

CERTIFICATE OF SERVICE

I, Sophie Keefer, do hereby certify that on this 3rd day of May, 2002 copies of the foregoing Reply of Winstar Communications, LLC were delivered by hand, unless otherwise indicated, to the following parties:

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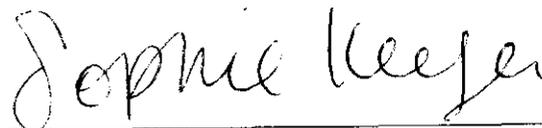
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Sophie Keefer

**EXHIBIT A**

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In the Matter of )  
 )  
Winstar Communications, LLC )  
Petition for Declaratory Ruling ) WC Docket No. 02-80  
Regarding ILEC Obligations to )  
Continue Providing Services )

**EXHIBIT A**  
**DECLARATION OF JEAN L. KIDDOO**

CITY OF WASHINGTON            )  
  )  
DISTRICT OF COLUMBIA        )

**DECLARATION OF JEAN L. KIDDOO**

I, Jean L. Kiddoo, hereby declare that the following is true and correct to the best of my knowledge, information and belief:

1. I am a member of the bar of the District of Columbia and a member of Swidler Berlin Shereff Friedman, LLP (“Swidler Berlin”). Swidler Berlin is a limited liability partnership authorized to practice law in the District of Columbia, with its principal address at 3000 K Street, N.W., Suite 300, Washington D.C. 20007. I submit this declaration in connection with the Reply of Winstar Communications, LLC in WC Docket 02-80. Except as otherwise noted herein, I have personal knowledge of the matters set forth herein.

2. Winstar Communications, Inc. and certain of its subsidiaries and affiliates (“Debtors”) filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”) in April 2001 (Case No. 01-1430). On December 19, 2001, the Bankruptcy Court issued an order (the “Sale Order”) authorizing the sale of certain assets of Debtors to Winstar Holdings, LLC (f/k/a IDT Winstar Acquisition, Inc.) (“Buyer” or “IDT Winstar”).

3. I am generally familiar with the terms of the Sale Order that concern the obligations to “obtain the requisite federal and state regulatory approvals necessary to operate the Business and to enter into contractual or other legal arrangements necessary for the consummation of the Sale, transfer of the Licenses and the Regulated Assets (as defined below) to the Buyer and the operation of the Purchased Assets by the Buyer (the ‘Compliance Items’),” and in particular the steps taken by the Debtors and/or IDT Winstar to obtain the requisite federal and state regulatory approvals necessary for the transfer of regulated assets to IDT Winstar and for IDT Winstar to provide telecommunications service to customers acquired from Debtors, as well as the steps taken by IDT Winstar to secure interconnection agreements with various incumbent local exchange carriers in order to obtain telecommunications facilities or resell telecommunications services. A timeline summarizing some of the many of the steps taken by IDT Winstar in this regard is attached hereto as Declaration Attachment 1.

## **I. Efforts to Comply with Federal and State Regulatory Requirements**

4. IDT Winstar has taken the steps necessary to set up the necessary corporate structure for its new operations and to obtain the federal and state regulatory approvals required to transfer the regulated assets of Debtors, including the Debtors' customers, to operate subsidiaries of IDT Winstar, and for those subsidiaries to obtain the necessary regulatory authority to provide telecommunications services to those customers throughout the continental United States and Hawaii. Depending upon the rules and processes of the individual federal and state jurisdictions, such authority must be obtained either by transfer of the Debtors' operating licenses and certificates, by application for new licenses or certificates, or by notice to the appropriate regulatory authority.

5. On the same day the Sale Order was issued by the Bankruptcy Court, Debtors sent a notice to all of its customers informing them of the IDT Winstar's purchase of its assets.

6. Following entry of the Sale Order, and before it could start the regulatory approval process, IDT Winstar created several subsidiaries to enter the telecommunications market and to provide telecommunications service to customers, including Winstar Communications, LLC, and, with respect to operations in several states, a number of state operating subsidiaries of Winstar Communications, LLC.

7. Debtors and IDT Winstar were also required to seek and obtain numerous federal and state regulatory approvals to transfer the assets and customers of Debtors and to enable IDT Winstar to operate as a telecommunications carrier. Securing these approvals required the filing of (1) four extensive FCC applications with associated supporting documents and waivers seeking the assignment of 1,768 licenses, as well as multiple amendments and additional filings; (2) applications for asset transfer approval and, depending on the state, transfer of local and intrastate long distance certificates or applications for new certificates, in 42 jurisdictions; (3) notices of the transaction and transfer of service in the remaining states; (4) notices to customers and to the FCC at least 30 days in advance of the proposed transfer date pursuant to the Commission's customer migration rules (*i.e.* "slamming" notices); and (5) compliance with Section 63.71 of the Commission's rules with respect to the discontinuance of services by Debtors.

