STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the notice of **TALK AMERICA SERVICES, LLC,** of discontinuance of basic local exchange service and toll service.

Case No. U-20623

At the December 19, 2019 meeting of the Michigan Public Service Commission in Lansing, Michigan.

> PRESENT: Hon. Sally A. Talberg, Chairman Hon. Daniel C. Scripps, Commissioner Hon. Tremaine L. Phillips, Commissioner

<u>ORDER</u>

Talk America Services, LLC (TAS) is licensed to provide basic local exchange service throughout the state of Michigan pursuant to the February 12, 2015 order in Case No. U-17707. On August 19, 2019, TAS filed a notice in this docket pursuant to Section 313(5) of the Michigan Telecommunications Act (MTA), MCL 484.2313(5), proposing to discontinue basic local exchange and toll service to all of its existing customer base in Michigan (August 19 notice) effective January 6, 2020. The August 19 notice is accompanied by an affidavit, a copy of the newspaper notice, a copy of the notice that went to customers, and a copy of the company's discontinuance application filed with the Federal Communications Commission (FCC) pursuant to 47 USC 214. In the August 19 notice, TAS reports that it has 4,619 customers.¹ TAS states that

¹ As of December 3, 2019, the Commission was informed by TAS that the number of customers is 2,720.

AT&T Michigan and Frontier, as well as unidentified competitive local exchange carriers, are

alternative carriers providing basic local exchange service in TAS's service area. August 19

notice, p. 3.

MCL 484.2313(5) provides, in relevant part:

Beginning January 1, 2017, a telecommunication provider that provides basic local exchange or toll service may discontinue that service in an exchange by doing each of the following:

(a) At the same time as filing a petition under section 214 of the

telecommunications act of 1996, 47 USC 214, all of the following:

(i) File a notice of the proposed discontinuance of service with the commission.

(ii) Publish a notice of the proposed discontinuance of service in a newspaper of general circulation within the exchange.

(iii) Provide notice of the proposed discontinuance of service to each of the telecommunication provider's customers within the exchange by first-class mail or within customer bills.

(iv) Provide notice of the proposed discontinuance of service to any interconnecting telecommunication providers by first-class mail or other notice permitted under the terms of the interconnection agreement between the providers.²

On September 5, 2019, TAS filed an affidavit of publication of the discontinuance notice. TAS's

August 19 notice demonstrates compliance with the Section 313(5)(a) notice requirements.

On October 2, 2019, after approval of its discontinuance application by the FCC, TAS filed its

second notice in this docket (October 2 notice) regarding the discontinuance of service pursuant to

the requirements of MCL 484.2313(5)(b), which provides:

Upon approval of the federal communications commission to discontinue service,

at least 90 days before discontinuing service, all of the following:

(i) File a notice of the discontinuance of service with the commission.

(ii) Publish a notice of the discontinuance of service in a newspaper of general circulation within the exchange.

² TAS states that it operates as a pure reseller and does not interconnect directly with any other telecommunications provider; and that its underlying wholesale provider (which has informed TAS that it will no longer provide service) is aware of the discontinuance and no further notice is required. August 19 and October 2, 2019 notices, p. 3.

(iii) Provide notice of the discontinuance of service to each of the telecommunication provider's customers within the exchange by first-class mail or within customer bills.

(iv) Provide notice to any interconnecting telecommunication providers by firstclass mail or other notice permitted under the terms of the interconnection agreement between the providers.³

TAS's October 2 notice was accompanied by the same supporting documents. TAS states that it

provided three separate notices to customers. On October 21, 2019, TAS filed an affidavit of

publication of the second discontinuance notice. TAS's October 2 notice demonstrates

compliance with the Section 313(5)(b) notice requirements.

Section 313(6), MCL 484.2313(6), addresses the effect of discontinuance, and provides:

After January 1, 2017, and only in an area in which a telecommunication provider either has given notice of a proposed discontinuance of service under subsection (5) or has discontinued service within the previous 90 days, a customer of that provider or any interconnecting telecommunication provider may request the commission to investigate the availability of comparable voice service with reliable access to 9-1-1 and emergency services to that customer or a customer of an interconnecting telecommunication provider. If the commission, after conducting an investigation to last no longer than 180 days regarding the availability of comparable voice service with reliable access to 9-1-1 and emergency services, determines that the federal communications commission failed to make a finding that the present and future public convenience and necessity is not adversely affected or has not adequately addressed the issue, the commission shall declare by order that an emergency exists in an area in this state that is not served by at least 1 voice service provider offering comparable voice service with reliable access to 9-1-1 and emergency services through any technology or medium and shall conduct a request for service process to identify a willing provider of comparable voice service with reliable access to 9-1-1 and emergency services in that area, including the current provider. A provider shall not be required to participate in the request for service process. The willing provider may utilize any form of technology that is capable of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services. If the commission determines that another provider is not capable of providing comparable voice service with reliable access to 9-1-1 and emergency services in that area, the commission shall issue an order requiring the current telecommunication provider to provide comparable voice service with reliable access to 9-1-1 and emergency services in that area utilizing any form of

