

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Allegiance Telecom, Inc., )  
Assignor, )  
 )  
and ) Docket No. \_\_\_\_\_  
 )  
Qwest Communications International Inc., )  
Assignee )  
 )  
Application for Consent to Assignment )  
of Assets under Section 214 of the )  
Communications Act of 1934, as Amended )

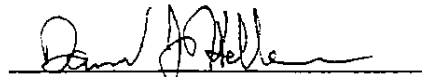
**ANTI-DRUG ABUSE ACT OF 1988 CERTIFICATION OF  
QWEST COMMUNICATIONS INTERNATIONAL INC.**

1. I am Dave Heller of Qwest Services Corporation, a unit of Qwest Communications International Inc. I am authorized to make this Declaration on behalf of Qwest Communications International Inc. and its subsidiaries (collectively, "Qwest") that are parties to the captioned Application.

2. I hereby certify that Qwest is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

3. I declare under penalty of perjury that, to the best of my knowledge and belief, the forgoing is true and correct.

Executed on December 29, 2003.



Dave Heller  
Vice President – Risk Management

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
)  
Allegiance Telecom, Inc., Debtor-in-Possession, )  
Assignor, )  
)  
and ) Docket No. \_\_\_\_\_  
)  
Qwest Communications International Inc., )  
Assignee )  
)  
Joint Application for Consent to Assignment )  
of Assets under Section 214 of the )  
Communications Act of 1934, as Amended )

ANTI-DRUG ABUSE ACT OF 1988 CERTIFICATION  
OF ALLEGIANCE TELECOM, INC.

1. I am a Senior Vice President of Allegiance Telecom, Inc., Debtor-in-Possession ("ATI"). I am authorized to make this Certification on behalf of ATI and its subsidiaries (collectively, "Allegiance") that are parties to the captioned Joint Application.

2. I hereby certify that Allegiance is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

3. I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Executed on December 31, 2003.

  
Mark A. Stachiw

## LIST OF EXHIBITS

EXHIBIT A	FCC Certificated Subsidiaries of ATI
EXHIBIT B	FCC Certificated Subsidiaries of Qwest
EXHIBIT C	Asset Purchase Agreement
EXHIBIT D	Qwest Ownership Information

**EXHIBIT A**

**FCC CERTIFICATED SUBSIDIARIES OF ATI**

**EXHIBIT A**

**Allegiance International Section 214 Authority**

<b>Name</b>	<b>FRN</b>	<b>Place of Incorporation</b>	<b>Place of Operation</b>
Allegiance Telecom International, Inc., Debtor-in-Possession  File Nos.: ITC-214-19971112-00696; ITC-ASG-20030520-00346	0009639683	Delaware	USA
Coast to Coast Telecommunications, Inc., Debtor-in-Possession  File Nos.: ITC-95-309; ITC-T/C-20010926-00510	0010113546	Delaware	Michigan

**Allegiance Domestic Section 214 Authority**

<b>Name</b>	<b>FRN</b>	<b>Place of Incorporation</b>	<b>Place of Operation</b>
Allegiance Telecom of Arizona, Inc., Debtor-in-Possession	0010113108	Delaware	Arizona
Allegiance Telecom of California, Inc., Debtor-in-Possession	0010113140	Delaware	California
Allegiance Telecom of Colorado, Inc., Debtor-in-Possession	0010113207	Delaware	Colorado
Allegiance Telecom of The District of Columbia, Inc., Debtor-in-Possession	0010113264	Delaware	District of Columbia
Allegiance Telecom of Florida, Inc., Debtor-in-Possession	0010113298	Delaware	Florida
Allegiance Telecom of Georgia, Inc., Debtor-in-Possession	0010114783	Delaware	Georgia
Allegiance Telecom of Illinois, Inc., Debtor-in-Possession	0010113363	Delaware	Illinois
Allegiance Telecom of Indiana, Inc., Debtor-in-Possession	0010113462	Delaware	Indiana
Allegiance Telecom of Maryland, Inc., Debtor-in-Possession	0010113538	Delaware	Maryland
Allegiance Telecom of Massachusetts, Inc., Debtor-in-Possession	0010113637	Delaware	Massachusetts

