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August 10, 2005

TODD D. DAUBERT
DIRECT LINE (202) 955-9788
E-MAIL: tdaubert@kelleydrye.com

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Dockets Nos. 05-196 and 04-36
Subscriber Notification Report

Dear Ms. Dortch:

XO Communications Services, Inc., by its attorneys and on behalf of itself and its state operating affiliates (collectively "XO"), hereby files the attached "Subscriber Notification Report" in accordance with the requirements set forth in the Federal Communication Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*, WC Docket Nos. 04-36 and 05-196, DA 05-2085 (rel. July 26, 2005). Please feel free to contact the undersigned if you have any questions or need additional information.

Sincerely,

Todd D. Daubert,
Counsel for XO Communications Services, Inc.

Attachment

DC01/DAUBT/236693.2

XO Communications Services, Inc.
Subscriber Notification Report
WC Dockets 04-36 and 05-196

XO Communications Services, Inc. submits the following Subscriber Notification Report ("Report") on behalf of itself and its state operating affiliates (collectively "XO"). This Report contains all of the information described in the Federal Communications Commission's Public Notice, *Enforcement Bureau Provides Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*, WC Docket Nos. 04-36 and 05-196, DA 05-2085 (rel. July 26, 2005) ("Public Notice"). Accordingly, XO has fully satisfied the condition set forth in the Public Notice to qualify for immunity from any enforcement action regarding the requirement that XO obtain affirmative acknowledgement by every existing subscriber until August 30, 2005.

Detailed description of all actions XO has taken to specifically advise every subscriber, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service and/or may be in some way limited by comparison to traditional E911 service.

On July 29th, 2005, XO distributed the following items to each existing subscriber to XO's Fixed VoIP and IP PBX services by first class US Mail and by e-mail:

- Fixed VoIP subscribers received an E911 advisory ("Fixed VoIP Advisory"), which is appended hereto as Attachment A, by first class US mail while IP PBX subscribers received an E911 advisory ("IP PBX Advisory"), which is appended hereto as Attachment B, via e-mail; and
- E911 warning stickers, which are appended hereto as Attachment C.

XO asked each existing XO subscriber to acknowledge receipt and understanding of the Advisory by completing and executing an Affirmative Acknowledgement via web links established specifically for that purpose. XO has also implemented procedures for tracking and maintaining records for the Affirmative Acknowledgements it receives from subscribers.

Also on July 29th, 2005, XO began distributing the relevant Advisory and warning stickers to each new subscriber as part of the sales ordering process. XO has established procedures pursuant to which orders from potential subscribers are rejected unless the subscriber submits an executed Affirmative Acknowledgement with the service order.

In order to follow-up with subscribers who have not yet acknowledged receipt and understanding of the Advisory, XO will send a series of three e-mails directing subscribers to submit their Affirmative Acknowledgement using the web links listed above. A bill message reminder directed to all subscribers, attached as Appendix D, will also run on August bills. Subscribers that have not responded to the series of e-mails will

be contacted by XO personnel beginning in mid-August. To the extent required by the FCC, XO will suspend service to any subscriber who fails to submit an Affirmative Acknowledgement on or before August 29th.

Quantification of how many of XO's subscribers, on a percentage basis, have submitted an affirmative acknowledgement, as of the date of the report, and an estimation of the percentage of subscribers from whom XO does not expect to receive an acknowledgement by August 29, 2005.

As of August 10, 2005, approximately 37.4% of subscribers to XO's Fixed VoIP and IP PBX services have submitted their affirmative acknowledgements. XO respectfully submits that it is impossible to give a reliable estimate of the percentage of subscribers from whom it does not expect to receive acknowledgement by August 29, 2005. However, in order to satisfy fully the condition for immunity, XO estimates that between 0% and 20% of our subscribers will not have returned an acknowledgement by August 29, 2005.

Detailed description of whether and how XO has distributed to all subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the customer premises equipment used in connection with the interconnected VoIP service.

As explained above, on July 29, 2005 XO distributed warning stickers, which are appended as Attachment C, by first-class mail to existing subscribers and as part of the installation process for new subscribers. The instructions that accompany the warning stickers direct subscribers to "...manually complete[d] [the sticker] by filling in the blank lines with information about alternative methods of making an E911 emergency call. Please place the stickers on or near the telephone handsets you use to access [product name] to alert employees or other users of alternate means of contacting E911 services."

