

HEARING DATE AND TIME: April 20, 2004 at 10:00 a.m.
OBJECTION DEADLINE: April 16, 2004 at 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
: Case No. 03-13057 (RDD)
ALLEGIANCE TELECOM, INC., *et al.*, : (Jointly Administered)
: Debtors. :
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**MOTION OF THE DEBTORS PURSUANT TO SECTION 554
OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6007
FOR AN ORDER AUTHORIZING THE ABANDONMENT OF
PERSONAL PROPERTY LOCATED AT CERTAIN COLLOCATION SITES**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, “Allegiance” or the “Debtors”), respectfully represent:

INTRODUCTION

1. On May 14, 2003 (the “Commencement Date”), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered

pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

2. No trustee or examiner has been appointed in these chapter 11 cases. On May 28, 2003, pursuant to sections 1102 of the Bankruptcy Code, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed a statutory creditors’ committee (the “Creditors’ Committee”) in these chapter 11 cases.

JURISDICTION

3. This Court has subject matter jurisdiction to consider and determine this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

4. Allegiance is a facilities-based national local exchange carrier that provides integrated telecommunications products and services to small and medium-sized business customers, large businesses (*i.e.*, national customers with multiple locations), governmental entities, wholesale customers and other institutional users.

Allegiance offers its customers a variety of services, including:

- local and long distance voice services, including basic telephone services and advanced calling features;
- broadband and other Internet and data services, including high-speed Internet access, wide area network interconnection, domain name registration, web hosting, email and collocation services;
- integrated local long distance/Internet access offerings, which provide customers with integrated voice and Internet access over a single broadband line;

- wholesale services to other regional and national service providers, including equipment colocation, managed modem ports and Internet protocol traffic aggregation; and
- customer premise equipment sales and maintenance services.

5. As of the December 31, 2003, the Debtors served more than 100,000 business customers in major markets throughout the United States. As of December 31, 2003, the Debtors employed approximately 2,893 people, of which approximately 66 employees were covered by collective bargaining agreements.

6. As of December 31, 2003, the Debtors had approximately \$284.2 million of unrestricted cash on hand. As of December 31, 2003, the Debtors' consolidated books and records reflected assets totaling approximately \$1.136 billion and liabilities totaling approximately \$1.449 billion. For the 12 months ending December 31, 2003, the Debtors, on a consolidated basis, reported revenues of approximately \$776.9 million and net losses of approximately \$360.0 million.

RELIEF REQUESTED

7. By this Motion, the Debtors seek entry of an order authorizing the abandonment of certain Personal Property (as defined below) located at the Collocation Sites (as defined below), pursuant to section 554 of the Bankruptcy Code.

THE PERSONAL PROPERTY

8. Currently, certain of the Debtors' personal property, including obsolete racks, cables, power materials, panels, frames and miscellaneous hardware (the "Personal Property") is located at certain collocation sites in California, Florida, Illinois, New York and Pennsylvania (the "Collocation Sites"). The relevant information relating to the Collocation Sites is listed on Exhibit "A" annexed hereto.

The Debtors no longer need the Personal Property to operate their businesses. In addition, the Debtors believe that the Personal Property has little or no value to the Debtors' estates as the cost of removing, shipping and storing the Personal Property would be greater than the proceeds that would be derived from a sale of the Personal Property. Accordingly, the Debtors submit that the Personal Property should be abandoned in accordance with section 554 of the Bankruptcy Code and such abandonment is in the best interests of the Debtors' estates.

APPLICABLE LAW

9. Section 554(a) of the Bankruptcy Code provides that a debtor may abandon, subject to bankruptcy court approval, "property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." Thus, in order to authorize the abandonment of property, the bankruptcy court must find either: (a) the property is burdensome to the estate or (b) the property is both of inconsequential value and inconsequential benefit to the estate. See, e.g., Midlantic Nat'l Bank v. N.J. Dep't of Evtl. Prot., 474 U.S. 494, 497 (1986), reh'g denied, 475 U.S. 1091 (1986); In re Texaco, Inc., 90 B.R. 38, 44 (S.D.N.Y. 1988); In re Crowthers McCall Pattern, Inc., 114 B.R. 877, 882 n.7 (Bankr. S.D.N.Y. 1990).

THE ABANDONMENT OF THE PERSONAL PROPERTY IS IN THE BEST INTERESTS OF THE ESTATES

10. As discussed above, the Personal Property located at the Collocation Sites is burdensome insofar as the Personal Property is no longer necessary to the Debtors. Additionally, the costs of removal, shipping and storage of the Personal Property will exceed the net proceeds realizable from a sale thereof. Consistent with the provisions of the Bankruptcy Code, the abandonment of the

Personal Property will terminate any and all of the Debtors' obligations related to or connected with the Personal Property as of the effective date of the abandonment. The Debtors will have vacated the Collocation Sites by April 19, 2004. Accordingly, the Debtors seek authority, pursuant to section 554 of the Bankruptcy Code, to abandon the Personal Property effective as of April 20, 2004.

WAIVER OF MEMORANDUM OF LAW

11. Because there are no novel issues of law presented herein, the Debtors respectfully request that the Court waive the requirement that the Debtors file a memorandum of law in support of this Motion pursuant to rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York.

NOTICE

12. Notice of the Motion has been provided to: (a) the Office of the U.S. Trustee; (b) the attorneys for the Debtors' prepetition senior secured lenders; (c) the attorneys for the Creditors' Committee; (d) the owners of the Collocation Sites where the Personal Property is located; and (e) all the other parties on the Master Service List maintained in these chapter 11 cases. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

13. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) authorizing the Debtors to abandon the Personal Property at the Collocation

Sites effective as of April 20, 2004, and (ii) granting such other relief as is just and proper.

DATED: New York, New York
April 1, 2004

Respectfully submitted,

/s/ Albert Togut
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