³ Ibid.

technology that the commission determines is capable of providing comparable voice service with reliable access to 9-1-1 and emergency services, including voice over internet protocol services and wireless services, until another willing provider is available. An intrastate universal service fund under section 316a shall not be created or used to compensate or fund a willing provider or current telecommunication provider to provide service under this section. As used in this subsection:

(a) "Comparable voice service" includes any 2-way voice service offered through any form of technology, including voice over internet protocol services and wireless services, that is capable of placing calls to and receiving calls from a provider of basic local exchange service.

(b) "Emergency services" means services provided to the public by police, fire, ambulance, or other first responders.

(c) "Reliable access to 9-1-1" means the rules, regulations, and guidelines set forth in the FCC trials order, including all appendices, that provide comparable and reliable consumer access to emergency services.

(d) "Willing provider" means a provider that voluntarily participates in the request for service process.

Thus, "a customer of that [discontinuing] provider . . . may request the commission to investigate

the availability of comparable voice service with reliable access to 9-1-1 and emergency services

to that customer," and the Commission may thereupon commence an investigation into that issue.

TAS (a non-dominant carrier) has complied with the federal requirements for discontinuance.

47 CFR 63.71(a)(5)(i) provides:

If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected.

And 47 CFR 63.71(f)(1) provides:

The application to discontinue, reduce, or impair service, if filed by a domestic, non-dominant carrier . . . shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective.

TAS followed these federal requirements. The FCC notice was published and comments were sought. TAS informed customers of the ability to comment. *See*, Attachment 1 to the October 2 notice. No comments were filed, the FCC took no action, and the 31st day has passed. Thus, the FCC has granted discontinuance to TAS. As stated in Section 313(6) of the MTA, the Commission may conduct an investigation and find that the FCC failed to make the correct finding or failed to adequately address the issue. MCL 484.2313(6).

Five TAS customers filed comments in this docket indicating that they are having trouble finding comparable voice service, and one of those customers requested that the Commission investigate the availability of comparable voice service with reliable access to 9-1-1 and emergency services. *See*, Case No. U-20623, filing ## U-20623-0004, -0007, -0008, -0009, and -0010. The Commission has also received 11 informal complaints to the Commission's Customer Complaint Hotline and web complaint portal concerning the lack of availability of alternative providers in the absence of TAS's service. Accounting for overlap with the filed comments, the Commission has received comments or informal complaints from 12 current TAS customers. These 12 customers indicate that they are looking for unbundled landline service. All 12 complainants indicate that they have contacted AT&T Michigan, and some mention contacting Spectrum, Hughes, Verizon, WOW!, and Charter. All 12 have been told that the alternative provider does not provide landline service, or that they need to purchase a bundle that includes cable/internet in order to receive landline service. Some have been told that they can purchase voice over internet protocol (VoIP) or mobile service. Some were offered no service option.

If the Commission finds that TAS customers have landline, VoIP, or cell service that "provides comparable voice service with reliable access to 9-1-1 and emergency services" available to them, then the Commission can determine that the requirements of Section 313(6) have been met. However, some of the complainants report that they were offered no service, making it impossible for the Commission to reach this determination at this time and on this record.

The Commission notes that TAS identified both AT&T Michigan and Frontier as alternative carriers providing local exchange service in its service area. Neither AT&T Michigan nor Frontier have filed applications to discontinue basic local exchange service in the territory that TAS currently serves. See, August 19 notice, p. 3; October 2 notice, pp. 2-3. Based on the comments and informal complaints from current TAS customers regarding the lack of availability of alternative providers of basic local exchange service, the Commission finds that it should commence an investigation into the availability of comparable voice service with reliable access to 9-1-1 and emergency services for current TAS customers. To that end, the Commission directs all incumbent local exchange carriers and competitive local exchange carriers (CLECs) operating in TAS's service area as defined in TAS's tariffs to, no later than 5:00 p.m. (Eastern time) on January 16, 2020, file statements in this docket listing all of the specific types of comparable voice service with reliable access to 9-1-1 and emergency services that they provide in that service area.⁴ The Commission directs the CLECs to file their statements with the Executive Secretary by email at mpscedockets@michigan.gov. The Commission also requests that all VoIP and wireless service providers operating in TAS's service area as defined in TAS's tariffs provide the same information in this docket by the same date, by email. Statements shall be e-mailed to mpscedockets@michigan.gov and shall indicate that they are being filed in Case No. U-20623. If

⁴ TAS's Michigan tariff is available on the Commission's website at <u>http://tariffs.net/talkamerica/</u>. Its service territory mirrors the exchanges of incumbent local exchange carriers AT&T Michigan, Frontier North Inc., f/k/a Verizon North Inc., and Frontier Midstates Inc., f/k/a Verizon North Systems.

any provider requires assistance prior to filing, contact Commission staff at (517) 284-8090 or by e-mail at <u>mpscedockets@michigan.gov</u>. All information submitted to the Commission in this matter will become public information available on the Commission's website and all statements will be filed in Case No. U-20623.