8. In my experience, a transaction that involves nationwide authorizations such as the Debtors', particularly where both local exchange and long distance certificates and tariffs are involved, typically takes up to 6 months or more for a carrier to obtain the necessary state approvals to transfer regulated assets and authorizations, since such approvals can be dependent, among other things, on required public notice periods, commission staff review and preparation of recommendations, promulgation and response to staff data requests and other less formal exchanges of information, administrative law judge review and recommendations, and commission agenda schedules. Accordingly, in recognition that the Sale Order set forth a "Regulatory Compliance Period" of 120 days (subject to extension), the Debtors and IDT Winstar began working diligently to prepare the massive number of detailed filings immediately after the Sale Order was issued, December 19, 2001, and all of those applications were duly sent to the applicable regulatory agencies within the 30-day period set forth in the Asset Purchase Agreement approved by the Court, notwithstanding the intervening holiday season. IDT Winstar

diligently worked with all of the applicable regulatory commissions to prosecute the applications and, as a result of the cooperation and responsiveness of the regulatory commissions to the need to expedite the processing of the applications, the necessary approvals for the transfer were obtained at the FCC and in all but two states by the end of the 120-day Regulatory Compliance Period -- despite the actions by certain underlying carriers to disrupt proceedings at several of the state commissions.

9. Immediately following the issuance of the Sale Order, and over the holidays, under the direction of the Debtors and IDT Winstar, Swidler Berlin and the law firms of McDermott Will & Emery ("McDermott Will") and Willkie Farr & Gallagher ("Willkie Farr") researched and began to prepare the papers necessary to file with the federal and state regulatory commissions to approve the transfer of the regulated assets.

**A. FCC Assignment Applications**

10. On January 10, 2002, twenty-two (22) days after the Sale Order was entered, McDermott Will and Willkie Farr, on behalf of IDT Winstar and Debtors, filed joint applications with the FCC requesting approval to assign the Debtors' approximately 1,768 wireless licenses to IDT Winstar ("Federal Applications"). Five (5) distinct classes of licenses were held by four (4) Debtor entities, each with its own requirements for assignment and construction. In addition to the assignment applications themselves, numerous supporting documents and waiver requests were generated and filed in connection with the assignment to comply with federal regulatory requirements and to enable the Debtors and IDT Winstar to fully realize the value of the assignment. For example, the Debtors requested a waiver of the FCC's filing fees, which was granted on March 25, 2002. The Federal Applications were placed on Public Notice for comment on January 16, 2002.

11. Thereafter, the Debtors worked diligently to keep the FCC apprised of the bankruptcy developments and to identify and resolve any issues. The conversion of the Debtors' bankruptcy from proceedings under Chapter 11 of the Bankruptcy code to Chapter 7 of the Bankruptcy Code, for example, required that the Debtors file another set of assignment applications to reflect the conversion and the appointment of a Chapter 7 Trustee. Each of the pending Federal Applications also required amendment to keep the Commission fully informed.

12. In light of the volume and complexity of the assignments, the 120-day regulatory compliance period was an extremely brief period of time within which to gain Commission approval. Nonetheless, the FCC conditionally granted the Federal Applications by Public Notice dated April 17, 2002. *See* Wireless Telecommunications Bureau Conditions Grant of Assignments of Licenses from Subsidiaries of Winstar Communications, Chapter VII Debtors to Winstar Spectrum, LLC, A Subsidiary of IDT Corporation, DA 02-895 (rel. Apr. 17, 2002).

**B. State Asset Transfer/Certification Applications**

13. On behalf of Debtors and IDT Winstar, applications or other appropriate filings were prepared and filed in forty-nine (49) states and the District of Columbia by Swidler Berlin requesting approval from, or notifying, the various regulatory commissions of the transfer of regulated assets, including customers, and requesting assignment of Debtors' certificates of

public convenience and necessity or, where required, issuance of a new certificate to IDT Winstar. All of the 41 initial requests for state commission approval were sent by January 18, 2002 for filing in the applicable states. All of the initial notification letters were submitted by February 8, 2002.

14. Other than the states discussed below, all of the state regulatory approvals that IDT Winstar understands are necessary for the transfer of regulated assets and for it to provide intrastate services were duly obtained within the 120-day Regulatory Compliance period, which represents, in my experience, an extremely expedited schedule and demonstrates IDT Winstar's diligence in making and prosecuting the applications and remarkable cooperation and extraordinary effort by state regulators to accommodate the timeframe envisioned by the Bankruptcy Court.

| <u>State</u>         | <u>Approval Date</u> |
|----------------------|----------------------|
| Alabama              | 3/15/02              |
| Arizona              | 4/16/02              |
| California           | 3/6/02               |
| Colorado             | 2/20/02              |
| Delaware             | 3/19/02              |
| District of Columbia | 3/25/02              |
| Georgia              | 3/18/02              |
| Hawaii               | 4/9/02               |
| Illinois             | 4/2/02               |
| Indiana              | 3/20/02              |
| Iowa                 | 3/26/02              |
| Kansas               | 3/15/02              |
| Louisiana            | 2/20/02              |
| Maine                | 3/5/02               |
| Maryland             | 2/13/02              |
| Minnesota            | 3/20/02              |
| Mississippi          | 3/5/02               |
| Missouri             | 3/21/02              |
| Nebraska             | 3/5/02               |
| Nevada               | 3/14/02              |
| New Hampshire        | 4/12/02              |
| New Jersey           | 3/22/02              |
| New Mexico           | 3/27/02              |
| New York             | 3/20/02              |
| North Carolina       | 3/18/02 and 4/4/02   |
| North Dakota         | 2/27/02              |
| Ohio                 | 3/7/02               |
| Oklahoma             | 3/25/02              |
| Oregon               | 3/28/02              |
| Pennsylvania         | 4/1/02               |

| <u>State</u>   | <u>Approval Date</u> |
|----------------|----------------------|
| South Carolina | 3/29/02              |
| Tennessee      | 4/2/02               |
| Texas          | 3/13/02              |
| Utah           | 2/24/02              |
| Vermont        | 2/8/02               |
| Virginia       | 2/25/02 and 4/4/02   |
| Washington     | 4/10/02              |
| West Virginia  | 3/27/02              |
| Wisconsin      | 2/26/02              |
| Wyoming        | 4/10/02              |

