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ATTORNEYS FOR THE DEBTORS

IN THE 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.	**§**	**(Jointly Administered)**

OMNIBUS RESPONSE IN SUPPORT OF MOTION TO AUTHORIZE REJECTIONS OF CIRCUIT AGREEMENTS

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-referenced debtors and debtors in possession (collectively, the "Debtors") file this Omnibus Response in Support of Motion to Authorize Rejections of Circuit Agreements and in support thereof the Debtors would show as follows:

I. Procedural Background

1. On June 16, 2005, the Debtors filed their Motion to Authorize Rejections of Circuit Agreements [Docket No. 1395] (the "Motion").[1]

[1] Capitalized terms not defined herein shall have the meaning given to them in the Motion. However, the term "Agreements" shall only refer to the Designated Circuits list on Exhibit A of the Motion for the objecting parties set forth herein excluding BellSouth Telecommunications, Inc.

2. On July 6, 2005, WilTel Communications, L.C. f/k/a Williams Communications, L.L.C. ("WilTel") filed its limited objection to the Motion [Docket No. 1468] (the "WilTel Objection").

3. On July 8, 2005, MCI Network Services, Inc. and MCI Communications Services, Inc. (collectively, "MCI") filed their objection to the Motion [Docket No. 1478] (the "MCI Objection").

4. On July 15, 2005, BellSouth Telecommunications, Inc. ("BellSouth") filed its objection to the Motion [Docket No. 1523] (the "BellSouth Objection"). Pursuant to a proposed stipulation [Docket No. 1700] (the "Proposed Stipulation") pending before the Court for approval, BellSouth and the Debtors, as part of a settlement, agreed to adjourn the Motion and BellSouth Objection until ten days after the Proposed Stipulation has been approved. The hearing for the Court to consider the Proposed Stipulation is currently set for August 15, 2005. Accordingly, the Debtors will not address the BellSouth Objection at this time. However, if the Proposed Stipulation is not approved, then the Debtors will supplement this response. Alternatively, if the Proposed Stipulation is approved, then the parties will abate the Motion and BellSouth Objection to a date specified in the Proposed Stipulation.

5. On July 18, 2005, Broadwing Communications, LLC ("Broadwing") filed its objection to the Motion [Docket No. 1538] (the "Broadwing Objection").

6. On July 21, 2005, Sprint Spectrum, L.P. d/b/a Sprint PCS ("Sprint" and with MCI and Broadwing, the "Carriers") filed its objection to the Motion [Docket No. 1588] (the "Sprint Objection").

7. On August 2, 2005, the Court entered its Order Authorizing Rejection of Circuit Agreements [Docket No. 1686] ("Rejection Order"). The Rejection Order continued the hearing on WilTel, MCI, Sprint, Broadwing and BellSouth's Agreements to the Debtors' next omnibus hearing date currently scheduled for August 18, 2005. The Rejection Order granted the Debtors' rejection of the agreements for those non-objecting parties. The Rejection Order preserved the Debtors' right to seek to strike the Broadwing Objection and Sprint Objection.

II. Summary of Objections

Objection	Party	Debtors' Response
Limited objection to the extent the Debtors seek to reject more agreements than those set forth in the Motion.	WilTel Objection, ¶ 10	The Debtors are only seeking to reject the Agreements providing for the Designated Circuits which are listed on Exhibit A to the Motion.
When a contract expires by its own terms prior to assumption or rejection, then such contract cannot be assumed or rejected.	MCI Objection, ¶ 6 Broadwing Objection, ¶¶ 6-7 Sprint Objection, ¶¶ 3 & 6	The Agreements did not expire on their own terms, rather the Debtors took affirmative steps to disconnect the Designated Circuits to minimize administrative expense prior to rejection.
Reservation of rights or insinuations that the Agreements are not severable.	MCI Objection, ¶ 5 Broadwing Objection, ¶ 5 Sprint Objection, ¶ 3	The provisions of the Agreements support severability.
Reservation of rights to assert a cure claim if certain agreements are later assumed.	Broadwing Objection, ¶ 8	Once the Agreements are found to be severable, a party cannot later lump those rejection damages as cure costs in another agreement which the Debtors assume later.

