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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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Arizona Corporation Commission  
**DOCKETED**

AUG 17 2010

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY	
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IN THE MATTER OF THE APPLICATION OF  
DIECA COMMUNICATIONS DBA COVAD  
COMMUNICATIONS COMPANY, ESCHELON  
TELECOM OF ARIZONA, INC., MCLEODUSA  
TELECOMMUNICATIONS SERVICES, INC.,  
MOUNTAIN TELECOMMUNICATIONS, INC.,  
XO COMMUNICATIONS SERVICES, INC. AND  
QWEST CORPORATION'S REQUEST FOR  
COMMISSION PROCESS TO ADDRESS KEY  
UNE ISSUES ARISING FROM TRIENNIAL  
REVIEW REMAND ORDER, INCLUDING  
APPROVAL OF QWEST WIRE CENTER LISTS.

DOCKET NO. T-03632A-06-0091  
T-03267A-06-0091  
T-04302A-06-0091  
T-03406A-06-0091  
T-03432A-06-0091  
T-01051B-06-0091

PROCEDURAL ORDER

**BY THE COMMISSION:**

On May 20, 2008, in Decision No. 70355, the Arizona Corporation Commission ("Commission") approved a Settlement Agreement between Qwest Corporation ("Qwest") and DIECA Communications, Inc., doing business as Covad Communications Company and Mountain Telecommunications, Inc. ("Covad"); Eschelon Telecom of Arizona, Inc. ("Eschelon"); McLeodUSA Telecommunications Services, Inc. ("McLeod"); and XO Communications Services, Inc. ("XO") (collectively "Joint CLECs"). The Settlement Agreement resolved issues between Qwest and the Joint CLECs concerning Qwest's initial list of unimpaired wire centers, and established procedures that would apply between the parties with respect to future Qwest filings to update the unimpaired wire center list.

In Decision No. 70747 (February 12, 2009), the Commission approved Qwest's 2007 and 2008 additions to the unimpaired wire center list.

On June 21, 2010, Qwest filed an Application for Approval of 2010 Additions to Non-Impaired Wire Centers List ("2010 Application") and Motion for Procedural Conference. Qwest sought to add the following Arizona wire centers to the list of unimpaired wire centers:

<u>Wire Center</u>	<u>CLLI</u>	<u>TIER</u>	<u>Non-Impairment For</u>
Chandler Main	CHNDAZMA	Tier 1	DS1, DS3 Transport & DF <sup>1</sup>
Chandler West	CHNDAZWE	Tier 1	DS1, DS3 Transport & DF
Thunderbird	SCDLAZTH	Tier 1	DS3 Loops
Tucson East	TCSNAZEA	Tier 2	DS3 Transport and DF

On June 7, 2010, pursuant to the terms of the Settlement Agreement, Qwest sent an e-mail notification of the anticipated wire center update proceeding to the Joint CLECs and all other affected CLECs, and pursuant to the procedures adopted in Decision No. 70355, requested a Procedural Conference to discuss procedures for processing the current application.

The Commission convened a telephonic Procedural Conference on July 26, 2010, to address procedural issues related to the 2010 Application. Qwest, the Joint CLECs and the Commission's Utility Division ("Staff") attended.

On August 6, 2010, as requested by the Administrative Law Judge and as agreed during the July 26, 2010 Procedural Conference, Qwest filed a list of telecommunications companies in Arizona, as a proposed service list in this phase. Qwest states that the information for the companies delineated is the last known contact information for carriers which are certificated as local exchange carriers in Arizona or which have interconnection agreements with Qwest for the exchange of wireline traffic. Qwest reports that this list utilizes the same methodology used for the service list in the last phase of this docket.

With its 2010 Application, Qwest submitted non-confidential versions of the supporting data for its requested additions. Confidential versions of the data will be made available to those interested parties that have executed the Protective Order that was approved in this matter. A copy of the Protective Order is attached to Qwest's 2010 Application as Exhibit D. Those parties who have executed the Protective Order in conjunction with earlier years' applications are not required to re-sign the Protective Order for each new Qwest request.

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<sup>1</sup> Dark Fiber

1           During the July 26, 2010 Procedural Conference, the parties agreed that the procedures that  
2 were adopted in connection with Qwest's 2007 and 2008 Applications were effective in those cases  
3 and should be utilized in connection with the 2010 Application.