15. On March 12, 2002, the Florida Public Service Commission issued a “Proposed Agency Action Order” (“PAA Order”) proposing to grant the application filed by Debtors and IDT Winstar. On April 2, 2002, on the very last day of the 21-day protest period established by the Florida Commission’s order, and barely two weeks before the Bankruptcy Court’s Regulatory Compliance Period was scheduled to end, Verizon Florida, Inc. (with its affiliates, collectively “Verizon”) filed a protest to the PAA Order. The Opposition requested the Florida Commission to condition the transfer of Debtors’ assets and certificates to IDT Winstar on the following actions:

1. “[IDT Winstar] must assume [Debtors’] indebtedness to Verizon;
2. [IDT Winstar] shall deposit into an escrow account an amount equal to the last six months billings from Verizon to [Debtors], from which Verizon shall be able to draw should [IDT Winstar] fail to make any payment to Verizon as it becomes due; and
3. Every contract between Verizon and [IDT Winstar] shall include a provision that Verizon has the unilateral right to terminate the contract upon thirty days’ written notice if [IDT Winstar] fails to make any payment as it becomes due.”

16. Unless these conditions, and particularly Item 1, were imposed, Verizon threatened to disrupt service. Specifically, Verizon stated:

“If the current contracts and arrangements are not assumed and assigned, they will be cancelled. The circuits and other facilities used to provide those services will revert back to Verizon’s inventory for use by other customers. If [IDT Winstar] places new orders or seeks new arrangements, those requests will be handled in order. During that time, there will be no service to [IDT Winstar].” (Emphasis added.)

Verizon did not indicate in its protest that IDT Winstar had already entered into a new “arrangement” with Verizon (i.e. a new interconnection agreement), or that IDT Winstar had

already submitted three separate requests for Verizon to provision circuits and facilities to it pursuant to that agreement.

17. IDT Winstar filed a Motion to Dismiss the Verizon protest on April 8, 2002, and Verizon filed an Opposition to the Motion to Dismiss on April 17, 2002. The Florida Commission does not have a scheduled meeting date until May 21, 2002 and, therefore, the application cannot be approved until that date. Verizon's protest has also affected the relationship between BellSouth and Winstar, because BellSouth has to date refused to file the executed Florida interconnection agreement until the Florida Commission approves the transfer of the certificates to IDT Winstar.

18. On April 12, 2002, shortly before the end of the Regulatory Compliance Period established by the Bankruptcy Court, Verizon Virginia, Inc. filed comments in Winstar's certification proceeding before the Virginia Corporation Commission. Verizon requested that the Virginia Commission condition approval of the Winstar's application upon Winstar's taking assignment of the facilities and services that are being used to provide service to Debtor's customers. Although the Virginia Commission granted an interim certificate to IDT Winstar, and it is therefore entitled to operate in Virginia notwithstanding Verizon's effort to hold up permanent certification, the Virginia Commission has had to establish dates for comments on the Verizon petition, and the need for this additional pleading cycle and processing by the Virginia Commission will inevitably extend considerably the time in which the Virginia Commission will be able to grant the permanent certificate.

19. Other than the delay caused by Verizon in Florida, there are only two states where IDT Winstar either still needs approval or where the state regulatory agency requested information subsequent to 120 days from the date of the Sale Order. In South Dakota, consistent with the Public Utilities Commission's procedures in similar past asset transfer transactions, the Debtors and IDT Winstar notified the South Dakota Commission on February 4, 2002 of the proposed transfer. On February 13, 2002, notwithstanding its acceptance of such a notice in a prior transaction of the same structure, the South Dakota Commission notified the parties that an application is required to transfer the Debtors' certificate to IDT Winstar. Accordingly, the parties have submitted the requested application and expect Commission approval on or around May 9, 2002. The certificate in question pertains only to long distance services and not local exchange services. In Connecticut, consistent with past practice, the parties submitted a notice of the transaction on February 8, 2002. On April 19, 2002, the Department of Public Utility Control advised the parties that in order for the Debtors' certificates to be assigned to IDT Winstar, the Department will need to review the changes in the management and operations that will take place as a result of the transaction, and IDT Winstar is providing the requested information to the Department.

### **C. FCC Customer Migration Notices**

20. In compliance with the FCC rules regulating customer migrations, on February 14, 2002, IDT Winstar sent a notice to certain of Debtors' customers pursuant to Section 64.1120 of the Commission's Rules (the "February 14 Notice"). The February 14 Notice informed Debtors' customers that the Debtors had entered into an agreement to sell a substantial portion of their domestic U.S. telecommunications business to IDT Winstar, and that the transfer of their

services to IDT Winstar would be without charge, that their telephone numbers would not change, and provided other details about the transition. The February 14 Notice further explained that the transfer of the customers from Debtors to Winstar was contemplated for April 15, 2002, subject to regulatory approvals.

21. On March 18, 2002, IDT Winstar certified to the FCC that the required notice had been sent and provided other information required by Section 64.1120.

