each Application. In order to help expedite the process, we have also included copies of Essential's Certificate of Incorporation and Certificate of Good Standing from the State of Delaware and a copy of Essential's Application for Authority to Transact Business in Arizona, which has been approved.

Please acknowledge receipt of this filing by returning the duplicate copy of this letter in the enclosed self-addressed envelope.

If any questions arise or further information is needed, please do not hesitate to contact me or Ted Madden of my office at (617) 556-3838. Thank you.

Sincerely,

Eric J. Krathwohl

Enclosures

cc: Basil Pallone, Treasurer, Director of Finance and Controller (w/o enclosures)
Peter Mills, Manager of Regulatory Affairs (w/ enclosures)

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "ETILITY.COM, INC.", FILED IN THIS OFFICE ON THE THIRTIETH DAY OF OCTOBER, A.D. 1998, AT 12:30 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel
Edward J. Freel, Secretary of State

2954480 8100

981419716

AUTHENTICATION: 9381753

DATE: 10-30-98

CERTIFICATE OF INCORPORATION

OF

etility.com, inc.

FIRST. The name of the corporation is etility.com, inc. (the "Corporation").

SECOND. The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

THIRD. The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH. The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 7,000,000 shares, consisting of 5,000,000 shares of Common Stock with a par value of One Cent (\$.01) per share (the "Common Stock") and 2,000,000 shares of Preferred Stock with a par value of One Cent (\$.01) per share (the "Preferred Stock").

A description of the respective classes of stock and a statement of the designations, preferences, voting powers (or no voting powers), relative, participating, optional or other special rights and privileges and the qualifications, limitations and restrictions of the Preferred Stock and Common Stock are as follows:

A. PREFERRED STOCK

The Preferred Stock may be issued in one or more series at such time or times and for such consideration of considerations as the Corporation's Board of Directors may determine. Each series of Preferred Stock shall be so designated as to distinguish the shares thereof from the

shares of all other series and classes. Except as otherwise provided in this Certificate of Incorporation, different series of Preferred Stock shall not be construed to constitute different classes of shares for the purposes of voting by classes.

The Board of Directors is expressly authorized to provide for the issuance of all or any shares of the Preferred Stock in one or more series, each with such designations, preferences, voting powers (or no voting powers), relative, participating, optional or other special rights and privileges and such qualifications, limitations or restrictions thereof as shall be stated in the resolution or resolutions adopted by the Board of Directors to create such series, and a certificate of said resolution or resolutions shall be filed in accordance with the General Corporation Law of the State of Delaware. The authority of the Board of Directors with respect to each such series shall include, without limitation of the foregoing, the right to provide that the shares of each such series may: (i) have such distinctive designation and consist of such number of shares; (ii) be subject to redemption at such time or times and at such price or prices; (iii) be entitled to the benefit of a retirement or sinking fund for the redemption of such series on such terms and in such amounts; (iv) be entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series of stock; (v) be entitled to such rights upon the voluntary or involuntary liquidation, dissolution or winding up of the affairs, or upon any distribution of the assets of the Corporation in preference to, or in such relation to, any other class or classes or any other series of stock; (vi) be convertible into, or exchangeable for, shares of any other class or classes or any other series of stock at such price or prices or at such rates of exchange and with such adjustments, if any; (vii) be entitled to the benefit of such conditions, limitations or restrictions, if any, on the creation of indebtedness, the issuance of additional shares of such series or shares of any other series of Preferred Stock, the amendment of this Certification of Incorporation or the Corporation's By-Laws, the payment of dividends or the making of other distributions on, or the purchase, redemption or other acquisition by the Corporation of, any other class or classes or series of stock, or any other

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110 10 199 10:00

corporate action; or (viii) be entitled to such other preferences, powers, qualifications, rights and privileges, all as the Board of Directors may deem advisable and as are not inconsistent with law and the provisions of this Certificate of Incorporation.

B. COMMON STOCK

1. Relative Rights of Preferred Stock and Common Stock. All preferences, voting powers, relative, participating, optional or other special rights and privileges, and qualifications, limitations, or restrictions of the Common Stock are expressly made subject and subordinate to those that may be fixed with respect to any shares of the Preferred Stock.
2. Voting Rights. Except as otherwise required by law or this Certificate of Incorporation, each holder of Common Stock shall have one vote in respect of each share of stock held by him of record on the books of the Corporation for the election of directors and on all matters submitted to a vote of stockholders of the Corporation.
3. Dividends. Subject to the preferential rights of the Preferred Stock, if any, the holders of shares of Common Stock shall be entitled to receive, when and if declared by the Board of Directors, out of the assets of the Corporation which are by law available therefor, dividends payable either in cash, in property or in shares of capital stock.
4. Dissolution, Liquidation or Winding Up. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Preferred Stock, holders of Common Stock shall be entitled, unless otherwise provided by law or this Certificate of Incorporation, to receive all of the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively.

FIFTH. The Corporation is to have perpetual existence.

SIXTH. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware:

A. The Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal the By-Laws of the Corporation.

B. Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

C. The books of the Corporation may be kept at such place within or without the State of Delaware as the By-Laws of the Corporation may provide or as may be designated from time to time by the Board of Directors of the Corporation.

SEVENTH. The Corporation eliminates the personal liability of each member of its Board of Directors to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided, however, that, to the extent provided by applicable law, the foregoing shall not eliminate the liability of a director (i) for any breach of such director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of Title 8 of the Delaware Code, or (iv) for any transaction from which such director derived an improper personal benefit.

If the Delaware General Corporation Law is amended in the future to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended from time to time.

Any repeal or modification of this Article SEVENTH shall not increase the personal liability of any director of this Corporation for any act or occurrence taking place prior to such repeal or modification, or otherwise adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

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EIGHTH. The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon a stockholder herein are granted subject to this reservation.

NINTH. The name and mailing address of the sole incorporator is as follows:

<u>Name</u>	<u>Mailing Address</u>
John R. Pitfield, Esq.	Testa, Hurwitz & Thibault, LLP High Street Tower 125 High Street Boston, MA 02110

TENTH. Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

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AUG 10 1999 10:00

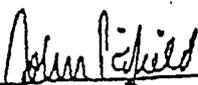
781 229 9499 PAGE.008

10/30/98 12:07 FAX

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- 6 -

I, THE UNDERSIGNED, being the sole incorporator hereinabove named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 30th day of October, 1998.



John R. Pitfield
Sole Incorporator

PARA1673/1.649199-1

State of Delaware
Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "ESSENTIAL.COM, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE FOURTH DAY OF JANUARY, A.D. 2000.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.

2954480 8300

001003855




Edward J. Freel, Secretary of State 0178183

AUTHENTICATION:

01-04-00

DATE:

AZ. CORP. COMMISSION
DELIVERED

EXPEDITED
AZ CORP. COMMISSION
DELIVERED

OCT 27 1999

APPLICATION FOR AUTHORITY
TO TRANSACT BUSINESS
IN ARIZONA

OCT 05 1999

FILED BY Joni Tuttle
TERM _____
DATE 10/27/99
F-0892327-0

FILED BY Carolyn Lemox
TERM _____
DATE 10-27-99

The name of the corporation is: Essential.com, Inc.

A(n) Delaware Corporation
(State, Province or Country)

We are a foreign corporation applying for authority to transact business in the State of Arizona

We are a foreign corporation currently authorized to transact business in Arizona and must now file this Application for New Authority pursuant to A.R.S. § 10-1504 because we have changed the following in our domicile jurisdiction:

- Our actual corporate name (or the name under which we originally obtained authority in Arizona).
- The period of our duration.
- The state, province or country of our incorporation.

1. The exact name of the foreign corporation is

Essential.com, Inc.

If the exact name of the foreign corporation is not available for use in this state, then the fictitious name adopted for use by the corporation in Arizona is:

Essential.com, Inc. - Your Energy + Communications Superstore (FN).

2. The name of the state, province or country in which the foreign corporation is incorporated is:

Delaware

3. The foreign corporation was incorporated on the 30th day of October, 1998 and the period of its duration is Perpetual.

4. The street address of the principal office of the foreign corporation in the state, province or country of its incorporation is:

1209 Orange Street

Wilmington, Delaware 09801

5. The name and street address of the statutory agent for the foreign corporation in Arizona is:

C T Corporation System

3225 North Central Avenue

Phoenix, Arizona 85012

5.a. The street address of the known place of business of the foreign corporation in Arizona IF DIFFERENT from the street address of the statutory agent is:

The Annual Report and general correspondence should be mailed to the address specified above in section 4 ~~X~~ or 5a _____.

6. The purpose of the corporation is to engage in any and all lawful business in which corporations may engage in the state, province or country under whose law the foreign corporation is incorporated, with the following limitations, if any: (If none, so state.)

none _____

7. The names and usual business addresses of the current directors and officers of the foreign corporation are: (Attach additional sheets if necessary.)

See attached list of
directors and officers _____ [title]

_____ [title]

_____ [title]

_____ [title]

8. The foreign corporation is authorized to issue 28,604,044 shares, itemized as follows:

(Attach additional sheets if necessary.)

Common
19,166,451 shares of (No series) [class or series] stock at
_____ no par value or par value of \$ 0.01 per share.

Preferred
2,830,726 shares of A [class or series] stock at
_____ no par value or par value of \$ 0.01 per share.

6,606,867 shares of Preferred [class or series] stock at
_____ no par value or par value of \$ 0.01 per share.

Appendix to Arizona
Application for Authority to Transact Business in Arizona

**Directors and Officers of
Essential.com, Inc.**

1. Akhil Garland, President and Director
3 Burlington Woods Drive
Burlington, Massachusetts 01803
2. Patrick J. Moran, Vice President, Treasurer & Assistant Secretary
and Director
3 Burlington Woods Drive
Burlington, Massachusetts 01803
3. Linda DeRenzo, Secretary
Testa, Hurwitz & Thibeault, LLP, 125 High Street
Boston, Massachusetts 02110
4. Scott Ungerer, Director
EnterTech Capital, 435 Devon Park Drive, 700 Building
Wayne, Pennsylvania 19087
5. Rob Soni, Director
Bessemer Venture Partners, 83 Walnut Street
Wellesley Hills, Massachusetts 02481
6. Christopher Kirchen, Director
Brand Equity Ventures, Three Pickwick Plaza
Greenwich, Connecticut 06830

Appendix to Arizona
Application for Authority to Transact Business in Arizona

**Purpose Clause of
Essential.com, Inc.**

To sell local and long distance telecommunications services, energy home services and other services all in accordance with state and federal law. Notwithstanding the foregoing, the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized to do business under the laws of Arizona.

9. The foreign corporation has issued 12,075,705 shares, itemized as follows:

(Attach additional sheets if necessary.)
Common

4,482,802 shares of (No series) [class or series] stock at

no par value or par value of \$ 0.01 per share.

Preferred

2,830,726 shares of A [class or series] stock at

no par value or par value of \$ 0.01 per share.

Preferred

4,762,177 shares of B [class or series] stock at
0.01

no par value or par value of \$ _____ per share.

10. The character of business the foreign corporation initially intends to conduct in Arizona is:

See attached purpose clause

This application is accompanied by:

A Certificate of Disclosure containing the information set forth in Arizona Revised Statutes Section 10-202.D.

A certified copy of our articles of incorporation, all amendments (AZ Const. Art. XIV, § 8) and a certificate of existence or document of similar import duly authenticated by the official having custody of corporate records in the state, province or country under whose laws we are incorporated (A.R.S. § 10-1503.B).

The filing fee(s) (U.S.) made payable to the Arizona Corporation Commission.

DATED this 17th day of September, 1999.

Essential.com, Inc.

[Name of Corporation]

Executed By _____

Akhil Garland, President

[print name]

[title]

PHONE _____ FAX _____
[optional] [optional]

ACCEPTANCE OF APPOINTMENT BY STATUTORY AGENT

The undersigned hereby acknowledges and accepts the appointment as statutory agent of this corporation effective this 27 day of Sept, 99.

Lauren Kreatz
Signature

C T Corporation System
LAUREN H. KREATZ
[Print Name]
SPECIAL ASSISTANT SECRETARY

Attention Corporate Officers

If you have the responsibility of collecting, accounting for, and paying over payroll taxes withheld from the wages and salaries of corporate employees, read on.

A principal benefit of incorporation is limiting an owner's liability to the amount of his/her capital investment. This limited liability may not apply in all circumstances.

Section 6672 of the Internal Revenue Code States that the liability for taxes withheld from the wages and salaries of corporate employees may be assessed against the corporate officer(s) or employee(s) found to be responsible for their collection and payment. The personal liability of the responsible officer or employee is not limited to the amount of capital investment.

There are other civil and criminal penalties in the law regarding filing, paying, depositing of employment taxes.

If you would like more information regarding this or any other federal tax issue, contact your local Internal Revenue Service office or call toll-free,

ARIZONA CORPORATION COMMISSION
CORPORATIONS DIVISION

Phoenix Address: 1300 West Washington
Phoenix, Arizona 85007-2929

Tucson Address: 400 West Congress
Tucson, Arizona 85701-1347

CERTIFICATE OF DISCLOSURE
A.R.S. § 10-202.D

Essential.com, Inc.

EXACT CORPORATE NAME

CHECK APPROPRIATE BOX (A or B)
ANSWER "C"

THE UNDERSIGNED CERTIFY THAT:

A. No persons serving either by elections or appointment as officers, directors, trustees, incorporators and persons controlling or holding over 10% of the
 issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation:

1. Have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
2. Have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
3. Have been or are subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the execution of this Certificate wherein such injunction, judgment, decree or permanent order:
 - (a) Involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or
 - (b) Involved the violation of the consumer fraud laws of that jurisdiction; or
 - (c) Involved the violation of the antitrust or restraint of trade laws of that jurisdiction.

B. For any person or persons who have been or are subject to one or more of the statements in Items A.1 through A.3 above, the following
 information MUST be attached:

- | | |
|---|--|
| 1. Full name, prior name(s) and aliases, if used. | 6. Social Security number. |
| 2. Full birth name. | 7. The nature and description of each conviction or judicial action, date and location, the court and public agency involved and file or cause number of case. |
| 3. Present home address. | |
| 4. Prior addresses (for immediate preceding 7-year period). | |
| 5. Date and location of birth. | |

C. Has any person serving as an officer, director, trustee or incorporator of the corporation served in any such capacity or held or controlled over 20% of the issued and outstanding common shares, or 20% of any other proprietary, beneficial or membership interest in any corporation which has been placed in bankruptcy, receivership or had its charter revoked, or administratively or judicially dissolved by any state or jurisdiction?

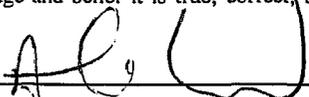
Yes _____ No X

IF YOUR ANSWER TO THE ABOVE QUESTION IS "YES", YOU MUST ATTACH THE FOLLOWING INFORMATION FOR EACH CORPORATION:

- | | |
|---|---|
| 1. Name and address of the corporation. | 3. State(s) in which the corporation:
(a) Was incorporated. (b) Has transacted business. |
| 2. Full name (including aliases) and address of each person involved. | 4. Dates of corporate operation. |
| | 5. Date and case number of Bankruptcy or date of revocation/administrative dissolution. |

D. The fiscal year end adopted by the corporation is December 31.

Under penalties of law, the undersigned incorporator(s)/officer(s) declare (s) that I (we) have examined this Certificate, including any attachments, and to the best of my (our) knowledge and belief it is true, correct, and complete. THE SIGNATURE(S) MUST BE DATED WITHIN THIRTY (30) DAYS OF THE DELIVERY DATE.

BY  BY _____

PRINT NAME Akhil Garland PRINT NAME _____

TITLE President DATE 9/17/99 TITLE _____ DATE _____

DOMESTIC CORPORATIONS: ALL INCORPORATORS MUST SIGN THE INITIAL CERTIFICATE OF DISCLOSURE. If within sixty days, any person becomes an officer, director, trustee or person controlling or holding over 10% of the issued and outstanding shares or 10% of any other proprietary, beneficial, or membership interest in the corporation and the person was not included in this disclosure, the corporation must file an AMENDED certificate signed by at least one duly authorized officer of the corporation.

FOREIGN CORPORATIONS: MUST BE SIGNED BY AT LEAST ONE DULY AUTHORIZED OFFICER OF THE CORPORATION.

C/F: 0022-Business Corporations

Rev. 7/96 (ARIZ. - 73 - 10/17/96) CT System

COVER SHEET

ARIZONA CORPORATION COMMISSION DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO.

essential.com, inc.

D/B/A or RESPONDENT:

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 **UTILITIES - NEW APPLICATIONS**

- | | | | |
|-------------------------------------|---|-------|---|
| <input checked="" type="checkbox"/> | NEW CC&N | _____ | MAIN EXTENSION |
| _____ | RATES | _____ | CONTRACT/AGREEMENTS |
| _____ | INTERIM RATES | _____ | COMPLAINT (Formal) |
| _____ | CANCELLATION OF CC&N | _____ | RULE VARIANCE/WAIVER REQUEST |
| _____ | DELETION OF CC&N (TERRITORY) | _____ | SITING COMMITTEE CASE |
| _____ | EXTENSION OF CC&N (TERRITORY) | _____ | SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| _____ | TARIFF - NEW (NEXT OPEN MEETING) | _____ | SALE OF ASSETS & TRANSFER OF OWNERSHIP |
| _____ | REQUEST FOR ARBITRATION
(Telecommunication Act) | _____ | SALE OF ASSETS & CANCELLATION OF CC&N |
| _____ | FULLY OR PARTIALLY ARBITRATED
INTERCONNECTION AGREEMENT
(Telecom. Act.) | _____ | FUEL ADJUSTER/PGA |
| _____ | VOLUNTARY INTERCONNECTION
AGREEMENT (Telecom. Act) | _____ | MERGER |
| | | | FINANCING |
| | | | MISCELLANEOUS
Specify _____ |

02 **UTILITIES - REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS**

- | | | | |
|-------|-------------|-------|--------------------|
| _____ | APPLICATION | _____ | TARIFF |
| _____ | COMPANY | _____ | PROMOTIONAL |
| _____ | DOCKET NO. | _____ | DECISION NO. _____ |
| | | | DOCKET NO. _____ |
| | | | COMPLIANCE |
| | | | DECISION NO. _____ |
| | | | DOCKET NO. _____ |

SECURITIES or MISCELLANEOUS FILINGS

- | | | | |
|-------|---------------------------------|-------|---|
| _____ | 04 AFFIDAVIT | _____ | 29 STIPULATION |
| _____ | 12 EXCEPTIONS | _____ | 38 NOTICE OF INTENT
(Only notification of future action/no action necessary) |
| _____ | 18 REQUEST FOR INTERVENTION | _____ | 43 PETITION |
| _____ | 48 REQUEST FOR HEARING | _____ | 46 NOTICE OF LIMITED APPEARANCE |
| _____ | 24 OPPOSITION | _____ | OTHER |
| _____ | 50 COMPLIANCE ITEM FOR APPROVAL | _____ | 39 Specify _____ |
| _____ | 32 TESTIMONY | | |
| _____ | 47 COMMENTS | | |

April 5, 2000

Eric J. Krahtwohl, Esquire

Date

Print Name of Applicant/Company/Contact person/Respondent/Atty.
(617) 482-1360

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

FORM A

ARIZONA CORPORATION COMMISSION

Application and Petition for Certificate of Convenience and Necessity to Provide
Local Exchange Services as a Reseller

Mail original plus 10 copies of completed application to:

| For Docket Control Only:
| (Please Stamp Here)

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

If you have current applications pending in Arizona as
an Interexchange reseller, AOS provider, or as the
provider of other telecommunication services.

Type of Service: _____
Docket No.: _____ Date: _____

| Docket No. _____

Type of Service: _____
Docket No.: _____ Date: _____

| Docket No. _____

A. Company and Telecommunications Service Information

(A-1) The name, address, and telephone number (including area code) of the applicant(company):

essential.com, inc.

Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803

Telephone (781) 229-9599; Fax (781) 229-9499

(A-2) If doing business (d/b/a) under a name other than the applicant (company) name listed above, specify:

Essential.com, Inc. - Your Energy & Communications Superstore

(A-3) The name, address, telephone number, facsimile number and Email address of the management contact.

Basil Pallone, Director of Finance/Controller, Treasurer

Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803

Telephone (781) 229-9599; Fax (781) 229-9499; E-mail bpallone@essential.com

(A-4) The name, address, telephone number, facsimile number and email address of the Attorney, if any, representing the applicant:

Eric J. Krathwohl, Esq.

Rich, May, Bilodeau & Flaherty, P.C., 176 Federal Street, Boston, MA 02110

Telephone (617) 482-1360; Fax (617) 556-3890; E-mail ekrathwohl@richmaylaw.com

(A-5) What type of legal entity is the applicant?

- Sole proprietorship
- Partnership: ___ limited, ___ general, ___ Arizona, ___ Foreign
- Limited liability company
- Corporation: ___ S, C, ___ non-profit, ___ Arizona, ___ Foreign
- Other, specify:

(A-6) Include Attachment A. Attachment A must list names of all owners, partners, limited liability company managers, or corporation officers and directors (specify), and indicate percentages of ownership.

- (A-7) 1. Is your company currently offering any telecommunication services in Arizona? If yes, list each service offered and provide the date that you began offering each such service in Arizona.
No.
2. If the answer to 1. is "no", when does your company plan to begin reselling services in Arizona?
by the fourth quarter of 2000

(A-8) Include Attachment B. Attachment B, your proposed tariff, must include proposed rates and charges for each service to be provided. State the tariff (maximum) rate as well as the price to be charged, and state other terms and conditions, including deposits, that will apply to provision of the service(s) by your company.

The Arizona Corporation Commission provides pricing flexibility by allowing competitive telecommunications service companies to price their services at levels equal to or below the tariff (maximum) rates. The prices to be charged by the company are filed with the Commission in the form of price lists.

Note: Price list rate changes that result in rates that are lower than the tariff rate are effective upon concurrent notice to the Commission (See Rule R14-2-1109 (B)(2)). See Rule R14-2-1110 for procedures to make price list changes that result in rates that are higher than the tariff rate.

(A-9) The geographic market to be served is:

- statewide.
- other, describe and provide a map depicting the area.

USWest service territory

(A-10) List the states in which you currently offer, or have been approved to offer, services similar to those you intend to resell in Arizona.

Essential currently offers local and intrastate toll service in Massachusetts and New York.

Essential is currently certified to provide local and/or intrastate toll service in Pennsylvania, Vermont,

New Hampshire, Rhode Island, New Jersey, Maryland, Delaware, the District of Columbia, Ohio,

Wisconsin, Florida, Texas, Colorado, Washington, California.

(A-11) List the companies with which you have signed resale agreements, along with the states in which they were approved.

Bell Atlantic- District of Columbia, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont
West Virginia, Pennsylvania, New Jersey, Maine, Maryland, and Delaware

USWest- Colorado, Iowa, Idaho, Minnesota, Montana, South Dakota, Oregon, Washington, Wyoming

SBC- Texas Ameritech- Indiana

Bell South- all nine states in southeastern United States

Pacific Tel- California and Nevada

SNET- Connecticut

(A-12) Include Attachment C. (All Applications must include a resale agreement or contract). Attachment C is a copy of the resale agreement or contract between your company and an applicable local exchange service provider.

(A-13) Provide the name, address, and telephone number of the company's complaint contact person.

David Wheeler, Director of Customer Service

Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803

Telephone (781) 229-9599; Fax (781) 229-9499; E-mail dwheeler@essential.com

(A-14) Provide a list of states in which you have sought authority to resell telecommunications services and in which the state granted the authority with major changes and conditions or did not grant your application for those services. For each state listed, provide a copy of the Commission's decision modifying or denying your application for authority to provide telecommunications services.

None.

(A-15) Has the company been granted authority to provide or resell telecommunications services in any state where subsequently the authority was revoked? If "yes", provide copies of the State Regulatory Commission's decision revoking its authority.

No.

(A-16) Has the company been or is the company currently involved in any formal complaint proceedings before any State or Federal Regulatory Commission? If "yes", in which states is the company involved in such proceedings and what is the substance of these complaints. Also, provide copies of Commission orders that have resolved any of these complaints

No.

(A-17) Has the applicant been involved in any civil or criminal investigations related to the delivery of telecommunications services within the last five years? If "yes", in which states has the applicant been involved in investigations and why is the applicant being investigated?

No.

(A-18) Has the applicant had judgment entered against it in any civil matter or been convicted of criminal acts related to the delivery of telecommunications services within the last five years? If yes, list the states where judgment or conviction was entered and provide a copy of the court order.

No.

B. Technical Information

(B-1) Provide the name of the company or companies whose services you resell.

Applicant intends to resell USWest services in Arizona.

(B-2) Explain what actions the applicant has taken to ensure that basic exchange service to applicants' customers will not be interrupted in the event the applicant ceases to do business.

The Applicant will comply with all Commission laws and regulations regarding the termination of service. In the unlikely event that the Applicant ceases to do business, adequate notice will be provided to customers and customers could revert to service from the ILEC. The Applicant would work with affected customers and the ILEC to ensure the smooth transition of service.

C. Financial Information

(C-1) Include "Attachment E". Attachment E must include a copy of your Company's balance sheet, income statement, audit report (if audited) and all related notes to these financial statements for the two most recent years your Company has been in business.

(C-2) If your Company does not have financial statements for the two most recent years, please give the date your Company began operations.

October 30, 1998

(C-3) If the balance sheets you submit do not have retained earnings accounts, please provide this account information on a separate sheet.

(C-4) If your Company is a subsidiary, please provide your Parent Company's financial statements, in addition to your Company's financial statements.

Essential is not a subsidiary.

(C-5) If your Company intends to rely on the financial resources of its Parent Company, please provide a written statement from your Parent Company attesting that it will provide complete financial backing if your Company experiences a net loss or a business failure and that it will guarantee re-payment of customers' advances, prepayments or deposits held by your Company if, for some reason, your Company cannot provide service or repay the deposits.

Not applicable.

(C-6) Will your customers be required to (or have the option to) pay advances, prepayments, or deposits for any of your products or services.

YES (If yes, provide an explanation of how and when these customer advances prepayments or deposits will be applied or reference the terms and conditions section of your Company's tariffs with this explanation. If this information is not explained in the tariff of this application, please provide it on a separate sheet.)

NO (Note: If at a later date, your Company decides it wants to offer or require customer advances, prepayments or deposits, it must submit financial statements as part of the tariff amendment process.)

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona State Law including the Arizona Corporation Commission Rules and Regulations. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

Basil Pallone
(Signature of Authorized Representative)

1/20/00
(Date)

Basil Pallone
(Print Name of Authorized Representative)

Director of Finance/Controller, Treasurer
(Title)

SUBSCRIBED AND SWORN to before me this 20th day of January, 192000

Mary J. Seid
NOTARY PUBLIC

My Commission Expires 8/04/00

ATTACHMENT A

List of Corporation Officers and Directors

Biographies of Management

Mr. Akhil Garland, Chairman and CEO

Mr. Garland has managed MIS departments for the State of Massachusetts and an international health care company. He is an entrepreneur, having founded and sold a multimedia company. Mr. Garland brings to Essential a long-range vision as well as a capacity to manage growth through innovative and leading edge information systems. He earned a B.A. in Computer Science and Mathematics from Connecticut College.

Mr. John Duffy, Senior Vice President, Business Development

Mr. Duffy comes to Essential from Metromedia International Telecommunications where he served as Vice President of Paging Operations. In that capacity, he managed 13 paging joint ventures located in Eastern Europe, Russia, and Central Asia. Mr. Duffy was directly involved in strategic relationships between Metromedia and vendors, including Motorola, NEC, and Philips. Previously, he was with Metrocall, Inc. for five years in several senior management positions, including Director of Carrier Relations, where he oversaw the ongoing relationship between large carriers and resellers throughout the country. Mr. Duffy holds a B.A. in Economics from LaSalle University.

Ms. Libby Curtis, Director of Web Development

Prior to joining Essential, Libby Curtis was Director, Web Development for Cendant Corporation, where she managed a sixteen-person web development group. Ms. Curtis managed the development of several complex sites including Ramada, Days Inn, and Century 21. Prior to Cendant, Ms. Curtis was Human Factors Designer for The NetMarket Company where she designed and integrated user interfaces for several web projects including NetMarket, an on-line shopping service. Ms. Curtis received her BS in Marketing from Plymouth State College.

Mr. Ivar Wold, Senior Vice President and Chief Technology Officer

Mr. Wold brings over 30 years of experience in engineering, and is one of the Web's leading innovators in eCommerce technology. Prior to joining Essential, Mr. Wold was a Senior Vice President at Fidelity Investments Retail Electronic Commerce where he was responsible for the Architecture and Development of Fidelity's Retail Online products. Fidelity's retail Website is one of the busiest in the financial services industry, with more than 2.5 million on-line accounts. Earlier in his career, Mr. Wold worked at leading corporations, such as Inprise (previously Borland International), Lotus Development and Microsoft. He also held senior positions at Analog Devices. Mr. Wold received a B.Sc (Eng) in Aeronautics and Astronautics from Southampton University in England where he graduated with First Class Honors. He is the holder of multiple patents, and his inventions have been manufactured and sold commercially around the world.

Mr. Basil Pallone, Director of Finance and Controller, Treasurer

Mr. Pallone has 19 years of financial experience in a diverse group of energy related companies, including start up ventures and publicly held electric utilities. Before joining Essential, Mr. Pallone was CFO of Energy Vision, a start up retail marketer of energy and energy services which was acquired by Williams Energy. Prior to Energy Vision, he served as Executive Vice President for EUA Cogenex Corporation, a \$75 million revenue energy management company. Mr. Pallone also spent three years as Assistant Treasurer at Eastern Utilities Associates where he was in charge of preparing annual and quarterly reports to shareholders and SEC filings. Mr. Pallone spent the first ten years of his career in various financial positions at Boston Edison Company.

Mr. Patrick Moran, Vice President, Secretary

Mr. Moran earned a B.S. in Mass Communications from Emerson College, where he focussed on media communications and computer technologies. He has been involved in entrepreneurial activities since graduating from Emerson and is currently responsible for back office administration at Essential.

Mr. Ronan Winter, Vice President, Strategic Marketing Alliances

Mr. Winter was formerly Director of Business Development for Lycos, Inc., where he was responsible for the creation for many e-commerce partnerships. During his tenure from 1997 through 1999, Mr. Winter negotiated sixteen strategic alliances approved at a CEO and Board level, resulting in significant recurring annual revenue. Prior to joining Lycos, Mr. Winter served as Manager, Business Development with iChat from 1996 to 1997, providing communication software to the Internet community. Mr. Winter holds an impressive 10-year track record in business development and sales and marketing with previous employers such as IBM, 1989-91 and Stream International, 1991-96. A graduate of Trinity College, Dublin, Ireland, Mr. Winter was professionally trained in sales and marketing management by The Chartered Institute of Marketing, London.

Mr. David Wheeler, Vice President, Operations

Mr. Wheeler serves as Essential's Vice President of Operations. Mr. Wheeler has over 20 years of experience in managing large customer fulfillment and customer service functions. Prior to joining Essential, Mr. Wheeler served as the general manager for Sky Subscriber Services, Ltd., a division of Sky Television, the leading satellite television broadcaster in the U.K. from 1989 to 1998. In this role, he was responsible for the management of over 3.5 million subscribers, collection of revenues exceeding \$1.5 billion, and over 2,500 employees. From 1975 to 1989, Mr. Wheeler was with Book Club Associates in U.K. where he was responsible for the design and implementation of their customer management computer systems and eventually had general management responsibility for all matters relating to customer service.

Mr. Rajan Kulkarni, Chief Architect

Mr. Kulkarni brings 18 years experience in engineering, and is one of the web's leading architects. Prior to joining Essential, Mr. Kulkarni was Principal Technical Architect at Fidelity Investments. Mr. Kulkarni helped build Fidelity.com into one of the most

heavily trafficked sites on the Internet. During his tenure with Fidelity.com, the site generated millions of web transactions and web hits each day. Mr. Kulkarni received his Engineering Degree from Bombay University, India and his postgraduate certificate in software technology from National Center for Software Development, India.

Mr. Christopher Kallaher – Vice President and General Counsel

Christopher Kallaher joined Essential as our Vice President and General Counsel in February, 2000. Mr. Kallaher comes to Essential from Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. where, from 1999 to 2000, he was an associate working on regulatory and corporate matters for various clients in the utility sector. Prior to joining Mintz, Levin, Mr. Kallaher served as senior counsel at the Massachusetts Department of Telecommunications and Energy (DTE) where he presided over major cases in electric utility and telecommunications restructuring. Before the DTE, Mr. Kallaher was an attorney practicing utility law in Wisconsin where he represented a number of investor owned utilities over a nine-year period. Mr. Kallaher holds a J.D. from the University of Wisconsin at Madison and a B.S. in Civil Engineering from Stanford University.

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essential.com, inc.**

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Concord, MA 01742

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Hopkinton, MA 01748

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112 Thunder Rd.
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ATTACHMENT B

Proposed Tariff

TARIFF APPLICABLE TO
COMMUNICATIONS SERVICE
WITHIN THE STATE OF ARIZONA

essential.com, inc.

3 Burlington Woods Drive, 4th floor
Burlington Massachusetts 01803

781.229.9599

This tariff contains the descriptions, regulations and rates applicable to the furnishing of telecommunications services provided by essential.com, inc. ("Essential.com") within the State of Arizona. This tariff is on file with the Arizona Corporation Commission ("Commission"). Copies may be inspected during normal business hours at the Company's principal place of business: 3 Burlington Woods Drive, 4th floor, Burlington MA, 01803.

Issued:
Issued By:

Basil Pallone
Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

Effective Date:

CHECK SHEET

The Title Sheet and Sheets 1 through 63 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s).

<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>
Title	Original	28	Original
1	Original	29	Original
2	Original	30	Original
3	Original	31	Original
4	Original	32	Original
5	Original	33	Original
6	Original	34	Original
7	Original	35	Original
8	Original	36	Original
9	Original	37	Original
10	Original	38	Original
11	Original	39	Original
12	Original	40	Original
13	Original	41	Original
14	Original	42	Original
15	Original	43	Original
16	Original	44	Original
17	Original	45	Original
18	Original	46	Original
19	Original	47	Original
20	Original	48	Original
21	Original	49	Original
22	Original	50	Original
23	Original	51	Original
24	Original	52	Original
25	Original	53	Original
26	Original	54	Original
27	Original	55	Original

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CHECK SHEET, Continued

<u>SHEET</u>	<u>REVISION</u>
56	Original
57	Original
58	Original
59	Original
60	Original
61	Original
62	Original
63	Original

Issued:
Issued By:

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CONCURRING CARRIERS

None

CONNECTING CARRIERS

None

OTHER PARTICIPATING CARRIERS

None

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EXPLANATION OF SYMBOLS

- (C) To signify **changed** condition or regulation
- (D) To signify **deleted or discontinued** rate, regulation or condition
- (I) To signify a change resulting in an **increase** to a Customer's bill
- (M) To signify that material has been **moved from** another tariff location
- (N) To signify a **new** rate, regulation condition or sheet
- (R) To signify a change resulting in a **reduction** to a Customer's bill
- (T) To signify a change in **text** but no change to rate or charge

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TARIFF FORMAT

- A. **Sheet Numbering** - Sheet numbers appear in the upper right corner of the sheet. Sheets are numbered sequentially. However, occasionally, when a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. **Sheet Revision Numbers** - Revision numbers also appear in the upper right corner of each sheet. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the 3rd Revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in their tariff approval process, the most current sheet number on file with the Commission is not always the sheet in effect. Consult the Check Sheet for the sheet currently in effect.
- C. **Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of code 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).I.
 - 2.1.1.A.1.(a).I.(i).
 - 2.1.1.A.1.(a).I.(i).(1).
- D. **Check Sheets** - When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the sheets contained in the tariff with a cross reference to the current revision number. When new sheets are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc., remains the same, just revised revision levels on some sheets). The tariff user should refer to the latest Check Sheet to find if a particular sheet is the most current on file with the Commission.

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APPLICATION OF TARIFF

This tariff contains the rates applicable to the provision of intrastate communications services by virtue of one-way and/or two-way information transmission between points within the State of Arizona.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Agency

For 911 or E911 service, the government agency(s) designated as having responsibility for the control and staffing of the emergency report center.

Alternate Routing ("AR")

Allows E911 calls to be routed to a designated alternate location if: (1) all E911 exchange lines to the primary PSAP (*See* definition of PSAP below.) are busy; or (2) the primary PSAP closes down for a period (night service).

Authorized User

A person, corporation or other entity who is authorized by the Company's Customer to utilize service provided by the Company to the Customer. The Customer is responsible for all charges incurred by an Authorized User.

Automatic Location Identification ("ALI")

The name and address associated with the calling party's telephone number (identified by ANI as defined below) is forwarded to the PSAP for display. Additional telephones with the same number as the calling party's (secondary locations, off premises, etc.) will be identified with the address of the telephone number at the main location.

Automatic Number Identification ("ANI")

A system whereby the calling party's telephone number is identified and sent forward with the call record for routing and billing purposes. E911 Service makes use of this system.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Business Service:

A service which conforms to one (1) or more of the following criteria:

- A. Used primarily for a paid commercial, professional or institutional activity; or
- B. The service is situated in a commercial, professional or institutional location, or other location serving primarily or substantially as a site of an activity for pay; or
- C. The service number is listed as the principal or only number for a business in any telecommunications directory; or
- D. The service is used to conduct promotions, solicitations, or market research for which compensation or reimbursement is paid or provided. However, such use of service, without compensation or reimbursement, for a charitable or civic purpose will not constitute a business use of service unless other criteria apply.

Called Station

The terminating point of a call (i.e., the called number).

Calling Card

A card issued by Company containing such account numbers assigned to its Customer which enables the charges for calls made to be properly billed on a pre-arranged basis.

Central Office

An operating office of the Company where connections are made between telephone exchange lines.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Central Office Line

A line providing direct or indirect access from a telephone or switchboard to a central office. Central office lines subject to PBX rate treatment are referred to as central office trunks.

Change:

Includes the rearrangement or reclassification of existing service at the same location.

Channel

A point-to-point bi-directional path for digital transmission. A channel may be furnished in such a manner as the Company may elect, whether by wire, fiber optics, radio or a combination thereof and whether or not by means of single physical facility or route. One 1.544 Mbps Service is equivalent to 24 channels.

Channel Conversion

The termination of 1.544 Mbps Service at a Customer's location with conversion of the digital signal to 24 analog voice grade circuits. Channel Conversion can be furnished by the Customer.

Channel Service Unit ("CSU")

The equipment located at the Customer's premises which terminates each 1.544 Mbps Digital Loop and performs such functions as proper termination of facilities, regeneration of signals, recognition and correction of signal format errors and provides remote loop-back capability.