III. Argument

A. Severability Generally Under Bankruptcy Code § 365

8. Bankruptcy Code § 365 allows a debtor in possession to determine which of the debtor's executory contracts and unexpired leases to assume (those that benefit the estate) and to reject (any burdensome agreements). *In re Plitt Amusement Co.*, 233 B.R. 837, 840 (Bankr. C.D. Calif. 1999). Though given broad discretion to be selective in the contracts it assumes, a debtor in possession must usually assume non-severable executory contract in whole. *See NLRB v. Bildisco*, 465 U.S. 513 (1984). *See Century Indem. Co. v. Nat'l Gypsum Co. Settlement Trust (In re Nat'l Gypsum Co.)*, 208 F.3d 498, 506 (5th Cir. 2000). Unless a contract is severable, a debtor cannot assume the favorable provisions of a contract and excise the burdensome aspects. *DVM, P.C. v. Campanile (In re Kopel)*, 232 B.R. 57, 63-64 (Bankr. E.D.N.Y. 1999); s*ee In re Convenience USA, Inc.,* 2002 WL 230772 (Bankr. M.D.N.C. 2002) (*citing Stewart Title v. Old Republic Nat. Title*, 83 F.3d 735, 741 (5th Cir. 1996)).

9. A clear exception of the general rule of assumption of contracts as a whole applies to serverable contracts. "However, where a contract, though contained in a single document, is divisible into several different agreements, some of the divisible agreements may be assumed or rejected under § 365 without assuming or rejecting the entire contract." *In re Convenience*, 2002 WL 230772, at *2 (*citing In re Gardinier, Inc.*, 831 F.2d 974 (11th Cir. 1987); *In re Holly's Inc.*, 140 B.R. 643, 681 (Bankr. W.D. Mich. 1992); *In re Cutter's, Inc.*, 104 B.R. 886, 889 (Bankr. M.D. Tenn. 1989)).

10. To determine whether otherwise separate transactions, contracts, or leases should be integrated for Bankruptcy Code § 365 purposes, a bankruptcy court must analyze the severability of contracts under applicable state law, and balance the

inquiry with the policy of providing debtors the right to assume and assign valuable contracts and reject burdensome contracts. *In re Cafeteria Operators, L.P.*, 299 B.R. 384, 389-92 (Bankr. N.D. Tex. 2003) (applying Michigan law to conclude that a master lease was divisible); *In re Integrated Health Services, Inc.*, 2000 Bankr. LEXIS 1310, at *9-10 (Bankr. D. Del. 2000); *In re Plitt Amusement*, 233 B.R. at 847; *In re Kopel*, 232 B.R. at 63-64. Generally, under state law, whether an agreement is severable will depend upon parties' intent as evidenced by the language of the contracts themselves. *In re Karfakis*, 162 B.R. 719, 725 (Bankr. E.D. Penn. 1993).

B. Severability Under Specific States

11. As discussed above, the Court should look to state law to determine if each of the Agreements is severable. Below is a chart which summarizes the factors for determining severability under governing state law for the Agreements.

Contractual Choice of Law	**State Severability Standard**	**Applicable Agreements**	**Result**
New York	(1) intent of the parties determined by contractual terms; (2) circumstances at the time the contract was executed; (3) if the contract parties' performance can be apportioned partial performances; and (4) the parts of the contract can be treated as agreed equivalents	MCI's Agreements	Severable
Oklahoma	(1) intent of the parties; (2) contract is susceptible to division and apportionment; and (3) portions of the contract are not dependent on each other	MCI's Agreements WilTel's Agreements	Severable
Kansas	Construction of the contract determined by (1) intent of the parties based on contractual terms; and (2) circumstances at the time the contract was executed	Sprint's Agreements	Severable

Contractual Choice of Law	State Severability Standard	Applicable Agreements	Result
Texas	(1) intent of the parties; (2) the subject matter of the agreement being divisible; (3) the conduct of the parties; and (4) the method of payment arranged by the parties being apportioned	Broadwing's Agreements	Severable