In light of the commencement of this investigation, the Commission urges TAS to delay discontinuance.

THEREFORE, IT IS ORDERED that:

A. No later than 5:00 p.m. (Eastern time) on January 16, 2020, the incumbent local exchange carriers listed on Attachment A to this order shall file statements in this docket listing all of the specific types of comparable voice service with reliable access to 9-1-1 and emergency services as defined in MCL 484.2313(6)(a) that they provide throughout the Talk America Services, LLC service areas as illustrated in Talk America Services, LLC's tariff.

B. No later than 5:00 p.m. (Eastern time) on January 16, 2020, the competitive local exchange carriers listed on Attachment B to this order shall file statements in this docket via email to <u>mpscedockets@michigan.gov</u> listing all of the specific types of comparable voice service with reliable access to 9-1-1 and emergency services as defined in MCL 484.2313(6)(a) that they provide throughout the Talk America Services, LLC service area as illustrated in Talk America Services, LLC's tariff.

C. No later than 5:00 p.m. (Eastern time) on January 16, 2020, the Commission requests that all voice over internet protocol and wireless service providers file statements in this docket via email to <u>mpscedockets@michigan.gov</u> listing all of the specific types of comparable voice service with reliable access to 9-1-1 and emergency services as defined in MCL 484.2313(6)(a) that they

provide throughout the Talk America Services, LLC service areas as illustrated in Talk America Services, LLC's tariff.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 484.2203(12). To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of December 19, 2019.

Lisa Felice, Executive Secretary

Attachment A

AT&T Michigan

Frontier Midstates Inc.

Frontier North Inc.

Attachment B*

Company Name

123.Net, Inc. dba Local Exchange Carriers of Michigan, Inc. Access One, Inc. ACN Communication Services, LLC Air Advantage, LLC Airespring, Inc. AirNorth Communications, Inc. Airus, Inc. fka IntelePeer Allband Communications Cooperative Alpha Connect, LLC American Broadband and Telecommunications Company AT&T Corp. ATI Networks, Inc. Bandwidth.com CLEC, LLC BCM One, Inc. f/k/a McGraw Communications, Inc. BCN Telecom, Inc. Baraga Telephone Company **Big River Telephone Company, LLC** Blanchard Telephone Co. Bloomingdale Telephone Company, Inc. Borderland Communications, LLC Bright House Networks Information Services (Michigan), LLC Broadview Networks, Inc. Broadvox-CLEC, LLC Broadwing Communications, LLC Buckeye Telesystem, Inc. BullsEye Telecom, Inc. Call One, Inc. Campus Communications Group, Inc. Carr Telephone Company CBTS Technology Solutions Inc. f/k/a Cincinnati Bell Any Distance Inc. CenturyLink Communications, LLC Charter Fiberlink - Michigan, LLC Charter Fiberlink CC VIII, LLC Cherry Capital Connection, LLC Climax Telephone Company Clear Rate Communications, Inc. CMC Telecom, Inc. Coldwater Telecommunications Utility Comcast Phone of Michigan, LLC, dba Comcast Digital Phone Communications Venture Corporation, dba INdigital Telecom ComTech21, LLC Crexendo Business Solutions, Inc. Crystal Automation Systems, Inc dba Casair, Inc CynergyComm.Net, Inc.