Commission

Arizona Corporation Commission

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Director of Finance/Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Communications Systems

Channels and other facilities which are capable of two-way communications between subscriber-provided terminal equipment or telephone company stations, even when not connected to exchange and message toll communications service.

Company

essential.com, inc.

Credit Card

A valid bank or financial organization card, representing and account to which the costs of products and services purchased by the card holder may be charged for future payment. Such cards include those issued by VISA or MasterCard.

Customer

The person, firm, corporation or other entity which orders or uses service and is responsible for payment of charges and compliance with tariff regulation.

Customer Premises Equipment ("CPE")

Equipment provided by the Customer for use with the Company's services. CPE can include a station set, facsimile machine, key system, PBX or other communication system.

Debit Card

A valid bank or financial organization card, representing an account from which the costs of products and services purchased by the card holder may be charged.

Dedicated Access

Non-switched access between a Customer's premises and the point of presence of the Company's underlying carrier.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Default Routing ("DR")

When an incoming E911 call cannot be selectively routed due to an ANI failure, garbled digits or other causes, such incoming calls are routed from the E911 Control Office to a default PSAP. Each incoming E911 facility group to the Control Office is assigned to a designated default PSAP.

Demarcation Point

The physical dividing point between the Company's network and the Customer.

Digital

A method of storing, processing and transmitting information through the use of distinct electronic or optical pulses that represent the binary digits (bits) 0 and 1. Digital transmission/switching technologies employ a sequence of discrete, individually distinct pulses to represent information, as opposed to the continuously variable signal of analog technologies.

Direct Inward Dial ("DID")

A service attribute that routes incoming calls directly to stations, by-passing a central answer point.

Direct Outward Dial ("DOD")

A service attribute that allows individual station users to access and dial outside numbers directly.

Disconnect or Disconnection

The termination of a circuit connection between the originating station and the called station or the Company's operator.

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Effective Date:

SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Dual Tone Multi-Frequency ("DTMF")

The pulse type employed by tone dial station sets (touch tone).

Emergency Service Number ("ESN")

A unique code, assigned by the Company, used to define specific combinations of police, fire and/or ambulance jurisdictions, or any other authorized agency, which are designated by the Customer.

E911 Customer

A governmental agency that is the customer of record and is responsible for all negotiations, operations and payment of bills in connection with the provision of E911 service.

E911 Service Area

The geographic area in which the government agency will respond to all E911 calls and dispatch appropriate emergency assistance.

Error

A discrepancy or unintentional deviation by the Company from what is correct or true. An "error" can also be an omission in records.

Exchange

An area, consisting of one or more central office districts, within which a call between any two points is a local call.

Exchange Access Line

A central office line furnished for direct or indirect access to the exchange system.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Exchange Service

The provision to the subscriber of access to the exchange system for the purpose of sending and receiving calls. This access is achieved through the provision of a central office line (exchange access line) between the central office and the subscriber's premises.

Final Account

A Customer whose service has been disconnected who has outstanding charges still owed to the Company.

Flat Rate Service

The type of exchange service provided at a monthly rate with an unlimited number of calls within a specified primary calling area.

Ground Start

Describes the signaling method between the PBX/key system interface and the Company's switch. It is the signal requesting service.

Handicapped Person

A person who is legally blind, visually handicapped or physically handicapped, under the following definitions from the Federal Register (Vol. 35 No. 126 dated June 30, 1970).

Legally Blind - a person whose visual acuity is 20/200 or less in the better eye with correcting glasses, or whose widest diameter of visual field subtends an angular distance no greater than 20 degrees.

Visually Handicapped - a person whose visual disability, with correction and regardless of optical measurement with respect to legal blindness, are certified as unable to read normal printed material.

Physically Handicapped - a person who is certified by competent authority as unable to read or use ordinary printed materials as a result of physical limitation, or a person whose disabling condition causes difficulty with hand and finger coordination and use of a coin telephone.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Holidays:

Holidays include New Year's Day (January 1), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November), and Christmas Day (December 25).

Hunting:

Routes a call to an idle station line in a prearranged group when the called station is busy.

Incoming Service Group

Two or more central office lines arranged so that a call to the first line is completed to a succeeding line in the group when the first line is in use.

ISDN (Integrated Services Digital Network):

ISDN provides integrated voice and/or data communications capability for transmission of voice and/or data and packet switched data signals on an incoming and outgoing basis over a single line.

Interface

That point on the premises of the subscriber at which provision is made for connection of facilities provided by someone other than the Company to facilities provided by the Company.

Interoffice Mileage

The segment of a line which extends between the central offices serving the originating and terminating points.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Interruption

The inability to complete calls, either incoming or outgoing or both, due to Company facilities malfunction or human errors.

LATA

Local Access and Transport Area. The area within which the Company provides local and long distance ("intraLATA") service. For call to numbers outside this area ("interLATA") service is provided by long distance companies.

Leased Channel

A non-switched electrical path used for connection of equipment furnished by the subscriber to equipment furnished by the subscriber or the Company for a specific purpose.

Link

The physical facility from the network interface on an end-user's or carrier's premises to the point of interconnection on the main distribution frame of the Company's central office.

Local Call

A call which, if placed by a Customer over the facilities of the Company, is not rated as a toll call.

Local Calling Area

The area, consisting of one or more central office districts, within which a subscriber for exchange service may make telephone calls without a toll charge.

Local Service

Telephone exchange service within a local calling area.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued**Loop Start**

Describes the signaling between the terminal equipment or PBX/key system interface and the Company's switch. It is the signal requesting service.

Loops

Segments of a line which extend from the serving central office to the originating and to the terminating point.

Kbps:

Kilobits per second, denotes thousands of bits per second.

Message Rate Service

A type of exchange service provided at a monthly rate with an additional charge for local calling based on the usage of the local network. One completed call is equal to one message.

Move

The disconnection of existing equipment at one location and reconnection of the same equipment at a new location in the same building or in a different building on the same premises.

Multi-Frequency ("MF")

An inter-machine pulse-type used for signaling between telephone company switches, or between telephone company switches and PBX/key systems.

Multiline Hunt

A method of call signaling by which a call placed to one number is subsequently routed to one or more alternative numbers when the called number is busy.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Network Control Signaling

The transmission of signals used in the telecommunications system which perform functions such as supervision (control, status and charging signals), address signaling (e.g. dialing), calling and called number identification, audible tone signals (call progress signals indicating re-order or busy conditions, alerting) to control the operation of switching machines in the telecommunications system.

Network Control Signaling Unit

The terminal equipment furnished, installed and maintained by the Telephone Company for the provision of network control signaling.

Node

The location to which digital channels are routed and where access is provided to such lines and associated equipment for testing.

PBX

A private branch exchange.

Port

A connection to the switching network with one or more voice grade communications channels, each with a unique network address (telephone number) dedicated to the Customer. A port connects a link to the public switched network.

Premises

The space occupied by a Customer or authorized user in a building or buildings or contiguous property not separated by a public right of way.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued**Private Branch Exchange Service**

Service providing facilities for connecting central office trunks and tie lines to PBX stations, and for interconnecting PBX station lines by means of a switchboard or dial apparatus.

Public Safety Answering Point ("PSAP")

An answering location for E911 calls originating in a given area. A PSAP may be designated as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first; secondary PSAPs receive calls on a transfer basis only and generally serve as a centralized answering location for a particular type of emergency call.

Rate Center

A geographic reference point with specific coordinates on a map used for determining mileage when calculating charges.

Referral Periods

The time frame during which calls to a number which has been changed will be sent to a recording which will inform the caller of the new number.

Resale of Service

The subscription to communications service and facilities by one entity and the reoffering of communications service to others (with or without "adding value") for profit.

Same Premises

All space in the same building in which one subscriber has the right of occupancy, and all space in different buildings on contiguous property when occupied solely by the same subscriber. Foyers, hallways and other space for the common use of all occupants of a building are considered the premises of the operator of the building.

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Selective Routing ("SR")

A feature that routes an E911 call from a Central Office to the designated primary PSAP based upon the identified number of the calling party.

Serving Central Office

The central office from which local service is furnished.

Sharing

An arrangement in which several users collectively use communications service and facilities provided by a carrier, with each user paying a pro-rata share of the communication related costs.

Station

Each telephone on a line and where no telephone associated with the line is provided on the same premises and in the same building, the first termination in station key equipment or a jack for use with a portable telephone.

Subscriber:

See "Customer" definition.

Suspension

Suspension of service for nonpayment is interruption of outgoing service only. Suspension of service at the subscriber's request is interruption of both incoming and outgoing service.

Toll Call

Any call extending beyond the local exchange of the originating caller which is rated on a toll schedule by the Company.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Travel Card

See definition of Calling Card.

Two Way

A service attribute that includes DOD for outbound calls and can also be used to carry inbound calls to a central point for processing.

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SECTION 2 – RULES AND REGULATIONS

2.1. UNDERTAKING OF COMPANY

- 2.1.1. Company's services are furnished for telecommunications originating and/or terminating in any area within the State of Arizona.
- 2.1.2. Company offers resold and facilities-based telecommunications services to Customers for the direct transmission and reception of voice, data, and other types of communications.
- 2.1.3. The Company's services are provided on a monthly basis unless otherwise provided, and are available twenty-four (24) hours per day, seven (7) days per week.
- 2.1.4. Request for service under this tariff will authorize the Company to conduct a credit search on the Customer. The Company reserves the right to refuse service on the basis of credit history, and to refuse further service due to late payment or nonpayment by the Customer.

2.2. LIMITATIONS

- 2.2.1. Service is offered subject to availability of the necessary facilities and/or service and subject to the provisions of this Tariff.
- 2.2.2. The Company does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission or for failure to establish connections.
- 2.2.3. The Customer obtains no property right or interest in the use of any specific type of facility, service, equipment, telephone number, process or code. All rights, titles and interests remain, at all times, solely with the Company.

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SECTION 2 – RULES AND REGULATIONS, Continued

2.2. LIMITATIONS, Continued

- 2.2.4. Prior written permission from the Company is required before any assignment or transfer. All regulations and conditions contained in this Tariff shall apply to all such permitted assignees or transferees, as well as all conditions of service.
- 2.2.5. The Company may, upon reasonable notice, make such tests and inspections as may be necessary to determine whether the terms and conditions of this Tariff are being complied with in the installation, operation or maintenance of the Customer's or the Company's facilities or equipment.
- 2.2.6. The Company reserves the right to refuse an application for service by a present or former Customer who is indebted to the Company for service previously rendered pursuant to this Tariff until this indebtedness is satisfied.

2.3. USE

- 2.3.1. Service may be used for the transmission of communications by the Customer for any lawful purpose for which it is technically suited.
- 2.3.2. Service may not be used for any unlawful purpose or for any purpose for which any payment or other compensation is received by the Customer, except when the Customer is a duly authorized and regulated common carrier. This provision does not prohibit an arrangement between the Customer, authorized user or joint user to share the cost of service.
- 2.3.3. The name(s) of the Customer(s) desiring to use the service must be set forth in the application for service.
- 2.3.4. The Company strictly prohibits use of the Company's services without payment or an avoidance of payment by the Customer by fraudulent means or devices including providing falsified calling card numbers or invalid calling card numbers to the Company, providing falsified or invalid credit card numbers to the Company or in any way misrepresenting the identity of the Customer.

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SECTION 2 – RULES AND REGULATIONS, Continued

2.3. USE, Continued

- 2.3.5. Recording of telephone conversations of service provided by the Company under this Tariff is prohibited except as authorized by applicable federal, state and local laws.
- 2.3.6. Service will not be used to call another person so frequently or at such times of day or in any other manner so as to annoy, abuse, threaten or harass the called party.
- 2.3.7. Service will not be used in any manner which interferes with other persons in the use of their service, prevents other persons from using their service or otherwise impairs the quality of service to other Customers.
- 2.3.8. The Company reserves the right to refuse an application for service made by a present or former Customer who is indebted to the Company for service previously rendered pursuant to this Tariff until the indebtedness is satisfied.

2.4. LIABILITIES OF THE COMPANY

- 2.4.1. The liabilities of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission occurring in the course of furnishing service or other facilities and not caused by the negligence of the Customer, commences upon activation of service and in no event exceeds an amount equivalent to the proportionate charge to the Customer for the period of service during which such mistakes, omissions, interruptions, delays, errors, or defects in transmission occur. For the purpose of computing such amount a month is considered to have thirty (30) days. In no event will the Company be responsible for consequential damages for lost profits suffered by a customer or end user as the result of interrupted or unsatisfactory service.

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SECTION 2 – RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

- 2.4.2. Company is not liable for any act or omission of any other company or companies furnishing a portion of the service.
- 2.4.3. Company shall be indemnified and held harmless by the Customer against:
- A. Claims for libel, slander, infringement of copyright or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information or other content transmitted over Company's facilities; and
 - B. Claims for patent infringement arising from combining or connecting Company's facilities with apparatus and systems of the Customer; and
 - C. All other claims arising out of any act or omission of the Customer in connection with any service provided by Company.
- 2.4.4. Company is not liable for any defacement of, or damage to, the equipment or premises of a customer resulting from the furnishing of services when such defacement or damage is not the result of the Company's negligence.
- 2.4.5. Company shall not be liable for, and the Customer indemnifies and holds harmless from, any and all loss claims, demands, suits, or other action or liability whatsoever, whether suffered, instituted or asserted by the Customer or by any other party or person, for any personal injury to, death of any person or persons, and for any loss, damage, defacement or destruction of the premises of the Customer or any other property, whether owned by the Customer or by others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of equipment or wiring provided by Company where such installation, operation, failure to operate, maintenance, condition, location or use is not the direct result of Company's negligence.

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SECTION 2 – RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

- 2.4.6. No agents or employees of connecting, concurring or other participating carriers or companies shall be deemed agents or employees of the Company without written authorization.
- 2.4.7. The Company is not liable for any failure of performance hereunder due to causes beyond its control, including, but not limited to, unavoidable interruption in the working of its circuits or those of another common carrier; acts of nature: storms, fire, flood, or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or any other governmental entity having jurisdiction over the company or of any department, agency, Commission, bureau, corporation, or other instrumentality or any one or more of such instrumentality or any one of more of such governmental entities, or of any civil or military authority; national emergencies, insurrections, riots, rebellions, wars, strikes, lockouts, work stoppages, or other labor difficulties; or notwithstanding anything in this Tariff to the contrary, the unlawful acts of the Company's agents and employees, if committed beyond the scope of their employment.
- 2.4.8. The Company shall not be liable for damages or adjustments, refunds, or cancellation of charges unless the Customer has notified the Company, in writing, of any dispute concerning charges, or the basis of any claim for damages, after the invoice is rendered by the company for the call giving rise to such dispute or claim, unless ordered by the Commission pursuant to Arizona law. Any such notice must set forth sufficient facts to provide the Company with a reasonable basis upon which to evaluate the Customer's claim or demands.
- 2.4.9. The Company shall not be liable for any damages, including usage charges, that the Customer may incur as a result of the unauthorized use of its communications equipment. The unauthorized use of the Customer's communications equipment includes, but is not limited to, the placement of calls from the Customer's premises and the placement of calls through Customer-controlled or Customer-provisioned equipment that are transmitted or carried over the Company's network services without the authorization of the Customer. The Customer shall be fully liable for all such charges.

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SECTION 2 – RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

2.4.10. The Company shall not be liable for the Customer's failure to fulfill its obligations to take all necessary steps, including obtaining, installing and maintaining all necessary equipment, materials and supplies for interconnecting the terminal equipment or communications system of the Customer, or any third party acting as the Customer's agent, to the Company's network.

2.4.11. 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 to 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 this service; or (2) installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment and facilities furnishing this service.

- B. Neither is the Company responsible for any infringement or 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 arises 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.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.4. LIABILITIES OF THE COMPANY, Continued**

- 2.4.12. In the absence of gross negligence or willful misconduct, no liability for damages arising from errors, mistakes in or omissions of directory listings, or errors, mistakes or omissions of listings obtainable from the directory assistance operator, including errors in the reporting thereof, will attach to the Company.
- 2.4.13. The Company's liability arising from errors or omissions in directory listings will be limited to the amount of actual impairment to the Customer's service and in no event will exceed one-half (1/2) the amount of the fixed monthly charges applicable to exchange service affected during the period covered by the directory in which the error or omission occurs.
- 2.4.14. As part of providing any private listing or semi-private listing services, the Company will not be liable for failure or refusal to complete any call to such telephone when the call is not placed by dialing a number which includes the number of the party called. The Company will try to prevent the disclosure of unpublished listings, but will not be liable in any manner should such a number be divulged.
- 2.4.15. When a Customer with a non-published telephone number places a call to the Emergency 911 Service, the Company will release the name and address of the calling party, where such information can be determined, to the appropriate local governmental authority responsible for the Emergency 911 Service, upon request of such governmental authority. By subscribing to service under this Tariff, the Customer agrees to the release of such information under the above provision.
- 2.4.16. The Company will use reasonable efforts to make available services to a Customer on or before a particular date, subject to the provisions of, and compliance by the Customer with, the regulations contained in this Tariff. The Company does not guarantee availability by any such date and will not be liable for any delays in commencing service to any Customer.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.5. EQUIPMENT AND FACILITIES

2.5.1. The Company will not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where Customer-provisioned equipment is connected to the facilities furnished under this Tariff, the responsibility of the Company will be limited to the furnishing of facilities offered pursuant to this Tariff. Beyond this responsibility, the Company will not be responsible for:

- A. the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission; or
- B. the reception of signals by Customer-provided equipment; or
- C. network control signaling when performed by Customer-provided network control signaling equipment.

2.6. CUSTOMER RESPONSIBILITIES

2.6.1. The Customer is responsible for the payment of all charges for services furnished to the Customer and for all additional charges for calls the Customer elects to continue making.

2.6.2. The Customer is responsible for compliance with applicable regulations set forth in this Tariff.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.6. CUSTOMER RESPONSIBILITIES, Continued**

- 2.6.3. The Customer is responsible for establishing its identity as often as necessary during the course of the call or when seeking credits from the Company.

2.7. INTERRUPTION OF SERVICE

- 2.7.1. Credit for Interruptions: When the use of service or facilities furnished by the Company is interrupted due to any cause other than the negligence or willful act of the Customer, or the operation or failure of the facilities or equipment provided by the Customer, a pro rata adjustment of the monthly Recurring Charges subject to interruption will be allowed for the service and facilities rendered useless and inoperative by reason of the interruption whenever said interruption continues for a period of 24 hours or more from the time the interruption is reported to or known to exist by the Company, except as otherwise specified in the Company's tariffs. If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted. Credit allowance for interruptions of service which are not due to Company's testing or adjusting, to the negligence of the Customer, or to the failure of channels, equipment and/or communications equipment provided by the Customer, are subject to the general liability provisions set forth in Section 2.4., herein. It shall be the obligation of the Customer to notify Company of any interruptions of service. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission of the Customer, not within the Customer's control.
- 2.7.2. For purposes of credit computation, every month shall be considered to have 720 hours. No credit shall be allowed for an interruption of a continuous duration of less than two hours.
- 2.7.3. The Customer shall be credited for an interruption of two hours or more at the rate of 1/720th of the monthly recurring charge for each hour or major fraction thereof that the interruption continues.

Credit formula: $\text{Credit} = (A/720) \times B$

A - outage time in hours

B - total monthly charge for affected utility

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SECTION 2 - RULES AND REGULATIONS, Continued**2.8. RESTORATION OF SERVICE**

- 2.8.1. The use and restoration of service in emergencies shall be in accordance with part 64, Subpart D of the Federal Communications Commission's Rules and Regulations on file with the Commission, which specifies the priority system for such activities.
- 2.8.2. When a Customer's service has been disconnected in accordance with this Tariff and the service has been terminated through the completion of a Company service order, service will be restored only upon the basis of application for new service.

2.9. MINIMUM SERVICE PERIOD

- 2.9.1. The minimum service period is one month (30 days). The Customer must pay the regular tariffed rate for the service they subscribe to for the minimum period of service. If a Customer disconnects service before the end of the minimum service period, that Customer is responsible for paying the regular rates for the remainder of the minimum service period. When the service is moved within the same building, to another building on the same premises, or to a different premises entirely, the period of service at each location is accumulated to calculate if the Customer has met the minimum period of service obligation.
- 2.9.2. If service is terminated before the end of the minimum period of service as a result of condemnation of property, damage to property requiring the premises to be abandoned, or by the death of the Customer, the Customer is not obligated to pay for service for the remainder of the minimum period.
- 2.9.3. If service is switched over to a new Customer at the same premises after the first month's service, the minimum period of service requirements are assigned to the new Customer if the new Customer agrees in writing to accept them. For facilities not taken over by the new Customer, the original Customer is responsible for the remaining payment for the minimum service period in accordance with the terms under which the service was originally furnished.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.10. ACCESS TO CUSTOMER'S PREMISES**

The Customer shall be responsible for making arrangements or obtaining permission for safe and reasonable access for Company employees or agents of the Company to enter the premises of the Customer or any joint user or Customer of the Customer at any reasonable hour for the purpose of inspecting, repairing, testing or removing any part of the Company's facilities.

2.11. PAYMENTS AND BILLING

- 2.11.1. Charges for service are applied on a recurring basis. Service is provided and billed on a monthly (30 day) basis. The billing date is dependent on the billing cycle assigned to the Customer. Service continues to be provided until cancelled by the Customer on not less than thirty (30) days' notice.
- 2.11.2. The Customer is responsible for the payment of all charges for services furnished to the Customer. Charges are based on actual usage, and are billed monthly in arrears. Customer will be billed and is responsible for payment of applicable local, state and federal taxes assessed in connection with the services used. It is contemplated that payment be done electronically, with payment made by means of the Customer's credit card, debit card, or other similar mechanism approved by the Company. In the sole discretion of the Company, payments may be made by check.
- 2.11.3. Billing is payable upon receipt and past due thirty (30) days after issuance and posting of invoice. Late payment charges may be applied, pursuant to Arizona Corporation Commission Regulations, which provides that a maximum one and one-half (1.5) percent may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears.
- 2.11.4. Return check charges may be applied in an amount not to exceed that allowed by applicable state law, as contained in the Arizona Code.
- 2.11.5. Customers should first seek to resolve billing disputes through the Company's website, www.essential.com/, or by email to the address indicated on the Customer's most recent invoice. Additionally, inquiries may be addressed to Company's customer service organization by mail at Three Burlington Woods Drive Burlington, MA 01803-4543, or by telephone to 888.746.4983. Customer service representatives are available to address such inquiries and any inquiries outside of normal business hours will be answered on the next business day. In the event of an emergency which threatens Customer service, the Company will respond as promptly as possible.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.11. PAYMENTS AND BILLING

2.11.6. In the case of a dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled with mutual satisfaction, the Customer can take the following course of action:

- A. First, the customer may request, and the Company will perform, an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be subject to disconnection.
- B. Second, if there is still disagreement over the disputed amount after the investigation and review by a manager of the Company, the Customer may appeal to the Arizona Corporation Commission for its investigation and decision.

The address and telephone number of the Commission are:

Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Telephone number: 602-542-4143
Toll-free: 1-800-222-7000

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SECTION 2 - RULES AND REGULATIONS, Continued

2.12. CANCELLATION BY CUSTOMER

- 2.12.1. Customer may cancel service by providing written or oral notice to Company thirty (30) days prior to cancellation.
- 2.12.2. Customer is responsible for all usage charges and other charges incurred in connection with the Company's service(s) and the payment thereof, regardless of the Customer's cancellation of some, or all of the services it takes from the Company from time to time.
- 2.12.3. Any cost of Company expenditures shall be borne by the Customer if:
 - A. The Customer orders service requiring special facilities dedicated to the Customer's use and then cancels the order before such service begins, before completion of the minimum period or before completion of some the period mutually agreed with the Customer; or
 - B. Liabilities are incurred expressly on behalf of the Customer by Company and not fully reimbursed by installation and monthly charges; and
 - C. If based on an order for service and construction has either begun or has been completed, but no service provided.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.13. CANCELLATION BY COMPANY

2.13.1. Company reserves the right to immediately discontinue furnishing the service to customers without incurring liability:

- A. In the event of a condition determined to be hazardous to the Customer, to other Customers of the Company, to the Company's equipment, the public or to employees of the Company; or
- B. By reason of any order or decision of a court or any other governmental authority which prohibits the Company from furnishing such service; or
- C. If the Company deems such refusal necessary to protect itself or third parties against fraud or to otherwise protect its personnel, agents, facilities or services without notice; or
- D. For unlawful use of the service or use of the service for unlawful purposes; or
- E. If the Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past, current or planned use of Company's services.

2.13.2. Company may discontinue service with five (5) day's written notice in accordance with A.C.C. Rule R14-2-509(C), Termination of Service with Notice:

- A. For Customer violation of any of the Company's tariffs filed with the Commission and/or violation of the Commission's rules and regulations; or
- B. For failure of the customer to provide the Company reasonable access to its equipment and property; or
- C. For Customer breach of contract for service between the Company and Customer; or
- D. When necessary for the Company to comply with an order of any governmental agency having jurisdiction; or
- E. For the unauthorized resale of equipment or service.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.13. CANCELLATION BY COMPANY, Continued

2.13.3. Prohibited, unlawful or improper use of the facilities or service includes, but is not limited to:

- A. The use of facilities or service of the Company without payment of tariff charges; or
- B. Calling or permitting others to call another person or persons so frequently or at such times of the day or in such manner as to harass, frighten, abuse or torment such other person or persons; or
- C. The use of profane or obscene language; or
- D. The use of the service in such a manner such that it interferes with the service of other customers or prevents them from making or receiving calls.

2.13.4. The discontinuance of service(s) by the Company pursuant to this section does not relieve the Customer of any obligations to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance. The remedies available to the Company set forth herein shall not be exclusive and the Company shall at all times be entitled to all the rights available to it under law or equity.

2.13.5. The Company may refuse to permit collect calling, calling card, third number billing which it determines to be fraudulent and/or may limit the use of these billing options or services.

2.14. ADVANCED PAYMENTS AND DEPOSITS

The Company does not require an advanced payment or deposit from the Customer, but reserves the right to collect advanced payments and deposits, as necessary.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.15. INTERCONNECTION**

- 2.15.1. The Customer shall secure all licenses, permits, rights-of-way and other arrangements necessary for interconnection with the Company. In addition, the Customer shall ensure that its equipment and/or system or that of its agent is properly interfaced with the Company's service and the signals emitted into the Company's network are of the proper mode, bandwidth, power, data speed and signal level for the intended use of the Customer. If the Customer or its agent fails to properly maintain and operate its equipment and/or system of that of its agent, the Company may, upon written request, require the use of protective equipment at the Customer's expense.
- 2.15.2. Service furnished by Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating carriers shall be provided at the Customer's expense.
- 2.15.3. Interconnection between the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided terminal equipment or communications equipment with Company's facilities. The Customer shall secure all licenses, permits, rights-of-way, and other such arrangements necessary for interconnection.

2.16. FULL FORCE AND EFFECT

Should any provision or portion of this tariff be held by a court or administrative agency of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this tariff will remain in full force and effect.

2.17. CREDIT LIMIT

The Company may, at any time and at its sole discretion, set a credit limit for any Customer's consumption of services for any monthly period.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.17. MARKETING**

As a telephone utility under the regulation of the Arizona Corporation Commission, the Company hereby asserts and affirms that as a reseller of intrastate telecommunications service, the Company will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in Arizona, and the Company will comply with those marketing procedures, if any, set forth by the Commission. The Company understands that violation of this provision could result in a rule to Show Cause as to the withdrawal of its certification to complete intrastate telecommunications traffic within the State of Arizona.

2.18. GOVERNMENTAL AUTHORIZATIONS

The provision of Company's Services is subject to, and contingent upon, Company obtaining and retaining such approvals, consents, governmental authorizations, licenses and permits, as may be required or be deemed necessary by the Company. Company shall use reasonable efforts to obtain and keep in effect all such approvals, consents, authorizations, licenses and permits that may be required to be obtained by it. Company shall be entitled to take, and shall have no liability whatsoever for, any action necessary to bring the Services into conformance with any rules, regulations, orders, decisions or directives imposed by the Federal Communications Commission or other applicable agency, and the Customer shall fully cooperate in and take such action as may be requested by Company to comply with any such rules, regulations, orders, decisions or directives. Company's obligation to provide Service hereunder will terminate if any required governmental authorization or grant is withdrawn, revoked or otherwise terminated.

2.19. PROMOTIONS

Company may, from time to time, engage in special promotions of new or existing Service offerings of limited duration designed to attract new Customers or to increase existing Customer awareness of a particular offering. The promotional offerings are subject to the availability of the Services and may be limited to a specific geographical area, to a subset of a specific market group or to customers who sign up for such Service during a particular promotional period. Prior approval for promotional offerings will be obtained from the appropriate regulatory authority when required.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.20 EFFECTIVE DATE**

The terms and conditions of this Section 3.6, Rates and Charges, will apply to Customers whose service commences on or after the Effective date of this tariff. Customers whose Service commenced before the Effective date of this tariff may choose to receive Service under the Rates and Charges in this tariff upon request through Company's customer care representatives. All other terms and conditions of this Tariff will apply to all Customers for all Service provided by Company on and after the Effective date of this Tariff, regardless of when Service commenced.

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE

3.1. GENERAL

- 3.1.1. Company provides Services through the local exchange carrier or alternative communications providers. Depending on the Customer's needs, they have a choice of features to which they can subscribe. Company also provides access to interexchange Service by resale of service from interexchange carriers.
 - 3.1.2. Local Exchange Service provides the Customer with touch tone, voice-grade telecommunications services that can be used to place or receive calls. The Customer may place calls to any local calling station in the local calling area. Additionally, subject to availability, the Customer may access certain features, including, operator services, directory assistance, enhanced 911 (where available to Company), custom calling features, including voice mail (where available) and telecommunications relay services. The Customer may also place calls to toll-free numbers where equipment allows.
 - 3.1.3. Toll Service allows the Customer to make direct-dial intrastate, and access to interstate and international calls, unless restricted by Company as allowed herein or as restricted by law.
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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE****3.2.1. Generally**

essential.com, inc. offers business customers a choice of either flat-rate or measured service. The measured service option does not include a monthly usage allowance. Its time-of-day schedule concurs with the standard time-of-day schedule. Also, measured service is not available for PBX trunks. All customers are subject to an Arizona Universal Service Fund (USF) surcharge per line/trunk.

In addition, Essential.com offers two optional features, detail billing and Stand-By Line. Detail billing provides measured service customers with an itemization of all outgoing local calls. Stand-By Line allows customers to place and receive overflow calls while their regular lines/trunks are occupied. A monthly fee applies for each arrangement, as well as a fixed charge for each minute of incoming and/or outgoing usage diverted to the Stand-By Line.

3.2.2 Flat Rate Service

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$22.65	\$69.00
Multiline Key	\$22.65	\$69.00
PBX Trunk	\$49.66	\$69.00
Direct Inward Dialing (DID)		
Block of 20 DID Numbers	\$3.90	\$26.00
Individual DID Number	\$0.75	\$ 1.30
DID Trunk Termination	\$55.00	\$69.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.3 Measured Monthly Service**

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$18.35	\$69.00
Multiline Key	\$18.35	\$69.00

Measured Usage Charges

	DAY		EVENING		NIGHT	
	First Min	Add'l Min	First Min	Add'l Min	First Min	Add'l Min
Band A (Intra-Wire Center)	\$0.0600	\$0.0600	\$0.0230	\$0.0230	\$0.0090	\$0.0900
Band B (0-25 Miles)	\$0.0800	\$0.0800	\$0.0360	\$0.0360	\$0.0260	\$0.0260
Band C (26+ Miles)	\$0.0900	\$0.0900	\$0.0655	\$0.0655	\$0.0480	\$0.0480

3.2.4 Additional Charges

	Monthly Recurring Charge	Non Recurring Charge
Hunting, Per Arrangement	\$3.90	\$16.90
End User Common Line Charge (EUCL)		
Individual Line	\$4.00	\$0.00
Multiline Key/PBX	\$9.93	\$0.00
Directory Assistance		
After 1 st Call (Per Call)	\$0.97	\$0.00
Arizona USF Surcharge	\$0.011593	\$0.00

3.2.5 Other Charges

Detail Billing (Measured Only)		
Per Account	\$0.00	\$16.90
Per Call	\$0.04	\$0.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.5 Other Charges, continued**

	Monthly Recurring Charge	Non Recurring Charge
Stand-By Line		
Per Arrangement	\$19.75	\$69.00
Per Minute of Usage	\$0.08	\$0.00

3.2.6 Order Charges

Service Order		
Each Add'l Line/Trunk	\$0.00	\$69.00
Adds or Changes	\$0.00	\$31.50
Record Order	\$0.00	\$25.00

3.2.7 Premises Visit Charge

First 15 Minutes	\$0.00	\$71.00
Add'l 15 Minutes	\$0.00	\$29.00

3.2.8 Vertical Features

Speed Calling		
8 Number	\$3.90	\$16.90
30 Number	\$5.50	\$16.90
Three-Way Calling	\$5.00	\$16.90
Call Forwarding		
Variable	\$8.80	\$16.90
Busy Line (Expanded)	\$5.90	\$16.90
Busy Line (External)	\$4.90	\$16.90
Busy Line (Overflow)	\$9.00	\$16.90
Busy Line (Programmable)	\$9.00	\$16.90
Don't Answer	\$8.00	\$16.90
Don't Answer (Expanded)	\$5.00	\$16.90
Don't Answer (Programmable)	\$6.50	\$16.90
Don't Answer (Overflow)	\$13.50	\$16.90
Busy Line/Don't Answer	\$6.50	\$16.90

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.8 Vertical Features, continued**

	Monthly Recurring Charge	Non Recurring Charge
Call Manager Connection	\$25.95	\$16.90
With Call Waiting	\$25.95	\$16.90
With Call Waiting ID	\$25.95	\$16.90
Call Rejection	\$5.50	\$16.90
Call Waiting	\$8.50	\$16.90
Abbreviated Access (One Digit)		
Each Shared List	\$26.00	\$16.90
Each Line Arranged	\$0.08	\$16.90
Abbreviated Access (Two Digits)		
Each Shared List	\$33.00	\$16.90
Each Line Arranged	\$0.15	\$16.90
Caller ID		
Name and Number	\$9.95	\$16.00
Number	\$9.50	\$16.00
With Privacy	\$12.95	\$16.00
Call Transfer	\$9.00	\$16.00
Continuous Redial	\$4.50	\$16.00
Dial Call Waiting	\$3.15	\$16.00
Directed Call Pickup	\$2.00	\$16.00
Directed Call Pickup w/ Barge-in	\$2.00	\$16.00
Distinctive Alert	\$2.00	\$16.00
Hot Line	\$2.50	\$16.00
Last Call Return	\$3.90	\$16.00
Priority Call	\$4.50	\$16.00
Remote Access Forwarding	\$8.75	\$16.00
Selective Call Forwarding	\$5.50	\$16.00
Do Not Disturb	\$5.95	\$16.00
Dial Lock	\$5.95	\$16.00
Scheduled Forwarding	\$9.75	\$16.00
Receptionist		
With Name and Number	\$15.45	\$16.00
With Number Only	\$15.00	\$16.00
With Caller ID w/ Privacy	\$18.45	\$16.00
Warm Line	\$2.50	\$16.00
Wireless Extension	\$4.95	\$16.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.8 Vertical Features, continued**

	Monthly Recurring Charge	Non Recurring Charge
Custom Ringing		
First Add'l Number	\$9.45	\$16.00
Second Add'l Number	\$6.25	\$16.00
Third Add'l Number	\$6.25	\$16.00

3.2.9 Package Plans (Two Features)

Call Forwarding Variable & Call Waiting	\$12.00	\$16.00
Call Waiting & Three-Way Calling	\$10.50	\$16.00
Call Forwarding Variable & Three-Way Calling	\$8.50	\$16.00
Speed Calling 8 Numbers & Call Waiting	\$9.50	\$16.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers	\$8.00	\$16.00
Speed Calling 8 Numbers & Call Forwarding Variable	\$8.50	\$16.00
Speed Calling 8 Numbers & Three-Way Calling	\$7.50	\$16.00
Speed Calling 30 Numbers & Call Waiting	\$10.90	\$16.00
Speed Calling 30 Numbers & Call Forwarding Variable	\$8.50	\$16.00
Speed Calling 30 Numbers & Three-Way Calling	\$8.00	\$16.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.10 Package Plans (Three Features)**

	Monthly Recurring Charge	Non Recurring Charge
Call Waiting & Three-Way Calling & Call Forwarding Variable	\$11.50	\$16.00
Speed Calling 8 Numbers & Call Forwarding Variable & Three-Way Calling	\$13.60	\$16.00
Speed Calling 8 Numbers & Call Waiting & Three-Way Calling	\$13.50	\$16.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Call Waiting	\$14.00	\$16.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Three-Way Calling	\$14.00	\$16.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Call Forwarding Variable	\$14.00	\$16.00
Speed Calling 30 Numbers & Call Forwarding Variable & Call Waiting	\$15.50	\$16.00
Speed Calling 30 Numbers & Call Forwarding Variable & Three-Way Calling	\$13.60	\$16.00
Speed Calling 30 Numbers & Call Waiting & Three-Way Calling	\$14.00	\$16.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.2 BUSINESS LOCAL EXCHANGE SERVICE, Continued****3.2.11 Package Plans (Four Features)**

	Monthly Recurring Charge	Non Recurring Charge
Call Waiting & Three-Way Calling & Call Forwarding Variable & Speed Calling 8 Numbers	\$17.50	\$16.00
Call Forwarding Variable & Three-Way Calling & Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$15.00	\$16.00
Three-Way Calling & Call Waiting Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$17.00	\$16.00
Call Waiting & Three-Way Calling & Call Forwarding Variable & Speed Calling 30 Numbers	\$17.50	\$16.00

3.2.12 Package Plans (Five Features)

Call Waiting & Three-Way Calling & Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$20.00	\$16.00
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3.2.13 Per Use Feature

Call Trace	\$3.00	\$0.00
Continuous Redial	\$1.75	\$0.00
Last Call Return	\$1.75	\$0.00
Three-Way Calling	\$1.75	\$0.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.3 RESIDENTIAL LOCAL EXCHANGE SERVICE****3.3.1. Generally**

essential.com, inc. offers residential customers a choice of either flat-rate or Low Use (message) service. The Low-Use service option does not include a monthly usage allowance. All customers are subject to an Arizona Universal Service Fund (USF) surcharge per line/trunk.

