

September 12, 2001

Florida Public Service Commission  
Attn: Administrative Division  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399

011208-TI

Dear Sir or Madam:

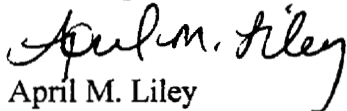
Attached please find an original and one copy of the joint application of OneStar Long Distance, Inc. and AS Telecommunications, Inc., d/b/a Allstar Telecom, to transfer select assets, including the customer base, of Allstar Telecom to OneStar. Also included is an original and one copy of OneStar's petition for a waiver of the Carrier Change Orders. Please consider this information as proprietary.

This application is being sent to your attention for review. An expedited review is requested as noted in the application.

A duplicate copy of this letter is enclosed. If you would please date stamp the duplicate and return it to me, it would be appreciated. A self-addressed, stamped envelope has been included for this purpose.

Please do not hesitate to contact me with any questions regarding this application. I can be reached at 812-437-7642.

Sincerely,



April M. Liley  
Reports and Tariff Analyst  
Regulatory Department  
OneStar Long Distance, Inc.

Enclosures

DOCUMENT NUMBER-DATE

11684 SEP 19 2001

FPSC-COMMISSION CLERK

**BEFORE THE  
STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION**

Application for Approval of the )  
Transfer of the Long Distance )  
Customer Base of )  
AS Telecommunications, Inc. to )  
OneStar Long Distance, Inc. )

Docket No. \_\_\_\_\_

**I. Introduction**

OneStar Long Distance, Inc. (“OneStar”) and AS Telecommunications, Inc. doing business as Allstar Telecom (“Allstar”), collectively known as the “Parties”, hereby jointly request approval to transfer select assets, including the long distance customer base, of Allstar to OneStar. OneStar and Allstar are both nondominant telecommunications carriers authorized by the Commission to provide intrastate long distance telecommunications services within the state of Florida.

As set forth below, the transfer of Allstar’s long distance customer base to OneStar will be virtually transparent to customers of Allstar. Details of the proposed transaction are set forth below.

The Parties respectfully request expedited treatment of this Application in order to permit them to consummate the transaction as soon as possible. The Parties also intend for this application to serve as an application for authority to discontinue the carrier services of Allstar. In the absence of written notification to the contrary, once the transfer application is accepted for filing, the application to discontinue, reduce, or impair service shall be considered granted by the

Commission. Upon approval, we also request that the corresponding tariff of Allstar be cancelled.

In support of this Application, the Parties submit the following information:

## **II. THE COMPANIES**

### **A. OneStar Long Distance, Inc.**

OneStar (Tax Identification No. 35-1874721) is a privately held Indiana corporation headquartered in Evansville, Indiana. OneStar is a nationwide provider of telecommunications services and is authorized to provide resold long distance services in 49 jurisdictions, as well as local services in 18 states, by virtue of certification, registration, tariff requirements, or on a deregulated basis. In Florida, OneStar is authorized to provide intrastate long distance telecommunications services pursuant to certification granted by this Commission in Docket No. 990063-TI, Order No. PSC-99-0555-FOF-TI. OneStar provides interstate and international telecommunications services as a nondominant common carrier pursuant to authority of the Federal Communications Commission. Further information concerning OneStar's legal, technical, managerial, and financial qualifications to provide telecommunications services was filed with its application for certification in Docket No. 990063-TI. That information is, therefore, already a matter of public record at the Commission and Parties request that it be incorporated herein by reference.

### **B. AS Telecommunications, Inc. d/b/a Allstar Telecom**

Allstar (Tax Identification No. 86-0687725) is an Arizona corporation headquartered in Santa Barbara, California. Allstar is a nationwide provider of telecommunications services and

is authorized to provide resold long distance services in 38 jurisdictions by virtue of certification, registration, tariff requirements, or on a deregulated basis. In Florida, Allstar is authorized to provide intrastate long distance telecommunications services pursuant to certification granted by this Commission in Docket No. T-99-0965. Allstar provides interstate and international telecommunications services as a nondominant common carrier pursuant to authority of the Federal Communications Commission. Further information concerning Allstar's legal, technical, managerial, and financial qualifications to provide telecommunications services was filed with its application for certification in Docket No. T-99-0965. That information is, therefore, already a matter of public record at the Commission and Parties request that it be incorporated herein by reference. Allstar will no longer continue to provide long distance telecommunications services after this transfer.

**C. Designated Contact**

The designated contact for questions concerning this application is as follows:

Ami M. Larrison  
Director of Regulatory Affairs  
OneStar Long Distance, Inc.  
7100 Eagle Crest Boulevard  
Evansville, Indiana 47715  
(812) 437-7790 (telephone)  
(812) 437-7988 (facsimile)

### **III. DESCRIPTION OF THE TRANSFER OF ALLSTAR'S LONG DISTANCE CUSTOMER BASE RESULTING FROM A TRANSFER OF ASSETS**

The Parties have executed an Asset Purchase Agreement. A copy of the Asset Purchase Agreement is attached hereto as Exhibit A.

Because the transfer will result in minimal change in the rates, terms, and conditions of service that these customers currently enjoy, the transfer of Allstar's long distance customer base will be virtually transparent to Allstar's Florida customers in terms of the services they receive.

### **IV. PUBLIC INTEREST CONSIDERATIONS**

Consummation of the transaction described herein will serve the public interest in promoting competition among providers of long distance telecommunications services by combining the financial resources, managerial skills and experience of OneStar with the customer base of Allstar. The Parties anticipate that the transfer will result in a company better equipped to accelerate its growth as a competitive telecommunications service provider. The transfer will allow the customer base access to expanded services and a financially viable carrier.

Customers will be informed of the transfer via letter from the Parties, attached as Exhibit B.

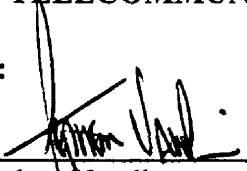
**V. CONCLUSION**

For the reasons stated herein, the Parties respectfully request that the Commission approve this Application to permit OneStar to acquire select assets, including the long distance customer base, of Allstar and grant all other relief as necessary and appropriate to effectuate the transactions described herein.

Executed this 14<sup>th</sup> day of September, 2001


**AS TELECOMMUNICATIONS, INC.**

By:

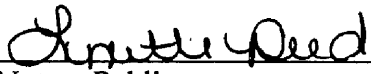
  
\_\_\_\_\_  
Stephen Vandiver  
AS Telecommunications, Inc.  
d/b/a Allstar Telecom  
223 East De La Guerra Street  
Santa Barbara, California 93101

**ONESTAR LONG DISTANCE, INC.**

By:

  
\_\_\_\_\_  
Ami M. Larrison  
Director of Regulatory Affairs  
OneStar Long Distance, Inc.  
7100 Eagle Crest Boulevard  
Evansville, Indiana 47715

Subscribed and sworn to before me on this 14<sup>th</sup> of Sept., 2001.

  
\_\_\_\_\_  
Notary Public

My commission expires:

2-22-08  
\_\_\_\_\_

**VERIFICATION OF APPLICANT**

I, Ami M. Larrison, upon being duly sworn, depose, and state that I attest to and adopt all filings submitted with this Application, the content of which are true and correct to the best of my knowledge, information, and belief.

Executed this 14<sup>th</sup> day of September, 2001.

OneStar Long Distance, Inc.

By Ami M. Larrison  
Ami M. Larrison  
Director of Regulatory Affairs

Subscribed and sworn to before me on this 14<sup>th</sup> of Sept., 2001.

Amie Deed  
Notary Public

My commission expires:

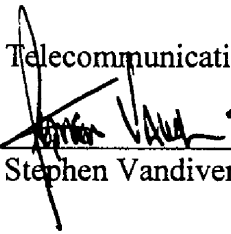
2-22-08

**VERIFICATION OF APPLICANT**

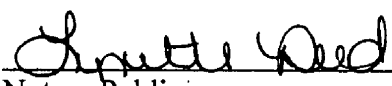
I, Stephen Vandiver, upon being duly sworn, depose, and state that I attest to and adopt all filings submitted with this Application, the content of which are true and correct to the best of my knowledge, information, and belief.

Executed this 14<sup>th</sup> day of September, 2001.

AS Telecommunications, Inc. d/b/a Allstar Telecom

By   
Stephen Vandiver

Subscribed and sworn to before me on this 14<sup>th</sup> of Sept., 2001.

  
Notary Public

My commission expires:

2-22-08



# **EXHIBIT**

## **A**

**COPY**  
9/11/01

**ASSET PURCHASE AGREEMENT**

This Asset Purchase Agreement (the "**Agreement**") is made as of August 30, 2001, by and between **ONESTAR LONG DISTANCE, INC.**, an Indiana corporation ("**OneStar**"), and **AS TELECOMMUNICATIONS, INC.**, an Arizona corporation ("**ALLSTAR**").

WITNESSETH

In consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I  
PURCHASE AND SALE OF ASSETS**

**1.1 Purchase and Sale; Purchase Price; Liabilities.**

(a) ALLSTAR acknowledges and agrees that its representations, covenants, warranties, agreements, indemnities and other undertakings contained in this Agreement are made and given to induce OneStar to enter into this Agreement and consummate the transactions contemplated by this Agreement and that OneStar in reliance thereon has agreed to execute this Agreement and consummate the transactions contemplated by this Agreement. Subject to the satisfaction or waiver of the conditions set forth in this Agreement, on the Closing Date (as hereinafter defined), ALLSTAR shall sell, convey, transfer, assign, and deliver to OneStar free and clear of all liens, debts, obligations, limitations, liability for successor obligations, restrictions on transfer, agent payments, claims, charges, and encumbrances other than the Assumed Liabilities (as hereinafter defined), and OneStar will purchase all right, title, and interest in and to only the following assets of ALLSTAR (i) ALLSTAR's long distance customer base named "ALLSTAR"; (ii) long distance customer deposits; (iii) the use of the name "AS Telecommunications, Inc.," inclusive of any trademarks for a period of six (6) months; (iv) all accounts receivable at the Closing Date; (v) use of ALLSTAR's books, records, ledgers, documents, correspondence, lists, creative material, advertising and promotional materials, studies, reports, and other printed or written materials; and (vi) access to and use of any of ALLSTAR's computer systems that may contain customer information pertaining to the Assets (the "Assets"). Notwithstanding the foregoing, OneStar shall not purchase or acquire any assets of ALLSTAR not set forth above in this Section 1.1, and in particular shall not purchase any cash or cash equivalents of ALLSTAR, causes of action, choses in action, rights of recovery, rights of set-off, any switches, or any equipment or furniture.

(b) OneStar shall have the option to decline to purchase any accounts included in the Assets that:

(i) Have been slammed, crammed or that have filed formal complaints, for any reasons, against ALLSTAR with either state or federal regulatory agencies;

- (ii) Have been secured through trade agreements;
- (iii) Relate to companies engaged in the process of inbound and outbound telemarketing activities;
- (iv) Involved the sale of products or services which deviate from current price structures or represent pricing below existing marketing programs unless agreed to by OneStar; or
- (v) Have outstanding balances greater than sixty (60) days old from date of invoice.

(c) In full payment for the Assets, and also in consideration of the representations, covenants, warranties, agreements, and indemnities of ALLSTAR contained in this Agreement and the other agreements and documents contemplated hereby, OneStar shall pay ALLSTAR and ALLSTAR will accept a sum equal to two and one-half (2 ½) times the Monthly Revenue as defined herein, as of the Closing Date of this Agreement (the "**Purchase Price**").

For purposes of this Agreement, "**Monthly Revenue**" shall be defined as revenue billed, for the most recent full monthly billing period prior to the closing date, that does not include the following: federal, state, and local taxes, ALLSTAR administrative phone bills, accounts whose outstanding balances are greater than sixty (60) days old from date of invoice, fees (including monthly service fees, primary interexchange carrier charges ("PICC"), universal service fund ("USF") charges, late fees and pay phone use charges) as well as other special charges for billing and other special services provided by OneStar not previously supplied by ALLSTAR, local loop charges for T-1/dedicated services and other telecommunications services not previously supplied by ALLSTAR attributable to post-closing billing by OneStar on customer accounts included among the Assets.

(d) The Purchase Price shall be paid as follows:

(i) Upon execution of this Agreement, the sum of One Hundred Thousand Dollars (\$100,000) paid in cash or readily certifiable funds shall be paid to ALLSTAR as a deposit ("**Deposit**"). Said Deposit shall be returned to OneStar in the event that the transaction contemplated by this Agreement does not close pursuant to Article VI hereof.