DayStarr, LLC, d/b/a DayStarr Communications dishNET Wireline L.L.C. EagleNet, Inc. EarthLink Business, LLC f/k/a New Edge Network, Inc. Easton Telecom Services, L.L.C. **Entelegent Solutions, Inc.** Everstream GLC Holding Company LLC First Communications, LLC France Telecom Corporate Solutions L.L.C. Frontier Communications of America, Inc. Fusion Communications, LLC f/k/a Cbeyond Communications, LLC Fusion, LLC f/k/a Network Billing Systems L.L.C. d/b/a Fusion d/b/a Solex GC Pivotal, LLC Global Communications Network, Inc. Global Connection Inc. of America Global Crossing Local Services, Inc. Granite Telecommunications, LLC Great Lakes Energy Connections, Inc. Grid 4 Communications, Inc. IDT America, Corp. inContact, Inc. Intellifiber Networks, LLC IQ Telecom, Inc. ITELECOM, Inc. dba Advent Telecom JAS Networks, Inc. Kaleva Telephone Company KEPS Technologies, Inc., d/b/a ACD.Net and ACD Telecom, Inc. LDMI Telecommunications, LLC d/b/a Cavalier Telephone d/b/a PAETEC Business Services d/b/a Cavalier Telephone and TV Level 3 Communications, LLC Level 3 Telecom Data Services, LLC fka tw telecom data services llc Lingo Telecom of the Great Lakes, LLC f/k/a Birch Telecom of the Great Lakes, LLC d/b/a Birch Communications Liquid Web, LLC Local Access LLC Lucre, Inc. Lynx Network Group, Inc. Magna5 LLC MassComm, Inc. Matrix Telecom, LLC., dba Trinsic Communications MCC Telephony of the Midwest, LLC MCImetro Access Transmission Services Corp. dba Verizon Access Transmission Services McLeodUSA Telecommunications Services, L.L.C. MEI Telecom, Inc. Mercury Wireless Indiana LLC Metro FiberNet, LLC Metropolitan Telecommunications of Michigan, Inc., dba MetTel Michigan Access, Inc.

Michigan Central Broadband Company, LLC Midwest Energy Cooperative d/b/a Midwest Energy & Communications Mitel Cloud Services, Inc. Mobilitie Management, LLC Neo Network Development Inc. Neutral Tandem-Michigan, LLC New Horizons Communications Corp. NextGen Communications, Inc. NOS Communications, Inc. Ogden Telephone Company Onvoy, LLC Osirus Communications, Inc. PaeTec Communications, LLC Peerless Network of Michigan, LLC Peninsula Fiber Network Next Generation Services, LLC Peninsula Fiber Network, LLC **Pigeon Telephone Company** PNG Telecommunications Inc. dba PowerNet Global Communications QuantumShift Communications, Inc. Quick Communications, Inc., dba Planet Access **RACC Enterprises, LLC** RCLEC, Inc. Rockford Telephone Company, Inc. Sand Creek Telephone Company Sigecom, LLC, dba WOW! Internet, Cable and Phone Southwest Michigan Communications, Inc. Spectrotel, Inc., dba Touch Base Communications, One Touch Communications Sprint Communications Company, L.P. Talk America Services, LLC Talk America, LLC TC3 Telecom, Inc. **TDS Metrocom, LLC TelCove Operations, LLC** Telecom Management, Inc. Telecom One, Inc. f/k/a TCO Network, Inc. **Teleport Communications America, LLC** Teliax, Inc. Telnet Worldwide, Inc. The Deerfield Farmers Telephone Company Time Warner Cable Information Services (Michigan), LLC, dba Time Warner Cable II TouchTone Communications Inc. **Tri-County Electric Cooperative** U.S. Metrotel, LLC, dba S7 Digital Communications Uniti Fiber LLC Upper Peninsula Telephone Company US Signal Company, L.L.C. US Xchange of Michigan, L.L.C., d/b/a Earthlink Business I Utility Network Authority MI, LLC

Velocity The Greatest Phone Company Ever, Inc. Vero Fiber Networks, LLC VoxBeam Telecommunications Inc. Voyant Communications, LLC f/k/a Zayo Enterprise Networks, LLC West Safety Communications Inc. f/k/a Intrado Communications Inc. West Telecom Services, LLC Westphalia Broadband, Inc. Westphalia Telephone Company Wholesale Carrier Services, Inc. Wide Voice, LLC Windstream KDL, LLC Windstream Norlight LLC Windstream NTI, LLC Winn Telephone Company dba Winn Telecom Xclutel, LLC XO Communications Services, LLC YMax Communications Corp. Zayo Group, LLC

* List also includes ILECs that have expanded their service territories beyond their own boundaries into the territories of AT&T Michigan and Frontier.

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20623

County of Ingham

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Brianna Brown being duly sworn, deposes and says that on December 19, 2019 A.D. she

electronically notified the attached list of this Commission Order via e-mail transmission,

to the persons as shown on the attached service list (Listserv Distribution List).

Brianna

Subscribed and sworn to before me this 19th day of December 2019.

Angela P. Sanderson Notary Public, Shiawassee County, Michigan As acting in Eaton County My Commission Expires: May 21, 2024