**D. Section 63.71 Notices and Applications**

22. Since the entry of the Sale Order, IDT Winstar has undertaken a review and analysis of the services being provided to Debtors' customers to determine whether there are services that it does not intend to provide long term. It has understood that, as manager of Debtors' operations during the transition period pursuant to the Sale Order, it has an obligation to assure that discontinuance of any services to Debtors' customers during this period is undertaken consistent with Section 63.71 of the Commission's rules, and the rules and regulations of the states where such customers are located. Accordingly, once decisions have been made that particular services are to be discontinued and the date of such discontinuance, applications have been filed at the Commission and, as necessary, in the affected states.

**1. Phase I Discontinuance**

23. By February 11, 2002, IDT Winstar had determined that it does not intend to provide facilities-based service in certain geographic markets in California, Indiana, Kansas, Missouri, Ohio, Texas, and Wisconsin. Accordingly, on February 15, 2002, Debtors sent a discontinuance notice to affected customers in California, Kansas, Missouri and Texas and filed an application to discontinue certain services in Texas. Discontinuance notices were sent to facilities-based customers in the remaining states on February 19 and 20, 2002 and all remaining regulatory filings, including an application at the FCC, for the Phase I Discontinuance were made on February 21 or 22, 2002. On March 5, 2002, the California filing was withdrawn and later refiled as part of the Phase II Discontinuance application. The FCC permitted this discontinuance to go into effect on April 1, 2002, the 31<sup>st</sup> day following the March 1, 2002 public notice without issuing an order. State approvals for this Phase I Discontinuance were received on or before April 4, 2002.

**2. Phase II Discontinuance**

24. Upon further review of the services being provided to Debtors' customers, IDT Winstar decided that, in addition to the discontinuance of facilities-based services in certain markets described above, it also will not continue to provide wireline facilities-based service to non-governmental customers in any state, and therefore services to Debtors' existing non-governmental customers needed to be discontinued. These services are facilities-based local exchange and interexchange telecommunications services that are provided using the wireline facilities leased from underlying carriers as opposed to Debtor's fixed wireless facilities. This proposed discontinuance affected customers in 19 states, and notice of the discontinuance was sent to such customers between March 15 and 18, 2002. An application to discontinue service was filed at the FCC on March 18, 2002, and permitted to go into effect by the Commission on

April 18, 2002, based upon the assurance by the parties that they would maintain service for a reasonable additional period of time for customers who had expressed concern to the Commission as to their ability to migrate to another carrier by the planned discontinuance date. Eleven applications and five notification letters concerning the Phase II Discontinuance were filed with the appropriate state commissions between March 19 and 21, 2002. The remaining application and notification were filed on March 28 and March 25, respectively. To date, Winstar has received all but three of the required state approvals (Arizona, California and New York) for this Phase II Discontinuance.

25. Verizon Maryland, Inc. filed an Opposition to the Phase II Discontinuance application in Maryland on April 9, 2002, the day before the Maryland Public Service Commission meeting that would address the application. In its Opposition, Verizon asked for the same relief it requested in its Florida protest, and again stated that, unless IDT Winstar assumes the Debtors' interconnection contracts with Verizon, and pays the pre-Sale Order debt owing on those contracts, Verizon will disrupt service to IDT Winstar, and therefore to its customers:

“If the current contracts and arrangements are not assumed and assigned, they will be cancelled. The circuits and other facilities used to provide those services will revert back to Verizon’s inventory for use by other customers. If [IDT Winstar] places new orders or seeks new arrangements, those requests will be handled in order. During that time, there will be no service to [IDT Winstar].” (Emphasis added.)

26. At the Maryland Commission’s meeting, which I attended, the Commission approved the discontinuance application and rejected Verizon’s attempt to condition such approval on a payment of pre-Sale Order amounts due from Debtors.

27. On April 10, 2002, Verizon Southwest, Inc. filed a Motion to Intervene in IDT Winstar’s Texas Phase II Discontinuance application. Again Verizon claimed that “[t]he only way to transfer the service and facilities and ensure that service continues to end users without interruption is for [IDT Winstar] to assume the services and facilities Verizon provided to [Debtors].” After receiving IDT Winstar’s Opposition to Verizon’s Motion to Intervene, the Texas Commission promptly denied Verizon’s request, stating that “[a]lthough Verizon implicitly suggests that granting [IDT Winstar’s] application will or may prejudice Verizon’s ability to compel [IDT Winstar] to pay [Debtors’] alleged debt, liability for [Debtors’] debt is not before the Commission in this docket. Indeed, the issue appears to be exclusively within the jurisdiction of the bankruptcy court.” The Texas Commission subsequently approved the Phase II Discontinuance application on April 29, 2002.

### **3. Final Discontinuance of Remaining Debtor Services**

28. Given the fact that Qwest and Verizon have ceased processing IDT Winstar’s service orders, and it is therefore impossible for Debtors and IDT Winstar to know and to tell the Commission and the customers, pursuant to Section 63.71(a), the date of the planned discontinuance, Debtors have not yet filed an application to the Commission for authority to discontinue service to the customers who are being transitioned to IDT Winstar.