**EXHIBIT A**

<b>Name</b>	<b>FRN</b>	<b>Place of Incorporation</b>	<b>Place of Operation</b>
Allegiance Telecom of Michigan, Inc., Debtor-in-Possession	0010113660	Delaware	Michigan
Allegiance Telecom of Minnesota, Inc., Debtor-in-Possession	0010113736	Delaware	Minnesota
Allegiance Telecom of Missouri, Inc., Debtor-in-Possession	0010113744	Delaware	Missouri
Allegiance Telecom of New Jersey, Inc., Debtor-in-Possession	0010113801	Delaware	New Jersey
Allegiance Telecom of New York, Inc., Debtor-in-Possession	0010113835	Delaware	New York
Allegiance Telecom of North Carolina, Inc., Debtor-in-Possession	0010113991	Delaware	North Carolina
Allegiance Telecom of Ohio, Inc., Debtor-in-Possession	0010114049	Delaware	Ohio
Allegiance Telecom of Pennsylvania, Inc., Debtor-in-Possession	0010114106	Delaware	Pennsylvania
Allegiance Telecom of Nevada, Inc., Debtor-in-Possession	0010114288	Delaware	Nevada
Allegiance Telecom of Oklahoma, Inc., Debtor-in-Possession	0010114361	Delaware	Oklahoma
Allegiance Telecom of Oregon, Inc., Debtor-in-Possession	0010114411	Delaware	Oregon
Allegiance Telecom of Texas, Inc., Debtor-in-Possession	0010114130	Delaware	Texas
Allegiance Telecom of Virginia, Inc., Debtor-in-Possession	0010114163	Virginia	Virginia
Allegiance Telecom of Washington, Inc., Debtor-in-Possession	0010114221	Delaware	Washington
Allegiance Telecom of Wisconsin, Inc., Debtor-in-Possession	0010114452	Delaware	Wisconsin

**EXHIBIT B**

**FCC CERTIFICATED SUBSIDIARIES OF QWEST**

**EXHIBIT B****Qwest International 214 Authority**

<b>Name and Authorization</b>	<b>FRN</b>
Qwest Communications Corporation File No.: ITC-214-20030117-00022 E	0003605953

**Qwest Domestic 214 Authority**

<b>Name</b>	<b>FRN</b>
Qwest Communications Corporation Blanket authorization pursuant to 47 C.F.R. § 63.01(a)	0003605953
Qwest Corporation Blanket authorization pursuant to 47 C.F.R. § 63.01(a)	0003746757



**EXHIBIT C**

**ASSET PURCHASE AGREEMENT**

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**ASSET PURCHASE AGREEMENT**

**by and among**

**ALLEGIANCE TELECOM, INC.  
And  
THE OTHER SELLERS NAMED HEREIN,**

**jointly and severally as Sellers**

**And**

**QWEST COMMUNICATIONS INTERNATIONAL INC.**

**as Buyer**

**December 18, 2003**

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## EXHIBITS

Exhibit A	Bidding Procedures Order
Exhibit B	Convertible Note Term Sheet
Exhibit C	Sale Order
Exhibit D	Form of Bill of Sale
Exhibit E	Form of Assumption Agreement
Exhibit F-1	Form of Closing Escrow Agreement
Exhibit F-2	Form of Earnest Money Escrow Agreement
Exhibit G	Calculation of Base Working Capital
Exhibit H	[Intentionally Omitted]
Exhibit I	Form of Management Agreements
Exhibit J	Timetable
Exhibit K	Current Liabilities
Exhibit L	Sellers' Severance Policy
Exhibit M	ILEC Cure Adjustment Illustration

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT is dated as of December 18, 2003 by and among Allegiance Telecom, Inc., a Delaware corporation ("ATI"), each of the other parties set forth on the signature pages hereto under the caption "SELLERS" (collectively with ATI, "Sellers," and each individually, a "Seller"), and Qwest Communications International Inc., a Delaware corporation ("Buyer").

### WITNESSETH:

WHEREAS, Sellers are engaged in the business of providing certain telecommunication products and services, including local and long-distance voice services, broadband and other Internet and data services and wholesale services, to business, government and other institutional users in major metropolitan areas across the United States (excluding any Excluded Asset (as defined herein), the "Business");

WHEREAS, on May 14, 2003, Sellers each commenced a case (collectively, the "Cases") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), which cases are jointly administered under Case No. 03-13057;

WHEREAS, the sale of assets and certain liabilities of the Business are subject to the supervision and control of Sellers subject to the approval of the Bankruptcy Court;

WHEREAS, Sellers wish to sell to Buyer and Buyer wishes to purchase from Sellers substantially all of the assets and to assume from Sellers certain liabilities of the Business, pursuant to, inter alia, sections 105, 363, 365, 1122, 1129 and 1146(c) of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy Procedure; provided, however, that in the event Sellers shall have delivered an Early Closing Election, Sellers shall not seek to sell the assets pursuant to sections 1122 and 1129 of the Bankruptcy Code,

WHEREAS, the Board of Directors of each Seller has determined that it is advisable and in the best interests of Sellers' estates and the beneficiaries of such estates to consummate the transactions contemplated by this Agreement, upon the terms and conditions provided for herein; and

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions hereof, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE I  
DEFINITIONS

1.1 Defined Terms. As used herein, the terms below shall have the following respective meanings:

“Adverse Bankruptcy Event” means the occurrence of any of the events identified in Section 8.1(c) (other than Section 8.1(c)(i)) at any time after the entry of the Sale Order, or the failure to adhere to the timeline in Exhibit J attached hereto with respect to the dates for (i) approval of the Disclosure Statement, (ii) entry of the Confirmation Order, or (iii) effectiveness of the Bankruptcy Plan; provided, however, that to the extent Sellers shall have delivered an Early Closing Election, then an Adverse Bankruptcy Event shall not include the events identified in Sections 8.1(c)(iii) or 8.1(c)(iv).

“Affiliate” means any Person directly or indirectly controlling, controlled by or under common control with another Person where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise; provided, however, that under no circumstances shall creditors of Sellers be considered Affiliates of Sellers solely by virtue of their ownership of creditor claims against Sellers.

“Affiliated Group” means any affiliated group of corporations within the meaning of Section 1504 of the Internal Revenue Code that joins in the filing of (or is otherwise required to file) a federal consolidated Tax Return, as well as any other group of corporations filing (or otherwise required to file) consolidating, combined or unitary Tax Returns under state, local or foreign Law, of which a Seller is or was a member.

“Agreement” means this Asset Purchase Agreement (together with all schedules and exhibits referenced herein), as the same may be amended from time to time.

“ATCW” means Allegiance Telecom Company Worldwide, a Delaware corporation.

“Bankruptcy Plan” means Sellers’ chapter 11 plan of reorganization that includes the sale of the Acquired Assets to Buyer as contemplated hereby, in a form reasonably acceptable to Buyer, unless Sellers shall have delivered an Early Closing Election.

“Base Working Capital” means the Net Working Capital as of September 30, 2003 equal to \$16,099,016.

“Bidding Procedures Order” means an order in the form of Exhibit A hereto, and otherwise in form and substance reasonably acceptable to ATI and Buyer.



“Break Up Fee” means an amount equal to Twelve Million Eight Hundred Thousand Dollars (\$12,800,000) and payable to Buyer in accordance with Section 8.2 or 8.3

“Business Day” means any day other than a Saturday, Sunday or a legal holiday on which banking institutions in the State of New York are not required to open.

“COBRA” means section 4980B of the Internal Revenue Code and Part 6 of Subtitle B of Title I of ERISA.

“Communications Licenses” means the FCC Licenses and the State PUC Licenses.

“Confidentiality Agreement” means the agreement entered into by and between ATI and Qwest Services Corporation dated May 23, 2003.

“Confirmation Order” means a final, nonappealable order to be entered by the Bankruptcy Court in the Cases confirming the Bankruptcy Plan pursuant to section 1129 of the Bankruptcy Code.

“Contract” means any contract, agreement, indenture, note, bond, loan, instrument, lease, commitment or other arrangement or agreement, including all amendments thereof and supplements thereto.