Name

Email Address

Sharon Thomas

sthomas@inteserra.com

U-20623 – Special Distribution Service list

123.Net, Inc. dba Local Exchange Carriers of Michigan, Inc.	James		Kandler		jkk@lecmi.com
Access One, Inc.	Mark		Jozwiak	V.P.	markj@accessoneinc.com
ACN Communication Services, LLC	Jeremy		Smuckler	Associate Counsel	LegalNotices@ACNInc.com
Air Advantage, LLC	Scott		Zimmer		szimmer@airadv.net
Airespring, Inc.	Avi		Lonstein	President	avi@airespring.com
AirNorth Communications, Inc.	Kevin		Tucker	President	kltucker@kltuckerlaw.com
Airus, Inc. fka IntelePeer	John		McCluske y	General Manager	jmccluskey@airustel.com
Allband Communications Cooperative	Ron		Siegel	Gen. Manager	ron.siegel@allband.org
Alpha Connect, LLC	David	S.	McCartne y	President	david@pfnllc.net
American Broadband and Telecommunicati ons Company	Jeffrey	S.	Ansted	President	jsa@ambt.net
AT&T Corp.	Yvette	M.	Collins	Director, External Affairs	<u>Yc5453@att.com</u>
AT&T Michigan	Yvette	M.	Collins	Director, External Affairs	yc5453@att.com
ATI Networks, Inc.	Matthew		Schultz	President	mschultz@amcomminc.com
Bandwidth.com CLEC, LLC	Lisa Jill		Freeman	VP & Regulatory	ljfreeman@bandwidth.com

			Compliance Officer	
Baraga Telephone Company	Paul	Stark	President	pwstark@up.net
BCN Telecom, Inc.	Kathleen	Gorey	Regulatory Contact	kgorey@bcntele.com
Big River Telephone Company, LLC	Cathy	Borst	Regulatory Contact	regulatory@bigrivercom.com
Blanchard Telephone Co.	Ron	Ray	General Manager	jpeterson@blanchardtel.com
Bloomingdale Telephone Company, Inc.	Mark	Bahnson	General Manager	<u>markb@bloomingdalecom.net</u>
Borderland Communications, LLC	Robert	Webb		bob.webb@nsight.com
Bright House Networks Information Services (Michigan), LLC	Marva	Brown Johnson	Director Carrier Svcs. & Vendor Mgmt.	<u>Marva.Johnson@mybrighthouse.com</u>
Broadview Networks, Inc.	Jarrod	Harper	Manager - Regulatory & Compliance	jharper@broadviewnet.com
Broadvox-CLEC, LLC	Daniel	Meldazis	Regulatory Accounting & Reporting Manager	<u>daniel.meldazis@inteliquent.com</u>
Broadwing Communications, LLC	AI	Lubeck	Director Public Policy II	al.lubeck@centurylink.com
Buckeye Telesystem, Inc.	Brian	Rex	Regulatory Affairs	BRex@buckeye-telesystem.com

BullsEye Telecom, Inc.	David	Bailey	VP - Business Developme nt	<u>dbailey@bullseyetelecom.com</u>
Call One, Inc.	Colleen	Bradich	Billing and Regulatory Manager	cbradich@callone.com
Campus Communications Group, Inc.	Pamela	Swisher		
Carr Telephone Company	Mitch	Bogner	Manager	<u>teri@carrinter.net</u>
CBTS Technology Solutions Inc. f/k/a Cincinnati Bell Any Distance Inc.	Ted	Heckmann	Assistant Corp. Sec/Dir. of Reg. Affairs	<u>ted.heckmann@cinbell.com</u>
CenturyLink Communications, LLC	Al	Lubeck	Director Public Policy II	al.lubeck@centurylink.com
Charter Fiberlink - Michigan, LLC	Betty	Sanders	Director of Regulatory Affairs	betty.sanders@chartercom.com
Charter Fiberlink CC VIII, LLC	Betty	Sanders	Director Regulatory Affairs	betty.sanders@chartercom.com
Cherry Capital Connection, LLC	Timothy G	Maylone	CEO	tim@cherrycapitalconnection.com
Clear Rate Communications, Inc.	Brandon	Shamoun	General Counsel	<u>bshamoun@clearrate.com</u>
Climax Telephone Company	Heather	Haydo	CFO	hhaydo@ctstelecom.com
CMC Telecom, Inc.	Craig	Champag ne	President	<u>cchamp@cmctelecom.net</u>

Coldwater Telecommunicati ons Utility	Paul		Monks	Controller	pmonks@coldwater.org
Comcast Phone of Michigan, LLC, dba Comcast Digital Phone	David	A.	Konuch	Vice President, Governmen t & Regulatory Affairs	<u>david_konuch@comcast.com</u>
Communications Venture Corporation, dba INdigital Telecom	Deborah		Prather	Director of Regulatory Affairs	<u>dprather@indigital.net</u>
ComTech21, LLC	Laura		Matosian	VP	Imatosian@comtech21.com
Crexendo Business Solutions, Inc.	Jeff		Korn	Chief Legal Officer	jkorn@crexendo.com
Crystal Automation Systems, Inc dba Casair, Inc	Steve		Meinhardt	President	<u>Steve@casair.net</u>
CynergyComm.Ne t, Inc.	Sharon		Maun	Owner	<u>smaun@utmi.net</u>
DayStarr, LLC, d/b/a DayStarr Communications	Collin		Rose	President	<u>collin.rose@daystarrfiber.net</u>
dishNET Wireline L.L.C.	Jeff		Blum	Deputy General Counsel	jeffrey.blum@dish.com
EagleNet, Inc.	Todd	A.	Gardner	Director Network Developme nt	toddg@iservgroup.com
EarthLink Business, LLC f/k/a New Edge Network, Inc.	Jonathan		Bardsley	Analyst II	jonathan.bardsley@windstream.com