## **II. Efforts To Enable Winstar to Provide Service to the Customers Acquired Pursuant to the Sale Order**

### **A. Interconnection Agreements**

29. Concurrent with the preparation and filing of necessary federal and state applications, IDT Winstar reviewed interconnection agreements in 25 states where it intends to offer local exchange services initially to determine which agreements would be appropriate for IDT Winstar and its planned telecommunications operations. On January 29, 2002, pursuant to section 252(i) of the Communications Act of 1934, as amended, IDT Winstar began submitting letters to the incumbent local exchange carriers (“ILECs”) in those states requesting to enter into interconnection agreements that are in effect between the ILECs and other carriers. Nearly all of the letters were sent by February 1, 2002. In response to the requests, the ILECs forwarded to Swidler Berlin the appropriate agreements for IDT Winstar’s execution. At that time, no ILEC objected to IDT Winstar obtaining an interconnection agreement or indicated that there would be a “disconnect/reconnect” scenario if IDT Winstar were to choose to obtain service under its own new interconnection agreements in order to serve its customers.

30. During February and until late March 2002, IDT Winstar executed numerous interconnection agreements and returned such agreements to the appropriate ILEC for signature. During the same time, IDT Winstar received fully executed agreements from the ILECs and some agreements were filed by the ILECs with the appropriate state regulatory commissions.

31. On March 26, 2002, Qwest unilaterally, and without any prior notice to IDT Winstar, withdrew its request for approval of the executed Washington interconnection agreement with IDT Winstar. To date, the Washington interconnection agreement has not been refiled.

32. In addition to withdrawing its request for approval of its executed Washington interconnection agreement with IDT Winstar, on April 12, 2002 Qwest filed with the Minnesota Public Utilities Commission a Motion to Clarify or in the Alternative to Withdraw the Joint Application (“Qwest Minnesota Motion”) which it had filed on March 8, 2002 to request approval of the interconnection agreement between Qwest and IDT Winstar. The Qwest Minnesota Motion claimed that, unless Winstar assumed the Debtors’ interconnection agreement, the Debtors customers would receive at least a temporary discontinuance of service. Qwest stated that, unless IDT Winstar assumes the Debtors’ agreements, and pays any outstanding balance associated with those agreements,

“[f]acilities, circuits, etc. provisioned under the [Debtors’] interconnection agreement will be terminated. [IDT Winstar], of course, can order new facilities and circuits under its new interconnection agreement, but the realities of the time it takes to provision these items (no different for any new CLEC ordering new facilities and circuits) would inevitably lead, at least temporarily, to a discontinuance of service to [Debtors’] customers that [IDT Winstar] might seek to serve in the future, notwithstanding its decision to reject current agreements.” (Emphasis added.)

33. On April 30, 2002, Winstar filed its response to the Qwest Minnesota Motion, and the matter is now before the Minnesota Commission. Qwest has, to date, failed to file the interconnection agreement it entered with IDT Winstar with the applicable state commissions in Arizona and Colorado even though it is committed to do so under the terms of its agreements.

**B. Requests for Facilities**

34. On February 26, 2002, IDT Winstar sent letters to each of the ILECs that provided an initial list of circuits that IDT Winstar will require to serve the customers it is acquiring from Debtors. The letter clearly explained that Winstar had acquired the customers from the bankruptcy estate of Debtors. The letter further explained that IDT Winstar was at that time still in the process of obtaining the necessary regulatory approvals and finalizing interconnection agreements, but that it was providing the advance notice and information to assist the ILECs in developing a “streamlined process to transition the large number of affected circuits on a bulk basis in a smooth, orderly and timely manner, so that all service disrupting effects and delays, and unnecessary costs, could be avoided.” In the letters, IDT Winstar offered to meet with the ILECs to discuss how the details and timing of the transition may be coordinated to ensure that service is continued in an uninterrupted and transparent manner to customers. It is my understanding that IDT Winstar employees contacted the ILECs to confirm receipt of these letters and to offer to answer any questions. It is my understanding that none of the ILEC representatives expressed concern over accommodating the request for streamlined processing at that time.

35. In addition to the February 26, 2002 letter, I understand that on March 27 and 28, and April 16 and 26, 2002, IDT Winstar sent additional letters to the ILECs supplementing the lists of circuits it is seeking to order and providing a list of resale service accounts to be provisioned to IDT Winstar. Moreover, in the April 26, 2002 letter, IDT Winstar also advised the ILECs of specific circuits and facilities to be disconnected.

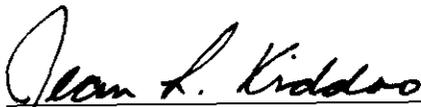
36. The first official notice from an ILEC regarding a decision to halt the transition of customers from Debtors to Winstar was received on March 21, 2002, when Qwest sent Steve Murray, Senior Director of Legal and Regulatory Affairs for IDT Winstar, an electronic notice stating that it no longer was going to “move forward” with IDT Winstar’s requests for the facilities. At that time, Qwest also indicated that all further correspondence or questions should be directed to Qwest’s bankruptcy counsel.

37. Shortly thereafter, on March 25, 2002, Verizon also notified Steve Murray, at IDT Winstar, that it was going to “hold transferring any circuits from the [Debtor] to [IDT Winstar].”

38. IDT Winstar has not received any formal notice that BellSouth and SBC Communications have decided not to provision the circuits requested by IDT Winstar pursuant to its new interconnection agreements with those companies and on the streamlined “batch” basis identified by IDT Winstar since February 26, 2002. However, as I understand it, there is no way for IDT Winstar to determine whether the requested provisioning has been completed until a bill is received from the ILEC. Moreover, on April 25, 2002, SBC’s bankruptcy counsel notified IDT Winstar by letter that SBC will not disconnect any circuits or other facilities on a

streamlined basis, but instead will require an individual access service request or local service request for each such facility.