In addition, Essential.com offers a Home Business Line option. Although Essential.com classifies this service as business, its customer base may include business who operate from a residential location. Home Business Line may include the Custom Ringing feature, so that one line may accommodate two separate phone numbers. One of these phone numbers "home" number; the other is the "business" number. Essential.com provides a directory listing for both numbers at no additional charge.

3.3.2 Flat Rate Service

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$15.18	\$59.00
Home Business Line	\$40.03	\$62.00

3.2.3 Message Monthly Service

Individual Line	\$9.50	\$59.50
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3.3.4 Additional Charges

	Monthly Recurring Charge	Non Recurring Charge
End User Common Line Charge (EUCL)		
Primary Line	\$3.50	\$0.00
Additional Line	\$6.07	\$0.00
Directory Assistance		
After 1 st Call (Per Call)	\$0.47	\$0.00
Arizona USF Surcharge	\$0.011593	\$0.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.3 RESIDENTIAL LOCAL EXCHANGE SERVICE, Continued**

3.3.5 Order Charges

	Monthly Recurring Charge	Non Recurring Charge
Service Order		
New or Add'l Line	\$0.00	\$0.00
Adds of Changes	\$0.00	\$13.00
Record Order	\$0.00	\$9.50

3.3.6 Premises Visit Charge

First 15 Minutes	\$0.00	\$65.00
Add'l 15 Minutes	\$0.00	\$28.00

3.3.7 Vertical Features

Speed Calling		
8 Number	\$4.00	\$16.00
30 Number	\$5.50	\$16.00
Three-Way Calling	\$5.50	\$16.00
Call Forwarding		
Variable	\$5.00	\$16.00
Busy Line (Expanded)	\$1.00	\$16.00
Busy Line (Overflow)	\$0.50	\$16.00
Busy Line (Programmable)	\$3.85	\$16.00
Don't Answer	\$1.50	\$16.00
Don't Answer (Expanded)	\$1.50	\$16.00
Don't Answer (Programmable)	\$3.60	\$16.00
Busy Line/Don't Answer	\$6.50	\$16.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.3 RESIDENTIAL LOCAL EXCHANGE SERVICE, Continued****3.3.7 Vertical Features, continued**

	Monthly Recurring Charge	Non Recurring Charge
Call Rejection	\$5.50	\$16.00
Call Waiting	\$6.00	\$16.00
Abbreviated Access (One Digit)	\$1.50	\$16.00
Abbreviated Access (Two Digits)	\$1.50	\$16.00
Each Line Arranged	\$0.55	\$16.00
Caller ID		
Name and Number	\$6.95	\$16.00
Number	\$6.50	\$16.00
With Privacy	\$11.95	\$16.00
Call Transfer	\$8.00	\$16.00
Continuous Redial	\$4.50	\$16.00
Dial Call Waiting	\$4.15	\$16.00
Dial Lock	\$5.95	\$16.00
Directed Call Pickup	\$1.50	\$16.00
Directed Call Pickup w/ Barge-in	\$1.50	\$16.00
Distinctive Alert	\$1.50	\$16.00
Hot Line	\$2.50	\$16.00
Last Call Return	\$3.35	\$16.00
Priority Call	\$3.30	\$16.00
Remote Access Forwarding	\$4.95	\$16.00
Selective Call Forwarding	\$4.50	\$16.00
Do Not Disturb	\$4.95	\$16.00
Scheduled Forwarding	\$5.95	\$16.00
Receptionist		
With Name and Number	\$12.95	\$16.00
With Number Only	\$12.50	\$16.00
With Caller ID w/ Privacy	\$15.95	\$16.00
Warm Line	\$3.50	\$16.00
Wireless Extension	\$5.95	\$16.00

3.3.8 Per Use Feature

Call Trace	\$2.50	\$0.00
Continuous Redial	\$1.75	\$0.00
Last Call Return	\$1.75	\$0.00
Three-Way Calling	\$1.75	\$0.00

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SECTION 3 - BASIC LOCAL EXCHANGE SERVICE, Continued**3.4 INTRASTATE INTRALATA MESSAGE TOLL SERVICE****3.4.1 Business MTS****3.4.1.1 Dial Station**

	DAY		EVENING		NIGHT	
	1 st Min	Add'l Min	1 st Min	Add'l Min	1 st Min	Add'l Min
	\$0.3394	\$0.3394	\$0.2500	\$0.2500	\$0.2500	\$0.2500

3.4.1.2 Travel Card

First Minute \$0.2590
Additional Minute \$0.2590

3.4.2 Residential MTS**3.4.2.1 Dial Station**

	DAY		EVENING		NIGHT	
	1 st Min	Add'l Min	1 st Min	Add'l Min	1 st Min	Add'l Min
	\$0.3394	\$0.3394	\$0.2500	\$0.2500	\$0.2500	\$0.2500

3.4.2.2 Travel Card

First Minute \$0.2590
Additional Minute \$0.2590

3.4.3 Surcharges**Per Call**

Directory Assistance
Private Phone \$0.67
Calling Card
Fully Automated \$0.50 (from payphone)
Semi-Automated \$1.85
Operator Assisted \$2.30
Person-to-Person \$4.50
Coin Sent-Paid \$2.30

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SECTION 4 - DIRECTORY LISTINGS**4.1. REGULATIONS APPLICABLE TO DIRECTORY LISTINGS****4.1.1. General**

- A. The rates and regulations specified herein for directory listings apply only to the alphabetical section of the directory. Listings are intended solely for the purpose of identifying Customer's telephone numbers and as an aid to the use of telephone service.
- B. The listings of Customers, either without charge or at the rate specified herein for other listings are arranged alphabetically and are not intended for special prominence of arrangement. In accepting listings as requested by Customers or prospective Customers, the Company will not be a party to controversies between Customers as a result of the publication of such listings in its directories.
- C. Listings must conform to the Company's specifications with respect to its directories. The Company reserves the right to reject listings when, in its sole judgment, such listings would violate the integrity of company records and its directories, confuse individuals using the directory, or when the customer cannot provide satisfactory evidence that he is authorized to do business as requested.
- D. The Company reserves the right to limit the length of any listing to one (1) line in the directory by use of abbreviations when, in its judgment, the clearness of the listing and the identification of the Customer is not impaired thereby.
- E. One listing is furnished without extra charge as specified in the following:
 - 1. each basic local exchange line
 - 2. each PBX trunk
- F. The use of listings in excess of those described in E. preceding may be provided without charge when in the sole judgment of the Company they are needed for better identification of the Customer.
- G. Generally, the listed address is the location of the Customer's place of business or residence. At the Customer's request a partial address may be shown. An address may be:- a number(s) and/or letter(s) followed by the name of a street, a building, a shopping center/mall, apartment complex, industrial park, or similar facility

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SECTION 4 - DIRECTORY LISTINGS, Continued**4.1. REGULATIONS APPLICABLE TO DIRECTORY LISTINGS, Continued****4.1.1. General, Continued**

- a name of a street, building, shopping center/mall, apartment complex, industrial park, or similar facility
- any one of the above followed by a community and/or state name
- a community name only
- omitted at the Customer's request

The listed address may not include P. O. Box, or use of the word or abbreviation of suite, floor, or apartment before numbers used in the identification. An address other than the address where the service is located may be listed provided the Customer has a comparable class of service at the address requested.

- H. Liability of the Company due to directory errors and omissions is as specified in Section 2. of this tariff.
- I. A Secondary Service Charge applies when an order is issued solely to add or change a directory listing.

4.2. BUSINESS LISTING**4.2.1. General**

- A. Generally, a business listing consists of a name or dual name, a designation descriptive of the Customer's business if not self-explanatory, the address, and the business telephone number. The main listing is ordinarily the name of the individual, firm or corporation which contracts for the service or the name under which a business is regularly conducted.

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SECTION 4 - DIRECTORY LISTINGS, Continued**4.3. RESIDENCE LISTING****4.3.1. General**

Generally, residence listings consist of a surname, given name or dual name, and/or initials, the address, and the telephone number. When a single name listing is requested by the Customer, the Company may require satisfactory evidence as to the validity of the requested name. The main listing is ordinarily the name of the individual who subscribes for the service, but the listing may be in the name of a second party residing at the address where service is provided if so designated by the Customer.

4.4. NON-PUBLISHED (PRIVATE) LISTING**4.4.1. General**

- A. A non-published listing is not listed in either the alphabetical section of the Company's directory or directory assistance records and will not be furnished upon request of the calling party. However, when a call is placed from a telephone number associated with a non-published listing, the number and/or name may be disclosed if the called party has the necessary equipment for receiving and/or disclosing incoming telephone numbers and/or names.
- B. An incoming call to a Customer with a non-published listing will be completed by the Company only when the calling party places the call by number. The Company will adhere to this practice notwithstanding any claim of emergency the calling party may present. The acceptance by the Company of the Customer's request to furnish a non-published telephone number does not create any relationship or obligation, direct or indirect, to any person other than the Customer.
- C. In the absence of gross negligence or willful misconduct, no liability for damages arising from publishing a non-published telephone number in the directory or disclosing said number to any person shall attach to the Company. Where a non-published listing is published in the directory, the Company's liability shall be limited to and satisfied by a refund of any monthly charges which the Company may have made for such listing. Under these conditions, the Company will, at the Customer's request, change the telephone number at no charge to the Customer. The Customer indemnifies and saves the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-published listing or the disclosing of said listing information to any person.

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SECTION 4 - DIRECTORY LISTINGS, Continued

4.4. NON-PUBLISHED (PRIVATE) LISTING, Continued

4.4.1. General, Continued

- D. The telephone number, name and address of the calling party may be displayed at a Public Safety Answering Point ("PSAP") located on the premises of a Customer subscribing to 911 Service, on a call-by-call basis only, for the purpose of responding to emergency calls from non-published numbers. The Customer forfeits his right to privacy upon making a call to 911.
- E. For accounting purposes, the telephone number, name, and address of a Customer with a non-published listing will be provided to the Long Distance Carrier(s) which furnishes the Customer long distance message telecommunications service.
- F. Upon request, facilities permitting, Customers of Non-Published Listing service will be provided Calling Number Delivery Blocking - at no monthly recurring charge.

4.4.2. Rate Application

A. Non-published listing

1. Where charge applies

**Monthly
Rate**

(a) Each \$1.75

2. Where charge does not apply

(a) Each NR

- Service used primarily by a certified hearing/speech impaired person
- Additional service furnished to the same Customer who has service listed in the directory at the same address.
- Additional service furnished to the same Customer who has service listed in the directory in the same name at a different address provided the listed service is in the same local exchange.
- Service to a Customer living in a hotel, hospital, retirement complex, apartment, boarding house or club if the Customer is listed under the telephone number of the PBX, Centrex Type Services or Semipublic Telephone Service furnished to such establishments.
- Temporary Service

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SECTION 4 - DIRECTORY LISTINGS, Continued**4.5. NON-LISTED (SEMIPRIVATE) LISTING****4.5.1. General**

- A. A non-listed listing is not contained in the alphabetical section of the Company directory, but is maintained on directory assistance records and will be furnished upon the request of the calling party.
- B. The acceptance by the Company of the Customer's request to furnish a non-listed listing does not create any relationship or obligation, direct or indirect, to any person other than the Customer.
- C. In the absence of gross negligence or willful misconduct, no liability for damages arising from publishing a non-listed telephone number in the directory shall attach to the Company. Where such a number is published in the directory, the Company's liability shall be limited to and satisfied by a refund of any monthly charges which the Company may have made for such non-listed listing. The Customer indemnifies and holds the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-listed listing.
- D. The telephone number, name and address of the calling party may be displayed at a Public Safety Answering Point ("PSAP"), located on the premises of a Customer subscribing to 911 service on a call-by-call basis only for the purpose of responding to emergency calls from a non-listed number.
- E. Upon request, facilities permitting, Customers of Non-Listed (Semi-private) Listing service will be provided in Calling Number Delivery Blocking - Permanent at no monthly recurring charge.

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SECTION 4 - DIRECTORY LISTINGS (Continued)

4.6. ADDITIONAL LISTING

4.6.1. General

- A. The Customer to the service assumes responsibility for all charges for additional listings associated with his service. Listing charges date from the day the directory assistance records are posted.
- B. Listing charges are automatically discontinued upon termination of the service or upon removal of the listing.

4.6.2. Business Additional Listing

- A. A business additional listing may be furnished in other names when in the judgement of the Company the Customer's service is not being resold.
- B. Rate Application

		Monthly Rate
1.	Business	
	(a) Each	\$1.20
	(b) 800 service, each	\$1.20

4.6.3. Residence Additional Listing

- A. A residence additional listing may be furnished in the names of relatives, including those by marriage, domestic employees of the Customer, or other persons residing in the Customer's home who are recognized as a part of the Customer's domestic establishment.
- B. Rate Application
- 1. Residence
 - (a) Each \$1.20

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SECTION 4 - DIRECTORY LISTINGS (Continued)**4.7. MISCELLANEOUS LISTING****4.7.1. Access Service Listing**

A. An interexchange carrier or a business or residence client of an interexchange carrier who subscribes to Feature Group A foreign exchange access service may be furnished a listing at the rate specified.

B. Rate Application	Monthly Rate
1. Listing	
(a) Each	\$1.20

4.7.2. Alternate Listing

A. An alternate listing may be provided to the Customer for the purpose of directing calling parties to other telephone numbers subject to the following conditions:

1. Names of individuals are not permitted
2. Text may not exceed one line

Examples:

Nights, Sundays, and Holidays
If No Answer
If Extension Is Not Known

B. Rate Application	
1. Business	
(a) Each	\$1.20
2. Residence	
(a) Each	\$1.20

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SECTION 4 - DIRECTORY LISTINGS, Continued

4.7. MISCELLANEOUS LISTING, Continued

4.7.6. Cross Reference Listing

A. A cross reference listing may be furnished when it is necessary to refer the directory user to another directory listing.

B. Rate application

1. Business

**Monthly
Rate**

(a) Each

\$1.20

2. Residence

(a) Each

\$1.20

4.7.7. Dual Name Listing

A. A dual name listing may be furnished to a business or a residence Customer as a main listing subject to the following:

- an individual subscribing to business service when it is a personal name listing and the person is also known by a nickname
- two individuals subscribing to residence service having the same surname and address, or an individual known by more than one name

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SECTION 4 - DIRECTORY LISTINGS (Continued)

4.7. MISCELLANEOUS LISTING, Continued

4.7.7. Dual Name Listing, Continued

B. A dual name listing may also be furnished as an additional listing at the Customer's request at the appropriate additional listing rate.

C. A Secondary Service Charge applies for:

**Monthly
Rate**

1. Changing of primary single name listing to a primary dual name directory listing

(a) each \$7.15

2. Changing the primary or additional dual name directory listing once established

(a) each \$7.15

3. Changing an additional dual name directory listing to a primary dual name listing

(a) each \$7.15 NA

D. No nonrecurring charge applies when the dual name listing is established with the initial establishment of service or when a change in an existing listing is requested on an order for which service charges are otherwise applicable.

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SECTION 4 - DIRECTORY LISTINGS (Continued)

4.7. MISCELLANEOUS LISTING, Continued

4.7.8. Emergency Service Listing (E911, B911, and SALI)

A 911 telephone number must be listed along with a non-emergency telephone number for emergency agencies. No charge applies for either listing.

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SECTION 4 - DIRECTORY LISTINGS (Continued)**4.7. MISCELLANEOUS LISTING, Continued****4.7.9. Foreign Listing**

A. A listing in the alphabetical section of Company directories outside the Customer's local exchange may be furnished. This listing is subject to the rates and regulations applicable to the published directory in which the listing is to appear.

B. Rate Application**Monthly
Rate****1. Foreign listing**

(a)	Business, each	\$1.20
(b)	Residence, each	\$1.20

2. Foreign cross reference listing

(a)	Business, per line	\$1.20
(b)	Residence, per line	\$1.20

3. Foreign alternate listing

(a)	Business, each	\$1.20
(b)	Residence, each	\$1.20

4. Foreign Special Text

(a)	Business, each	\$1.20
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C. When in the sole judgment of the Company, in the case of service located in an exchange border area, a foreign listing is needed for better identification in order to facilitate the completion of calls, such listing may be provided without charge for the main listing only.

1. Foreign Listing

(a)	Each	NR
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PRICE LIST

1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued

Service charges per account are based on the following schedules:

1.1.1 Flat Rate Service

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$17.43	\$56.00
Multiline Key	\$17.43	\$56.00
PBX Trunk	\$38.20	\$56.00
Direct Inward Dialing (DID)		
Block of 20 DID Number	\$3.00	\$20.00
Individual DID Number	\$0.15	\$ 1.00
DID Trunk Termination	\$45.00	\$57.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued****1.1.2 Measured Monthly Service**

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$15.35	\$56.00
Multiline Key	\$15.35	\$56.00

Measured Usage Charges

	DAY		EVENING		NIGHT	
	First Min	Add'l Min	First Min	Add'l Min	First Min	Add'l Min
Band A (Intra-Wire Center)	\$0.0200	\$0.0200	\$0.0130	\$0.0130	\$0.0080	\$0.0800
Band B (0-25 Miles)	\$0.0400	\$0.0400	\$0.0260	\$0.0260	\$0.0160	\$0.0160
Band C (26+ Miles)	\$0.0700	\$0.0700	\$0.0455	\$0.0455	\$0.0280	\$0.0280

1.1.3 Additional Charges

	Monthly Recurring Charge	Non Recurring Charge
Hunting, Per Arrangement	\$3.00	\$13.00
End User Common Line Charge (EUCL)		
Individual Line	\$3.50	\$0.00
Multiline Key/PBX	\$8.23	\$0.00
Directory Assistance		
After 1 st Call (Per Call)	\$0.47	\$0.00
Arizona USF Surcharge	\$0.02	\$0.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued**

	Monthly Recurring Charge	Non Recurring Charge
1.1.4 Other Charges		
Detail Billing (Measured Only)		
Per Account	\$0.00	\$13.50
Per Call	\$0.01	\$0.00
Stand-By Line		
Per Arrangement	\$16.75	\$56.00
Per Minute of Usage	\$0.05	\$0.00
1.1.4 Order Charges		
Service Order		
Each Add'l Line/Trunk	\$0.00	\$56.00
Adds of Changes	\$0.00	\$27.50
Record Order	\$0.00	\$22.00
1.1.6 Premises Visit Charge		
First 15 Minutes	\$0.00	\$60.00
Add'l 15 Minutes	\$0.00	\$25.00
1.1.7 Vertical Features		
Speed Calling		
8 Number	\$3.00	\$13.00
30 Number	\$4.50	\$13.00
Three-Way Calling	\$4.00	\$13.00
Call Forwarding		
Variable	\$4.80	\$13.00
Busy Line (Expanded)	\$3.00	\$13.00
Busy Line (External)	\$3.00	\$13.00
Busy Line (Overflow)	\$8.00	\$13.00
Busy Line (Programmable)	\$8.00	\$13.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued****1.1.7 Vertical Features, continued**

	Monthly Recurring Charge	Non Recurring Charge
Don't Answer	\$7.00	\$13.00
Don't Answer (Expanded)	\$4.00	\$13.00
Don't Answer (Programmable)	\$4.50	\$13.00
Don't Answer (Overflow)	\$11.50	\$13.00
Busy Line/Don't Answer	\$5.50	\$13.00
Call Manager Connection	\$19.95	\$13.00
With Call Waiting	\$19.95	\$13.00
With Call Waiting ID	\$19.95	\$13.00
Call Rejection	\$4.50	\$13.00
Call Waiting	\$7.50	\$13.00
Abbreviated Access (One Digit)		
Each Shared List	\$20.00	\$13.00
Each Line Arranged	\$0.05	\$13.00
Abbreviated Access (Two Digits)		
Each Shared List	\$30.00	\$13.00
Each Line Arranged	\$0.05	\$13.00
Caller ID		
Name and Number	\$7.95	\$13.00
Number	\$7.50	\$13.00
With Privacy	\$10.95	\$13.00
Call Transfer	\$6.00	\$13.00
Continuous Redial	\$3.50	\$13.00
Dial Call Waiting	\$2.15	\$13.00
Directed Call Pickup	\$1.00	\$13.00
Directed Call Pickup w/ Barge-in	\$1.00	\$13.00
Distinctive Alert	\$1.00	\$13.00
Hot Line	\$2.00	\$13.00
Last Call Return	\$3.00	\$13.00
Priority Call	\$3.50	\$13.00
Remote Access Forwarding	\$7.75	\$13.00
Selective Call Forwarding	\$3.50	\$13.00
Do Not Disturb	\$3.95	\$13.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued**

1.1.7 Vertical Features, continued

	Monthly Recurring Charge	Non Recurring Charge
Dial Lock	\$3.95	\$13.00
Scheduled Forwarding	\$8.75	\$13.00
Receptionist		
With Name and Number	\$15.45	\$13.00
With Number Only	\$15.00	\$13.00
With Caller ID w/ Privacy	\$18.45	\$13.00
Warm Line	\$2.50	\$13.00
Wireless Extension	\$4.95	\$13.00
Custom Ringing		
First Add'l Number	\$7.45	\$13.00
Second Add'l Number	\$5.25	\$13.00
Third Add'l Number	\$5.25	\$13.00

1.1.8 Package Plans (Two Features)

Call Forwarding Variable & Call Waiting	\$10.00	\$13.00
Call Waiting & Three-Way Calling	\$9.50	\$13.00
Call Forwarding Variable & Three-Way Calling	\$7.50	\$13.00
Speed Calling 8 Numbers & Call Waiting	\$8.50	\$13.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers	\$6.00	\$13.00
Speed Calling 8 Numbers & Call Forwarding Variable	\$6.50	\$13.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued**

1.1.8 Package Plans (Two Features), continued

	Monthly Recurring Charge	Non Recurring Charge
Speed Calling 8 Numbers & Three-Way Calling	\$5.50	\$13.00
Speed Calling 30 Numbers & Call Waiting	\$9.50	\$13.00
Speed Calling 30 Numbers & Call Forwarding Variable	\$7.50	\$13.00
Speed Calling 30 Numbers & Three-Way Calling	\$7.00	\$13.00

1.1.9 Package Plans (Three Features)

Call Waiting & Three-Way Calling & Call Forwarding Variable	\$9.50	\$13.00
Speed Calling 8 Numbers & Call Forwarding Variable & Three-Way Calling	\$10.60	\$13.00
Speed Calling 8 Numbers & Call Waiting & Three-Way Calling	\$11.50	\$13.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Call Waiting	\$12.00	\$13.00
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Three-Way Calling	\$12.00	\$13.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued**

1.1.9 Package Plans (Three Features), continued	Monthly Recurring Charge	Non Recurring Charge
Speed Calling 8 Numbers & Speed Calling 30 Numbers & Call Forwarding Variable	\$12.00	\$13.00
Speed Calling 30 Numbers & Call Forwarding Variable & Call Waiting	\$13.50	\$13.00
Speed Calling 30 Numbers & Call Forwarding Variable & Three-Way Calling	\$11.60	\$13.00
Speed Calling 30 Numbers & Call Waiting & Three-Way Calling	\$12.00	\$13.00

3.2.10 Package Plans (Four Features)

Call Waiting & Three-Way Calling & Call Forwarding Variable & Speed Calling 8 Numbers	\$15.50	\$13.00
Call Forwarding Variable & Three-Way Calling & Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$13.00	\$13.00
Three-Way Calling & Call Waiting Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$15.00	\$13.00
Call Waiting & Three-Way Calling & Call Forwarding Variable & Speed Calling 30 Numbers	\$15.50	\$13.00

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PRICE LIST, Continued**1.1 BUSINESS LOCAL EXCHANGE SERVICE, Continued**

1.1.11 Package Plans (Five Features)

	Monthly Recurring Charge	Non Recurring Charge
Call Waiting & Three-Way Calling & Speed Calling 30 Numbers & Speed Calling 8 Numbers	\$19.00	\$13.00
3.2.12 Per Use Feature		
Call Trace	\$2.00	\$0.00
Continuous Redial	\$0.75	\$0.00
Last Call Return	\$0.75	\$0.00
Three-Way Calling	\$0.75	\$0.00

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PRICE LIST, Continued**1.2 RESIDENTIAL LOCAL EXCHANGE SERVICE**

1.2.1 Flat Rate Service

	Monthly Recurring Charge	Non Recurring Charge
Individual Line	\$13.18	\$46.00
Home Business Line	\$36.03	\$56.00

1.2.2 Message Monthly Service

Individual Line	\$8.50	\$46.50
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1.2.3 Additional Charges

End User Common Line Charge (EUCL)		
Primary Line	\$3.50	\$0.00
Additional Line	\$6.07	\$0.00
Directory Assistance		
After 1 st Call (Per Call)	\$0.47	\$0.00
Arizona USF Surcharge	\$0.02	\$0.00

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PRICE LIST, Continued**1.2 RESIDENTIAL LOCAL EXCHANGE SERVICE, Continued****1.2.4 Order Charges**

	Monthly Recurring Charge	Non Recurring Charge
Service Order		
New or Add'l Line	\$0.00	\$0.00
Adds of Changes	\$0.00	\$10.00
Record Order	\$0.00	\$8.50

1.2.5 Premises Visit Charge

First 15 Minutes	\$0.00	\$60.00
Add'l 15 Minutes	\$0.00	\$25.00

1.2.6 Vertical Features

Speed Calling		
8 Number	\$2.00	\$13.00
30 Number	\$3.50	\$13.00
Three-Way Calling	\$3.50	\$13.00
Call Forwarding		
Variable	\$3.00	\$13.00
Busy Line (Expanded)	\$0.30	\$13.00
Busy Line (Overflow)	\$0.30	\$13.00
Busy Line (Programmable)	\$1.85	\$13.00
Don't Answer	\$0.90	\$13.00
Don't Answer (Expanded)	\$0.90	\$13.00
Don't Answer (Programmable)	\$2.60	\$13.00
Busy Line/Don't Answer	\$5.50	\$13.00

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PRICE LIST, Continued
1.2 RESIDENTIAL LOCAL EXCHANGE SERVICE, Continued

1.2.6 Vertical Features, continued

	Monthly Recurring Charge	Non Recurring Charge
Call Rejection	\$4.50	\$13.00
Call Waiting	\$5.00	\$13.00
Abbreviated Access (One Digit)	\$0.50	\$13.00
Abbreviated Access (Two Digits)	\$0.50	\$13.00
Each Line Arranged	\$0.05	\$13.00
Caller ID		
Name and Number	\$5.95	\$13.00
Number	\$5.50	\$13.00
With Privacy	\$9.95	\$13.00
Call Transfer	\$6.00	\$13.00
Continuous Redial	\$2.50	\$13.00
Dial Call Waiting	\$2.15	\$13.00
Dial Lock	\$3.95	\$13.00
Directed Call Pickup	\$1.00	\$13.00
Directed Call Pickup w/ Barge-in	\$1.00	\$13.00
Distinctive Alert	\$1.00	\$13.00
Hot Line	\$2.00	\$13.00
Last Call Return	\$2.95	\$13.00
Priority Call	\$2.50	\$13.00
Remote Access Forwarding	\$3.95	\$13.00
Selective Call Forwarding	\$3.50	\$13.00
Do Not Disturb	\$3.95	\$13.00
Scheduled Forwarding	\$4.95	\$13.00
Receptionist		
With Name and Number	\$10.95	\$13.00
With Number Only	\$10.50	\$13.00
With Caller ID w/ Privacy	\$14.95	\$13.00
Warm Line	\$2.50	\$13.00
Wireless Extension	\$4.95	\$13.00

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PRICE LIST, Continued

1.2 RESIDENTIAL LOCAL EXCHANGE SERVICE, Continued

	Monthly Recurring Charge	Non Recurring Charge
1.2.7 Per Use Feature		
Call Trace	\$2.00	\$0.00
Continuous Redial	\$0.75	\$0.00
Last Call Return	\$0.75	\$0.00
Three-Way Calling	\$0.75	\$0.00

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Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

PRICE LIST, Continued

1.3 INTRASTATE INTRALATA MESSAGE TOLL SERVICE

1.3.1 Business MTS

1.3.1.1 Dial Station

	DAY		EVENING		NIGHT	
	1 st Min	Add'l Min	1 st Min	Add'l Min	1 st Min	Add'l Min
	\$0.2994	\$0.2994	\$0.2200	\$0.2200	\$0.2200	\$0.2200

1.3.1.2 Calling Card

First Minute \$0.1990
Additional Minute \$0.1990

1.3.2 Residential MTS

1.3.2.1 Dial Station

	DAY		EVENING		NIGHT	
	1 st Min	Add'l Min	1 st Min	Add'l Min	1 st Min	Add'l Min
	\$0.2994	\$0.2994	\$0.2200	\$0.2200	\$0.2200	\$0.2200

1.3.2.2 Calling Card

First Minute \$0.1990
Additional Minute \$0.1990

1.3.3 Surcharges

Per Call

Directory Assistance
Private Phone \$0.47
Calling Card
Fully Automated \$0.30 (from payphone)
Semi-Automated \$0.85
Operator Assisted \$1.30
Person-to-Person \$3.50
Coin Sent-Paid \$1.30

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Treasurer, Director of Finance & Controller
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PRICE LIST, Continued**1.4. DIRECTORY LISTINGS**

1.4.1. Rate Application

A. Non-published listing

1. Where charge applies

**Monthly
Rate**

(a) Each \$1.75

2. Where charge does not apply

(a) Each NR

- Service used primarily by a certified hearing/speech impaired person
- Additional service furnished to the same Customer who has service listed in the directory at the same address.
- Additional service furnished to the same Customer who has service listed in the directory in the same name at a different address provided the listed service is in the same local exchange.
- Service to a Customer living in a hotel, hospital, retirement complex, apartment, boarding house or club if the Customer is listed under the telephone number of the PBX, Centrex Type Services or Semipublic Telephone Service furnished to such establishments.
- Temporary Service

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PRICE LIST, Continued**1.4. DIRECTORY LISTINGS, Continued**

1.4.2. Business Additional Listing

- A. A business additional listing may be furnished in other names when in the judgement of the Company the Customer's service is not being resold.
- B. Rate Application

	Monthly Rate
1. Business	
(a) Each	\$1.20
(b) 800 service, each	\$1.20

1.4.3. Residence Additional Listing

- A. A residence additional listing may be furnished in the names of relatives, including those by marriage, domestic employees of the Customer, or other persons residing in the Customer's home who are recognized as a part of the Customer's domestic establishment.
- B. Rate Application
1. Residence
- | | |
|----------|--------|
| (a) Each | \$1.20 |
|----------|--------|

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3 Burlington Woods Drive, 4th floor
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PRICE LIST, Continued**1.4. DIRECTORY LISTINGS, Continued****1.4.4. Access Service Listing**

A. An interexchange carrier or a business or residence client of an interexchange carrier who subscribes to Feature Group A foreign exchange access service may be furnished a listing at the rate specified.

B. Rate Application	Monthly Rate
---------------------	-------------------------

1. Listing

(a) Each	\$1.20
----------	--------

1.4.5. Alternate Listing

A. An alternate listing may be provided to the Customer for the purpose of directing calling parties to other telephone numbers subject to the following conditions:

1. Names of individuals are not permitted

2. Text may not exceed one line

Examples:

Nights, Sundays, and Holidays

If No Answer

If Extension Is Not Known

B. Rate Application

1. Business

(a) Each	\$1.20
----------	--------

2. Residence

(a) Each	\$1.20
----------	--------

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PRICE LIST, Continued**1.4. DIRECTORY LISTINGS, Continued**

1.4.7. Cross Reference Listing

A. A cross reference listing may be furnished when it is necessary to refer the directory user to another directory listing.

B. Rate application

1. Business

**Monthly
Rate**

(a) Each

\$1.20

2. Residence

(a) Each

\$1.20

1.4.8. Dual Name Listing

A. A dual name listing may be furnished to a business or a residence Customer as a main listing subject to the following:

- an individual subscribing to business service when it is a personal name listing and the person is also known by a nickname
- two individuals subscribing to residence service having the same surname and address, or an individual known by more than one name

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PRICE LIST, Continued

1.4. DIRECTORY LISTINGS, Continued

1.4.9 Dual Name Listing, Continued

- B. A dual name listing may also be furnished as an additional listing at the Customer's request at the appropriate additional listing rate.
- C. A Secondary Service Charge applies for:

**Monthly
Rate**

1. Changing of primary single name listing to a primary dual name directory listing

(a) each \$7.15

2. Changing the primary or additional dual name directory listing once established

(a) each \$7.15

3. Changing an additional dual name directory listing to a primary dual name listing

(a) each \$7.15 NA

- D. No nonrecurring charge applies when the dual name listing is established with the initial establishment of service or when a change in an existing listing is requested on an order for which service charges are otherwise applicable.

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Issued By:

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Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

PRICE LIST, Continued

1.4. DIRECTORY LISTINGS, Continued

1.4.10. Emergency Service Listing (E911, B911, and SALI)

A 911 telephone number must be listed along with a non-emergency telephone number for emergency agencies. No charge applies for either listing.

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Issued By:

Basil Pallone
Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

Effective Date:

PRICE LIST, Continued**1.4. DIRECTORY LISTINGS, Continued****1.4.11 Foreign Listing**

A. A listing in the alphabetical section of Company directories outside the Customer's local exchange may be furnished. This listing is subject to the rates and regulations applicable to the published directory in which the listing is to appear.

B. Rate Application

Monthly Rate

1. Foreign listing

(a)	Business, each	\$1.20
(b)	Residence, each	\$1.20

2. Foreign cross reference listing

(a)	Business, per line	\$1.20
(b)	Residence, per line	\$1.20

3. Foreign alternate listing

(a)	Business, each	\$1.20
(b)	Residence, each	\$1.20

4. Foreign Special Text

(a)	Business, each	\$1.20
-----	----------------	--------

C. When in the sole judgment of the Company, in the case of service located in an exchange border area, a foreign listing is needed for better identification in order to facilitate the completion of calls, such listing may be provided without charge for the main listing only.

1. Foreign Listing

(a)	Each	NR
-----	------	----

Issued:

Effective Date:

Issued By:

Basil Pallone
Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

ATTACHMENT C

Interconnection Agreement

U S WEST Communications
7800 E. Orchard Road, Suite 250
Englewood, Colorado 80111
(303) 793-6605-Phone
(303) 793-6633-Fax
kxmacne@uswest.com

Kristine B. Macneal
Contract Administrator

Contract Development
and Services

Law Department



February 16, 2000

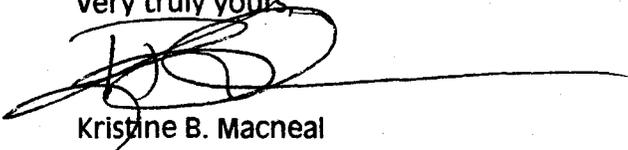
HAND DELIVERED

ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Subject: In the Matter of the Application of U S WEST Communications, Inc. for Approval of the Resale Agreement with essential.com, inc. dba essential.com, inc. – Your Energy & Communications Superstore

Enclosed for filing is the original and 10 copies of the Application of U S WEST Communications, Inc. for Approval of the Resale Agreement with essential.com, inc. dba essential.com, inc. – Your Energy & Communications Superstore

Very truly yours,



Kristine B. Macneal

Enclosures



1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 **CARL J. KUNASEK**

4 **Chairman**

5 **JIM IRVIN**

6 **Commissioner**

7 **WILLIAM A. MUNDELL**

8 **Commissioner**

9
10
11 **IN THE MATTER OF THE APPLICATION**
12 **OF U S WEST COMMUNICATIONS, INC.,**
13 **FOR APPROVAL OF**
14 **SERVICE RESALE AGREEMENT WITH**
15 **ESSENTIAL.COM, INC.**

16 **DBA ESSENTIAL.COM, INC. –**

17 **YOUR ENERGY & COMMUNICATIONS**

18 **SUPERSTORE**

)
) Docket No. T-01051A-00- _____
)
) **U S WEST COMMUNICATIONS,**
) **INC.'S APPLICATION FOR**
) **APPROVAL OF**
) **SERVICE RESALE AGREEMENT**
) **WITH ESSENTIAL.COM, INC.**
) **DBA ESSENTIAL.COM, INC. YOUR**
) **ENERGY & COMMUNICATIONS**
) **SUPERSTORE**

19
20
21
22
23
24 **U S WEST Communications, Inc. ("USW") hereby submits to the Arizona Corporation**
25 **Commission (the "Commission") this Application for approval of its Agreement for Service**
26 **Resale with essential.com, inc., dba essential.com, inc. – Your Energy & Communications**
27 **Superstore, ("essential.com") dated January 28, 2000 (referred to hereafter as the**
28 **"Agreement"). In support of this Application, USW states as follows:**

29
30 **I.**

31 **USW is a Colorado corporation and incumbent local exchange carrier in Arizona.**

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II.

essential.com has not applied for a certificate of convenience and necessity to provide competitive local telecommunications services as a reseller.

III.

On January 28, 2000, essential.com and USW entered into the Agreement which provides for essential.com to resell USW local exchange services in Arizona and additional states as agreed to by the parties. This Agreement was reached through voluntary negotiations without resort to mediation or arbitration and is submitted for approval pursuant to Section 252(e) of the Telecommunications Act of 1996 (the "Act") and the requirements of A.A.C. R14-2-1506. A copy of the Agreement is attached and incorporated as Exhibit A.

IV.

Section 252(e)(2) of the Act directs that a state commission may reject an agreement reached through voluntary negotiations only if the commission finds that:

- A. The agreement (or a portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- B. The implementation of such agreement or portion is not consistent with the public interest, convenience and necessity.

V.

A.A.C. R14-2-1506(C)(1)(b) requires that the request for approval of an interconnection agreement summarize the main provisions of the agreement, set forth the party's positions as to why the agreement should be adopted, state why the agreement does not discriminate against non-party telecommunications carriers, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state law requirements.

VI.

Pursuant to these requirements, the main provisions of the Agreement are summarized as follows:

1 Part (A)3.2 provides that this Agreement shall become effective upon Commission approval
2 and shall terminate on March 18, 2002.

3
4 Part (A)3.3 establishes procedures for service ordering and maintenance, including
5 requirements for demonstrating "Proof of Authorization" to switch a customer, designation of
6 Primary Interexchange Carrier selections and restrictions on both parties' ability to use
7 repair calls as the basis for internal referrals or to solicit end-users to market services. It
8 also establishes a "Slamming Charge" of \$100 that essential.com must pay if it has
9 improperly switched a customer without proper authorization.

10
11 Part (A)3.4 establishes procedures and due dates for billing and allow for a three-month
12 billing cycle period for the parties to resolve disputed charges before penalty provisions
13 would apply.

14
15 Part (A)3.5 puts the primary responsibility for collection and payment of taxes on the party
16 purchasing services.