Easton Telecom Services, L.L.C.	Jim	Kolezynski	Director of Operations	jkolezynski@eastontelecom.com
Entelegent Solutions, Inc.	Michael	Ruziska	Vice President of Operations	regulatory@entelegent.com
Everstream GLC Holding Company LLC	Brett	Lindsey	President & CEO	<u>blindsey@everstream.net</u>
First Communications, LLC	Shannon	Dieringer	Paralegal	<u>sdieringer@firstcomm.com</u>
France Telecom Corporate Solutions L.L.C.	Joe	Topel	Regulatory Manager	joe.topel@orange-ftgroup.com
Frontier Communications of America, Inc.	Robert	Stewart	Governmen t & External Affairs	<u>robert.e.stewart@ftr.com</u>
Frontier Midstates Inc.	Robert	Stewart	Governmen t & External Affairs	<u>robert.e.stewart@ftr.com</u>
Frontier North Inc.	Robert	Stewart	Governmen t & External Affairs	<u>robert.e.stewart@ftr.com</u>
Fusion Communications, LLC f/k/a Cbeyond Communications, LLC	Ronald A.	Sheehan	Director Regulatory Compliance	Ronald.sheehan@fusionconnect.com
Fusion, LLC f/k/a Network Billing Systems L.L.C. d/b/a Fusion d/b/a Solex	Jonathan	Kaufman	Chief Strategy Officer	jkaufman@fusionconnect.com
GC Pivotal, LLC	Samantha	Maqueo	Executive VP, Regulatory Affairs	<u>samantha@gsaudits.com</u>

Global Communications Network, Inc.	Christopher	A.	Porter	CEO	<u>chris@castlewire.com</u>
Global Connection Inc. of America	Dee		DiCicco	Chief Compliance Officer/VP Operations	ddicicco@gcioa.com
Global Crossing Local Services, Inc.	Al		Lubeck	Director Public Policy	al.lubeck@centurylink.com
Granite Telecommunicati ons, LLC	Robert		Hale, Jr.	President	rhale@granitenet.com
Great Lakes Energy Connections, Inc.	Dawn	M.	Burks	Regulatory	<u>dburks@glenergy.com</u>
Grid 4 Communications, Inc.	Chris		Hopkins	Sr. Director of Finance	<u>chopkins@grid4.com</u>
IDT America, Corp.	Carl		Billek		<u>carl.billek@corp.idt.net</u>
inContact, Inc.	Kimm		Partridge	Corporate Secretary	kimm.partridge@incontact.com
Intellifiber Networks, LLC	Nicole		Winters	Counsel	nicole.winters@windstream.com
IQ Telecom, Inc.	Daniel		Gentile	Vice President	dialcom911@aol.com
ITELECOM, Inc. dba Advent Telecom	Sue		Zaidel		<u>sue@rj10.com</u>
JAS Networks, Inc.	John	C.	Skinner	Chief Financial Officer	johns@iservgroup.com
Kaleva Telephone Company	Jon		Cribbs	President and Manager	jcribbs@kaltelnet.net

KEPS Technologies, Inc., d/b/a ACD.Net and ACD Telecom, Inc.	Steve		Schoen	President	<u>regulatory@acd.net</u>
LDMI Telecommunicati ons, LLC d/b/a Cavalier Telephone d/b/a PAETEC Business Services d/b/a Cavalier Telephone and TV	Nicole		Winters	Counsel	nicole.winters@windstream.com
Level 3 Communications, LLC	Al		Lubeck	Director Public Policy II	al.lubeck@centurylink.com
Level 3 Telecom Data Services, LLC fka tw telecom data services Ilc	Al		Lubeck		al.lubeck@centurylink.com
Lingo Telecom of the Great Lakes, LLC f/k/a Birch Telecom of the Great Lakes, LLC d/b/a Birch Communications	Sharyl		Fowler	Manager, Regulatory Administrat ion	<u>Sharyl.Fowler@Lingo.com</u>
Liquid Web, LLC	Nicholas		Cappelletti	Network Engineer	ncappelletti@liquidweb.com
Local Access LLC	Kenny		Perkins		kperkins@rtcteam.net
Lucre, Inc.	R. Steven		Hale	President and CEO	<u>steve@lucre.net</u>
Lynx Network Group, Inc.	Gerald	J.	Philipp	Co-Owner	gphilipp@lynxnetworkgroup.com
Magna5 LLC	Joseph		O'Hara	CFO	regulatory@magna5global.com
MassComm, Inc.	Stephanie	D	Marsh	Regulatory Compliance	stephanie.d.marsh@windstream.com