4           Although Qwest and the Joint CLECs agreed amongst themselves to a process for considering  
5 additions to the unimpaired wire center list, other interested entities and Staff were not bound by the  
6 process agreed to in the Settlement Agreement approved by Decision No. 70355. For example, while  
7 the Settlement Agreement provides for the Joint CLECs to file any objections to Qwest's proposed  
8 additions to the unimpaired wire centers list within 30 days of Qwest's filing, in Decision No. 70355,  
9 the Commission reserved the right to establish procedures for processing future applications which  
10 might differ from those contained in the Settlement Agreement. Although the Commission is not  
11 bound by the timeframes established in the Settlement Agreement, those timeframes are not  
12 unreasonable, and there is some benefit for establishing procedures that are consistent and apply to all  
13 interested parties. This Procedural Order establishes procedures that will govern the 2010  
14 Application. The procedures established herein are not intended to interfere with the procedures  
15 established by Qwest and the Joint CLECs in the Settlement Agreement, but rather to provide  
16 meaningful notice and opportunity for CLECs that did not enter into the Settlement Agreement to  
17 participate in the docket as new additions to the list of unimpaired wire centers are considered.

18           Consistent with the procedure utilized in connection with the 2007 and 2008 applications, in  
19 this phase of the proceeding to consider the 2010 Application, parties will have 25 calendar days  
20 from the date of this Procedural Order to execute the Protective Order. Upon receipt of an executed  
21 Protective Order, Qwest will make the confidential information supporting its wire center filings  
22 available to that party within three business days. Parties will have at least 30 days to review the  
23 supporting data and file an objection to Qwest's designation of a particular wire center as unimpaired.

24           To avoid multiple deadlines, the Commission will establish deadlines based on dates certain.  
25 Under this approach, CLECs will have at least 30 days following the last day to execute the  
26 Protective Order in which to review the underlying data. Thus, those CLECs that execute the  
27 Protective Order sooner, rather than later, will have longer than 30 days to analyze the data.  
28 Thereafter, Staff shall have at least fifteen calendar days following the deadline for CLECs to file

1 objections to Qwest's filing in which to file a Staff Report or its own objection to Qwest's  
2 designations.

3 Thus, based on the foregoing, the Commission establishes the following deadlines for  
4 responding to Qwest's 2010 Application:

5 **Deadline to Execute Protective Order** **September 7, 2010**

6 **Deadline to File Objection to Qwest designation** **October 7, 2010**

7 **Deadline for Staff Report or Objection** **October 22, 2010**

8 If there are no objections to Qwest's designations, the Commission may issue an Order  
9 approving the addition(s) to the unimpaired wire center list without a hearing. In the event there is an  
10 objection to any of Qwest's designations, or if circumstances warrant a hearing, a Procedural  
11 Conference will be scheduled to establish the procedures that will apply to the Commission's  
12 resolution of the dispute.

13 **This Procedural Order is being sent to all CLECs certificated in Arizona as local**  
14 **exchange carriers or which have interconnection agreements with Qwest for the exchange of**  
15 **wireline traffic (as identified in the August 6, 2010 filing) and will serve as notice to such**  
16 **CLECs of their opportunity to participate in this docket.** Because of the extensive list, CLECs  
17 that wish to remain on the service list with respect to the 2010 Application, and to continue to receive  
18 copies of filings in this matter, must make an affirmative request to remain on the service list.

19 **Failure to make such request will result in that entity not receiving future filings made in**  
20 **connection with the 2010 updates to the unimpaired wire center list.** A request to remain on the

21 service list does not obligate an entity to make future filings in this matter. Those parties who have  
22 already made a request to remain on the service list in connection with earlier phases of this docket  
23 need not file an additional request to do so and will continue to receive all filings in this matter. To  
24 date, the following parties are on record as desiring to receive filings in this matter: Covad, McLead,  
25 Mountain Telecommunications, XO, Qwest, Eschelon, Arizona Dialtone, Inc., National Brands, Inc.  
26 dba Sharenet Communications, Orbitcom and 360networks (USA) Inc.

27 IT IS THEREFORE ORDERED that the Protective Order approved in our Procedural Order  
28 dated August 25, 2008, shall remain in effect and shall apply to Qwest's 2010 Application and all

1 future Additions Applications until further order of the Commission.

