

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of a General Investigation into)
the Adjustment of Intrastate Switched Access)
and Reciprocal Compensation Charges) Docket No. 17-GIMT-426-GIT
Pursuant to the Federal Communications)
Commission's Reforms, Effective July 1,)
2017.)

ORDER OPENING DOCKET; REQUIRING TARIFF AND COMPLIANCE FILINGS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

BACKGROUND

1. On November 18, 2011, the Federal Communications Commission (FCC) released a *Report and Order and Further Notice of Proposed Rulemaking* (USF/ICC Order) which, among other things, overhauled the traditional inter-carrier compensation regime for all intrastate and interstate telecommunications traffic traditionally classified as “access” traffic.¹ Relevant to this docket, the FCC set forth a transition path for terminating end-office switching and certain transport rate elements and reciprocal compensation charges.² States are charged with overseeing the modifications to rates in intrastate access tariffs to ensure carriers are

¹See Connect America Fund, 26 F.C.C.R. 17663 ¶ 762 (Fed. Comm. Comm’n November 18, 2011) (Report and Order and Further Notice of Proposed Rulemaking) (USF/ICC Order).

²See Id. at ¶ 800-801.

complying with the framework adopted in the USF/ICC Order and not shifting costs or otherwise seeking to gain excess recovery.³

2. The Commission has complied with the FCC's directives and overseen the rate transition contemplated in the USF/ICC Order every year since adoption. Rate adjustments generally occur on July 1 of each year, and the transition period runs from 2011-2020. Rate adjustments occur for price cap carriers, rate-of-return carriers, and competitive local exchange carriers (CLECs). For a complete history of this transition at the Commission, refer to the following dockets: 12-GIMT-170-GIT; 13-GIMT-004-GIT; 13-GIMT-611-GIT; 14-GIMT-446-GIT; 15-GIMT-068-GIT; 15-GIMT-436-GIT; 16-GIMT-413-GIT; and 16-GIMT-587-GIT.

3. On March 17, 2017, Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners explaining the USF/ICC Order requirements for July 1, 2017, attached hereto and made a part hereof by reference.⁴

4. Staff explained in its R&R that effective July 1, 2017, price cap carriers must reduce their interstate and intrastate terminating switched end-office and reciprocal compensation rates to zero (\$0.00) under the bill and keep methodology; however, a price cap carrier that owns a terminating serving tandem switch will reduce its terminating switched end-office and transport rate to \$0.0007 for all terminating traffic within the tandem serving area.⁵ Rate-of-return local exchange carriers (LECs) must begin to reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation rates from \$0.005 towards \$0.0007 via a one-third reduction in the rate differential.⁶ Competitive LECs that benchmark to

³Id. at ¶ 35.

⁴Report and Recommendation (Mar. 17, 2017) (R&R).

⁵USF/ICC Order at ¶ 801, Figure 9; R&R at 1.

⁶USF/ICC Order at ¶ 801, Figure 9; R&R at 1-2.

a price cap or rate-of-return LEC's rates will also reduce their terminating end-office access and reciprocal compensation rates.⁷

5. Staff notes in its R&R that Kansas rural local exchange carriers (RLECs) will also be required to adjust intrastate originating switched access rates to parity with their interstate rates pursuant to K.S.A. 66-2005(c) and the Commission's Order in Docket No. 16-GIMT-587-GIT.⁸

6. Staff explains that along with required inter-carrier compensation rate reductions, the FCC created the Connect America Fund (CAF) and Access Recovery Charge (ARC) to allow LECs to recover a portion of their lost revenues.⁹ However, LECs receiving such support must certify annually to the FCC and applicable state commissions that such carrier is not seeking duplicative recovery in the state jurisdiction.¹⁰ Additionally, the LEC must file its annual Baseline and Eligible Recovery data with the FCC and the Commission.¹¹

7. Staff explains that pursuant to K.S.A. 66-117, an RLEC must file proposed tariff revisions no later than 30 days prior to the effective date and CenturyLink¹² must file proposed revised tariff revisions no later than 21 days prior to the requested effective date. Staff will need to review the filed tariffs and work with companies if questions arise and then submit a Report and Recommendation regarding its review of CenturyLink's and the RLECs' revised intrastate access tariffs. Staff states that the Commission must issue an Order approving the tariffs prior to July 1, 2017.

⁷USF/ICC Order at ¶ 801, Figure 9; R&R at 2.

⁸See Order Adopting Intrastate Originating Switched Access Rates and KUSF Adjustments, Docket No. 16-GIMT-587-GIT (October 18, 2016); R&R at 2.

⁹R&R at 2.

¹⁰R&R at 3; 47 C.F.R. § 51.915(d)(viii)(3); 47 C.F.R. § 51.917(d)(vii).

¹¹R&R at 3; 47 C.F.R. § 54.304.

¹²The United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink).

8. Staff recommends that in order to facilitate the July 1, 2017, USF/ICC Order reforms, the Commission should adopt the following requirements:

- 1) The RLECs and CenturyLink shall file revised intrastate access tariffs and any applicable supporting documentation in the docket no later than May 19, 2017;
- 2) Competitive LECs that benchmark to a price cap carrier or RLEC's rates shall file revised intrastate access tariffs in the docket by June 16, 2017, and if a tariff will be effective after July 1, 2017, provide the effective date of the tariff;
- 3) AT&T¹³, CenturyLink, and the RLECs shall file all FCC required documentation, including their Baseline and Eligible Recovery and annual duplicative certification documentation, in the docket no later than June 2, 2017;
- 4) Any LEC required to file a revised interstate access tariff shall notify the Commission, submit its revised intrastate access tariff, if applicable, and advise the Commission of the revised tariff's effective date within three (3) business days of filing the revised tariff with the FCC; and
- 5) The Commission should remind LECs that they may incorporate a uniform resource locator (URL) and/or reference to their interstate access tariff in their intrastate access tariff and, if an LEC has already done so, it will not need to file a revised intrastate access tariff absent other revisions.¹⁴

¹³Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T).

¹⁴See R&R at 4.

JURISDICTION AND DUE PROCESS

9. The Commission has general supervisory jurisdiction over LECs pursuant to K.S.A. 66-1,188, and jurisdiction over telecommunications public utility rates pursuant to K.S.A. 66-1,189. The Commission retains jurisdiction over telecommunications carrier and electing carrier intrastate switched access rates, including the implementation of federal law concerning inter-carrier compensation pursuant to K.S.A. 66-2005(z)(2)(C).

10. K.S.A. 66-117 requires all proceedings concerning changes in rates to be conducted in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

STANDARD FOR APPROVAL

11. As the Commission is not being tasked with making a determination of fact at this stage, Staff's recommendations may be adopted so long as the recommended actions are within the jurisdictional authority of the Commission and conform to applicable federal and state law.¹⁵

COMMISSION FINDINGS

12. Having reviewed Staff's R&R in this matter and the applicable law, the Commission finds that at this stage, summary proceedings are appropriate pursuant to K.S.A. 77-537(a).

13. The Commission finds that Staff's recommendations contained in its March 17, 2017, R&R are lawful and reasonable, and hereby adopts the same.

¹⁵See generally K.S.A. 77-621; USF/ICC Order; K.S.A. 66-101 *et seq.*; K.S.A. 66-2001 *et seq.*; 47 C.F.R. § 51.1 *et seq.*; 47 C.F.R. § 54.304.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The RLECs and CenturyLink shall file revised intrastate access tariffs and any applicable supporting documentation in this docket no later than May 19, 2017.

