

ORIGINAL NEW APPLICATION



0000061477

BEFORE THE ARIZONA CORPORATIVE COMMISSION

Arizona Corporation Commission

DOCKETED

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COMMISSIONERS

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T-03943A-06-0691  
T-04112A-06-0691  
T-04113A-06-0691

IN THE MATTER OF THE ) DOCKET NOS. T-03943A-06-\_\_\_\_  
APPLICATION OF TIME ) T-04112A-06-\_\_\_\_  
WARNER TELECOM OF ) T-04113A-06-\_\_\_\_  
ARIZONA, LLC FOR APPROVAL )  
TO ENCUMBER ASSETS IN )  
CONNECTION WITH NEW )  
FINANCING )

APPLICATION

I. Overview

Time Warner Telecom of Arizona LLC, Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. (collectively "Applicants") through this Application, and pursuant to A.R.S. §40-285, hereby request that the Commission grant such authority as may be necessary or required to permit the Applicants to provide their guarantees and otherwise provide security in connection with a \$600 million senior secured bank term loan ("Term Loan") and a \$100 million secured bank revolving credit facility (collectively referred to as "the Loans"). The Applicants are not borrowers or co-borrowers in this transaction. The borrower on the Loans is Time Warner Telecom Holdings ("TWTH"), a subsidiary of Time Warner Telecom Inc. ("Time Warner

Telecom”). The Applicants are operating subsidiaries of TWTH. The Applicants also request authorization for Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. to act as guarantors and encumber assets in conjunction with credit facilities previously approved by the Commission. As of the merger closing<sup>1</sup>, these two certified entities will be subsidiaries of Time Warner Telecom and, like Time Warner Telecom Arizona LLC, are proper guarantors for previously approved loans to Time Warner Telecom and TWTH. For the reasons set forth in this application, the Applicants submit that approval of this Application is in the public interest.

## **II. Application**

### **A. Applicants**

#### **1. Time Warner Telecom of Arizona LLC**

Time Warner Telecom of Arizona LLC (“TWTA”) is a leading provider of “last-mile” broadband data, voice, dedicated internet access, and dedicated web hosting to business customers in the Phoenix and Tucson metropolitan areas. In December of 2000, the Arizona Corporation Commission issued Decision No. 63262, granting TWTA a certificate of convenient and necessity for service in Arizona. TWTA entered the Phoenix and Tucson markets the following year by purchasing out of bankruptcy substantially all of the assets of GST Telecommunications Inc. Since that time, TWTA has been committed to expanding its Arizona network, offering robust and creative new products, and providing superior customer care.

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<sup>1</sup> Ownership of the Xspedius entities shall become effective with the closing of the merger transaction which is currently anticipated to occur on October 31, 2006.

**2. Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Pima County, LLC**

Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Pima County, LLC (“Xspedius Certificated Subsidiaries”) are limited liability companies formed under the laws of the State of Delaware, with their principal address at 5555 Winghaven Boulevard, Suite 300, O’Fallon, Missouri 63368-1116. Both companies were certified as competitive local exchange carriers by the Arizona Corporation Commission in Decision No. 65124 (August 23, 2002). Xspedius Certificated Subsidiaries provide local, long distance, integrated, and Internet access solutions to small and medium-sized business customers. In September of this year, the Commission approved the acquisition (by merger) of the Xspedius Certificated Subsidiaries by Time Warner Telecom. *See* Decision No. 68958.

**B. Designated Contacts**

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**C. Description of the Transaction**

The Applicants request authorization to pledge their assets to secure a \$600 million term loan facility (“Term Loan”) and a \$100 million secured revolving credit facility. Both loans will be guaranteed by Time Warner Telecom and the Applicants, and

would be secured by certain assets and other property owned by Time Warner Telecom and its affiliates, including the Applicants. Time Warner Telecom Inc. is the parent company of Time Warner Telecom Holdings which is, in turn, the parent of the Applicants.<sup>2</sup> Time Warner Holdings is the borrower on the Loans. The Applicants are not borrowers. Proceeds from the proposed Term Loan will restructure and increase Time Warner Telecom's overall debt by a maximum of \$231 million. Time Warner Telecom will pay off certain existing debt instruments and receive more favorable interest rates for others. Proceeds from the Term Loan will also be used to fund ongoing operations and finance the cash portion of the Xspedius acquisition which is estimated at \$213 million, exclusive of fees.