2 IT IS FURTHER ORDERED that the list of Arizona CLECs that was filed on August 6,  
3 2010, **shall constitute the initial service list for the current phase of this docket.**

4 IT IS FURTHER ORDERED that this Procedural Order is notice to those on the service list  
5 that Qwest has filed its 2010 designations to the unimpaired wire centers list, and that any entity on  
6 the service list who wishes to continue to receive copies of filings in this docket shall file **no later**  
7 **than September 7, 2010**, an affirmative statement indicating such interest, including therein a  
8 current address and contact name where service should be sent.

9 IT IS FURTHER ORDERED that in order to receive at least 30 days to review the data  
10 supporting Qwest's 2010 designations of unimpaired Arizona wire centers, interested parties shall  
11 **execute a copy of the Protective Order by September 7, 2010.** Parties may execute the Protective  
12 Order after September 7, 2010, however, their time to review the supporting information will  
13 consequently be less than 30 days.

14 IT IS FURTHER ORDERED that interested parties shall **file objections** to Qwest's 2010  
15 Application by **October 7, 2010.**

16 IT IS FURTHER ORDERED that Staff shall file its **Staff Report or Objections** to Qwest's  
17 2010 Application by **October 22, 2010.**<sup>2</sup>

18 IT IS FURTHER ORDERED that in the event there are no objections filed to any of Qwest's  
19 designations, the Commission may issue an order approving the addition(s) to the unimpaired wire  
20 center list without a hearing, however, a hearing is not precluded in any circumstance if it is  
21 determined holding such hearing is required by due process or the public interest.

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
23 Communications) applies to this proceeding and shall remain in effect until the Commission's  
24 Decision in this matter is final and non-appealable.

25 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
26

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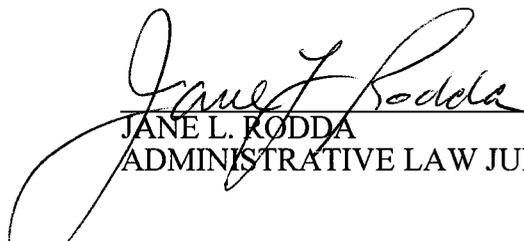
27 <sup>2</sup> If parties have suggestion for a more streamlined process for processing future applications that they recommend the  
28 Commission should consider, they are encouraged to confer with Staff such that the recommendation can be incorporated  
into the Staff Report, or make a separate filing. Any such process must provide carriers which did not enter into the  
Settlement Agreement with an opportunity for meaningful access to confidential data and to participate in the docket.

1 of the Arizona Supreme Court and A.R.S. §40-243 with respect to the practice of law and admission  
2 pro hac vice.

3 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
4 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
5 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation  
6 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the  
7 matter is scheduled for discussion, unless counsel has previously been granted permission to  
8 withdraw by the Administrative Law Judge.

9 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
10 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
11 hearing.

12 Dated this 12<sup>th</sup> day of August, 2010.

13  
14  
15   
16 JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered  
18 this 12<sup>th</sup> day of August, 2010 to:

19  
20 Michael W. Patten  
Roshka DeWulf & Patten, PLC  
21 One Arizona Center  
400 East Van Buren Street, Suite 800  
22 Phoenix, AZ 85004

Greg Diamond  
Covad Communications Company  
Senior Counsel  
7901 E. Lowry Boulevard  
Denver, CO 80230

23 Mr. Doug Denney  
Director, Costs & Policy  
24 Integra Telecom  
1201 NE Lloyd Blvd – Suite 500  
25 Portland, OR 97232

McLeodUSA Telecommunications  
Services, Inc.  
6400 C Street SW  
P.O. Box 3177  
Cedar Rapids, IA 52406-3177

26 Mountain Telecommunications  
1201 NE Lloyd Blvd – Suite 500  
27 Portland, OR 97232

Rex Knowles  
Executive Director - External Affairs  
XO Communications Services, Inc.  
7050 Union Park Avenue, Suite 400  
Midvale, UT 84047

