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ATTORNEYS FOR THE RURAL
TELEPHONE FINANCE COOPERATIVE

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	
	§	
VARTEC TELECOM, INC., et al.,	§	Case No. 04-81694-SAF-11
	§	(Chapter 11)
Debtors.	§	

**RESPONSE TO OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO CLAIMS OF RURAL TELEPHONE FINANCE COOPERATIVE**

TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:

Rural Telephone Finance Cooperative (“RTFC”) hereby answers the allegations in the Objection of the Official Committee of Unsecured Creditors to Claims of Rural Telephone Finance Cooperative (the “Claim Objection”) and would show the Court the following:

1. RTFC admits the allegations in Paragraph 1 of the Claim Objection.
2. RTFC admits the allegations in Paragraph 2 of the Claim Objection.

3. RTFC admits the allegations in Paragraph 3 of the Claim Objection.
4. RTFC admits the allegations in Paragraph 4 of the Claim Objection.
5. RTFC admits the allegations in Paragraph 5 of the Claim Objection.
6. RTFC admits the allegations in Paragraph 6 of the Claim Objection.
7. RTFC admits the allegations in Paragraph 7 of the Claim Objection.
8. RTFC admits the allegations in Paragraph 8 of the Claim Objection but denies that the Official Committee of Unsecured Creditors (the “Committee”) is entitled to the relief that it is seeking.
9. RTFC admits the allegations in Paragraph 9 of the Claim Objection.
10. RTFC admits the allegations in Paragraph 10 of the Claim Objection.
11. RTFC admits the allegations in Paragraph 11 of the Claim Objection.
12. RTFC admits the allegations in Paragraph 12 of the Claim Objection but denies that the Committee is entitled to the relief that it is seeking.
13. RTFC denies the allegations in Paragraph 13 of the Claim Objection.
14. RTFC denies the allegations in Paragraph 14 of the Claim Objection.
15. RTFC denies the allegations in Paragraph 15 of the Claim Objection.
16. Paragraph 16 of the Claim Objection is a general statement of introduction describing the nature of this matter and does not require a response.
17. Paragraph 17 of the Claim Objection contains legal conclusions that do not require a response. Pleading further, RTFC agrees that this matter should be consolidated with Adversary Proceeding No. 05-3514 (the “Adversary Proceeding”).

18. RTFC incorporates its Answer Subject to its Motion to Dismiss Count Ten of Complaint, filed contemporaneously hereto, and re-asserts all allegations contained therein, including, but not limited to, the following defenses:

- a. The Committee fails to state a claim upon which relief can be granted.
- b. The Committee's claims are barred, in whole or in part, by the applicable statutes of limitation or repose.
- c. The Committee's claims are barred, in whole or in part, by the doctrines of laches, estoppel, release, and waiver.
- d. The Committee has failed to plead its claims with particularity as required by Federal Rule of Civil Procedure 9.
- e. RTFC is not liable in the capacity in which it has been sued.
- f. The Committee's claims are barred, in whole or in part, by the doctrines of res judicata and collateral estoppel.
- g. The Committee's claims are barred, in whole or in part, by the doctrines of set-off and/or recoupment.
- h. The Committee's claims are barred, in whole or in part, by the doctrines of contributory negligence, duty to mitigate, and in pari delicto.
- i. Pursuant to 11 U.S.C. § 547(c)(1), any transfer that RTFC received from VarTec was intended by such RTFC and VarTec to be a contemporaneous exchange for new value given to VarTec and was in fact a substantially contemporaneous exchange.
- j. Pursuant to 11 U.S.C. § 547(c)(2) and Section 24.009(f)(2) of the Texas Business and Commerce Code, any transfer that RTFC received from VarTec was in payment of a debt incurred by VarTec in the ordinary course of business or financial affairs of RTFC and VarTec, was made in the ordinary course of business or financial affairs of RTFC and VarTec, and was made according to ordinary business terms.
- k. Pursuant to 11 U.S.C. § 547(c)(4) and Section 24.009(f)(1) of the Texas Business and Commerce Code, after any transfer that the RTFC received from VarTec, RTFC gave new value to or for the benefit VarTec not secured by an otherwise unavoidable security interest and on account of which new value VarTec did not make an otherwise unavoidable transfer to or for the benefit of RTFC.

- l. Pursuant to 11 U.S.C. § 548(a)(1)(B)(i), RTFC provided reasonably equivalent value in exchange for any transfer that it received from VarTec.
- m. Because RTFC acted in good faith, gave reasonably equivalent value, and did not have any knowledge about the voidability of any transfers, the claims are barred by (and subject to the rights of RTFC under) 11 U.S.C. §§ 548(c) and 550(b) and Section 24.009(a) of the Texas Business and Commerce Code.
- n. The Committee's claims are barred because the affiliates of VarTec have been, at all relevant times, alter egos of VarTec, acted as a single business entity and/or were a de facto substantively consolidated enterprise.¹

WHEREFORE, Rural Telephone Finance Cooperative respectfully requests that the Claim Objection be denied in its entirety, or in the alternative, that the Committee take nothing in the Adversary Proceeding and that RTFC be awarded its costs of suit and such other relief to which it may be justly entitled.

¹ RTFC asserts this defense solely for the purposes of defending against the claims asserted in the Adversary Proceeding and the Claim Objection.

Dated: August 5, 2005

Respectfully submitted,

/s/ John N. Schwartz

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Attorneys for Rural Telephone Finance
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CERTIFICATE OF SERVICE

This certifies that, on the 5th day of August, 2005, a true and correct copy of the foregoing was served on Stephen A. Goodwin, via facsimile at (214) 855-1333, and via regular mail at Carrington Coleman Sloman & Blumenthal L.L.P., 200 Crescent Court – Suite 1500, Dallas, Texas 75201.

/s/ John N. Schwartz

John N. Schwartz