1. New York Law – MCI's Agreements

12. The primary factor under New York law to consider if a contract is severable is "the intent of the parties as determined by a fair construction of the terms and provisions of the contract itself, by the subject matter to which it has reference, and by the circumstances existing at the time of the contracting." *Municipal Capital Appreciation Partners I, L.P. v. Page*, 181 F. Supp. 2d 379, 394 (S.D.N.Y. 2002) (citations omitted); *In re Prakope*, 317 B.R. 593, 599 (E.D.N.Y. 2004). Under New York law, a contract is severable if "'(1) the parties' performance can be apportioned into corresponding pairs of partial performances, and (2) the parts of each pair can be treated as agreed equivalents.'" *Prakope*, 317 B.R. at 599 (*quoting Municipal Capital*, 181 F. Supp. 3d at 394 (citations omitted)). New York law applied to the MCI's *WorldCom Services Agreement* (the "WorldCom Agreement"),[2] govern by New York law (WorldCom Agreement, p. 3 § 18), is as follows:

Factor	Factor Applied to MCI's Agreements	Result
intent of the parties determined by contractual terms	The agreement permits the termination of one circuit agreement without terminating the remaining circuit agreements (WorldCom Agreement, p. 2 § 8.1).	Severable

[2] Due to the confidential nature of this and other agreements with the Carriers, the Debtors are not attaching such agreements as exhibits, but will provide them for in camera review at the hearing or seek to file them under seal.

Factor	Factor Applied to MCI's Agreements	Result
circumstances at the time the contract was executed	At the time of the WorldCom Agreement, the parties agreed on a procedure to commence new service orders for circuits agreements govern by the terms of the WorldCom Agreement and additional terms of contained in the service orders (WorldCom Agreement, p. 2 § 8).	Severable
if the contract parties' performance can be apportioned partial performances	If the term of the WorldCom Agreement expires, but a term on a service order for a circuit agreement has not expired, then the circuit agreement remains in effect until the service order term expires (WorldCom Agreement, p. 2 § 8).	Severable
the parts of the contract can be treated as agreed equivalents	The rates and term for each circuit agreement are set forth in each service order for each circuit agreement.	Severable

2. Oklahoma Law – MCI and WilTel's Agreements

13. Under Oklahoma law, "contracting parties' intentions determine whether a contract is divisible or entire". *First American Kickapoo Operations, L.L.C. v. Multimedia Games, Inc.*, 412 F.3d 1166, 1178 (10th Cir. 2005) (citations omitted). Further, a "'severable contract is one susceptible of division and apportionment in its nature and purpose, and having two or more parts, not necessarily dependent on each other, nor so intended by the parties'". *Greater Oklahoma City Amusements, Inc. v. Moyer*, 477 P.2d 73, 75 (Okla. 1970) (quotations omitted). Oklahoma law applied to MCI's *Digital Services Agreement* (the "MCI Agreement"), govern by Oklahoma law (MCI Agreement, p. 9 § 18(A)), and WilTel's *Carrier Services Agreement* (the "WilTel Agreement"), govern by Oklahoma law (WilTel Agreement, p. 14 § 12.8), is as follows:

Factor	Factor Applied to MCI and WilTel's Agreements	Result
intent of the parties	**MCI**: At the time of the MCI Agreement, the parties agreed on a procedure to commence new service orders for circuit agreements govern by the terms of the MCI Agreement and specific terms of contained in the service orders (MCI Agreement, p. 2 § 1(B)).	Severable
	WilTel: At the time of the WilTel Agreement, the parties agreed on a procedure to commence new service orders for circuit agreements govern by the terms of the WilTel Agreement and specific terms of contained in the service orders (WilTel Agreement, p. 3 § 4.1-2).	Severable
contract is susceptible to division and apportionment	**MCI**: The MCI Agreement permits cancellation or disconnection of individual circuit agreements (MCI Agreement, p. 5 § 5(A)-(B)).	Severable
	WilTel: The WilTel Agreement permits cancellation or disconnection of individual circuit agreements (WilTel Agreement, p. 5 § 6.6). The WilTel Agreement has a provision that permits severability if a portion of the contract conflicts with law (WilTel Agreement, p. 14 § 12.12).	Severable
portions of the contract are not dependent on each other	**MCI**: Each service order for a circuit or group of circuits has an independent start date and expiration date (MCI Agreement, p. 2 § 1(D)).	Severable
	WilTel: If the term of the WilTel Agreement expires, but a term on a service order for a circuit agreement has not expired, then the service order remains in effect until the term expires for such circuit agreement (WilTel Agreement, p. 3 § 3.1).	Severable