(ii) At the Closing, OneStar shall pay to ALLSTAR Three Hundred Thousand Dollars (\$300,000).

(iii) The balance of the Purchase Price shall be paid in four (4) equal installments every thirty (30) days beginning thirty (30) days after the Closing Date. All remittances shall be transmitted and paid by wire transfer.

(e) As of the Closing, OneStar shall assume the obligations under contracts of ALLSTAR only to the extent set forth on Exhibit 1.1(e) attached hereto (the "Assumed Contracts") accruing after the Closing (such obligations and liabilities are referred to herein as the "Assumed Liabilities"). The Assumed Liabilities shall in no event include (i) obligations arising out of any breach or failure of performance of or under an Assumed Contract on or before the Closing or any breach or failure of performance by ALLSTAR, its shareholders, agents or employees of or under any Assumed Contract at any time, or (ii) any obligation or liability not expressly disclosed in this Agreement or an Assumed Contract.

(f) It is understood and agreed that as of the Closing, except as otherwise expressly provided herein, OneStar will not assume any liabilities or obligations of ALLSTAR, whether incurred before or after the Closing, deriving from ALLSTAR's operation of the Assets prior to the Closing, including, but not limited to, accounts payable, accrued expenses, city, county, or state sales and use taxes, city or county personal property taxes, federal excise taxes, local or state business license fees, payphone compensation fees, payroll and/or withholding taxes, state income or franchise taxes, governmental fees or payments, including but not limited to USF fees, which may arise in connection with or as a result of the transactions contemplated by this Agreement or any other transactions of ALLSTAR, and ALLSTAR shall retain and be responsible for all such other liabilities and obligations deriving from ALLSTAR's operation of the Assets prior to the Closing. Notwithstanding the foregoing, ALLSTAR shall not be obligated to pay to a taxing authority or reimburse OneStar or any Affiliate for Taxes that have been billed or collected by OneStar or an Affiliate from customers for remission to the appropriate taxing authority for a Tax period, and with respect to such Taxes collected by ALLSTAR on or before the Closing Date, that have been properly remitted to the appropriate taxing authority for such Tax period.

1.2 **Time and Place of Closing.** The closing (the "Closing") shall occur on such date (the "Closing Date") at such time and at Bamberger, Foreman, Oswald and Hahn, LLP, 7<sup>th</sup> Floor Hulman Building, 20 N.W. 4<sup>th</sup> Street, Evansville, Indiana 47708 as soon as practicable after all of the conditions to the obligations of the parties hereto shall have been satisfied or waived but in no event later than October 1, 2001.

## ARTICLE II REPRESENTATIONS AND WARRANTIES OF ONESTAR

OneStar represents and warrants to ALLSTAR as follows, which representations and warranties are made as of the date hereof and as of the Closing date and shall survive the Closing:

2.1 **Organization.** OneStar is a corporation duly organized, validly existing and in good standing under the laws of the state of Indiana, with full power and authority to own its properties and assets and to carry on lawfully its business as currently conducted.

2.2 **Authorization.** OneStar has full legal right, power, and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement. The execution, delivery, and performance by OneStar of this Agreement have been duly and

validly authorized by the Board of Directors of OneStar and this Agreement constitutes the valid and binding agreement of OneStar, enforceable in accordance with its terms, subject to (i) general principles of equity, regardless of whether enforcement is sought in a proceeding in equity or at law, and (ii) bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium, receivership or other similar laws relating to or affecting creditors' rights generally.

2.3 **Noncontravention.** Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby, will result in the breach of any term or provision of, constitute a default under, or accelerate or augment the performance otherwise required under, the Articles of Incorporation or By-Laws of OneStar or any agreement (including without limitation any loan agreement or promissory note), indenture, instrument, order, law or regulation to which OneStar is a party or by which it is bound, subject to obtaining the consent or approval of OneStar lenders and applicable regulatory commissions.

2.4 **Financing.** OneStar has funds or other financial resources available sufficient to consummate the transactions contemplated by this Agreement on the terms contemplated by this Agreement, including the payment of the Deposit upon the execution of this Agreement and the Purchase Price as provided hereunder. At the Closing, OneStar will have available all of the funds necessary for the acquisition of the Assets pursuant to this Agreement, and to perform its obligations under this Agreement.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF ALLSTAR

ALLSTAR represents and warrants to OneStar as follows, which representations and warranties are made as of the date hereof and as of the Closing Date and shall survive the Closing.

#### 3.1 **Organization.**

(a) ALLSTAR is a corporation duly organized, validly existing, and in good standing under the laws of the state of Arizona, is duly qualified and in good standing as a foreign corporation in the states set forth in Exhibit 3.1, attached hereto with full power and authority to own its properties and assets and to carry on lawfully its business as currently conducted, and is not required to be qualified to do business as a foreign corporation in any other jurisdiction.

3.2 **Investments.** ALLSTAR does not hold any securities of, or any interest in, any other person or entity.

3.3 **Organizational Documents.** A true, complete, and correct copy of the Articles of Incorporation and the By-Laws of ALLSTAR together with all amendments thereto (the "ALLSTAR Organizational Documents") have been delivered to OneStar, as set forth on Exhibit 3.2 attached hereto.

3.4 **Ownership.** The name and residence address of each of the shareholders of ALLSTAR and the respective ownership percentages held by each shareholder are set forth in Exhibit 3.4 attached hereto. There are no outstanding options or other rights to acquire stock in ALLSTAR or restrictions on the transfer of such stock except as set forth in Exhibit 3.4 attached hereto.

3.5 **Authorization.** ALLSTAR has full legal right, power, and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement. The execution, delivery and performance by ALLSTAR of this Agreement and the other agreements and documents referred to herein and the actions contemplated hereby and thereby have been duly and validly authorized by all necessary action, and this Agreement and such other agreements and documents constitute valid and binding obligations of ALLSTAR, enforceable in accordance with their terms, subject to (i) general principles of equity, regardless of whether enforcement is sought in a proceeding in equity or at law, and (ii) bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium, receivership or other similar laws relating to or affecting creditors' rights generally.

3.6 **Financial Statements and Absence of Changes.** The financial information concerning ALLSTAR provided to OneStar by ALLSTAR is true, correct and complete in all respects and accurately reflects the financial condition and the results of operations of ALLSTAR. As of January 1, 2001, ALLSTAR's revenue constituted less than 5% of the consolidated revenue of STAR Telecommunications, Inc.

3.7 **Title to and Condition of Assets and Property.** ALLSTAR has, or will have by the Closing, good and marketable title to the Assets, free and clear of all liens, claims, debts, obligations, limitations, liability for successor obligations, restrictions on transfer, charges, security interests, options, or other title defects or encumbrances, except as set forth in Exhibit 3.7 attached hereto.

3.8 **Intellectual Property.** Except as set forth in Exhibit 3.8 attached hereto, ALLSTAR does not have any patents, copyrights, trade names, trademarks, service marks, other such names or marks ("Intellectual Property") or applications therefor and has not conducted business under any trade or fictitious name other than its current name. No other Intellectual Property is required in the operation of the business of ALLSTAR as currently conducted. Other than as set forth on Exhibit 3.11, ALLSTAR is not aware of any pending or threatened claims of infringement upon the rights to any intellectual property of others or, except as set forth in Exhibit 3.11 attached hereto, any agreements or undertakings with respect to any such rights.

3.9 **Liabilities.** Except as set forth on Exhibit 3.9, ALLSTAR had no material liabilities or obligations since the date of the most recent financial information provided to OneStar, secured or unsecured (whether accrued, absolute, contingent or otherwise), including, without limitation, tax liabilities due or to become due, and ALLSTAR has not incurred, and will not incur, any liabilities or obligations since the date of the most recent financial information provided to OneStar, except liabilities permitted by this Agreement.

Except as set forth in Exhibit 3.9 attached hereto, ALLSTAR has no obligations or liabilities, whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, secured or unsecured, which could be affected by the execution and delivery of this Agreement or consummation of the transactions contemplated by this Agreement or which could affect the same.

3.10 **Contracts.** Except as set forth in Exhibit 3.10 attached hereto or in any other Exhibit attached hereto and referenced below, true, correct and complete copies of which referenced items have previously been delivered to OneStar, ALLSTAR is not a party to or bound by any of the following (hereinafter, any of the following are referred to collectively as the "Contracts" and individually as a "Contract"):

(a) contract for the purchase or sale of services, equipment, inventory, materials, supplies, or any capital item or items, or supply agreements with the federal government or any state or local government or any agency thereof;

(b) collective bargaining agreement or other agreement with any labor union or labor organization or any employment, consulting, severance, bonus, deferred compensation or similar agreement;

(c) agreement, indenture or other instrument relating to the borrowing of money or guaranty of any obligation for the borrowing of money;

(d) tenancy, lease, license or similar agreement relating to property except as set forth in Exhibit 3.9 attached hereto;

(e) license, lease or other agreement to provide or acquire telecommunications or other services or equipment of any kind;

(f) any insurance policies naming ALLSTAR as an insured or beneficiary or as a loss payee, or for which ALLSTAR has paid all or part of the premium;

(g) any instrument or agreement relating to indebtedness by way of lease-purchase arrangements, conditional sale, guarantee or other undertakings on which others rely in extending credit, any joint venture agreements or any chattel mortgages or other security arrangements;

(h) any agreement or contract with, or any obligation to or from, an Affiliate, or a shareholder of ALLSTAR. For purposes of this Agreement, "Affiliate" shall mean: any person or entity (i) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity involved, including, without limitation, shareholders, officers, and directors; (ii) that directly or beneficially owns or holds five percent (5%) or more of any equity interest in the person or entity involved; or (iii) five percent (5%) or more of whose voting securities (or in the case of a person which is not a corporation, five percent (5%) or more of any equity interest) is owned directly or beneficially by the person or entity involved. As used herein, the term "control" shall mean

possession, directly or indirectly, or the power to direct or cause the direction of the management or policies of a person or entity, whether through ownership of securities, by contract or otherwise; or

(i) any other agreements, contracts, powers of attorney, bids or proposals, whether written or oral.

Except as set forth in Exhibit 3.11 attached hereto, neither ALLSTAR nor, to the knowledge of ALLSTAR without inquiry of other parties to such Contract, any other party to any such Contract has breached any provisions of, or is in violation or default under the terms of, or has caused or permitted to exist any event that with or without due notice or lapse of time or both would constitute a default or event of default under, any such Contract. All such Contracts are valid, binding, and in full force and effect, subject to (i) general principles of equity, regardless of whether enforcement is sought in a proceeding in equity or at law, and (ii) bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium, receivership or other similar laws relating to or affecting creditors' rights generally. To the knowledge of ALLSTAR, any Assumed Contract will continue in full force and effect to the benefit of OneStar, without change following the consummation of the transactions contemplated by this Agreement without obtaining the consent of any other party thereto, except as set forth in Exhibit 3.13(b) attached hereto, and the execution and delivery of this Agreement by ALLSTAR and the consummation of the transactions contemplated by this Agreement will not violate or cause a default or event of default under any provision of, or result in the acceleration of any obligation under, or the termination of any Contract.

**3.11 Litigation and Compliance.** Except as set forth in Exhibit 3.11 attached hereto, there is no pending or, to the knowledge of ALLSTAR, threatened claim, lawsuit or administrative proceeding by or against, or to the knowledge of ALLSTAR, no investigation of, ALLSTAR or the operation of its business or any of the Assets. The business of ALLSTAR is not affected by any pending or, to the knowledge of ALLSTAR, threatened strike or other labor disturbance. ALLSTAR and the operation of its business are in compliance with all federal, state, and local laws and regulations and administrative orders and all tariffs, rules and regulations of local exchange carriers and inter-exchange carriers applicable thereto where the failure to be in compliance could have a material adverse effect on the Assets, the business or condition of ALLSTAR or the transactions contemplated by this Agreement. ALLSTAR has not received written notice of any order, writ, injunction or decree relating to or affecting the operations or the business of ALLSTAR or the transactions contemplated by this Agreement.