Quantification of how many subscribers, on a percentage basis, to whom XO did not send the advisory described in the first bullet above and/or to whom the provider did not send warning stickers or other appropriate label as identified in the bullet immediately above.

Based upon knowledge and belief, XO sent the Advisory and the warning stickers to all of its subscribers, and thus approximately 0% of our subscribers were not sent the advisory and warning stickers.

Detailed description of any and all actions XO plans on taking towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory, including, but not limited to, disconnecting the subscriber's VoIP service with the Company no later than August 30, 2005.

XO will continue to make efforts to obtain every subscriber's acknowledgement by August 29, 2005 and may employ additional methods depending on the effectiveness

of the email series, call campaign and the August bill message. Future methods may involve personal visits from XO personnel.

All future communications with existing subscribers seeking acknowledgement of receipt and understanding of the Advisory will include a warning that "The FCC expects us to discontinue your VoIP service by August 30th unless we obtain acknowledgment or receipt and understanding of this Advisory from you." XO hopes to avoid disconnecting subscribers, but in light of the FCC's apparent expectation that we do so, we will prepare for that possibility in as responsible a manner as possible given the timeframe.

Detailed description of how XO is currently maintaining any acknowledgements received from its subscribers.

As noted above, XO has established procedures to track web-based Affirmative Acknowledgements it receives from subscribers to its Fixed VoIP and IP PBX services at http://www.xo.com/ms911/index.html and http://www.xo.com/911/index.html, respectively. Upon acknowledgement and submission of a web form by the subscriber, a computer program (1) confirms receipt of the affirmative acknowledgment via a web page (http://www.xo.com/ms911/thankyou.html), and (2) records the following information in Comma Separated Value (CSV) format: day, date, time (*e.g.*, Monday, 08-Aug-05 17:29:44 EDT), company name, first name, last name, email address and acceptance.

Name, title, address, phone number, and e-mail address of the person responsible for XO's compliance efforts with the VoIP E911 Order.

David LaFrance
Senior Manager, Regulatory Affairs
XO Communications, Inc.
11111 Sunset Hills Rd.
Reston, VA 20190
703-547-2682

ATTACHMENT A

Appendix _____

Fixed VoIP **Disclosure Addendum and Acknowledgement of Receipt and Understanding**

IMPORTANT E911 DISCLOSURE ADDENDUM FOR XOPTIONS® FLEX VOIP CUSTOMERS

The Federal Communications Commission ("FCC") recently adopted an order that requires XO, like all Voice Over Internet Protocol ("VoIP") service providers, to inform its customers of any differences between the E911 access capability available with XOptions Flex as compared to the E911 access capability available with traditional telephone service. (A copy of this FCC order is available at http://www.fcc.gov/cgb/voip911order.pdf.) **We ask that you carefully read this E911 Disclosure Addendum and understand how these differences affect your ability to access E911 services. If you have any questions or concerns about the information contained in this notice, or if you do not understand anything discussed in this notice, please contact our Customer Service representatives at** (888) 575-6398 **during the hours of** 8 a.m. to 8 p.m. EST.

The FCC's E911 VoIP decision also requires XO to obtain and keep a record on file showing that your company has received and understood this E911 Disclosure Addendum. XO respectfully requests your assistance in meeting this FCC compliance requirement by going to the link at the bottom of this Addendum. Please respond IMMEDIATELY to this Addendum. If we do not receive your reply promptly, we may be required by the FCC Order to suspend your service until we do receive your reply.

By responding to this Addendum, you are affirmatively acknowledging that (1) you have read and understood this E911 Disclosure Addendum, (2) you understand that you may not be able to contact emergency services by dialing 9-1-1 using XOptions Flex, and (3) you understand that you must inform users of XOptions Flex that they may not be able to contact emergency services by dialing
9-1-1 using XOptions Flex.

6. **XOPTIONS FLEX E911 SERVICES MAY NOT OPERATE DURING A POWER OUTAGE.** Although the Integrated Access Device ("IAD") XO placed on your premises is equipped with back-up battery power, in the event of a commercial power outage lasting longer than the IAD battery life, the IAD will lose power causing a loss of voice and data service, including access to E911 services. Once power service is restored, you may be required to reset or reconfigure your equipment before you will be able to use XOptions Flex to contact E911 services. You are responsible for providing an uninterruptible backup power supply if you wish to ensure continued operation of electrical equipment in the event of a power outage.