17
18 Part (A)3.9 restricts both parties' ability to use each others' patents, trademarks, or
19 copyrighted information and, except in limited circumstances, prohibits both parties from
20 using each others' brand name in verbal or written communications with end-user
21 customers. Similarly, Part (A)3.24 restricts publicity and advertising by either party without
22 obtaining prior written approval from the other party.

23
24 Part (A)3.17 provides that this Agreement shall be interpreted in accordance with the terms
25 of the Act and applicable state law.

26
27 The Agreement provides that USW will make available for resale specified local exchange
28 services within Arizona. The list of services available for resale and the applicable discount
29 rates are referenced in Part B and Part E of the Agreement. USW basic residential line
30 telecommunications service will be available for resale at a 12 percent discount and basic
31 business line telecommunications service will be available at an 18 percent discount. For

1 | these services, the discount rate will remain in effect until exhaustion of all appeals of the
2 | Commission final order in Docket Nos. U-3021-96-448, et al. No true-up of the rates will
3 | occur unless ordered as a part of the nonappealable administrative or judicial order, as
4 | provided in Part (B)3.1. In addition, certain services will be made available for resale but at
5 | no discount, as identified in Part E or in individual state tariffs. essential.com shall have
6 | their choice of obtaining USW provided intraLATA toll for resale at an 18 percent discount
7 | or, in Arizona, providing their own intraLATA toll.

8 |
9 | Part (B)2.2 requires USW to provide service in accordance with applicable service quality
10 | standards and in the same manner it provides these services to others, including other
11 | Resellers and end users.

12 |
13 | Part (B)2.4 requires essential.com to obtain accurate customer listing information and to
14 | submit a forecast of services to be sold, among other requirements.

15 |
16 | Part (B)3.2 imposes a "Customer Transfer Charge," specified in Part E.

17 |
18 | Part (B)3.8 and (B)3.9 - discussed above - sets out the different scenarios when state
19 | commission ordered rates and charges may be incorporated into the Agreement.

20 |
21 | Part (C)2.1 provides that USW will accept one primary directory listing for each main
22 | telephone number of essential.com 's customers.

23 |
24 | Part (C)2.4 provides essential.com with options for dissemination of its customer listings to
25 | third parties.

26 |
27 | Part (D)2 explains that USW has developed its "Operational Support Systems" ("OSS").
28 | The OSS interfaces have been developed to support Pre-ordering, Ordering and
29 | Provisioning, Maintenance and Repair.

30 |
31 |

VII.

In accordance with Section 252(e) of the Act and A.A.C. R14-2-1506(C)(1)(b), USW submits that the Agreement provides no basis for finding of discrimination or contravention of the public interest.

First, the Agreement does not discriminate against any other telecommunications carrier. USW is offering the same terms contained in the Agreement to all other interested carriers.

Second, the Agreement is consistent with the public interest as identified in the pro-competitive policies of the Commission, the State of Arizona, the FCC, and the U.S. Congress. The Agreement will enable essential.com to enter into the local exchange market and provide customers with increased choices among local exchange service areas in Arizona.

USW submits that the Commission must approve the Agreement because it does not discriminate against any other telecommunications carrier and it is consistent with the public interest, convenience and necessity.

VIII.

The terms of the Agreement are consistent with applicable state law and the rules and regulations of the Commission.

IX.

Because the Agreement was reached through voluntary negotiations, USW requests that the Commission issue its order summarily and without hearing at the earliest possible date.

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X.

All communications regarding this Application should be addressed to the following representatives:

essential.com, inc.

John Duffy

3 Burlington Woods Drive, 4th Floor

Burlington, MA 01803

Phone: 781-229-9599, ext. 136

U S WEST COMMUNICATIONS, INC.

Thomas M. Dethlefs

Senior Attorney

U S WEST, Inc.

1801 California Street, Suite 5100

Denver, CO 80202

and

Timothy Berg

Fennemore Craig

3003 North Central Ave., Suite 2600

Phoenix, AZ 85012

CONCLUSION

For the foregoing reasons, U S WEST Communications, Inc. and essential.com, inc. respectfully requests that the Commission expeditiously process this matter without a hearing and issue an Order granting the Application in its entirety.

DATED this 1st day of February, 2000.

Respectfully submitted,
U S WEST COMMUNICATIONS, INC.

By: Thomas M. Dethlefs

Thomas M. Dethlefs
Senior Attorney
1801 California Street, Suite 5100
Denver, CO 80202
(303) 672-2948

FENNEMORE CRAIG, P.C.
Timothy Berg
3003 North Central Ave., Suite 2600
Phoenix, AZ 85012
(602) 916-5421

Attorneys for U S WEST
Communications, Inc.

1 ORIGINAL and 10 copies of the foregoing hand-delivered for filing
2 this ____ day of February, 2000, to:

3

4 Docket Control

5 ARIZONA CORPORATION COMMISSION

6 1200 West Washington

7 Phoenix, AZ 85007

8

9 COPY of the foregoing hand-delivered this ____ day of February, 2000 to:

10

11 Christopher Kempley

12 ARIZONA CORPORATION COMMISSION

13 Legal Division

14 1200 West Washington

15 Phoenix, AZ 85007

16

17 Ray Williamson, Acting Director

18 ARIZONA CORPORATION COMMISSION

19 Utilities Division

20 1200 West Washington

21 Phoenix, AZ 85007

22

23 COPY of the foregoing mailed this ____ day of February, 2000 to:

24

25 essential.com, inc.

26 John Duffy

27 3 Burlington Woods Drive, 4th Floor

28 Burlington, MA 01803

29 Phone: 781-229-9599, ext. 136

30

31

**RESALE
AGREEMENT**

BETWEEN

U S WEST COMMUNICATIONS, INC.

AND

**essential.com, inc.
(d.b.a. essential.com, inc. - Your Energy & Communications Superstore)**

FOR

ARIZONA

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PART A - GENERAL TERMS

This Resale Agreement is between essential.com, inc. (d.b.a. essential.com, inc. - Your Energy & Communications Superstore) ("RESELLER"), a Delaware corporation, and U S WEST Communications, Inc. ("USW"), a Colorado corporation.

(A)1. SCOPE OF AGREEMENT

- (A)1.1 Pursuant to this negotiated Resale Agreement ("Agreement"), RESELLER and USW (collectively, "the Parties") will extend certain arrangements to one another within the geographical areas where USW is the incumbent Local Exchange Carrier within the state of Arizona for purposes of providing the resale of local Telecommunications Services. This Agreement or the portions of this Agreement relative to a particular state will be submitted to the Arizona Corporation Commission ("Commission") for approval. Notwithstanding this mutual commitment, however, the Parties enter into this Agreement without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory, or other public forum addressing any matters, including matters related to the types of arrangements prescribed by this Agreement.
- (A)1.2 The provisions in this Agreement are based, in large part, on the existing state of the law, rules, regulations and interpretations thereof, as of the date hereof (the "Existing Rules"). Among the Existing Rules are or could be the results of arbitrated decisions by the Commission which are currently being challenged by USW. Among the Existing Rules are certain FCC rules and orders that are the subject of, or affected by, the opinion issued by the Supreme Court of the United States in *AT&T Corp., et al. v. Iowa Utilities Board, et al.* on January 25, 1999. Nothing in this Agreement shall preclude or stop USW from taking any position in any forum concerning the proper interpretation or effect of the Existing Rules or concerning whether the Existing Rules should be changed, dismissed, stayed or modified. To the extent that the Existing Rules are changed, vacated, dismissed, stayed or modified, then the Parties shall amend this Agreement and all contracts adopting all or part of this Agreement pursuant to Section 252(i) of the Act, shall be amended to reflect such modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement. It is expressly understood that this Agreement will be corrected to reflect the outcome of generic pricing proceedings by the Commission. This Section (A)1.2 shall be considered part of the rates, terms and conditions of each service resale arrangement contained in this Agreement, and this Section (A)1.2 shall be considered legitimately related to the purchase of each service for resale arrangement contained in this Agreement.
- (A)1.3 This Agreement sets forth the terms, conditions and prices under which USW agrees to provide services for resale to RESELLER, all for the sole purpose of providing Telecommunications Services.

(A)1.4 In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistently with the intent of the Act. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement, (including, without limitation, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

(A)1.5 USW may make services and features available to RESELLER for resale under this Agreement consistent with the way they are available to USW end users, without a formal amendment to this Agreement. Nothing herein prevents either Party from raising other issues through additional good faith negotiations.

(A)1.6 This Agreement is structured in the following format:

- Part A - General Terms
- Part B - Resale
- Part C - Directory Services
- Part D - Miscellaneous Provisions
- Part E - Rates
- Part F - Signature

(A)1.7 Prior to placing any orders for services under this Agreement, the Parties will jointly complete USW's "Reseller Questionnaire". This questionnaire will then be used to:

- Determine geographical requirements
- Identify RESELLER Ids
- Determine USW system requirements to support RESELLER specific activity
- Collect credit information
- Obtain billing information
- Create summary bills
- Establish input and output requirements
- Create and distribute USW and RESELLER contact lists
- Identify client hours and holidays

(A)2. DEFINITIONS

(A)2.1 "Act" means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or a Commission within its state of jurisdiction.

(A)2.2 "Basic Exchange Features" are optional end user switched services that include, but are not necessarily limited to: Automatic Call Back; Call Trace; Caller ID and Related Blocking Features; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.

(A)2.3 "Basic Exchange Telecommunications Service" means a service offered to end users which provides the end user with a telephonic connection to, and a unique local telephone number address on the public switched telecommunications

Part A
General Terms

network, and which enables such end user to generally place calls to, or receive calls from, other stations on the public switched telecommunications network. Basic residence and business line services are Basic Exchange Telecommunications Services. As used solely in the context of this statement and unless otherwise agreed, Basic Exchange Telecommunications Service includes access to ancillary services such as 911, directory assistance and operator services.

- (A)2.4 "Commission" means the Corporation Commission in the state of Arizona.
- (A)2.5 "Enhanced Services" means any service offered over common carrier transmission facilities that employ computer processing applications that act on format, content, code, protocol or similar aspects of the subscriber's transmitted information; that provide the subscriber with additional, different or restructured information; or involve end user interaction with stored information.
- (A)2.6 "Interconnect & Resale Resource Guide" is a USW document that provides essential information needed to request services available under this Agreement. It is available on USW's Web site.
- (A)2.7 "Interexchange Carrier" or "IXC" means a carrier that provides interLATA or IntraLATA Toll services.
- (A)2.8 "IntraLATA Toll" is defined in accordance with USW's current intraLATA toll serving areas, as determined by the Federal Communications Commission.
- (A)2.9 "Local Exchange Carrier" or "LEC" means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c) of the Act, except to the extent that the FCC finds that such service should be included in the definition of such term.
- (A)2.10 "Party" means either USW or RESELLER and "Parties" means USW and RESELLER.
- (A)2.11 "Reseller" is a category of local exchange service provider that obtains dial tone and associated Telecommunications Services from another provider through the purchase of finished services for resale to its end users.
- (A)2.12 "Tariff" as used throughout this Agreement refers to USW interstate Tariffs and state Tariffs, price lists, price schedules and catalogs.
- (A)2.13 "Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing Telecommunications Services, except that the Federal Communications Commission shall determine whether

the provision of fixed and mobile satellite service shall be treated as common carriage.

- (A)2.14 "Telecommunications Services" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (A)2.15 Terms not otherwise defined here, but defined in the Act shall have the meaning defined there. Where a term is defined in the regulations implementing the Act but not in this Agreement, the Parties do not necessarily intend to adopt the definition as set forth in said regulations.

(A)3. TERMS AND CONDITIONS

(A)3.1 General Provisions

- (A)3.1.1 Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.
- (A)3.1.2 The Parties shall work cooperatively to minimize fraud associated with intra-LATA toll, third-number billed calls, and any other services related to this Agreement.
- (A)3.1.3 Nothing in this Agreement shall prevent either Party from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement.

(A)3.2 Term of Agreement

This Agreement shall become effective upon Commission approval, pursuant to Sections 251 and 252 of the Act, shall terminate on March 18, 2002, and shall be binding upon the Parties during that term, notwithstanding Section 252(i) of the Act. After the date specified above, this Agreement shall continue in force and effect until terminated by either Party providing one hundred sixty (160) days written notice of termination to the other Party. The day the notice is served will determine the starting point for a 160-day negotiation period (in accordance with 252(b)1 of the Act. In the event of such termination, existing or pending service arrangements made available under this Agreement shall continue in total without interruption under either a) a new or adoption agreement executed by the Parties, or b) tariff terms and conditions generally available to all resellers.

- (A)3.2.1 If the Parties are unable to negotiate a new agreement during the negotiation period described above, the window of opportunity to file for arbitration to resolve outstanding contractual issues in accordance with the Act will occur between days 135 and 160 of the 160 day notice period.

(A)3.2.2 If the Parties are able to reach agreement, this Agreement shall continue for the brief period of time needed to secure the Commission's approval of an adoption agreement or a new resale agreement. In the case of Section (A)3.2.1, this Agreement will expire on the termination date specified in the one hundred sixty (160) day notice referenced above, unless a petition for arbitration has been filed, but if such a petition has been filed then this Agreement shall continue for the period necessary for the Commission to act and resolve the disputed issues so that the Parties will have an effective resale agreement.

(A)3.3 Proof of Authorization

Where so indicated in specific sections of this Agreement, each party shall be responsible for obtaining and having in its possession Proof of Authorization ("POA"). POA shall consist of verification of the end user's selection and authorization adequate to document the end user's selection.. Such selection may be obtained in the following ways:

- (A)3.3.1 The end user's written Letter of Authorization.
- (A)3.3.2 The end user's electronic authorization by use of an 1-8XX number.
- (A)3.3.3 The end user's oral authorization verified by an independent third party (with third party verification as POA).

The Parties shall make POAs available to each other upon request, in accordance with the applicable laws and rules. Unless prohibited by applicable laws or regulations, a charge of \$100.00 ("slamming charge") will be assessed if the POA cannot be provided supporting the change in service provider. If there is a conflict between the end user designation and the other Party's written evidence of its authority, the Parties shall honor the designation of the end user and change the end user back to the previous service provider.

(A)3.4 Payment

(A)3.4.1 Amounts payable under this Agreement are due and payable within thirty (30) calendar days after the date of USW's invoice, or within twenty (20) days after receipt of the invoice, whichever is later. If the payment due date is not a Business Day, the payment shall be made the next Business Day..

USW may discontinue processing orders for the failure by RESELLER to make full payment for the services provided under this Agreement within thirty (30) days of the due date on RESELLER's bill.

USW may disconnect for the failure by RESELLER to make full payment for the services provided under this Agreement within sixty (60) days of the due date on RESELLER's bill. RESELLER

will pay the Tariff charge required to reconnect each end user line disconnected pursuant to this paragraph.

- (A)3.4.2 Should RESELLER dispute, in good faith, any portion of the monthly billing under this Agreement, RESELLER will notify USW in writing within thirty (30) calendar days of the receipt of such billing, identifying the amount, reason and rationale of such dispute. RESELLER shall pay all amounts due. Both RESELLER and USW agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be resolved in RESELLER's favor and the resolved amount did not appear as a credit on RESELLER's next invoice from USW, USW will reimburse RESELLER the resolved amount plus interest from the date of payment. The amount of interest will be calculated using the late payment factor that would have applied to such amount had it not been paid on time.
- (A)3.4.3 USW will determine RESELLER's credit status based on previous payment history with USW or credit reports such as Dun and Bradstreet. If RESELLER has not established satisfactory credit with USW or if RESELLER is repeatedly delinquent in making its payments, USW may require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) calendar days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a surety bond, a letter of credit with terms and conditions acceptable to USW or some other form of mutually acceptable security such as a cash deposit. Required deposits are due and payable within ten (10) calendar days after demand in accordance with Commission requirements.
- (A)3.4.4 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to RESELLER's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or the establishment of satisfactory credit with USW, which will generally be one (1) full year of timely payments in full by RESELLER. The fact that a deposit has been made does not relieve RESELLER from any requirements of this Agreement.
- (A)3.4.5 USW may review RESELLER's credit standing and modify the amount of deposit required.

- (A)3.4.6 The late payment charge for amounts that are billed under this Agreement shall be in accordance with state Tariffs/Commission Rules and Orders.

(A)3.5 Taxes

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Until such time as a resale tax exemption certificate is provided, no exemptions will be applied.

(A)3.6 Force Majeure

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). The Party affected by a Force Majeure Event shall give prompt notice to the other Party, shall be excused from performance of its obligations hereunder on a day to day basis to the extent those obligations are prevented by the Force Majeure Event, and shall use reasonable efforts to remove or mitigate the Force Majeure Event. In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

(A)3.7 Limitation of Liability

- (A)3.7.1 Except for losses relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, each Party shall be liable to the other for direct damages for any loss, defect or equipment failure resulting from the causing Party's conduct or the conduct of its agents or contractors in performing the obligations contained in this Agreement.
- (A)3.7.2 Neither Party shall be liable to the other for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract,

warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.

- (A)3.7.3 Except for indemnity obligations, each Party's liability to the other Party for any loss relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such breaching Party for the service(s) or function(s) not performed or improperly performed.
- (A)3.7.4 Nothing contained in this Section shall limit either Party's liability to the other for intentional, malicious misconduct.
- (A)3.7.5 Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.
- (A)3.7.6 Neither Party shall be liable to the other under any theory including indemnity on account of such Party's failure or neglect to have or maintain a system or systems that are Year 2000 compliant. As the Parties approach the Year 2000, date information associated with any interfaces between the Parties is expected to remain as it is.

(A)3.8 Indemnity

- (A)3.8.1 With respect to third party claims, the Parties agree to indemnify each other as follows:
 - (A)3.8.1.1 Except for claims made by end users of one Party against the other Party, which claims are based on defective or faulty services provided by the other Party to the one Party, each of the Parties agree to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of applicable law, or status of its employees, agents and subcontractors; or for failure to

perform under this Agreement, regardless of the form of action.

(A)3.8.1.2 Where the third party claim is made by (or through) an end user of one Party against the other Party, which claim is based on defective or faulty services provided by the other Party to the one Party then there shall be no obligation of indemnity unless the act or omission giving rise to the defective or faulty services is shown to be intentional, malicious misconduct of the other Party.

(A)3.8.1.3 If the claim is made by (or through) an end user and where a claim is in the nature of a claim for invasion of privacy, libel, slander, or other claim based on the content of a transmission, and it is made against a Party who is not the immediate provider of the Telecommunications Service to the end user (the indemnified provider), then in the absence of fault or neglect on the part of the indemnified provider, the Party who is the immediate seller of such Telecommunications Service shall indemnify, defend and hold harmless the indemnified provider from such claim.

(A)3.8.2 The indemnification provided herein shall be conditioned upon:

(A)3.8.2.1 The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of any liability that the indemnifying Party might have, except to the extent that such failure prejudices the indemnifying Party's ability to defend such claim.

(A)3.8.2.2 The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.

(A)3.8.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

(A)3.9 Intellectual Property

(A)3.9.1 Each Party hereby grants to the other Party the limited, personal and nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to Interconnection and access to

telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.

- (A)3.9.2 The rights and licenses above are granted "AS IS" and the other Party's exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding (hereinafter "claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.
- (A)3.9.3 As a condition to the access or use of patents, copyrights, trade secrets and other intellectual property (including software) owned or controlled by a third party to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to Interconnection and access to telecommunications facilities and services, the Party providing access may require the other, upon written notice, from time to time, to obtain a license or permission for such access or use, make all payments in connection with obtaining such license, and provide evidence of such license.
- (A)3.9.4 Except as expressly provided in this Intellectual Property Section, nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, trade name, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyright, logo, trademark, trade name, trade secret or other intellectual property rights of the other Party or its affiliates without execution of a separate agreement between the Parties.
- (A)3.9.5 Neither Party shall without the express written permission of the other Party, state or imply that: 1) it is connected, or in any way affiliated with the other or its affiliates, 2) it is part of a joint business association or any similar arrangement with the other or its affiliates, 3) the other Party and its affiliates are in any way sponsoring, endorsing or certifying it and its goods and services, or 4) with respect to its advertising or promotional activities or materials, that the resold goods and services are in any way associated with or

originated from the other or any of its affiliates. Nothing in this paragraph shall prevent either Party from truthfully describing the network elements it uses to provide service to its end users, provided it does not represent the network elements as originating from the other Party or its affiliates.

(A)3.9.6 For purposes of resale only and notwithstanding the above, unless otherwise prohibited by USW pursuant to an applicable provision herein, RESELLER may use the phrase "RESELLER is a reseller of U S WEST Communications services" (the "Authorized Phrase") in RESELLER's printed materials provided:

(A)3.9.6.1 The Authorized Phrase is not used in connection with any goods or services other than USW services resold by RESELLER.

(A)3.9.6.2 RESELLER's use of the Authorized Phrase does not cause end users to believe that RESELLER is USW.

(A)3.9.6.3 RESELLER may not use the U S WEST logo. The Authorized Phrase, when displayed, appears only in text form with all letters being the same font and point size. The point size of the Authorized Phrase shall be no greater than one fourth the point size of the smallest use of RESELLER's name and in no event shall exceed 8 point size.

(A)3.9.6.4 RESELLER shall provide all printed materials using the Authorized Phrase to USW for its prior written approval.

(A)3.9.6.5 If USW determines that RESELLER's use of the Authorized Phrase causes end user confusion, USW may immediately terminate RESELLER's right to use the Authorized Phrase.

(A)3.9.6.6 Upon termination of RESELLER's right to use the Authorized Phrase or termination of this Agreement, all permission or right to use the Authorized Phrase shall immediately cease to exist and RESELLER shall immediately cease any and all such use of the Authorized Phrase. RESELLER shall either promptly return to USW or destroy all materials in its possession or control displaying the Authorized Phrase.

(A)3.9.7 RESELLER acknowledges the value of the marks "U S WEST" and "U S WEST Communications" (the "Marks") and the goodwill associated therewith and acknowledges that such goodwill is a property right belonging to U S WEST, Inc. and USW respectively (the "Owners"). RESELLER recognizes that nothing contained in this Agreement is intended as an assignment or grant to RESELLER of

any right, title or interest in or to the Marks and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Marks and is not assignable. RESELLER will do nothing inconsistent with the Owner's ownership of the Marks, and all rights, if any, that may be acquired by use of the Marks shall inure to the benefit of the Owners. RESELLER will not adopt, use (other than as authorized herein), register or seek to register any mark anywhere in the world which is identical or confusingly similar to the Marks or which is so similar thereto as to constitute a deceptive colorable imitation thereof or to suggest or imply some association, sponsorship, or endorsement by the Owners. The Owners make no warranties regarding ownership of any rights in or the validity of the Marks.

(A)3.10 Warranties

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(A)3.11 Assignment

(A)3.11.1 Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a corporate affiliate or an entity under its common control; however, if RESELLER's assignee or transferee has an interconnection agreement with USW, no assignment or transfer of this Agreement shall be effective without the prior written consent of USW. Such consent shall include appropriate resolutions of conflicts and discrepancies between the assignee's or transferee's interconnection agreement and this Agreement. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

(A)3.11.2 Without limiting the generality of the foregoing subsection, any merger, dissolution, consolidation or other reorganization of RESELLER, or any sale, transfer, pledge or other disposition by RESELLER of securities representing more than 50% of the securities entitled to vote in an election of RESELLER's board of directors or other similar governing body, or any sale, transfer, pledge or other disposition by RESELLER of substantially all of its assets, shall be deemed a transfer of control. If any entity, other than

RESELLER, involved in such merger, dissolution, consolidation, reorganization, sale, transfer, pledge or other disposition of RESELLER has an interconnection agreement with USW, the Parties agree that only one agreement, either this Agreement or the interconnection agreement of the other entity, will remain valid. All other interconnection agreements will be terminated. The Parties agree to work together to determine which interconnection agreement should remain valid and which should terminate. In the event the Parties cannot reach agreement on this issue, the issue shall be resolved through the Dispute Resolution process contained in this Agreement.

(A)3.12 Default

If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other material provision of this Agreement, and such default or violation shall continue for thirty (30) calendar days after written notice thereof, the other Party may seek relief in accordance with the Dispute Resolution provision of this Agreement. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

(A)3.13 Disclaimer of Agency

Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

(A)3.14 Nondisclosure

- (A)3.14.1 All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with end user specific, facility specific, or usage specific information, other than end user information communicated for the purpose of providing directory assistance or publication of directory database, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated and declared to the receiving Party at the time of delivery, or by written

notice given to the receiving Party within ten (10) calendar days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.

- (A)3.14.2 Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
- (A)3.14.3 Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.
- (A)3.14.4 Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:
 - (A)3.14.4.1 was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; or
 - (A)3.14.4.2 is or becomes publicly known through no wrongful act of the receiving Party; or
 - (A)3.14.4.3 is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
 - (A)3.14.4.4 is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
 - (A)3.14.4.5 is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights; or

- (A)3.14.4.6 is approved for release by written authorization of the disclosing Party; or
- (A)3.14.4.7 is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.
- (A)3.14.5 Nothing herein is intended to prohibit a Party from supplying factual information about its network and Telecommunications Services on or connected to its network to regulatory agencies including the Federal Communications Commission and the Commission so long as any confidential obligation is protected.
- (A)3.14.6 Effective Date Of This Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement.

(A)3.15 Survival

Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement; any obligation of a Party under the provisions regarding indemnification, Confidential or Proprietary Information, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, shall survive cancellation or termination hereof.

(A)3.16 Dispute Resolution

- (A)3.16.1 If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents should arise, and the Parties do not resolve it in the ordinary course of their dealings (the "Dispute"), then it shall be resolved in accordance with the dispute resolution process set forth in this Section. Each notice of default, unless cured within the applicable cure period, shall be resolved in accordance herewith.
- (A)3.16.2 At the written request of either Party, and prior to any other formal dispute resolution proceedings, each Party shall designate an officer-level employee, at no less than the vice president level, to review, meet, and negotiate, in good faith, to resolve the Dispute. The Parties intend that these negotiations be conducted by non-lawyer, business representatives, and the locations, format, frequency, duration, and conclusions of these discussions shall be at the discretion of the representatives. By mutual agreement, the representatives may use other procedures, such as mediation, to assist in these negotiations. The discussions and correspondence

among the representatives for the purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, and shall be exempt from discovery and production, and shall not be admissible in any subsequent arbitration or other proceedings without the concurrence of both of the Parties.

- (A)3.16.3 If the vice-presidential level representatives have not reached a resolution of the Dispute within thirty (30) calendar days after the matter is referred to them, then either Party may demand that the Dispute be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator, knowledgeable about the telecommunications industry. The arbitration proceedings shall be conducted under the then current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. The arbitrator shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Denver, Colorado metropolitan area. It is acknowledged that the Parties, by mutual, written agreement, may change any of these arbitration practices for a particular, some, or all Dispute(s).
- (A)3.16.4 Should it become necessary to resort to court proceedings to enforce a Party's compliance with the dispute resolution process set forth herein, and the court directs or otherwise requires compliance herewith, then all of the costs and expenses, including its reasonable attorney fees, incurred by the Party requesting such enforcement shall be reimbursed by the non-complying Party to the requesting Party.
- (A)3.16.5 No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

(A)3.17 Controlling Law

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of the state where service is provided hereunder. It shall be interpreted solely in accordance with the terms of the Act and the applicable state law in the state where the service is provided.

(A)3.18 Joint Work Product

This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in

accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

(A)3.19 Responsibility for Environmental Contamination

Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any environmental hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any environmental hazard that the indemnifying Party, its contractors or agents introduce to the work locations or (ii) the presence or release of any environmental hazard for which the indemnifying Party is responsible under applicable law.

(A)3.20 Notices

Any notices required by or concerning this Agreement shall be sent to the Parties at the addresses shown below:

USW
Director Interconnection Compliance
1801 California, Room 2410
Denver, CO 80202

With copy to:
U S WEST Law Department
Attention: General Counsel, Interconnection
1801 California Street, 51st Floor
Denver, CO 80202

RESELLER
John Duffy
Peter Mills
3 Burlington Woods Drive
4th Floor
Burlington, MA 01803
Phone: 781-229-9599, ext. 136
Fax: 781-229-9499
E-mail: jduffy@essential.com

Each Party shall inform the other of any changes in the above addresses.

(A)3.21 Responsibility of Each Party

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes,

withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

(A)3.22 No Third Party Beneficiaries

This Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

(A)3.23 Referenced Documents

All references to Sections shall be deemed to be references to Sections of this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, RESELLER practice, USW practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, RESELLER practice, USW practice, or publication of industry standards. USW will not implement changes in the most recent version or edition in the documents described above when such changes are optional. The existing configuration of either Party's network may not be in immediate compliance with the latest release of applicable referenced documents.

(A)3.24 Publicity

Neither Party shall publish or use any publicity materials with respect to the execution and delivery or existence of this Agreement without the prior written approval of the other Party.

(A)3.25 Amendment

RESELLER and USW may mutually agree to amend this Agreement in writing. Since it is possible that amendments to this Agreement may be needed to fully satisfy the purposes and objectives of this Agreement, the Parties agree to work cooperatively, promptly and in good faith to negotiate and implement any such additions, changes and corrections to this Agreement.

(A)3.26 Executed in Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

(A)3.27 Headings of No Force or Effect

The headings of Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

(A)3.28 Regulatory Approval

The Parties understand and agree that this Agreement will be filed with the Commission for approval. In the event the Commission rejects any portion of this Agreement, renders it inoperable or creates an ambiguity that requires further amendment, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification.

(A)3.29 Compliance

Each Party shall comply with all federal, state, and local laws, rules and regulations applicable to its performance under this Agreement. Without limiting the foregoing, USW and RESELLER agree to take all action necessary to keep and maintain in full force and effect all permits, licenses, certificates, insurance, and other authorities needed to perform their respective obligations hereunder.

(A)3.30 Compliance with the Communications Assistance for Law Enforcement Act of 1994 ("CALEA")

Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with CALEA. Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

(A)3.31 Cooperation

The Parties agree that this Agreement involves the provision of USW services in ways such services were not previously available and the introduction of new processes and procedures to provide and bill such services. Accordingly, the Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, provisioning and billing and in reasonably resolving issues which result from such implementation on a timely basis. Electronic processes and procedures are addressed in Part D of this Agreement.

(A)3.32 Availability of Other Agreements

With regard to the availability of other agreements, the Parties agree that the provisions of Section 252(i) of the Act shall apply, including state and federal, Commission and court interpretive regulations and decisions in effect from time to time.

PART B - RESALE

(B)1. Description

- (B)1.1 Pursuant to the Act and this Part B, USW shall offer for resale at wholesale rates any Telecommunications Services it provides to end users who are not Telecommunications Carriers including terms and conditions (except prices) in the USW Tariffs, where applicable. RESELLER may obtain intraLATA toll service from USW for resale or RESELLER has the option to self-provision intraLATA toll or to obtain intraLATA toll for resale from another provider.
- (B)1.2 The Parties agree that certain USW services are not available for resale under this Agreement and certain other USW services are available for resale but not at a discount, as identified in Part E or in individual state Tariffs. The availability of services and applicable discounts identified in Part E or in individual Tariffs are subject to change pursuant to the Rates and Charges sub-section of this Resale section.

(B)2. Terms and Conditions

- (B)2.1 Basic Exchange Telecommunications Service, Basic Exchange Features, Private Line Service, Frame Relay Service and intraLATA Toll may be resold only for their intended or disclosed use and only to the same class of end user to which USW sells such services (e.g., residence service may not be resold to business end users). Service provided directly to RESELLER for its own use, such as administrative services, must be identified by RESELLER and RESELLER must pay the full retail rates and prices for such services.
- (B)2.2 USW shall provide to RESELLER Telecommunications Services for resale that are at least equal in quality, and in substantially the same time and manner that USW provides these services to others, including other Resellers and end users, and in accordance with any applicable Commission service quality standards, including standards the Commission may impose pursuant to Section 252 (e)(3) of the Act.
- (B)2.3 In the event that there are existing agreements between RESELLER and USW for resale under USW retail Tariff discounts, RESELLER may elect to continue to obtain services for resale under the existing agreements and retail Tariff discounts or RESELLER may elect to terminate such existing agreements and obtain such services under this Agreement with the associated wholesale discount specified in Part E of this Agreement.
- (B)2.4 In accordance with the Act, RESELLER will provide the date it will begin to offer Telecommunications Services to residential and business end users. RESELLER will provide a two (2) year forecast within ninety (90) calendar days of signing this Agreement. The forecast shall be updated and provided to USW on an annual basis or as requested by USW. Each forecast will provide:

- The date service will be offered (by city and/or state)
- The type and quantity of service(s) which will be offered
- RESELLER's anticipated number of service orders
- Name of RESELLER's key contact personnel

The information provided pursuant to this paragraph shall be considered Proprietary Information under the Nondisclosure Section of this Agreement.

- (B)2.5 RESELLER may not reserve blocks of USW telephone numbers, except as allowed by Tariffs.
- (B)2.6 USW will accept at no charge one primary listing for each main telephone number belonging to RESELLER's end user based on end user information provided to USW by RESELLER. USW will place RESELLER's listings in USW's directory listing database for directory assistance purposes. Additional terms and conditions with respect to directory listings are described in Part C of this Agreement.
- (B)2.7 USW shall provide to RESELLER, for RESELLER's end users, E911/911 call routing to the appropriate Public Safety Answering Point ("PSAP"). USW shall not be responsible for any failure of RESELLER to provide accurate end user information for listings in any databases in which USW is required to retain and/or maintain end user information.. USW shall provide and validate RESELLER's end user information to the Automatic Location Identification/Database Management System ("ALI/DMS"). USW shall use its standard process to update and maintain, on the same schedule that it uses for its end users, RESELLER's end user service information in the ALI/DMS used to support E911/911 services. USW assumes no liability for the accuracy of information provided by RESELLER.
- (B)2.8 If USW provides and RESELLER accepts operator services, directory assistance, and intraLATA long distance as a part of the resold line, it will be offered with standard USW branding. RESELLER is not permitted to alter the branding of these services in any manner when the services are a part of the resold line without the prior written approval of USW. However, at the request of RESELLER and where technically feasible, USW will rebrand operator services and directory assistance in RESELLER's name, provided the charges associated with such rebranding are paid by RESELLER.
- (B)2.9 RESELLER shall designate the Primary Interexchange Carrier (PIC) assignments on behalf of its end users for interLATA services and intraLATA services.
- (B)2.10 When end users switch from USW to RESELLER, or to RESELLER from any other Reseller, and if they do not change their service address to an address served by a different Central Office, such end users shall be permitted to retain their current telephone numbers if they so desire. USW shall take no action to prevent RESELLER end users from retaining their current telephone numbers.

- (B)2.11 RESELLER is liable for all fraud associated with service to its end-users and accounts. USW takes no responsibility, will not investigate, and will make no adjustments to RESELLER's account in cases of fraud unless such fraud is the result of any intentional act or gross negligence of USW. Notwithstanding the above, if USW becomes aware of potential fraud with respect to RESELLER's accounts, USW will promptly inform RESELLER and, at the direction of RESELLER, take reasonable action to mitigate the fraud where such action is possible.
- (B)2.12 Resold services are available only where facilities currently exist and are capable of providing such services without construction of additional facilities or enhancement of existing facilities. However, if RESELLER requests that facilities be constructed or enhanced to provide resold services, USW will review such requests on a case-by-case basis and determine if it is economically feasible for USW to build or enhance facilities. If USW decides to build or enhance the requested facilities, USW will develop and provide to RESELLER a price quote for the construction. Construction charges associated with resold services will be applied in the same manner that construction charges apply to USW's retail end users. If the quote is accepted, RESELLER will be billed the quoted price and construction will commence after receipt of payment.
- (B)2.13 In the event USW terminates the provisioning of any resold services to RESELLER for any reason, including RESELLER's non-payment of charges, RESELLER shall be responsible for providing any and all necessary notice to its end users of the termination. In no case shall USW be responsible for providing such notice to RESELLER's end users. USW will provide notice to RESELLER of USW's termination of a resold service on a timely basis consistent with Commission rules and notice requirements.
- (B)2.14 The underlying network provider of a resold service shall be entitled to receive, from the purchaser of Switched Access, the appropriate access charges pursuant to its then effective Switched Access Tariff.
- (B)2.15 Centrex terms and conditions related to calculation of charges for, and provisioning of common blocks, station lines, and optional features will be based on the Centrex definition of a system and a Reseller's serving location.
- (B) 2.15.1 Where a common block is applicable, a Centrex system is defined by a single common block or multiple common blocks for a single RESELLER within a single Central Office switching system. A common block defines the dialing plan for intercom calling, access to Public Switched Network and/or private facilities, station line and system restrictions and feature access arrangements and functionality. RESELLER may purchase multiple common blocks within a single Central Office switching system when RESELLER requires different dialing plans, feature access arrangements and

station line or system restrictions within a single system operation. A Reseller with multiple common blocks within the same Central Office switch may have Network Access Register and Private Facility trunk groups aggregated across multiple common blocks. Centrex system based optional features (i.e. Automatic Route Selection) may not be aggregated across multiple common blocks. A Centrex system must provide station lines to at least one location and may provide station lines to multiple locations.

- (B)2.15.2 Centrex station lines are provisioned and charges are calculated based on serving Reseller's location. A location is defined as the site where USW facilities (cable plant from the serving Central Office switch) meet Reseller facilities (inside wire). In a multi-tenant building, USW may bring facilities directly to a single point of interconnection with Reseller facilities, typically in a basement equipment room, which would be considered a single location for this multi-tenant building. Should USW bring service to multiple floors or offices within a multi-tenant building each floor or office with a separate Reseller facilities termination point is considered a location. Multiple buildings within contiguous property (campus) will be provisioned and billed as a single location. Contiguous property is defined as property owned or leased by a single end user and not separated by public thoroughfare, river or railroad rights-of-way. Property will be considered contiguous when connected via connecting passageways or conduit acceptable to USW for its facilities. A Reseller with Centrex station lines from multiple Central Office switching systems, within the same USW Wire Center, and provisioned to the same location will not be charged for service or provisioned as if service was originating from a single Centrex system. For example, station lines may only be aggregated from a single Centrex Reseller system to a single Reseller serving location for rating purposes. RESELLER may not specify a USW Central Office as a RESELLER location for termination of Centrex station lines.

- (B)2.16 Private Line Service used for Special Access is available for resale but not at a discount.
- (B)2.17 DSL Service (such as Megabit Service) is available for resale by RESELLER out of USW's Interstate Tariff, but at no wholesale discount.

(B)3. Rates and Charges

- (B)3.1 The Telecommunications Services identified in Part E are available for resale at the wholesale discount percentage shown in Part E. Telecommunications

Services available for resale but excluded from the wholesale pricing arrangement in this Agreement are available at the retail Tariff rates.

- (B)3.2 The Customer Transfer Charges (CTC) as specified in Part E apply when transferring services to RESELLER.
- (B)3.3 A Subscriber Line Charge (SLC), or any subsequent federally mandated charge to end users, will continue to be paid by RESELLER without discount for each local exchange line resold under this Agreement. All federal and state rules and regulations associated with SLC as found in the applicable Tariffs also apply.
- (B)3.4 RESELLER will pay to USW the PIC change charge without discount for RESELLER end user changes of interexchange or intraLATA carriers. Any change in RESELLER's end users' interexchange or intraLATA carrier must be requested by RESELLER on behalf of its end user.
- (B)3.5 RESELLER agrees to pay USW when its end user activates any services or features that are billed on a per use or per activation basis subject to the applicable discount in Part E as such may be amended pursuant to this Section (e.g., continuous redial, last call return, call back calling, call trace, etc.).
- (B)3.6 Product specific non-recurring charges, as set forth in USW's applicable Tariffs will apply when additional lines, trunks or circuits are added or when the end user adds features or services to existing lines or trunks.
- (B)3.7 Miscellaneous charges, if applicable, will be consistent with charges for equivalent services ordered by USW end users.
- (B)3.8 The wholesale discount rates (the "Rates") in Part E were established in Docket Nos. U-3021-96-448, et al., Opinion and Order, Decision No. 60635, "In the Matter of the Petition of MCIMetro Access Transmission Services, Inc. for Arbitration of the Rates, Terms, and Conditions of Interconnection with U S WEST Communications, Inc. Pursuant to 47 U.S.C. Sec. 252(b) of the Telecommunications Act of 1996." The Parties agree that the Rates in this Agreement will remain in effect as described below until the exhaustion of all appeals, if any, of the final order in this docket.
- (B)3.9 If the Rates or the applicability of the Rates to the services in Part E are changed by a nonappealable administrative or judicial order following a decision on rehearing or appeal or other similar proceeding, such changed rate(s) will be available to RESELLER, effective as of the date of the order. No true-up of the Rates will occur unless ordered as a part of the nonappealable administrative or judicial order.
- (B)3.10 USW shall have a reasonable time necessary to make the system changes necessary to implement and bill the changed rates.

- (B)3.11 If the resold services are purchased pursuant to Tariffs and the Tariff rates change, charges billed to RESELLER for such services will be based upon the new Tariff rates less the applicable wholesale discount, if any, as agreed to herein or as established by Commission order and/or resale Tariff. The new rate will be effective upon the Tariff effective date.

(B)4. Ordering Process

- (B)4.1 RESELLER, or RESELLER's agent, shall act as the single point of contact for its end users' service needs, including without limitation, sales, service design, order taking, provisioning, change orders, training, maintenance, trouble reports, repair, post-sale servicing, billing, collection and inquiry. RESELLER shall inform its end users that they are end users of RESELLER for resold services. RESELLER's end users contacting USW will be instructed to contact RESELLER; however, nothing in this Agreement, except as provided below, shall be deemed to prohibit USW from discussing its products and services with RESELLER's end users who call USW.
- (B)4.2 RESELLER shall transmit to USW all information necessary for the ordering (billing, listing and other information), installation, repair, maintenance and post-installation servicing according to USW's standard procedures, as described in the USW Interconnect & Resale Resource Guide available on USW's Web site. Information shall be provided using USW's designated Local Service Request (LSR) format which may include the LSR, end user and resale forms. RESELLER must send USW complete and accurate end user listing information for Directory Assistance, Directory Listings, and 911 Emergency Services using USW's designated resale directory listing order forms. When USW's end user or the end user's new service provider orders the discontinuance of the end user's existing service in anticipation of moving to another service provider, USW will render its closing bill to the end user effective with the disconnection. If another service provider, RESELLER's end user or RESELLER requests that service be discontinued from RESELLER and subsequently USW's service to RESELLER is discontinued USW will issue a bill to RESELLER for that portion of the service provided to RESELLER.. USW will notify RESELLER by FAX, OSS interface or other agreed upon processes, in accordance with the OSS section of this Agreement when an end user moves to another service provider. USW will not provide RESELLER with the name of the other service provider selected by the end user.
- (B)4.3 RESELLER shall provide USW and USW shall provide RESELLER with points of contact for order entry, problem resolution and repair of the resold services.
- (B)4.4 Prior to placing orders on behalf of the end user, RESELLER shall be responsible for obtaining and have in its possession Proof of Authorization ("POA"), as set forth in Part A of this Agreement.

- (B)4.5 Due date interval standards are addressed in the Interconnect & Resale Resource Guide.
- (B)4.6 Firm Order Confirmation (FOC) guidelines are addressed in the Interconnect & Resale Resource Guide.
- (B)4.7 USW will provide completion notification that is equal to that provided to USW end users.
- (B)4.8 USW will provide Design Layout Records when requested under terms and conditions consistent with USW end users.
- (B)4.9 USW will handle jeopardy orders based upon the same performance standards and criteria that USW provides to itself.

(B)5. Billing

- (B)5.1 USW shall bill RESELLER and RESELLER is responsible for all applicable charges for the resold services as provided herein. RESELLER shall also be responsible for all Tariffed charges and charges separately identified in this Agreement associated with services that RESELLER resells to an end user under this Agreement.
- (B)5.2 USW shall provide RESELLER, on a monthly basis, within 7-10 calendar days of the last day of the most recent billing period, in an agreed upon standard electronic billing format as detailed in Part.D, billing information including (1) a summary bill, and (2) individual end user sub-account information consistent with the samples available for RESELLER review.

(B)6. Maintenance and Repair

RESELLER and USW will employ the procedures for handling misdirected repair calls as specified in the Maintenance and Repair Section of this Agreement.

- (B)6.1 USW will maintain facilities and equipment used to provide RESELLER resold services. RESELLER or its end user may not rearrange, move, disconnect, or attempt to repair USW facilities or equipment, other than by connection or disconnection to any interface between USW and the end user, without written consent of USW.
- (B)6.2 Maintenance and repair processes are detailed in the Maintenance and Repair Section of this Agreement.

PART C - WHITE PAGES DIRECTORY LISTINGS

(C)1. Description

White Pages Listings Service (Listings) consists of USW placing the names, addresses and telephone numbers of RESELLER's end users in USW's listing database, based on end user information provided to USW by RESELLER. USW is authorized to use Listings in Directory Assistance (DA) and as noted below.

(C)2. Terms and Conditions

- (C)2.1 RESELLER will provide in standard, mechanized format, and USW will accept at no charge, one primary listing for each main telephone number belonging to RESELLER's end users. Primary listings for RESELLER will include the end user Listings for any resold services or wireless services and are further defined in USW's general exchange Tariffs. RESELLER will be charged for premium and privacy listings, (e.g., additional, foreign, cross reference, informational, etc.), at USW's general exchange listing Tariff rates, less the wholesale discount. If RESELLER utilizes Remote Call Forwarding for local number portability, RESELLER can list only one number without charge - either the end user's original telephone number or RESELLER-assigned number. The standard discounted rate for an additional listing applies to the other number.
- (C)2.2 USW will furnish RESELLER the Listings format specifications. All manual requests are considered a project and require coordination between RESELLER and USW to determine time frames.
- (C)2.3 RESELLER grants USW a non-exclusive license to incorporate Listings information into its Directory Assistance database. With this license USW will incorporate Listings in the DA database.
- (C)2.4 No prior authorization is needed for USW to release Listings to directory publishers or other third parties. USW will incorporate Listings information in all existing and future directory assistance applications developed by USW. RESELLER authorizes USW to sell and otherwise make Listings available to directory publishers. Listings shall not be provided or sold in such a manner as to segregate end users by carrier. USW will not charge for updating and maintaining the Listings database. RESELLER will not receive compensation from USW for any sale of Listings by USW.
- (C)2.5 To the extent that state Tariffs limit USW's liability with regard to Listings, the applicable state Tariff(s) is incorporated herein and supersedes the Limitation of Liability section of this Agreement with respect to Listings only.

- (C)2.6 USW is responsible for maintaining Listings, including entering, changing, correcting, rearranging and removing Listings in accordance with RESELLER orders. USW will take reasonable steps in accordance with industry practices to accommodate non-published and non-listed Listings provided that RESELLER has supplied USW the necessary privacy indicators on such Listings.
- (C)2.7 USW will include RESELLER Listings in USW's Directory Assistance service to ensure that callers to USW's Directory Assistance service have non-discriminatory access to RESELLER's Listings.
- (C)2.8 USW will ensure RESELLER Listings provided to USW are included in the white pages directory published on USW's behalf.
- (C)2.9 RESELLER agrees to provide to USW its end user names, addresses and telephone numbers in a standard mechanized format, as specified by USW.
- (C)2.10 RESELLER will supply its ACNA/CIC or CLCC/OCN, as appropriate, with each order to provide USW the means of identifying Listings ownership.
- (C)2.11 Upon request by USW, RESELLER shall submit proof to USW, of authorization from each end user for which RESELLER submits a change in end user's Listing.
- (C)2.12 RESELLER represents and warrants the end user information provided to USW is accurate and correct. RESELLER further represents and warrants that it has reviewed all Listings provided to USW, including end user requested restrictions on use such as non-published and non-listed. RESELLER shall be solely responsible for knowing and adhering to state laws or rulings regarding Listings (e.g., no solicitation requirements in the states of Arizona and Oregon, privacy requirements in Colorado), and for supplying USW with the applicable Listing information.
- (C)2.13 RESELLER is responsible for all dealings with, and on behalf of, RESELLER's end users, including:
- (C)2.13.1 All end user account activity, (e.g. end user queries and complaints).
 - (C)2.13.2 All account maintenance activity, (e.g., additions, changes, issuance of orders for Listings to USW).

Part C
Directory Listings

- (C)2.13.3 Determining privacy requirements and accurately coding the privacy indicators for RESELLER's end user information. If end user information provided by RESELLER to USW does not contain a privacy indicator, no privacy restrictions will apply.
- (C)2.13.4 Any additional services requested by RESELLER's end users.

PART D- MISCELLANEOUS PROVISIONS

(D)1. Network Security

- (D)1.1 Protection of Service and Property - Each Party shall exercise the same degree of care to prevent harm or damage to the other Party and any third parties, its employees, agents or end users, or their property as it employs to protect its own personnel, end users and property, etc. Each Party shall comply at all times with USW security and safety procedures and requirements.
- (D)1.2 Revenue Protection - USW shall make available to RESELLER all present and future fraud prevention or revenue protection features. These features include, but are not limited to screening codes, and 900 numbers.
- (D)1.3 Law Enforcement Interface - USW provides emergency assistance to 911 centers and law enforcement agencies seven (7) days a week/twenty-four (24) hours a day. Assistance includes, but is not limited to release of 911 trace and subscriber information; in-progress trace requests; establishing emergency trace equipment, release of information from an emergency trap/trace or *57 trace; requests for emergency subscriber information; assistance to law enforcement agencies in hostage/barricade situations, kidnappings, bomb threats, extortion/scams, runaways and life threats.
- (D)1.4 USW provides trap/trace, pen register and Title III assistance directly to law enforcement, if such assistance is directed by a court order. This service is provided during normal business hours, Monday through Friday. Exceptions are addressed in the above paragraph. The charges for these services will be billed directly to the law enforcement agency, without involvement of RESELLER, for any lines served from USW Wire Centers or cross boxes.
- (D)1.5 In all cases involving telephone lines served from USW Wire Centers or cross boxes, USW will perform trap/trace Title III and pen register assistance directly with law enforcement. RESELLER will not be involved or notified of such actions, due to non-disclosure court order considerations, as well as timely response duties when law enforcement agencies are involved. Exceptions to the above will be those cases, as yet undetermined, where RESELLER must participate due to technical reasons wherein its circuitry must be accessed or modified to comply with law enforcement, or for legal reasons that may evolve over time. RESELLER will provide USW with a 24 hour a day, 7 days a week contact for processing such requests, should they occur.

(D)2. Access To Operational Support Systems (OSS)

(D)2.1 Description

- (D) 2.1.1 USW has developed and shall continue to provide Operational Support Systems OSS interfaces using electronic gateways. These gateways act as a mediation or control point between RESELLER's

and USW's OSS. These gateways provide security for the interfaces, protecting the integrity of the USW OSS and its databases. USW's OSS interfaces have been developed to support Pre-ordering, Ordering and Provisioning, Maintenance and Repair and Billing. Included below is a description of the products and functions supported by USW OSS interfaces and the technology used by each. This section describes the interfaces that USW has developed and shall provide RESELLER. Additional technical information and details shall be provided by USW in training sessions and documentation, such as the "Interconnect Mediated Access User's Guide". USW will continue to make improvements to the electronic interfaces as technology evolves, providing notification to RESELLER consistent with the provisions of this Section.

(D)2.1.2 Through its electronic gateways, USW shall provide RESELLER nondiscriminatory access to USW's operational support systems for pre-ordering, ordering and provisioning, maintenance and repair, and billing for resale. For the pre-ordering, ordering and provisioning of resold services, USW shall provide RESELLER access to its OSS in substantially the same time and manner as it provides to itself.

(D)2.2 OSS Support for Pre-Ordering, Ordering and Provisioning

(D)2.2.1 LSR (Local Service Request) Ordering Process

(D)2.2.1.1 RESELLER shall use electronic interfaces for orders placed using the LSR Ordering Process for the services it supports. The electronic interface gateways include both the Electronic Data Interchange (EDI) interface and the Interconnect Mediated Access (IMA) Graphical User Interface (GUI).

(D)2.2.1.2 The EDI interface provides a single interface for Pre-Order and Order transactions from RESELLER to USW and is transaction based rather than batch based. The interface standards for EDI are based upon the Order & Billing Forum (OBF) Local Service Order Guidelines (LSOG), the Telecommunication Industry Forum (TCIF) Customer Service Guideline and the American National Standards Institute/Accredited Standards Committee (ANSI ASC) X12 with exceptions as specified in the IMA and EDI disclosure documents which are provided in conjunction with the implementation responsibilities contained in this Section.

(D)2.2.1.3 The IMA GUI also provides a single interface for Pre-Order and Order transactions from RESELLER to USW and is browser based. The IMA GUI interface is based on the LSOG and utilizes a WEB standard technology, Hyper Text Markup Language (HTML), JAVA, and the Transmission Control Protocol/Internet Protocol (TCP/IP) to transmit messages.

(D)2.2.1.4 Functions

(D)2.2.1.4.1 Pre-ordering

Pre-Ordering refers to the set of activities performed in conjunction with placing an order. Pre-order consists of the following functions: validate address, service availability, review Customer Service Record (CSR), check facility availability, reserve telephone numbers, and schedule an appointment. The electronic interface gateways provide on-line capabilities to perform these functions. Not all functions apply to all products.

(D)2.2.1.4.1.1 Validate address will verify the end user's address.

(D)2.2.1.4.1.2 Service Availability will return the list of (1) POTS products and services available in the Central Office switch serving a particular end user address, which will indicate to RESELLER, among other things, which products and services are authorized for resale in the Central Office switch serving a particular end user address and (2) non-switched-based products and services that RESELLER is authorized to provide according to its resale agreement with USW.

(D)2.2.1.4.1.3 Review Customer Service Record (CSR) gives RESELLER the ability to request a display of local exchange services and features (CPNI) USW is currently providing to an end user.

(D)2.2.1.4.1.4 Check Facility Availability will provide an indication of whether existing facilities are available or if new facilities are required, and if a technician must be dispatched to provide the facilities requested at the end user's address. This transaction does not reserve facilities and does not guarantee that facilities will or will not be available when the order is submitted.

(D)2.2.1.4.1.5 Reserve Telephone Numbers provides RESELLER with the ability to select an end user's telephone number. The reservation process is further divided into telephone number availability, selection, exchange and return functionality. Expiration period for selection and submission of Telephone Number are:

- A period up to thirty (30) minutes in which to make a telephone number selection. If this time limit is exceeded, and no attempt has been made to select the telephone numbers, the telephone numbers are sent back to the OSS and an error message is displayed on the LSR. A new query will need to be performed for available telephone numbers.
- When a telephone number has been reserved, there is a twenty-four (24) hour business period that the telephone number may be included on an LSR. If the time limit is exceeded, the telephone number is returned to the OSS.

(D)2.2.1.4.1.6 Schedule Appointment allows RESELLER to retrieve a calendar of available appointments and to reserve an appointment date and time so that a technician can be dispatched for premises and/or non-premises work.

(D)2.2.1.4.1.7 Expiration period for selection and submission of Appointment Reservation are:

- A selection must be made within a thirty (30) minute period. If an appointment

has been selected and the time limit was exceeded, an error message will display. If the error message displays, an updated list of available appointments will need to be requested. If an appointment has already been reserved for this Purchase Order Number, the Appointment Confirmation window will be displayed and will be pre-populated with confirmation number, appointment date and time, and after and before times.

- Appointments are reserved for a 24-hour business period. If the appointment is not attached to a submitted order within 24 business hours, the appointment is returned. When the appointment is successfully reserved, confirmation of the appointment will be displayed to RESELLER.

(D)2.2.1.4.2 Ordering and Provisioning

Submitting an LSR will result in the provisioning and installation, if necessary, of an end user's service. The functional set associated with ordering is: Create New LSR, Open LSR, Query LSR Status and FOC Return.

(D)2.2.1.4.2.1 Create New LSR allows entry of information specific to the LSR, including required OBF forms, validates information and submits the LSR for processing.

(D)2.2.1.4.2.2 Open LSR allows RESELLER to save LSRs it is not ready to submit for processing as a pending status. When an LSR is saved as pending, all the data in all the forms associated with the LSR is saved. This feature permits RESELLER to access, edit, submit, re-save, and purge pending LSRs. In addition, for issued LSRs, RESELLER can issue supplemental LSRs and cancellations.

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(D)2.2.1.4.2.3 Query LSR Status allows RESELLER to obtain the status of the LSR. Status is provided to RESELLER upon inquiry. Order status functions include the following: Submitted, In Review, Issued, Rejected, Erred, Completed and Jeopardy.

(D)2.2.1.4.2.4 FOC Return returns a Firm Order Confirmation to RESELLER. The FOC confirms that USW has received a SR, issued an order, and assigned an order number for tracking.

(D)2.2.1.5 Forecast of Usage

(D)2.2.1.5.1 RESELLER shall supply USW with a forecast of products and volumes they anticipate ordering through the electronic interface gateways on a quarterly basis.

(D)2.2.1.5.2 USW will use RESELLER's forecast to provide RESELLER sufficient capacity to provide the services and elements requested. If RESELLER exceeds its capacity without notification, to the extent that it causes degradation to other users' response times, RESELLER's use of its capacity on the IMA or EDI server may be discontinued until a resolution can be mutually agreed to by both Parties. USW will attempt to notify RESELLER before discontinuing RESELLER's use of the IMA or EDI server; however USW reserves the right to discontinue use if it is unable to contact RESELLER.

(D)2.2.1.5.3 When RESELLER requests more than twenty (20) Secure IDs from USW RESELLER shall use a T1 line instead of dial-up capabilities.

(D)2.2.1.6. Access Service Request (ASR) Ordering Process

(D)2.2.1.6.1 The Exchange Access Control and Tracking (EXACT) system may be used for orders placed using the ASR process. EXACT is based upon the OBF Access Service Order Guidelines (ASOG). The EXACT interface accepts a batch

file that is transmitted via a Network Data Mover (NDM) connection to USW from RESELLER. It is RESELLER's responsibility to obtain the appropriate software to interface with USW's EXACT system.

(D)2.2.1.7 Facility Based EDI Listing Process

(D)2.2.1.7.1 The Facility Based EDI Listing Process is a single interface from RESELLER to USW. This interface is based upon the OBF LSOG and ANSI ASC X12 standards, version 4010. This interface enables RESELLER listing data to be translated and passed into the USW listing database. After USW's daily batch processing, a Confirmation/Completion record (for every PON provided on input) is returned to RESELLER via an EDI 855 transaction.

(D)2.2.2 Maintenance and Repair

(D)2.2.2.1 Maintenance and Repair electronic interfaces support the tracking and resolution of end users' repair and maintenance needs as reported to RESELLER. They facilitate the exchange of updated information and progress reports between USW and RESELLER while the Trouble Report (TR) is open and a USW technician is working on the resolution.

(D)2.2.2.2 RESELLER shall use the electronic interface gateways for reporting trouble. The electronic interface gateways are comprised of either the Mediated Access System Electronic Bonding (MEDIACC EB) interface or the IMA GUI interface.

(D)2.2.2.3 The MEDIACC Electronic Bonding (EB) interface uses CMIP protocol over X.25 packet switching network using ANS T1M1.5 227/228 standards.

(D)2.2.2.4 The IMA GUI also provides a single interface for trouble reporting from RESELLER to USW and is browser based. The IMA GUI interface uses a Berkley Socket interface using ANSI T1M1.5 227/228 standards. The IMA GUI uses JAVA as the standard. The IMA GUI Interface currently supports trouble reporting for resale services.

(D)2.2.2.5 Functions

(D)2.2.2.5.1 Maintenance and Repair - The functions, processes and systems used in repair are based on a Trouble Report (TR), which is an electronic document maintained in one or more OSS. A TR contains information about the end user, the trouble, the status of the work on the trouble and the results of the investigation and resolution efforts. These business processes will be made available to RESELLER in the following functional set: open a trouble report, modify a trouble report, notification of status change, view trouble report status, cancel a trouble report, receive a trouble report history, resubmit/delete an erred trouble report and close a trouble report.

(D)2.2.2.5.1.1 Open Trouble Report is the mechanism that captures information needed to resolve the trouble. Once a TR has been opened, if RESELLER is using MEDIACC EB, USW sends an electronic transaction to RESELLER identifying information about the TR (e.g., commitment date and tracking number).

(D)2.2.2.5.1.2 In IMA for POTS, and in EBTA for POTS and designed services, Modify Trouble Report allows RESELLER to modify the trouble severity (for example; change from "service affecting" to "out of service") and trouble narrative on a TR until it has been cleared.

(D)2.2.2.5.1.3 Status Change Notification provides notification to RESELLER that the status of a previously opened TR has changed. If RESELLER is using MEDIACC EB, RESELLER will receive this notification via an electronic transaction. If RESELLER is using the IMA GUI Interface, RESELLER will receive this notification via email and/or fax.

(D)2.2.2.5.1.4 View Trouble Report Status/Trouble Report Status Request allows RESELLER to view the status of an opened Trouble Report. If RESELLER is using MEDIACC EB, USW sends an electronic transaction to RESELLER with the

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status of an opened TR after RESELLER sends an electronic transaction to request the status.

- (D)2.2.2.5.1.5 Cancel Trouble. Report allows RESELLER to request cancellation of a previously opened TR. Once a request to cancel is received, an orderly cessation of the trouble resolution process begins. If USW has completed any work before the trouble resolution process is stopped, charges to RESELLER may apply.
- (D)2.2.2.5.1.6 Trouble Report History provides RESELLER with historical information on up to the last three trouble reports. For POTS resale, the disposition and trouble report date and time are provided. For design services resale, the trouble report date and time, a text description of the disposition, the USW Trouble Report Number, and the trouble type are provided. IMA provides trouble report history.
- (D)2.2.2.5.1.7 Resubmit/Delete allows trouble reports to be resubmitted or deleted via IMA GUI if, prior to entering USW's OSS, the transaction fails or errors. This transaction is only valid if the TR has not entered USW's OSS. This transaction is currently only available via IMA GUI.
- (D)2.2.5.1.8 Close a Trouble Report for resale, allows USW to close the TR once work is complete. For design resale services, USW sends RESELLER a request for verification to close. RESELLER then authorizes or denies the closure. RESELLER has twenty-four (24) hours to respond. If a response is not received within that time frame, the TR will automatically be closed. USW provides notification to RESELLER that a TR has been closed because the trouble was resolved. Additional information, (e.g., disposition, disposition description, outage duration, maintenance of service, charge indicator) is also included. If RESELLER is using EB, RESELLER will receive this response via an electronic

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transaction. If RESELLER is using the IMA GUI Interface, RESELLER will receive this response via email and/or fax.

(D)2.2.2.5.1.9 MLT test results give RESELLER the ability to request a loop test for POTS service via EBTA. When RESELLER submits a TR through IMA, the technician handling the TR will order a MLT test in appropriate situations.

(D)2.3 Hours of Operation

USW's electronic interface gateways will be available to Resellers according to the following schedule:

Function	Monday – Friday	Saturday	Sunday
IMA Pre-Order & Order	06:00 – 20:00		
Exact Order	06:00 – 19:00	07:00 – 17:00	
Repair	02:15 – 23:15	07:00 – 21:00	13:00 – 17:00

USW shall notify Resellers regarding system downtime through mass facsimile distribution and pop-up windows in the IMA GUI. All referenced times are Mountain Time.

The preceding times represent the period when USW commits that its OSS interfaces and downstream systems will be functioning (except for unforeseen system crashes) and its personnel will be available to assist RESELLER. USW's OSS interfaces are typically available 23 hours a day. RESELLER may call any maintenance and repair issues to the applicable repair center 24 hours per day, seven days per week. USW shall provide RESELLER current repair contact numbers.

(D)2.4 Billing

(D)2.4.1 For products billed out of the USW Interexchange Access Billing System (IABS), USW will utilize the existing CABS/BOS format and technology for the transmission of bills.

(D)2.4.2 For products billed out of the USW Customer Record Information System (CRIS), USW will utilize the existing EDI standard for the transmission of monthly local billing information. EDI is an established standard under the auspices of the American National Standards Institute/Accredited Standards Committee (ANSI/ASC) X12 Committee. A proper subset of this specification has been adopted by the Telecommunications Industry Forum (TCIF) as the "811 Guidelines" specifically for the purposes of telecommunications billing.

(D)2.5 Outputs

Output information will be provided to RESELLER in the form of bills, files, and reports. Bills will capture all regular monthly and incremental/usage charges and present them in a summarized format. The files and reports delivered to RESELLER provide more detailed information than the bills. They come in the following categories:

Usage Record File	Line Usage Information
Loss and Completion	Order Information
Category 11	Facility Based Line Usage Information
SAG/FAM	Street Address/Facility Availability Information

(D)2.5.1 Bills

(D)2.5.1.1 CRIS Summary Bill - The CRIS (Customer Record Information System) Summary Bill represents a monthly summary of charges for most wholesale products sold by USW. This bill includes a total of all charges by entity plus a summary of current charges and adjustments on each sub-account. Individual sub-accounts are provided as billing detail and contain monthly, one time charges and incremental/call detail information. The Summary provides one bill and one payment document for RESELLER. These bills are segmented by state and bill cycle. The number of bills received by RESELLER is dictated by the product ordered and the USW region in which RESELLER is operating.

(D)2.5.1.2 IABS Bill - The IABS (Interexchange Access Billing System) Bill represents a monthly summary of charges. This bill includes monthly and one time charges plus a summary of any usage charges. These bills are segmented by product, LATA, billing account number (BAN) and bill cycle.

(D)2.5.2 Files and Reports

(D)2.5.2.1 Daily Usage Record File provides the accumulated set of call information for a given day as captured, or "recorded" by the network switches. This file will be transmitted Monday through Friday, excluding USW holidays. This information is a file of un-rated USW originated usage messages and rated RESELLER originated usage messages. It is provided in Alliance for Telecommunication Industry Solution (ATIS) standard

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Electronic Message Interface (EMI) format. This EMI format is outlined in the document SR-320; which can be obtained directly from ATIS. The Daily Usage Record File contains multi-state data for the Data Processing Center generating this information. Individual state identification information is contained with the message detail. USW will provide this data to RESELLER with the same level of precision and accuracy it provides itself. This file will be provided for Resale services.

- (D)2.5.2.2 The charge for this Daily Usage Record File is contained in Part E of this Agreement.
- (D)2.5.2.3 Routing of in-region IntraLATA Collect, Calling Card, and Third Number Billed Messages - USW will distribute in-region intraLATA collect, calling card, and third number billed messages to RESELLER and exchange with other Co-Providers operating in region in a manner consistent with existing inter-company processing agreements. Whenever the daily usage information is transmitted to a carrier, it will contain these records for these types of calls as well.
- (D)2.5.2.4 Loss Report provides RESELLER with a daily report that contains a list of accounts that have had lines and/or services disconnected. This may indicate that the end user has changed Resellers or removed services from an existing account. This report also details the order number, service name and address, and date this change was made. Individual reports will be provided for resale services.:
- (D)2.5.2.5 Completion Report provides RESELLER with a daily report. This report is used to advise RESELLER that the order(s) for the service(s) requested is complete. It details the order number, service name and address and date this change was completed. Individual reports will be provided for resale services.:

This report media is described in Exhibit C.

- (D)2.5.2.6 Category 11 Records are Exchange Message Records (EMR) which provide mechanized record formats that can be used to exchange access usage information between USW and RESELLER. Category 1101 series

records are used to exchange detailed access usage information.

- (D)2.5.2.7 Category 1150 series records are used to exchange summarized Meet Point Billed access minutes-of-use.

These mechanized records are available from USW in the following formats:

NDM (direct connect or dial-up)
Comet
Tape
Cartridge

- (D)2.5.2.8 SAG/FAM Files - The SAG (Street Address Guide)/ FAM (Facility Availability Matrix) files contain the following information:

SAG provides: - Address and Serving Central Office information.

FAM provides USOCs and descriptions by state - (POTS services only). USOC availability by NPA-NXX (with the exception of Centrex). interLATA/intraLATA carriers by NPA-NXX.

These files are made available via a download process. They can be retrieved by ftp (file transfer protocol), NDM (Network Data Mover) connectivity, or a Web browser.

(D)2.6 Modifications to OSS Interfaces

- (D)2.6.1 RESELLER and USW agree to discuss the modification of OSS interfaces based upon evolving standards (e.g., data elements, protocols, transport networks, etc.) and guidelines issued by or referenced by relevant Alliance for Telecommunication Industry Solution (ATIS) committees. Establishment of new, or changes to industry standards and guidelines will be reviewed semi-annually. The review will consider standards and guidelines that have reached final closure as well as those published in final form. Both Parties agree to evaluate evolving standards and determine the relevant modification to be implemented based upon the latest approved version adopted or the latest version reflecting final closure by the relevant ATIS committee or subcommittee. As a result of the review, USW shall draft appropriate interface specifications that shall be made available to RESELLER through the electronic gateway disclosure document. Changes shall be implemented in the next release after the distribution of the electronic gateway disclosure document to the Resellers.

- (D)2.6.2 In the course of establishing operational ready system interfaces between USW and RESELLER to support local service delivery, RESELLER and USW may need to define and implement system interface specifications that are supplemental to -existing standards. RESELLER and USW will submit such specifications to the appropriate standards committee and will work towards their acceptance as a standard.
- (D)2.6.3 Release updates will be based on regulatory obligations as dictated by the FCC or Commissions and, as time permits, business requirements. USW will provide to RESELLER the features list for modifications to the interface. Specifications for interface modifications will be provided to RESELLER three (3) weeks prior to the release date. RESELLER is required to upgrade to the current release within six (6) months of the installation date.

(D)2.7 Reseller Responsibilities for Implementation of OSS Interfaces

- (D)2.7.1 Before any RESELLER implementation can begin, RESELLER must completely and accurately answer the New Customer Questionnaire. This questionnaire is provided by the USW account manager and details information needed by USW in order to establish service for RESELLER.
- (D)2.7.2 Once USW receives a complete and accurate New Customer Questionnaire, USW and RESELLER will mutually agree upon time frames for RESELLER implementation.
- (D)2.7.3 If using the EDI interfaces, USW will provide RESELLER with a copy of the Production Readiness Verification document. RESELLER is obligated to meet the requirements specified in the Production Readiness Verification document regardless of whether RESELLER chooses to participate in the Production Readiness Verification Test.

(D)2.8 Reseller Responsibilities for On-going Support for OSS Interfaces

- (D)2.8.1 If using the IMA GUI interface, RESELLER must work with USW to train RESELLER personnel on the IMA GUI functions that RESELLER will be using. USW and RESELLER shall concur on which IMA GUI functions should be included in RESELLER's training. USW and RESELLER shall make reasonable efforts to schedule training in a timely fashion.
- (D)2.8.2 An exchange protocol will be used to transport EDI formatted content. RESELLER must perform certification testing of exchange protocol prior to using EDI.

- (D)2.8.3 If RESELLER is using EDI, USW shall provide RESELLER with a pre-allotted amount of time to complete certification of its business scenarios. It is the sole responsibility of RESELLER to schedule an appointment with USW for certification of its business scenarios. RESELLER must comply with the agreed upon dates and times scheduled for the certification of its business scenarios. If the certification of business scenarios is delayed due to RESELLER, it is the sole responsibility of RESELLER to schedule new appointments for certification of its business scenarios. Conflicts in the schedule could result in certification being delayed. If a delay is due to USW, USW will honor RESELLER's schedule through the use of alternative hours.
- (D)2.8.4 If RESELLER is using the EDI interface, RESELLER must work with USW to certify the business scenarios that RESELLER will be using in order to ensure successful transaction processing. USW and RESELLER shall mutually agree to the business scenarios for which RESELLER is required to be certified. Certification is granted only for a specific release of EDI. New releases of EDI may require re-certification of some or all business scenarios. A determination as to the need for re-certification will be made by the USW Coordinator in conjunction with the release manager of each EDI release. Notice of the need for re-certification will be provided to RESELLER three (3) weeks prior to the release date.
- (D)2.8.5 In the event of Electronic Interface trouble, RESELLER shall use its best efforts to isolate and resolve the trouble using the guidelines provided in the Production Readiness Verification document. If RESELLER cannot resolve the problem, then RESELLER should contact the LSP Systems Help Desk. The LSP Systems Help Desk is RESELLER's Single Point of Contact for electronic interface trouble.

(D)2.9 Reseller Support

- (D)2.9.1 USW shall provide adequate assistance to RESELLER for RESELLER to understand how to implement and use the OSS functions for which USW provides access. This assistance will include training, documentation, and a LSP Help Desk. The LSP Help Desk will provide a single point of entry for RESELLER to gain assistance in areas involving connectivity, system availability, and file outputs. The LSP Systems Help Desk is available Monday through Friday, 6:00 a.m. until 8:00 p.m. Mountain Time, excluding USW holidays. The Help Desk areas are further described below..

- (D)2.9.1.1 Connectivity covers trouble with RESELLER's access to the USW system for hardware configuration requirements with relevance to EDI and IMA GUI;

software configuration requirements with relevance to EDI and IMA GUI; modem configuration requirements; T1 configuration and dial in string requirements; firewall access configuration; Secure ID configuration; Profile Setup and password verification.

(D)2.9.1.2 System availability covers system errors generated during an attempt by RESELLER to place orders or open trouble reports through EDI and IMA GUI. These system errors are limited to: POTS; Design Services and Repair.

(D)2.9.1.3 File Outputs covers RESELLER's output files and reports produced from its usage and order activity. File outputs system errors are limited to: Daily Usage File; Loss / Completion File; IABS Bill; CRIS Summary Bill; Category 11 Report and SAG/FAM Reports.

(D)2.9.2 Additional assistance to Resellers is available through various web sites. These web sites provide electronic interface training information and user documentation and technical specifications.

(D)2.10 Compensation / Cost Recovery

On-going and one-time startup charges, as applicable, will be billed at rates to be specified by the Commission at the completion of an appropriate cost docket hearing. USW shall establish rates for any systems charges not included in appropriate cost docket hearings.

(D)3. U S WEST Dex

USW and RESELLER agree that certain issues outside the provision of basic white page directory listings, such as yellow pages advertising, yellow pages listings, directory coverage, directory distribution, access to call guide pages (phone service pages), applicable listings criteria, white page enhancements and publication schedules will be the subject of negotiations between RESELLER and directory publishers, including U S WEST Dex. USW acknowledges that RESELLER may request USW to facilitate discussions between RESELLER and U S WEST Dex.

(D)4. Notice Of Changes

Notice should be written and provide pertinent descriptive information of such changes, within the limitations of confidentiality and disclosure, such that the other Party can evaluate potential effects. Also included with the written notice should be contact names and phone numbers for subsequent discussions.

This represents good faith effort on the part of the Parties and will evolve over time as required for the effective provision of resale services and end user service delivery.

(D)5. Maintenance and Repair

(D)5.1 Service Levels

- (D)5.1.1 USW will provide repair and maintenance for all services covered by this Agreement in a manner equal to that which USW provides for itself.
- (D)5.1.2 During the term of this Agreement, USW will provide necessary maintenance business process support to allow RESELLER to provide similar service quality to that provided by USW to its end users.
- (D)5.1.3 USW will perform repair service that is equal in timeliness and quality to that which it provides to its own end users.

(D)5.2 Branding

- (D)5.2.1 Should USW need to use various forms for communication with RESELLER end users (while out on premises dispatch on behalf of RESELLER, for example), USW will use unbranded forms.
- (D)5.2.2 If required by RESELLER, USW will use branded forms provided at RESELLER's full expense, covering training costs, storage, printing, distribution and all other branding-related costs.

(D)5.3 Service interruptions

- (D) 5.3.1 The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: 1) interfere with or impair service over any facilities of the other Party; its affiliated companies, or its connecting and concurring carriers involved in providing its services; 2) cause damage to their plant; 3) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or 4) create hazards to the employees of either Party or to the public. Each of these requirements is hereinafter referred to as an "Impairment of Service".
- (D) 5.3.2 If it is confirmed that either Party is causing an Impairment of Service, as set forth in this Section, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem. The Impaired Party shall advise the Impairing Party that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of

Service, the Impaired Party may temporarily discontinue use of the affected circuit, facility or equipment.

(D) 5.3.3 To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate a repair center for such service.

(D) 5.3.4 Each Party shall furnish a trouble reporting telephone number for the designated repair center. This number shall give access to the location where records are normally located and where current status reports on any trouble reports are readily available. If necessary, alternative out-of-hours procedures shall be established to ensure access to a location that is staffed and has the authority to initiate corrective action.

(D) 5.3.5 Before either Party reports a trouble condition, it shall use its best efforts to isolate the trouble to the other's facilities

(D) 5.3.5.1 In cases where a trouble condition affects a significant portion of the other's service, the Parties shall assign the same priority provided to other Resellers and to itself.

(D) 5.3.5.2 The Parties shall cooperate in isolating trouble conditions.

(D)5.4 Trouble Isolation

(D)5.4.1 According to applicable state Tariffs, USW will bill appropriate Trouble Isolation Charges for dispatched work done by USW where the trouble is found to be on the end user's side of the NID or trouble is found to be in RESELLER's portion of the network.

