NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the order of the Court.

Signed June 2, 2006 **United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
(DALLAS DIVISION)

In re:	)	Chapter 11
	)	
VARTEC TELECOM, INC., *et al.,*	)	Case No. 04-81694-saf-11
	)	
Debtors.	)	Jointly Administered

STIPULATION AND ORDER PURSUANT TO BANKRUPTCY RULE 9019 BETWEEN (I) THE DEBTOR AND (II) THE AT&T TELCOS

Southwestern Bell Telephone, L.P. f/k/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and n/k/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas, Pacific Bell Telephone Company f/k/a SBC California and n/k/a AT&T California, The Southern New England Telephone Company f/k/a SBC Connecticut and n/k/a AT&T Connecticut, Illinois Bell Telephone Company f/k/a SBC Illinois and n/k/a AT&T Illinois, Indiana Bell Telephone Company Incorporated f/k/a SBC Indiana and n/k/a AT&T Indiana, Michigan Bell Telephone Company f/k/a SBC Michigan and n/k/a AT&T Michigan, The Ohio Bell Telephone Company f/k/a SBC Ohio and n/k/a AT&T Ohio,

Wisconsin Bell, Inc. f/k/a SBC Wisconsin and n/k/a AT&T Wisconsin, Nevada Bell Telephone Company f/k/a SBC Nevada and n/k/a AT&T Nevada, and The Woodbury Telephone Company (collectively, the "AT&T Telcos"), and 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. (collectively, the "Debtors" and with the AT&T Telcos, the "Parties", and each individually, a "Party") hereby stipulate and agree as follows with respect the alleged administrative claim asserted by the AT&T Telcos against the Debtors as described herein (the "AT&T Claim") and with respect to the alleged refund claim asserted by the Debtors against one or more the AT&T Telcos as described herein (the "Overcharge Claim"). This Stipulation shall hereinafter be referred to as the "Stipulation".

RECITALS[1]

A. On November 1, 2004 (the "Petition Date"), the Debtors each filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors continue to operate their businesses and manage their property as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

B. The AT&T Telcos provide various telecommunications services and facilities to the Debtors. The Debtors use the AT&T Telcos' telecommunications network, including

[1] In the event that the Final Closing shall fail to be consummated as provided in the Asset Purchase Agreement (the "APA") dated July 25, 2005, by and among the Debtors and Comtel Telecom Assets, LP, an assignee of Comtel Investments LLC ("Comtel"), nothing herein shall constitute a waiver, estoppel, or be of any preclusive effect in any cause, matter, or proceeding; and the Parties' respective rights shall be reserved in all respects. All defined terms in this Stipulation shall have the meaning ascribed to them in the APA unless otherwise defined herein.

circuits, facilities, and equipment, in certain states pursuant to interconnection agreements and/or applicable tariffs.

C. To provide the AT&T Telcos with adequate assurance of payment for postpetition charges, and adequate protection of alleged secured claims, on December 2, 2004, the Bankruptcy Court signed the Stipulation and Consent Order By and Among Certain Carriers and the Debtors Regarding Adequate Assurance/Adequate Protection of Future Payments (the "Carriers' Stipulation).

D. Under the APA (as defined in the footnote below), the date on which the Transferred Assets, as defined in the APA, are to be transferred is referred to as the Closing Date. The date on which the Non-Transferred Assets, as defined in the APA, are to be transferred is referred to as the Final Closing Date.[2] The Closing Date under the APA has occurred, however, the Final Closing Date has not occurred as of the date of this Stipulation.

E. VarTec asserts that it has been overcharged by AT&T in connection with a change from HC-TPP format to DS1-TPP format, occurring approximately between August 2004 through September 2005, in the amount of $798,203.50 of which $142,334.96 accrued prior to the Petition Date (the "Prepetition Overcharge Claim"), and of which $655,868.54 (the "Overcharge Claim") accrued after the Petition Date.

F. The AT&T Telcos assert that they possess an administrative claim against the Debtors' estates which exceeds $2,600,000.00 purporting to arise after the Petition Date through the Final Closing Date on account of the avoidance of access charges pertaining to the termination of long distance calls on local lines (the "AT&T Claim"). The Debtors deny this claim.

[2] All discussion herein of terms of the APA are descriptive only, and the APA shall control in the event any description herein is in conflict with the APA.

