

1. On May 4, 2000, Cox Kansas Telcom, LLC, was granted a Certificate of Convenience and Authority (“Certificate”) to offer local exchange telecommunications service and exchange access service throughout the service areas of Southwestern Bell Telephone

Company (n/k/a AT&T) and Sprint/United Telephone Company (n/k/a CenturyLink). See Docket 00-COXT-928-COC.

2. Cox has been granted Certificates of Convenience and Necessity in 17 additional states, where we are in good standing and provide local exchange and exchange access service to more than 2.4 million residential and commercial customers.

3. Since that time, Cox has maintained tariffs and has offered local exchange and exchange access service to residential and commercial customers throughout its service territory. In addition, Cox has complied with all relevant State Corporation Commission of the State of Kansas ("KCC" or "Commission") orders, has timely remitted regulatory assessments and is in good standing with the KCC.

4. The on-going provision of local exchange and exchange access service, and lack of disciplinary action by the KCC in relation to Cox's Certificate, demonstrates that Cox continues to possess the financial, technical and managerial ability to offer local exchange and exchange access service in the state of Kansas.

5. On April 1, 2013, Cox Communications Kansas, LLC completed the purchase of Kansas Cable Holdings, Inc. ("KCH"). KCH was a provider of cable television and high-speed internet service to a number of communities in central Kansas, including Wamego and St. George.

6. KCH did not possess a Certificate from the KCC for the provision of local exchange and exchange access service.

7. Cox seeks to offer local exchange and exchange access to its consumers in the Wamego and St. George exchanges of Wamego Telephone Company.

8. Cox is a well-established provider of telecommunications, high-speed internet and cable services across much of the state of Kansas. As it has done for many years in other areas, Cox plans to offer its same level of reliable, high quality telecommunications services to residents within the Wamego and St. George exchange territories.

9. Cox will provide this service primarily using its own network and facilities.

10. Granting Cox's Application for expansion of its Certificate to include the Wamego and St. George exchanges of WTC is in the public interest as it expands the number of service offerings available to the residential and business consumers in those communities. In addition, granting Cox's Application is consistent with the Kansas Legislature's policy of promoting competition in Kansas. See HB 2201 (2013), amending K.S.A. 2013 Supp. 66-2005 *et seq.*

11. The name, title, address telephone number and email address of the person preparing this Application is as follows:

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12. The name, title, address, telephone number and email address of the Commission/Industry Relations contact is as follows:

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13. Although Cox contacted WTC to begin the process of negotiating an interconnection agreement, WTC indicated it would not proceed with negotiations until Cox's application for Certificate expansion is granted by the KCC.

**II. COX'S DESIGNATION AS A LIFELINE-ONLY ELIGIBLE  
TELECOMMUNICATIONS CARRIER SHOULD BE EXPANDED  
TO INCLUDE THE WAMEGO AND ST. GEORGE EXCHANGES OF WTC**

**A. Background**

14. As demonstrated herein, Cox meets all the statutory and regulatory requirements for designation as a Lifeline-only ETC in the areas of Kansas described in this Application. On September 2, 2009, in Docket No. 10-COXT-174-ETC, Cox filed with this Commission an application for designation as an ETC for the limited purpose of offering Lifeline service to qualified households in Kansas. On May 5, 2010, the Commission issued an order designating Cox as an ETC in certain defined areas served by AT&T.

15. In Docket No. 06-GIMT-1277-GIT, the Commission found Cox eligible for federal Universal Service Fund ("FUSF") low-income support in those instances in which it provides service via unbundled network elements, but not eligible for the FUSF support in those instances in which Cox provides service via resale. In addition, the Commission noted that K.S.A. 2009 Supp. 66-2006(c) allows wireline facilities-based telephone service providers to be designated as an ETC for low-income support in an area equal to the ETC's own service area, as long as such designation is consistent with federal guidelines. The Commission further found that the ETC applicant need not provide service throughout the entire exchange to be designated as an ETC for low-income support only. See Order Designating Cox Telecom [*sic*] as an Eligible Telecommunications Carrier in Certain AT&T Wire Centers, at ¶ 8 (May 5, 2010).