**D. Prior Commission Approvals and New Financing**

Attached at tab 1 is a Debt Financing Chart which reflects the Applicants' debt structure prior to and after the proposed debt financing. The first page of the Debt Financing Chart lists prior loans for which Time Warner Telecom sought and secured Commission approval. In April of this year, the Commission authorized TWTA to pledge assets to secure a \$200 million term loan (\$199 million actually owed) by TWTH and further approved TWTA's request to adjust its guarantee on its parent's revolving credit facility to \$110 million. *See* Decision No. 68662. In May of 2005, the Commission approved a guarantee by TWTA related to the issuance by TWTH of up to

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<sup>2</sup> Ownership of the Xspedius entities shall become effective with the closing of the merger transaction which is currently anticipated to occur on October 31, 2006. Xspedius assets, and all Arizona assets of the Applicants will not be pledged or encumbered until the merger transaction is closed and the Commission approves this Application. The loans described in this Application, however, are negotiated and funded.

\$400 million in Senior Notes due in 2014. *See* Decision No. 67815. In July of 2004, the Commission authorized TWTA to encumber assets and guarantee obligations of TWTH, including the issuance by TWTH of \$240 million of Second Priority Senior Secured Floating Rate notes due in 2011. This TWTA encumbrance was approved by the Commission in Decision No. 67108, along with other credit facilities that have since been replaced or otherwise concluded. The aggregate debt authorized by the Commission in Decision Nos. 68662, 67815 and 67108 exceeds one billion dollars.

The Term Loan (for which encumbrance approval is sought in this Application) refinances all of the previously approved secured debt. Page two of the Debt Financing Chart illustrates the how the new debt will be structured. As the chart shows, the Term Loan funds the redemption of the entire \$240 million principal amount of its senior secured floating rate notes (due in 2011) and refinances the \$200 million Term B Loan due in 2010. The current \$110 million revolving loan (due in 2009) is replaced by a \$100 million revolving loan (due in 2011). The new \$600 million Term Loan takes the place of two previously approved secured loans and allows TWTC to efficiently fund, over time, the recent acquisition of the Xspedius assets.

The Applicants also seek to add the Xspedius Certified Subsidiaries as guarantors, and allow those assets to be encumbered, in conjunction with Senior Notes issued by TWTH and previously approved by the Commission in May of 2005. Specifically, in Decision No. 667815, the Commission allowed TWTA to guarantee the debt of TWTH in an amount up to and including \$400 million in unsecured debt (due in 2014). As of the merger closing, Xspedius Certified Subsidiaries will be side-by-side Arizona subsidiaries

with TWTA and should be guarantors on those Senior Notes and subject to encumbrance obligation undertaken by TWTA. Applicants request authorization to take all necessary steps to make the Xspedius Certified Subsidiaries guarantors on this debt and allow their assets to be encumbered.

**E. Financial Analysis**

No change is expected in the operational portion of the Applicants' financial statements as a result of the Term Loan and the revolving credit facility. Time Warner Telecom estimates that its debt service coverage will increase modestly, from 3.44 to 3.54 as a result of the transaction. Time Warner Telecom's equity structure will not change materially as a result of this transaction.<sup>3</sup> The financial structure of Time Warner Telecom, while leveraged, is favorable when compared to average debt/equity ratios in the competitive local exchange carrier industry generally. Time Warner is investing in Arizona and growing its customer base. Funding that investment over time is just one component of Time Warner Telecom's business plan.

**F. Approval of the Encumbrance Is in the Public Interest**

Approval of this application is in the public interest because the proposed Loans will allow Time Warner Telecom to refinance (replace) in excess of \$440 million in existing debt at more favorable terms and with extended maturity dates. The Term Loan will fund Time Warner Telecom's acquisition of Xspedius assets and will allow the combined company to better compete in the Arizona market by providing better access to

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<sup>3</sup> TWTC's equity structure has changed as a result of the Xspedius transaction, which was approved in Commission Decision No. 68958.

capital. Ready access to financing will allow the Applicants to remain a strong and growing facilities-based competitive service provider. The proposed Loans will not impair the financial status of the Applicants, otherwise prevent the Applicants from attracting capital at fair and reasonable terms, or impair the ability of the Applicants to provide safe, reasonable and adequate service. Approval of the financing transaction described herein is not expected to affect in any way the Arizona rates or services of the Applicants.

Moreover, because the public interest is best served by assuring the presence of numerous telecommunications competitors in Arizona, it is important to provide such competitors with the flexibility to arrange financing in the manner they deem most appropriate to carry on business so long as there is no adverse impact on the public. To deny such flexibility would discourage new competitors from entering the state and would encourage existing competitors in the state to seek a more favorable regulatory environment elsewhere, neither of which would enhance the public interest. Given the challenges facing competitive telecommunications carriers, the availability of funds to the Companies in this manner would benefit Arizona consumers.