I declare under penalty of perjury that the foregoing is true and correct. Executed May 3, 2002.

  
\_\_\_\_\_  
Jean L. Kiddoo

**DECLARATION ATTACHMENT 1**

**Timeline**

**TIMELINE OF MAJOR  
FEDERAL AND STATE REGULATORY EVENTS**

| <b><u>DATE</u></b>            | <b><u>EVENT</u></b>   |
|-------------------------------|---|
| December 19, 2001             | U.S. Bankruptcy Court for the District of Delaware issues Sale Order.<br><br>Notice sent to Debtors' customers informing them that IDT Corporation purchased the assets of Debtors.   |
| January 8, 2002               | Debtors and IDT Winstar met with the FCC to discuss Sale Order.   |
| January 10, 2002              | Debtors and IDT Winstar filed joint applications with the FCC requesting approval assign the Debtors' 1,768 wireless licenses to IDT Winstar ("Federal Applications").  |
| January 16, 2002              | Federal Applications placed on public notice.   |
| January 16-18, 2002           | Asset transfer applications submitted AL, AZ, CA, CO, DE, DC, FL, GA, HI, IN, LA, ME, MD, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, TN, UT, VT, WV, and WI.   |
| January 29, 2002              | Certification application filed in VA.<br><br>Letters sent to Qwest and Verizon requesting interconnection agreements   |
| January 30, 2002              | Letters sent to BellSouth requesting interconnection agreements   |
| January 31 - February 8, 2002 | Notification of asset transfer submitted AR, CT, ID, IA, KY, MA, MI, MT, RI, SD, and WA.  |
| February 1, 2002              | Letters sent to SBC requesting interconnection agreements   |
| February 11, 2002             | IDT Winstar executed Qwest interconnection agreements for CO, MN, and WA.   |
| February 13, 2002             | South Dakota PUC notified IDT Winstar that an application would be required to transfer the Debtors' certificate to IDT Winstar.  |
| February 14, 2002             | Notice sent to customers that IDT Winstar was an "independent entity" and that it would be providing service to the customers and that the transfer of customers from Debtors to IDT Winstar was schedule for April 14, 2002, subject to regulatory approval. |

**TIMELINE OF MAJOR  
FEDERAL AND STATE REGULATORY EVENTS**

| <b><u>DATE</u></b>   | <b><u>EVENT</u></b>   |
|----------------------|---|
| February 15-20, 2002 | Notices of Phase I Discontinuance sent to affected customers in CA, IN, KS, MO, OH, TX, and WI.   |
| February 15, 2002    | Application for Phase I Discontinuance submitted in TX.   |
| February 20, 2002    | Application for Phase I Discontinuance submitted in OH.   |
| February 20-21, 2002 | Notification of Phase I Discontinuance submitted in IN, KS, MO and WI.  |
| February 22, 2002    | Application for Phase I Discontinuance filed at FCC.  |
| February 25, 2002    | IDT Winstar executed Qwest interconnection agreement for AZ.  |
| February 26, 2002    | IDT Winstar sent letter to ILEC providing an initial list of circuits that IDT Winstar will require to serve the customers it is acquiring from Debtors.                              |
| March 1, 2002        | FCC Phase I Discontinuance application went on Public Notice.   |
| March 8, 2002        | Qwest filed MN interconnection agreement with IDT Winstar with the MN PUC.  |
| March 13, 2002       | IDT Winstar executed BellSouth interconnection agreements for FL and GA.  |
| March 15 & 18, 2002  | Notice of Phase II Discontinuance sent to affected customers in AZ, CA, CO, DC, FL, MA, MN, NJ,   |
| March 17-20, 2002    | Applications for Phase II Discontinuance submitted in CA, CO, DC, GA, IL, MD, NY, PA, TX, and WA  |
| March 17-18, 2002    | Notifications of Phase II Discontinuance submitted in FL, MA, MI, MN, and NJ.   |
| March 18, 2002       | IDT Winstar filed with the FCC Notification Regarding the Acquisition of Customer Pursuant to 47 C.F.R. § 64.1120.<br><br>Application for Phase II Discontinuance filed with the FCC. |
| March 19, 2002       | FCC Phase II Discontinuance application went on Public Notice.<br><br>IDT Winstar executed Verizon interconnection agreements for CA, CT, DC, FL, MD, MA, MI, NJ, NY, PA, VA, and WA. |