**3.12 Noncontravention.** Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will result in the breach of any term or provision of, constitute a default under, or accelerate or augment the performance otherwise required under, any provision of the ALLSTAR Organizational Documents or any agreement (including, without limitation, any loan agreement or promissory note), indenture, instrument, order, law or regulation applicable to ALLSTAR or the Assets or to which ALLSTAR is a party, or will result in the creation of any lien or encumbrance upon any property, including, but not limited to, the Assets of ALLSTAR other than such breaches or defaults, possible



modifications or accelerations which individually or in the aggregate would not have a material adverse effect on the Assets or on the ability of ALLSTAR to consummate the transactions contemplated by this Agreement.

### 3.13 Licenses, Permits, and Required Consents.

(a) ALLSTAR has all federal, state, and local franchises, tariffs, licenses, ordinances, certifications, approvals, authorizations, and permits necessary to the conduct of its business as currently conducted where the failure to have the same could have a material adverse effect on the Assets, the business or condition of ALLSTAR or the transactions contemplated by this Agreement ("Permits"). A list of such Permits is set forth in Exhibit 3.13(a) attached hereto, true, correct, and complete copies of which have previously been delivered to OneStar. Except as set forth in Exhibit 3.13(a) attached hereto, all Permits relating to the business of ALLSTAR are in full force and effect, and to the knowledge of ALLSTAR, no violations have been made in respect thereof, and no proceeding is pending or, to the knowledge of ALLSTAR, threatened which could have the effect of revoking or limiting any such Permits, except where such revocation or limitation would not have a material adverse effect on the Assets. The Permits will not cease to remain in full force and effect by reason of the transactions contemplated by this Agreement.

(b) Exhibit 3.13(b) attached hereto sets forth all material registrations, filings, applications, notices, transfers, consents, approvals, orders, qualifications, authorizations, certifications, or waivers required to be made, filed, given or obtained by or on behalf of ALLSTAR or any of its shareholders with, to or from any persons, governmental authorities or private entities in connection with the consummation of the transactions contemplated by this Agreement.

3.14 Insurance. Exhibit 3.14 attached hereto sets forth a list of all material policies of insurance which insure the properties, including but not limited to the Assets, business or liability of ALLSTAR, setting forth the types and amounts of coverage, true, correct, and complete copies of which have previously been delivered to OneStar. Each of such policies is current and in full force and effect and ALLSTAR has not received written notice of default under, or intended cancellation or nonrenewal of, any such policies. ALLSTAR has not been refused any insurance by an insurance carrier to which it has applied for insurance in the past year. ALLSTAR shall bear the risk of loss of, or damage to, the Assets through the Closing and shall be entitled to any insurance proceeds if the Closing does not occur or shall be entitled to such proceeds to the extent the Purchase Price is reduced by mutual agreement of the parties as a result of the loss or damage involved with OneStar being entitled to the balance thereof if the Closing occurs.

3.15 Taxes and Returns. ALLSTAR is properly classified and taxed as a corporation for federal income tax purposes. "Taxes" means all federal, state, county, and local, and all foreign and other, income, franchise, excise, tariff, gross receipts, sales and use, payroll, real and personal property and other taxes and governmental charges, assessments and contributions for which ALLSTAR is or may be liable, including interest and penalties required to be paid, collected or withheld. All Taxes with respect to all open years have been

paid or collected or withheld and remitted to the appropriate governmental agency except for any Taxes which ALLSTAR is contesting in good faith which have been noted in the Financial Statements, and except for taxes not yet payable which have been adequately provided for in the Financial Statements. True, complete, and correct returns (including, without limitation, information returns and other material information) have been timely filed with the appropriate governmental agency with respect to all taxes and the copies thereof which have been provided to OneStar pursuant to its request are true, accurate, and complete. ALLSTAR has not filed or entered into any election, consent or extension agreement that extends any applicable statute of limitations or the time within which a return must be filed. ALLSTAR is not a party to any action or proceeding, pending or threatened, by any governmental authority for assessment or collection of Taxes, no unresolved claim for assessment or collection of Taxes has been asserted, no audit or investigation by any governmental authority is pending or threatened and no such matters are under discussion with any governmental authority. No deficiencies for taxes have been claimed, proposed or assessed by any taxing or other governmental authority. ALLSTAR has not made an election, and is not required, to treat any asset as owned by another person for federal income tax purposes or as tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code.

3.16 **Changes**. Except as otherwise expressly disclosed on the Exhibits hereto or as otherwise disclosed to OneStar, since January 1, 2001, there has not been:

- (a) any damage, destruction, other casualty loss or other occurrence that could, individually or in the aggregate, have a material adverse effect on the value of the Assets or the business or condition of ALLSTAR;
- (b) any disposition of any asset of ALLSTAR other than in the ordinary course of business;
- (c) any amendment, modification or termination of any existing, or entering into any new contract, agreement, lease, license, permit or franchise that could, individually or in the aggregate, have a material adverse effect on the value of the Assets or the business or condition of ALLSTAR;
- (d) any changes in the accounting methods or practices followed by ALLSTAR or any change in depreciation or amortization policies or rates; or
- (e) any other material adverse change in the assets (including, but not limited to, the Assets), business or condition of ALLSTAR.

3.17 **No Adverse Actions**. There is no existing, pending or, to the knowledge of ALLSTAR, threatened termination, cancellation, limitation modification or change in the business relationship of ALLSTAR with any supplier, customer or other person or entity except as are immaterial individually and in the aggregate and which are in the ordinary course of business.

3.18 **Labor Matters.** ALLSTAR, to its knowledge, has no obligations, contingent or otherwise, under any employment or consulting agreement (except if and as set forth in Exhibit 3.11 attached hereto) or collective bargaining agreement or other contract with a labor union or other labor or employee group, and OneStar will incur no liability or obligation with respect to any employee, consultant or agent of ALLSTAR as a result of or arising out of the consummation of the transactions contemplated by this Agreement. There are no efforts presently being made or, to the knowledge of ALLSTAR, threatened by or on behalf of any labor union with respect to employees of ALLSTAR. ALLSTAR, to its knowledge, is in compliance with all federal, state or other applicable laws, respecting employment and employment practices, terms and conditions of employment and wages and hours, except where any failure to comply with such laws would not have a material adverse effect on the Assets, and has not and is not engaged in any unfair labor practice; no unfair labor practice complaint against ALLSTAR is pending or, to the knowledge of ALLSTAR, threatened before the National Labor Relations Board; there is no labor strike, dispute, slowdown or stoppage pending or, to the knowledge of ALLSTAR, threatened against or involving ALLSTAR; no representation question exists respecting the employees of ALLSTAR; no grievance or internal complaint which could reasonably be expected to have a material adverse effect upon ALLSTAR or the conduct of its business exists; no arbitration proceeding arising out of or under any collective bargaining agreement is pending and no claim therefor has been asserted; and no collective bargaining agreement is currently being negotiated by ALLSTAR.

3.19 **Payment of Obligations.** ALLSTAR will pay all its obligations and liabilities related to the operation of the Assets prior to the Closing as and when the same become due and payable.

3.20 **Disclosure.** To the knowledge of ALLSTAR, no representation, warranty or statement made by or on behalf of ALLSTAR in this Agreement or the Exhibits attached hereto or in the certificates or other materials furnished or to be furnished to OneStar or its representatives in connection with this Agreement and the transactions contemplated hereby or thereby, contains or will contain any untrue statement of fact or omits or will omit to state a fact required to be stated herein or therein or necessary to make the statements contained herein or therein not misleading in any material respect. To the knowledge of ALLSTAR, all information and documents provided prior to the date of this Agreement, and all information and documents subsequently provided, to OneStar or its representatives by or on behalf of ALLSTAR, contain, or will be or will contain as to subsequently provided information or documents, true, accurate and complete information with respect to the subject matter thereof and are, or will be as to subsequently provided information or documents, fully responsive to any specific request made by or on behalf of OneStar or its representatives. Prior to the Closing, full disclosure shall have been made to OneStar of all material facts that ALLSTAR is aware of with respect to ALLSTAR and its business, assets, operations, condition and prospects, and the transactions contemplated by this Agreement or such information shall have been made available to OneStar. Through the Closing, ALLSTAR shall promptly notify OneStar of any change or event which ALLSTAR believes could adversely affect the Assets or the operations, business, conditions or prospects of ALLSTAR.

3.21 **Agency Agreements.** Exhibit 3.21 contains all of the material agency agreements, written or verbal, between ALLSTAR and any third party pursuant to which such third party has acquired customers for ALLSTAR which are included in the Assets or to whom ALLSTAR owes any form of compensation for sales to customers included in the Assets. As of the Closing Date, all agent commissions are paid in full.

3.22 **Trade Agreements.** Exhibit 3.22 contains all the material trade agreements, written or verbal, between ALLSTAR and any third party pursuant to which ALLSTAR provides long distance services in exchange for consideration other than its ordinary and customary cash payment.

#### ARTICLE IV ADDITIONAL AGREEMENTS OF THE PARTIES

4.1 **Ordinary Course.** Prior to the Closing, without OneStar's written consent, ALLSTAR covenants, represents, and warrants that ALLSTAR shall not have:

(a) sold, assigned, transferred, leased, mortgaged, pledged or subjected to lien, or otherwise encumbered, any of the Assets other than pledges which shall be released as of the Closing;

(b) managed customer accounts, equipment, inventories, and other supplies other than in the ordinary course of business;

(c) issued or sold any stock or granted options with respect to, or rights to purchase, any stock, or made any commitment to issue or sell any such stock;

(d) except as required by law (including, but not limited to, the fiduciary duties of ALLSTAR or any of its Affiliates, advisors or representatives), directly or indirectly through any investment banker or other representative or otherwise, solicited, entertained or negotiated with respect to any inquiries or proposals from any person relating to: (1) the combination of ALLSTAR with any person or entity; (2) the direct or indirect acquisition by any person of any of the Assets; or (3) the acquisition of any interest in ALLSTAR. ALLSTAR shall promptly notify OneStar of any inquiries or proposals they may receive relating to any such matters including in such notification the relevant details of the inquiry or proposal;

(e) entered into any agreement or transaction (i) pursuant to which the aggregate financial obligation of ALLSTAR may exceed Five Thousand Dollars (\$5,000) individually or Ten Thousand Dollars (\$10,000) in the aggregate, (ii) which is not terminable by ALLSTAR without penalty upon no more than thirty (30) days' notice, or (iii) except as otherwise provided in this Agreement;

(f) made or authorized any compensation increase, other than (i) pursuant to existing contractual obligations set forth in Exhibit 3.11 attached hereto, or (ii) increases to employees of ALLSTAR in the ordinary course of business consistent with past practices of

ALLSTAR and not in excess of a five percent (5%) annual increase individually, whether such increase relates to base compensation, commissions, bonuses or benefits, or otherwise;

(g) declared, paid or set aside for payment any distribution or return of capital in respect of ownership of stock or, directly or indirectly, purchased or otherwise acquired any of its stock;

(h) made any new elections with respect to Taxes relating to the Assets or other changes in current elections with respect to Taxes relating to the Assets; or

(i) otherwise entered into any transaction or taken other action not in the ordinary course of business.

#### **4.2 Access Prior to Closing, Customer Information, Carrier Contact.**

(a) Upon reasonable notice and during regular business hours from the date hereof through the Closing, ALLSTAR and their respective agents and employees shall afford OneStar and its representatives (including, without limitation, its independent public accountants, attorneys, and banks' or other lenders' representatives) reasonable access to, and opportunity to examine, any and all of the premises, properties, contracts, books, records, business, data, personnel, customers, and vendors of or relating to the Assets, ALLSTAR, or its operations. ALLSTAR and its respective agents and employees shall cooperate fully in connection with the foregoing.

(b) Without limiting the generality of the foregoing, from the date of execution of the Agreement, ALLSTAR shall provide OneStar and authorize OneStar's use of proprietary data related to customer accounts and billing, including, without limitation, customer name and billing information, address, billing telephone number ("BTN"), and automatic number identification ("ANI"); rates/rate, plans/rating, programs/discount plans, etc.; sales programs and associated marketing collateral materials; account balances and aging on a per account basis, and authorize OneStar's use of proprietary data related to any and all applications, comments on accounts, written correspondence, computer records in data format, and current copies of ALLSTAR tariffs, including Interstate, International and applicable Intrastate tariffs. OneStar shall require transfer of client, rating and product databases, and full access to online accounts upon execution of this Agreement, and at least thirty (30) days prior to Closing. Notwithstanding the foregoing, in the event that the Closing does not occur or this Agreement is terminated pursuant to Article VII hereof, OneStar's authority to use the proprietary information described in this Section 4.2 shall be revoked and OneStar shall immediately cease using such proprietary information and will immediately return any such proprietary information in its possession to ALLSTAR. In the event that OneStar's authority to use the proprietary information is terminated, OneStar further agrees within ten (10) business days following receipt of a written request from ALLSTAR, to execute and deliver to ALLSTAR any instruments of transfer as may be reasonably necessary to transfer record and beneficial ownership of such proprietary information to ALLSTAR free and clear of all claims, liens and encumbrances derived from, or related to, OneStar's operation of the Assets or use of such

proprietary information. The foregoing obligations shall survive any termination of this Agreement.