3. Kansas Law – Sprint's Agreements

14. Under Kansas law, "[w]hether or not a contract is entire or divisible is a question of construction to be determined by the court according to the intention of the contracting parties as ascertained from the contract itself and upon a consideration of all the circumstances surrounding the making of it." *Blakesley v. Johnson*, 608 P.2d 908, 913 (Kan. 1980) (citations omitted). Kansas law as applied to Sprint's *Wholesale*

Services Data and Private Line Agreement (the "Sprint Agreement"), govern under Kansas law (Sprint Agreement, p. 11 § XXIV.B), is as follows:

Factor	Factor Applied to Sprint's Agreements	Result
intent of the parties determined by contractual terms	The Sprint Agreement permits the termination of one circuit agreement without terminating the remaining circuit agreements (Sprint Agreement, p. 3 § VII.A). If the term of the Sprint Agreement expires, but a term on a service order for a circuit agreement has not expired, then the service order remains in effect until the term expires for such circuit agreement (Sprint Agreement, p. 1 § I.B).	Severable
circumstances at the time the contract was executed	At the time of the Sprint Agreement, the parties agreed on a procedure to commence service orders for circuit agreements govern by the terms of the Sprint Agreement and additional terms of contained in the service orders (Sprint Agreement, p. 1 § II.A).	Severable

4. Texas Law – Broadwing's Agreements

15. Under Texas Law, the "intent of the parties is the principal determination of divisibility." *Stewart Title*, 83 F.3d at 739 (citations omitted). Other factors under Texas law include, "the subject matter of the agreement", "the conduct of the parties", and "the method of payment arranged by the parties." *Id.* at 740 (citations omitted). Further, "'[w]here the subject matter of the contract is divisible and the consideration is apportioned, these qualities are consistent with and indicative of a severable contract.'" *Id.* (citations omitted). Texas law applied to Broadwing's *Master Service Resale Agreement* (the "Broadwing Agreement"), govern by Texas law (Broadwing Agreement, p. 20 § 14), is as follows:

Factor	Factor Applied to Broadwing's Agreements	Result
intent of the parties	The Broadwing Agreement permits the termination of one circuit agreement without terminating the remaining circuit agreements (Broadwing Agreement, p. 14 § 6.5).	Severable

Factor	Factor Applied to Broadwing's Agreements	Result
the subject matter of the agreement being divisible	At the time of the Broadwing Agreement, the parties agreed on a procedure to commence new service orders for circuits govern by the terms of the Broadwing Agreement and additional terms of contained in the service orders (Broadwing Agreement, p. 7 § 2.1 and p. 10 § 3.1). The Broadwing Agreement permits provisions of the contract to be severable (Broadwing Agreement, p. 20 § 15).	Severable
the conduct of the parties	The Debtors have disconnected circuits prior to the Petition Date and the other service orders for circuits remained in place.	Severable
the method of payment arranged by the parties being apportioned if the contract parties' performance can be apportioned partial performances	The Debtors pay per service order for a circuit and not a flat rate for all of Broadwing's switched services (Broadwing Agreement, p. 7 § 2.1(a)). If the term of the Broadwing Agreement expires, but a term on a circuit agreement has not expired, then the circuit agreement remains in effect until the term expires for such service order (Broadwing Agreement, p. 10 § 3.1).	Severable

C. Cross-Default Provision under Fifth Circuit Precedent

16. Oftentimes, where a non-debtor party is arguing that separate contracts should be treated as a single, integrated contract, the contracts at issue contain cross-default provisions. Although, as discussed above, as a general rule, a debtor must assume an executory contract in its entirety, with all of its benefits and burdens. Oftentimes, bankruptcy courts excise cross-default provisions from the assumed contract as being *per se* invalid in the context of the assumption or rejection of executory contracts. *See In re Convenience,* 2002 WL 230772, at *7; *In re Plitt Amusement*, 233 B.R. at 847; *In re Braniff, Inc. v. GPA Group PLC (In re Braniff, Inc.)*, 118 B.R. 819, 845 (Bankr. M.D. Fla. 1990). These courts reason, generally, that cross-default provisions are unenforceable as *ipso facto* clauses in bankruptcy where they

would restrict the debtor's ability to fully utilize the provisions of Bankruptcy Code § 365 with respect to an executory contract or unexpired lease. *In re Convenience*, 2002 WL 230772, at *7.