(B) Competitive LECs that benchmark to a price cap carrier or rate-of-return regulated carrier's rates shall file revised intrastate access tariffs in this docket by June 16, 2017, and, if a tariff will be effective after July 1, 2017, provide the effective date of the tariff.

(C) AT&T, CenturyLink, and the RLECs shall file all FCC required documentation, including Baseline, Eligible Recovery, and annual duplicative recovery certification documentation in this docket by June 2, 2017.

(D) Any LEC required to file a revised interstate access tariff shall notify the Commission, submit its revised intrastate access tariff, if applicable, and advise the Commission of the revised tariff's effective date within three (3) business days of filing the revised tariff with the FCC.

(E) All LECs are hereby reminded that they may incorporate a URL and/or reference to their interstate access tariff in their intrastate access tariff, and, if a LEC has already done so, it does not need to file a revised intrastate access tariff absent other revisions.

(F) Filings made in compliance with this order do not need to be served on other parties to the proceeding. The Commission waives K.A.R. 82-1-216 with respect to the specific filings required by this order.

(G) Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.¹⁶


¹⁶K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

(H) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: MAR 28 2017



Amy L. Green
Secretary to the Commission

MRN

Order Mailed Date
MAR 29 2017

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

FROM: Sandy Reams, Assistant Chief of Telecommunications
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Utilities Division Director

DATE: March 17, 2017

SUBJECT: Docket Number: 17-GIMT-426-GIT
In the Matter of a General Investigation into the Adjustment of Intrastate Switched Access and Reciprocal Compensation Charges Pursuant to the Federal Communications Commission's Reforms, Effective July 1, 2017.

EXECUTIVE SUMMARY:

Effective July 1, 2017,¹ price cap carriers² will reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation³ rates to zero (\$0.00) under the bill and keep methodology; however, a price cap carrier that owns a terminating serving tandem switch will reduce its terminating switched end-office and transport rate to \$0.0007 for all terminating traffic within the tandem serving area. Rate-of-return Local Exchange Carriers (LECs)⁴ will

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking* (November 2011 Order), Figure 9.

² Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) and The United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink) operate under price cap regulation in the interstate jurisdiction. AT&T operates as an electing carrier and CenturyLink operates as a price cap carrier in Kansas. For purposes of this Report, the reference to a price cap carrier includes AT&T and CenturyLink.

³ Reciprocal compensation generally applies to calls that begin and end within the same calling area. Reciprocal compensation is generally addressed in negotiated interconnection agreements. November 2011 Order, fn. 1286. Traffic not accounted for through interconnection agreements is subject to the access regime; therefore, carriers do not need to file separate reciprocal compensation tariffs.

⁴ All of the rural LECs (RLECs) operate under rate-of-return regulation in the interstate and intrastate jurisdictions. Bluestem Telephone Company, Sunflower Telephone Company, and FairPoint Communications of Missouri (collectively FairPoint) operate under price cap regulation in the federal jurisdiction and rate-of-return regulation in Kansas. For Kansas ICC reform purposes, FairPoint is required to comply with the rate-of-return carrier rules.

begin to reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation rates from \$.005 towards \$.0007 via a one-third reduction in the rate differential.⁵ All RLECs will adjust their intrastate originating switched access rates to parity with their interstate rates pursuant to the Commission's Order in Docket No. 16-GIMIT-587-GIT (Docket 16-587).⁶ All competitive LECs that benchmark to a price cap or rate-of-return LEC's rates will also reduce their terminating end-office access and reciprocal compensation rates.

Staff recommends that the Commission issue an Order opening a new docket to address the July 2017 intrastate access rate adjustments pursuant to the Federal Communications Commission's (FCC) reforms and, for the RLECs, the adjustments approved in Docket No. 16-587. Staff also recommends the Commission direct: (1) the RLECs and CenturyLink to file revised intrastate access tariffs, along with any applicable supporting documentation, in the Docket no later than May 19th; (2) competitive LECs that benchmark to a price cap carrier or RLEC's rates to file revised intrastate access tariffs in the Docket by June 16th and, if the tariff will be effective after July 1, 2017, state the effective date of the tariff; (3) AT&T, CenturyLink, and the RLECs to file all FCC required documentation, including the Baseline and Eligible Recovery and annual certification documentation, in the Docket no later than June 2nd; and (4) any LEC that needs to file a revised interstate access tariff to notify the Commission, submit a revised intrastate access tariff, if applicable, and advise the Commission of the effective date of the revised tariffs within three (3) business days of filing the revised tariff with the FCC. Staff further recommends that the Commission remind a LEC that it may incorporate a Uniform Resource Locator (URL) and/or reference to its interstate access tariff in its intrastate access tariff and, if a LEC has done so, it will not need to file a revised intrastate access tariff absent other revisions.

BACKGROUND:

The FCC's November 18, 2011 Order implemented reforms of the intercarrier compensation (ICC) regime, including that terminating switched end-office access rates would be transitioned to a bill-and-keep methodology⁷ for all price cap, rate-of-return, and competitive LECs.⁸ The FCC created the Connect American Fund (CAF) and Access Recovery Charge (ARC)⁹ to allow LECs to recover a portion of their access revenue reductions.¹⁰ The FCC recognized the role state commissions play in the implementation of its ICC reforms, stating:

Because carriers will be revising intrastate access tariffs to reduce rates for certain terminating switched access rate elements, and capping other intrastate rates, states will play a critical role implementing and enforcing intercarrier compensation reforms. In particular, state oversight of the transition process is necessary to ensure that carriers comply with the transition timing and intrastate access charge reductions outlined above. Under our framework, rates for intrastate

⁵ November 2011 Order, ¶ 801, Figure 9.

⁶ Docket No. 16-GIMIT-587-GIT, October 18, 2016 Order Adopting Intrastate Originating Switched Access Rates and KUSF Adjustments (October 2016 Order).

⁷ November 2011 Order, ¶¶ 798, 801.

⁸ 47 C.F.R. §51.911(a) provides that the intrastate originating access service of a competitive LEC operating in an RLEC's service area or subject to the rural exemption in 47 C.F.R. §61.26(e) remains subject to state rate regulations in effect as of December 31, 2011.

⁹ November 2011 Order, ¶ 38.

¹⁰ *Ibid.*, ¶ 39.

access traffic will remain in intrastate tariffs. As a result, to ensure compliance with the framework and to ensure carriers are not taking actions that could enable a windfall and/or double recovery, state commissions should monitor compliance with our rate transition; review how carriers reduce rates to ensure consistency with the uniform framework; and guard against attempts to raise capped intercarrier compensation rates, as well as unanticipated types of gamesmanship. Consistent with states' existing authority, therefore, states could require carriers to provide additional information and/or refile intrastate access tariffs that do not follow the framework or rules adopted in this Order. Moreover, state commissions will continue to review and approve interconnection agreements and associated reciprocal compensation rates to ensure that they are consistent with the new federal framework and transition. Thus, we will be working in partnership with states to monitor carriers' compliance with our rules, thereby ensuring that consumers throughout the country will realize the tremendous benefits of ICC reform.¹¹

To help ensure compliance with its reforms, the FCC requires a LEC receiving recovery support via the interstate jurisdiction to certify to the FCC and the applicable state commission that it is not seeking duplicative recovery in the state jurisdiction.¹² This annual certification must be filed with the LEC's annual access tariff filing. The LEC must also file its annual Baseline and Eligible Recovery data with the FCC and state commission.

Since July 2012, the Commission has addressed the FCC's ICC reforms in a docket opened to address the FCC's annual access reforms.¹³ Effective July 1, 2017, price cap carriers will reduce their rates to bill and keep and the RLECs will transition their terminating access rates from \$.005 towards \$.0007 over a three-year period, with an annual rate reduction equal to one-third of the rate differential.¹⁴ Competitive LECs must also implement these changes, based upon the rules pertaining to the areas they serve.

ANALYSIS:

Price cap carriers and competitive LECs that benchmark to their rates will reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation rates to the bill and keep methodology, effective July 1, 2017. If a price cap carrier owns a terminating serving tandem switch, it will reduce the terminating switched end-office and transport rate to \$0.0007 for all terminating traffic within the tandem serving area.

Effective July 1, 2017, the RLECs and competitive LECs that benchmark to their rates will implement the first of three phases to reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation rates from \$.005 to \$.0007 via an annual one-third reduction in the rate differential. The RLECs' intrastate originating switched access rates

¹¹ Ibid., ¶813.

¹² Ibid., footnote 1664.

¹³ See Docket Nos: 12-GIMT-170-GIT, 13-GIMT-004-GIT, 13-GIMT-611-GIT, 14-GIMT-446-GIT, 15-GIMT-068-GIT, 15-GIMT-436-GIT, 16-GIMT-413-GIT, and 16-GIMT-587-GIT.

¹⁴ November 2011 Order, ¶ 801, Figure 9.

will also be adjusted to parity with their interstate rates consistent with the Commission's Order in Docket 16-587.¹⁵

For interstate purposes, a competitive LEC that benchmarks to an incumbent LEC's rates is allowed fifteen days after the effective date of the incumbent LEC's tariff to file its own tariff.¹⁶ Additionally, 47 C.F.R. § 61.26(c) provides that when an incumbent LEC lowers a rate to which a competitive LEC benchmarks, the competitive LEC's benchmark rate must be revised to the lower rate within fifteen days of the effective date of the incumbent LEC's revised rate. This means that a competitive LEC's revised interstate access rates and the corresponding intrastate access tariff may be effective after July 1, 2017.

A majority of the LECs have included a reference and/or URL to their interstate access tariff in their intrastate tariff and will not need to file a revised intrastate access tariff. Of the incumbent LECs, most of the RLECs concur in Blue Valley Telecommunications, Inc.'s (Blue Valley) intrastate access tariff and will not need to file revised intrastate access tariffs, thus, only the RLECs that do not concur in Blue Valley's intrastate tariff and CenturyLink will need to file revised intrastate access tariffs.

Pursuant to K.S.A. 66-117, an RLEC must file proposed tariff revisions no later than 30 days prior to the effective date and CenturyLink must file proposed revised tariff revisions no later than 21 days prior to the requested effective date. Staff will need to review the filed tariffs and work with a company if questions arise and then submit a Report and Recommendation regarding its review of CenturyLink's and the RLECs' revised intrastate access tariffs. The Commission must issue an Order approving the tariffs prior to the July 1, 2017, effective date.

The FCC's access reform rules also require the RLECs, CenturyLink, and AT&T to file their Baseline and Eligible Recovery and annual certification with the Commission.

RECOMMENDATION:

Staff recommends that the Commission issue an Order to open a docket to address the July 2017 intrastate access rate adjustments pursuant to the FCC's reforms and Docket No. 16-587. Staff also recommends the Commission direct: (1) the RLECs and CenturyLink to file revised intrastate access tariffs and any applicable supporting documentation in the Docket no later than May 19th; (2) competitive LECs that benchmark to a price cap carrier or RLEC's rates to file revised intrastate access tariffs in the Docket by June 16th and, if a tariff will be effective after July 1st, provide the effective date of the tariff; (3) AT&T, CenturyLink, and the RLECs to file all FCC required documentation, including their Baseline and Eligible Recovery and annual certification documentation, in the Docket no later than June 2nd; and (4) any LEC required to file a revised interstate access tariff to notify the Commission, submit its revised intrastate access tariff, if applicable, and advise the Commission of the revised tariff's effective date within 3 business days of filing the revised tariff with the FCC. Staff also recommends the Commission remind LECs they may incorporate a URL and/or reference to their interstate access tariff in their intrastate access tariff and, if a LEC has already done so, it will not need to file a revised intrastate access tariff absent other revisions.

¹⁵ Docket 16-587, October 2016 Order.

¹⁶ November 2011 Order, ¶ 807.

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on MAR 28 2017.

STEPHANIE PERROTTE, TARIFF DIRECTOR
800 RESPONSE INFORMATION SERVICES LLC
1795 WILLISTON RD STE 200
SOUTH BURLINGTON, VT 05403
sperrotte@800response.com

JASON BROWN, REGULATORY AFFAIRS
ACCESS POINT, INC.
1100 CRESCENT GREEN DR STE 109
CARY, NC 27518
Fax: 919-851-5422
jason.brown@accesspointinc.com

DAVID STEVANOVSKI, CHIEF OPERATING OFFICER
ACN COMMUNICATIONS SERVICES, LLC.
1000 PROGRESS PL NE
CONCORD, NC 28025-2449
Fax: 704-632-8072
dstevano@acninc.com

TODD HEINRICH, PRESIDENT
AERO COMMUNICATIONS, LLC
3901 TECHNOLOGY DR
PADUCAH, KY 42001
Fax: 270-575-0672

AVI LONSTEIN, PRESIDENT/CEO
AIRESRING, INC.
6060 SEPULVEDA BLVD STE 220
VAN NUYS, CA 91411-2512
Fax: 818-786-9225
avi@airespring.com

PATRICK PHIPPS, DIRECTOR REGULATORY AFFAIRS
AIRUS, INC.
840 S CANAL 7TH FL
CHICAGO, IL 60607
Fax: 650-287-2628
pphipps@peerlessnetwork.com

MARK HAYES, SR VICE PRESIDENT, CLEC OPERATIONS
ALEC, LLC
250 W MAIN ST STE 1920
LEXINGTON, KY 40507
Fax: 859-721-4201
mhayes@alec.net

JOSEPH O'HARA, CHIEF FINANCIAL OFFICER &
TREASURER
ANPI BUSINESS, LLC
7460 WARREN PKWY STE 218
FRISCO, TX 76711
Fax: 217-698-0100
regulatoryaffairs@zonetelecom.com

SCOTT WALKER, AREA MANAGER REGULATORY
AT&T CORP.
1010 N ST MARYS ROOM 1327
SAN ANTONIO, TX 78215
Fax: 210-246-8152
sw8310@att.com

DAVID E. SCOTT, CHAIRMAN AND MANAGING MEMBER
AVID COMMUNICATIONS, L.L.C.
500 SOUTHWEST BLVD STE 200
KANSAS CITY, MO 64108-2169
Fax: 816-531-0818
dscott@avidphone.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

% TECHNOLOGIES MANAGEMENT, INC.
BANDWIDTH.COM CLEC, LLC
900 MAIN CAMPUS DR STE 500
RALEIGH, NC 27606
Fax: 919-238-9903

KATHLEEN GOREY, REGULATORY MANAGER
BCN TELECOM, INC.
1200 Mount Kemble Ave Ste 3
Morristown, NJ 07960-8013
Fax: 908-470-4707
kgorey@bcntele.com