G. The Debtors and the AT&T Telcos agree, subject to the terms and conditions herein, Court approval and effective upon the Final Closing Date: (i) to the waiver and disallowance in full of the AT&T Claim or any other administrative claim against the Debtors based on the alleged avoidance of access charges through the Final Closing Date, (ii) that the Debtors will not commence or otherwise pursue any action or enforcement to collect the Overcharge Claim pursuant to the Carriers' Stipulation or otherwise, and (iii) to the other terms more particularly described in the operative paragraphs of this Stipulation.

IT IS THEREFORE STIPULATED, CONSENTED, AND AGREED by and among the Parties, and subject to the terms and conditions set forth herein, as follows:

1. Each of the foregoing recitals and definitions of terms are hereby incorporated into this Stipulation for all purposes.

2. The Debtors stipulate and agree that pursuant to the Stipulation and Order for Assumption and Assignment of Executory Contracts, and Related Cure, among (I) the Debtors, (II) the SBC [now AT&T] Telcos, (III) Comtel Telecom Assets LP, and (IV) the RTFC entered August 22, 2005 (the "August Stipulation"), the Prepetition Overcharge Claim has been fully and finally released.

3. The Debtors stipulate and agree they will not seek to enforce the Overcharge Claim in any manner, including, without limitation, under the procedures provided for in the Carrier Stipulation.

4. Notwithstanding anything in this Stipulation to the contrary, effective upon the Final Closing Date, the AT&T Telcos will be deemed to have waived and released any and all administrative claims against the Debtors only, arising on account of the AT&T Claim or

otherwise arising on account of the Debtors' alleged avoidance of any access charges through the Final Closing Date.

5. This Stipulation shall not impact in any manner any rights, claims, defenses, setoffs or causes of action the AT&T Telcos may have against Comtel or in respect of the Prepetition Overcharge Claim, the Overcharge Claim or otherwise; nor shall this Stipulation impact in any manner any rights, claims, defenses, setoffs or causes of action Comtel may have against the AT&T Telcos or in respect of the Prepetition Overcharge Claim, the Overcharge Claim or otherwise.

6. This Stipulation shall not create any rights, claims, defenses, setoffs or causes of action against or in favor of the AT&T Telcos as to Comtel, nor shall this Stipulation create any rights, claims, defenses, setoffs or causes of action against or in favor of Comtel as to the AT&T Telcos.

7. All other claims of the Parties are expressly reserved.

8. Pending the Final Closing Date:

(a) except to the extent that the terms are expressly modified as provided herein, the Carriers' Stipulation shall remain in full force and effect;

(b) except to the extent that terms are expressly modified as provided herein, the August Stipulation shall remain in full force and effect;

(c) this Stipulation shall not impact in any manner the rights of non-Parties to the August Stipulation nor shall this Stipulation impact the Parties respective right under the August Stipulation against non-Parties to this Stipulation.

9. All notices under this Stipulation and Order shall be delivered by (i) overnight delivery service or (ii) email and facsimile. A notice shall be deemed to have been delivered on

the date that it was sent. All notices to the AT&T Telcos under this Stipulation and Order shall be sent to:

Suzanne C. Leslie
AT&T Services, Inc.
One AT&T Plaza
208 S. Akard, Suite 2900
Dallas, Texas 75202
Phone: 214.464.7300
Fax: 214.464.1138
Email: suzanne.leslie@att.com

with a copy to:

David M. Bennett
Thompson & Knight LLP
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201
Phone: 214.969.1486
Fax: 214.880.3293
Email: david.bennett@tklaw.com

All notices to the Debtors under this Stipulation and Order shall be sent to:

Michael G. Hoffman
VarTec Telecom, Inc.
2440 Marsh Lane
Carrollton, Texas 75006
Phone: 972.478.3300
Fax: 972.478.3301
Email: mhoffman@vartec.net

Joseph M. Coleman
Kane, Russell, Coleman & Logan, P.C.
3700 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201
Phone: 214.777.4200
Fax: 214.777.4299
Email: jcoleman@krcl.com

William L. Wallander
Vinson & Elkins L.L.P.
3700 Trammell Crow Center
2001 Ross Avenue
Dallas, Texas 75201
Phone: 214.220.7700
Fax: 214.999.7905
Email: bwallander@velaw.com

10. Each of the Parties represents that, subject to the entry of the Order approving this Stipulation by the Bankruptcy Court in the bankruptcy cases of the Debtors pursuant to Bankruptcy Rule 9019, it has the requisite power, authority, and legal capacity to make, execute, enter into, and deliver this Stipulation and to fully perform its duties and obligations hereunder.

