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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-HDH-11**
	§	
DEBTORS.	§	**(Chapter 11)**
	§	**(Jointly Administered)**
	§	
	§	**Hearing Set for February 28, 2006 at**
	§	**9:00 a.m.**

MOTION TO APPROVE STIPULATION AND ORDER FOR ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS, AND RELATED CURE, AMONG (I) THE DEBTORS, (II) SPRINT AND (III) COMTEL TELCOM ASSETS LP

A HEARING WILL BE CONDUCTED ON THIS MATTER ON FEBRUARY 28, 2006, AT 9:00 A.M. IN THE COURTROOM OF THE UNITED STATES BANKRUPTCY JUDGE, 1100 COMMERCE STREET, 14TH FLOOR, DALLAS, TEXAS. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY (20) DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

TO THE HONORABLE HARLIN D. HALE, UNITED STATES BANKRUPTCY JUDGE:

The above-referenced debtors and debtors in possession (collectively, the "Debtors")[1] file this Motion to Approve Stipulation and Order for Assumption and Assignment of Executory Contracts, and Related Cure, Among (I) the Debtors, (II) Sprint and (III) Comtel Telcom Assets LP (the "Motion") and in support show as follows:

JURISDICTION AND PROCEDURAL BACKGROUND

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Motion concerns the administration of the estate; and therefore, it is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. On November 1, 2004 (the "Petition Date"), the Debtors each filed a voluntary petition for relief (collectively, the "Cases") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

4. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

5. The Cases are jointly administered under Case No. 04-81694-HDH-11.

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[1] The Debtors include VarTec Telecom, Inc., Excel Communications Marketing, Inc., Excel Management Service, Inc., Excel Products, Inc., Excel Telecommunications, Inc., Excel Telecommunications of Virginia, Inc., Excel Teleservices, Inc., Excelcom, Inc., Telco Communications Group, Inc., Telco Network Services, Inc., VarTec Business Trust, VarTec Properties, Inc., VarTec Resource Services, Inc., VarTec Solutions, Inc., VarTec Telecom Holding Company, VarTec Telecom International Holding Company, and VarTec Telecom of Virginia, Inc.

FACTUAL BACKGROUND

6. Certain Debtors and Sprint Communications Company LP, Sprint Spectrum L.P., and "Sprint LTD"[2] (collectively, "Sprint") are parties to that certain Private Label PCS Services Agreement (Carrier Accounts) dated March 14, 2001 (the "Sprint PCS Agreement") and the Sprint Wholesale Services Data and Private Line Agreement dated as of November 1, 1999 (the "Sprint DPLA" and with the Sprint PCS Agreement, the "Sprint Agreements").

7. On February 2, 2006, Sprint, the Debtors, and Comtel Telcom Assets L.P. as assignee of Comtel Investments LLC ("Comtel") executed their Stipulation and Order for Assumption and Assignment of Executory Contracts, and Related Cure, Among (I) the Debtors, (II) Sprint and (III) Comtel Telcom Assets LP (the "Stipulation").[3] A copy of the Stipulation is attached hereto as **Exhibit A**. The Stipulation addresses, among other things, the following, subject to the consummation of the Final Closing Date:

- assumption and assignment of the Sprint Agreements;
- payment of cure through Sprint's retention of $674,490.93;
- Sprint refunding $465,570.15 to the Debtors;

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[2] "Sprint LTD" refers to the following companies: Sprint – Florida, Incorporated; Carolina Telephone and Telegraph Company; United Telephone – Southeast, Inc.; United Telephone Company of the Carolinas; Central Telephone Company; Central Telephone Company of Virginia; The United Telephone Company of Pennsylvania; United Telephone Company of New Jersey, Inc.; United Telephone Company of Ohio; United Telephone Company of Indiana, Inc.; Central Telephone Company of Texas; Sprint Missouri, Inc.; United Telephone Company of Kansas; United Telephone Company of Southcentral Kansas; United Telephone Company of Eastern Kansas; Sprint Minnesota, Inc.; United Telephone Company of the West; United Telephone Company of Texas, Inc.; and United Telephone Company of the Northwest.

[3] Capitalized terms not defined herein shall have the meaning given to them in the Stipulation. To the extent that the discussion of the Stipulation contained in this Motion conflicts with the terms and conditions of the Stipulation, the Stipulation shall control.

- full settlement of disputes between the Debtors and Sprint;
- payment terms that are more advantageous to the Debtors than the Carrier Stipulation; and
- rejection of certain circuits and Sprint's release of damages arising therefrom (such circuit rejections to be performed in connection with the "grooming" of the Debtors' telecom network).

RELIEF REQUESTED

8. Pursuant to Bankruptcy Code §§ 105, 363, and 365 and Rule 9019 of the Federal Rules of Bankruptcy Proceeding, the Debtors request that the Court enter an Order approving the Stipulation.

9. Bankruptcy Rule 9019(a) provides, in part, "On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." FED. R. BANKR. PROC. 9019(a).

10. The proponent of a compromise and settlement should set forth the legal and factual context of the compromise so that the Court may make an intelligent, objective and educated evaluation of the settlement. *Protective Comm. of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion, Inc.)*, 844 F.2d 1142, 1158-59 (5th Cir. 1988); *U.S. v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 299 (5th Cir. 1984).

11. In passing upon a proposed compromise and settlement, the Court must determine that the compromise and settlement is fair and equitable and in the best interest of the estate by considering, among other things, the following factors:

a. the probability of success in the litigation;

b. the difficulties to be encountered in the matter of collection, if any;

c. the complexity of the litigation involved and the expenses, inconveniences, and delay necessarily attending it;

d. the paramount interest of the creditors and their objections; and

e. all other factors bearing on the wisdom of the settlement.

See In re Foster Mortgage Corp., 68 F.3d 914, 917 (5th Cir. 1995); *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 605, 607 (5th Cir. 1980). *See also TMT Trailer Ferry*, 390 U.S. 414, 424 (1968).

12. Based on all applicable factors, the Stipulation, which was negotiated in good faith and at arm's length, is in the best interest of the Debtors' estates and their creditors, and the settlement set forth in the Stipulation is fair and equitable. In the exercise of their business judgment, the Debtors have determined that the Sprint Agreements should be assumed and assigned to Comtel. By executing the Stipulation, the Debtors obtain certainty with respect to (i) the assumption of the Sprint Agreements and the assignment of the same to Comtel; (ii) the cure cost associated with such assumption and assignment; (iii) their ability to reject individual circuit agreements and the nature of the release of damages resulting from the same; and (iv) the final settlement of issues outstanding between the parties. The structure of the Stipulation is consistent with the Debtors' need to obtain regulatory approvals.

13. For these reasons, the Stipulation should be approved.

PRAYER

The Debtors request that this Court enter an Order approving the Stipulation and grant them such other and further relief, both general and specific, to which they may be justly entitled.

Dated: February 2, 2006.

Respectfully submitted,

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By: *_/s/ Holly J. Warrington_*
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ATTORNEYS FOR THE DEBTORS

CERTIFICATE OF SERVICE

This is to certify that on February 2, 2006, 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. This is to certify that on February 2, 2006, a copy of the foregoing document was served via first-class mail upon Sprint's counsel and Comtel's counsel at the following addresses:

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*_/s/ Holly J. Warrington_*
One of Counsel

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