16. In subsequent ETC orders, however, the Commission, citing 47 U.S.C. § 214(e)(5), has designated telecommunications carriers as ETCs in those exchanges of non-rural ILECs that the carriers could serve in their entirety and in the study areas of rural LECs that the carriers could serve in their entirety.

17. On April 15, 2013, the Federal Communications Commission (“FCC”) released an order granting forbearance from the requirement in 47 U.S.C. § 214(e)(5) that the service area of an ETC conform to the service area of rural LECs serving the same area in its entirety.<sup>1</sup> The FCC Forbearance Order “applies to any ETC that has been designated by a state or the [FCC], as well as pending and future requests by telecommunications carriers that seek limited designation, as an ETC to participate only in the Lifeline program (Lifeline-only ETC).”<sup>2</sup> The FCC Forbearance Order further provides that a “carrier may petition the appropriate designating entity to adjust its service areas in accordance with this grant of forbearance.”<sup>3</sup>

18. In light of the FCC Forbearance Order, Cox has conducted an analysis of its service area to identify additional areas located within rural LEC service areas in which Cox desires to serve as a CLEC. Cox is unable to provide service to the entirety of the Wamego and St. George exchanges at this time; however, Cox's request is proper given the Commission's pronouncement in its ETC order in Docket No. 10-COXT-174-ETC and pursuant to the FCC Forbearance Order.

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<sup>1</sup> Telecommunications Carriers Eligible for Support et al., Memorandum Opinion and Order, 28 FCC Rcd 4859 (2013) (“FCC Forbearance Order”).

<sup>2</sup> Id., ¶ 1.

<sup>3</sup> Id., n.2.

## **B. Cox Meets the Standards for Designation as an ETC**

### **1. Cox Will Meet All Relevant Requirements Under Section 214 and the FCC's Standards**

19. Cox is committed to meeting all of the requirements under Section 214(e) and the relevant FCC guidelines for ETC applications. Cox's commitments are backed up by its history of operation in Kansas and, in fact, Cox already complies with all of the operational aspects of the FCC guidelines today.

### **2. Provision of Supported Services**

20. Under Section 214(e) and the FCC's guidelines, an ETC must provide the services supported by the universal service program throughout its designated service area, using either its own facilities or by reselling another carrier's facilities. The supported services, as described in the FCC's rules, are voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers.<sup>4</sup> The FCC guidelines require any carrier seeking ETC to "comply with the service requirements applicable to the support that it receives."<sup>5</sup>

21. Cox will meet these requirements. First, Cox's standard service offerings, as described in its tariff, on its web site and in other materials available to customers and the

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<sup>4</sup> 47 C.F.R. § 54.101.

<sup>5</sup> 47 C.F.R. § 54.202(a)(1). The FCC's rules also contemplate that an ETC application seeking high cost support will include a five-year plan describing how that support will be spent. However, since Cox is not requesting high-cost support, it is not required to submit such a plan.



Commission, include all of the required elements of supported services other than toll limitation.<sup>6</sup> Toll limitation, while not included in Cox's standard service packages, is available separately to all Cox customers, and at no charge to Lifeline customers.<sup>7</sup> Consequently, Cox fulfills the requirement for the specific services to be offered through its current offerings.