17. The Fifth Circuit has rejected the *per se* nature of this rule in favor of a case-by-case analysis, while adopting the reasoning behind the rule:

> We agree with another bankruptcy court which recently synthesized these authorities and concluded that, while "cross-default provisions are ***inherently suspect***," they are not *per se* invalid in the bankruptcy context, and "a court should carefully scrutinize the facts and circumstances surrounding the particular transaction to determine whether enforcement of the provision would contravene an overriding federal bankruptcy policy and thus impermissibly hamper the debtor's reorganization."

In re Liljeberg Enterprises, Inc., 304 F.3d 410, 445 (5th Cir. 2002) (quoting *Kopel*, 232 B.R. at 64) (emphasis added). The Fifth Circuit looked to whether or not the cross-default provisions were essential to the underlying transaction and whether the non-debtor party would have entered into the pharmacy contract that was at issue without the lease of the hospital and the loan and collateral mortgage agreement. In applying this analysis to the contracts at issue (*i.e.*, the pharmacy agreement, the collateral mortgage agreement, and the lease agreement), the court found "ample support" for its finding that "there would have been no pharmacy agreement without the lease of the hospital or the loan secured by the collateral mortgage" and therefore concluded that the cross-default provisions should be enforced. *Id.* at 445.

D. The Agreements are Severable

18. As stated above, the Agreements satisfy the factors of each applicable state to be severable. The Agreements are severable schedules to the WorldCom Agreement, MCI Agreement, WilTel Agreement, Sprint Agreement and Broadwing Agreement, respectively, (collectively, the "Master Agreements"). An important element

of all the Master Agreements is the ability the Debtors have to order individual circuits by entering into the Agreements and later the Debtors can disconnect the same.

19. The MCI Agreement provides, "Disconnection of Individual Circuits. Following installation, Customer may disconnect all or a portion of Private Line Service if Customer provides written notification thereof to MCI WorldCom thirty (30) days in advance of the effective date of disconnection." (MCI Agreement, p. 5 § 5(B)). MCI's WorldCom Agreement provides, "Notwithstanding a termination of a Service Order [for circuits], this Agreement and all other Service Orders will remain in full force and effect unless otherwise terminated in accordance with this Agreement." (WorldCom Agreement, p. 2 § 8.1). The Broadwing Agreement provides, the Debtor/counterparty "may cancel its Purchase Order and Circuit Lease Term for any Circuit upon ninety (90) days notice". (Broadwing Agreement, p. 14 § 6.5). The Sprint Agreement provides, "To terminate Services, Customer must provide Sprint with 30 days' prior written notice. If Customer terminates any Service before the expiration of the term for that Service, Customer must pay early service termination charges described in the Attachments." (Sprint Agreement, p. 3 § VII.A).

20. The intent of the parties under the Master Agreements is to create severable Agreements that the Debtors can freely commence and disconnect. This intent supports the severability of the Agreements and rejection of individual Agreements. The severability of circuits is key to the Master Agreements because it provides the Debtors with the necessary flexibility to optimize their network. Now, the Carriers ignore this standard provision in all their Master Agreements to avoid the simple fact that the Agreements are severable on their face.

21. The Master Agreements do contain remedies including termination of services if the Debtors default on payment obligations. Given the fact that individual circuits can be disconnected and not result in a breach under the terms of the Master Agreements, such non-payment, cross-default provision should not be determinative of severability.