4.3 **Regulatory and Other Authorizations.** From the date of execution of this Agreement, ALLSTAR agrees to allow OneStar use of ALLSTAR's certifications and tariffs for a transitional period to allow OneStar time to modify or acquire its own certificates and tariffs for a period of time not to exceed one hundred eighty (180) days from Closing. ALLSTAR shall obtain where required of ALLSTAR or its stockholders, and/or shall cooperate fully with OneStar in obtaining where required of OneStar, all governmental, regulatory and third-party approvals, orders, qualifications, waivers, consents, filings, authorizations, certifications or other actions necessary in order to consummate the transactions contemplated hereby. The parties hereto will not take any action that will have the effect of delaying, impairing or impeding the receipt of any of the foregoing and will use their best efforts to secure the same as promptly as possible. Notwithstanding the foregoing, in the event that the Closing does not occur or this Agreement is terminated pursuant to Article VII hereof, OneStar shall cease using ALLSTAR's certifications and tariffs immediately upon written notice from ALLSTAR. The foregoing obligations shall survive any termination of this Agreement.

4.4 **Further Assurances.** At any time and from time to time at or after the Closing, the parties agree to cooperate with each other, to execute and deliver such other documents, instruments of transfer or assignment, files, books and records and do all such further acts and things as may be reasonably required to carry out the transactions contemplated hereby. ALLSTAR will cooperate in the transition of the Assets and data, both electronic and hard copy.

4.5 **Payment of Taxes.** Except as otherwise provided herein, OneStar shall pay all sales taxes, other property transfer taxes, all documentary or other stamp taxes, and all similar transfer taxes related to the Assets, if any, arising after Closing, provided nothing contained herein shall preclude OneStar or its shareholders from contesting in good faith any tax pursuant to established governmental procedures. Except as otherwise provided herein, OneStar and ALLSTAR shall each pay 50% of all sales taxes, other property transfer taxes, all documentary or other stamp taxes, and all similar transfer taxes related to the Assets, if any, arising on or prior to Closing.

4.6 **Delivery.** The parties shall cause the delivery of the respective documents required to be delivered or caused to be delivered by them pursuant to Article VI below.

4.7 **Indemnity by ALLSTAR.** For a period of two (2) years from the Closing Date, ALLSTAR agrees to indemnify and defend OneStar, its Affiliates and their respective directors, officers, shareholders, employees, agents, successors and assigns against, and hold each and every one of the foregoing harmless from, any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs or expenses, whether accrued, absolute, contingent or otherwise, including but not limited to court costs and attorneys' fees, which any of the foregoing may incur or to which any of the foregoing may be subjected, arising out of or otherwise based upon any of the following:

(a) Any misrepresentation or breach of warranty or representation by ALLSTAR or any breach or default by ALLSTAR of or under any of the covenants or other provisions of this Agreement;

(b) All liabilities, obligations, and commitments of, or claims against, ALLSTAR, including but not limited to accounts payable, accrued expenses, city, county or state sales and use taxes, federal excise taxes, local or state business license fees, payphone compensation fees, payroll and/or withholding taxes, state income or franchise taxes, governmental fees or payments, including but not limited to USF fees, and those which may accrue by operation of law or otherwise to OneStar, an Affiliate of OneStar or their respective successors or assigns related in any manner to the Assets acquired by ALLSTAR and relating to any period on or before the Closing Date, other than the Assumed Liabilities and other than Taxes imposed on ALLSTAR but which have been collected by OneStar from customers; or

(c) Any act or omission of ALLSTAR, any of its shareholders, or any of their respective agents or employees in connection with any services performed, any products sold, delivered or furnished or any contracts or claimed contracts with third parties related in any manner to the Assets acquired by ALLSTAR and relating to any period on or before the Closing Date.

(d) Failure to comply with any bulk transfer law, bulk transfer tax law or similar statute of any state or jurisdiction in connection with the transactions contemplated by this Agreement; or

(e) Any claim or cause of action asserted or commenced by any employee of ALLSTAR, other than with respect to the transactions contemplated by this Agreement, arising prior to Closing.

4.8 **Indemnity by OneStar.** For a period of two (2) years from the Closing Date, OneStar agrees to indemnify and defend ALLSTAR, its Affiliates and their respective directors, officers, shareholders, employees, agents, successors and assigns against, and hold each and every one of the foregoing harmless from, any and all damages, losses, claims, liabilities, demands, charges, suits, penalties, costs or expenses, whether accrued, absolute, contingent or otherwise, including but not limited to court costs and attorneys' fees, which any of the foregoing may incur or to which any of the foregoing may be subjected, arising out of or otherwise based upon any of the following:

(a) Any misrepresentation or breach of warranty or representation by OneStar or any breach or default by OneStar of or under any of the covenants or other provisions of this Agreement;

(b) All liabilities, obligations, and commitments of, or claims against, OneStar, including, but not limited to, OneStar's assumption of the Assumed Liabilities, accounts payable, accrued expenses, city, county or state sales and use taxes, federal excise taxes, local or state business license fees, payphone compensation fees, payroll and/or withholding taxes,

state income or franchise taxes, governmental fees or payments, including but not limited to USF fees, and those which may accrue by operation law or otherwise to ALLSTAR, an Affiliate of ALLSTAR or their respective successors or assigns, related in any manner to the Assets acquired by OneStar and relating to any period after the Closing Date; or

(c) Any act or omission of OneStar, any of its shareholders, or any of their respective agents or employees in connection with any services performed, any products sold, delivered or furnished or any contracts or claimed contracts with third parties related in any manner to the Assets acquired by OneStar and relating to any period after the Closing Date.

4.9 **Limitation on Liability.** The aggregate liability of ALLSTAR under Section 4.7 shall not exceed the Purchase Price. The aggregate liability of OneStar under Section 4.8 shall not exceed the Purchase Price.

The obligations set forth in Sections 4.7, 4.8 and 4.9 shall survive any termination of this Agreement.

4.10 **Employees.** ALLSTAR hereby acknowledges that OneStar has no obligation to employ any of the employees of ALLSTAR. ALLSTAR shall not make any representation to the contrary to any of such employees; provided, however, OneStar and/or its Affiliates may interview or otherwise contact such employees regarding any future employment. If and to the extent OneStar so requests, ALLSTAR will use its reasonable best efforts to cause employees of ALLSTAR designated by OneStar to become employees or consultants of OneStar, with it being understood and agreed that such employment or engagement shall be with no contractual obligation on the part of OneStar to continue any such employment or engagement, which employment or engagement shall be upon terms and conditions satisfactory to OneStar. Notwithstanding the foregoing, nothing contained in this Agreement shall require ALLSTAR to expend any money in excess of expenditures in the ordinary course of business consistent with past practice in fulfillment of the obligations set forth in this Section.

4.11 **Continued Relationships.** Prior to the Closing, ALLSTAR shall use its best efforts to preserve intact the business of ALLSTAR and keep available the services of its officers and employees and maintain good relationships with suppliers, customers, and others having business relations with ALLSTAR, and shall use its best efforts to ensure there is no change in the business, condition or results of operations of ALLSTAR which may have a material adverse effect on the Assets or the business or condition of ALLSTAR.

4.12 **Confidentiality.**

(a) Except as contemplated by this Agreement, as required by law or otherwise expressly consented to in writing by OneStar and ALLSTAR, all information or documents furnished hereunder by any party shall be kept strictly confidential by the other party or parties to whom furnished at all times prior to the Closing Date, and in the event such transactions are not consummated, each shall return to the other all documents furnished hereunder and copies thereof upon request and shall continue to keep confidential all



information furnished hereunder and shall not thereafter use the same for its advantage. Notwithstanding the foregoing, either party may issue or make a press release, announcement or other disclosure regarding this Agreement and the transactions contemplated hereby which it reasonably determines necessary under applicable law.

(b) In the event the Closing is not consummated, each party hereto will hold in absolute confidence any information obtained from another party except to the extent (i) such party is required to disclose such information by law or regulation, (ii) disclosure of such information is necessary in connection with the pursuit or defense of a claim, (iii) such information was known by such party prior to such disclosure or was thereafter developed or obtained by such party independent of such disclosure, or (iv) such information becomes generally available to the public or is otherwise no longer confidential. Prior to any disclosure of information pursuant to the exception in clause (i) or (ii) of the preceding sentence, the party intending to disclose the same shall so notify the party which provided the same in order that such party may seek a protective order or other appropriate remedy should it choose to do so.

4.13 **Noncompete and Confidentiality Agreement.** As of the Closing, ALLSTAR shall have executed, without further consideration, a noncompete and confidentiality agreement in substantially the form attached hereto as Exhibit 4.12 (the "**Noncompete Agreement**").

4.14 Intentionally Omitted.

4.15 **Accounts Receivable and Accounts Payable.** ALLSTAR will assign its remittance Post Office Box to OneStar at Closing. All remittances received by ALLSTAR from customers with respect to any accounts receivable and unbilled revenue shall, at or after the date hereof, be endorsed to the order of OneStar and forwarded to OneStar immediately upon receipt thereof.

(a) All Monthly Revenue collected by OneStar on behalf of ALLSTAR from customers with respect to any accounts receivable and unbilled revenue generated prior to the date hereof, but less than ninety (90) days old from the date of invoice as of the date hereof, shall be remitted ninety percent (90%) to ALLSTAR ("**ALLSTAR Receivables Fee**"), with ten percent (10%) of such amounts retained by OneStar as a service fee. OneStar shall pay ALLSTAR the ALLSTAR Receivables Fee on a biweekly basis via wire transfer.

(b) Any receivables and unbilled revenue generated after the date hereof until Closing will be retained by OneStar less ten percent (10%) of the Monthly Revenue ("**Net Remittance**"). OneStar shall pay ALLSTAR the Net Remittance thirty (30) days after the close of the month end billing cycle via wire transfer.

(c) Upon execution of this Agreement, OneStar shall collect for ALLSTAR all of ALLSTAR's accounts receivable generated prior to the date hereof and older than eighty-nine (89) days from the date of invoice as of the date hereof. OneStar shall remit twenty-five percent (25%) of the Monthly Revenue from such accounts to ALLSTAR, retaining seventy-

five percent (75%) of the Monthly Revenue for payment of agency fees and as compensation to OneStar for its services. OneStar shall pay such sums due ALLSTAR thirty (30) days after the close of the month end billing cycle via wire transfer. For a period of one (1) year following the Closing, OneStar shall have the right from time to time to inspect the books and records of ALLSTAR relating to remittances received to determine whether or not any remittances are attributable to any accounts receivable and unbilled revenue included among the Assets.

(d) OneStar shall use best commercial efforts to collect all of ALLSTAR's accounts receivable and unbilled revenue generated prior to the date hereof.

4.16 **Carrier Costs.** From the Closing Date, OneStar will assume the carrier costs associated with the customer base and usage. Where possible, this will be accomplished by arranging an administrative transfer from ALLSTAR accounts with the carriers to the OneStar contract, if any. New contracts will be utilized where necessary. From the Closing forward, the call-detailed records forwarded by carriers will be sent directly to OneStar or its designated representatives. All bulletin board system information regarding this account posted by carriers will be accessible only by OneStar or its designated representatives.

4.17 **Carrier Contracts.** All current carrier transmission agreements must be freely and fully assignable. OneStar will not be required to assume any carrier contracts.