ANDREW SCHWANTNER, MANAGER-CONTRACT
COMPLIANCE
BIG RIVER TELEPHONE COMPANY, LLC
24 S MINNESOTA AVE 270
CAPE GIRARDEAU, MO 63703
Fax: 314-225-2235
noc@bigrivercom.com

ANGELA HOKE, MANAGER
BIRCH TELECOM OF KANSAS, INC.
2323 GRAND BLVD #925
KANSAS CITY, MO 64108-2670
Fax: 816-300-3350
angela.hoke@birch.com

KORENE WAPP, ACCOUNTS PAYABLE
BLUE VALLEY TELE-COMMUNICATIONS, INC.
1559 PONY EXPRESS HWY
HOME, KS 66438
Fax: 785-799-3530
kwapp@bluevalleyinc.net

JANA OLDFATHER
BLUESTEM TELEPHONE COMPANY, INC.
908 FRONTVIEW
PO BOX 199
DODGE CITY, KS 67801-0199
aptelecom@fairpoint.com

ROBERT S. RIFE, MANAGING MEMBER
BROADBAND DYNAMICS, L.L.C.
8757 E VIA DE COMMERCIO 1ST FLR
SCOTTSDALE, AZ 85258
Fax: 480-941-1143
rrife@broadbanddynamics.com

STEVEN J. BOGDAN, DIRECTOR OF REGULATORY
BROADVIEW NETWORKS, INC.
800 WESTCHESTER AVE STE N-501
RYE BROOK, NY 10573-1332
Fax: 267-537-0074
sbogdan@broadviewnet.com

MARY T. BULEY, SENIOR REGULATORY MANAGER
BROADVOX-CLEC, LLC
10300 6TH AVE N
C/O ONVOY, LLC
PLYMOUTH, MN 55441-6371
Fax: 216-373-4812
mary.buley@onvoy.com

ROBIN ENKEY, DIRECTOR OF COMPLIANCE
BUDGET PREPAY, INC.
D/B/A BUDGET PHONE
1325 BARKSDALE BLVD STE 200
BOSSIER CITY, LA 71111
Fax: 877-786-0767
robine@budgetprepay.com

CHARLES L. SCHNEIDER, JR., DIRECTOR-BUSINESS
DEVELOPMENT
BULLSEYE TELECOM, INC.
25925 TELEGRAPH RD STE 210
SOUTHFIELD, MI 48033
Fax: 248-784-2501

PAULA FOLEY, REGULATORY AFFAIRS COUNSEL
BUSINESS TELECOM, LLC.
D/B/A EARTHLINK BUSINESS
1375 PEACHTREE ST
ATLANTA, GA 30309
Fax: 781-362-1313
pfoley@corp.earthlink.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

DENNIS MOFFIT, SENIOR COUNSEL
CEBRIDGE TELECOM KS, LLC
D/B/A SUDDENLINK COMMUNICATIONS
520 MARYVILLE CENTRE DR STE 300
SAINT LOUIS, MO 63141-5820
Fax: 314-315-9322
dennis.moffit@suddenlink.com

SCOTT RINGO, DIRECTOR REG AFFAIRS
CINCINNATI BELL ANY DISTANCE INC.
221 E FOURTH ST ROOM 1280
CINCINNATI, OH 45201
scott.ringo@cinbell.com

KARLY WERNER, DIRECTOR, GOVERNMENT &
REGULATORY AFFAIRS
COMCAST PHONE OF KANSAS LLC
D/B/A COMCAST DIGITAL PHONE
10 RIVER PARK PLAZA
ST. PAUL, MN 55107
karly_werner@cable.comcast.com

LAURA MATOSIAN
COMTECH 21, LLC
ONE BARNES PARK SOUTH
WALLINGFORD, CT 06492
regulatory@comtech21.com

THOMAS F BARDON, ATTORNEY
CONTEERRA ULTRA BROADBAND, LLC
101 CONSTITUTION AVE NW
STE 900
WASHINGTON, DC 20001
Fax: 202-712-2839
tom.bardon@nelsonmullins.com

PAUL CAIN, REGULATORY OPERATIONS
COX KANSAS TELCOM, L.L.C.
D/B/A COX COMMUNICATIONS, INC
6305 PEACHTREE DUNWOODY RD NE
ATLANTA, GA 30328-4535
Fax: 404-269-1110
paul.cain@cox.com

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL
AFFAIRS
CENTURYLINK COMMUNICATIONS, LLC
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
Fax: 303-896-0233
john.idoux@centurylink.com

PATRICIA CARROLL, GENERAL MANAGER
COLUMBUS TELEPHONE CO. INC.
224 S KANSAS AVE
COLUMBUS, KS 66725
Fax: 620-429-1704
tcarroll@columbus-telephone.com

NICOLE TAHA, SR. TAX ACCOUNTANT
COMMON POINT LLC
3243 MEADOWBROOK
SPRINGFIELD, IL 62711
ntaha@anpi.com

GREG GIERCZAK, EXEC DIR-PUBLIC POLICY & GOV
RELATIONS
CONSOLIDATED COMMUNICATIONS ENTERPRISE
SERVICES, INC.
8150 INDUSTRIAL AVE BLDG A
ROSEVILLE, CA 95678
Fax: 916-786-1877
g.gierczak@surewest.com

CHRIS VAN DE VERG, GENERAL COUNSEL
CORETEL KANSAS, INC.
209 WEST ST STE 302
ANNAPOLIS, MD 22401
chris@coretel.net

CRAIG WILBERT, GENERAL MANAGER
CRAW-KAN TELEPHONE COOPERATIVE, INC.
200 N OZARK
PO BOX 100
GIRARD, KS 66743
crwilbert@ckt.net

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

JEFF KORN, CHIEF LEGAL OFFICER
CREXENDO BUSINESS SOLUTIONS, INC.
1615 S 52ND ST
TEMPE, AZ 85281-6233
Fax: 801-426-6712
jkorn@storesonline.com

CHRISTINA NEHER, COMMISSION/INDUSTRY
RELATIONS
DISHNET WIRELINE L.L.C.
9601 S MERIDIAN BLVD
ENGLEWOOD, CO 80112

ROBERT MOCAS, PRESIDENT
EASTON TELECOM SERVICES, L.L.C.
SUMMIT II UNIT A
3046 BRECKSVILLE RD
RICHFIELD, OH 44286
Fax: 330-659-9379
rmocas@eastontelecom.com

JOHN IDOUX, REGULATORY AFFAIRS MANAGER
EMBARQ COMMUNICATIONS, INC.
D/B/A CENTURYLINK COMMUNICATIONS
KSOPKJ04-4015
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
Fax: 913-345-7955
john.idoux@embarq.com

BRUCE SUMMERS, CEO
ENHANCED COMMUNICATIONS GROUP, L.L.C.
D/B/A ECG
312 SE DELAWARE AVE
BARTLESVILLE, OK 74003-3630
Fax: 918-333-8843

Brian Kirk, ASSISTANT GENERAL COUNSEL
EXTENET SYSTEMS, INC.
3030 Warrenville Road
Suite 340
Lisle, IL 60532
bkirk@extenetsystems.com