**TIMELINE OF MAJOR  
FEDERAL AND STATE REGULATORY EVENTS**

| <b><u>DATE</u></b> | <b><u>EVENT</u></b>   |
|--------------------|---|
| March 20, 2002     | Application for transfer of certificate submitted in SD at South Dakota PUC Staff's request.  |
| March 21, 2002     | Qwest sent Steve Murray, Senior Director of Legal and Regulatory Affairs for IDT Winstar, an electronic notice that it was refusing to provide the circuits in the manner requested by IDT Winstar. Qwest also indicated that all further correspondence or discussions with Qwest should be directed to Qwest's counsel. |
| March 24, 2002     | Notification of Phase II Discontinuance submitted in CT.  |
| March 25, 2002     | Qwest notified Steve Murray, at IDT Winstar, that it was going to hold transferring any circuits from Debtors to IDT Winstar.   |
| March 26, 2002     | Qwest unilaterally withdrew its request for approval of the executed WA interconnection agreement with IDT Winstar.   |
| March 27, 2002     | IDT Winstar sent letters to ILECs ordering resale services.<br><br>Application for Phase II Discontinuance submitted in VA.   |
| March 28, 2002     | IDT Winstar sent letters to ILECs supplementing list of circuits it is seeking to order.  |
| April 1, 2002      | FCC allows Phase I Discontinuance to go into effect without an order.   |
| April 2, 2002      | Verizon Florida, Inc. filed protest to the Florida PSC's Proposed Agency Action to approve the transfer of assets and certificates from Debtors to IDT Winstar.<br><br>IDT Winstar executed Verizon interconnection agreement for OR and TX.  |
| April 8, 2002      | IDT Winstar filed Motion to Dismiss Verizon's Protest in FL.<br><br>IDT Winstar executed Cincinnati Bell interconnection agreement for OH.<br><br>IDT Winstar executed SBC interconnection agreements for CA, CT, IL, IN, KS, MI, MO, OH, TX, and WI.   |

**TIMELINE OF MAJOR  
FEDERAL AND STATE REGULATORY EVENTS**

| <u>DATE</u>    | <u>EVENT</u>  |
|----------------|---|
| April 9, 2002  | Verizon Maryland, Inc. filed Opposition to MD Phase II Discontinuance application.  |
| April 10, 2002 | Maryland PSC approves Phase II Discontinuance application despite Verizon's Opposition.<br><br>Verizon Southwest, Inc. filed Motion to Intervene in IDT Winstar's TX Phase II discontinuance application.   |
| April 12, 2002 | IDT Winstar executed Sprint interconnection agreements for FL, NJ, TX, and VA.<br><br>Verizon Virginia, Inc. filed comments in IDT Winstar's VA certification proceeding.<br><br>Qwest filed MN Motion to Clarify or in the Alternative to Withdraw the Joint Application, which had requested approval of the interconnection agreement between Qwest and IDT Winstar. |
| April 15, 2002 | IDT Winstar filed Opposition to Verizon Southwest, Inc.'s TX Motion to Intervene.   |
| April 16, 2002 | Asset transfer application approved in AZ.<br><br>IDT Winstar sent letters to ILECs supplementing list of circuits it is seeking to order.  |
| April 17, 2002 | FCC granted Federal Applications by Public Notice.<br><br>Verizon Florida, Inc. filed Opposition to IDT Winstar's Motion to Dismiss.<br><br>Texas PSC Denied Verizon Southwest, Inc.'s Motion to Intervene.   |
| April 18, 2002 | FCC grants Phase II Discontinuance application.   |
| April 25, 2002 | SBC's bankruptcy counsel notifies IDT Winstar that SBC will not disconnect any circuits or other facilities on a streamlined basis.   |

**TIMELINE OF MAJOR  
FEDERAL AND STATE REGULATORY EVENTS**

| <b><u>DATE</u></b> | <b><u>EVENT</u></b>  |
|--------------------|--|
| April 26, 2002     | IDT Winstar sent letters to ILECs supplementing list of circuits it is seeking to order and advising the ILECs of specific circuits and facilities to be disconnected. |
| April 29, 2002     | Texas PSC approves Phase II Discontinuance.  |
| April 30, 2002     | IDT Winstar filed response to Qwest MN Motion to Clarify.  |
| May 9, 2002        | Expected date for approval of South Dakota certificate transfer application.   |
| May 21, 2002       | Next possible meeting date for Florida application protested by Verizon.   |

**EXHIBIT B**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|   |   |                         |
|---|---|-------------------------|
| In re:  | ) | Chapter 11              |
|   | ) | Case No. 01-11324 (MFW) |
| Net2000 Communications, Inc., <u>et al.</u> , | ) |                         |
|   | ) | Jointly Administered    |
| Debtors.                                      | ) |                         |

**ORDER REGARDING THE EMERGENCY MOTION OF THE OPERATING  
SUBSIDIARIES OF VERIZON COMMUNICATIONS INC. TO REQUIRE DEBTORS  
AND CAVALIER TELEPHONE COMPANY TO CURE DEFAULTS UNDER THE  
DEBTORS' CONTRACTS WITH VERIZON AND FOR CONTEMPT**

This matter having come before the Court on the Emergency Motion of the Operating Subsidiaries of Verizon Communications Inc. to Require Debtors and Cavalier Telephone Company to Cure Defaults under the Debtors' Contracts with Verizon and for Contempt (the "Motion"); the Court having reviewed the Emergency Motion and all pleadings related thereto; the Court having conducted an evidentiary hearing on February 5, 2002 and February 8, 2002 (the "Evidentiary Hearing"); and the Court finding that:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334;
- B. This is a core proceeding under 28 U.S.C. § 157;
- C. The Operating Telephone Company Subsidiaries of Verizon Communications Inc. ("Verizon")<sup>1</sup> provide to the Debtors special access services pursuant to applicable tariffs and other services pursuant to interconnection agreements (all agreements between the Debtors and Verizon are referred to as the "Verizon Contracts");

D. Pursuant to the "Order Under 11 U.S.C. §§ 105(a), 363(b), (f) and (m), 365(a), and 1146(c), and Fed. R. Bankr. P. 2002 and 6004: (A) Approving Purchase Agreement Between The Debtors and Cavalier East, L.L.C.; (B) Authorizing Sale of Assets Free and Clear of All Liens, Claims and Encumbrances; (C) Authorizing The Assumption and Assignment of Certain Executory Contracts and (D) Granting Related Relief" (the "Sale Order"), the Debtors were authorized to sell certain assets to Cavalier East, L.L.C. ("Cavalier");