4.18 **Billing.** OneStar shall be authorized to use ALLSTAR's internal billing system and personnel until such time as OneStar completes the transfer to OneStar's internal billing system. Notwithstanding the foregoing, OneStar shall not be authorized to use ALLSTAR's internal billing system and personnel after October 31, 2001. OneStar shall reimburse ALLSTAR for ALLSTAR's costs and out-of-pocket expenses arising from OneStar's use of ALLSTAR's billing system and personnel. ALLSTAR shall use reasonable commercial efforts to maintain and retain its internal billing system and personnel, if necessary, until October 31, 2001, however, OneStar acknowledges and agrees that it may become cost-prohibitive for ALLSTAR to do so and that, at any such time that it becomes cost-prohibitive for ALLSTAR to do so, upon ten (10) business days' notice to OneStar, ALLSTAR will no longer be required to provide such services to OneStar. Notwithstanding the foregoing, ALLSTAR agrees that, should it become cost-prohibitive for ALLSTAR to provide such services, ALLSTAR shall assist OneStar in OneStar's efforts, if any, (i) to enter into short-term independent consulting agreements with the terminated personnel and (ii) to arrange for the continued operation of ALLSTAR's billing system by OneStar; provided, however, that ALLSTAR shall not be required to expend any money in fulfillment of the obligations set forth in this sentence.

4.19 **USF Charges.** OneStar is not responsible for any collection or remittance of USF charges on any billed or unbilled accounts receivable arising prior to the Closing, except with respect to amounts collected from customers by OneStar for such periods. ALLSTAR is responsible for payment of all such USF charges arising prior to Closing, except with respect to amounts collected from customers by OneStar for such periods.

**ARTICLE V  
CONDITIONS TO CLOSING**

5.1 **Closing Conditions of ALLSTAR.** The obligations of ALLSTAR under this Agreement are subject to the satisfaction at or prior to the Closing of each of the following conditions, but compliance with any or all of such conditions may be waived, in writing, by ALLSTAR:

(a) The representations and warranties of OneStar contained in this Agreement shall be true and correct in all material respects on the date hereof and on the Closing Date;

(b) OneStar shall have performed and complied with all of the covenants and agreements in all material respects and satisfied all of the conditions required by this Agreement to be performed or complied with or satisfied by OneStar at or prior to the Closing;

(c) All required governmental and regulatory approvals, consents and/or waiting periods shall have been obtained or shall have expired, limited in the case of those involving state public utility or service commissions to the states of Texas, Arizona, California, New York, Nevada and Pennsylvania; and

(d) No action, suit or proceeding shall have been instituted by any person or entity, or threatened by any governmental agency or body, before a court or governmental body, to restrain or prevent the carrying out of the transactions contemplated by this Agreement or that seeks other material relief with respect to any of such transactions or that could reasonably be expected to, individually or in the aggregate, have a material adverse effect on the Assets or the business or prospects of ALLSTAR. On the Closing Date, there shall be no injunction, restraining order or decree of any nature of any court or governmental agency or body in effect that restrains or prohibits the consummation of the transactions contemplated by this Agreement.

5.2 **Closing Conditions of OneStar.** The obligations of OneStar under this Agreement are subject to the satisfaction at or prior to the Closing of each of the following conditions, but compliance with any or all of any such conditions may be waived, in writing, by OneStar:

(a) The representations and warranties of ALLSTAR contained in this Agreement shall be true and correct in all material respects on the date hereof and on the Closing Date;

(b) ALLSTAR shall have performed and complied with all of the covenants and agreements in all material respects and satisfied all of the conditions required by this Agreement to be performed or complied with or satisfied by it or them at or prior to the Closing;

(c) All required governmental, regulatory, and third-party approvals, consents and/or waiting periods shall have been obtained or shall have expired, limited in the case of

those involving state public utility or service commissions to the states of Texas, Arizona, California, New York, Nevada and Pennsylvania; which regulatory approvals shall include, without limitation, authority to provide intraLATA telecommunications services in the manner currently provided by ALLSTAR;

(d) OneStar shall be satisfied with the results of its review of ALLSTAR's customer information;

(e) No action, suit or proceeding shall have been instituted by any person or entity, or threatened by any governmental agency or body, before a court or governmental body, to restrain or prevent the carrying out of the transactions contemplated by this Agreement or that seeks other material relief with respect to any of such transactions or that could reasonably be expected to, individually or in the aggregate, have a material adverse effect on the Assets or the business or prospects of ALLSTAR. On the Closing Date, there shall be no injunction, restraining order or decree of any nature of any court or governmental agency or body in effect that restrains or prohibits the consummation of the transactions contemplated by this Agreement; and

(f) There shall not have occurred any material adverse change in the Assets or the business or condition of ALLSTAR.

## ARTICLE VI THE CLOSING

6.1 **Deliveries by ALLSTAR.** At the Closing, OneStar shall receive from ALLSTAR the following, and ALLSTAR shall cause the same to be delivered to OneStar:

(a) Certificate of good standing or existence from each of the states in which ALLSTAR is organized or qualified, which issues such certificates, stating that ALLSTAR is a validly existing corporation in good standing;

(b) A certificate, dated as of the Closing, signed on behalf of ALLSTAR to the effect that the conditions specified in clauses (a) and (b) of Section 5.2 above have been satisfied;

(c) Documentation of approval of ALLSTAR's shareholders;

(d) Copies of duly adopted corporate actions approving the execution, delivery, and performance of this Agreement and the other instruments contemplated hereby certified on behalf of ALLSTAR;

(e) The duly executed Noncompete Agreement;

(f) Instruments of transfer and assignment, consents, certificates, estoppel letters and all other documents and agreements in form and substance satisfactory to OneStar which

OneStar may deem necessary to transfer to and vest in OneStar title to and ownership of the Assets.

(g) An original or photostatic copy duly certified as accurate and complete of all requisite governmental or regulatory approvals of the transactions contemplated hereby;

(h) Such other documents and instruments as OneStar may reasonably request, including, but not limited to, LOA's, applications, and term agreements;

(i) Possession of all the Assets; and

(j) Copies of the Articles of Incorporation and By-laws of ALLSTAR.

6.2 **OneStar Deliveries.** At the Closing, ALLSTAR shall receive from OneStar the following:

(a) Certificate of existence from the Secretary of State of the State of Indiana stating that OneStar is a validly existing corporation in good standing;

(b) A certificate, dated as of the Closing, signed by an officer of OneStar to the effect that the conditions specified in clauses (a) and (b) of Section 5.1 above have been satisfied;

(c) Copies of duly adopted resolutions of OneStar Board of Directors approving the execution, delivery, and performance of this Agreement, certified by its Secretary;

(d) Payment of the amount of the Purchase Price payable at the Closing pursuant to Section 1.1(b) above.

## ARTICLE VII TERMINATION

7.1 **Termination.** Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated only (a) by the mutual written consent of OneStar and ALLSTAR; (b) by either OneStar or ALLSTAR upon written notice given to the other within ten (10) days after the giving of a notice of the failure of a condition to Closing as provided herein, or (c) by OneStar or ALLSTAR if, for any reason, the Closing has not occurred on or before October 1, 2001, through no fault of such party, provided said date may be extended from time to time by mutual agreement of the parties, which agreement shall not be unreasonably withheld, in the event one or more conditions to the obligations of the parties hereunder has not been satisfied or waived.

7.2 **Effect of Termination.** In the event of the termination and abandonment of this Agreement pursuant to the preceding Section of this Agreement, this Agreement shall thereafter become void and have no effect, and without any liability on the part of any party

or its shareholders, partners, directors or officers in respect thereof, except as otherwise provided in this Agreement and except that nothing herein will relieve any party from liability for any breach of this Agreement.

## ARTICLE VIII MISCELLANEOUS

8.1 **Expenses.** Except as otherwise provided in this Agreement, ALLSTAR shall bear its own expenses, fees, and commissions (including, but not limited to, all compensation and expenses of counsel, financial advisors, brokers, consultants, actuaries, and accountants) incurred in connection with the preparation, negotiation, and execution of this Agreement and consummation of the transactions contemplated hereby. Except as otherwise provided in this Agreement, OneStar shall bear its own fees, expenses, and commissions (including, but not limited to, all compensation and expenses of counsel, financial advisors, brokers, consultants, actuaries, and accountants) incurred in connection with the preparation, negotiation, and execution of this Agreement and consummation of the transactions contemplated hereby. ALLSTAR, jointly and severally, represent and warrant to OneStar that no broker, agent or other person acting on their behalf is or will be entitled to a fee, commission or other payment as a result of or arising out of this Agreement or the transactions contemplated hereby.

8.2 **Public Disclosure.** Except as provided by Section 4.10, no press release or other public announcement or communication will be made or caused to be made concerning the terms and conditions of this Agreement unless specifically approved in advance by the parties.

8.3 **Notices.** Any notices or other communications required under this Agreement shall be in writing, shall be deemed to have been given when delivered in person, by telex or telecopier, when delivered to a recognized next business day courier, or, if mailed, when deposited in the United States mail, first class, registered or certified, return receipt requested, with proper postage prepaid, addressed as follows or to such other address as notice shall have been given pursuant hereto:

If to ALLSTAR:

AS Telecommunications  
Attn: Gordon Hutchins, Jr.  
223 East de la Guerra Street  
Santa Barbara, CA 93101  
Telecopier: (805) 884-1137

with a copy to:

Riordan & McKinzie  
300 S. Grand Ave., Ste. 2900  
Los Angeles, CA 90071  
Attn: Ronn S. Davids, Esq.

Telecopier: (213) 830-8624

If to OneStar:

OneStar Long Distance, Inc.  
Attn: Alan Powers  
7100 Eagle Crest Blvd  
Evansville, IN 47715  
Telecopier: (812) 471-5878

with a copy to:

Terry G. Farmer  
Bamberger, Foreman, Oswald and Hahn, LLP  
7<sup>th</sup> Floor Hulman Building  
P. O. Box 657  
Evansville, IN 47704-0657  
Telecopier: (812) 421-4936

8.4 **Assignment.** This Agreement may not be assigned, by operation of law or otherwise, except that OneStar may assign its rights under this Agreement in whole or in part to a subsidiary or other Affiliate of OneStar (including, but not limited to, any subsidiary or Affiliate of OneStar formed or acquired following the date hereof) or to any lender of OneStar; provided OneStar shall remain responsible for its performance of this Agreement, subject to the terms and conditions hereof.

8.5 **Section Headings.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

8.6 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile signatures delivered hereunder shall be deemed original signatures.

8.7 **Amendment.** Except as hereinafter provided, this Agreement may not be amended except by a writing signed by the party to be charged.

8.8 **Entire Agreement.** This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties and their affiliates with respect to the subject matter hereof.

8.9 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

8.10 **Survival.** The covenants, agreements, indemnities, representations and warranties of OneStar and ALLSTAR made in or pursuant to this Agreement shall survive the Closing, notwithstanding any investigation made or information obtained by or on behalf of another party.

8.11 **Severability.** In case any provision in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby unless OneStar elects otherwise.

8.12 **Third Parties.** Nothing contained in this Agreement or in any instrument or document executed by any party in connection with the transactions contemplated hereby shall create any rights in, or be deemed to have been executed for the benefit of, any person or entity that is not a party hereto or a successor or permitted assign of such a party.

8.13 **Consent to Jurisdiction, Venue.** Any action or proceeding relating in any way to this Asset Purchase Agreement may be brought and enforced in the Vanderburgh Superior Court in the City of Evansville, State of Indiana, or the United States District Court for the Southern District of Indiana, Evansville Division, and each irrevocably submits to the jurisdiction of such court and waives any objection to the laying of venue in such court or any claim that such court is an inconvenient forum.

8.14 **JURY WAIVER.** EACH PARTY HERETO WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM, OR COUNTERCLAIM, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS ASSET PURCHASE AGREEMENT OR ANY OTHER AGREEMENT EXECUTED PURSUANT HERETO.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ONESTAR LONG DISTANCE, INC.

AS TELECOMMUNICATIONS, INC.

By:   
Its: CEO

By: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ONESTAR LONG DISTANCE, INC.

AS TELECOMMUNICATIONS, INC.

By: \_\_\_\_\_

By: *Mark H. [Signature]*

Its: \_\_\_\_\_

Its: *Acting Chief Executive Officer*

**EXHIBIT 1.1(e)**

- None.