1	Gary Joseph, Vice President	AboveNet Communications, Inc.
2	National Brands, Inc.	Attn: Tax Dept
3	dba Sharenet Communications Company	360 Hamilton Ave., 7th Floor
	4633 W. Polk Street	White Plains NY 10601
4	Phoenix, AZ 85043	
5	360networks (USA) Inc.	Access Point, Inc.
6	Attn: Charles Forst	1100 Crrescent Green, Ste. 109
7	370 Interlocken Blvd., Ste. 600	Cary, NC 27518
8	Broomfield, CO 80021	
9	ACN Communication Services, Inc.	American Fiber Network, Inc.
10	1000 Progress Place	9401 Indian Creek Pkwy, Ste. 280
11	Concord, NC 28025	Overland Park, KS 662 10
12	Airespring, Inc.	Andiamo Telecom, LLC
13	6060 Sepulveda Blvd., Ste 220	10575 N. 114th St., Ste 103
14	Van Nuys, CA 91411	Scottsdale AZ 85259
15	American Fiber Systems, Inc.	AT&T Communications of the
16	100 Meridian Centre, Ste. 250	Mountain States Inc.
17	Rochester, NY 146 18	Attn: Cindy Hardy
18		One AT&T Way, Rm 2B115E
19		Bedminster NJ 07921
20	Arizona Dial Tone, Inc.	Aztech Communications, LLC
21	6115 S. Kyrene Rd., Ste. 103	1297 Boundary Cone Rd. Ste. F
22	Tempe, AZ 85283	Ft. Mohave AZ 86440
23	AZX Connect, LLC	BT Communications Sales, LLC
24	Attn: Steve Den Herder	11440 Commerce park Dr., St. 1000
25	11305 Aurora Ave.	Reston, VA 20191
26	Des Moines, IA 50322	
27	BCN Telecom, Inc.	BLC Management, LLC
28	550 Hills Dr.	Brian Cox - Manager, President & CEO
	Bedminster, NJ 07921	11121 Highway 70, Suite 202
		Arlington, Tennessee 38002
	Bandwidth.com CLEC, LLC	Broadband Dynamics, LLC
	4001 Weston Parkway, Suite 100	8757 E. Via De Commercio, 1st Flr
	Cary, NC 27513	Scottsdale AZ 85258
	BridgeBand Communications, Inc.	BullsEye Telecom, Inc.
	Jon M. Hesse, P.C.	25900 Greenfield Rd., Ste 330
	Attorney at Law	Oak Park MI 48237
	P.O. Box 1078	
	Livingston, Montana 59047	
	Budget PrePay, Inc.	CCG Communications, LLC
	1325 Barksdale Blvd., Ste. 200	321 Walnut St., Ste 170
	Bossier City, LA 71111	Newton MA 02460

1 Cbeyond Communications, LLC  
James F. Geiger  
320 Interstate North Parkway, Suite 300  
2 Atlanta, GA 30339

3 CenturyTel Solutions, LLC  
100 CenturyTel Drive  
4 Monroe LA 71203

5  
6 CityNet Arizona, LLC  
709 Beechurst Ave., Ste. 14-A  
7 Morgantown WV 26505

8 CloseCall America, Inc.  
Jaime Van Allen  
Executive Director  
9 101A Log Canoe Circle  
10 Stevensville, Maryland 21666

11 Comcast Phone of Arizona, LLC  
Attn: Lisa Moglia  
12 One Comcast Center  
13 Philadelphia PA 19103

14 Comtel Telcom Assets LP dba Excel  
Telecommunications  
15 Becky Gipson  
16 433 E. Las Colinas Blvd., Suite 1300  
Irving, Texas 75039

17 Continental F.S. Communications  
William Punchard  
18 702 West 1st Street  
19 P.O. Box 227  
Deming, NM 88030

20 Cox Arizona Telcom, L.L.C.  
C/O Accounting Department  
21 1500 W Deer Valley Rd.  
22 Phoenix AZ 85027

23 CVC CLEC, LLC  
2922 S. Roosevelt St.  
24 Tempe, AZ 85282

25  
26 dPI Teleconnect, LLC  
2997 LBJ Freeway, Ste. 225  
27 Dallas, TX 75234

28

CI2 Inc.  
4488 N. Shallowford Road - Suite 200  
Dunwoody, GA 30338

Clertech.com, Incorporated  
Jeanette Garcia - Project Manager  
3500 North State Road 7  
Lauderdale Lakes, Florida 33319

Comnet (USA) LLC  
700 South Flower Street  
Los Angeles, CA 90017

CommPartners, LLC  
3291 N. Buffalo Dr., Ste. 150  
Las Vegas NV 89129

Comtel Telcom Assets LP dba VarTec  
Telecom  
Becky Gipson  
433 E. Las Colinas Blvd., Suite 1300  
Irving, Texas 75039