“Convertible Note” means the convertible notes to be executed and delivered by Buyer in favor of ATI at the Closing for distribution to Sellers’ creditors pursuant to the Bankruptcy Plan, such notes to contain the terms set forth in the term sheet attached hereto as Exhibit B.

“Cure Amounts” means all amounts payable in order to effectuate, pursuant to section 365 of the Bankruptcy Code, the assumption by Sellers and the assignment to the Buyer of any Assumed Contract.

“Disclosure Schedules” means the various disclosure schedules referred to herein.

“Employee” means each active employee, full-time or part-time, temporary or regular, of Sellers. An “active employee” shall include any current employee on Sellers’ payroll records, regardless of whether such employee is absent from work, including due to short term or long term disability, military leave, leave of absence, illness, vacation or workers’ compensation injury.

“Environmental Laws” means all Laws relating to the protection of the environment, or to any emission, discharge, generation, processing, storage, holding, abatement, existence, Release, threatened Release or transportation of any Hazardous Substances, including all Laws pertaining to reporting, licensing, permitting, investigation or remediation of emissions, discharges, Releases or threatened Releases of Hazardous Substances into the air, surface water, groundwater or land, or relating to the

manufacture, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport or handling of Hazardous Substances.

“Environmental Permits” means any Licenses required pursuant to Environmental Laws for operation, installation or modification of equipment, processes, facilities or for occupancy of any of the real property owned or leased by Sellers.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended and the regulations promulgated thereunder.

“Escrow Amount” means the greater of (i) Seven Million Dollars (\$7,000,000) and (ii) the sum of Five Million Dollars (\$5,000,000) plus, to the extent positive, the Initial Working Capital Adjustment.

“Executory Contract” means any Contract that can be assumed or rejected in accordance with the Bankruptcy Code.

“Expense Reimbursement” means an amount payable to Buyer in accordance with Section 8.2 or 8.3 to reimburse Buyer for reasonable and documented out-of-pocket costs and expenses (including reasonable legal, accounting and financial advisors’ fees and expenses) incurred by Buyer or its Affiliates in connection with the investigation, negotiation, execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the participation in and monitoring of the Cases, such expenses to be set forth in a reasonably detailed written itemization of such expenses (the “Expense Reimbursement Statement”).

“Expense Reimbursement Statement” shall have the meaning ascribed to such term in the definition of “Expense Reimbursement.”

“FCC” means the Federal Communications Commission.

“FCC Consent” means the grant by the FCC of its consent to the assignment of the FCC Licenses in connection with the consummation of the transactions contemplated hereby.

“FCC Licenses” means all Licenses issued by the FCC held by Sellers, as set forth on Schedule 2.1(d) of the Disclosure Schedules.

“GAAP” means generally accepted accounting principles in the United States as in effect from time to time.

“Governmental Entity” means any federal, state, local or foreign government or any subdivision, agency, instrumentality, authority, department, commission, board or bureau thereof or any federal, state, local or foreign court, tribunal or arbitrator (including the Bankruptcy Court).

“Hazardous Substances” means any substance or material that: (i) is or contains asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls,

petroleum or petroleum-derived substances or wastes, radon gas or related materials, or (ii) requires investigation, removal or remediation under any Environmental Law, or is defined, listed or identified as a “hazardous waste,” “hazardous substance,” “toxic substance” or words of similar import thereunder.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and any successor law and the rules and regulations promulgated thereunder or under any successor law.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Law” means any federal, state, local, municipal or foreign statute, law, ordinance, regulation, rule, code, order, principle of common law or judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity, or other requirement or rule of law.

“Liabilities” means, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities, damages and obligations of any kind or nature whatsoever, direct, indirect, absolute or contingent, of such Person, whether accrued, vested or otherwise, whether known or unknown and whether or not actually reflected, or required to be reflected, in such Person’s balance sheets or other books and records.

“License” means all licenses, franchises, permits, consents, waivers, registrations, certificates, and other governmental or regulatory permits, authorizations or approvals required to be issued or granted by a Governmental Entity for the operation of the Business and for the ownership, lease or operation of Sellers’ properties.

“Lien” means any lien, lease, right of first refusal, servitude, claim, pledge, option, charge, hypothecation, easement, security interest, right-of-way, encroachment, mortgage, deed of trust or any other encumbrance, restriction or limitation whatsoever.

