

December 12, 2014

**VIA ECFS, PROCEEDING NO. 14-222**

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, DC 20554

**Re: AT&T Services Inc. and AT&T Corp. v. Great Lakes Comnet, Inc. and  
Westphalia Telephone Company, File No. EB-14-MD-0013**

Dear Ms. Dortch:

As indicated in the Joint Statement of Stipulated Facts, Disputed Facts, Key Legal Issues, and Discovery and Scheduling (“Joint Statement”) filed by the Parties in this case on December 1, 2014,<sup>1</sup> Great Lakes Comnet, Inc. (“GLC”) and Westphalia Telephone Company (“WTC”) respectfully submit this letter that serves to update the record with IBDC Telecom. Inc.’s (“IBDC”) certification and withdraw the requests for discovery to IBDC from GLC and WTC’s November 12, 2014 Motion for Third Party Discovery (“Motion”). In addition, GLC provide further evidence demonstrating that third-party discovery on Local Exchange Carriers of Michigan, Inc. (“LECMI”) is needed.

By way of background, on November 12, 2014, GLC and WTC filed the Motion with their Answer to AT&T Services Inc. and AT&T Services Inc.’s (collectively “AT&T”) Formal Complaint in this case. The Motion seeks information from two third parties – IBDC and LECMI. As explained in the Motion, GLC and WTC require this information so that they may fully respond to the claims raised by the Complainants in this proceeding, including specifically the claims in Count II of the Formal Complaint which allege that GLC and WTC have engaged in access stimulation.<sup>2</sup>

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<sup>1</sup> See Joint Statement at 40-41.

<sup>2</sup> As explained in the Motion, the *CAF Order* requires that this information be provided to rebut the access stimulation claims raised by the Complainants against GLC and WTC in Count II of the Formal Complaint. See *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; Universal Service Reform—Mobility Fund*, 26

Following the filing of the Motion, third-party IBDC agreed to provide GLC and WTC with a certification that provides the information sought from IBDC under the Motion. Specifically, the IBDC certification confirms that IBDC (1) has never entered into a revenue sharing agreement with WTC and (2) does not currently have any revenue sharing agreements with GLC. The copy of the IBDC certification that IBDC's outside counsel provided to me is attached hereto as Exhibit A.

After the Motion was filed, GLC and WTC received email correspondence from LECMI's counsel, Mr. Joseph Bowser, in response to GLC's and WTC's outstanding request for a similar certification from LECMI. In that email correspondence, while LECMI did not dispute any facts that would cause LECMI to be unable to sign the certification in good faith, LECMI refused to sign the certification the Commission requires, unless GLC and WTC agree to certain demands. This email correspondence is attached hereto as Exhibit B.

For the foregoing reasons, GLC and WTC respectfully request that:

- (1) The IBDC certification be added as part of the official record of the case,
- (2) This letter submission be accepted as notice of GLC and WTC's withdrawal of the Motion with respect to third party IBDC, and
- (3) The email correspondence from LECMI's counsel be added as part of the official record of this case, and be considered as further demonstration to the Commission that, as to LECMI, the Motion should be granted.<sup>3</sup>

Please contact me if you have any questions.

Respectfully submitted,



Philip J. Macres  
*Counsel for Great Lakes Comnet, Inc. and  
Westphalia Telephone Company*

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FCC Rcd. 17663, Report and Order and Further Notice of Proposed Rulemaking, ¶ 699 (2011) (“CAF Order”), *aff'd sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10<sup>th</sup> Cir 2014) (“We decline to require a particular showing, but, at a minimum, an officer of the [accused carrier] must certify that it has not been, or is no longer engaged in access revenue sharing, and the [carrier] must also provide a certification from an officer of the company with whom the [carrier] is alleged to have a revenue sharing agreement(s) associated with access stimulation that that entity has not, or is not currently, engaged in access stimulation and related revenue sharing with the [carrier].”).

<sup>3</sup> If the Commission does not waive its requirement that GLC and WTC obtain a certification from LECMI that is discussed in the Motion, GLC and WTC believe the Motion as to LECMI remains necessary.