**EXHIBIT 3.1**

**GOOD STANDING**

Alabama  
Alaska  
Arizona  
California  
Delaware  
Florida  
Georgia  
Idaho  
Illinois  
Indiana  
Iowa  
Kansas  
Kentucky  
Maine  
Michigan  
Minnesota  
Mississippi  
Montana  
New Jersey

Nevada  
New Hampshire  
New Jersey  
New York  
North Carolina  
North Dakota  
Ohio  
Oregon  
Pennsylvania  
Rhode Island  
South Dakota  
Tennessee  
Utah  
Vermont  
Virginia  
Washington  
West Virginia  
Wisconsin  
Wyoming

**Note:**

- 1) ALLSTAR is currently in good standing in the states listed above as confirmed on August 27, 2001, and has a Certificate of Public Convenience and Necessity ("CPCN") and tariff on file where required.
- 2) ALLSTAR has never been certified in Hawaii or Oklahoma and never reinstated itself in South Carolina after Advanced Management Services, Inc. forfeited its certificate.
- 3) The remaining states listed in Exhibit 3.11 are not included in this Exhibit 3.1 because, to our knowledge, ALLSTAR has not filed or is in the process of filing its annual report. Of the remaining states, ALLSTAR's application for a CPCN in Louisiana is pending. ALLSTAR is certified with the Public Service Commission in each state listed on Exhibit 3.11 but not listed in this Exhibit 3.1 where required.

**EXHIBIT 3.3**

**ORGANIZATIONAL DOCUMENTS**

See attached documents.

AZ CORP COMMISSION  
FOR THE STATE OF A  
FILED

ARTICLES OF INCORPORATION

OF 235335

ADVANCED MANAGEMENT SERVICES, INC.

APPR DATE APPROX FILED  
TERM DATE TIME

We, the undersigned incorporators, desiring to form a corporation under the laws of the State of Arizona, adopt the following Articles of Incorporation.

ARTICLE I

The name of the corporation shall be:

ADVANCED MANAGEMENT SERVICES, INC. *et al*

ARTICLE II

The incorporators of the corporation are:

Ernis Rushton  
5601 West Mohave  
Phoenix, Arizona 85031

Gerald F. Ehrlich  
4001 North Third Street, Suite 400  
Phoenix, Arizona 85012

All powers, duties and responsibilities of the incorporators shall cease at the time of delivery of these Articles of Incorporation to the Arizona Corporation Commission for filing.

ARTICLE III

The corporation initially intends to conduct the business of acting as a communication service bureau and consulting firm and to do all and everything advantageous and necessary to engage in said business.

210 000 0000, 00 00 01 10:48AM; JetFax #144; Page 8

#### ARTICLE IV

The purpose for which this corporation is organized is the transaction of any or all lawful business for which corporations may be incorporated under the laws of the State of Arizona as they may be amended from time to time.

In furtherance of the purposes of the corporation, the corporation shall have the following powers:

(A) To own, acquire, hold, buy, sell, lease, rent, convey, improve, dispose of, encumber or deal in any and all kinds of real property or any interest therein, including lands, hereditaments, easements, rights of way and water rights.

(B) To buy, sell, own, pledge, hold, acquire, deal in and trade in personal property, tangible and intangible, including stocks, bonds and mortgages, and including shares of stock in this corporation; to borrow money and loan money; to give and hold collateral security, mortgages or otherwise, and to execute any and all easements incidental or necessary thereto.

(C) To make contracts with third parties, firms and corporations; to act as an incorporator of other corporations; to enter into partnerships with other persons or corporations; to make contracts with any of the officers, directors, shareholders or employees of this corporation, individually and without limitation, restriction or prejudice, including, but not limited to, profit sharing and pension plans, which contracts, when and if made, shall be considered and construed on the same basis as contracts with third parties are considered and construed, all in

furtherance of the management, operation, objects and purposes of this corporation.

(D) To hold meetings within or without the State of Arizona and to carry on any other lawful business whatsoever and to do all and everything necessary and advantageous in connection with and for the accomplishment of the foregoing, or which is calculated, directly or indirectly, to promote the interests of the corporation, and to do any or all of the things hereinbefore set forth to the same extent as natural persons could do, all upon such terms and conditions as the Board of Directors may determine.

The foregoing paragraphs shall be construed as the objects, purposes and powers of this corporation; and it is expressly intended that said objects, purposes and powers shall not be limited or restricted by reference to or inference from the terms of any other clause, term or paragraph herein contained.

ARTICLE V

The total authorized shares of the corporation shall be fifty thousand (50,000) common shares with a par value of One Dollar (\$1.00) each.

The shares of this corporation may be issued for cash, services, or property, upon such conditions and terms as may be determined by the Board of Directors, who shall have full power and authority to fix the value of the property or services for



which shares may be issued and whose valuations shall be conclusive, and the shares so issued shall be fully paid and nonassessable.

The Board of Directors may from time to time cause the corporation to purchase its own shares to the extent of the unreserved and unrestricted earned and capital surplus of the corporation.

#### ARTICLE VI

The affairs of the corporation shall be conducted by a Board of Directors, the number of which shall be determined at the annual meeting of the shareholders in the manner specified in the By-Laws of the corporation. Directors shall be elected at the annual meeting of the shareholders to be held at such time as may be provided in the By-Laws of the corporation and such Directors shall serve until their successors are elected and qualified. The following persons shall comprise the initial Board of Directors, who shall serve until their successors are elected and qualified:

Ennis Rushton  
5601 West McHavé  
Phoenix, Arizona 85031

Jerry Moyes  
5601 West McHavé  
Phoenix, Arizona 85031

Becky Kelley  
8401 East Montebello  
Scottsdale, Arizona 85250

Susan Martin  
6533 North 7th Avenue, Suite 10  
Phoenix, Arizona 85013

ARTICLE VII

The private property of the shareholders, directors, and officers of this corporation shall be forever exempt from corporate debts and liabilities.

ARTICLE VIII

Gerald F. Ehrlich, with offices at 4001 North Third Street, Suite 400, Phoenix, Arizona 85012, is hereby appointed the initial statutory agent of the corporation. The Board of Directors of this corporation may revoke this appointment of agent at any time and shall have power to fill any vacancy in such position.

IN WITNESS WHEREOF, the incorporators have hereunto set their hands this 30th day of August, 1991.

Ernie Rushton  
Ernie Rushton

Gerald F. Ehrlich  
Gerald F. Ehrlich

BY-LAWS

OF

ADVANCED MANAGEMENT SERVICES, INC.

ARTICLE I

MEETINGS OF SHAREHOLDERS

1. ANNUAL MEETINGS. A meeting of the shareholders shall be held annually on the second Tuesday of the last month of the fiscal year of the corporation for the purpose of electing directors and for the transaction of any other business that may properly come before it.

2. SPECIAL MEETINGS. Special meetings of the shareholders for any purpose or purposes shall be held whenever called by the Board of Directors, either by written instrument or by the vote of a majority, and shall be called whenever shareholders owning one-tenth (1/10) of the voting shares issued and outstanding shall in writing make application therefor to the President, stating the object of such meeting.

3. NOTICE. Notice of the meetings of the shareholders shall be delivered personally or mailed by an officer of the corporation to the last known address of each shareholder as the same appears on the records of the corporation not less than ten nor more than fifty days before the date of the meeting.

4. PLACE OF MEETING. Meetings of the shareholders shall be held at the known place of business of the corporation or at such other place as may be determined by the unanimous vote of the Board of Directors of the corporation.

5. ORGANIZATION. The President or, in his absence, the Vice-President and, in the absence of both, a chairman appointed by the shareholders present, shall call the meetings of shareholders to order and shall act as chairman thereof. The Secretary of the corporation shall act as Secretary at all meetings of the shareholders or, in his absence, the presiding officer may appoint any person to act as Secretary.

6. QUORUM. A majority of the shares issued and outstanding represented by the holders thereof, either in person or by proxy appointed by an instrument in writing, subscribed by such shareholders, shall be a quorum at all meetings of shareholders. If a quorum is present, the affirmative vote of a

majority of the shares represented at the meeting shall be the act of the shareholders unless the vote of a greater number of shares is required by law, the Articles of Incorporation, or by specific provision of these By-Laws.

7. ADJOURNMENT. If at any annual or special meeting a quorum shall fail to attend in person or by proxy, a majority in interest of the shareholders attending in person or by proxy at the time of such meeting may, at the end of any hour, adjourn the meeting from time to time without further notice until a quorum shall attend, and thereupon any business may be transacted which might have been transacted at the meeting as originally called, had the same been held.

8. VOTING. At all meetings of shareholders, every shareholder, either in person or by proxy in writing, shall have one vote for each share of stock so held and represented at such meeting. Upon the demand of any shareholder, voting for directors and, upon other question at any meeting of the shareholders, shall be by ballot. In all elections for directors of the corporation, each shareholder shall have the right to cast as many votes in the aggregate as he shall be entitled to vote based upon the number of voting shares held by such shareholder and multiplied by the number of directors to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate or distribute such votes among two or more such candidates.

9. ACTION BY RESOLUTION. A resolution in writing, signed by all of the shareholders, shall be deemed to be the action of the shareholders to the effect therein expressed with the same force and effect as if the same had been duly passed by the same vote at a duly convened meeting, and it shall be the duty of the Secretary of the corporation to record such resolution in the minute book of the corporation under its proper date.

## ARTICLE II

### BOARD OF DIRECTORS

1. NUMBER. The business and affairs of the corporation shall be managed and controlled by a Board of Directors. The first Board of Directors shall consist of the persons named in the Articles of Incorporation. Thereafter, within the limits specified in the Articles of Incorporation, the number of directors shall be changed only by the affirmative vote of a majority of the issued and outstanding shares of stock of the corporation.

The directors shall be elected at the annual meeting of the stockholders and each director elected shall hold office until his successor is elected and qualified. Directors need not be shareholders of the corporation.

2. ANNUAL MEETING. Immediately after the annual election of directors, the newly elected directors shall meet for the purpose of organization, the election of officers and for the transaction of other business.

3. SPECIAL MEETINGS. Special meetings of the Board of Directors shall be held whenever regularly called by the President or by a majority of the members of the Board of Directors. Unless otherwise specified in the notice thereof, any and all business may be transacted at a special meeting.

4. PLACE OF MEETING. Meetings of the Board of Directors, annual or special, may be held either within or without the State of Arizona and may be held by means of conference, telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this paragraph shall constitute presence in person at such meeting.

5. NOTICE. The Secretary shall give notice to each director of each special meeting by mailing the same at least five days before the time of meeting or by telegraphing or telephoning not less than two days before the time of meeting.

6. QUORUM. A majority of the Board of Directors at the time in office shall constitute a quorum for the transaction of business, but a majority of those present at the time and place of any regular or special meeting, although less than a quorum, may adjourn from time to time without notice until a quorum be had. The vote of a majority of the directors present at any meeting in favor of or against any proposition shall prevail except as herein otherwise provided.

7. VACANCIES. In case of any vacancy among the directors through death, resignation, disqualification or other cause, the remaining directors, by the affirmative vote of a majority thereof, whether or not constituting a quorum, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant and until the election and qualification of his successor.

8. COMMITTEES. From time to time, the Board may appoint committees for any purpose or purposes, which shall have such powers as shall be specified in the resolution of appointment.

9. COMPENSATION. The directors and officers of the corporation and all members of committees shall serve without salary except as may be determined by the vote of a majority of all of the directors.

10. EXTENSIONS OF CREDIT. Loans or advances may be made by the corporation to employees, including employees who are on the Board of Directors of the corporation, if made with the knowledge and consent of the Board of Directors, which consent need not be in writing at the time the loans or advances are made. Such loans may reasonably be expected to benefit the corporation in retaining valuable employees and their goodwill.

11. ACTION BY RESOLUTION. A resolution, in writing, signed by all the members of the Board of Directors, shall be deemed to be action by such Board of Directors to the effect therein expressed with the same force and effect as if the same had been duly passed by the same vote at a duly convened meeting, and it shall be the duty of the Secretary of the corporation to record such resolution in the minute book of the corporation under its proper date.

### ARTICLE III

#### OFFICERS

1. EXECUTIVE. The officers of the corporation shall be a President, Vice-President, Secretary and Treasurer, and such other officers as the Board of Directors may elect. Any two or more offices may be consolidated and held by one person, except the offices of President and Secretary.

2. TENURE OF OFFICE. All officers and agents shall be subject to removal at any time, with or without cause, by the affirmative vote of a majority of the whole Board of Directors.

3. PRESIDENT. The President shall be the chief executive officer of the corporation. He shall preside at all meetings of the shareholders and of the Board of Directors, unless a chairman of the Board of Directors has been elected and is present. He shall sign and execute all authorized bonds, contracts or other obligations in the name of the corporation; shall have the power to vote, for and on behalf of the corporation, any shares which the corporation owns in another corporation; and, with the Secretary, shall sign all certificates of shares of the corporation, and shall do and perform such other duties as from time to time may be assigned to him by the Board of Directors.