22. Cox also commits to meet the second prong of this requirement. Specifically, as required by the Lifeline rules, Cox will continue to offer services that meet the definition of supported services; will make toll limitation available to customers who purchase plans that do not include unlimited long distance; and will not charge deposits unless permitted by the Lifeline rules.<sup>8</sup>

### **3. Advertising**

23. Under Section 214(e), an ETC is required to "advertise the availability of [its] services and the charges therefore using media of general distribution."<sup>9</sup> Cox already advertises broadly, using not only its own cable operations, but newspapers, billboards, direct mail and other media intended to reach a wide audience in its service area in Kansas. Cox will continue to advertise its telephone service in all appropriate media, and will comply with the additional advertising requirements in the FCC's rules on the Lifeline programs and will comply with any rules adopted by the Commission. These rules include publicizing Lifeline and including

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<sup>6</sup> See, e.g., <http://www.cox.com/wcm/en/aboutus/datasheet/regulatory/kan-local-service-guide.pdf>, Section 3.1, page 60.

<sup>7</sup> See <http://www.cox.com/wcm/en/aboutus/datasheet/regulatory/kan-local-service-guide.pdf>, Section 7.1.1, page 131.

<sup>8</sup> 47 C.F.R. § 54.401.

<sup>9</sup> 47 U.S.C. § 214(e)(1)(B).

required information concerning the program and on eligibility requirements in all Lifeline materials.<sup>10</sup>

#### **4. Availability in Emergency Situations**

24. Under the FCC's guidelines, an applicant for ETC designation should demonstrate "its ability to remain functional in emergency situations[.]"<sup>11</sup> This demonstration includes information about back-up facilities, the ability to reroute around damaged facilities and the ability to handle traffic spikes.

25. Cox has designed its network to be resilient in emergencies. From the start, Cox has included back-up power in its network designs to ensure that its customers retain service even when commercial power is unavailable. Cox uses route diversity and other techniques to limit the likelihood that damage to its facilities will cut off service to its customers. For instance, Cox's backbone facilities are based on a "ring in ring" architecture that automatically re-routes traffic if there is a disruption to the normal route between a location and the Cox switch.

26. Cox still uses some standard circuit-switched telephone service in the Wichita area, which does not depend on power in the customer's household. In addition, Cox's IP-based, or packet-switched-service, which is deployed elsewhere in Kansas, provides battery backup to Lifeline customers in accordance with industry standards and relevant regulatory requirements.<sup>12</sup> These features allow Cox to maintain service even when there are substantial power outages within its service area.

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<sup>10</sup> See 47 C.F.R. §§ 54.405(b), (c), (d).

<sup>11</sup> 47 C.F.R. § 54.202(a)(2).

<sup>12</sup> Cox has implemented a program for free replacement of the backup batteries for Lifeline customers to ensure that customers do not experience unexpected loss of service.



27. Cox also is compliant with all relevant 911 and E911 requirements. Where E911 is available in a local community, Cox ensures that all necessary information, including location information and callback data, is provided to the local E911 database and available to the PSAP. Cox has provided 911 and E911 since the time it began offering telephone service and has offered full 911 and E911 capability for both its circuit-switched and IP-based products.

28. Finally, Cox follows industry standard procedures for addressing traffic spikes within its network, including implementing call gapping when appropriate. In addition, Cox seeks to avoid network congestion issues by monitoring traffic on an ongoing basis and sizing its network and interconnection facilities to maintain call blocking below industry standard levels.

## **5. Customer Service Standards**

29. The FCC guidelines call for ETC applicants to demonstrate that they will “satisfy applicable consumer protection and service quality standards.”<sup>13</sup> Cox meets this standard. Since it was first authorized to provide service in Kansas, Cox has been committed to meeting all applicable customer service requirements, and it reiterates its commitment with this Application. This commitment is part of a company-wide effort to maintain the highest possible level of customer satisfaction for telephone, cable and Internet services, and is reflected in the J.D. Power awards that Cox Communications has won over the last five years.

30. Cox also will continue to comply with all applicable mandated consumer protection requirements, including the federal truth-in-billing rules, advertising requirements, rate regulation obligations and state-specific requirements governing customer notices, late fees, disputes and other consumer issues. Cox believes that it is important to treat all of its customers

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<sup>13</sup> 47 C.F.R. § 54.202(a)(3).

fairly, not just as a matter of business or legal requirements, but because respect for consumers is essential to the company's relationship with its customers.