BRENT CUNNINGHAM, VICE PRESIDENT & GENERAL
MANAGER
CUNNINGHAM TELEPHONE COMPANY, INC.
220 W MAIN
PO BOX 108
GLEN ELDER, KS 67446
Fax: 785-545-3277
brent@ctctelephony.tv

PAUL FOLEY, REGULATORY AFFAIRS COUNSEL
EARTHLINK BUSINESS, LLC
2851 CHARLEVOIX DR SE
STE 209
GRAND RAPIDS, MI 49546-7093
Fax: 781-362-1313
pfoley@corp.earthlink.com

RELINDA SHOOK
ELKHART TELEPHONE COMPANY, INC.
610 S COSMOS
PO BOX 817
ELKHART, KS 67950
Fax: 620-697-9997
rshook@epictouch.com

GINA LAWRENCE, CHIEF FINANCIAL OFFICER
eNETWORKS, LLC
136 CORPORATE PAKR DR STE G
11020 DAVID TAYLOR DRIVE, SUITE 103
MOORESVILLE, NC 28117
Fax: 704-230-1172
gina.lawrence@essentia-inc.com

MICHAEL RUZISKA, VP OF OPERATIONS
ENTELEGENT SOLUTIONS, INC.
3800 ARCO CORPORATE DR STE 310
CHARLOTTE, NC 28273
Fax: 704-504-5868
accounting@entelegent.com

PATRICK MORSE
FAIRPOINT BROADBAND, INC.
D/B/A RURALINK
908 FRONTVIEW
DODGE CITY, KS 67801
pmorse@fairpoint.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

PATRICK L. MORSE, SR VP - GOV AFFAIRS
FAIRPOINT COMMUNICATIONS MISSOURI, INC.
908 W FRONTVIEW
PO BOX 199
DODGE CITY, KS 67801
Fax: 620-227-8576
pmorse@fairpoint.com

SHANNON DIERINGER, PARALEGAL
FIRST COMMUNICATIONS, LLC
3340 W MARKET ST
AKRON, OH 44333
Fax: 866-540-8518
sdieringer@firstcomm.com

BEAU REBEL, GENERAL MANAGER
GBT COMMUNICATIONS, INC.
103 LINCOLN
PO BOX 229
RUSH CENTER, KS 67575
Fax: 785-372-4210
brebel@gbta.net

MARK WADE, COO
GIANT COMMUNICATIONS, INC.
418 W 5TH ST
PO BOX 231
HOLTON, KS 66436-0231
mark@havalandtelco.com

TAMMY CHATFIELD, REGULATORY AFFAIRS MANAGER
GLOBAL CROSSING LOCAL SERVICES, INC.
10475 PARK MEADOWS DR
LITTLETON, CO 80124-5414
Fax: 585-381-6781
tammy.chatfield@level3.com

MICHAEL J. MURPHY, PRESIDENT & MANAGER
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
Fax: 785-637-5590
mmurphy@gorhamtel.com

PATRICIA CARROLL, GENERAL MANAGER
FIBER COMMUNICATIONS OF COLUMBUS LLC,
D/B/A OPTIC COMMUNICATIONS
224 S. KANSAS
COLUMBUS, KS 66725
tcarroll@columbus-telephone.com

JOE TOPEL, REGULATORY MANAGER
FRANCE TELECOM CORPORATE SOLUTIONS L.L.C.
MAILSTOP 1100
13775 MCLEAREN ROAD
OAK HILL, VA 20171
Fax: 703-925-4712
joe.topel@orange.com

BETHANY M BECKER, REGULATORY COMPLIANCE
PARALEGAL
GC PIVOTAL, LLC
D/B/A GLOBAL CAPACITY
1835-B KRAMER LN STE 100
AUSTIN, TX 78758
bethany.becker@globalcapacity.com

DAVID SKOGEN, PRESIDENT/CEO
GLOBAL CONNECTION INC. OF AMERICA
5555 OAKBROOK PKWY STE 620
NORCROSS, GA 30093
Fax: 678-741-6333
dskogen@gcioa.com

BEAU REBEL, GENERAL MANAGER
GOLDEN BELT TELEPHONE ASSOCIATION.
103 LINCOLN ST
PO BOX 229
RUSH CENTER, KS 67575
Fax: 785-372-4210
brebel@gbta.net

ROBERT T. HALE, JR., PRESIDENT
GRANITE TELECOMMUNICATIONS, LLC
100 NEWPORT AVE EXT #1
QUINCY, MA 02171-1734
Fax: 617-847-0931

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

ROBERT A. KOCH, PRESIDENT/GEN MGR
H&B CABLE SERVICE, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
Fax: 785-252-3229
robkoch@hbcomm.net

ROBERT A. KOCH, PRESIDENT/GEN MGR
H&B COMMUNICATIONS, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
Fax: 785-252-3229
robkoch@hbcomm.net

SUE A LEPPERT, ASSISTANT ACCOUNTANT
HAVILAND TELEPHONE COMPANY, INC.
104 N MAIN
PO BOX 308
HAVILAND, KS 67059
Fax: 620-862-7299
sue@havilandtelco.com

CHRISTOPHER L. OWEN
HCI TELCOM INC.
266 N MAIN ST STE 150
WICHITA, KS 67202
owen@hubris.net

CATHERINE MOYER, GENERAL MANAGER & CEO
HIGH PLAINS TELECOMMUNICATIONS, INC.
D/B/A PIONEER LONG DISTANCE
120 N BAUGHMAN
PO BOX 707
ULYSSES, KS 67880
Fax: 620-356-3242
catherine@pioncomm.net

ROBERT BALDWIN, PRESIDENT
HOME COMMUNICATIONS, INC.
211S MAIN ST
GALVA, KS 67443
Fax: 620-654-3122

RICHARD BALDWIN, PRESIDENT
HOME TELEPHONE COMPANY, INC.
211S MAIN ST
BOX 8
GALVA, KS 67443
Fax: 620-654-3122
rbaldwin@homecomminc.com

DANIEL P. FRIESEN, PRESIDENT
IDEATEK TELCOM, LLC
10400 E 69TH
PO BOX 407
BUHLER, KS 67522
Fax: 866-459-2829
daniel@ideatek.biz

ANTHONY ACEVEDO, CUSTOMER SERVICE LEGAL
LIAISON
IDT AMERICA, CORP.
550 BROAD ST STE 1700
NEWARK, NJ 07102-4549
Fax: 973-438-1455
aaceve@mail.corp.idt.net

KIMM PARTRIDGE, SECRETARY
INCONTACT, INC.
75 WEST TOWN RIDGE PKWY
SANDY, UT 84070
Fax: 801-576-5022
kimm.partridge@incontact.com

CHRISTOPHER BUNCE, VP, LEGAL & GEN COUNSEL
IONEX COMMUNICATIONS, INC.
2323 GRAND BLVD #925
KANSAS CITY, MO 64108-2670
Fax: 816-300-3350

MARK WADE, VP OF OPERATIONS
J.B.N. TELEPHONE COMPANY, INC.
PO BOX 111
HOLTON, KS 66436
Fax: 785-866-4121
mark@havilandtelco.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

DANA PIERCE, CEO
KANOKLA COMMUNICATIONS, INC.
100 KANOKLA AVE
PO BOX 222
CALDWELL, KS 67022
Fax: 620-845-5636
dana@kanokla.com