4. VICE-PRESIDENT. In case of the absence or disability of the President, the duties of that office shall be performed by the Vice-President, except as may be limited by a vote of the Board of Directors.

5. TREASURER. The Treasurer shall have custody of all the securities of the corporation. He shall supervise the collection and deposit of amounts due to the corporation. He shall also supervise the disbursement of funds by the corporation and the maintenance of full and accurate accounting records for the corporation.

6. SECRETARY. The Secretary shall keep the minutes of all proceedings of the Board of Directors and the minutes of all meetings of the shareholders; he shall attend the giving and serving of all notices for the corporation and, when directed by either the President or Vice-President, shall execute in the name of the corporation all contracts authorized by the Board of Directors and shall affix the seal of the corporation thereto; he shall have charge of the certificate books and such other books and papers as the Board of Directors may direct; he shall sign with the President or Vice-President certificates of shares; and he shall, in general, perform all the duties incident to the office of the Secretary, subject to the control of the Board of Directors.

#### ARTICLE IV

##### CAPITAL SHARES

1. CERTIFICATES. The certificates for shares of the corporation shall be in such form as shall be approved by the Board of Directors. The certificates shall be signed by the President and the Secretary.

2. RECORDS. All certificates shall be consecutively numbered and the names of the owners, the number of shares and the date of issue shall be entered in the corporation's books.

3. LOST CERTIFICATES. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to

the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

4. CERTIFICATES CANCELLED. Except in the case of lost or destroyed certificates and, in that case, after compliance with the provisions of these By-Laws relating to lost certificates, no new certificate shall be issued until the former certificate for the shares represented thereby shall have been surrendered and cancelled.

5. TRANSFER. Shares shall be transferred only upon the books of the corporation by the holder thereof, in person or by his attorneys, upon the surrender and cancellation of certificates for a like number of shares.

6. RECORD DATE. In order to determine the shareholders entitled to notice of or to vote at any meeting of the shareholders of any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of shares or for the purpose of any other lawful actions the Board of Directors may fix, in advance, a record date, which shall not be more than thirty nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meetings, and further provided that the adjournment or adjournments do not exceed thirty days in the aggregate.

7. REGISTERED SHAREHOLDERS. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such other, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof.



8. REGULATIONS. The Board of Directors may make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificates or shares of the corporation.

#### ARTICLE V

##### DIVIDENDS

1. DIVIDENDS. The Board of Directors, in its discretion, from time to time, may declare dividends upon the capital shares from the surplus of net profits of the corporation and may fix the dates for the declaration and payment of dividends.

#### ARTICLE VI

##### SEAL

1. DESIGN. The corporate seal shall have inscribed thereon the name of the corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced, which seal shall be in charge of the Secretary to be used as directed by the Board of Directors.

#### ARTICLE VII

##### WAIVER OF NOTICE

1. WAIVER. Any shareholder or director may waive any notice required to be given under the provisions of the statutes of provisions of the Articles of Incorporation or these By-Laws by delivering a waiver thereof, in writing, to the Secretary of the corporation. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the waiver of notice.

#### ARTICLE VIII

##### AMENDMENT

1. AMENDMENT. These By-Laws may be altered, amended or repealed, or new By-Laws may be adopted, by the shareholders or

by the Board of Directors at any meeting, provided that notice of the proposed change is contained in the notice of such meeting.

CERTIFICATE OF SECRETARY

I hereby certify that the foregoing copy of the By-Laws is a true and correct copy of the By-Laws of the corporation as the same were adopted at the first meeting of the Board of Directors.

  
Secretary

**EXHIBIT 3.4**

**OWNERSHIP**

STAR Telecommunications, Inc  
223 East De La Guerra  
Santa Barbara, CA 93101

100% Shareholder

**EXHIBIT 3.7**

**LIENS**

- STAR has received the written consent of RFC Capital Corporation ("RFC") to terminate the liens RFC filed against the assets of AS Telecommunications Inc. STAR has prepared the termination statements and is waiting for confirmation of their filing.

**EXHIBIT 3.8**

**INTELLECTUAL PROPERTY**

- AS Telecommunications, Inc. does business as and has filed a Fictitious Business Name Application for the name ALLSTAR Telecom.

**EXHIBIT 3.9**

**LIABILITIES**

- None.

**EXHIBIT 3.10**

**CONTRACTS**

- a) None.
- b) See Agent Agreements listed in Exhibit 3.21.

The employees of ALLSTAR are entitled to a severance plan under STAR Telecommunications, Inc.'s Employee Handbook, such plan currently being reviewed by STAR management and STAR's bankruptcy counsel.

- c) None.
- d) None.
- e) None.
- f) None.
- g) None.
- h) As of June 2001, ALLSTAR is bound by two (2) inter-company loans. The first note is payable to STAR Telecommunications, Inc in the amount of \$36,691,160 and the second payable to Heivey in the amount of \$470,406.

**EXHIBIT 3.11**

**LITIGATION AND COMPLIANCE**

- ALLSTAR has failed to comply with certain reporting requirements either with the Secretary of State or the Public Service Commission in the states set forth below and as a result is not in good standing:
  - 1) Arkansas: failure to file Annual Report
  - 2) Connecticut: failure to file Annual Report (Filed)
  - 3) Louisiana: failure to file Annual Report (CPCN Pending)
  - 4) Maryland: failure to file Annual Report
  - 5) Massachusetts: failure to file Annual Report
  - 6) Missouri: failure to file Annual Report
  - 7) Nebraska: failure to pay taxes
  - 8) New Mexico: failure to file Annual Report
  - 9) South Carolina: never received Certificate of Authority
  - 10) Texas: failure to file Annual Report
  
- The Public Service Commission in the State of Maryland rejected ALLSTAR's application for a Certificate of Public Convenience and Necessity for its failure to supply adequate/supplemental financial data.



## **EXHIBIT 3.13**

### **CONSENTS**

#### **3.13 (a)**

- See Exhibits 3.1 and 3.11 for a discussion of ALLSTAR's certifications and tariffs.

#### **3.13 (b)**

- Consent of sole shareholder.
- Pursuant to the terms of the Asset Purchase Agreement, OneStar will obtain all required regulatory consents and make any necessary regulatory filings on behalf of ALLSTAR.

**EXHIBIT 3.14**

**INSURANCE**

- ALLSTAR's insurance coverage is through policies covering STAR Telecommunications, Inc. and subsidiaries which as of August 27, 2001 are current and up to date.

**EXHIBIT 3.21**

**AGENCY AGREEMENTS**

- Attached is a spreadsheet showing active agents and relevant commissions. Twenty three of the Agent Agreements (designated by an "X") have previously been forwarded to Jeff Tudor. The remaining agreements have not been located at this time.
- Sample ALLSTAR and DNI Agent agreements are attached.

	Agent Name	Net Usage	Commission %	Agent comm amt
	2 Com Communications (AMS)	\$877.10	12.50%	\$112.14
NA	Advanced Brokerage Service	\$348.24	11.82%	\$41.18
NA	Bell Telecom Brazil	\$819.78	16.00%	\$131.16
NA	Betsy Wilson	\$451.40	16.00%	\$72.22
NA	Camcan	\$1,393.40	14.00%	\$195.08
	Carver Consulting	\$2,060.25	12.00%	\$247.23
	Christian Telecom Network		#DIV/0!	
	Cleve Trvon	\$158.22	12.54%	\$19.81
	Commnet	\$2,255.08	8.25%	\$185.78
	Communities	\$0.00	#DIV/0!	\$0.00
	Comsource	\$10,428.37	11.00%	\$1,147.12
ONE	Diana Bennett	\$1,122.54	7.10%	\$79.70
NA	Enzoem Corp	\$4,333.20	3.91%	\$171.23
	IPD Group	\$42.27	11.39%	\$4.81
NA	Francis Benevento	\$1,364.79	12.00%	\$163.77
NA	ICC	\$0.00	#DIV/0!	\$0.00
	Integrated Network Services	\$662.21	10.32%	\$68.32
NA	Impulsus Inc	\$897.15	22.00%	\$197.37
NA	John Felix	\$421.20	14.00%	\$58.97
	Karcom	\$1,237.33	15.37%	\$190.14
NA	Laura Bender	\$159.86	7.00%	\$11.19
NA	Lisa Acino CTR	\$275.23	9.20%	\$25.32
	MPW & Associates	\$725.21	10.30%	\$74.57
NA	Miracis Communications	\$514.20	10.04%	\$51.58
NA	National Brands	\$703.18	15.00%	\$105.47
	New World Communications - San Carlos	\$29,573.13	2.91%	\$860.71
	Newton Consulting	\$783.24	11.00%	\$86.16
	Nicola Alvarez (see Purlan)	\$822.50	11.30%	\$92.95
MS	Rav Lynn AMS (No comm. % listed)	\$1,201.32	10.44%	\$125.32
	RF Telecom / Ron Dameron	\$122,052.25	8.29%	\$10,107.34
NA	Redding Snow	\$1,228.59	9.58%	\$117.68
	Pam Fitzgerald (SICTI)	\$2,774.26	13.33%	\$370.30
	Robert Pidan	\$3,008.20	1.00%	\$30.08
	Pon Swincall	\$701.74	12.97%	\$90.83
NA	Rudy Ramirez	\$1,189.23	2.00%	\$23.78
	Secured Global (J. Strader / K. M. Forde)	\$1,222.28	3.27%	\$39.97
	Sunset Telecom	\$1,380.24	7.72%	\$106.56
NA	Telecom Discouragement	\$442.37	4.00%	\$17.70
	Teledynamic Solutions	\$0.00	#DIV/0!	\$0.00
	Telelogics	\$424.38	11.32%	\$48.05
	Unicom Technologies	\$310.79	11.37%	\$35.31
NA	US Telecommunications International	\$0.00	#DIV/0!	\$0.00
	US Telemanagement	\$1.28	12.25%	\$0.15
NA	Wang/Kawara	\$400.74	12.50%	\$50.09
Total				\$14,220.22

NA = NOT AVAILABLE (No Record on file) - 16 Agents.

44 Current Agents

- Carver Consulting / Jonathan Mader

sample  
(STANDARD COMM'S)

## ALLSTAR Telecom Agent Commission Payment Addendum "A"

This commission structure is applicable to Agent when selling the following ALLSTAR Telecom rate plans: "Home Run" and "All World." The Commission percentage is determined by the interstate rate sold with the corresponding international program. The commission percentage is paid on the billing usage revenue only of interstate, intrastate and international traffic. Commissions are not paid on directory assistance or any applicable taxes, surcharges, or fees.

1) Home Run - Switched		Home Run - Dedicated	
Interstate Rate:	\$0.089      14%	Interstate Rate:	\$0.059      14%
	\$0.079      13%		\$0.045      14%
	\$0.075      12%		
	\$0.0725      10%		
2) All World - Switched		All World - Dedicated	
Interstate Rate:	\$0.089      12%	Interstate Rate:	\$0.059      10%
	\$0.079      10%		\$0.045      10%
	\$0.075      8%		
	\$0.0725      6%		

In addition to the above commission percentages ALLSTAR Telecom will pay bonus residual commission percentages based on monthly billing volume thresholds as follows:

\$100,000 - 2%	\$250,000 - 4%	\$500,000 - 5%
----------------	----------------	----------------

Commissions will not be paid for accounts sold on rates not listed in the above named plans unless approved in writing in advance by the Chief Operating Office of ALLSTAR, or other appointed designee, and will be determined on a case by case basis.

**AGREED TO AND ACCEPTED BY:**

Company: ALLSTAR Telecom  
 Signature: [Signature]  
 Name: Paul J. Allen  
 Title: CEO  
 Date: 7-28-99

Agency Name: [Signature]  
 Signature: [Signature]  
 Name: Chew Tejon  
 Title: \_\_\_\_\_  
 Date: 7-3-99

# DIGITAL NETWORK, INC. (DNI)

## COMMISSION PAYMENT SCHEDULE

### AGENT COMMISSIONS

*SAMPLE*

Total Monthly Billing Volume	Agent Commission*
\$0 to \$25,000	10%
\$25,001 to \$50,000	12%
\$50,001 to \$100,000	14%
\$100,001 +	16%

This commission schedule is applicable to Agent when selling the following rate plans only:

1. World Class Business Plan-September 1998

Note: Special Pricing Accounts: Commission percentages shown above apply to the rate plan(s) named above with the following exceptions:

If you sell: \$0085 interstate                      Your commission is: 10%  
If you sell: \$0079 interstate (outside CA,IL)      Your commission is: 7%

Commissions for accounts sold on a rates not listed in the above named plan(s) will need written approval from the National Director of Agent Programs, and will be determined on a case by case basis.