“Litigation” means any claim, action, suit, investigation or proceeding before any court, arbitrator or other Governmental Entity.

“Material Adverse Effect” means any event, effect or change, individually or in the aggregate with such other events, effects or changes, that has had, has or could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), Liabilities, properties, assets (including intangible assets) or results of operations of Sellers or the Business, in either case taken as a whole; provided that none of the following shall be deemed to constitute and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: any adverse event, effect or change arising from or relating to (1) general business or economic conditions; (2) national or international political conditions, including the engagement of the United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices

or upon any military installation, equipment or personnel of the United States; (3) financial, banking or securities market conditions (including any disruption thereof and any decline in the price of any security (including any security or creditor claims of or with respect to Sellers) or any market index); (4) changes in GAAP or any application of accounting standards after the date hereof, including the American Institute of Certified Public Accountants Statement of Position 90-7 "Financial Reporting by Entities in Reorganization Under the Bankruptcy Code" and Financial Accounting Standards Board in Statement of Financial Accounting Standards No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets;" (5) the taking of any action specifically contemplated by this Agreement and the other agreements contemplated hereby or the announcement of the transactions contemplated by this Agreement; or (6) changes in Law or binding directives issued by any Governmental Entity.

"Net Working Capital" means Working Capital Assets minus Working Capital Liabilities.

"Operational Restructuring Activities" means Sellers' actions taken with the intent to preserve cash, improve the efficiency and reduce the costs of the Business consisting of (i) reducing the number of Employees to approximately 3,000 as of September 30, 2003; (ii) rejecting Executory Contracts in the Cases (and from and after the date hereof, solely in accordance with this Agreement); (iii) waiving, decommissioning or abandoning assets and other rights that are not material to the operation of the Business and in instances in which the estimated cost of salvaging or selling such assets exceeds the anticipated proceeds; (iv) marketing and seeking to sell certain Excluded Assets; and (v) taking other actions in the Cases specifically approved by the Bankruptcy Court prior to the date hereof, whether such action occurs prior to, on or subsequent to the date hereof

"Order" means any judgment, order, injunction, writ, ruling, decree, stipulation or award of any Governmental Entity.

"Ordinary Course of Business" means the ordinary and usual course of normal day-to-day operations of the Business by Sellers as debtors and debtors-in-possession in the Cases consistent with past practice through the date hereof.

"Out of Region Business" means the operations of the Business conducted outside of the states of Arizona, Colorado, Oregon, Washington and Minnesota.

"Permitted Lien" means (i) any Lien for Taxes not yet due or delinquent; (ii) any statutory Lien arising in the Ordinary Course of Business or by operation of Law with respect to a Liability that is not yet due or delinquent; (iii) easements, leases, reservations, licenses or other matters of record affecting any property or assets of Sellers, provided that such easements, leases, reservations, licenses or other matters do not materially detract from the value of or impair the use of such property or assets; and (iv) Liens on Acquired Assets in favor of Sellers' secured lenders to be released at Closing.

“Person” means an individual, a partnership, a joint venture, a corporation, a business trust, a limited liability company, a trust, an unincorporated organization, a joint stock company, a labor union, an estate, a Governmental Entity or any other entity.

“post-Petition” means any time after the commencement of the Cases.

“pre-Petition” means any time prior to the commencement of the Cases.

“Regulatory Transition Process” means the process as set forth in this Agreement, the Management Agreements, the Transition Plan and other related documents for obtaining all approvals, consents (including assignments of any permits and rights of way), certificates, waivers and other authorizations required to be obtained from, or filings or other notices required to be made with or to, any Governmental Entities having jurisdiction over any of the Acquired Assets in order to consummate the transactions contemplated by this Agreement and the other Transaction Documents and the transfer of such Acquired Assets, including the Non-Transferred Assets, to Buyer upon the receipt of such approvals.

“Release” means any releasing, disposing, discharging, injecting, spilling, leaking, leaching, pumping, dumping, emitting, escaping, emptying, seeping, dispersal, migration, transporting, placing and the like, including the moving of any materials through, into or upon, any land, soil, surface water, groundwater or air, or otherwise entering into the environment.