(D)5.4.2 Other Trouble Isolation Charges may also be imposed by USW on RESELLER for other internal repair work incurred on behalf of RESELLER and later found to be in RESELLER network components.

(D)5.5 Inside Wire Maintenance

Except where specifically required by state or federal regulatory mandates, USW will not perform any maintenance of inside wire (premises wiring beyond the end user's NID) for RESELLER or its end users.

(D)5.6 Testing/Test Requests/Coordinated Testing

(D)5.6.1 USW will make the decision to test an end user's line or circuit. The test systems used by USW are finite, and their capacity has been designed according to USW's operating standards.

- (D)5.6.2 Although some types of trouble reports typically will not require a test, USW usually runs certain standard tests on each line on which trouble has been reported.
 - (D)5.6.3 Prior to any test being conducted on a line, USW must receive a trouble report from RESELLER.
 - (D)5.6.4 USW end users are not given test results. On manually-reported trouble USW will not provide to RESELLER the test results for its trouble reports. For electronically-reported trouble, RESELLER may see various basic test results.
- (D)5.7 Workcenter Interfaces
- (D)5.7.1 USW and RESELLER shall work cooperatively to develop positive, close working relationships among corresponding work centers involved in the trouble resolution processes..
- (D)5.8 Misdirected Repair Calls
- (D)5.8.1 RESELLER shall inform its own end users where to report their trouble conditions. Persons placing a misdirected repair call will be advised to call their own telephone service provider and will be provided the correct telephone number for that purpose (this referral may occur within a voice response system or other interactive systems).
 - (D)5.8.2 RESELLER and USW will employ the following procedures for handling misdirected repair calls;
 - (D)5.8.2.1 RESELLER and USW will provide their respective end users with the correct telephone numbers to call for access to their respective repair bureaus.
 - (D)5.8.2.2 End users of RESELLER shall be instructed to report all cases of trouble to RESELLER. End users of USW shall be instructed to report all cases of trouble to USW.
 - (D)5.8.2.3 To the extent the correct provider can be determined, misdirected repair calls will be referred to the proper provider of Basic Exchange Telecommunications Service.
 - (D)5.8.2.4 RESELLER and USW will provide their respective repair contact numbers to one another on a reciprocal basis.
 - (D)5.8.2.5 In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or to solicit end users to market services.

(D)5.8.2.6 Performance targets for speed of repair call answering will be the same as USW's performance targets for its own end users.

(D)5.9 Major Outages/Restoral/Notification

(D)5.9.1 USW will notify RESELLER of major network outages as soon as is practical. This notification will be via e-mail to RESELLER's identified contact. With the minor exception of certain proprietary information, USW will utilize the same thresholds and processes for external notification as it does for internal purposes. This major outage information will be sent via E-mail on the same frequency schedule as is provided internally within USW. Service restoration will be non-discriminatory, and will be accomplished as quickly as possible according to USW and/or industry standards.

(D)5.9.2 If desired, USW will meet with associated personnel from RESELLER to share contact information and review USW's outage restoral processes and notification processes.

(D)5.9.3 USW's emergency restoration process operates on a 7X24 basis.

(D)5.10 Proactive Maintenance

(D)5.10.1 USW will perform scheduled maintenance equal in quality to what it provides to itself.

(D)5.10.2 USW will work cooperatively with RESELLER to develop industry-wide processes to provide as much notice as possible to RESELLER of pending maintenance activity. Such process work will include establishment of reasonable thresholds and notification standards.

(D)5.11 Hours of Coverage

(D)5.11.1 USW's repair operation is 7 days a week, 24 hours a day. Not all functions or locations are covered with scheduled employees on a 7X24 basis. Where such 7X24 coverage is not available USW's repair operations center (always available 7X24) can call-out technicians or other personnel required for the situation.

(D)5.12 Escalations

(D)5.12.1 USW will provide trouble escalation procedures to RESELLER. Such procedures will be based on the processes USW employs for its own end users. USW escalations are manual processes.

(D)5.12.2 USW repair escalations begin with calls to the up-front trouble reporting centers.

(D)5.13 Dispatch

(D)5.13.1 USW will provide maintenance dispatch personnel on the same schedule provided for its end users.

- (D)5.13.2 Upon receipt of a trouble report from RESELLER, USW will do all that is reasonable and practical, according to internal and industry standards, to resolve the repair condition. USW will dispatch repair personnel, if necessary, to repair the condition.- It will be USW's decision whether it is necessary to send a technician on a dispatch. USW will make this dispatch decision based on the best information available in the trouble resolution process. Since it is not always necessary to dispatch to resolve trouble; should RESELLER require a dispatch when USW believes the dispatch is not necessary, appropriate charges may be billed to RESELLER for dispatch-related costs.
 - (D)5.13.3 For non-designed resale services USW will not request authorization from RESELLER prior to dispatch. For lines supported by USW's designed services process, USW may accept RESELLER authorization to dispatch. USW's operational processes are regularly reviewed and may be altered in the future. Should processes be changed, RESELLER will be notified.
 - (D)5.13.4 USW expects that RESELLER will have performed appropriate trouble isolation and screening prior to handing the trouble report off to USW.
- (D)5.14 Electronic Reporting
- (D)5.14.1 USW will accept repair reports from RESELLER through a mechanized system (IMA).
 - (D)5.14.2 USW will work cooperatively to develop repair reporting via electronic bonding (other than IMA), based on national standards.
- (D)5.15 Intervals
- (D)5.15.1 Similar trouble conditions, whether reported by USW end users or on behalf of RESELLER end users, will receive similar commitment intervals.
- (D)5.16 Jeopardy Management
- (D)5.16.1 Notification will be given as soon as USW is aware that a trouble report interval is likely to be missed. This process will be the same as that used by USW for its own end users.
- (D)5.17 Trouble Screening
- (D)5.17.1 RESELLER shall screen and test its end user trouble reports completely enough to insure that it sends USW only trouble reports that involve USW facilities.

(D)5.17.2 If desired, USW will cooperate with RESELLER to show RESELLER how USW screens trouble conditions in its own centers, so that RESELLER may employ similar techniques in its centers.

(D)5.18 Maintenance Standards

(D)5.18.1 USW will cooperate with RESELLER to meet the maintenance standards outlined in this Agreement.

(D)5.18.2 For manually-reported trouble, USW will inform RESELLER of repair completion as soon as practical after completion. On electronically reported trouble reports the electronic system will automatically update status information, including trouble completion, across the joint electronic gateway.

(D)5.19 End User Interfaces

(D)5.19.1 RESELLER will be responsible for all interactions with its end users including service call handling and notifying end users of trouble status and resolution.

(D)5.19.2 All USW employees who perform repair service for RESELLER end users will be trained in non-discriminatory behavior.

(D)5.20 Repair Call Handling

(D)5.20.1 Manually-reported repair calls by RESELLER to USW will be answered with the same quality and speed USW answers calls from its own end users.

(D)5.21 Single Point of Contact

(D)5.21.1 USW will provide a single point of contact for RESELLER to report maintenance issues and trouble reports via electronic interfaces seven days a week, twenty-four hours a day.

(D)5.21.2 For manually-reported trouble reports, a single 7X24 trouble reporting telephone number will be provided to RESELLER for each category of trouble situation encountered.

(D)5.22 Maintenance Windows

(D)5.22.1 Generally, USW performs major switch maintenance activities during off-hours time periods, during certain "maintenance windows" in the early morning hours and/or on weekends.

(D)5.22.2 Generally, the maintenance window is from 10:00 PM to 6:00 AM Monday through Friday and from 10:00 PM Saturday to 6:00 AM Monday.

(D)5.22.3 Although USW attempts to perform major switch maintenance at these times, on some occasions this will not be possible.

(D)6. Service Performance

(D)6.1 General Provisions

- (D)6.1.1 USW will provide reports of service indicators that will assist in an evaluation of the service provided to RESELLER.
- (D)6.1.2 In no instance shall this Agreement be construed to require USW to provide superior levels of service to RESELLER in comparison to the level of service USW provides to itself or its own end users.
- (D)6.1.3 As further specified in this Section, USW will provide results for the list of performance indicators identified for the following Standard Service Groupings: Resold Residential Plain Old Telephone Service (POTS); Resold Business POTS; Resold ISDN; Resold Centrex service; Resold PBX trunks, Resold Direct Inward Dialing (DID) and Resold Digital Switched Service (DSS); Resold DS-0, Resold DS-1, Resold DS-3.
- (D)6.1.4 As specified in this Section, USW will provide results for the following types of Orders:
 - C = Change in existing service or billing number
 - D = total disconnect of service
 - F = From the outward service associated with a transfer (To or "T") of service from one address to another
 - N = New connection for service
 - R = Record order; record change only. (For Resale services, service migrations without changes for non-designed services are record orders.)
 - T = To or transfer of service from one address to another
 - X = USW initiated internal work order

(D)6.2 Service Performance Indicators

The following Service Performance Indicators will be provided to RESELLER when available and upon request, but no more frequently than once per month subject to the provisions of this Section. The requests for additional Service Performance Indicators during the term of this Agreement shall be considered by USW. However, USW is not required to provide additional Service Performance Indicators during the term of this Agreement. Service Performance Indicators characterized as "Core" indicators measure most directly the service or process outcome USW provides to RESELLER.

Performance Indicators characterized as "Diagnostic" indicators are those that measure aspects of service quality that support aspects measured by core indicators, that represent sub-process outcomes, or that are otherwise duplicative to some degree of aspects measured by "Core" indicators.

(D)6.2.1 Core Performance Indicators

(D)6.2.1.1 Gateway Availability Indicator

- GA-1 Gateway Availability – via Human-to-Computer Interface (percent).
- GA-2 Gateway Availability – via Computer-to-Computer Interface (percent).

(D)6.2.1.2 Pre-Ordering Indicators

- PO-1 Pre-Order/Order Response times
 - A. Appointment Scheduling (Due Date Reservation, where appointment is required)
 - B. Feature Function and Service Availability Information
 - C. Facility Availability
 - D. Street Address Validation
 - E. Customer Service Records
 - F. Telephone Number

(D)6.2.1.3 Ordering and Provisioning Indicators

- OP-1 Speed of Answer – Interconnect Provisioning Center (average)
- OP-2 Calls Answered within 20 Seconds – Interconnect Provisioning Center (percent)
- OP-3 Installation Commitments Met (percent)
- OP-4 Installation Interval (average)
- OP-5 Installation Trouble Reports (percent)
- OP-6 Delayed Days (average)

(D)6.2.1.4 Maintenance and Repair Indicators

- MR-1 Speed of Answer – Interconnect Repair Center (average)
- MR-2 Percent Calls Answered Within 20 Seconds – Interconnect Repair Center (percent)
- MR-3 Out of Service Cleared Within 24 hours – Non-Designed Repair Process (percent)
- MR-4 All Troubles Cleared Within 48 hours – Non-Designed Repair Process (percent)
- MR-5 All Troubles Cleared Within 4 hours – Designed Repair Process (percent)
- MR-6 Mean Time to Restore – Non-Designed Repair Process (average)
- MR-7 Repair Repeat Report Rate (percent)
- MR-8 Trouble Rate (percent)

(D)6.2.1.5 Billing Indicators

- BI-1 Mean Time to Provide USW Recorded Usage Records ((average)
- BI-2 Mean Time to Deliver Invoices (average)
- BI-3 Billing Accuracy

(D)6.2.1.6 Emergency Services

- ES-1 ALI Database Updates Completed Within 24 hours (percent)
- ES-2 911/E911 Emergency Services Trunk Installation Interval (average)

(D)6.2.1.7 Directory Assistance

- DA-1 Speed of Answer – Directory Assistance (average)
- DA-2 Calls Answered Within Ten Seconds – Directory Assistance (percent)

(D)6.2.1.8 Operator Services

- OS-1 Speed of Answer – Operator Services (average)
- OS-2 Calls Answered Within Ten Seconds – Operator Services (percent)

(D)6.2.2 Diagnostic Indicators

In addition to the performance indicators identified above, USW will report the following indicators that do not directly address nondiscrimination but may be useful in diagnosing problems or improving service:

(D)6.2.2.1 Pre-Order/Ordering

- DPO-1 Electronic Flow – Through of Local Service Requests (LSRs) to the Service Order Processor (percent)
- DPO-2 LSR Rejection Notice Interval (average)
- DPO-3 LSRs Rejection (percent)
- DPO-4 Firm Order Confirmation (FOC) Interval (average)
- DPO-5 Pre-Order/Order Response Times for USW Retail Transactions (average)
- DPO-6 Completion Notifications Transmitted Within 24 hours (percent)
- DPO-7 Completion Notification Interval (average)

(D)6.2.2.2 Ordering and Provisioning

- DOP-1 RESELLER or RESELLER's Customer – Caused Installation Misses (percent)
- DOP-2 Delayed Orders Completed equal to greater than 15 days past the Commitment Date (percent)

- DOP-3 Delayed Orders Completed equal to or greater than 90 days past the Commitment Date (percent)
- DOP-4 RESELLER or RESELLER's Customer-Caused Coordinated Cutover Misses (percent) .
- (D)6.2.2.3 Maintenance and Repair
 - DMR-1 RESELLER or RESELLER's Customer-Caused Trouble Reports (percent)
- (D)6.2.2.4 Access to OSS Functions:
 - (GA-1) Gateway Availability – Human-to-Computer Interface (percent)
 - (GA-2) Gateway Availability – Computer-to-Computer Interface (percent)
 - (PO-1) Per-Order/Order Response Times (average)
 - (OP-1 and MR-1) Speed of Answer – Provisioning and Repair Centers (average)
 - (OP-2 and MR-2) Calls Answered Within 20 Seconds – Provisioning and Repair Centers (percent)
 - (BI-1) Mean Time to Provide USW – Recorded Usage Records (
 - (BI-2) Mean Time to Deliver Invoices
 - (B1-3) Billing Accuracy
- (D)6.2.2.5 Access to Emergency Services
 - (ES-1) ALI Database Updates Within 24 Hours (percent)
 - (ES-1) 911/E911 ES Trunk Installation Intervals (average)
- (D)6.2.2.6 Access to Directory Assistance and Operator Services:
 - (DA-1 and OP-1) Speed of Answer (average)
 - (DA-2 and OS-2) Calls Answered Within 10 Seconds (percent)
- (D)6.2.2.7 Resale Services Ordering and Provisioning:
 - (OP-3) Installation Commitments Met (percent)
 - (OP-4) Installation Interval (average)
 - (OP-5) Installation Trouble Reports (percent)
 - (OP-6) Delayed Days (average)
- (D)6.2.2.8 Resale Services Maintenance and Repair:
 - (MR-3) Out of Service Cleared Within 24 Hours – Non-Designed Repair Process (percent)
 - (MR-4) All Troubles Cleared Within 48 Hours – Non-Designed Repair Process (percent)
 - (MR-5) All Troubles Cleared Within 4 Hours – Designed Repair Process (percent)
 - (MR-6) Mean Time to Restore (average)
 - (MR-6) Repair Repeated Report Rate (percent)
 - (MR-6) Trouble Rate (percent)

(D)6.3 Service Quality Performance Results Reports

(D)6.3.1 For Resale, USW will provide core service performance results for the performance indicators listed above for RESELLER, other Resellers in aggregate and USW end users.

(D)6.4 Performance Results Provided to Reseller

The performance results provided to RESELLER by USW shall be consistent with the current version of the USW Service Performance Indicator Description (PID).

(D)6.5 The performance results provided under this Agreement are to be used solely for the purposes set forth herein, and shall be treated as "Proprietary Information" as provided in Section (A)3.14 of this Agreement.

(D)6.6 Service Performance - Reported Events

(D)6.6.1 When applicable, USW will report service-related performance results for all "events". An "event" is the activity that generates the measurement.

(D)6.6.2 The Parties will report RESELLER results referenced above provided that RESELLER has ordered and is utilizing the services reported;

(D)6.6.3 USW will provide the reports on a calendar monthly basis. These reports will be provided within forty-five (45) calendar days of the close of the preceding month.

(D)6.7 Self Executing Remedies

The purpose and focus of remedies provisions under this Resale Agreement shall be to resolve significant differences in service quality that have been identified through appropriate comparisons of the service performance results reported for the core performance indicators defined above. Self-executing remedies are those actions, defined herein, that USW will undertake in good faith and in cooperation with RESELLER to respond to such differences immediately, without waiting for determination of whether actual discrimination may exist.

(D)6.7.1 For this purpose, significant differences shall be considered to be those that are determined to be statistically, operationally, and materially significant in each of three (3) or more consecutive months and that reflect a probability that inferior service was apparently provided to RESELLER, based on the relevant comparison of performance indicator results. Statistical significance shall be determined as defined below. Operational and material significance shall be established by including for comparison only those results that have (a) minimum sample sizes of 30 each, and (b) a relevant comparison demonstrating a service performance difference of a magnitude that can be reasonably considered to have a perceptible effect on end users or RESELLER operations.

- (D)6.7.2 Determination of the statistical significance of any difference in appropriately comparable results shall be based on statistical testing for (1) differences in means (where performance indicator results are reported as averages) or (2) difference in proportions (where performance indicator results are reported as percentages), as follows:
- (D)6.7.2.1 Determination of the significance of a difference in mean values of each monthly service performance indicator results shall be based on a "permutation" test using what is commonly referred to as a "Z" statistic and a maximum of 1,000 randomly selected permutations of the samples. Where sample sizes exceed 600, the "Z" test using the "modified Z statistic" may be used instead of the permutation test. Where used, the modified Z statistic will be based on the statistical variance associated with USW's retail performance results, where applicable, or on the variance associated with RESELLER aggregate performance results, where there are no retail performance results.
 - (D)6.7.2.2 The significance of a difference in proportional measurements shall be based on direct calculation of the probability of the observed difference using the binomial distribution with a pooled p value.
 - (D)6.7.2.3 A difference in results by either test type (i.e., differences in means or differences in proportions) will be deemed statistically significant if the appropriate one tailed test indicates, with 99 percent confidence, that the performance indicator results being compared appear to be from different populations of performance. In other words, that service being provided to RESELLER appears to be inferior to that represented by the comparable results (such as, results representing service provided to Resellers in aggregate or to USW retail).
- (D)6.7.3 For each case in which a significant difference as defined above has occurred, USW shall:
- (D)6.7.3.1 Immediately investigate to determine the cause(s) of the difference and, where feasible, begin good-faith efforts to resolve the difference;
 - (D)6.7.3.2 Within 45 days, provide to RESELLER a written explanation of the result of the investigation as to

cause(s) and, as applicable, an action plan describing (i) what has and will be done to resolve the difference, (ii) what cooperative actions and timelines on the part of RESELLER are needed to facilitate or expedite resolution, and (iii) listing key milestones for use by the Parties in tracking progress;

(D)6.7.3.3 Offer and meet with designated RESELLER representatives monthly to discuss progress on resolving the difference(s);

(D)6.7.3.4 Escalate to vice president level any significant difference that has or is not projected to be resolved within three months of the difference first being identified as significant as defined above, with commitment at that level to direct due diligence toward removing obstacles and expediting resources where feasible and necessary to resolve the difference as soon as possible.

(D)6.7.4 If a statistically and operationally significant difference has occurred in the trend results for any particular performance indicator, the Parties shall allow three (3) months to correct the difference in the trend results. If the statistically, and operationally significant difference in trend results is corrected within the three (3) month time, no action, formal or informal, shall be taken by either Party with respect to that difference.

(D)6.7.5 If the statistically and operationally significant difference in trend results is not corrected within the three (3) month time frame, the Dispute Resolution provision of this Resale Agreement shall apply.

(D)6.8 Delaying Events

(D)6.8.1 A Party's failure to meet a requirement in this Section of this Agreement shall not be included when that failure is a result, directly or indirectly, of a Delaying Event.

(D)6.8.2 A "Delaying Event" means:

(D)6.8.2.1 Failure by either Party to perform any of its obligations set forth in this Agreement,

(D)6.8.2.2 Any delay, act or failure to act by an end user, agent or subcontractor of the other Party, or

(D)6.8.2.3 Any Force Majeure Event.

(D)6.8.3 If a Delaying Event prevents either Party from performing a measured activity, then such measured activity shall be excluded from the performance indicator(s).

(D)6.9 Records Retention for Service Performance Indicators

USW shall maintain complete and accurate records, for the specified review period of its performance under this Agreement for each measured activity. USW shall provide such records to RESELLER in a self-reporting format. Such records shall be in the format kept in USW's ordinary course of business. The Parties agree that such records shall be deemed "Confidential Information."

(D)6.10 Joint Defense and Advocacy

The Parties shall jointly and separately advocate and defend the sufficiency of this Agreement in addressing the nondiscrimination requirements of the Act and wholesale services performance measurements reporting rights, remedies and related terms and conditions in any forum in which its sufficiency might be challenged.

(D)6.11 Cost Recovery

Each Party reserves the right to recover the costs associated with the creation of the above measures, indicators, and reports through a future proceeding before a regulatory body. Such a proceeding may address a wide range of implementation costs not otherwise recovered through charges established herein.

PART E - ARIZONA RATES
LOCAL EXCHANGE SERVICES RESALE OF SERVICES

The Parties agree the following charges apply to the Resale of Local Services:

1. Nonrecurring Charges.

- a. Customer Transfer Charge (CTC): The following nonrecurring charges apply when converting a USW account to a RESELLER account or when changing an end user from one reseller to another.

<u>Category of Service</u>	<u>Per Line Nonrecurring Charge</u>
• Residence	\$5.00
• Business	\$5.00
• ISDN	\$5.00
• Private Line Transport	
First Circuit	\$ 45.08
Additional Circuit, Same CSR	\$ 31.19
• Advanced Comm. Svc., per Circuit	\$ 50.48

- b. Product Specific Nonrecurring Charge: As set forth in USW tariffs, the product specific nonrecurring charges, discounted by 18%, will apply when additional lines or trunks are added or when the end user adds features or services to existing lines or trunks.

2. Basic Residential Line service 12%, Basic Business Line Service 18%. Except as qualified below, all other USW telecommunications services shall be available for resale at an 18% discount.

- a. The following services are not available for resale:

- Customer Premises Equipment (separately or in a package)
- Enhanced Services
- Inside Wire (including installation, sale or maintenance)
- USW Calling Card
- Concession Service
- Promotions of less than 90 days

- b. The following services are available only to the same class of customer eligible to purchase that service from USW:

- Grandfathered
- Residence
- Lifeline/Link-up

- c. The following services are available for resale under this Agreement but are not included in the wholesale pricing reflected above:

- Private Line Used For Special Access
- Public Access Lines
- DSL Services such as Megabit Services

d. IntraLATA Toll Charges: RESELLER shall have their choice of obtaining USW provided intraLATA toll for resale at an 18% discount or, in Arizona, providing their own IntraLATA toll, or obtaining their IntraLATA toll from a third party.

3. Daily Usage Record File: Recurring Charge - \$.0011 per record.

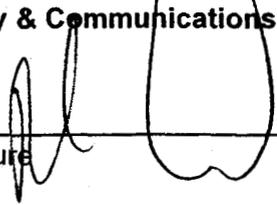
PART F - SIGNATURE

Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

essential.com, inc.
(d.b.a. essential.com, inc. - Your
Energy & Communications Superstore)



Signature

Akhil Garland
Name Printed/Typed

CEO
Title

25 JAN 2000
Date

U S WEST Communications, Inc.



Signature

Katherine L. Fleming
Name Printed/Typed

Vice President - Interconnection
Title

01-28-00
Date

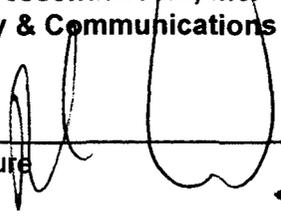
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essential.com, inc.
(d.b.a. essential.com, inc. - Your
Energy & Communications Superstore)



Signature

Akhil Garland
Name Printed/Typed

CEO
Title

25 JAN 2000
Date

U S WEST Communications, Inc.



Signature

Katherine L. Fleming
Name Printed/Typed

Vice President - Interconnection
Title

01-28-00
Date

ATTACHMENT E

Essential has proven its ability to obtain and maintain significant bank and vendor lines of credit as well as strategic alliances with other parties.

More specifically, the following demonstrates the financial viability of Essential. Essential has respectively obtained: (a) a \$4,000,000 line of credit (subordinated debt funding) from Comdisco Ventures in 1999, a division of Comdisco, Inc. that has committed over \$1.5 billion in capital to more than 600 venture backed start-up companies; (b) approximately \$15,000,000 of equity funding from Brand Equity Ventures, Bessemer Venture Partners, EnerTech Capital Partners and others, also in 1999; and approximately \$75,000,000 of equity funding (Series C Preferred Stock offering, February, 2000) from several financial institutions including those already mentioned and, among others, Amerindo Investment Advisors ("Amerindo"). Brand Equity Ventures is a venture capital fund that focuses exclusively on financing high-growth consumer businesses, having backed successful companies that include Cyberian Outpost, Gymboree, and OfficeMax. Bessemer Venture Partners is one of North America's oldest venture capital firms and an early investor in the Internet with such investments as eToys, VeriSign, BabyCenter, and MindSpring, among others. EnerTech Capital Partners is a private equity partnership providing financing and strategic value to service and technology companies in the deregulating utility and telecommunications marketplace. Amerindo is a leading technology investor. These significant financial establishments are also major shareholders in Essential.

While Essential, as an entrepreneurial start-up is not a subsidiary of an existing public company, these facts set forth herein show that Essential has the requisite financial strength and resources to operate as a telecommunications services provider in the State of Arizona. Essential's financial statements are set forth as part of this Attachment D.



Financial Statements

December 31, 1998

(Audited)

and

September 1999

(Unaudited – for management purposes only)

Essential.com
Financial Statements
December 31, 1998
(Audited)
and
September 1999
(Unaudited – For Management Purposes Only)

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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To the Board of Directors and Stockholders of
essential.com, inc.:

We have audited the accompanying balance sheet of essential.com, inc. (a Delaware corporation) as of December 31, 1998, and the related statements of operations, changes in redeemable convertible preferred stock and stockholders' deficit, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of essential.com, inc. as of December 31, 1998, and the results of its operations and its cash flows for the year then ended, in conformity with generally accepted accounting principles.

Arthur Andersen LLP

Boston, Massachusetts
August 3, 1999

ESSENTIAL.COM, INC.

BALANCE SHEETS

	December 31, 1998	September 30, 1999 (Unaudited)
ASSETS		
Current assets:		
Cash and cash equivalents.....	\$ 14,119	\$ 9,821,656
Accounts receivable, net of reserves of approximately \$26,000 and \$31,000 in 1998 and 1999, respectively.....	21,117	64,498
Prepaid expenses and other current assets.....	<u>1,543</u>	<u>7,263</u>
Total current assets.....	36,779	9,893,417
Property and equipment, at cost:		
Computer and office equipment.....	115,060	679,964
Furniture, fixtures and automobiles.....	<u>19,237</u>	<u>15,541</u>
Total property and equipment.....	134,297	695,505
Less—accumulated depreciation.....	<u>37,828</u>	<u>169,564</u>
Total net property and equipment.....	96,469	525,941
Intangible assets, net of accumulated amortization of \$3,900 in 1999.....	—	336,651
Other Assets.....	9,580	51,325
Deferred financing costs.....	—	<u>375,065</u>
Total assets.....	<u>\$ 142,828</u>	<u>\$ 11,182,399</u>
LIABILITIES, REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Notes payable to related party.....	\$ 248,560	\$ —
Advance on convertible notes payable.....	20,000	—
Current portion of deferred payments.....	33,702	360,153
Accounts payable.....	207,679	695,481
Accrued payroll and related costs.....	129,356	223,359
Accrued other expenses.....	<u>32,211</u>	<u>451,991</u>
Total current liabilities.....	<u>671,508</u>	<u>1,730,984</u>
Deferred payments, net of current portion.....	<u>40,154</u>	—
Commitments (Note L)		
Redeemable Convertible Preferred Stock:		
Series A redeemable convertible preferred stock, \$.01 par value		
Authorized—2,830,726 shares in 1999, issued and outstanding—2,830,726 shares in 1999 stated at redemption value, net of unaccrued expenses.....	—	2,839,142
Series B redeemable convertible preferred stock, \$.01 par value		
Authorized—6,606,867 shares in 1999, issued and outstanding—6,332,125 shares in	—	12,193,622
Stockholders' deficit:		
Common stock, \$.01 par value—authorized—19,166,451 shares, issued and outstanding—5,233,897 and 4,482,802 shares in 1998 and 1999, respectively.....	52,339	44,828
Additional paid-in capital.....	16,408	489,975
Warrants.....	—	327,065
Deferred compensation.....	—	(451,907)
Accumulated deficit.....	<u>(637,581)</u>	<u>(5,991,310)</u>
Total stockholders' deficit.....	<u>(568,834)</u>	<u>(5,581,349)</u>
Total liabilities, redeemable convertible, preferred stock and stockholders' deficit.....	<u>\$ 142,828</u>	<u>\$ 11,182,399</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.
STATEMENTS OF OPERATIONS

	Year Ended December 31, 1998	Nine Months Ended September 30, 1999 (Unaudited)	Three Months Ended September 30, 1999 (Unaudited)
Revenue.....	\$ 141,549	\$ 165,210	\$ 79,212
Cost of revenue	<u>165,691</u>	<u>184,208</u>	<u>86,692</u>
Gross loss	(24,142)	(18,998)	(7,480)
Operating expenses:			
Research and development	71,459	1,023,908	492,454
General and administrative	338,299	1,805,525	1,129,842
Selling and marketing	133,045	1,696,024	1,302,603
Customer service	<u>—</u>	<u>526,045</u>	<u>313,197</u>
Total operating expenses	<u>542,803</u>	<u>5,051,502</u>	<u>3,238,096</u>
Loss from operations	(566,945)	(5,070,500)	(3,245,576)
Interest and other income	—	122,087	79,080
Interest expense	<u>17,336</u>	<u>147,549</u>	<u>9,926</u>
Net loss.....	(584,281)	(5,095,962)	(3,176,422)
Preferred stock dividends and accretion.....	<u>—</u>	<u>257,767</u>	<u>240,565</u>
Net loss attributable to common stockholders	<u>\$ (584,281)</u>	<u>\$ (5,353,729)</u>	<u>\$ (3,380,987)</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.

STATEMENTS OF CHANGES IN REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT
FOR THE YEAR ENDED DECEMBER 31, 1998 AND
THE NINE-MONTH PERIOD ENDED SEPTEMBER 30, 1999

	Series A Redeemable Convertible Preferred Stock		Series B Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Warrants	Deferred Compensation	Accumulate d Deficit	Total Stockholders' Deficit
	Number of Shares	Amount	Number of Shares	Amount	Number of Shares	\$.01 Par Value					
BALANCE, DECEMBER 31, 1997	-	\$-	-	\$-	4,194,287	\$41,943	\$(4,977)	\$-	\$-	\$(53,300)	\$(16,334)
Issuance of common stock					1,039,610	10,396	21,385				31,781
Net loss	=	=	=	=	=	=	=	=	=	(584,281)	(584,281)
BALANCE, DECEMBER 31, 1998	-	-	-	-	5,233,897	52,339	16,408	-	-	(637,581)	(568,834)
Exercise of common stock options					28,612	286	592				878
Repurchase of common stock					(779,707)	(7,797)	(16,039)				(23,836)
Deferred compensation on options granted to consultants							489,014		(489,014)		
Amortization of deferred compensation									37,107		37,107
Issuance of Series A redeemable convertible preferred stock, net of issuance costs of \$98,697	2,096,410	1,997,713	-	-							
Conversion of notes to Series A preferred stock	734,316	734,316	-	-							
Issuance of Series B redeemable convertible preferred stock, net of issuance costs of \$57,032	-	-	6,332,125	12,042,968							
Accretion of redeemable convertible preferred stock to liquidation value	-	107,113	-	150,654						(257,767)	(257,767)
Warrants granted in connection with subordinated loan								327,065			327,06
Net loss	=	=	=	=	=	=	=	=	=	(5,095,962)	(5,095,962)
BALANCE, SEPTEMBER 30, 1999 (UNAUDITED)	<u>2,830,726</u>	<u>\$2,839,142</u>	<u>6,332,125</u>	<u>\$12,193,622</u>	<u>4,482,802</u>	<u>\$44,828</u>	<u>\$489,975</u>	<u>\$327,065</u>	<u>\$(451,907)</u>	<u>\$(5,991,310)</u>	<u>\$(5,581,346)</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.
STATEMENTS OF CASH FLOWS

	Year Ended December 31, 1998	Nine Months Ended September 30, 1999 (Unaudited)
Cash flows from operating activities:		
Net loss	\$ (584,281)	\$ (5,095,962)
Adjustments to reconcile net loss to net cash used in operating activities:		
Interest expense convertible notes	—	119,316
Depreciation and amortization	31,807	164,202
Amortization of deferred compensation	—	37,107
(Gain) loss from disposal of assets	(651)	9,787
Changes in assets and liabilities:		
Accounts receivable	(21,117)	(43,381)
Prepaid expenses and other current assets	(493)	(5,720)
Accounts payable	169,607	487,802
Accrued expenses	<u>153,004</u>	<u>513,783</u>
Net cash used in operating activities	<u>(252,124)</u>	<u>(3,813,066)</u>
Cash flows from investing activities:		
Purchases of property and equipment	(84,609)	(599,561)
Proceeds from sale of equipment	8,184	—
Increase in other assets	<u>(4,155)</u>	<u>(41,745)</u>
Net cash used in investing activities	<u>(80,580)</u>	<u>(641,306)</u>
Cash flows from financing activities:		
Proceeds from (payments on) notes payable to related party	224,760	(248,560)
Repurchase of common stock	—	(23,836)
Proceeds from advances on and issuance of convertible notes payable	20,000	690,000
Deferred financing costs	—	(48,000)
Proceeds from (payments on) deferred payments	64,715	(54,254)
Net proceeds from issuance of redeemable convertible preferred stock	—	14,040,681
Repayment of convertible notes payable	—	(95,000)
Proceeds from issuance of common stock	<u>31,781</u>	<u>878</u>
Net cash provided by financing activities	<u>341,256</u>	<u>14,261,909</u>
Net increase in cash and cash equivalents	8,552	9,807,537
Cash and cash equivalents beginning of period	<u>5,567</u>	<u>14,119</u>
Cash and cash equivalents end of period	<u>\$ 14,119</u>	<u>\$ 9,821,656</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	<u>\$ 289</u>	<u>\$ —</u>
Supplemental disclosure of noncash information:		
Accretion of preferred stock dividends	<u>\$ —</u>	<u>\$ 257,767</u>
Conversion of notes payable and accrued interest to preferred stock	<u>\$ —</u>	<u>\$ 734,516</u>
Acquisition of customers	<u>\$ —</u>	<u>\$ 340,560</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

A. Organization

essential.com, inc. (essential or the Company) is a web-based reseller of various services including electricity, Internet access and phone services to small businesses and residential customers in the northeastern U.S.

The Company is devoting substantially all of its efforts towards the acquisition of new customers, development of its web site and identification of new services to be offered. The Company is subject to a number of risks similar to those of other early stage enterprises. Principal risks to the Company include the need to obtain adequate financing to fund future operations, dependence on key individuals, requirement to obtain regulatory approval, and reliance on successful marketing of services to provide profitable operations.

B. Summary of Significant Accounting Policies

The accompanying financial statements reflect the application of certain significant accounting policies, as described below and elsewhere in the accompanying notes to financial statements.

Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Interim Financial Statements

The accompanying balance sheet as of September 30, 1999, the statements of operations for the three- and nine-month periods ended September 30, 1999 and the statements of cash flows and changes in redeemable convertible preferred stock and stockholders' deficit for the nine months ended September 30, 1999 are unaudited, but, in the opinion of management, include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of results for these interim periods. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been omitted, although the Company believes that the disclosures included are adequate to make the information presented not misleading. The results of operations for the nine months ended September 30, 1999 are not necessarily indicative of the results to be expected for the entire fiscal year.

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

B. Summary of Significant Accounting Policies (continued)

Cash Equivalents

The Company considers all time deposits and short-term investments with original maturities of 90 days or less to be cash equivalents. At September 30, 1999, the Company's cash equivalents are comprised of money market mutual funds and are stated at cost, which approximates market.

Revenue Recognition

The Company generates revenue principally from the resale of services including Internet access and phone services to residential and small business customers. Revenue is recognized as the services are performed.

Fair Value of Financial Instruments

The Company's financial instruments consist mainly of cash, accounts receivable, accounts payable and notes payable. The carrying amounts of the Company's financial instruments approximate their fair values.

Concentration of Credit Risk

Statement of Financial Accounting Standards (SFAS) No. 105, Disclosure of Information About Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk, requires disclosure of any significant off-balance-sheet and credit risk concentrations. Financial instruments that subject the Company to credit risk consist primarily of accounts receivable; however, risk is limited to customers to whom the Company makes significant sales. The Company maintains an allowance for potential credit losses, but historically has not experienced any significant losses related to individual customers or groups of customers in any particular industry or geographic area. There are no customers representing greater than 10% of total revenues during 1998 or the nine months ended September 30, 1999. One customer represents greater than 10% of accounts receivable at December 31, 1998 and September 30, 1999.

Other Assets

Other assets consist primarily of security deposits at December 31, 1998 and September 30, 1999.

Advertising Costs

The Company expenses advertising costs as incurred.

Property and Equipment

Property and equipment is recorded at cost. The Company provides for depreciation using the straight-line method over the estimated useful lives, as follows:

Asset Classification	Estimated Useful Life
Computer and office equipment	3-5 years
Furniture, fixtures and automobiles	5 years

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

B. Summary of Significant Accounting Policies (continued)

Comprehensive Loss

Comprehensive loss includes net loss as well as other changes in the equity of a business enterprise during a period from transactions and other events and circumstances from nonowner sources. The Company's comprehensive loss is equal to net loss for the periods presented.

Long Lived Assets

The Company's long lived assets consist of property and equipment and intangibles assets. The Company has assessed the realizability of these assets and believes that there is no material impairment of these assets to date.

Deferred Financing Costs

Deferred financing costs represents the expenses incurred obtaining the subordinated loan discussed in Note H. These costs are being amortized over the life of the related loan commitment.

C. Income Taxes

The Company accounts for income taxes in accordance with SFAS No. 109, Accounting for Income Taxes. Under the liability method specified by SFAS No. 109, a deferred tax asset or liability is determined based on the difference between the financial statement and tax bases of assets and liabilities, as measured by currently enacted tax rates.