#### AGREED AND ACCEPTED BY:

Company: Digital Network, Inc.

Signature: *Sara Cuccia*

Name: Sara Cuccia

Title: Ntl Director-Agent Sales

Date: 11/3/98

Agent Name: *Ken Carr*

Signature: *Ken Carr*

Name: Ken Carr

Title: President

Date: 11/3/98

**EXHIBIT 3.22**  
**TRADE AGREEMENTS**

- None.

**EXHIBIT 4.12**

**NONCOMPETE AND CONFIDENTIALITY AGREEMENT**

See attached.



## NONCOMPETE AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT (the "Agreement"), made and entered into this \_\_\_\_ day of August, 2001 ("Effective Date"), by and between ONESTAR LONG DISTANCE, INC. an Indiana corporation ("OneStar") and AS TELECOMMUNICATIONS, INC. an Arizona corporation ("ALLSTAR"), pursuant to Section 4.13 of that certain Asset Purchase Agreement by and between OneStar and ALLSTAR of even date herewith ("Asset Purchase Agreement").

### WITNESSETH THAT:

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Certain Defined Terms. As used in this Agreement or in any document made or otherwise entered into pursuant to this Agreement, the following terms shall, unless the context otherwise requires and whether or not capitalized, have the meaning specified in this Section 1. These terms shall be deemed to refer to the singular, plural, masculine, feminine, or neuter, as the context requires. Any capitalized terms not defined in this Section 1 shall have the meanings given them in the Asset Purchase Agreement.

A. "Agreement" means this Agreement, as originally executed on the Effective Date and as the same may be amended, modified and supplemented from time to time. Words such as "herein," "hereinafter," "hereof," "hereto," "hereby," and "hereunder," when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

B. "Business" means the long distance telephone service, including intraLATA, interLATA and international usage, local telephone service, internet, pager and data as operated by ALLSTAR.

C. "Control" (whether used as a noun or verb) means to have the power, directly or indirectly, to cause the direction of the management or policies of another Person, whether through the ownership of voting securities, by contract, agency, or otherwise.

D. "Covered States" means the 50 states of the United States of America.

E. "Person" means any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, governmental agency, cooperative, association, individual or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such person as the context may require.

F. "Term" means a period beginning with the date of the execution of this Agreement and ending thirty-six (36) consecutive months after the final payment is made to ALLSTAR under the Asset Purchase Agreement.

2. Nondisclosure. ALLSTAR agrees that it shall not, directly or indirectly, for the term of this Agreement, disclose to any Person or use for its benefit or the benefit of any third party, the customer base acquired by OneStar pursuant to the Asset Purchase Agreement ("**Customer Base**") or the identity of any customer in the Customer Base. ALLSTAR hereby stipulates and agrees that the identity of customers in the Customer Base and the identity of the customers of OneStar are proprietary information of OneStar.

3. Noncompete. ALLSTAR hereby agrees that it shall not, directly or indirectly, for the Term of this Agreement, own, manage, operate, control, be employed or engaged by or otherwise participate or have any interest in any Person (other than OneStar) which is engaged in, or otherwise engaged in, the Business in the Covered States.

4. Nonsolicitation. ALLSTAR hereby agrees that it shall not, directly or indirectly, for the Term of this Agreement, solicit any then current customer of OneStar or any customer in the Customer Base for services provided by OneStar, or solicit any employee or agent of OneStar whose responsibility is to perform services in or with respect to the Covered States for as long as such employee remains employed by OneStar or under contract with OneStar.

5. Reasonableness of Restraints. ALLSTAR hereby acknowledges that the current operations of ALLSTAR extend throughout the Covered States. ALLSTAR further acknowledges that, in light of (i) the value of the consideration hereunder received and (ii) the ongoing financial commitment of OneStar to ALLSTAR under the Asset Purchase Agreement which is of benefit to ALLSTAR, the geographical and time restraints of this Agreement are reasonable.

6. Injunction and Expenses. Upon breach or threatened breach of this Agreement, in addition to any and all other rights and remedies it may have, OneStar shall be entitled to injunctive relief, both pendente lite and permanent, against the breaching party, as the parties recognize that a remedy at law would be inadequate and insufficient. In the event either party breaches this Agreement, the other shall be entitled to recover all costs and expenses, including but not limited to attorneys' fees, paralegals' fees and court costs, incurred as a result or arising out of any breach or threatened breach under or pursuant to this Agreement in addition to such other rights or remedies such party may have under this Agreement or any other agreement, at law or in equity.

7. Passive Investments. Nothing contained in Section 3 above shall limit the right of ALLSTAR to make and hold passive investments in investment securities aggregating not more than five percent (5%) of the issued and outstanding securities of any corporation that is registered on a national securities exchange or admitted to trading privileges thereon or actively traded on a generally recognized over-the-counter market, regardless of where such corporation engages in business, for the Term of this Agreement.

8. Severability and Other Restrictions. It is the intention of the parties that the provisions of this Agreement shall be enforced by the courts of each state and jurisdiction in which enforcement is sought to the fullest extent permissible under the law and public policy. Accordingly, if any part of this Agreement shall be adjudicated to be invalid or unenforceable by a court of competent jurisdiction, whether in its entirety or as modified as to duration, territory, or otherwise, then such part shall be deemed deleted or amended, as the case may be, with respect to the state or jurisdiction involved in order to render the remainder hereof valid and enforceable. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof. This Agreement shall not supersede or be in lieu of any other agreement restricting activities referenced herein but shall be in addition to any such other restrictions.

9. Binding Effect. This Agreement shall be binding upon the parties, their heirs, legal representatives, successors and assigns.

10. Entire Agreement. This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no understandings or agreements between them concerning its subject matter.

11. Notices. All notices or other documents required to be given under this Agreement shall be in writing, and delivered personally or mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at their addresses, specified in the Asset Purchase Agreement.

12. Nonwaiver. No delay or failure by a party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

13. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

14. Governing Law. This Agreement shall be construed in accordance with the laws of the state of Indiana.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile signatures delivered hereunder shall be deemed original signatures.

16. Consent to Jurisdiction, Venue. Any action or proceeding relating in any way to this Noncompete and Confidentiality Agreement may be brought and enforced in the Vanderburgh Superior Court in the city of Evansville, state of Indiana, and each irrevocably submits to the jurisdiction of such court and waives any objection to the laying of venue in such court or any claim that such court is an inconvenient forum.

17. JURY WAIVER. ONESTAR AND ALLSTAR HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM, OR COUNTERCLAIM, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT.

Dated as of the day and year first above written.

"ONESTAR"  
ONESTAR LONG DISTANCE, INC.

By: Alan J. Brown  
Its: [Signature]

"ALLSTAR"  
AS TELECOMMUNICATIONS, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated as of the day and year first above written.

"ONESTAR"  
ONESTAR LONG DISTANCE, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

"ALLSTAR"  
AS TELECOMMUNICATIONS, INC.

By:           *Al Hillis, Jr.*          

Its:           *Acting Chief Executive Officer*

**EXHIBIT**  
**B**



OneStar   
Long Distance, Inc.

**ALLSTAR** telecom

September 2001

***We have some exciting news to share with you!***

**AS Telecommunications, Inc. d/b/a Allstar Telecom** has agreed to transfer its customer base to **OneStar Long Distance, Inc.** We would like to thank you for being a customer of AllStar and share with you some information regarding this transition to OneStar.

***You're going to enjoy being a OneStar customer!*** OneStar is an integrated communications provider headquartered in Evansville, Indiana. Beginning in 1982, our product portfolio includes a full range of voice and data services for commercial and residential customers, while providing a single point of contact through a bundled billing concept.

OneStar can provide a variety of value-added services designed to save you money and provide additional conveniences for your home or business. We look forward to being your single contact for voice, video, data, Internet, hardware, as well as technical support and service.

***This transfer of service requires no action on your part.*** The addition of AllStar's customers will integrate quickly into OneStar's structure, providing a smooth transition with no interruption of normal services. You should not incur PIC (Primary Interexchange Carrier) charges from your local telephone company as a result of this transition. Should any PIC related charges be incurred, please notify OneStar and your account will be credited accordingly.

***Going forward, OneStar will provide your telecommunications services.*** After the date of transfer, OneStar will provide you the same great telecommunications services currently provided by AllStar, such as your long distance services (intrastate, interstate and international) and will continue to handle all aspects of your account.

***OneStar offers excellent customer service and great rates.*** You will receive the same great rates that you currently enjoy. Your account will be subject to the fees, terms, and conditions as published on our website at [www.onestarld.com](http://www.onestarld.com). As we transition your account to OneStar's world-class network, you may receive your bill at a different time during the month. Be aware that it will have a different look and feel with the OneStar logo. Please also be aware that customers who have a PIC Freeze on their lines will also be transferred and will be contacted by a customer service representative in order to assist with the transfer. At your option, you may choose a carrier other than OneStar to provide your telecommunications services. If you choose another carrier, you may incur a one-time charge from your local telephone company to make the change.

***OneStar's primary focus is consistent customer satisfaction!*** OneStar will work hard to continually exceed your expectations, now and in the future. You will soon be receiving a call from a OneStar customer service representative to assist you with additional product information, resolve open issues or concerns, and introduce new service offerings to you all while providing you the most professional customer service in the industry. Should you have any questions regarding this transition, please contact the Customer Service Department at 1-800-622-9664.

To find out more about OneStar, check out the web site at [www.onestarld.com](http://www.onestarld.com) or call the Customer Service Department at 1-800-622-9664.

**[www.onestarld.com](http://www.onestarld.com)**

OneStar Long Distance, Inc. • 7100 Eagle Crest Boulevard • Evansville • Indiana 47715

Before the  
**Florida Public Service Commission**

In the Matter of

OneStar Long Distance, Inc.  
Petition for Expedited Waiver of the  
Commission's Carrier Change Orders

Docket No.

**Petition For Expedited Waiver of the Commission's Carrier Change Orders**

OneStar Long Distance, Inc., ("OneStar"), hereby requests a waiver of the Florida Public Service Commission's ("Commission") Carrier Change Orders to facilitate the transfer of the customer base of AS Telecommunications, Inc., doing business as Allstar Telecom ("Allstar") to OneStar without first obtaining each customer's authorization and verification. Throughout this petition OneStar and Allstar will be collectively referred to as the "Parties". The transfer of the customer base will be accompanied by the transfer of select assets from Allstar to OneStar. A separate notification of this transfer is being filed on behalf Allstar and OneStar today.

It is the position of OneStar that the waiver will serve the public interest by ensuring that there is no degradation in the quality of service, or interruption in service for the customers of Allstar. Furthermore, the general purpose and goals of the slamming rules will be upheld by the measures proposed by OneStar in this petition. For these reasons, as discussed below, good cause exists for a waiver of the Commission's Carrier Change Orders.

OneStar requests expedited consideration of this waiver request. In order for the customers of Allstar to continue receiving high-quality service, the consummation of the transfer of the customer base from Allstar to OneStar must be expedient and streamlined.

OneStar is a privately owned Indiana corporation headquartered in Evansville, Indiana. OneStar is a nationwide provider of telecommunications services and is authorized to provide resold long distance services in 49 jurisdictions, as well as local services in 18 states, by virtue of certification, registration, tariff requirements, or on a deregulated basis. In Florida, OneStar was granted authority to provide intrastate long distance telecommunications services pursuant to in Docket No. 990063-TI, Order No. PSC-99-0555-FOF-TI. OneStar provides interstate and international telecommunications services as a nondominant common carrier pursuant to authority of the Federal Communications Commission.

Allstar is an Arizona corporation headquartered in Santa Barbara, California. Allstar is a nationwide provider of telecommunications services and is authorized to provide long distance services in 38 jurisdictions by virtue of certification, registration, tariff requirements, or on a deregulated basis. In Florida, Allstar was granted authority to provide intrastate long distance telecommunications services pursuant to in Docket No. T-99-0965. