



0000054097

ORIGINAL

The Phoenix Plaza  
21st Floor  
2929 North Central Avenue  
Phoenix, Arizona 85012-2793



A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

www.osbornmaledon.com

JOAN S. BURKE

38

Direct Line 602.640.9356  
Direct Fax 602.640.6074

jburke@omlaw.com

P.O. Box 36379  
Phoenix, Arizona 85067-6379

Telephone 602.640.9000  
Facsimile 602.640.9050

May 17, 2006

RECEIVED  
2006 MAY 17 P 3:12  
AZ CORP COMMISSION  
DOCUMENT CONTROL

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

Re: XO Communications Services, Inc. (T-04302A-05-0894) – In the Matter of the Notice of Intent and Request for Expedited Approval of Internal Corporate Restructuring.

Dear Docket Manager:

On February 23, 2006, the Arizona Corporation Commission (“Commission”) approved an internal corporate restructuring request filed in December of 2005 by XO Communications Services, Inc. (“XOCS”) (Decision No. 68495). The proposed restructuring entailed two steps. First, the parent company of XOCS was slated to change. Specifically, it was anticipated that XO Communications, Inc. (“XO”), the parent of XOCS, would create a subsidiary, XO Holdings, Inc., which in turn would have a subsidiary, XO Communications, LLC (“XO LLC”). XO would merge with and into XO LLC with XO LLC surviving and becoming the new direct parent company of XOCS (the “Restructuring Merger”). Step two of the restructuring permitted the outstanding membership interest held by Carl C. Icahn to grow from 61% (beneficial holding at the time) to 100%. Specifically, Elk Associates LLC (“Elk”) would acquire all of the outstanding member interests in XO LLC and thus, through his ownership and control of Elk, Carl C. Icahn would hold 100% of the outstanding membership interests of XO LLC and, derivatively, XOCS.

This letter is to advise the Commission that, although the Restructuring Merger described above has been consummated, the sale of XO LLC, the new parent company, to Elk (step 2) will not be consummated. As a result, although XOCS has a new direct corporate parent, XO LLC, and new ultimate parent, XO Holdings, Inc., the ultimate ownership of XOCS has not changed. Accordingly, Carl C. Icahn indirectly, beneficially holds approximately 58.5% of the equity and

Arizona Corporation Commission  
Docket Control  
May 17, 2006  
Page Two

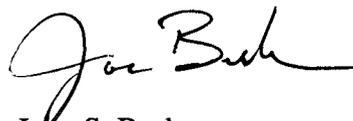
voting interests in XOCS.<sup>1</sup> A diagram showing the corporate ownership structure of XOCS is appended hereto as Attachment 1.

Under the terms of the purchase agreement, either XO Holdings or Elk Associates was authorized to elect to terminate the agreement if the sale was not to have occurred by July 3, 2006. On March 27, 2006, Elk notified XO Holdings' Board of Directors that it believed that delays caused by the pending litigation challenging the sale of the national wireline telecommunications business would cause the closing to not occur by July 3, 2006 and that Elk intended to exercise its termination right if the litigation remained pending on that date. Elk also expressed its willingness, in order to avoid unnecessary further distractions and costs to XO Holdings, to mutually terminate the purchase agreement without seeking any damages or any break-up fee.

XOCS's authorization to provide telecommunications services remains in place, and its customers will not be affected in any way as they will continue to be offered the same services by the same service provider with the same name at the same rates, terms and conditions as at present. XOCS submits this filing solely for the Commission's information and to keep its records current.

If you have any questions concerning this letter, please do not hesitate to contact me.

Sincerely,



Joan S. Burke

JSB

Attachment

cc: Maureen Scott, Legal Division  
Armando Fimbres, Public Utilities Analyst IV

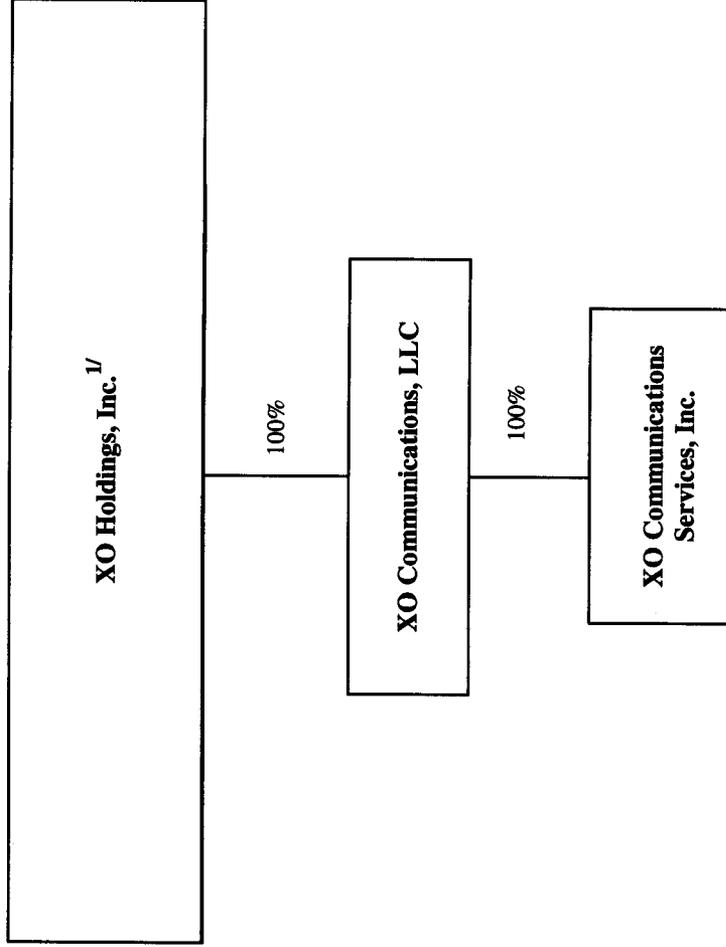
**Original and 13 copies** filed with  
Docket Control this 17th day of May, 2006.

---

<sup>1</sup> According to Amendment No. 8 to Schedule 13D of Cardiff Holding LLC, an affiliate of Carl C. Ichan, filed with the Securities and Exchange Commission on May 1, 2006, Cardiff sold in a private sale to qualified institutional buyers an aggregate of 1,725,000 shares of the Company's 6% Class A Convertible Preferred Stock (the "Preferred Stock"). As a result, Mr. Ichan's beneficial interest has been reduced.

1

**CURRENT OWNERSHIP STRUCTURE OF XOCS**  
**(AFTER CONSUMMATION OF RESTRUCTURING MERGER)**



<sup>1/</sup> Cardiff Holding LLC ("Cardiff") beneficially holds approximately 58.5% of the equity and voting interests in XO Holdings, Inc. Cardiff is indirectly, wholly owned and controlled by Carl C. Icahn through his ownership and control of various intermediary companies that hold ownership interests in Cardiff.