There are no significant differences between financial statement and tax bases of assets and liabilities as of December 31, 1998. As of December 31, 1998, the Company had net operating loss carryforwards available to offset future taxable income, if any, of approximately \$600,000. The Company has established a valuation allowance of approximately \$250,000 to offset its deferred tax asset as its future realizability is uncertain. The Internal Revenue Code contains provisions that limit the use of loss and tax credit carryforwards in the event of certain changes in the ownership, as defined. These carryforwards expire through 2018 and are subject to review and possible adjustment by the Internal Revenue Service.

D. Intangible Assets

In August and September 1999, the Company acquired the performance obligations related to two customer lists for \$223,554 and \$117,006, respectively. Under the terms of the agreements, the Company is required to pay for the customer lists in three installments through January 2000. At September 30, 1999, there was \$258,541 still payable under these agreements, which is included in deferred payments. The Company has recorded the value of these customer lists as an intangible asset and is amortizing them over 24 months, the estimated useful life of the asset.

E. Deferred Payments

During 1998 and 1999, the Company acquired certain equipment under an arrangement for deferred payments arrangement. These are payable in monthly installments of \$13,390 through May 2000. At December 31, 1998, and September 30, 1999, the outstanding principal balances

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

E. **Deferred Payments (continued)**

were \$73,856 and \$101,612, respectively. As of September 30, 1999, this balance, in addition to the amount discussed in Note D, was included in deferred payments in the accompanying balance sheet.

F. **Notes Payable to a Related Party**

At December 31, 1998, the Company had a demand note payable to a related party totaling \$248,560, of which \$224,760 and \$23,800 were borrowed in 1998 and 1997, respectively. Interest accrues at 10% and totaled \$17,297 and \$16,992 during the year ended December 31, 1998 and the nine months ended September 30, 1999, respectively, and is included in interest expense in the accompanying statement of operations and as an accrued expense in the balance sheet at December 31, 1998. Borrowings were secured by substantially all assets of the Company. This demand note payable was repaid in August 1999.

G. **Convertible Promissory Notes**

In January 1999, the Company issued an aggregate of \$710,000 of Convertible Promissory Notes (the Notes) that accrued interest at a rate of 5% per annum. The Notes were convertible at the option of the noteholder, upon the Company receiving additional financing of at least \$3,000,000 on or before June 30, 1999. The conversion price of the Notes was equal to 85% of the per share price of the subsequent financing. In May and June 1999, the Company converted \$615,000 of these Notes plus accrued interest into 734,316 shares of Series A convertible preferred stock. The remaining \$95,000 plus accrued interest was repaid. In December 1998, the Company had received an advance of \$20,000 towards the purchase of the Notes. In connection with the conversion of the Notes, the Company recorded \$110,150 of interest expense in 1999 as a result of the discounted conversion rate.

H. **Subordinated Loan**

On September 24, 1999, the Company entered into an agreement with a financing Company that provides for a \$4 million subordinated loan and a \$1 million equipment lease line. The subordinated loan bears interest at 10% and is secured by substantially all of the assets of the Company. The subordinated loan provides for borrowings in \$250,000 increments over a 12-month period. The loan requires interest for the first six months followed by 30 equal installments of principal and interest. As of September 30, 1999, there were no borrowings outstanding under this arrangement.

In connection with this financing, the Company issued warrants for the purchase of 274,741 shares of Series B redeemable convertible preferred stock at an exercise price of \$1.91 per share, subject to certain defined adjustments. The warrants expire in seven years or three years from the effective date of the Company's initial public offering, whichever is earlier. The Company has valued these warrants, using the Black-Scholes option pricing model, at \$327,065 and has recorded the value of the warrants as a deferred financing cost, which will be amortized as interest expense over the life of the commitment.

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

I. Stockholders' Deficit

Common Stock

The Company is authorized to issue 19,166,451 shares of common stock. During 1997, the Company issued 4,194,287 shares of common stock to the Company's founders. During 1998, the Company issued 1,039,610 shares of restricted stock to an officer of the Company at \$.03 per share through the issuance of a promissory note for \$31,781. This promissory note was repaid in November 1998. On March 17, 1999, the Company repurchased and returned to authorized status 779,707 shares of this restricted common stock for \$23,836.

Stock Splits and Dividends

In October 1998, the Company was reorganized as a Delaware corporation. In connection with this reorganization, the Company exchanged 10,000 shares of common stock for every share outstanding. In March 1999, the Company issued a stock dividend of .79 share for every one share of common stock that was issued and outstanding at that date. Additionally, in July 1999, the Company effected a stock split of 2 shares for every one share of the Company's outstanding common stock. The above transactions have been reflected retroactively for all periods presented in the accompanying financial statements.

J. Redeemable convertible Preferred Stock

During 1999, the Company issued 2,830,726 shares of Series A redeemable convertible preferred stock (Series A Preferred Stock), \$0.01 par value resulting in gross proceeds of approximately \$2,096,000 and the conversion of \$615,000 notes payable (see Note 7).

During the third quarter of 1999, the Company sold 6,332,125 shares of Series B redeemable convertible preferred stock (Series B Preferred Stock), \$0.01 par value per share, resulting in gross proceeds to the Company of approximately \$12,100,000.

The rights and preferences of the Series A and B Preferred Stock are as follows:

Voting

Each share of Series A and B Preferred Stock is entitled to voting rights equivalent to the number of shares of common stock into which each share can be converted into.

Conversion

Series A and B Preferred stock is convertible at the option of the stockholder into two and one shares, respectively, of common stock, subject to certain antidilutive adjustments. Conversion is automatic upon the closing of a public offering of the Company's common stock at a price per share of not less than \$1.25 per share, for Series A Preferred Stock, (adjusted for any stock dividend or stock splits) and aggregate gross proceeds of not less than \$15,000,000. Series B Preferred Stock is automatically converted upon (i) the closing of a public offering of the common stock with gross proceeds of at least \$20,000,000 and a pre-money valuation of not less than \$100 million or (ii) the election of the holders of 60% of the then-outstanding shares of Series B preferred stock.

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

J. Redeemable convertible Preferred Stock (continued)

Liquidation

In the event of a liquidation, dissolution or winding up of the Company, the holders of the Series A and B Preferred Stock are entitled to \$1.00 and \$1.91 per share, respectively, plus all accrued but unpaid dividends. In addition, after payment of the liquidation preference described in the preceding sentence, the Series A Preferred Stock is entitled to participate on an as-converted basis with the Common Stock in the remaining assets of the Company, provided that in no event shall a holder of Series A Preferred Stock be entitled to receive more than three times the liquidation preference for each share of Series A Preferred Stock.

Dividend

The Series A and B Preferred Stock each earn cumulative dividends of 8% annually. Dividends are payable in the event of a liquidation of the Company, as defined, or at the discretion of the Board of Directors. Additionally, the preferred stockholders are entitled to receive dividends at the same rate as paid to the common stockholders.

Redemption

The holders of at least a majority of the series A Preferred Stock and the Series B Preferred Stock can demand that the Company redeem its shares for the original purchase price plus any accrued and unpaid dividends thereon. Redemption may be demanded after December 31, 2003 by the holders of the Series A Preferred Stock for the Series A Preferred Stock and after July 31, 2004 by the holders of the Series B Preferred Stock for the Series B Preferred Stock. The Series A preferred stock is redeemable in three equal annual installments. The Series B preferred stock is redeemable in one lump-sum payment.

K. Stock Option Plan

In December 1998, the Company established the 1998 Stock Option and Incentive Plan (the 1998 Plan), which provides for the grant of incentive stock options and nonqualified stock options to purchase up to 2,443,942 shares of the Company's common stock. The Board of Directors has the authority to select the employees and nonemployees to whom options are granted and determine the terms of each option, including (i) the number of shares of common stock subject to the option; (ii) the date on which the option becomes exercisable; and (iii) the option exercise price. Options granted under the 1998 Plan generally vest over four years.

The following is a summary of the stock option activity for the year ended December 31, 1998 and for the nine months ended September 30, 1999:

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

K. Stock Option Plan (continued)

	Number of Shares	Exercise Price per Share	Weighted Average Exercise Price
Granted	<u>523,390</u>	<u>\$.03</u>	<u>\$.03</u>
Outstanding, December 31, 1998	523,390	.03	.03
Granted	848,675	.03-.20	.09
Exercised	(28,612)	(.03)	(.03)
Terminated	<u>(694,418)</u>	<u>(.03-.05)</u>	<u>(.04)</u>
Outstanding, September 30, 1999	<u>649,035</u>	<u>\$.03-.20</u>	<u>\$.11</u>
Exercisable, September 30, 1999	<u>12,260</u>	<u>\$.03</u>	<u>\$.03</u>

As of September 30, 1999, options to purchase 1,766,295 shares of common stock are available for future grant under the 1998 Plan. At September 30, 1999, there were 392,124 shares outstanding at an exercise price of \$0.03 to \$0.05 per share and 256,911 shares outstanding at an exercise price of \$0.19 to \$0.20 per share.

SFAS No. 123, *Accounting for Stock-Based Compensation*, requires the measurement of the fair value of stock options or warrants to be included in the statement of operations or disclosed in the notes to financial statements. The Company has determined that it will account for stock-based compensation for employees under Accounting Principles Board Opinion No. 25 and elect the disclosure-only alternative under SFAS No. 123.

The Company has computed the pro forma disclosures required under SFAS No. 123 for stock options granted during 1998 and 1999 using the Black-Scholes option pricing model prescribed by SFAS No. 123. The assumptions used for 1998 were as follows: (i) risk-free interest rates of 4.65%; (ii) expected life of seven years; (iii) no dividend yield and (iv) no volatility. The assumptions used for 1999 were as follows: (i) risk free interest rates of 4.99% to 6.11%; (ii) expected life of seven years; (iii) no dividend yield and (iv) no volatility. The weighted average remaining contractual life for outstanding options granted during 1998 and 1999 is 9.2 and 9.7 years, respectively. The weighted average fair value at the date of grant for options granted during 1998 and 1999 is \$0.01 and \$0.02 per option, respectively. The total charge to operations under SFAS No. 123 for options vesting during the year ended December 31, 1998 and the nine months ended September 30, 1999 would have been approximately \$215 and \$2,117, respectively.

The effect of applying SFAS No. 123 would have been as follows:

	December 31, 1998	September 30, 1999 (Unaudited)
Net loss—		
As reported	\$ (584,281)	\$ (5,095,962)
Pro forma	(584,496)	(5,098,079)

During 1999, the Company granted 257,511 options to consultants at a weighted average exercise price of \$.15 per share. These options have been valued using the Black-Scholes option

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

K. Stock Option Plan (continued)

pricing model and the Company has recorded deferred compensation of \$489,014. The deferred compensation is being amortized over the vesting periods of the options. During the nine months ended September 30, 1999, the Company recorded \$37,107 of compensation expense.

L. COMMITMENTS

The Company has lease agreements for its facilities and certain equipment, which expire at various dates through 2003. The future minimum lease payments under these leases at December 31, 1998 are as follows:

1999	\$ 171,590
2000	159,395
2001	28,632
2002	28,632
2003	<u>4,772</u>
Total future minimum payments	<u>\$ 393,021</u>

Rent expense for the year ended December 31, 1998 and for the nine months ended September 30, 1999 was approximately \$27,500 and \$101,000, respectively.

COVER SHEET

**ARIZONA CORPORATION COMMISSION
DOCKET CONTROL CENTER**

CASE/COMPANY NAME:

DOCKET NO.

essential.com, inc.

D/B/A or RESPONDENT:

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

- | | | | |
|-------------------------------------|---|--------------------------|---|
| <input checked="" type="checkbox"/> | NEW CC&N | <input type="checkbox"/> | MAIN EXTENSION |
| <input type="checkbox"/> | RATES | <input type="checkbox"/> | CONTRACT/AGREEMENTS |
| <input type="checkbox"/> | INTERIM RATES | <input type="checkbox"/> | COMPLAINT (Formal) |
| <input type="checkbox"/> | CANCELLATION OF CC&N | <input type="checkbox"/> | RULE VARIANCE/WAIVER REQUEST |
| <input type="checkbox"/> | DELETION OF CC&N (TERRITORY) | <input type="checkbox"/> | SITING COMMITTEE CASE |
| <input type="checkbox"/> | EXTENSION OF CC&N (TERRITORY) | <input type="checkbox"/> | SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| <input type="checkbox"/> | TARIFF - NEW (NEXT OPEN MEETING) | <input type="checkbox"/> | SALE OF ASSETS & TRANSFER OF OWNERSHIP |
| <input type="checkbox"/> | REQUEST FOR ARBITRATION
(Telecommunication Act) | <input type="checkbox"/> | SALE OF ASSETS & CANCELLATION OF CC&N |
| <input type="checkbox"/> | FULLY OR PARTIALLY ARBITRATED
INTERCONNECTION AGREEMENT
(Telecom. Act.) | <input type="checkbox"/> | FUEL ADJUSTER/PGA |
| <input type="checkbox"/> | VOLUNTARY INTERCONNECTION
AGREEMENT (Telecom. Act) | <input type="checkbox"/> | MERGER |
| | | <input type="checkbox"/> | FINANCING |
| | | <input type="checkbox"/> | MISCELLANEOUS |
| | | | Specify _____ |

**02 UTILITIES - REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS**

- | | | | |
|--------------------------|------------------|--------------------------|--------------------|
| <input type="checkbox"/> | APPLICATION | <input type="checkbox"/> | TARIFF |
| <input type="checkbox"/> | COMPANY _____ | <input type="checkbox"/> | PROMOTIONAL |
| <input type="checkbox"/> | DOCKET NO. _____ | <input type="checkbox"/> | DECISION NO. _____ |
| | | <input type="checkbox"/> | DOCKET NO. _____ |
| | | <input type="checkbox"/> | COMPLIANCE |
| | | <input type="checkbox"/> | DECISION NO. _____ |
| | | <input type="checkbox"/> | DOCKET NO. _____ |

SECURITIES or MISCELLANEOUS FILINGS

- | | | | |
|--------------------------|---------------------------------|--------------------------|---|
| <input type="checkbox"/> | 04 AFFIDAVIT | <input type="checkbox"/> | 29 STIPULATION |
| <input type="checkbox"/> | 12 EXCEPTIONS | <input type="checkbox"/> | 38 NOTICE OF INTENT
(Only notification of future action/no action necessary) |
| <input type="checkbox"/> | 18 REQUEST FOR INTERVENTION | <input type="checkbox"/> | 43 PETITION |
| <input type="checkbox"/> | 48 REQUEST FOR HEARING | <input type="checkbox"/> | 46 NOTICE OF LIMITED APPEARANCE |
| <input type="checkbox"/> | 24 OPPOSITION | <input type="checkbox"/> | OTHER |
| <input type="checkbox"/> | 50 COMPLIANCE ITEM FOR APPROVAL | <input type="checkbox"/> | 39 Specify _____ |
| <input type="checkbox"/> | 32 TESTIMONY | | |
| <input type="checkbox"/> | 47 COMMENTS | | |

April 5, 2000

Eric J. Krahtwohl, Esquire

Date

Print Name of Applicant/Company/Contact person/Respondent Att. (617) 482-1360

Phone

PLEASE SEE NOTICE ON REVERSE SIDE

FORM B

ARIZONA CORPORATION COMMISSION

Application and Petition for Certificate of Convenience and Necessity to Provide
Intrastate Telecommunication Services as an Interexchange Reseller

Mail original plus 10 copies of completed application to:

For Docket Control Only:
(Please Stamp Here)

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

If you have current applications pending in Arizona as
an Interexchange reseller, AOS provider, or as the
provider of other telecommunication services.

Type of Service: _____

Docket No.: _____ Date: _____

Docket No. _____

Type of Service: _____

Docket No.: _____ Date: _____

Date Docketed _____

A. Company and Telecommunications Service Information

(A-1) The name, address, and telephone number (including area code) of the applicant(company):

essential.com, inc.
Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803
Telephone (781) 229-9599; Fax (781) 229-9499

(A-2) If doing business (dba) under a name other than the applicant (company) name listed above, specify:

Essential.com, Inc. - Your Energy & Communications Superstore

(A-3) The name, address, telephone number, facsimile number and email address of the management contact:
Basil Pallone, Director of Finance/Controller, Treasurer
Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803
Telephone (781) 229-9599; Fax (781) 299-9499; Email bpallone@essential.com

(A-4) The name, address, telephone number, facsimile number and email address of the Attorney, if any, representing the applicant:
Eric J. Krathwohl, Esq.
Rich, May, Bilodeau & Flaherty, P.C., 176 Federal Street, Boston, MA 02110
Telephone (617) 482-1360; Fax (617) 556-3890; Email ekrathwohl@richmaylaw.com

(A-5) What type of legal entity is the applicant?

- Sole proprietorship
- Partnership: ___ limited, ___ general, ___ Arizona, ___ Foreign
- Limited liability company
- Corporation: ___ S, C, ___ non-profit, ___ Arizona, ___ Foreign
- Other, specify:

(A-6) Include Attachment A. Attachment A must list names of all owners, partners, limited liability company managers, or corporation officers and directors (specify), and indicate percentages of ownership.

(A-7) 1. Is your company currently reselling telecommunication services in Arizona? If yes, provide the date or the approximate date that you began reselling service in Arizona.

No.

2. If the answer to 1. is "yes", identify the types of telecommunications services you resell; whether operator services are provided or resold and whether they are provided or resold to traffic aggregators (as defined in A.A.C. Rule R14-2-1001(3), a copy of which is attached); the number of customers in Arizona for each type of service; and the total number of intrastate minutes resold in the latest 12 month period for which data is available. Note: The Commission rules require that a separate CC&N, issued under Article 10, be obtained in order to provide operator services to traffic aggregators.

3. If the answer to 1. is "no", when does your company plan to begin reselling service in Arizona?

by the fourth quarter of 2000

(A-8) Include "Attachment B." Attachment B, your proposed tariff, must include proposed rates and charges for each service to be provided, state the tariff (maximum) rate as well as the price to be charged, and state other terms and conditions, including deposits, that will apply to provision of the service(s) by your company.

The Commission provides pricing flexibility by allowing competitive telecommunications service companies to price their services at levels equal to or below the tariff (maximum) rates. The prices to be charged by the company are filed with the Commission in the form of price lists.

Note: Price list rate changes that result in rates that are lower than the tariff rate are effective upon concurrent notice to the Commission (See Rule R14-2-1109(B)(2)). See Rule R14-2-1110 for procedures to make price list changes that result in rates that are higher than the tariff rate.

(A-9) The geographic market to be served is:

- • • • Statewide Applicant intends to provide interexchange service throughout the entire state of Arizona.
- Other. Describe and provide a map depicting the area.

(A-10) List the states in which you currently resell services similar to those you intend to resell in Arizona.
Massachusetts and New York.

(A-11) Provide the name, address, and telephone number of the company's complaint contact person.

David Wheeler, Vice President, Operations
essential.com, inc., Three Burlington Woods Drive, 4th Floor, Burlington, MA 01803
Telephone (781)229-9599; Fax (781) 229-9499; Email dwheeler@essential.com

(A-12) Provide a list of states in which you have sought authority to resell telecommunications services and in which the state granted the authority with major changes and conditions or did not grant your application for those services. For each state listed, provide a copy of the Commission's decision modifying or denying your application for authority to provide telecommunications services.

None.

(A-13) Has the company been granted authority to provide or resell telecommunications services in any state where subsequently the authority was revoked? If yes, provide copies of the State Regulatory Commission's decision revoking its authority.

None.

(A-14) Has the company been or is the company currently involved in any formal complaint proceedings before any State or Federal Regulatory Commission? If yes, in which states is the company involved in proceedings and what is the substance of these complaints. Also, provide copies of Commission orders that have resolved any of these complaints

No.

(A-15) Has the applicant been involved in any civil or criminal investigations related to the delivery of telecommunications services within the last five years? If yes, in which states has the applicant been involved in investigations and why is the applicant being investigated?

No.

(A-16) Has the applicant had judgment entered against it in any civil matter or been convicted of criminal acts related to the delivery of telecommunications services within the last five years? If yes, list the states where judgment or conviction was entered and provide a copy of the court order.

No.

B. Technical Information

(B-1) If your company is a switchless reseller, provide the name of the company or companies whose services you resell and skip to question (B-2). If you are not a switchless reseller, complete the remainder of this section.

Applicant resells the interexchange services of MCI WorldCom and Qwest.

Include Attachment C. Attachment C should provide the following information: A diagram of the applicant's basic call network used to complete Arizona intrastate telecommunications traffic. This diagram should show how a typical call is routed in both its originating and terminating ends (i.e. show the access network and call completion network).

Also include on the diagram the carrier(s) used for each major network component and indicate if the carrier is facilities-based or not. If the carrier is not facilities-based, indicate who owns the facilities (within the State of Arizona) that are used to originate and terminate the applicant's intrastate

telecommunications traffic (i.e. provide a list of the Arizona facilities-based long distance carriers whose facilities are used to complete the applicant's intrastate traffic).

(B-2) Will your customers be able to access alternative toll service providers or resellers via 1+ or 101XXXX access, if your system becomes non-operational?

Yes.

C. Financial Information

(C-1) Include Attachment D, Attachment D **must** include a copy of your Company's balance sheet, income statement, audit report (if audited) and all related notes to these financial statements for the two most recent years your Company has been in business.

(C-2) If your Company does not have financial statements for the two most recent years, please give the date your Company began operations.

October 30, 1998

(C-3) If the balance sheets you submit do not have retained earnings accounts, please provide this account information on a separate sheet.

(C-4) If your Company is a subsidiary, please provide your Parent Company's financial statements, in addition to your Company's financial statements.

The Applicant is not a subsidiary of any company.

(C-5) If your Company intends to rely on the financial resources of its Parent Company, please provide a written statement from your Parent Company attesting that it will provide complete financial backing if your Company experiences a net loss or a business failure and that it will guarantee re-payment of customers' advances, prepayments or deposits held by your Company if, for some reason, your Company cannot provide service or repay the deposits.

(C-6) Will your customers be required to (or have the option to) pay advances, prepayments, or deposits for any of your products or services.

YES (If yes, provide an explanation of how and when these customer advances prepayments or deposits will be applied or reference the terms and conditions section of your Company's tariffs with this explanation. If this information is not explained in the tariff of this application, please provide it on a separate sheet.)

NO (Note: If at a later date, your Company decides it wants to offer or require customer advances, prepayments or deposits, it must submit financial statements as part of the tariff amendment process.)

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona State Law including the Arizona Corporation Commission Rules and Regulations. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

Basil Pallone
(Signature of Authorized Representative)

1/20/00
(Date)

Basil Pallone
(Print Name of Authorized Representative)

Director of Finance/Controller, Treasurer
(Title)

SUBSCRIBED AND SWORN to before me this 20th day of January, 192000

Mary J. Seldin
NOTARY PUBLIC

My Commission Expires 8/04/06

ATTACHMENT A

List of Corporation Officers and Directors

Biographies of Management

Mr. Akhil Garland, Chairman and CEO

Mr. Garland has managed MIS departments for the State of Massachusetts and an international health care company. He is an entrepreneur, having founded and sold a multimedia company. Mr. Garland brings to Essential a long-range vision as well as a capacity to manage growth through innovative and leading edge information systems. He earned a B.A. in Computer Science and Mathematics from Connecticut College.

Mr. John Duffy, Senior Vice President, Business Development

Mr. Duffy comes to Essential from Metromedia International Telecommunications where he served as Vice President of Paging Operations. In that capacity, he managed 13 paging joint ventures located in Eastern Europe, Russia, and Central Asia. Mr. Duffy was directly involved in strategic relationships between Metromedia and vendors, including Motorola, NEC, and Philips. Previously, he was with Metrocall, Inc. for five years in several senior management positions, including Director of Carrier Relations, where he oversaw the ongoing relationship between large carriers and resellers throughout the country. Mr. Duffy holds a B.A. in Economics from LaSalle University.

Ms. Libby Curtis, Director of Web Development

Prior to joining Essential, Libby Curtis was Director, Web Development for Cendant Corporation, where she managed a sixteen-person web development group. Ms. Curtis managed the development of several complex sites including Ramada, Days Inn, and Century 21. Prior to Cendant, Ms. Curtis was Human Factors Designer for The NetMarket Company where she designed and integrated user interfaces for several web projects including NetMarket, an on-line shopping service. Ms. Curtis received her BS in Marketing from Plymouth State College.

Mr. Ivar Wold, Senior Vice President and Chief Technology Officer

Mr. Wold brings over 30 years of experience in engineering, and is one of the Web's leading innovators in eCommerce technology. Prior to joining Essential, Mr. Wold was a Senior Vice President at Fidelity Investments Retail Electronic Commerce where he was responsible for the Architecture and Development of Fidelity's Retail Online products. Fidelity's retail Website is one of the busiest in the financial services industry, with more than 2.5 million on-line accounts. Earlier in his career, Mr. Wold worked at leading corporations, such as Inprise (previously Borland International), Lotus Development and Microsoft. He also held senior positions at Analog Devices. Mr. Wold received a B.Sc (Eng) in Aeronautics and Astronautics from Southampton University in England where he graduated with First Class Honors. He is the holder of multiple patents, and his inventions have been manufactured and sold commercially around the world.

Mr. Basil Pallone, Director of Finance and Controller, Treasurer

Mr. Pallone has 19 years of financial experience in a diverse group of energy related companies, including start up ventures and publicly held electric utilities. Before joining Essential, Mr. Pallone was CFO of Energy Vision, a start up retail marketer of energy and energy services which was acquired by Williams Energy. Prior to Energy Vision, he served as Executive Vice President for EUA Cogenex Corporation, a \$75 million revenue energy management company. Mr. Pallone also spent three years as Assistant Treasurer at Eastern Utilities Associates where he was in charge of preparing annual and quarterly reports to shareholders and SEC filings. Mr. Pallone spent the first ten years of his career in various financial positions at Boston Edison Company.

Mr. Patrick Moran, Vice President, Secretary

Mr. Moran earned a B.S. in Mass Communications from Emerson College, where he focussed on media communications and computer technologies. He has been involved in entrepreneurial activities since graduating from Emerson and is currently responsible for back office administration at Essential.

Mr. Ronan Winter, Vice President, Strategic Marketing Alliances

Mr. Winter was formerly Director of Business Development for Lycos, Inc., where he was responsible for the creation for many e-commerce partnerships. During his tenure from 1997 through 1999, Mr. Winter negotiated sixteen strategic alliances approved at a CEO and Board level, resulting in significant recurring annual revenue. Prior to joining Lycos, Mr. Winter served as Manager, Business Development with iChat from 1996 to 1997, providing communication software to the Internet community. Mr. Winter holds an impressive 10-year track record in business development and sales and marketing with previous employers such as IBM, 1989-91 and Stream International, 1991-96. A graduate of Trinity College, Dublin, Ireland, Mr. Winter was professionally trained in sales and marketing management by The Chartered Institute of Marketing, London.

Mr. David Wheeler, Vice President, Operations

Mr. Wheeler serves as Essential's Vice President of Operations. Mr. Wheeler has over 20 years of experience in managing large customer fulfillment and customer service functions. Prior to joining Essential, Mr. Wheeler served as the general manager for Sky Subscriber Services, Ltd., a division of Sky Television, the leading satellite television broadcaster in the U.K. from 1989 to 1998. In this role, he was responsible for the management of over 3.5 million subscribers, collection of revenues exceeding \$1.5 billion, and over 2,500 employees. From 1975 to 1989, Mr. Wheeler was with Book Club Associates in U.K. where he was responsible for the design and implementation of their customer management computer systems and eventually had general management responsibility for all matters relating to customer service.

Mr. Rajan Kulkarni, Chief Architect

Mr. Kulkarni brings 18 years experience in engineering, and is one of the web's leading architects. Prior to joining Essential, Mr. Kulkarni was Principal Technical Architect at Fidelity Investments. Mr. Kulkarni helped build Fidelity.com into one of the most

heavily trafficked sites on the Internet. During his tenure with Fidelity.com, the site generated millions of web transactions and web hits each day. Mr. Kulkarni received his Engineering Degree from Bombay University, India and his postgraduate certificate in software technology from National Center for Software Development, India.

Mr. Christopher Kallaher – Vice President and General Counsel

Christopher Kallaher joined Essential as our Vice President and General Counsel in February, 2000. Mr. Kallaher comes to Essential from Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. where, from 1999 to 2000, he was an associate working on regulatory and corporate matters for various clients in the utility sector. Prior to joining Mintz, Levin, Mr. Kallaher served as senior counsel at the Massachusetts Department of Telecommunications and Energy (DTE) where he presided over major cases in electric utility and telecommunications restructuring. Before the DTE, Mr. Kallaher was an attorney practicing utility law in Wisconsin where he represented a number of investor owned utilities over a nine-year period. Mr. Kallaher holds a J.D. from the University of Wisconsin at Madison and a B.S. in Civil Engineering from Stanford University.

**Officers of
essential.com, inc.**

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Concord, MA 01742

Patrick J. Moran, Vice President, Secretary
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Hopkinton, MA 01748

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ATTACHMENT B

Proposed Tariff

TELECOMMUNICATIONS TARIFF

OF

essential.com, inc

3 Burlington Woods Drive, 4th floor, Burlington Massachusetts 01803

RESALE INTEREXCHANGE TELECOMMUNICATIONS SERVICE

This Tariff contains the descriptions, regulations and rates applicable to the furnishing of telecommunications services provided by essential.com, inc. ("Essential.com") within the State of Arizona. This Tariff is on file with the Arizona Corporation Commission ("Commission"). Copies may be inspected during normal business hours at the Company's principal place of business: 3 Burlington Woods Drive, 4th floor, Burlington Massachusetts 01803

Issued:

Effective Date:

Issued By:

Basil Pallone
Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
Burlington MA 01803
781.229.9599

CHECK SHEET

The Sheets 1 through 33 inclusive of this Tariff are effective as of the date shown at the bottom of the respective sheet(s).

<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>
1	Original	21	Original
2	Original	22	Original
3	Original	23	Original
4	Original	24	Original
5	Original	25	Original
6	Original	26	Original
7	Original	27	Original
8	Original		
9	Original		
10	Original		
11	Original		
12	Original		
13	Original		
14	Original		
15	Original		
16	Original		
17	Original		
18	Original		
19	Original		
20	Original		

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CONCURRING CARRIERS

None

CONNECTING CARRIERS

None

OTHER PARTICIPATING CARRIERS

None

EXPLANATION OF SYMBOLS

- (C) To signify **changed** condition or regulation
- (D) To signify **deleted or discontinued** rate, regulation or condition
- (I) To signify a change resulting in an **increase** to a Customer's bill
- (M) To signify that material has been **moved from** another Tariff location
- (N) To signify a **new** rate, regulation condition or sheet
- (R) To signify a change resulting in a **reduction** to a Customer's bill
- (T) To signify a change in **text** but no change to rate or charge

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TARIFF FORMAT

- A. **Sheet Numbering** - Sheet numbers appear in the heading of each sheet. Sheets are numbered sequentially. However, occasionally, when a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. **Sheet Revision Numbers** - Revision numbers also appear in the upper right corner of each sheet. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the 3rd Revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in its Tariff approval process, the most current sheet number on file with the Commission is not always the sheet in effect. Consult the Check Sheet for the sheet currently in effect.
- C. **Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of code 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).I.
 - 2.1.1.A.1.(a).I.(i).
 - 2.1.1.A.1.(a).I.(i).(1).
- D. **Check Sheets** - When a Tariff filing is made with the Commission, an updated Check Sheet accompanies the Tariff filing. The Check Sheet lists the sheets contained in the Tariff with a cross reference to the current revision number. When new sheets are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc., remains the same, just revised revision levels on some sheets). The Tariff user should refer to the latest Check Sheet to find if a particular sheet is the most current on file with the Commission.

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APPLICATION OF TARIFF

This Tariff contains the rates, terms and conditions applicable to the provision of specialized resold intrastate common carrier telecommunications services by essential.com, inc. between various locations within the State of Arizona.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Account Code:

A numerical code, one or more of which are available to a Customer to enable identification of individual users or groups of users on an account and to allocate costs of service accordingly.

Called Station:

The terminating point of a call (i.e., the called number).

Calling Card:

A card issued by Company containing such account numbers assigned to its Customer which enables the charges for calls made to be properly billed on a pre-arranged basis.

Commission:

Arizona Corporation Commission

Company:

essential.com, inc.

Credit Card:

A valid bank or financial organization card, representing an account to which the costs of products and services purchased by the card holder may be charged for future payment. Such cards include those issued by VISA or MasterCard.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS, Continued

Customer:

The person, firm, corporation or other entity which orders or uses service and is responsible for payment of charges and compliance with tariff regulation.

Debit Card

A valid bank or financial organization card, representing an account from which the costs of products and services purchased by the card holder may be charged.

Dedicated Access:

Non-switched access between a Customer's premises and the point of presence of the Company's underlying carrier.

Disconnect or Disconnection:

The termination of a circuit connection between the originating station and the called station or the Company's operator.

Subscriber:

See "Customer" definition.

Travel Card

See "Calling Card" definition.

"800" Number:

An interexchange service offered pursuant to this tariff for which the called party is assigned a unique 800-NXX-XXXX or 888-NXX-XXXX or 877-NXX-XXXX number, or any other NPA, and is billed for calls terminating at that number.

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SECTION 2 - RULES AND REGULATIONS

2.1. UNDERTAKING OF THE COMPANY

- 2.1.1. Company's services are furnished for telecommunications originating and/or terminating in any area within the State of Arizona.
- 2.1.2. Company is a non-facilities-based provider of resold interexchange telecommunications to Customers for their direct transmission and reception of voice, data, and other types of communications.
- 2.1.3. Company resells access, switching, transport, and termination services provided by interexchange carriers.
- 2.1.4. Subject to availability, the Customer may use account codes to identify the users or user groups on an account. The numerical composition of the codes shall be set by Company to assure compatibility with the Company's accounting and billing systems and to avoid the duplication of codes.
- 2.1.5. The Company's services are provided on a monthly basis unless otherwise provided, and are available twenty-four (24) hours per day, seven (7) days per week.
- 2.1.6. Request for service under this Tariff will authorize the Company to conduct a credit search on the Customer. The Company reserves the right to refuse service on the basis of credit history, and to refuse further service due to late payment or nonpayment by the Customer.

2.2. LIMITATIONS OF SERVICE

- 2.2.1. Service is offered subject to availability of the necessary facilities and/or equipment and subject to the provisions of this Tariff.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.2. LIMITATIONS OF SERVICE, Continued

- 2.2.2. Company reserves the right to immediately disconnect service without incurring liability when necessitated by conditions beyond the Company's control or when the Customer is using the service in violation of either the provisions of this Tariff or the Commission rules.
- 2.2.3. The Company does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission or for failure to establish connections.
- 2.2.4. The Customer obtains no property right or interest in the use of any specific type of facility, service, equipment, telephone number, process or code. All rights, titles and interests remain, at all times, solely with the Company.
- 2.2.5. Prior written permission from the Company is required before any assignment or transfer. All regulations and conditions contained in this Tariff shall apply to all such permitted assignees or transferees, as well as all conditions of service.
- 2.2.6. The Company reserves the right to refuse an application for service by a present or former Customer who is indebted to the Company for service previously rendered pursuant to this Tariff until the indebtedness is satisfied.

2.3. USE

- 2.3.1. Service may be used for the transmission of communications by the Customer for any lawful purpose for which the service is technically suited.
- 2.3.2. Service may not be used for any unlawful purpose or for any purpose for which any payment or other compensation is received by the Customer, except when the Customer is a duly authorized and regulated common carrier. This provision does not prohibit an arrangement between the Customer, authorized user or joint user to share the cost of service.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.3. USE, Continued

2.3.3. Application for service may be made verbally or in writing. The name(s) of the Customer(s) desiring to use the service must be set forth in the application for service. Any references to notice or application by writing shall include electronic communications

2.3.4. The Company strictly prohibits use of the Company's services without payment or an avoidance of payment by the Customer by fraudulent means or devices including providing falsified calling card numbers or invalid calling card numbers to the Company, providing falsified or invalid credit card numbers to the Company or in any way misrepresenting the identity of the Customer.

2.4. LIABILITIES OF THE COMPANY

2.4.1. The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission occurring in the course of furnishing service or other facilities and not caused by the negligence of the Customer, commences upon activation of service and in no event exceeds an amount equivalent to the proportionate charge to the Customer for the period of service during which such mistakes, omissions, interruptions, delays, errors or defects in transmission occur. For the purpose of computing such amount, a month is considered to have thirty (30) days. To the extent permitted by law, the Company will in no event be responsible for any indirect, incidental, consequential, reliance, special, lost revenue, lost savings, lost profits, or exemplary or punitive damages, regardless of the form of action, whether in contract, tort, negligence of any kind whether active or passive, strict liability or otherwise. The terms of this Section shall apply notwithstanding the failure of any exclusive remedy.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

- 2.4.2. Company is not liable for any act or omission of any other company or companies furnishing a portion of the service.
- 2.4.3 Except as expressly warranted in writing by Company, Company makes no warranty or guarantee, express or implied, and Company expressly disclaims any implied warranties of merchantability and fitness for a particular purpose.
- 2.4.4. Company shall be indemnified and held harmless by the Customer against:
- A. Claims for libel, slander, infringement of copyright or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information or other content transmitted over Company's facilities; and
 - B. Claims for patent infringement arising from combining or connecting Company's facilities with apparatus and systems of the Customer; and
 - C. All other claims arising out of any act or omission of the Customer in connection with any service provided by Company.
- 2.4.5. The Company is not liable for any defacement of, or damage to, the equipment or premises of a Customer resulting from the furnishing of services when such defacement or damage is not the result of the Company's negligence.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

- 2.4.6. Company shall not be liable for and the Customer indemnifies and holds harmless from any and all loss claims, demands, suits, or other action or liability whatsoever, whether suffered, made instituted or asserted by the Customer or by any other party or person, for any personal injury to, death of any person or persons, and for any loss, damage, defacement or destruction of the premises of the Customer or any other property, whether owned by the Customer or by others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of equipment or wiring provided by Company where such installation, operation, failure to operate, maintenance, condition, location or use is not the direct result of Company's negligence.
- 2.4.7. No agents or employees of connecting, concurring or other participating carriers or companies shall be deemed to be agents or employees of the Company without written authorization.
- 2.4.8. The Company is not liable for any failure of performance hereunder due to causes beyond its control, including, but not limited to, unavoidable interruption in the working of its circuits or those of another common carrier; acts of nature, storms, fire, floods, or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or any other governmental entity having jurisdiction over the Company or of any department, agency, commission, bureau, corporation, or other instrumentality or any one or more of such instrumentality or any one of more of such governmental entities, or of any civil or military authority; national emergencies, insurrections, riots, rebellions, wars, strikes, lockouts, work stoppages, or other labor difficulties; or notwithstanding anything in this Tariff to the contrary, the unlawful acts of the Company's agents and employees, if committed beyond the scope of their employment.