Enclosures

cc: See attached Certificate of Service

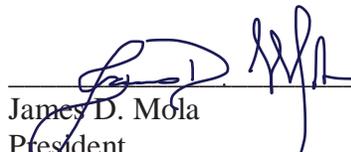
# **Exhibit A**

**CERTIFICATION OF JAMES D. MOLA  
REGARDING FCC FILE NO. EB-14-MD-013**

1. I, James D. Mola, am the President and an officer of IBDC Telecom, Inc. (“IBDC”).
2. I understand that Great Lakes Comnet, Inc. (“GLC”) and Westphalia Telephone Company (“WTC”) are named as Defendants in a formal complaint before the Federal Communications Commission (“FCC”), File No. EB-14-MD-013 (refiled on Oct. 22, 2014).
3. IBDC certifies that it entered into a “Toll Free Termination 8YY Service Agreement” on January 13, 2010 (the “Agreement”) with ComLink LLC (“ComLink”). The Agreement established terms and conditions associated with the termination of 8YY traffic sent by IBDC to ComLink, and included a fixed *de minimis* per minute of use rate pricing (payable upon collection by ComLink from the other carriers) for the termination of toll-free calls.
4. To the extent the FCC’s “access stimulation” rule, 47 C.F.R. § 61.3(bbb), applies in this matter, IBDC also certifies that it did not intend to engage in any alleged access stimulation when it entered into the Agreement. Prior to the commencement of a Michigan Public Service Commission proceeding between AT&T and GLC/WTC earlier this year, IBDC had no knowledge of ComLink’s pricing for, subsequent routing of, the ultimate termination of, or other contractual counterparties to agreements with ComLink concerning the transport of that traffic.
5. IBDC and ComLink terminated the Agreement as of December 31, 2013. IBDC currently has no other agreements with ComLink or GLC.
6. IBDC further certifies that it was not aware of WTC, had no knowledge of any relationship between ComLink and WTC, and has never had any contractual agreements or business arrangements with WTC regarding 8YY traffic or any other matter.

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

Dated: November 21, 2014

  
\_\_\_\_\_  
James D. Mola  
President  
IBDC Telecom, Inc.

# Exhibit B

**From:** [Joseph Bowser](#)  
**To:** [Philip Macres](#)  
**Cc:** ["Michael Holmes at TAM"; Rachel Wisley-Schulz](#)  
**Subject:** Re: Request for Certification from LEC MI  
**Date:** Wednesday, November 12, 2014 7:10:36 PM

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Philip:

LECFMI will agree to sign the requested certification under the following conditions:

- 1) GLC agrees to assign all collectibles on the Trunk Group 313 traffic to LECMI;
- 2) GLC agrees that LECMI is entitled to a credit for all amounts not paid to LECMI for the 313 traffic; and
- 3) GLC agrees that LECMI is not responsible for access stimulation or any other wrongdoing with respect to the traffic on the 331 Trunk Group.

I'm traveling now and in a deposition all day tomorrow, but will be back in DC on Friday if you'd like to discuss.

Best,  
Joe

**Joe Bowser**  
**Member**

**Innovista Law PLLC**  
1200 18th Street, Suite 700  
Washington, DC 20036  
Office: (202) 750-3500  
Direct: (202) 750-3501  
Fax: (202) 750-3503  
[joseph.bowser@innovistalaw.com](mailto:joseph.bowser@innovistalaw.com)

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**From:** Philip Macres <[pmacres@kleinlawpllc.com](mailto:pmacres@kleinlawpllc.com)>  
**Date:** Monday, November 10, 2014 at 7:48 AM  
**To:** Joe Bowser <[joseph.bowser@innovistalaw.com](mailto:joseph.bowser@innovistalaw.com)>  
**Cc:** Michael Holmes <[holmes.michael@telecommich.org](mailto:holmes.michael@telecommich.org)>  
**Subject:** RE: Request for Certification from LEC MI

Joe,

I hope you had a good weekend. I am following up with you on the requested certification. Please let me know if LECMI will be providing it or if you would like modifications made to its contents.