“Representative” means, with respect to any Person, such Person’s officers, directors, employees, agents and representatives (including any investment banker, financial advisor, accountant, legal counsel or expert retained by or acting on behalf of such Person or its Subsidiaries).

“Retail Ending Lines” means the number of lines in service from Sellers’ billing systems based upon line equivalency and consistent with the methodology used to report retail ending lines on Sellers’ monthly flash reports. Line equivalency is defined per product and is maintained by Sellers’ Product Hierarchy database. For example, a fully-utilized data T-1 is counted as 24 lines.

“Sale Delay” means the failure to adhere to the timeline attached hereto as Exhibit J with respect to (i) the date for the auction contemplated by the Bidding Procedures Order or (ii) the Sale Order Approval Date.

“Sale Hearing” means the hearing to be scheduled and conducted by the Bankruptcy Court to consider approval and entry of the Sale Order.

“Sale Motion” means the motion or motions of Sellers seeking approval and entry of the Bidding Procedures Order and the Sale Order.

“Sale Order” means an order in the form of Exhibit C hereto, and otherwise in form and substance reasonably acceptable to ATI and Buyer.

**“Sale Order Approval Date”** means the date the Bankruptcy Court approves the Sale Order.

**“Scheduled Future Disconnects”** means scheduled backlog of line disconnects from Sellers’ backlog report as determined by Sellers in accordance with past custom and practice.

**“Scheduled Future Installs”** means scheduled backlog of line installs from Sellers’ backlog report as determined by Sellers in accordance with past custom and practice.

**“Sellers’ Knowledge”** and any similar terms used herein means the actual knowledge of Royce J. Holland, C. Daniel Yost, Thomas M. Lord, G. Clay Myers, Christopher MacFarland, J. Timothy Naramore, Anthony J. Parella or Mark B. Tresnowski, without any duty to investigate.

**“Shared Technologies”** means Shared Technologies Allegiance, Inc., a wholly owned Subsidiary of ATCW.

**“State PUC”** means any state and local public service and public utilities commission having regulatory authority over the Business, as conducted in any given jurisdiction.

**“State PUC Consent”** means the grant by any State PUC of its consent to the assignment of the State PUC Licenses or any Non-Transferred Assets associated with such Licenses, in connection with the consummation of the transactions contemplated hereby.

**“State PUC Licenses”** means all Licenses issued or granted by the State PUC held by Sellers in each applicable jurisdiction, as set forth on Schedule 2.1(d) of the Disclosure Schedules.

**“Subsidiary”** means, with respect to any particular Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such limited liability company, partnership, association or other business entity.

“Tax” or “Taxes” means all taxes, charges, fees, duties, levies or other assessments, including income, gross receipts, net proceeds, ad valorem, turnover, real and personal property (tangible and intangible), sales, use, franchise, excise, value added, license, payroll, unemployment, environmental, customs duties, capital stock, disability, stamp, leasing, lease, user, transfer, fuel, excess profits, occupational and interest equalization, windfall profits, severance and employees’ income withholding and Social Security taxes imposed by the United States or any other country or by any State, municipality, subdivision or instrumentality of the United States or of any other country or by any other tax authority, including interest, penalties or additions to tax attributable to such Taxes or any Tax Return, and shall include any transferee or successor liability in respect of Taxes (whether by contract or otherwise) and any liability in respect of any Taxes as a result of being a member of any Affiliated Group.

“Tax Return” means any statement, report, return or other information required to be filed with respect to any Tax (including any attachments thereto and any amendment thereof) including any information return, claim for refund, amended return or declaration of estimated Tax, and including, where permitted or required, consolidating, combined or unitary returns in which any Seller is or was included or includable.

“Transaction Documents” means this Agreement, the Management Agreements, the Transition Services Agreement, the Earnest Money Escrow Agreement, the Closing Escrow Agreement, the Convertible Note and all Disclosure Schedules, certificates, contracts and agreements being delivered or entered into pursuant to this Agreement.