Issued:

Effective Date:

Issued By:

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Treasurer, Director of Finance & Controller
3 Burlington Woods Drive, 4th floor
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781.229.9599

SECTION 2 - RULES AND REGULATIONS, Continued

2.4. LIABILITIES OF THE COMPANY, Continued

- 2.4.9. The Company shall not be liable for damages or adjustments, refunds, or cancellation of charges unless the Customer has notified the Company of any dispute concerning charges, or the basis of any claim for damages, after the invoice is rendered by the Company for the call giving rise to such dispute or claim, unless ordered by the Commission pursuant to Arizona law. The Company shall not be responsible for claims made outside the 30 day period. Any such notice must set forth sufficient facts to provide the Company with a reasonable basis upon which to evaluate the Customer's claim or demands.
- 2.4.10. The Company shall not be liable for any damages, including usage charges, that the Customer may incur as a result of the unauthorized use of its communications equipment. The unauthorized use of the Customer's communications equipment includes, but is not limited to, the placement of calls from the Customer's premises and the placement of calls through Customer-controlled or Customer-provisioned equipment that are transmitted or carried over the Company's network services without the authorization of the Customer. The Customer shall be fully liable for all such charges.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.5. INDEMNITY**

Subject to the limitations of liability set forth in Section 2.4 hereof, the Company and the Customer shall defend, indemnify, and hold each other harmless from and against any and all claims to the extent that such claims were proximately caused by any negligent or willful act or omission by the party from whom indemnity is sought, or by the agents, employees, subcontractors or assignees of the party from whom indemnity is sought, in connection with use of the Services. The indemnifying party under this Section shall defend the other at the other's request against any such claim. The party seeking indemnification under this Section must notify the other promptly of written claims or demands for which the indemnifying party may be responsible. The Company and the Customer, as the case may be, shall cooperate fully with the other in the course of such indemnification, and the indemnifying party shall control such defense and the right to litigate, settle, appeal, provided it pays the cost of any required appeal bond, compromise or otherwise deals with any such claim or resulting judgment, provided that such settlement, compromise or other resolution of said claim does not result in any liability to the indemnified party.

2.6. FULL FORCE AND EFFECT

Should any provision or portion of this Tariff be held by a court or administrative agency of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this Tariff will remain in full force and effect.

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SECTION 2 - RULES AND REGULATIONS, Continued**2.7. INTERRUPTION OF SERVICE**

2.7.1. Credit for Interruptions: When the use of service or facilities furnished by the Company is interrupted due to any cause other than the negligence or willful act of the Customer, or the operation or failure of the facilities or equipment provided by the Customer, a pro rata adjustment of the monthly Recurring Charges subject to interruption will be allowed for the service and facilities rendered useless and inoperative by reason of the interruption whenever said interruption continues for a period of 24 hours or more from the time the interruption is reported to or known to exist by the Company, except as otherwise specified in the Company's tariffs. If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted. Credit allowance for interruptions of service which are not due to Company's testing or adjusting, to the negligence of the Customer, or to the failure of channels, equipment and/or communications equipment provided by the Customer, are subject to the general liability provisions set forth in Section 2.4., herein. It shall be the obligation of the Customer to notify Company of any interruptions of service. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission of the Customer, not within the Customer's control.

2.7.2. For purposes of credit computation, every month shall be considered to have 720 hours. No credit shall be allowed for an interruption of a continuous duration of less than two hours.

2.7.3. The Customer shall be credited for an interruption of two hours or more at the rate of 1/720th of the monthly recurring charge for each hour or major fraction thereof that the interruption continues.

Credit formula: $\text{Credit} = (A/720) \times B$

A - outage time in hours

B - total monthly charge for affected utility

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SECTION 2 - RULES AND REGULATIONS, Continued

2.8. RESTORATION OF SERVICE

The use and restoration of service in emergencies shall be in accordance with part 64, Subpart D of the Federal Communications Commission's Rules and Regulations which specifies the priority system for such activities.

2.9. MINIMUM SERVICE PERIOD

The minimum service period is one month (30 days).

2.10. PAYMENTS AND BILLING

2.10.1. Charges for service are applied on a recurring basis. Service is provided and billed on a monthly (30 day) basis. The billing date is dependent on the billing cycle assigned to the Customer. Service continues to be provided until canceled by the Customer.

2.10.2. The Customer is responsible in all cases for the payment of all charges for services furnished to the Customer. Charges are based on actual usage, and are billed monthly in arrears. Customer will be billed and is responsible for payment of applicable local, state and federal taxes assessed in connection with the services used. It is contemplated that payment be done electronically, with payment made by means of the Customer's credit card, debit card, or other similar mechanism approved by the Company. In the sole discretion of the Company, payments may be made by check.

2.10.3. Billing is payable upon receipt and past due thirty (30) days after issuance and posting of invoice. Bills not paid within thirty (30) days after the date of posting are subject to a 1.5 percent late payment charge for the unpaid balance, and may be subject to additional collection agency fees.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.10. PAYMENTS AND BILLING, Continued

- 2.10.4. A charge of \$20.00 or five (5) percent of the amount of the check, whichever is greater, will apply whenever a check or draft presented for payment of service is not accepted by the institution on which it is written.
- 2.10.5. Customers should first seek to resolve billing disputes through the Company's website, www.essential.com/, or by email to the address indicated on the Customer's most recent invoice. Additionally, inquiries may be addressed to Company's customer service organization by mail at Three Burlington Woods Drive Burlington, MA 01803-4543, or by telephone to 888.746.4983. Customer service representatives are available to address such inquiries and any inquiries outside of normal business hours will be answered on the next business day. In the event of an emergency which threatens Customer service, the Company will respond as promptly as possible.
- 2.10.6. In the case of a dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled with mutual satisfaction, the Customer can take the following course of action:
- A. First, the Customer may request, and the Company will perform, an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be subject to disconnection.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.10. PAYMENTS AND BILLING, Continued

2.10.6., Continued

- B. Second, if there is still disagreement over the disputed amount after the investigation and review by a manager of the Company, the Customer may appeal to the Arizona Corporation Commission for its investigation and decision.

The address and telephone number of the Commission are:

Arizona Corporation Commission
Consumer Services Section
1200 West Washington Street
Phoenix, Arizona 85007

Telephone number: 602.542.4251
800.222.7000

2.11. CANCELLATION BY CUSTOMER

- 2.11.1. Customer may cancel service by providing written notice to Company thirty (30) days prior to cancellation.
- 2.11.2. Customer is responsible for usage charges while still connected to the Company's service, even if the customer utilizes services rendered after the Customers request for cancellation has been made notice and the payment of associated local exchange company charges, if any, for service charges.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.11. CANCELLATION BY CUSTOMER, Continued

2.11.3. Any cost of Company expenditures shall be borne by the Customer if:

- A. The Customer orders service requiring special facilities dedicated to the Customer's use and then cancels the order before such service begins, before completion of the minimum period or before completion of some period mutually agreed upon with the Customer for the non-recoverable portions of expenditures; or
- B. Liabilities are incurred expressly on behalf of the Customer by Company and not fully reimbursed by installation and monthly charges; and
- C. If based on an order for service and construction has either begun or has been completed, but no service provided.

2.12. CANCELLATION BY COMPANY

2.12.1. Company reserves the right to immediately discontinue furnishing the service to Customers without advance written notice and without incurring liability, in accordance with Arizona Administrative Code ("A.C.C.") Rule R14-2-509(B), Termination of Service Without Notice:

- A. For the existence of an obvious hazard to the safety or health of the consumer or the general population of the Company's personnel or facilities; or
- B. For the Company has evidence of tampering or evidence of fraud.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.12. CANCELLATION BY COMPANY, Continued

2.12.2. Company may discontinue service with five (5) day's written notice in accordance with A.C.C. Rule R14-2-509(C), Termination of Service with Notice:

- A. For Customer violation of any of the Company's tariffs filed with the Commission and/or violation of the Commission's rules and regulations; or
- B. For failure of the customer to provide the Company reasonable access to its equipment and property; or
- C. For Customer breach of contract for service between the Company and Customer; or
- D. When necessary for the Company to comply with an order of any governmental agency having jurisdiction; or
- E. For the unauthorized resale of equipment or service.

2.12.3. The discontinuance of service(s) by the Company pursuant to this section does not relieve the Customer of any obligations to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance. The remedies available to the Company set forth herein shall not be exclusive and the Company shall at all times be entitled to all the rights available to it under law or equity.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.12. CANCELLATION BY COMPANY, Continued

2.12.4. The Company may refuse to permit collect calling, calling card and third-number billing which it determines to be fraudulent and/or may limit the use of these billing options or services.

2.13. INTERCONNECTION

2.13.1. Service furnished by Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating carriers shall be provided at the Customer's expense.

2.13.2. Interconnection between the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided terminal equipment or communications equipment with Company's facilities. The Customer shall secure all licenses, permits, rights-of-way and other such arrangements necessary for interconnection.

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SECTION 2 - RULES AND REGULATIONS, Continued

2.14. CREDIT LIMIT

The Company may, at any time and at its sole discretion, set a credit limit for any Customer's consumption of Services for any monthly period.

2.15. TAXES

The Customer is responsible for payment of all federal, state and local taxes, franchise, excise and other fees applicable to the Services, including, but not limited to: sales, use, excise, franchise, access, universal service, 911 services and handicapped services.

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SECTION 3 - DESCRIPTION OF SERVICE

3.1. TIMING OF CALLS

- 3.1.1. The Customer's long-distance usage charge is based on the actual usage of Company's service. Usage begins when the receiver of the called number is answered. The moment of the called party's answer is determined by hardware supervision in which the local telephone company sends a signal to the underlying carrier's switch or the software utilizing audio tone detection. The timing of the call occurs when the called party answers and terminated when either party hangs up.
- 3.1.2. The minimum call duration for billing purposes for all services is sixty (60) seconds with sixty (60) second billing increments thereafter.
- 3.1.3. Any portion of an applicable increment, after the appropriate minimum time for the call, will be rounded upward to the next increment. Calls less than the minimum length will be rounded to the minimum length.
- 3.1.4. There is no billing for incomplete calls.

3.2. **essential.com COMMUNICATIONS TELECOMMUNICATIONS SERVICES**

- 3.2.1. The rate for Company's service is based on the following factors:
 - A. The duration of the call; and
 - B. The type of service subscribed to.

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SECTION 3 - DESCRIPTION OF SERVICE**3.2. essential.com, inc TELECOMMUNICATIONS SERVICES, Continued**

- 3.2.2. **One Plus Service** is a switched or dedicated access service, offering users outbound "1 plus" long distance telecommunications services from points originating and terminating in the state of Arizona.
- 3.2.3. **800 Service** is a switched or dedicated access service, offering users inbound, toll free "800" number, long distance telecommunications services from points originating and terminating in the state of Arizona. This service enables the caller to contact the Customer without incurring toll charges, through the use of an assigned "800" number. The Customer pays for the call.
- 3.2.4. **Travel Card Service** permits the caller to charge the principal presubscribed location for a call while the caller is away from the principal location. The Customer may place calls from any touch tone phone in the United States by dialing a toll free "800" number and entering a personal identification code, followed by the desired telephone number. Calling card calls are billed at the Applicant's tariffed rates and appear on the Customer's monthly long-distance bill.

3.3. PROMOTIONS

The Company may, from time to time, engage in special promotions of new or existing Service offerings of limited duration designed to attract new Customers or to increase existing Customer awareness of a particular offering. The promotional offerings are subject to the availability of the Services and may be limited to a specific geographical area or to a subset of a specific market group; provided, however, all promotional offerings shall be offered in accordance with applicable Commission rules or regulations.

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PRICE LIST

SECTION 4 - RATES

4.1. SERVICE CHARGES

Monthly service charges per account are based on the following schedules:

4.1.1. Switched Access Service (1 "Plus" and "800")

Initial 60 Seconds	Additional 60 Seconds
\$0.149	\$0.149

4.1.2. Travel Card Service

Initial 60 Seconds	Additional 60 Seconds
\$0.1990	\$0.1990

Surcharge for calls initiated from a pay telephone \$0.30

4.1.3. Individual Case Basis (ICB) Arrangements

Arrangements will be developed on a case-by-case basis in response to a bona fide request from a Customer or prospective Customer to develop a competitive bid for a Service offered under this tariff. Rates quoted in response to such competitive requests may be different than those specified for such Services in this tariff. ICB rates will be offered to the Customer in writing and on a non-discriminatory basis.

4.1.4 Arizona Universal Service Fund Charge

0.001293% (of charges under this tariff)

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ATTACHMENT C

Essential is a non-facilities based switchless reseller, and therefore is not required to provide a network diagram. Essential will resell the services of MCIWorldCom and Qwest in Arizona.

ATTACHMENT D

Essential has proven its ability to obtain and maintain significant bank and vendor lines of credit as well as strategic alliances with other parties.

More specifically, the following demonstrates the financial viability of Essential. Essential has respectively obtained: (a) a \$4,000,000 line of credit (subordinated debt funding) from Comdisco Ventures in 1999, a division of Comdisco, Inc. that has committed over \$1.5 billion in capital to more than 600 venture backed start-up companies; (b) approximately \$15,000,000 of equity funding from Brand Equity Ventures, Bessemer Venture Partners, EnerTech Capital Partners and others, also in 1999; and approximately \$75,000,000 of equity funding (Series C Preferred Stock offering, February, 2000) from several financial institutions including those already mentioned and, among others, Amerindo Investment Advisors ("Amerindo"). Brand Equity Ventures is a venture capital fund that focuses exclusively on financing high-growth consumer businesses, having backed successful companies that include Cyberian Outpost, Gymboree, and OfficeMax. Bessemer Venture Partners is one of North America's oldest venture capital firms and an early investor in the Internet with such investments as eToys, VeriSign, BabyCenter, and MindSpring, among others. EnerTech Capital Partners is a private equity partnership providing financing and strategic value to service and technology companies in the deregulating utility and telecommunications marketplace. Amerindo is a leading technology investor. These significant financial establishments are also major shareholders in Essential.

While Essential, as an entrepreneurial start-up is not a subsidiary of an existing public company, these facts set forth herein show that Essential has the requisite financial strength and resources to operate as a telecommunications services provider in the State of Arizona. Essential's financial statements are set forth as part of this Attachment D.



• Financial Statements

December 31, 1998

(Audited)

and

September 1999

(Unaudited – for management purposes only)

Essential.com
Financial Statements
December 31, 1998
(Audited)
and
September 1999
(Unaudited – For Management Purposes Only)

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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To the Board of Directors and Stockholders of
essential.com, inc.:

We have audited the accompanying balance sheet of essential.com, inc. (a Delaware corporation) as of December 31, 1998, and the related statements of operations, changes in redeemable convertible preferred stock and stockholders' deficit, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of essential.com, inc. as of December 31, 1998, and the results of its operations and its cash flows for the year then ended, in conformity with generally accepted accounting principles.

Arthur Andersen LLP

Boston, Massachusetts
August 3, 1999

ESSENTIAL.COM, INC.

BALANCE SHEETS

	December 31, 1998	September 30, 1999
ASSETS		
Current assets:		
Cash and cash equivalents.....	\$ 14,119	\$ 9,821,656
Accounts receivable, net of reserves of approximately \$26,000 and \$31,000 in 1998 and 1999, respectively.....	21,117	64,498
Prepaid expenses and other current assets.....	<u>1,543</u>	<u>7,263</u>
Total current assets.....	36,779	9,893,417
Property and equipment, at cost:		
Computer and office equipment.....	115,060	679,964
Furniture, fixtures and automobiles.....	<u>19,237</u>	<u>15,541</u>
Total property and equipment.....	134,297	695,505
Less—accumulated depreciation.....	<u>37,828</u>	<u>169,564</u>
Total net property and equipment.....	96,469	525,941
Intangible assets, net of accumulated amortization of \$3,900 in 1999.....	—	336,651
Other Assets.....	9,580	51,325
Deferred financing costs.....	<u>—</u>	<u>375,065</u>
Total assets.....	<u>\$ 142,828</u>	<u>\$ 11,182,399</u>
LIABILITIES, REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Notes payable to related party.....	\$ 248,560	\$ —
Advance on convertible notes payable.....	20,000	—
Current portion of deferred payments.....	33,702	360,153
Accounts payable.....	207,679	695,481
Accrued payroll and related costs.....	129,356	223,359
Accrued other expenses.....	<u>32,211</u>	<u>451,991</u>
Total current liabilities.....	<u>671,508</u>	<u>1,730,984</u>
Deferred payments, net of current portion.....	<u>40,154</u>	<u>—</u>
Commitments (Note L)		
Redeemable Convertible Preferred Stock:		
Series A redeemable convertible preferred stock, \$.01 par value		
Authorized—2,830,726 shares in 1999, issued and outstanding—2,830,726 shares in 1999 stated at redemption value, net of unaccreted expenses.....	—	2,839,142
Series B redeemable convertible preferred stock, \$.01 par value		
Authorized—6,606,867 shares in 1999, issued and outstanding—6,332,125 shares in	—	12,193,622
Stockholders' deficit:		
Common stock, \$.01 par value—authorized—19,166,451 shares, issued and outstanding—5,233,897 and 4,482,802 shares in 1998 and 1999, respectively.....	52,339	44,828
Additional paid-in capital.....	16,408	489,975
Warrants.....	—	327,065
Deferred compensation.....	—	(451,907)
Accumulated deficit.....	<u>(637,581)</u>	<u>(5,991,310)</u>
Total stockholders' deficit.....	<u>(568,834)</u>	<u>(5,581,349)</u>
Total liabilities, redeemable convertible, preferred stock and stockholders' deficit.....	<u>\$ 142,828</u>	<u>\$ 11,182,399</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.
STATEMENTS OF OPERATIONS

	Year Ended December 31, 1998	Nine Months Ended September 30, 1999 (Unaudited)	Three Months Ended September 30, 1999 (Unaudited)
Revenue.....	\$ 141,549	\$ 165,210	\$ 79,212
Cost of revenue	<u>165,691</u>	<u>184,208</u>	<u>86,692</u>
Gross loss	(24,142)	(18,998)	(7,480)
Operating expenses:			
Research and development	71,459	1,023,908	492,454
General and administrative	338,299	1,805,525	1,129,842
Selling and marketing	133,045	1,696,024	1,302,603
Customer service	<u>—</u>	<u>526,045</u>	<u>313,197</u>
Total operating expenses	<u>542,803</u>	<u>5,051,502</u>	<u>3,238,096</u>
Loss from operations	(566,945)	(5,070,500)	(3,245,576)
Interest and other income	—	122,087	79,080
Interest expense	<u>17,336</u>	<u>147,549</u>	<u>9,926</u>
Net loss.....	(584,281)	(5,095,962)	(3,176,422)
Preferred stock dividends and accretion.....	<u>—</u>	<u>257,767</u>	<u>240,565</u>
Net loss attributable to common stockholders	<u>\$ (584,281)</u>	<u>\$ (5,353,729)</u>	<u>\$ (3,380,987)</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.

STATEMENTS OF CHANGES IN REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT

FOR THE YEAR ENDED DECEMBER 31, 1998 AND
THE NINE-MONTH PERIOD ENDED SEPTEMBER 30, 1999

	Series A Redeemable Convertible Preferred Stock		Series B Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Warrants	Deferred Compensation	Accumulate d Deficit	Total Stockholders' Deficit
	Number of Shares	Amount	Number of Shares	Amount	Number of Shares	\$.01 Par Value					
BALANCE, DECEMBER 31, 1997	-	\$-	-	\$-	4,194,287	\$41,943	\$(4,977)	\$-	\$-	\$(53,300)	\$(16,334)
Issuance of common stock					1,039,610	10,396	21,385				31,781
Net loss	=	=	=	=	=	=	=	=	=	(584,281)	(584,281)
BALANCE, DECEMBER 31, 1998	-	-	-	-	5,233,897	52,339	16,408	-	-	(637,581)	(568,834)
Exercise of common stock options	-	-	-	-	28,612	286	592	-	-	-	878
Repurchase of common stock	-	-	-	-	(779,707)	(7,797)	(16,039)	-	-	-	(23,836)
Deferred compensation on options granted to consultants	-	-	-	-	-	-	489,014	-	(489,014)	-	-
Amortization of deferred compensation	-	-	-	-	-	-	-	-	37,107	-	37,107
Issuance of Series A redeemable convertible preferred stock, net of issuance costs of \$98,697	2,096,410	1,997,713	-	-	-	-	-	-	-	-	-
Conversion of notes to Series A preferred stock	734,316	734,316	-	-	-	-	-	-	-	-	-
Issuance of Series B redeemable convertible preferred stock, net of issuance costs of \$57,032	-	-	6,332,125	12,042,968	-	-	-	-	-	-	-
Accretion of redeemable convertible preferred stock to liquidation value	-	107,113	-	150,654	-	-	-	-	-	(257,767)	(257,767)
Warrants granted in connection with subordinated loan	-	-	-	-	-	-	-	327,065	-	-	327,065
Net loss	=	=	=	=	=	=	=	=	=	(5,095,962)	(5,095,962)
BALANCE, SEPTEMBER 30, 1999 (UNAUDITED)	<u>2,830,726</u>	<u>\$2,839,142</u>	<u>6,332,125</u>	<u>\$12,193,622</u>	<u>4,482,802</u>	<u>\$44,828</u>	<u>\$489,975</u>	<u>\$327,065</u>	<u>\$(451,907)</u>	<u>\$(5,991,310)</u>	<u>\$(5,581,340)</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.
STATEMENTS OF CASH FLOWS

	Year Ended December 31, 1998	Nine Months Ended September 30, 1999 (Unaudited)
Cash flows from operating activities:		
Net loss	\$ (584,281)	\$ (5,095,962)
Adjustments to reconcile net loss to net cash used in operating activities:		
Interest expense convertible notes.....	—	119,316
Depreciation and amortization	31,807	164,202
Amortization of deferred compensation	—	37,107
(Gain) loss from disposal of assets.....	(651)	9,787
Changes in assets and liabilities:		
Accounts receivable	(21,117)	(43,381)
Prepaid expenses and other current assets.....	(493)	(5,720)
Accounts payable	169,607	487,802
Accrued expenses.....	<u>153,004</u>	<u>513,783</u>
Net cash used in operating activities	<u>(252,124)</u>	<u>(3,813,066)</u>
Cash flows from investing activities:		
Purchases of property and equipment	(84,609)	(599,561)
Proceeds from sale of equipment	8,184	—
Increase in other assets.....	<u>(4,155)</u>	<u>(41,745)</u>
Net cash used in investing activities	<u>(80,580)</u>	<u>(641,306)</u>
Cash flows from financing activities:		
Proceeds from (payments on) notes payable to related party.....	224,760	(248,560)
Repurchase of common stock	—	(23,836)
Proceeds from advances on and issuance of convertible notes payable.....	20,000	690,000
Deferred financing costs	—	(48,000)
Proceeds from (payments on) deferred payments	64,715	(54,254)
Net proceeds from issuance of redeemable convertible preferred stock.....	—	14,040,681
Repayment of convertible notes payable.....	—	(95,000)
Proceeds from issuance of common stock.....	<u>31,781</u>	<u>878</u>
Net cash provided by financing activities	<u>341,256</u>	<u>14,261,909</u>
Net increase in cash and cash equivalents.....	8,552	9,807,537
Cash and cash equivalents beginning of period	<u>5,567</u>	<u>14,119</u>
Cash and cash equivalents end of period	<u>\$ 14,119</u>	<u>\$ 9,821,656</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	<u>\$ 289</u>	<u>\$ —</u>
Supplemental disclosure of noncash information:		
Accretion of preferred stock dividends	<u>\$ —</u>	<u>\$ 257,767</u>
Conversion of notes payable and accrued interest to preferred stock.....	<u>\$ —</u>	<u>\$ 734,516</u>
Acquisition of customers	<u>\$ —</u>	<u>\$ 340,560</u>

The accompanying notes are an integral part of these financial statements.

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

A. Organization

essential.com, inc. (essential or the Company) is a web-based reseller of various services including electricity, Internet access and phone services to small businesses and residential customers in the northeastern U.S.

The Company is devoting substantially all of its efforts towards the acquisition of new customers, development of its web site and identification of new services to be offered. The Company is subject to a number of risks similar to those of other early stage enterprises. Principal risks to the Company include the need to obtain adequate financing to fund future operations, dependence on key individuals, requirement to obtain regulatory approval, and reliance on successful marketing of services to provide profitable operations.

B. Summary of Significant Accounting Policies

The accompanying financial statements reflect the application of certain significant accounting policies, as described below and elsewhere in the accompanying notes to financial statements.

Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Interim Financial Statements

The accompanying balance sheet as of September 30, 1999, the statements of operations for the three- and nine-month periods ended September 30, 1999 and the statements of cash flows and changes in redeemable convertible preferred stock and stockholders' deficit for the nine months ended September 30, 1999 are unaudited, but, in the opinion of management, include all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of results for these interim periods. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been omitted, although the Company believes that the disclosures included are adequate to make the information presented not misleading. The results of operations for the nine months ended September 30, 1999 are not necessarily indicative of the results to be expected for the entire fiscal year.

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

B. Summary of Significant Accounting Policies (continued)

Cash Equivalents

The Company considers all time deposits and short-term investments with original maturities of 90 days or less to be cash equivalents. At September 30, 1999, the Company's cash equivalents are comprised of money market mutual funds and are stated at cost, which approximates market.

Revenue Recognition

The Company generates revenue principally from the resale of services including Internet access and phone services to residential and small business customers. Revenue is recognized as the services are performed.

Fair Value of Financial Instruments

The Company's financial instruments consist mainly of cash, accounts receivable, accounts payable and notes payable. The carrying amounts of the Company's financial instruments approximate their fair values.

Concentration of Credit Risk

Statement of Financial Accounting Standards (SFAS) No. 105, Disclosure of Information About Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk, requires disclosure of any significant off-balance-sheet and credit risk concentrations. Financial instruments that subject the Company to credit risk consist primarily of accounts receivable; however, risk is limited to customers to whom the Company makes significant sales. The Company maintains an allowance for potential credit losses, but historically has not experienced any significant losses related to individual customers or groups of customers in any particular industry or geographic area. There are no customers representing greater than 10% of total revenues during 1998 or the nine months ended September 30, 1999. One customer represents greater than 10% of accounts receivable at December 31, 1998 and September 30, 1999.

Other Assets

Other assets consist primarily of security deposits at December 31, 1998 and September 30, 1999.

Advertising Costs

The Company expenses advertising costs as incurred.

Property and Equipment

Property and equipment is recorded at cost. The Company provides for depreciation using the straight-line method over the estimated useful lives, as follows:

Asset Classification	Estimated Useful Life
Computer and office equipment	3-5 years
Furniture, fixtures and automobiles	5 years

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

B. Summary of Significant Accounting Policies (continued)

Comprehensive Loss

Comprehensive loss includes net loss as well as other changes in the equity of a business enterprise during a period from transactions and other events and circumstances from nonowner sources. The Company's comprehensive loss is equal to net loss for the periods presented.

Long Lived Assets

The Company's long lived assets consist of property and equipment and intangibles assets. The Company has assessed the realizability of these assets and believes that there is no material impairment of these assets to date.

Deferred Financing Costs

Deferred financing costs represents the expenses incurred obtaining the subordinated loan discussed in Note H. These costs are being amortized over the life of the related loan commitment.

C. Income Taxes

The Company accounts for income taxes in accordance with SFAS No. 109, Accounting for Income Taxes. Under the liability method specified by SFAS No. 109, a deferred tax asset or liability is determined based on the difference between the financial statement and tax bases of assets and liabilities, as measured by currently enacted tax rates.

There are no significant differences between financial statement and tax bases of assets and liabilities as of December 31, 1998. As of December 31, 1998, the Company had net operating loss carryforwards available to offset future taxable income, if any, of approximately \$600,000. The Company has established a valuation allowance of approximately \$250,000 to offset its deferred tax asset as its future realizability is uncertain. The Internal Revenue Code contains provisions that limit the use of loss and tax credit carryforwards in the event of certain changes in the ownership, as defined. These carryforwards expire through 2018 and are subject to review and possible adjustment by the Internal Revenue Service.

D. Intangible Assets

In August and September 1999, the Company acquired the performance obligations related to two customer lists for \$223,554 and \$117,006, respectively. Under the terms of the agreements, the Company is required to pay for the customer lists in three installments through January 2000. At September 30, 1999, there was \$258,541 still payable under these agreements, which is included in deferred payments. The Company has recorded the value of these customer lists as an intangible asset and is amortizing them over 24 months, the estimated useful life of the asset.

E. Deferred Payments

During 1998 and 1999, the Company acquired certain equipment under an arrangement for deferred payments arrangement. These are payable in monthly installments of \$13,390 through May 2000. At December 31, 1998, and September 30, 1999, the outstanding principal balances

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

E. **Deferred Payments (continued)**

were \$73,856 and \$101,612, respectively. As of September 30, 1999, this balance, in addition to the amount discussed in Note D, was included in deferred payments in the accompanying balance sheet.

F. **Notes Payable to a Related Party**

At December 31, 1998, the Company had a demand note payable to a related party totaling \$248,560, of which \$224,760 and \$23,800 were borrowed in 1998 and 1997, respectively. Interest accrues at 10% and totaled \$17,297 and \$16,992 during the year ended December 31, 1998 and the nine months ended September 30, 1999, respectively, and is included in interest expense in the accompanying statement of operations and as an accrued expense in the balance sheet at December 31, 1998. Borrowings were secured by substantially all assets of the Company. This demand note payable was repaid in August 1999.

G. **Convertible Promissory Notes**

In January 1999, the Company issued an aggregate of \$710,000 of Convertible Promissory Notes (the Notes) that accrued interest at a rate of 5% per annum. The Notes were convertible at the option of the noteholder, upon the Company receiving additional financing of at least \$3,000,000 on or before June 30, 1999. The conversion price of the Notes was equal to 85% of the per share price of the subsequent financing. In May and June 1999, the Company converted \$615,000 of these Notes plus accrued interest into 734,316 shares of Series A convertible preferred stock. The remaining \$95,000 plus accrued interest was repaid. In December 1998, the Company had received an advance of \$20,000 towards the purchase of the Notes. In connection with the conversion of the Notes, the Company recorded \$110,150 of interest expense in 1999 as a result of the discounted conversion rate.

H. **Subordinated Loan**

On September 24, 1999, the Company entered into an agreement with a financing Company that provides for a \$4 million subordinated loan and a \$1 million equipment lease line. The subordinated loan bears interest at 10% and is secured by substantially all of the assets of the Company. The subordinated loan provides for borrowings in \$250,000 increments over a 12-month period. The loan requires interest for the first six months followed by 30 equal installments of principal and interest. As of September 30, 1999, there were no borrowings outstanding under this arrangement.

In connection with this financing, the Company issued warrants for the purchase of 274,741 shares of Series B redeemable convertible preferred stock at an exercise price of \$1.91 per share, subject to certain defined adjustments. The warrants expire in seven years or three years from the effective date of the Company's initial public offering, whichever is earlier. The Company has valued these warrants, using the Black-Scholes option pricing model, at \$327,065 and has recorded the value of the warrants as a deferred financing cost, which will be amortized as interest expense over the life of the commitment.

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

I. Stockholders' Deficit

Common Stock

The Company is authorized to issue 19,166,451 shares of common stock. During 1997, the Company issued 4,194,287 shares of common stock to the Company's founders. During 1998, the Company issued 1,039,610 shares of restricted stock to an officer of the Company at \$.03 per share through the issuance of a promissory note for \$31,781. This promissory note was repaid in November 1998. On March 17, 1999, the Company repurchased and returned to authorized status 779,707 shares of this restricted common stock for \$23,836.

Stock Splits and Dividends

In October 1998, the Company was reorganized as a Delaware corporation. In connection with this reorganization, the Company exchanged 10,000 shares of common stock for every share outstanding. In March 1999, the Company issued a stock dividend of .79 share for every one share of common stock that was issued and outstanding at that date. Additionally, in July 1999, the Company effected a stock split of 2 shares for every one share of the Company's outstanding common stock. The above transactions have been reflected retroactively for all periods presented in the accompanying financial statements.

J. Redeemable convertible Preferred Stock

During 1999, the Company issued 2,830,726 shares of Series A redeemable convertible preferred stock (Series A Preferred Stock), \$0.01 par value resulting in gross proceeds of approximately \$2,096,000 and the conversion of \$615,000 notes payable (see Note 7).

During the third quarter of 1999, the Company sold 6,332,125 shares of Series B redeemable convertible preferred stock (Series B Preferred Stock), \$0.01 par value per share, resulting in gross proceeds to the Company of approximately \$12,100,000.

The rights and preferences of the Series A and B Preferred Stock are as follows:

Voting

Each share of Series A and B Preferred Stock is entitled to voting rights equivalent to the number of shares of common stock into which each share can be converted into.

Conversion

Series A and B Preferred stock is convertible at the option of the stockholder into two and one shares, respectively, of common stock, subject to certain antidilutive adjustments. Conversion is automatic upon the closing of a public offering of the Company's common stock at a price per share of not less than \$1.25 per share, for Series A Preferred Stock, (adjusted for any stock dividend or stock splits) and aggregate gross proceeds of not less than \$15,000,000. Series B Preferred Stock is automatically converted upon (i) the closing of a public offering of the common stock with gross proceeds of at least \$20,000,000 and a pre-money valuation of not less than \$100 million or (ii) the election of the holders of 60% of the then-outstanding shares of Series B preferred stock.

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

J. Redeemable convertible Preferred Stock (continued)

Liquidation

In the event of a liquidation, dissolution or winding up of the Company, the holders of the Series A and B Preferred Stock are entitled to \$1.00 and \$1.91 per share, respectively, plus all accrued but unpaid dividends. In addition, after payment of the liquidation preference described in the preceding sentence, the Series A Preferred Stock is entitled to participate on an as-converted basis with the Common Stock in the remaining assets of the Company, provided that in no event shall a holder of Series A Preferred Stock be entitled to receive more than three times the liquidation preference for each share of Series A Preferred Stock.

Dividend

The Series A and B Preferred Stock each earn cumulative dividends of 8% annually. Dividends are payable in the event of a liquidation of the Company, as defined, or at the discretion of the Board of Directors. Additionally, the preferred stockholders are entitled to receive dividends at the same rate as paid to the common stockholders.

Redemption

The holders of at least a majority of the series A Preferred Stock and the Series B Preferred Stock can demand that the Company redeem its shares for the original purchase price plus any accrued and unpaid dividends thereon. Redemption may be demanded after December 31, 2003 by the holders of the Series A Preferred Stock for the Series A Preferred Stock and after July 31, 2004 by the holders by the holders of the Series B Preferred Stock for the Series B Preferred Stock. The Series A preferred stock is redeemable in three equal annual installments. The Series B preferred stock is redeemable in one lump-sum payment.

K. Stock Option Plan

In December 1998, the Company established the 1998 Stock Option and Incentive Plan (the 1998 Plan), which provides for the grant of incentive stock options and nonqualified stock options to purchase up to 2,443,942 shares of the Company's common stock. The Board of Directors has the authority to select the employees and nonemployees to whom options are granted and determine the terms of each option, including (i) the number of shares of common stock subject to the option; (ii) the date on which the option becomes exercisable; and (iii) the option exercise price. Options granted under the 1998 Plan generally vest over four years.

The following is a summary of the stock option activity for the year ended December 31, 1998 and for the nine months ended September 30, 1999:

ESSENTIAL.COM, INC.

NOTES TO FINANCIAL STATEMENTS - (Continued)

K. Stock Option Plan (continued)

	Number of Shares	Exercise Price per Share	Weighted Average Exercise Price
Granted	523,390	\$.03	\$.03
Outstanding, December 31, 1998	523,390	.03	.03
Granted	848,675	.03-.20	.09
Exercised	(28,612)	(.03)	(.03)
Terminated	(694,418)	(.03-.05)	(.04)
Outstanding, September 30, 1999	649,035	\$.03-.20	\$.11
Exercisable, September 30, 1999	12,260	\$.03	\$.03

As of September 30, 1999, options to purchase 1,766,295 shares of common stock are available for future grant under the 1998 Plan. At September 30, 1999, there were 392,124 shares outstanding at an exercise price of \$0.03 to \$0.05 per share and 256,911 shares outstanding at an exercise price of \$0.19 to \$0.20 per share.

SFAS No. 123, *Accounting for Stock-Based Compensation*, requires the measurement of the fair value of stock options or warrants to be included in the statement of operations or disclosed in the notes to financial statements. The Company has determined that it will account for stock-based compensation for employees under Accounting Principles Board Opinion No. 25 and elect the disclosure-only alternative under SFAS No. 123.

The Company has computed the pro forma disclosures required under SFAS No. 123 for stock options granted during 1998 and 1999 using the Black-Scholes option pricing model prescribed by SFAS No. 123. The assumptions used for 1998 were as follows: (i) risk-free interest rates of 4.65%; (ii) expected life of seven years; (iii) no dividend yield and (iv) no volatility. The assumptions used for 1999 were as follows: (i) risk free interest rates of 4.99% to 6.11%; (ii) expected life of seven years; (iii) no dividend yield and (iv) no volatility. The weighted average remaining contractual life for outstanding options granted during 1998 and 1999 is 9.2 and 9.7 years, respectively. The weighted average fair value at the date of grant for options granted during 1998 and 1999 is \$0.01 and \$0.02 per option, respectively. The total charge to operations under SFAS No. 123 for options vesting during the year ended December 31, 1998 and the nine months ended September 30, 1999 would have been approximately \$215 and \$2,117, respectively.

The effect of applying SFAS No. 123 would have been as follows:

	December 31, 1998	September 30, 1999 (Unaudited)
Net loss-		
As reported	\$ (584,281)	\$ (5,095,962)
Pro forma	(584,496)	(5,098,079)

During 1999, the Company granted 257,511 options to consultants at a weighted average exercise price of \$.15 per share. These options have been valued using the Black-Scholes option

ESSENTIAL.COM, INC.
NOTES TO FINANCIAL STATEMENTS - (Continued)

K. Stock Option Plan (continued)

pricing model and the Company has recorded deferred compensation of \$489,014. The deferred compensation is being amortized over the vesting periods of the options. During the nine months ended September 30, 1999, the Company recorded \$37,107 of compensation expense.

L. COMMITMENTS

The Company has lease agreements for its facilities and certain equipment, which expire at various dates through 2003. The future minimum lease payments under these leases at December 31, 1998 are as follows:

1999	\$ 171,590
2000	159,395
2001	28,632
2002	28,632
2003	<u>4,772</u>

Total future minimum payments \$ 393,021

Rent expense for the year ended December 31, 1998 and for the nine months ended September 30, 1999 was approximately \$27,500 and \$101,000, respectively.