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### III. Conclusion

The Applicants respectfully request that the Commission approve, to the extent necessary, their participation in the financing transactions described herein and further relief as the Commission may deem appropriate.

DATED this 26 day of October, 2006.

OSBORN MALEDON, PA

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Original and 17 copies of the foregoing  
filed this 26 day of October 2006, with  
Docket Control.

**VERIFICATION**

I, Brian Thomas, am Vice President of Regulatory Affairs West for Time Warner Telecom Inc. and am authorized to represent it and its subsidiaries and affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to Time Warner Telecom Inc. and its subsidiaries and affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.



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Brian D. Thomas  
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Time Warner Telecom  
223 Taylor Avenue North  
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Subscribed and sworn to before me this 25 day of October 2006.



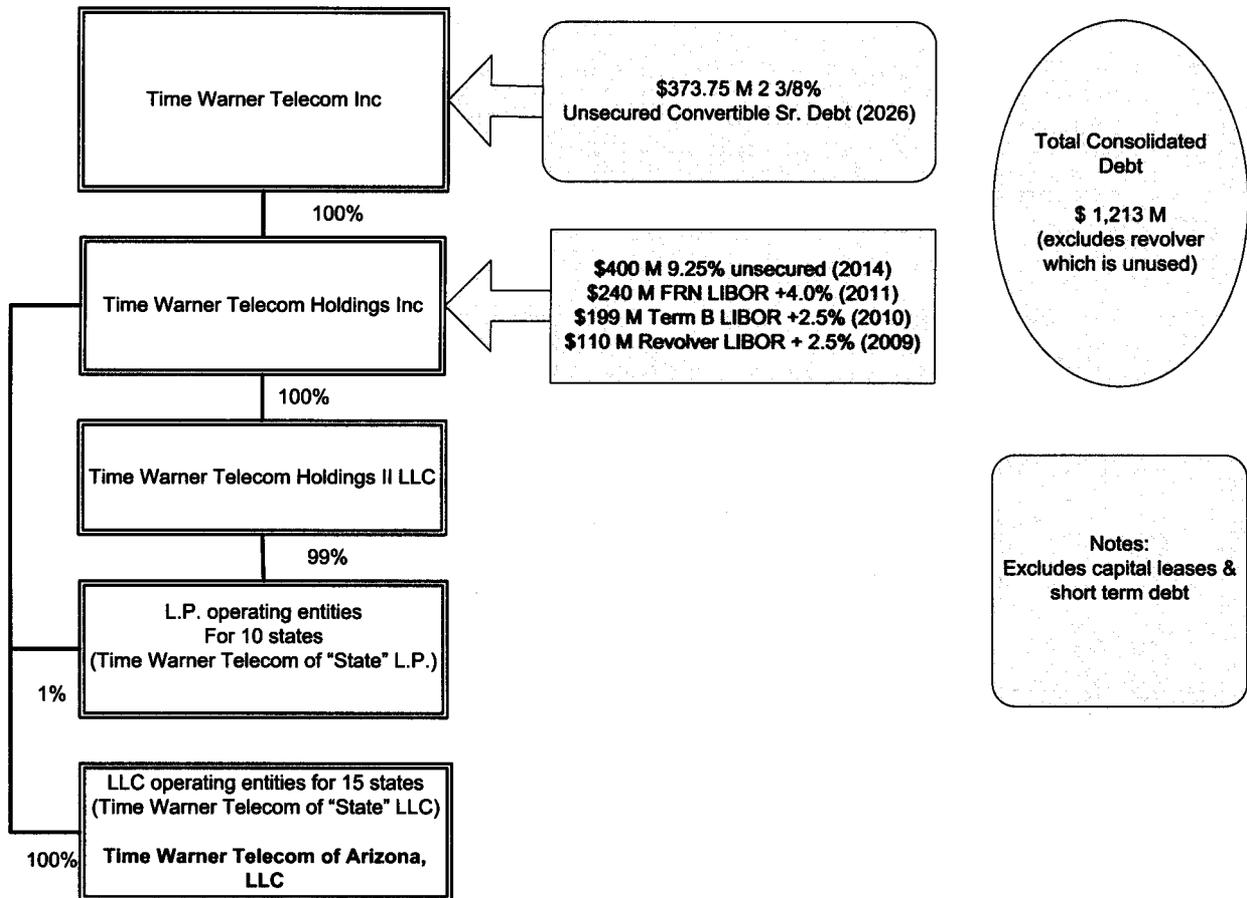
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Notary Public

My Commission expires:

2008



**Current Time Warner Telecom Inc.  
Subsidiary/Debt Structure  
Sept 2006**



## Time Warner Telecom Inc. Post Debt Financing & Xspedius Acquisition