DANA PIERCE, CEO/GENERAL MANAGER
KANOKLA TELEPHONE ASSN., INC.
100 KANOKLA AVE
PO BOX 111
CALDWELL, KS 67022
Fax: 620-845-5636
dana@kanokla.com

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
m.neeley@kcc.ks.gov

STEVEN DORF, PRESIDENT AND GENERAL MANAGER
KANSAS FIBER NETWORK LLC
8201 E 34TH ST NORTH #1500
WICHITA, KS 67226
Fax: 620-897-6211
sdorf@ksfiber.net

BRUCE SCHOONOVER, DIRECTOR, REGULATORY
COMPLIANCE
KNOLOGY OF KANSAS, INC.
D/B/A WOW! Internet, Cable and Phone
259 E MICHIGAN AVE
STE 405
KALAMAZOO, MI 49007-3923
Fax: 706-645-0148
bruce.schoonover@wowinc.com
PAMELA HOLLICK, ASSOCIATE GENERAL COUNSEL
LEVEL 3 COMMUNICATIONS, LLC
4625 W 86th ST SUITE 500
INDIANAPOLIS, IN 46268-7804
pamela.hollick@level3.com

HARRY J. LEE, JR., PRESIDENT/GENERAL MANAGER
LAHARPE TELEPHONE COMPANY, INC.
D/B/A LAHARPE LONG DISTANCE
109 W 6TH ST
PO BOX 123
LA HARPE, KS 66751
harry.lee@laharpetel.com

TAMMY L CHATFIELD, REGULATORY AFFAIRS MANAGER
LEVEL 3 TELECOM OF KANSAS CITY, LLC
ATTN: TAX DEPARTMENT
1025 ELDORADO BLVD
BROOMFIELD, CO 80021-8254
Fax: 303-542-4403
tammy.chatfield@level3.com

ROBERT RUSSELL, PRESIDENT
LOCAL ACCESS LLC
6996 PIAZZA GRANDE STE 311
ORLANDO, FL 32835
brussell@dmv.com

HOWARD SIEGEL, VP OF EXTERNAL & REGULATORY
AFFAIRS
LOGIX COMMUNICATIONS, LP
2950 N LOOP W, 8TH FLOOR
HOUSTON, TX 77092-8839
Fax: 775-854-8107
howard.siegel@logixcom.com

JOHN TIETJENS, PRESIDENT AND GENERAL MANAGER
LR COMMUNICATIONS, INC.
D/B/A MUTUAL TELECOMMUNICATIONS
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
jtietjens@mtc4me.com

Shana Rains
MADISON TELEPHONE LLC
117 N THIRD
PO BOX 337
MADISON, KS 66860-0337
Fax: 620-437-2108
srains@madtel.net

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

ALEX VALENCIA, VICE PRESIDENT, GOVERNMENT
AFFAIRS & COMPLIANCE
MATRIX TELECOM, LLC
433 E LAS COLINAS BLVD
SUITE 500
IRVING, TX 75039
Fax: 866-418-9750
avalencia@impacttelecom.com

DEBORAH KUHN, ASSISTANT GENERAL COUNSEL
MCIMETRO ACCESS TRANSMISSION SERVICES CORP
205 N MICHIGAN AVE 7TH FLR
CHICAGO, IL 60601
Fax: 312-470-5574
deborah.kuhn@verizon.com

MARSHALL ARONOW, CO-PRESIDENT
METROPOLITAN TELECOMMUNICATIONS OF KANSAS,
INC.
D/B/A METTEL
55 WATER ST 31ST FLR
NEW YORK, NY 10041
Fax: 212-635-5074

CHRIS FORCE, DIRECTOR OF FINANCE
MISSOURI NETWORK ALLIANCE, LLC
D/B/A BLUEBIRD NETWORK, LLC
2005 W BROADWAY BLDG A STE 215
COLUMBIA, MO 65203
chris.force@bluebirdnetwork.com

STEPHANIE CRUZ, EXECUTIVE ASSISTANT
MOBILITIE, LLC
2220 UNIVERSITY DR
NEWPORT BEACH, CA 92660-3319
Fax: 949-719-2716

HARRY M. WEELBORG, PRESIDENT
MOUNDRIDGE TELEPHONE COMPANY
109 N CHRISTIAN AVE
PO BOX 960
MOUNDRIDGE, KS 67107
Fax: 620-345-6106
weel@mtelco.net

ANNA SOKOLIN-MAIMON, VP REGULATORY AFFAIRS
MCC TELEPHONY OF MIDWEST, LLC
1 MEDIACOM WAY
CHESTER, NY 10918-4810
Fax: 845-698-4570
amaimon@mediacomcc.com

TIM P LOKEN, DIR. REG. REPORTING
MCLEODUSA TELECOMMUNICATIONS SERVICES, LLC
4001 Rodney Parham Rd
Little Rock, AR 72212
tim.p.loken@windstream.com

PAT McADARAGH, CHIEF EXECUTIVE OFFICER
MIDCONTINENT COMMUNICATIONS
D/B/A MIDCO
3600 MINNESOTA DR STE 700
MINNEAPOLIS, MN 55435
pat.mcadaragh@midco.com

WAYNE FOSTER
MITEL CLOUD SERVICES, INC.
1146 N ALMA SCHOOL RD
MESA, AZ 85201-3000
Fax: 480-961-1370
wayne_foster@mitel.com

AMANDA MOLINA, AVP OF EXTERNAL RELATIONS
MOKAN DIAL, INC.
1139 BRIDGEWAY BLVD
ORLANDO, FL 32828
amolina@townes.net

SHANA RAINS, ACCOUNTANT
MT NETWORKS, L.L.C.
117 N. THIRD ST.
P.O. BOX 337
MADISON, KS 66860
mtn.shana@gmail.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

BECKY ERICKSON, OFFICE MANAGER/ACCOUNTANT
MUTUAL TELEPHONE COMPANY
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
Fax: 620-897-6211
berickson@mtc4me.com

GLEN NELSON, VP MARKETING & BUSINESS
DEVELOPMENT
NEW HORIZONS COMMUNICATIONS CORP.
420 BEDFORD ST STE 100
LEXINGTON, MA 02420
Fax: 617-507-8277
info@nhcgrp.com

KIM ROBERT SCOVILL, SENIOR DIR GOV AFFAIRS
NEXTGEN COMMUNICATIONS, INC.
275 WEST ST STE 400
ANNAPOLIS, MD 21401
sst-compliance@comtechtel.com

CANDACE WRIGHT, GENERAL MANAGER/CFO
ONE POINT TECHNOLOGIES, INC.
D/B/A BLUE VALLEY TELE-COMMUNICATIONS
1559 PONY EXPRESS HWY
HOME, KS 66438-9000
cwright@bluevalley.net

NICOLE WINTERS
PAETEC COMMUNICATIONS, LLC.
4001 Rodney Parham Rd.
Little Rock, AR 72212
wci.kansas.govaffairs@windstream.com

KATHY BILLINGER, CEO/GENERAL MANAGER
PEOPLES SERVICES, LLC
208 N BROADWAY
LA CYGNE, KS 66040
kathy@peoplestelecom.net

ANGEL SON, DIRECTOR, COMMISSION COMPLIANCE
NEUTRAL TANDEM-KANSAS LLC
550 W ADAMS ST STE 900
CHICAGO, IL 60661-3636
Fax: 312-346-2601
ason@inteliquent.com