## **6. Local Service Plans**

31. The FCC rules require an ETC to offer "voice telephony service" that qualifies as a supported service in the ETC's service area.<sup>14</sup> The rules permit Lifeline support to be applied to any plan that meets the minimum requirements, including plans that bundle local and long distance service.<sup>15</sup> Because Cox's business is focused on residential customers, it has offered multiple plans that meet this requirement since the time it began providing service in Kansas, and it commits to continuing to offer such plans after it becomes an ETC.

32. As of the date of this Application, Cox offers three different plans in Kansas that include local telephone usage -- Starter, Essential and Premier. The most basic covers only local telephone service, but includes unlimited local calling.<sup>16</sup> Cox also offers packages that include additional local features (such as call waiting and voice mail), that bundle a specific number of long distance minutes with various calling features and that bundle an unlimited number of domestic long distance minutes with calling features. All of these packages include unlimited local calling. Thus, all of Cox's local telephone service plans meet the requirements of the FCC's guidelines.

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<sup>14</sup> 47 C.F.R. § 54.401(a)(2), *citing* 47 C.F.R. § 54.101(a).

<sup>15</sup> 47 C.F.R. § 54.401(b).

<sup>16</sup> This service and Cox's local service bundles include each of the elements required by the FCC's universal service rules other than toll limitation, which is offered separately.

## **7. Grant of this Application Would Serve the Public Interest**

33. The final criterion under both Section 214(e) and the FCC's guidelines is whether designating a carrier as an ETC would serve the public interest.<sup>17</sup> For the reasons described below, grant of this petition would meet these standards.

34. First, grant of this Application will serve the public interest by significantly enhancing consumer choice among customers who are eligible for support from Lifeline and Link-Up. Granting ETC status to Cox will allow additional investment that will bring Cox's service to customers who previously had only one choice for traditional landline telephone service.<sup>18</sup> In addition, because of Cox's commitment to service quality, customers could well improve the quality of the service they receive by switching to Cox.

35. Moreover, granting Cox ETC status will benefit low income consumers by permitting them to save money on their telephone service and to obtain high quality telephone service at that price. Cox's services all are priced at or below the prices of comparable incumbent telephone companies' services. This means that once Cox is eligible for universal service funding, consumers can reduce their expenditures on telephone service. This combination of a lower price and high quality service is one of the specific advantages of granting ETC status to Cox. In addition, the competition from Cox may induce other competitors to lower their rates or offer promotions that are not offered today because their

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<sup>17</sup> 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.202(b).

<sup>18</sup> While the availability of wireless alternatives is beneficial, there are significant differences between wireless service and landline service. Landline service is much more reliable than wireless, and the calling plans offered by Cox are much more like those offered by ILECs than those offered by wireless providers.



consumers are a captive market. These cost advantages may be particularly important to Lifeline and Link-Up customers.

36. There are additional specific advantages to low income customers of granting ETC status to Cox. If only one carrier is designated as an ETC, low income customers effectively have only one choice for local telephone service, because Lifeline and Link-Up make it much less expensive to purchase service from an ETC than from any other carrier. If, however, multiple carriers are designated as ETCs, then low income customers have the same opportunity as other customers to choose a competitive alternative and to weigh the potential benefits of purchasing service from different carriers.

37. At the same time, the availability of Cox's service as a competitive alternative could increase telephone penetration among potential Lifeline and Link-Up customers. Cox's advertising will increase the awareness of the Lifeline and Link-Up programs and of the discounts that those programs offer to make telephone service more affordable to the low income population. This increased awareness is likely to lead more low income consumers to seek to obtain telephone service, whether from Cox or another ETC, consistent with the purposes of the Lifeline and Link-Up programs.

38. There also are no public interest risks in granting ETC status to Cox. First, Cox is well-established local telephone company in Kansas with a proven track record of quality service, so there is no potential harm to consumers from designating Cox as an ETC.