Cordia Communications Corp.  
Maria Abbagnaro, General Counsel  
445 Hamilton Avenue, Suite 408  
White Plains, New York 10601

Curatel, LLC  
1605 W Olympic Blvd, Ste 800  
Los Angeles, CA 90015

Cypress Commuications  
Operating Company, Inc.  
4 Piedmont Center, Ste. 600  
Atlanta GA 30305

DIECA Communications, Inc  
7000 N Mopac Expressway, 2nd  
Austin, TX 78731

Digital Telecommunications, Inc.  
Chris Arnold - President  
111 Riverfront  
Winona, MN 55987

1 DSLnet Communications, LLC  
2 50 Barnes Park N., Ste. 104  
3 Wallingford CT 06492  
4  
5 EMC Telecom Corporation  
6 Joseph Isaacs  
7 4274 Enfield Court – Suite 1600  
8 Palm Harbor, FL 34685  
9  
10 Electric Lightwave, LLC  
11 1201 NE Lloyd Blvd., Ste. 500  
12 Portland OR 97232  
13 Ernest Communications, Inc.  
14 5275 Triangle Pkwy., Ste. 150  
15 Norcross GA 30092  
16  
17 First Communications, LLC  
18 15535 Neo Parkway  
19 Garfield Heights, OH 44128  
20  
21 Frontier Communications of the White  
22 Mountains, Inc.  
23 1387 West 2250 South  
24 Woods Cross, UT 84087  
25  
26 Global Connection Inc. of America  
27 3957 Pleasantdale Road  
28 Atlanta, GA 30340

18 Global Crossing Telemanagement,  
19 Inc.  
20 225 Kenneth Dr.  
21 Rochester, NY 14623  
22  
23 Granite Telecommunications, LLC  
24 100 Newport Ave. Ext.  
25 Quincy MA 02171  
26  
27 HJN Telecom, Inc.  
28 801 International Pkwy., 5th Floor  
Lake Mary, FL 32746

26 iNetworks Group, Inc.  
27 125 S. Wacker Dr., Ste. 2510  
28 Chicago, IL 60606

Easton Telecom Services, LLC  
Jim Kolezynski  
Director of Operations  
Summit II 3046, Brecksville Road  
Richfield, OH 44286

EnTelegent Solutions, Inc.  
David L. Gibson - VP - Operations 3800 Arco  
Corporate Drive, Suite 310  
Charlotte, NC 28273

Eschelon Telecom of Arizona,  
1201 NE Lloyd Blvd., Ste. 500  
Portland, OR 97232

Frontier Communications of  
America, Inc.  
1387 West 2250 South  
Woods Cross, UT 84087

Gila Local Exchange Carrier  
Box 5015  
7065 W. Allison Rd  
Chandler AZ 85226

Global Crossing Local Services, Inc.  
225 Kenneth Dr.  
Rochester, NY 14623

Globcom, Inc.  
Joseph Isaacs  
4274 Enfield Court – Suite 1600  
Palm Harbor, FL 34685

Greenfly Networks, Inc.  
Tim Dodge, VP of Operations  
P.O. Box 20009  
Billings, MT 59104 Billings, MT 59101

IDT America, Corp.  
520 Broad St.  
Newark NJ 07102

Integra Telecom, Inc  
J. Jeffery Oxley, General Counsel  
1201 NE Lloyd Boulevard, Suite 500  
Portland, Oregon 97232

Intelletrace, Inc.  
Marc Alciati - President  
448 Ignacio Blvd, No.222  
Novato, CA 94949

1 Intellicall Operator Services, Inc.  
1049 NE Macedonia Church Ave  
Lee, FL 32059

2

3 KMC Data, LLC  
5300 Oakbrook Parkway – Suite 330  
Norcross, GA 30093

4

5

6 Lightyear Network Solutions, LLC  
1901 Eastpoint Parkway  
Louisville, KY 40223

7

8

9 Matrix Telecom, Inc.  
7171 Forest Ln., Ste. 700  
Dallas TX 75230

10

11 McLeodUSA Telecommunications Services,  
Inc.  
One Martha's Way  
Hiawatha, IA 52233

12

13

14 Mitel Netsolutions, Inc.  
7300 W. Boston St.  
Chandler, AZ 85226

15

16 Mountain Telecommunications of  
Arizona, Inc.  
c/o Integra Telecom  
1201 NE Lloyd Blvd., Ste. 500  
Portland, OR 97232