Matrix Telecom, LLC., dba Trinsic Communications	Alex		Valencia	Vice President	avalencia@impacttelecom.com
MCC Telephony of the Midwest, LLC	Anne		Sokolin- Maimon	VP Regulatory Affairs	amaimon@mediacomcc.com
MCImetro Access Transmission Services Corp. dba Verizon Access Transmission Services	Missie		Burris	Regulatory Analyst	<u>missie.burris@verizon.com</u>
McLeodUSA Telecommunicati ons Services, L.L.C.	Nicole		Winters	Counsel	nicole.winters@windstream.com
MEI Telecom, Inc.	David	M.	Stoll	Vice President & CEO	<u>dstoll@mei.net</u>
Mercury Wireless Indiana LLC	Matthew		Sams	Customer Solution Manager	matthewsams@mercurywireless.com
Metro FiberNet, LLC	Randy		Kiesel	Regulatory Analyst	randy.kiesel@metronetinc.com
Metropolitan Telecommunicati ons of Michigan, Inc., dba MetTel	Ralph		Dichy	Director of Tax Affairs	<u>rdichy@mettel.net</u>
Michigan Access, Inc.	Glenn		Wilson	President	glenn@customsoft.net
Michigan Central Broadband Company, LLC	David	C.	Hoover	President and General Manager	<u>david.hoover@alphacomm.net</u>
Midwest Energy Cooperative d/b/a Midwest	David	Н.	Allen	VP of Regulatory Compliance	<u>dave.allen@teammidwest.com</u>

Energy & Communications

Mitel Cloud Services, Inc.	Paul	Ciaramitaro	Treasurer	Paul.ciaramitaro@mitel.com
Mobilitie Management, LLC	Ethan	Rogers	Senior Counsel	ethan@mobilitie.com
Neo Network Development Inc.	Anita	Taff-Rice	Attorney	anita@icommlaw.com
Neutral Tandem- Michigan, LLC	Richard	Monto	Counsel	rmonto@inteliquent.com
New Horizons Communications Corp.	Stephen	Gibbs	President	sgibbs@nhcgrp.com
NextGen Communications, Inc.	Kim	Scovill	Senior Director Gov't Affairs	<u>kscovill@telecomsys.com</u>
NOS Communications, Inc.	Jessica	Renneker	Director of Regulatory Affairs	jrenneker@nos.com
Ogden Telephone Company	Linda	Corie	General Manager	<u>corie@ogdentel.com</u>
Onvoy, LLC	Daniel	Meldazis	Regulatory Accounting & Reporting Manager	daniel.meldazis@inteliquent.com
Osirus Communications, Inc.	Sherrie	Maun	CEO	<u>sm1024@cynergycomm.net</u>
PaeTec Communications, LLC	Nicole	Winters	Counsel	nicole.winters@windstream.com
Peerless Network of Michigan, LLC	Dan	Meldazis	Director of Regulatory Affairs	pphipps@peerlessnetwork.com

Peninsula Fiber Network Next Generation Services, LLC	David	S.	McCartney	General Manager	gm@pfnllc.net
Peninsula Fiber Network, LLC	David		McCartney	General Manager	gm@pfnllc.net
Pigeon Telephone Company	Edwin		Eichler	President	<u>ehe@avci.net</u>
PNG Telecommunicati ons Inc. dba PowerNet Global Communications	Julie		Dollenmayer	Corporate & Regulatory Specialist	<u>llewis@powernetco.com</u>
QuantumShift Communications, Inc.	Jenna		Brown		jbrown@vcomsolutions.com
Quick Communications, Inc., dba Planet Access	Bruce		Yuille	President	byuille@800goquick.com
RACC Enterprises, LLC	Richard	L.	Bacon	Chief Executive Officer	rick@racc2000.com
RCLEC, Inc.	Evelynn		Vu	Regulatory Compliance Specialist	evelynn.vu@ringcentral.com
Rockford Telephone Company, Inc.	R. Steven		Hale	President/C EO	<u>rshale@rocktelco.com</u>
Sand Creek Telephone Company	Harvey	F.	Souders	VP/General Manager	<u>souders@sc-telco.com</u>
Sigecom, LLC, dba WOW! Internet, Cable and Phone	Craig		Martin	Secretary & Gen. Counsel	<u>craig.martin@wowinc.com</u>
Southwest Michigan	Mark		Bahnson	General Manager	markb@bloomingdalecom.net

Communications, Inc.

Spectrotel, Inc., dba Touch Base Communications, One Touch Communications	Vanessa		Leon	Director of Regulatory Affairs	vanessa.leon@spectrotel.com
Sprint Communications Company, L.P.	Ken		Schifman	Director Governmen t Affairs	kenneth.schifman@sprint.com
Talk America Services, LLC	Linda		Holden- Smith	Billing Manager	Linda.holden- smith@talkamericaservices.com
Talk America, LLC	Nicole		Winters	Legal Analyst	wci.michigan.govaffairs@windstrea m.com
TC3 Telecom, Inc.	Victoria		Stevens		victoria.stevens@d-pcomm.com
TDS Metrocom, LLC	Jean	M.	Pauk	Manager State Governmen t Affairs	jean.pauk@tdstelecom.com
TelCove Operations, LLC	AI		Lubeck	Director Public Policy II	al.lubeck@centurylink.com
Telecom Management, Inc.	Kevin		Photiades	Regulatory Manager	regulatory@pioneertelephone.com
Telecom One, Inc. f/k/a TCO Network, Inc.	William		Linsmeier	President	<u>blinsmeier@telecom-one.net</u>
Teleport Communications America, LLC	Yvette		Collins		<u>Yc5453@att.com</u>
Teliax, Inc.	David		Aldworth	President	daldworth@teliax.com
Telnet Worldwide, Inc.	Mark		lannuzzi	President	mark.iannuzzi@telnetww.com
The Deerfield Farmers	Victoria		Stevens		victoria.stevens@d-pcomm.com

Telephone Company

Time Warner Cable Information Services (Michigan), LLC, dba Time Warner Cable II	Betty		Sanders	Senior Director- Regulatory	<u>betty.sanders@charter.com</u>
TouchTone Communications Inc.	Daniel		Velez		<u>regulatory@touchtone.net</u>
Tri-County Electric Cooperative	Tom		Manting	CIO	tmanting@homeworks.org
U.S. Metrotel, LLC, dba S7 Digital Communications	Aaron		Shonamon	Owner/CEO	ashonamon@icsdata.com
Uniti Fiber LLC	Patrick	D	Crocker	Counsel	patrick@crockerlawfirm.com
Upper Peninsula Telephone Company	David	С	Hoover	President & General Manager	<u>david.hoover@alphacomm.net</u>
US Signal Company, L.L.C.	Barbara		Boshoven	VP Business Developme nt	<u>bboshoven@ussignalcom.com</u>
US Xchange of Michigan, L.L.C., d/b/a Earthlink Business I	Mary		Whiting	Director - Regulatory Compliance	<u>mwhiting@onecommunications.com</u>
Utility Network Authority MI, LLC	Melissa		Williams	Corporate Secretary and Authorized Representa tive	<u>melissa.williams@itbutility.com</u>
Velocity The Greatest Phone Company Ever, Inc.	Chip		Werner	VP of Operations	<u>chip@velocity.org</u>

Vero Fiber Networks, LLC	Scott		Beer	Executive Vice President of Business Developme nt	<u>sbeer@veronetworks.com</u>
VoxBeam Telecommunicati ons Inc.	Ryan		Rapolti		
Voyant Communications, LLC f/k/a Zayo Enterprise Networks, LLC	Fritz		Hendricks	President	fritz.hendricks@inteliquent.com
West Safety Communications Inc. f/k/a Intrado Communications Inc.	Craig		Donaldson	Manager - Reg. Compliance	<u>regulatory@intrado.com</u>
West Telecom Services, LLC	Robert	W.	McCausland	Senior VP - Regulatory & Gov't Affairs	rwmccausland@west.com
Westphalia Broadband, Inc.	David	A.	Fox	President	dave.fox@4wbi.net
Westphalia Telephone Company	David		Fox	General Manager	<u>dave.fox@4wbi.net</u>
Wholesale Carrier Services, Inc.	Chris	S.	Barton	President	<u>cbarton@wcs.com</u>
Wide Voice, LLC	Andrew		Nickerson	CEO	anickerson@widevoice.com
Windstream KDL, LLC	Nicole		Winters	Counsel	nicole.winters@windstream.com
Windstream Norlight LLC	Nicole		Winters	Counsel	nicole.winters@windstream.com
Windstream NTI, LLC	Nicole		Winters	Counsel	nicole.winters@windstream.com

Winn Telephone Company dba Winn Telecom	Mark	Graf	General Manager	mgraf@winncommunications.net
Xclutel, LLC	Mark	Foster		regulatory@xclutel.com
XO Communications Services, LLC	Kelly	Faul	Senior Manager Governmen t Relations	<u>kelly.faul@verizon.com</u>
YMax Communications Corp.	Peter	Russo	CFO	russop@magicjack.com
Zayo Group, LLC	Charles	Forst	Director, Regulatory Reporting	<u>charles.forst@zayo.com</u>