E. Paragraph 16 of the Sale Order provides: "The Debtors shall not assume and assign any executory contract to which the operating subsidiaries of Verizon Communications Inc. (together "Verizon") are a counterparty without a further Court order or unless Verizon consents to such assumption and assignment";

F. On January 18, 2002, Verizon filed the Motion, setting forth its position that, although the Sale Order provided that the Verizon Contracts were not being assumed and assigned to Cavalier, Cavalier was using the services and facilities provided under the Verizon Contracts and that, as a result of such use, the Debtors' rights under the Verizon Contracts had, in fact, been assumed and assigned to Cavalier thereby requiring the payment of all amounts necessary to cure the Debtors' defaults under the Verizon Contracts as provided by 11 U.S.C. § 365. Verizon also contended in the Emergency Motion that the Debtors and Cavalier were in contempt by: (i) allowing Cavalier to use the services and facilities provided under the Verizon Contracts in violation of the Sale Order, (ii) making misrepresentations to this Court, including, without limitation, about Cavalier's intention to use the services and facilities provided under the Verizon Contracts after the Closing Date, and (iii) making misrepresentations to other entities regarding the proceedings in this Court.

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<sup>1</sup> Verizon Maryland Inc., Verizon New England Inc., Verizon New Jersey Inc., Verizon New York Inc., Verizon Pennsylvania Inc., Verizon South Inc., Verizon Virginia Inc., Verizon West Virginia Inc. and Verizon

IT IS HEREBY ORDERED THAT:

1. Under the Third Circuit Court of Appeals decision of In re University Medical Center, 973 F.2d 1065 (3d. Cir. 1992), an assumption of a contract and assignment of that contract under 11 U.S.C. § 365 cannot occur without prior court approval. Consequently, because the Debtors never sought and obtained express court approval to assume the Verizon Contracts and assign the Verizon Contracts to Cavalier under 11 U.S.C. § 365, this Court finds that, ~~regardless of whether the services and facilities provided under the Verizon Contracts have actually been transferred to or used by Cavalier,~~ there has been no assumption and assignment of the Verizon Contracts by the Debtors under 11 U.S.C. § 365. Accordingly, the Debtors are not required to pay any amounts to Verizon under 11 U.S.C. § 365 to cure their defaults under the Verizon Contracts.

2. Since there has been no assumption and assignment of the Verizon Contracts to Cavalier under 11 U.S.C. § 365, neither the Sale Order nor this Order nor any other Order of this Court: (i) grants Cavalier the right to use, issue orders with respect to, demand migration of, or obtain any benefit from, either directly or indirectly, any of the services and facilities provided by Verizon to the Debtors pursuant to the Verizon Contracts, including, without limitation, any DS-1 or DS-3 facilities that are a part of the telecommunications network used by the Debtors to provide service to their end users, (ii) directs Verizon to do anything to transfer any of the Debtors' end users to Cavalier or its network, (iii) grants Cavalier any right to insist that any circuit or facility, or any portion thereof, used to serve the Debtors' end users be used to process orders submitted by Cavalier or that any new order by Cavalier be processed simultaneously or otherwise coordinated with disconnect orders submitted by the Debtors, or (iv) otherwise

requires Verizon to process any orders submitted by Cavalier designed to facilitate Cavalier's service to end users formerly served by the Debtors or to shorten any provisioning intervals for such orders.

3. Cavalier shall not make any representation to any other court, state or federal regulatory body, or any other entity that the Sale Order, or any other order in this bankruptcy case, (i) grants it the right to use, issue orders with respect to, demand migration of, or obtain any benefit from, either directly or indirectly, any of the services and facilities provided by Verizon to the Debtors pursuant to the Verizon Contracts, including, without limitation, any DS-1 or DS-3 facilities that are a part of the telecommunications network used by the Debtors to provide service to their end users, or (ii) directs Verizon to do anything to transfer any of the Debtors' former customers to Cavalier.

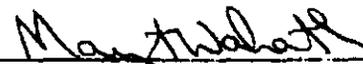
4. The right of Cavalier to use any services and facilities provided by Verizon, and the right of Verizon to refuse to provide such services shall be governed solely by applicable non-bankruptcy law, including, without limitation applicable tariffs and contracts between Cavalier and Verizon. No Order of this Court shall prevent either Cavalier or Verizon from seeking all such relief to which they may be entitled under such applicable non-bankruptcy law.

5. This Order contains no finding and makes no ruling regarding whether the Debtors and/or Cavalier are in contempt of this Court. The parties shall submit briefs on this issue based on evidence presented at the Evidentiary Hearing and the record of this bankruptcy case according to the following schedule: Verizon shall submit its brief by Friday, February 15,

2002; the Debtors and Cavalier may file a response by Friday, February 22, 2002; and Verizon may file a reply by Friday, March 1, 2002. The Court will enter a subsequent Order on the issue of whether the Debtors and/or Cavalier are in contempt.

6. This Order constitutes a final and appealable Order, except for the matters set forth in paragraph five.

Dated: Feb. 12, 2002

  
\_\_\_\_\_  
Honorable Mary F. Wairath  
United States Bankruptcy Judge