7. **XOPTIONS FLEX E911 SERVICES WILL NOT OPERATE IF YOUR BROADBAND CONNECTION IS DISRUPTED OR XOPTIONS FLEX HAS BEEN SUSPENDED FOR ANY REASON, INCLUDING, FOR EXAMPLE, NON-PAYMENT.** Once your broadband connection and XOptions Flex have been restored, you may be required to reset or reconfigure your equipment before you will be able to use XOptions Flex service to contact E911 services.

8. **YOU MUST PROVIDE XO WITH YOUR CORRECT SERVICE ADDRESS OR XOPTIONS FLEX E911 SERVICES CALLS MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST YOU.** If you notice that the service address information identified in your contract or bill is inaccurate, you can make corrections by calling our Customer Service representatives at **(888) 575-6398** during the hours of **8 a.m. to 8 p.m. EST.**

9. **XOPTIONS FLEX E911 SERVICES CALLS MAY NOT COMPLETE OR MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST YOU IF YOU DISABLE, DAMAGE OR MOVE THE IAD TO A LOCATION OTHER THAN THE SERVICE ADDRESS YOU PROVIDED TO XO WHEN SERVICE WAS INITIATED.** If you wish to move to a new service address or report damage to your IAD, please call either your sales representative or Customer Service representatives at **(888) 575-6398** during the hours of **8 a.m. to 8 p.m. EST.**

10. **XOPTIONS FLEX E911 SERVICES CALLS MAY BE DELAYED OR DROPPED DUE TO NETWORK ARCHITECTURE.** Due to network congestion or problems, calls to E911 services made using XOptions Flex may be dropped, in which case you will not be connected to emergency services, or your E911 calls may take longer to connect than E911 calls made using traditional telephone service.

IN ADDITION, YOU SHOULD MAINTAIN ALTERNATE MEANS OF CONTACTING E911 SERVICES AND YOU MUST INFORM YOUR XOPTIONS FLEX USERS OF THESE ALTERNATE MEANS. Enclosed in this package is a set of stickers explaining when E911 service may not be available. Please place the stickers on or near the equipment you use to access XOptions Flex to alert users of alternate means of contacting E911 in the event of an emergency. If you need additional stickers, please contact our Customer Service representatives at **(888) 575-6398** during the hours of **8 a.m. to 8 p.m. EST**. Also enclosed is a new XOptions Flex® Administrative Portal QuickStart Guide to help you navigate the portal and configure voice services.

PLEASE RESPOND IMMEDIATELY TO THIS ADDENDUM. If you have already responded, we thank you for your assistance in meeting the FCC's requirements. If you have not responded yet, XO respectfully requests your assistance in meeting this FCC requirement. Please go to www.xo.com/911 and submit your reply or we may be required by the FCC Order to suspend your service.

ATTACHMENT B

Appendix _____
IP PBX Disclosure Addendum and Acknowledgement of Receipt and Understanding

IMPORTANT E911 DISCLOSURE ADDENDUM FOR BUNDLED SERVICES OR MANAGED SERVICES VOIP CUSTOMERS

The Federal Communications Commission ("FCC") recently adopted an order that requires XO Communications Services, Inc. ("XO ") like all Voice Over Internet Protocol ("VoIP") service providers, to inform its customers of any differences between the E911 access capability available with Bundled or Managed Services as compared to the E911 access capability available with traditional telephone service. (A copy of this FCC order is available at: http://www.fcc.gov/cgb/voip911order.pdf.) We ask that you carefully read this E911 Disclosure Addendum and understand how these differences affect your ability to access E911 services. If you have any questions or concerns about the information contained in this notice, or if you do not understand anything discussed in this notice, please contact XO Managed Services Customer Care at **(800) 417-4012** Monday through Friday between **7:00 am and 6:00 pm CST**, or you may email your request to ms.xo1care@xo.com.