39. Granting ETC status to Cox also will not have any meaningful adverse effects on the universal service fund. As a practical matter, making Cox eligible for support from the low income programs will not increase the size of the fund meaningfully because many of the low income customers who receive service from Cox simply will be switching from one carrier to

another to take advantage of lower prices or better service. Under the Lifeline program, that means that the subsidy moves from one carrier to another. The size of the fund would be increased, of course, to the extent that the addition of a new competitor causes more low income customers to purchase local telephone service. Such an increase, however, would be entirely in the service of the goals of the low income programs and, in any event, would affect only a small fraction of the overall universal service fund.<sup>19</sup>

### **III. COX REQUESTS TO EXPAND ITS CLEC CERTIFICATE IN THE WAMEGO AND ST. GEORGE EXCHANGES**

40. Cox requests the Commission to expand its service territory as a CLEC to include the Wamego and St. George exchanges within WTC's rural LEC's service area. Because Cox is seeking Lifeline-only ETC designation in these exchanges, expansion of Cox's CLEC certificate to include additional portions of its service area in Kansas will cause no growth in the high-cost portion of the USF and will not erode high-cost or support from any rural telephone company.

#### **A. Expansion of Cox's CLEC Authority to Include Additional Portions of Its Service Area in the State of Kansas Would Serve the Public Interest**

41. The Communications Act requires that the Commission determine that expansion of Cox's designation as an ETC -- or in this case, its CLEC authority -- would serve the public interest.<sup>20</sup>

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<sup>19</sup> Cox notes that in 2013, the last year for which information is available, the low income programs accounted for only \$1.8 billion of the \$8.3 billion expended by the federal universal service fund. See USAC Fast Facts, available at [USAC Fast Facts, available at http://www.usac.org/about/about/universal-service/fast-facts.aspx](http://www.usac.org/about/about/universal-service/fast-facts.aspx).

<sup>20</sup> 47 U.S.C. § 214(e)(2); see Federal-State Joint Board on Universal Service, CC Dkt. No. 96-45, Report and Order, 20 FCC Rcd 6371, 6389, ¶ 42 (2005) ("We find that before designating an ETC, we must make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.").

42. The FCC has determined that “designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>21</sup> Expansion of Cox’s CLEC authority will provide competitive -- and possibly additional -- service offerings at competitive prices. Expansion of Cox’s CLEC authority also will provide an incentive to the ILEC serving that portion of the state to improve its existing network in order to remain competitive, resulting in improved services to consumers. Expansion of Cox’s authority will also benefit consumers because support to services provided by Cox will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Communications Act.<sup>22</sup>

43. The FCC has identified factors to be considered in determining whether designation of an additional ETC would serve the public interest. These factors require the Commission to weigh whether the benefits of an additional ETC would outweigh potential harms. The factors to be considered include: 1) the benefits of increased consumer choice; and 2) the unique advantages of the applicant company’s service offerings.<sup>23</sup> As described in the following paragraphs, Cox meets these criteria.

#### **1. The Benefits of Increased Competitive Choice**

44. The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three

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<sup>21</sup> See Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, CC Dkt. No., 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 55, ¶ 17 (2000).

<sup>22</sup> 47 U.S.C. § 254(b)(1).

<sup>23</sup> See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, 6389 (2005).



decades.<sup>24</sup> However, the benefits of competitive choice are especially valuable in situations in which providers like Cox seek to provide service to rural communities and elsewhere. As the FCC recognized in Highland Cellular, some households in rural communities do not have access to the public switched network through the ILEC. Cox's service alternative will provide consumers with convenient and affordable telecommunications service.

## **2. Unique Advantages of Cox's Service Offerings**

45. As described elsewhere in this Application, Cox's entire business model is predicated on providing quality, affordable telecommunications and entertainment services.

## **3. Expansion of Cox's CLEC Authority to Include Additional Portions of Its Service Area Will Benefit the Public Interest of Consumers Throughout Kansas**

46. The expansion of Cox's CLEC authority to include additional portions of its service area will also serve the public interest because Cox will comply with all applicable FCC and Commission rules to ensure that the public interest standards of the Communications Act are achieved.