“Transfer Tax” or “Transfer Taxes” means any federal, state, county, local, foreign and other sales, use, transfer, conveyance, documentary transfer, recording or other similar tax, fee or charge imposed upon the sale, transfer or assignment of property or any interest therein or the recording thereof, and any penalty, addition to tax or interest with respect thereto, but such term shall not include any tax on, based upon or measured by, the net income, gains or profits from such sale, transfer or assignment of the property or any interest therein.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, as amended, and any successor law, and the rules and regulations promulgated thereunder and under any successor law, and any similar state, local or foreign law, regulation or ordinance.

“Working Capital Assets” means the current assets of Sellers set forth on Exhibit G, determined in accordance with GAAP applied on a basis consistent with the most recent balance sheet included in the Financial Statements to the extent they are included in the Acquired Assets.

“Working Capital Liabilities” means the current liabilities of Sellers set forth on Exhibit G, determined in accordance with GAAP applied on a basis consistent

with the most recent balance sheet included in the Financial Statements to the extent they are included in the Assumed Liabilities.

1.2 Other Defined Terms. The following additional terms shall have the meanings defined for such terms in the Sections set forth below:

<u>Term</u>	<u>Section</u>
Accounting Referee	3.4(d)
Acquired Assets	2.1
<i>Additional Amount</i>	3.6(d)
Additional Assumed Contracts	8.3
Allocation Schedule	3.7
Antitrust Laws	6.14(b)
Approval Motions	6.3(a)
Assumed Contracts	3.5(d)
Assumed Contracts List	3.5(d)
Assumed Liabilities	2.3
ATI	Recitals
Avoidance Actions	2.2(e)
Balance Sheet	4.6(a)
Balance Sheet Date	4.6(a)
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bidding Procedures Order Approval Date	6.17(a)
bulk sale	7.1(b)
Business	Recitals
Buyer	Recitals
Buyer Group	9.7
Buyer Protection Superpriority Claims	6.16(c)
Cases	Recitals
Cash and Cash Equivalents	2.2(a)
Cash ILEC Cure Amount	3.5(a)
Cash Purchase Price	3.2(a)
Claim Over	9.7
Claims	2.1(f)
Closing	3.1(a)
Closing Date	3.1(a)
Closing Escrow Agreement	3.2(b)
Closing Working Capital	3.4(b)
Committee	6.5(c)
Competing Transaction	6.17(a)
Convertible Note Amount	3.2(a)
Contracting Seller	6.13(c)
Deposit Adjustment Amount	3.5(b)



<u>Term</u>	<u>Section</u>
Designated Change	6.14(b)
Disclosure Statement	6.3(a)
Early Closing Election	8.3
Earnest Money Deposit	3.3
Earnest Money Escrow Agent	3.3
Earnest Money Escrow Agreement	3.3
Employee Benefit Plans	4.23(a)
Employee Schedule	6.8(a)
Equipment	2.1(b)
ERISA Affiliate	4.23(a)
Escrow Account	3.2(b)
Escrow Agent	3.2(b)
Estimated Closing Working Capital	3.4(a)
Exchange Act	4.6(c)
Excluded Assets	2.2
Excluded Liabilities	2.4
Exclusivity Period	6.3(d)(iii)
Final Performance Adjustment Amount	3.6(b)
Final Working Capital	3.4(i)
Financial Statements	4.6(a)
Form 10-Q	5.8
good faith	6.3(b)
ILECs	3.5(a)
ILEC Cure Adjustment	3.5(a)
ILEC Cure Amounts	3.5(a)
ILEC Set Off Amounts	3.5(a)
Initial Working Capital Adjustment	3.4(f)
Intellectual Property	2.1(i)
Liquidated Damages	8.2
Losses	9.7
Management Agreements	6.2(b)
Multiemployer Plan	4.23(d)
multiple employer plan	4.23(a)
Non-Compete Covenants	6.1(j)
Non-ILEC Cure Adjustment	3.5(c)
Non-ILEC Cure Amounts	3.5(c)
Non-ILEC Set Off Amounts	3.5(c)
Non-Recourse Person	9.7
Non-Transferred Assets	2.5
Owned Real Property	2.2(k)
Performance Adjustment Amount	3.6(a)
Personal Property Leases	2.1(c)
Purchase Price	3.2(a)
Real Property Leases	2.1(a)