RHONDA GODDARD, CFO
NEX-TECH, LLC
145 N. MAIN
PO BOX 158
LENORA, KS 67645
Fax: 785-625-4479
rgoddard@nex-tech.com

JOSEPH T. KOPPY, PRESIDENT
NOS COMMUNICATIONS, INC.
D/B/A 011 COMM., INTL PLUS, INTERNET BUSINESS ASSN..
250 PILOT RD STE 300
LAS VEGAS, NV 89119-3514
Fax: 702-547-8546

SCOTT SAWYER, GENERAL COUNSEL
ONVOY, LLC
10300 6TH AVENUE NORTH
PLYMOUTH, MN 55441
scott.sawyer@onvoy.com

SCOTT KELL, VICE PRESIDENT OF OPERATIONS
PEERLESS NETWORK OF KANSAS, LLC
222 S RIVERSIDE PLZ STE 2730
CHICAGO, IL 60606-6202
Fax: 312-506-0931

KATHY BILLINGER, CEO/GENERAL MANAGER
PEOPLES TELECOMMUNICATIONS, LLC
208 N BROADWAY
PO BOX 450
LA CYGNE, KS 66040
Fax: 913-757-2724
kathy@peoplestelecom.net

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

CATHERINE MOYER, GENERAL MANAGER & CEO
PIONEER TELEPHONE ASSN., INC.
D/B/A PIONEER COMMUNICATIONS
120 W KANSAS AVE
PO BOX 707
ULYSSES, KS 67880-0707
Fax: 620-424-3133
catherine.moyer@pioncomm.net

JASON SMITH
RAINBOW COMMUNICATIONS, L.L.C.
608 MAIN ST
PO BOX 147
EVEREST, KS 66424
Fax: 785-548-7517
jason@rainbowtel.com

MARY ANN MITCHELL, PRESIDENT
ROSEBUD TELEPHONE, LLC
501 W MAIN ST
PO BOX 597
ROSEBUD, TX 76570
Fax: 254-583-2027
maryannmitchell@valornet.com

JANET BATHURST, MANAGER
S&A TELEPHONE COMPANY, INC.
413 MAIN ST
PO BOX 68
ALLEN, KS 66833
Fax: 620-528-3226
jbathurst@satelephone.com

CASSANDRA MILLIGAN, REGULATORY AFFAIRS
SAGE TELECOM COMMUNICATIONS, LLC
10440 N CENTRAL EXPRESSWAY STE 700
DALLAS, TX 75231
Fax: 214-495-4789
cmilligan@truconnect.com

R. MATTHEW KOHLY, DIRECTOR
SOCKET TELECOM, LLC
2703 CLARK LANE
PO BOX 1118
COLUMBIA, MO 65205-1118
Fax: 573-256-6201
rmkohly@sockettelecom.com

SCOTT SCHAEFER, PRESIDENT/CEO
QUANTUMSHIFT COMMUNICATIONS, INC.
C/O VCOM SOLUTIONS
12657 ALCOSTA BLVD STE 418
SAN RAMON, CA 94583-4433
Fax: 281-859-7747

JASON SMITH
RAINBOW TELECOMMUNICATIONS ASSOCIATION, INC.
608 MAIN ST
PO BOX 147
EVEREST, KS 66424-0147
Fax: 785-548-7517
jason@rainbowtel.com

RHONDA S GODDARD, COO
RURAL TELEPHONE SERVICE COMPANY, INC.
D/B/A Nex-Tech
145 N MAIN
PO BOX 158
LENORA, KS 67645
Fax: 785-567-4401
rgoddard@nex-tech.com

ZACK O'DELL
S&T COMMUNICATIONS LLC
320 KANSAS AVE
PO BOX 99
BREWSTER, KS 67732
Fax: 785-694-2750
zack.odell@sttelcom.com

KENDALL S. MIKESELL, PRESIDENT
SKT, INC.
112 S LEE
PO BOX 800
CLEARWATER, KS 67026-0800
Fax: 620-584-2268

DANE JASPER, CEO
SONIC TELECOM, LLC
2260 APOLLO WAY
SANTA ROSA, CA 95407
Fax: 707-547-3403
dane@corp.sonic.net

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

KELLY JOHNSON, GENERAL MANAGER
SOUTH CENTRAL TELEPHONE ASSN. INC.
101 S MAIN
PO BOX B
MEDICINE LODGE, KS 67104
Fax: 620-930-1051
kjohnson@sctelcom.com

JANET ARNOLD, AREA MANAGER EXTERNAL AFFAIRS
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
220 SE SIXTH ST.
ROOM 505
TOPEKA, KS 66603-3596
Fax: 785-276-1988
js0746@att.com

ROSS ARTALE
SPECTROTEL, INC.
D/B/A TOUCH BASE COMMUNICATIONS
3535 STATE HWY 66 STE 7
NEPTUNE, NJ 07753-2625
rartale@spectrotel.com

PATRICK MORSE, DIRECTOR OF OPERATIONS
SUNFLOWER TELEPHONE COMPANY, INC.
D/B/A FAIRPOINT COMMUNICATIONS
PO BOX 199
DODGE CITY, KS 67801-0199
Fax: 620-227-8576
pmorse@fairpoint.com

DALE JONES, CHIEF EXECUTIVE OFFICER
TC WIRELESS, INC.
1568 S. 1000 ROAD
COUNCIL GROVE, KS 66846
djones@tctainc.net

JANET ARNOLD, MANAGER-REGULATORY RELATIONS,
ROOM 500
TELEPORT COMMUNICATIONS AMERICA, LLC
220 SE SIXTH STREET
ROOM 505
TOPEKA, KS 66603-3596
Fax: 785-276-1713
js0746@att.com

KENDALL S. MIKESELL, PRESIDENT
SOUTHERN KANSAS TELEPHONE COMPANY, INC.
112 S LEE ST
PO BOX 800
CLEARWATER, KS 67026-0800
Fax: 620-584-2268
kendall.mikesell@sktcompanies.com

ROSS ARTALE
SPECTROTEL, INC.
D/B/A ONETOUCH COMMUNICATIONS
3535 STATE HWY 66 STE 7
NEPTUNE, NJ 07753-2625
rartale@spectrotel.com

KENNETH A. SCHIFMAN, ATTORNEY
SPRINT COMMUNICATIONS COMPANY L.P.
KSOPHN314-3A753
6450 SPRINT PKWY
OVERLAND PARK, KS 66251
Fax: 913-523-9827
kenneth.schifman@sprint.com

JEFFERY W SMALL, SENIOR VICE PRESIDENT
TALK AMERICA SERVICES, LLC
10802 EXECUTIVE CENTER DRIVE
BENTON BUILDING STE 300
LITTLE ROCK, AR 72211
Fax: 330-425-0881
jeffery.w.small@windstream.com

PAMELA HOLLICK, ASSOCIATE GENERAL COUNSEL -
STATE PUBLIC POLICY
TELCOVE OPERATIONS, LLC
4525 2 86TH ST STE 500
INDIANAPOLIS, IN 46368
pamela.hollick@level3.com

BETTY J SANDERS, SR. DIRECTOR-REGULATORY
TIME WARNER CABLE INFORMATION SERVICES
(KANSAS), LLC
% CHARTER COMMUNICATIONS, INC.
12405 POWERSCOURT DR
ST LOUIS, MO 63131
Fax: 203-328-4840
betty.sanders@charter.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