17

18

19 National Brands, Inc.  
dba Sharenet Communications  
4633 W. Polk Street  
Phoenix, AZ 85043

20

21 Neutral Tandem-Arizona, LLC  
1 S. Wacker Dr., Ste. 200  
Chicago IL 60606

22

23 New Edge Network, Inc.  
dba New Edge Networks  
3000 Columbia House Blvd.,  
Vancouver, WA 98661

24

25

26 NextG Networks of California,  
2216 O'Toole Ave  
San Jose CA 95131

27

28

Level 3 Communications, LLC  
712 N. Main St.  
Coudersport, PA 16915

Looking Glass Networks  
Rick Thayer- Legal - Interconnection Srv.  
Level 3 Communications, LLC  
1025 Eldorado Blvd.  
Broomfield, CO 80021

MCImetro Access Transmission  
Services, LLC  
201 Spear St, 9th Flr  
San Francisco CA 94105

Metropolitan Telecommunications of Arizona,  
Inc.  
55 Water St., 31st Floor  
New York, NY 10041

Mohave Cooperative Services, Inc.  
PO Box 20037  
Bullhead City AZ 86439

My Tel Co, Inc.  
445 Hamilton Ave., Ste. 408  
White Plains, NY 10601

Navigator Telecommunications, LLC.  
PO Box 13860  
North Little Rock, AR 72113

New Access Communications, LLC  
3340 West Market St.  
Akron, Ohio 44333

New Rochelle Telephone Corporation  
75 South Broadway - Suite 302  
White Plains NY 10601

North County Communications  
Corporation of Arizona  
3802 Rosencrans, Ste. 485  
San Diego CA 92110

NOS Communications, Inc.  
Diane E. Michelin  
Legal Department  
4380 Boulder Highway  
Las Vegas, Nevada 89121

1	NorthStar Telecom Inc. Matt O'Flaherty 2 President 3 1101 Hills Rd. 4 Fremont, NE 68025	PNG Telecommunications 100 Commercial Dr Fairfield, OH 45014
4	Orbitcom, Inc. 1701 N. Louise Ave. 5 Sioux Falls SD 57107	Pacific Centrex Services, Inc. Raphael Tarpley Regulatory Affairs Department 530 W. 6th Street, Suite 300 6 Los Angeles, CA 90014
7		
8	Pac-West Telecomm, Inc. 4210 Coronado Ave. 9 Stockton, CA 95204	Payroll Advance, Inc. Attn: Charles H. Huck 808 South Baker Street Mountain Home, AR 72653
10	Pacific Telecom Communications Group, Inc. Attention: Steve Hamilton, CEO 11 12228 Venice Blvd., Suite 559 12 Los Angeles, CA 90066	PiperTel 28404 Meadow Drive Evergreen, CO 80439
13	Peerless Network of Arizona, LLC 225 W. Washington Street, Ste 1285 14 Chicago, IL 60606	POPP Communications, Inc. Karrie Willis VP of Operations & Finance 620 Mendelssohn Ave N 15 Golden Valley, MN 55427
16	PNG Telecommunications, Inc. 100 Commercial Dr. 17 Fairfield, OH 45914	Prime Time Ventures, LLC Jeff Rhoden - President 288 S. Pacific Hwy Talent, OR 97540
18	Preferred Long Distance, Inc. Attention: Jerry Nussbaum, President 19 16830 Ventura Boulevard, Suite 350 20 Encino, CA 91436	Qwest Communications Corporation Dave Ziegler 20 E. Thomas Road - 16th Floor Phoenix, AZ 85012
21	QuantumShift Communications, Inc. 12657 Alcosta Blvd., Ste 418 22 San Ramon CA 94583	Rural Network Services, Inc. 123 W. Main St. PO Box 167 Weiser ID 83672
23	Regal Diversified, Inc Ken Brown 24 PO Box 1240 25 Missoula, MT 59806	SanTrac Technologies Inc. 125 N. 2nd Street - Suite 110-435 Phoenix AZ 85004
26	SBC Long Distance, LLC 1010 N. St. Mary's Rm. 1332 27 San Antonio TX 78215	Syniverse Networks, Inc. David Robinson, Manager, Public Policy 8125 Highwoods Palm Way 28 Tampa, FL 33647-1776