11. No modification, amendment, or waiver of any of the terms or provisions of this Stipulation shall bind any Party unless such modification, amendment, or waiver is in writing, has been approved by the Bankruptcy Court, and has been executed by a duly authorized representative of the Party against whom such modification, amendment, or waiver is sought to be enforced.

12. No delay or omission by any Party in exercising any right or power occurring upon any noncompliance or default by any other Party with respect to any of the terms and provisions of this Stipulation will impair any such right or power or be construed to be a waiver thereof. A waiver by any of the Parties of any of the covenants, conditions or agreements to be performed by any other Party will not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition, or agreement contained in this Stipulation.

13. This Stipulation may be executed in one or more counterparts, each of which, when so executed and delivered, shall be an original and all of which together shall constitute one and the same instrument.

14. The Parties acknowledge that this Stipulation is the joint work product of all of the Parties, and that, accordingly, in the event of ambiguities in this Stipulation, no references shall be drawn against any Party on the basis of authorship of this Stipulation.

15. Nothing in this Stipulation shall constitute, or be considered as, an admission of liability or wrongdoing by any of the Parties, or any agreement by any of the Parties as to the validity of any of the positions advanced by any of the other Parties.

16. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Stipulation.

17. This Stipulation shall be binding upon and inure to the benefit of any Chapter 7 trustee who may be appointed for the estates of the Debtors.

18. This Stipulation shall be binding upon any successor or assign of any of the AT&T Telcos.

19. This Stipulation shall constitute the entire agreement by and among the Parties hereto regarding the matters addressed herein. No extrinsic or parol evidence may be used to vary any of the terms herein.

20. The AT&T Telcos have no agreements, oral or written, with any of the other parties hereto relating to the Debtors' or Comtel's choice and use of vendors.

21. Nothing in this Stipulation and Order or by virtue of Unipoint's consent hereto shall affect or impair any claims, causes of action, or rights that Unipoint and the Debtors (or the Debtors' successors and assigns) have against each other with respect to the Missouri Litigation, or arising in, arising under, or related to these Debtors' bankruptcy cases, including specifically Unipoint's or the Debtors' respective rights as to Unipoint's (i) asserted claims for indemnification, reimbursement, or contribution against the Debtors, and (ii) defenses in the Missouri Litigation.

STIPULATED AND AGREED THIS 1ST DAY OF JUNE, 2006.

SOUTHWESTERN BELL TELEPHONE, L.P. F/K/A SBC ARKANSAS, SBC KANSAS, SBC MISSOURI, SBC OKLAHOMA AND/OR SBC TEXAS AND N/K/A AT&T ARKANSAS, AT&T KANSAS, AT&T MISSOURI, AT&T OKLAHOMA AND/OR AT&T TEXAS, PACIFIC BELL TELEPHONE COMPANY F/K/A SBC CALIFORNIA AND N/K/A AT&T CALIFORNIA, THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY F/K/A SBC CONNECTICUT AND N/K/A AT& T CONNECTICUT, ILLINOIS BELL TELEPHONE COMPANY F/K/A SBC ILLINOIS AND N/K/A AT&T ILLINOIS, INDIANA BELL TELEPHONE COMPANY INCORPORATED F/K/A SBC INDIANA AND N/K/A AT&T INDIANA, MICHIGAN BELL TELEPHONE COMPANY F/K/A SBC MICHIGAN AND N/K/A AT&T MICHIGAN, THE OHIO BELL TELEPHONE COMPANY F/K/A SBC OHIO AND N/K/A AT&T OHIO, WISCONSIN BELL, INC. F/K/A SBC WISCONSIN AND N/K/A AT&T WISCONSIN, NEVADA BELL TELEPHONE COMPANY F/K/A SBC NEVADA AND N/K/A AT&T NEVADA, AND THE WOODBURY TELEPHONE COMPANY

/s/ David M. Bennett

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ATTORNEYS FOR THE AT&T TELCOS

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/s/ Joseph M. Coleman

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