## **IV. COX MEETS THE RURAL ENTRY GUIDELINES ESTABLISHED BY THE COMMISSION IN DOCKET NO. 94-GIMT-478-GIT**

47. Cox has satisfied the Rural Entry Guidelines as outlined by the Commission in Docket No. 94-GIMT-478-GIT (Dec. 27, 1996). Those guidelines are as follows:

- (1) Cox is certificated by the Commission pursuant to K.S.A. 66-131. Cox has demonstrated competence in the following area (but not limited to):
  - a. Technical expertise;
  - b. Financial capability;

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<sup>24</sup> See, e.g., Specialized Common Carrier Services, First Report and Order, 29 FCC2d 870 (1971).

- c. Managerial expertise.
- (2) Cox has met the requirements to qualify as an eligible telecommunications carrier (Federal Act Section 214(e); State Act section 5(c)).
  - a. Cox is able to offer all required services and functionalities;
  - b. Cox is able to advertise the availability and charges for service using media of general distribution.
- (3) Cox will make a bona fide request to the ILEC for interconnection services or network elements. (Federal Act Section 251(f)(1); State Act section 5(a)).
- (4) Cox will provide notice of the bona fide request made pursuant to number 3 to the Commission. (Federal Act Section 251(f)(1)(b)).
- (5) WTC has been granted an exemption under the Federal Act Section 251(f)(2).
- (6) The Commission should find that:
  - a. The request is not unduly economically burdensome for the ILEC;
  - b. The request is technically feasible; and,
  - c. The request is consistent with Section 254 (preservation of universal service) (State Act Section 5).
- (7) The proposed competitive entry will not negatively affect preserving and advancing universal service, at reasonable and affordable rates and with high service quality, in the incumbent service area.
- (8) Competition pursuant to the application will not negatively affect the continued existence of a viable carrier of last resort, capable of providing high quality, affordable required telecommunications services to anyone in the service area on request.

- (9) The service area of the incumbent rural telephone company is capable of sustaining more than one telecommunications service provider.
- (10) Cox will not violate the intent of the law and will provide service throughout the service areas of the Wamego and St. George exchanges.
- (11) It is technically feasible to accommodate multiple telecommunications service providers in the Wamego and St. George exchanges.
- (12) The economic burden of implementing measures necessary to effect these technical requirements are not excessive or unreasonable.

## **V. CONCLUSION**

48. For all the reasons described herein, expanding Cox's CLEC service territory, as described in this Application, will serve the public interest. Further, based on the foregoing, Cox contends that it is able to meet the requirements to qualify as a Lifeline-only ETC. Finally, Cox asserts that it meets the Rural Entry Guidelines previously established by the Commission for telecommunications carriers seeking to provide service in rural areas. Accordingly, Cox requests that the Commission promptly grant its Application to expand its CLEC authority to serve in the Wamego and St. George exchanges and grant its request for designation as a Lifeline-only ETC in those exchanges.



Respectfully submitted,



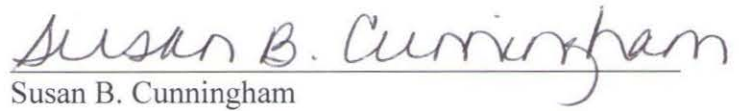
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**VERIFICATION**  
**K.S.A. 53-601**

STATE OF KANSAS            )  
                                      )  
COUNTY OF SHAWNEE    )       ss:

I, Susan B. Cunningham, verify under penalty of perjury that I have caused the foregoing Application of Cox Kansas Telcom, LLC to Expand Service Territory and for Designation as an Eligible Telecommunications Carrier, to be prepared on behalf of Cox, and that the contents thereof are true and correct to the best of my knowledge, information and belief.

  
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Susan B. Cunningham

February 13, 2015