1 Sprint Communications Company  
L.P.  
2 6391 Sprint Parkway, MS: Z2400  
Overland Park KS 66251

TCG Phoenix  
Attn: Cindy Hardy  
One AT&T Way, Rm 2B115E  
Bedminster NJ 07921

3 Talk America Inc  
2134 W. Laburnum Ave.  
4 Richmond VA 23227

Tel West Communications L.L.  
PO Box 81551  
Austin, TX 78708

5  
6 tw telecom of arizona llc  
10475 Park Meadows Dr.  
7 Littleton, CO 80124

Telscape Communications, Inc.  
606 E. Huntington Dr  
Monrovia CA 91016

8 TelLogic  
600 N. Pearl St.  
9 Dallas, TX 75201

Time Warner Cable Information  
Services (Arizona), LLC  
290 Harbor Dr  
Stamford CT 06902

10 Trans National Communications  
International, Inc.  
11 2 Charlesgate West  
12 Boston MA 02215

UCN, Inc.  
7730 S. Union Park Ave., Ste. 500  
Midvale UT 84047

13 Triplet Mountain Communications,  
Inc.  
14 PO Box 779  
10 Telecom Lane  
15 Peridot AZ 85542

ValuTel Communications, Inc.  
13812 N. Hwy 183, Ste. B1  
Austin, TX 78750

16 Valley Connections, LLC  
PO Box 970  
17 Willcox AZ 85644

Vilaire Communications Inc.  
P.O. Box 98907  
Lakewood, Washington 98496-8907

18 Verizon Select Services, Inc.  
1 Verizon Way, MC VC22E243  
19 Basking Ridge NJ 07920

Wholesale Carrier Service, Inc.  
5471 N. University Dr  
Coral Springs FL 33067

20 Virtual Network Solutions, Inc.  
Kenneth S. Kapler - CEO  
21 2698 Route 516, Suite G  
Old Bridge, NJ 08857

WilTel Communications, LLC  
712 N. Main St.  
Coudersport, PA 16915

22 Wiltel Local Network, LLC  
23 Level 3 Communications  
712 N. Main St.  
24 Coudersport, PA 16915

Xspedius Management Co. Switched Services,  
LLC  
10475 Park Meadows Dr.  
Littleton, CO 80124

25  
26 XO Communications Services, Inc.  
13865 Sunrise Valley Dr.  
27 Herndon VA 20171

Ymax Communications Corp.  
PO Box 6785  
West Palm Be FL 334056785

28

1 Ygnition Networks, Inc.  
2 Glenn Meyer, Chairman  
3 565 Andover Park West, #201  
4 Seattle, WA 98188

5 ZAYO BANDWIDTH, LLC  
6 901 Front St. - 200  
7 Louisville, Colorado 80027

8 TRANSTELCO, INC  
9 4274 Enfield Court - 1600  
10 Palm Harbor, Florida 34685

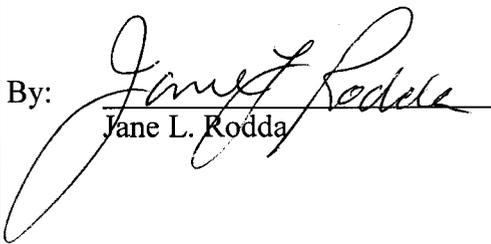
11 MERCURY VOICE & DATA COMPANY  
12 825 Edmond Street  
13 St. Joseph, MO 64506

14 Norm Curtright  
15 Qwest Corporation  
16 20 E. Thomas Rd, 16<sup>th</sup> Floor  
17 Phoenix, AZ 85012

18 Janice Alward, Chief Counsel  
19 Legal Division  
20 ARIZONA CORPORATION COMMISSION  
21 1200 West Washington Street  
22 Phoenix, AZ 85007

23 Ernest G. Johnson, Director  
24 Utilities Division  
25 ARIZONA CORPORATION COMMISSION  
26 1200 West Washington Street  
27 Phoenix, AZ 85007

28 By:

  
Jane L. Rodda

ENTELEGENT SOLUTIONS, INC.  
3800 Arco Corporate Dr. - 310  
Charlotte, North Carolina 28273

AGL NETWORKS, LLC  
Ten Peachtree Place  
Suite 1000  
Atlanta, Georgia 30309

NEWPATH NETWORKS, LLC,  
100 Oceangate, Suite 1400  
Long Beach, California 90802

William Haas,  
PAETEC Holding Group  
One Martha's Way  
Hiawatha, IA, 52233