Thank you.

Best regards,

**Philip J. Macres**  
**KLEIN LAW GROUP PLLC**  
**1250 Connecticut Avenue N.W.**  
**Suite 200**  
**Washington, D.C. 20036**  
**[PMacres@KleinLawPLLC.com](mailto:PMacres@KleinLawPLLC.com)**  
**Direct: (202) 289-6956**  
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**From:** Joseph Bowser [<mailto:joseph.bowser@innovistalaw.com>]  
**Sent:** Monday, November 03, 2014 4:06 PM  
**To:** Philip Macres  
**Cc:** 'Michael Holmes at TAM'  
**Subject:** Re: Request for Certification from LEC MI

Philip -  
I'm following up and will get back to you as soon as I can.  
Best,  
Joe

**Joe Bowser**  
**Member**

**Innovista Law PLLC**  
1200 18th Street, Suite 700  
Washington, DC 20036  
Office: (202) 750-3500  
Direct: (202) 750-3501  
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**From:** Philip Macres <[pmacres@kleinlawpllc.com](mailto:pmacres@kleinlawpllc.com)>

**Date:** Monday, November 3, 2014 at 4:02 PM  
**To:** Joe Bowser <[joseph.bowser@innovistalaw.com](mailto:joseph.bowser@innovistalaw.com)>  
**Cc:** Michael Holmes <[holmes.michael@telecommich.org](mailto:holmes.michael@telecommich.org)>  
**Subject:** RE: Request for Certification from LEC MI

Joe,

I am following up on my email below and the status of obtaining the requested certification.

If you have any questions concerning the certification or the contents of it, please let me know as soon as you can. Thank you.

Respectfully,

**Philip J. Macres**  
KLEIN LAW GROUP<sup>PLLC</sup>  
1250 Connecticut Avenue N.W.  
Suite 200  
Washington, D.C. 20036  
[PMacres@KleinLawPLLC.com](mailto:PMacres@KleinLawPLLC.com)  
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**From:** Philip Macres [<mailto:pmacres@kleinlawpllc.com>]  
**Sent:** Thursday, October 23, 2014 7:25 PM  
**To:** '[joseph.bowser@innovistalaw.com](mailto:joseph.bowser@innovistalaw.com)'  
**Cc:** 'Michael Holmes at TAM'  
**Subject:** Request for Certification from LEC MI

Joe,

As discussed earlier today, Great Lakes Comnet, Inc. (“GLC”) and Westphalia Telephone Company (“WTC”) are named as Defendants in a formal complaint before the Federal Communications Commission (“FCC”), File No. EB-14-MD-013 (refiled on Oct. 22, 2014), in which the Complainants have asserted that GLC and WTC have been engaged in “access stimulation” and had an “access revenue sharing agreement” with LEC MI, as these terms are defined and used in 47 C.F.R. § 61.3(bbb) by the FCC.

While GLC and WTC are disputing these claims, the FCC requires, among other things, that in response to such claims a certification be provided from an officer of the company with whom the carrier is alleged to have a revenue sharing agreement(s) associated with access stimulation that that entity has not, or is not currently, engaged in access stimulation and related revenue sharing with the carrier. See [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-11-161A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-161A1.pdf) at para. 699.

GLC and WTC respectfully request that Mr. Irvin from LEC MI provide this certification as indicated in the attached. Please email a copy of the signed certification to me and send the original

signed certification to my address below by Thursday, October 30, 2014.

If you have any questions concerning the above or the attached certification, please let me know.  
Thank you.

Respectfully,

**Philip J. Macres**  
**KLEIN LAW GROUP PLLC**  
**1250 Connecticut Avenue N.W.**  
**Suite 200**  
**Washington, D.C. 20036**

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## CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2014, I caused the foregoing letter to be filed with the Commission and served as indicated below to the following:

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, DC 20554  
(via ECFS, Proceeding No. 14-222)

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Philip Macres