The FCC's E911 VoIP decision also requires XO to obtain and keep a record on file showing that your company has received and understood this E911 Disclosure Addendum. XO respectfully requests your assistance in meeting this FCC compliance requirement by clicking on the link at the bottom of this Addendum. Please respond IMMEDIATELY to this Addendum. **If we do not receive your reply promptly, we may be required by the FCC Order to suspend your service until we do receive your reply.**

By responding to this Addendum, you are affirmatively acknowledging that (1) you have read and understood this E911 Disclosure Addendum, (2) you understand that you may not be able to contact emergency services by dialing 9-1-1 using Bundled or Managed Services, and (3) you understand that you must inform users of Bundled or Managed Services that they may not be able to contact emergency services by dialing 9-1-1 using Bundled or Managed Services.

1. 1. BUNDLED OR MANAGED SERVICES' E911 SERVICES MAY NOT OPERATE DURING A POWER OUTAGE. **The Internet Protocol Private Branch Exchange and associated VoIP handsets ("IP PBX") XO placed on your premises operate on standard electrical power. If commercial power service is disrupted, the IP PBX will lose power causing a loss of voice and data service, including access to E911 services. If power is interrupted and then restored, you may be required to reset or reconfigure your equipment before you will be able to use Bundled or Managed Services to contact E911 services. You are responsible for providing an uninterruptible backup power supply if you wish to ensure continued operation of electrical equipment in the event of a power outage.**

2. 2. YOU MUST USE ALTERNATE MEANS OF CONTACTING E911 SERVICES FROM ANY LOCATION OTHER THAN THE SERVICE ADDRESS YOU PROVIDED XO WHEN YOUR MANAGED OR BUNDLED SERVICE WAS INITIATED. **Your E911 services calls may be routed to emergency response personnel who will not be able to assist you, or the call may not be completed at all, if you use any component of the IP PBX from a location other than the service address you provided XO when your Managed Or Bundled Services was initiated. You are required to so inform all potential users of your Bundled or Managed Services.**

3. 3. BUNDLED OR MANAGED SERVICES' E911 SERVICES WILL NOT OPERATE IF YOUR BROADBAND CONNECTION IS DISRUPTED OR YOUR BUNDLED OR MANAGED SERVICES HAVE BEEN SUSPENDED FOR ANY REASON, INCLUDING, FOR EXAMPLE, NON-PAYMENT. **Once your broadband connection and Bundled or Managed Services have been restored, you may be required to reset or reconfigure your equipment before you will be able to use Bundled or Managed Services service to contact E911 services.**

4. 4. YOU MUST PROVIDE XO WITH YOUR CORRECT SERVICE ADDRESS OR BUNDLED OR MANAGED SERVICES E911 SERVICES CALLS MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST YOU. **If you notice that the service address information identified in your contract or bill is inaccurate, you can make corrections by calling a Customer Care representative at** (800) 417-4012 **Monday through Friday between** 7:00 am and 6:00 pm CST, **or you may email the correction to** ms.xo1care@xo.com

5. 5. BUNDLED OR MANAGED SERVICES' E911 SERVICES CALLS MAY BE DELAYED OR DROPPED DUE TO NETWORK CONGESTION ON THE INTERNET OR NETWORK ARCHITECTURE **Network congestion or Internet infrastructure problems may cause E911 services calls placed with Bundled Services or Managed Services to take longer to complete than E911 calls made using traditional telephone service, or they may be dropped, in which case you will not be connected to emergency services at all.**

IN ADDTION, YOU SHOULD MAINTAIN ALTERNATE MEANS OF CONTACTING E911 SERVICES AND YOU MUST INFORM YOUR BUNDLED OR MANAGED SERVICES USERS OF THESE ALTERNATE MEANS. You will receive from XO a set of warning stickers explaining when E911 service may not be available. Please place the stickers on or near the equipment you use to access Bundled or Managed Services to alert users of the alternate means of contacting E911 in the event of an emergency. If you need additional stickers, please contact XO Managed Services Customer Care at **(800) 417-4012** Monday through Friday between **7:00 am and 6:00 pm CST**, or you may email your request to ms.xo1care@xo.com.

Acknowledgment of Receipt of E911 Disclosure Statement For Bundled Services Or Managed Services Voice Over Internet Protocol ("VoIP") Customers

I have received and understood the E911 Disclosure Statement For Bundled Services or Managed Services Voice Over Internet Protocol ("VoIP") Customers, and I acknowledge that I may not be able to contact emergency services by dialing 911 using Bundled Services or Managed Services.

I understand and acknowledge that I must have alternate means of contacting 911 emergency services.

I understand and acknowledge that I must notify employees or other third parties using Bundled Services or Managed Services that they cannot reach 911 emergency

services using Bundled Services or Managed Services and they must use alternate means to contact 911 emergency services.

I have received a warning sticker explaining that 911 service may not be available, and I have placed the sticker on or near the equipment I use to access Bundled Services or Managed Services.

I agree, on behalf of the Customer and/or end user of the Bundled Services or Managed Services, that the Customer and/or end user agrees to release, defend, indemnify and hold harmless XO, and its parent company, affiliates, successors, subsidiaries, employees, directors, officers and agents from and against any and all losses, damages, claims, demands, suits, liabilities, fines, penalties, obligations, settlement payments, awards, judgments, deficiencies, or other charges, and any and all expenses, including attorney's fees, incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding, including third party claims, whether based in contract, tort or otherwise arising out of, or in connection with (a) Customer's and/or end user's use of the Bundled Services or Managed Services, including but not limited to, claims related to failure to complete a 911 or E911 Services emergency telephone call; (b) damage to property and/or personal injuries (including death) arising out of the gross negligence or willful act or omission of Customer and/or end user; and (c) any Customer representations herein regarding Customer's traffic and Customer's use of Services.

I acknowledge that I have received, read, and understand the "Important E911 Disclosure Addendum for XO Bundled Services or Managed Services VOIP Customers. I represent that I am authorized by the Company identified above to make this acknowledgement on behalf of such Company.

_____

Pre printed Customer Name

_____

Pre-Printed Customer Account #

_____

Authorized Customer Signature

Date:_____

ATTACHMENT C

Appendix _____

Sticker Text

In Case of emergency, you may not be able to contact emergency personnel by dialing 9-1-1 from this device.

Use alternative means to contact emergency personnel IF
(1) You Do Not Hear A Dial Tone On This Device OR
(2) Emergency Personnel Do Not Answer When You Dial 9-1-1 On This Device.

The designated alternative means to contact emergency personnel is:

_____

_____

_____

Sticker Instructions

Important E911 Instruction for XOptions® Flex Voice Over Internet Protocol ("VoIP") Customers

The Federal Communications Commission ("FCC") recently adopted an order that requires XO, like all Voice Over Internet Protocol ("VoIP") service providers, to inform its customers of any differences between the E911 access capability available with XOptions Flex as compared to the E911 access capability available with traditional telephone service. You received an E911 Disclosure Addendum as part of your Service Order Agreement. The new FCC regulation also requires XO to provide you with the enclosed set of warning stickers explaining when E911 service may not be available.

The stickers enclosed in this package must be manually completed by filling in the blank lines with information about alternative methods of making an E911 emergency call. Please place the stickers on or near the telephone handsets you use to access XOptions Flex to alert employees or other users of alternate means of contacting E911 services. If you need additional stickers, please contact our Customer Service representatives at (888) 575-6398 during the hours of 8 a.m. to 8 p.m. ET. Also enclosed is a new XOptions Flex Administrative Portal QuickStart Guide to help you navigate the portal and configure voice services.

ATTACHMENT D

Appendix ___
August Bill Message
XOptions Flex Voice Over Internet Protocol ("VoIP") Customers Only
Important E911 Notice

As a result of a recently enacted Federal Communications Commission ("FCC") regulation, XO is obligated to inform you of any differences in the E911 access capability available with XOptions Flex compared to the access capability available with traditional telephone service. XO has prepared an E911 Disclosure Addendum to comply with the new regulation which is available at the link below.

The E911 regulation requires XO to obtain and keep a record on file showing that your company has received and understands the E911 Disclosure Addendum. XO contacted your company in late July requesting an acknowledgement of receipt and understanding in accordance with the FCC rule. If you have already acknowledged receipt of this information, we appreciate your assistance. If you have not yet acknowldged receipt of the E911 disclosure, XO respectfully requests your assistance in meeting this FCC compliance requirement. Please go to www.xo.com/911 and acknowledge that you have read and understand this information.