E. The Agreements Are Subject to Rejection

22. MCI, Broadwing and Sprint argue the Agreements cannot be rejected. (MCI Objection, ¶ 6; Broadwing Objection, ¶¶ 6-7; and Sprint Objection, ¶ 3). The Carriers rely on cases speaking to the issue of an agreement that expires on its own terms prior to assumption or rejection. *See Gloria Manufacturing Corp. v. Int'l Ladies' Garment Workers' Union*, 734 F.2d 1020, 1022 (4th Cir. 1984) ("Once a contract **expires on its own terms**, there is nothing left for the trustee to reject or assume." (emphasis added)); *In re Nat'l Steel Corp.*, 316 B.R. 287, 304 (Bankr. N.D. Ill. 2004) ("If an executory contract **expires by its own terms** during the post-petition, pre-assumption/rejection period, as was the situation at bar, the debtor-in-possession has nothing to assume or reject." (emphasis added)); *In re Balco Equities Ltd., Inc.*, 312 B.R. 734, 750 (Bankr. S.D.N.Y. 2004) ("There can be no dispute that the Forbearance Agreement **expired by its own terms** on March 31, 2004. 'Once the contract is no longer in existence, the right to assume it is extinguished. A contract may not be assumed under § 365 if it has already **expired according to its terms**.'" (emphasis added)); *In re Child World, Inc.* 147 B.R. 847, 852 (Bankr. S.D.N.Y. 1992) ("However, events after the filing of the bankruptcy petition may cause the contract to be regarded as not executory when the motion to assume or reject was made, such as contracts which **expired post-petition by their own terms** after the date of the petition but

before the motion was heard." (emphasis added)); *In re Office Products of America, Inc.*, 136 B.R. 675, 685 (Bankr. W.D. Tex. 1992) ("Therefore, **by its own terms**, **the contract expired** prior to the petition date." (emphasis added)). All of these cases deal with the expiration of an executory contract by its own terms prior to a motion to assume or reject such contract. Simply, these are not the facts at bar.

23. Here, the Agreements did not expire on their own terms, rather the Debtors took affirmative action to disconnect the Designated Circuits. Disconnection is **not** the equivalent of termination. The purpose of disconnecting is to minimize ongoing administrative expenses to the Debtors' estates. The Debtors' actions are akin to other debtors who return office equipment that is subject to a personal property lease prior to rejection. When the office equipment is returned, the personal property lease is not terminated or rejected, rather the Debtors have to seek Court approval for the rejection. There is no difference in the Debtors' situation.

F. Cure Costs Would Never Accrue

24. The Carriers' arguments are disjointed. First the Carriers claim there is nothing for the Debtors to reject because the Agreements were terminated, which the Debtors dispute. Then, despite concluding the Designated Circuits can be terminated while the other circuit agreements remain in effect, the Carriers claim the Agreements are not severable. Which is it? If the Agreements can be disconnected independently, then the Agreements, on their face as discussed above, are severable. The Carriers are attempting to create cure claims from the rejection damages, if any, from the severable Agreements.

25. If, *arguendo*, the Agreements were terminated, there would be nothing to assume later, thus no future cure costs. If the Court adopts the Carriers' argument that

there is nothing left of the Agreements for the Debtors to reject, then such Agreements also could not be assumed either. Absent assumption, all the damages, if any, relating to the disconnection of the circuits would prepetition unsecured claims, if such claims are allowed.

26. The Carriers are not the first counterparties to attempt to make damages from a rejected, severable agreement into cure costs for a different assumed, severable agreement. As the Fifth Circuit set forth, "' [f]ederal bankruptcy policy is offended where the non-debtor party seeks enforcement of a cross-default provision in an effort to extract priority payments under an unrelated agreement.'" *In re Liljeberg*, 304 F.3d at 445 (citations omitted). The Fifth Circuit explained that a "'creditor cannot use the protections afforded it by section 365(b) . . . in order to maximize its returns by treating unrelated unsecured debt as a *de facto* priority obligation.'" *Id.* (citations omitted). The Carriers attempt to extract payment of prepetition claims and damages arising from the rejection of the Agreements through cure costs of the Debtors' future assumption of other circuit agreements. The Court should not allow such leveraging of the Bankruptcy Code.

IV. Conclusion

The Agreements are severable under their own terms. Further, disconnection of the Designated Circuits did not terminate the Agreements. Accordingly, the Debtors respectfully request the Court grant the remaining relief sought in the Motion against WilTel, MCI, Broadwing and Sprint.

Dated: August 12, 2005

Respectfully submitted,

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ATTORNEYS FOR THE DEBTORS

CERTIFICATE OF SERVICE

This is to certify that on August 12, 2005, a copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas. A separate certificate of service shall be filed with respect to those parties on the Clerk's list who do not receive electronic e-mail service.

/s/ Holly J. Warrington
One of Counsel

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