MARK M. GAILEY, PRESIDENT & GENERAL MANAGER
TOTAH COMMUNICATIONS, INC.
101 MAIN ST
PO BOX 300
OCHELATA, OK 74051-0300
Fax: 918-535-2701
mmgailey@totelcsi.com

DALE JONES, GENERAL MANAGER
TRI-COUNTY TELEPHONE ASSOCIATION, INC.
1568 S 1000 RD
PO BOX 299
COUNCIL GROVE, KS 66846
Fax: 785-366-7007
djones@tctainc.net

ADAM GLENDENING
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
tvtaacctpay@tvttinc.net

TODD HOUSEMAN, ASST. GENERAL MANAGER
UNITED COMMUNICATIONS ASSOCIATION, INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
Fax: 620-227-7032
toddh@unitedtelcom.net

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL
AFFAIRS
UNITED TELEPHONE CO. OF KANSAS
D/B/A CENTURYLINK
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
Fax: 913-345-6756
john.idoux@centurylink.com

J. DAVID JACOBSON
UTPHONE, INC.
JACOBSON & LAASCH
212 E SECOND ST
EDMOND, OK 73034
jdj8788@aol.com

GARY GLODEK, DIRECTOR, RETAIL OPERATIONS
TOUCHTONE COMMUNICATIONS INC.
16 S JEFFERSON RD
WHIPPANY, NJ 07981
Fax: 973-739-9366

BENJAMIN FOSTER, PRESIDENT/COO
TWIN VALLEY COMMUNICATIONS, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
ben.foster@tvttinc.net

DAN RIPPEE, REGULATORY TAX MANAGER
UNITE PRIVATE NETWORKS, LLC
7200 NW 86TH ST STE M
KANSAS CITY, MO 64153-2262
dan.riptide@upnfiber.com

TODD HOUSEMAN, ASST. GENERAL MANAGER
UNITED TELEPHONE ASSN., INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
Fax: 620-227-7032
toddh@unitedtelcom.net

TODD HOUSEMAN, ASSISTANT GENERAL MANAGER
UNITED WIRELESS COMMUNICATIONS, INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
toddh@unitedtelcom.net

RICHARD LEE TIDWELL, MANAGING PARTNER
VALU-NET LLC
2914 HWY 50 STE A
EMPORIA, KS 66801-5394
rick@myvalunet.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

JUDI REED
VELOCITY THE GREATEST PHONE COMPANY EVER, INC.
7130 SPRING MEADOWS W DR
HOLLAND, OH 43528
Fax: 419-868-9986
jreed@velocity.org

MORDY GROSS, ATTORNEY AND COUNSELOR AT LAW
VITCOM LLC
1425 37TH ST STE 214
BROOKLYN, NY 11218
mg@vitcom.net

MORDY GROSS, ATTORNEY AND COUNSELOR AT LAW
VITCOM LLC
1425 37TH ST STE 214
BROOKLYN, NY 11218
mg@vitcom.net

JEFF WICK, PRESIDENT/GENERAL MANAGER
WAMEGO TELECOMMUNICATIONS COMPANY, INC.
1009 LINCOLN
PO BOX 25
WAMEGO, KS 66547-0025
Fax: 785-456-9903
jwick@wtcks.com

ROB OYLER, PRESIDENT
WANRACK, LLC
25656 W. 97th Street
Lenexa, KS 66227
rob.oyler@wanrack.com

REGULATORY DEPARTMENT
WEST SAFETY COMMUNICATIONS INC.
1601 DRY CREEK DR
LONGMONT, CO 80503-6494
Fax: 720-494-6600
regulatory@intrado.com

KAREN TURNER
WEST TELECOM SERVICES, LLC
3200 W PLEASANT RUN RD STE 300
LANCASTER, TX 75146-1086
Fax: 866-278-3321
karen.turner@h3net.com

CARRIE LOOS, ACCOUNTING ADMINISTRATOR
WHEAT STATE TELEPHONE COMPANY, INC.
PO BOX 320
UDALL, KS 67146
Fax: 620-782-3302
cloos@wheatstate.com

PATRICK J CHICAS, PRESIDENT AND CEO
WIDE VOICE, LLC
410 SOUTH RAMPART
SUITE 390
LAS VEGAS, NV 89145
Fax: 702-825-2582
pjc@widevoice.com

BRIAN BOISVERT, GENERAL MANAGER
WILSON TELEPHONE COMPANY, INC.
2504 AVE D
PO BOX 190
WILSON, KS 67490-0190
Fax: 785-658-3344
boisvert@wilsoncom.us

JAMES MACKENZIE, PRES, CEO AND SECRETARY
WIMACTEL, INC.
D/B/A VIIZ COMMUNICATIONS
2225 E BAYSHORE RD
PALO ALTO, CA 94303-3220
Fax: 866-358-8321
jmackenzie@wimactel.com

NICOLE WINTERS, LEGAL ANALYST
WINDSTREAM KDL, LLC
4001 RODNEY PARHAM ROAD
1170 B1F03-53A
LITTLE ROCK, AR 72212
wci.kasnas.govaffairs@windstream.com

CERTIFICATE OF SERVICE

17-GIMT-426-GIT

NICOLE WINTERS
WINDSTREAM NORLIGHT, LLC
4001 RODNEY PARHAM ROAD
1170 B1FO3-53A
LITTLE ROCK, AR 72212
Fax: 812-461-3357
wci.kansas.govaffairs@windstream.com

NICOLE WINTERS
WINDSTREAM NUVOX KANSAS, LLC
4001 RODNEY PARHAM RD
LITTLE ROCK, AR 72212
wci.kansas.govaffairs@windstream.com

KELLY FAUL, REGULATORY AFFAIRS DIRECTOR
XO COMMUNICATIONS SERVICES, LLC
13865 SUNRISE VALLEY DR
HERNDON, VA 20171
Fax: 703-547-3665
kelly.faul@xo.com

DALE SCHMICK, VICE-PRESIDENT/GEN. MANAGER
YOURTEL AMERICA, INC.
D/B/A TERRACOM
933 E BRITTON RD
OKLAHOMA CITY, OK 73114
Fax: 816-388-1044
dale@terracominc.com

KATHY PRICE, GENERAL MANAGER*
ZENDA TELEPHONE COMPANY, INC.
208 N MAIN
PO BOX 128
ZENDA, KS 67159
Fax: 620-243-7611
kprice@zendatelephone.com

NICOLE WINTERS
WINDSTREAM NTI, LLC.
4001 RODNEY PARHAM RD
LITTLE ROCK, AR 72212
wci.kansas.govaffairs@windstream.com

JEFF WICK, PRESIDENT/GENERAL MANAGER
WTC COMMUNICATIONS, INC.
529 LINCOLN
PO BOX 25
WAMEGO, KS 66547
Fax: 785-456-9903
jwick@wtcks.com

MARK PAVOL, REGULATORY MANAGER
YMAX COMMUNICATIONS CORP.
5700 GEORGIA AVE
PO BOX 6785
WEST PLAM BEACH, FL 33405-6785
Fax: 561-586-2328
mark.pavol@ymaxcorp.com

PETER CHEVALIER, ASSOCIATE GENERAL COUNSEL
ZAYO GROUP, LLC
1621 18th ST STE 100
DENVER, CO 80202
Fax: 303-226-5039
pchevalier@zayo.com

/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date
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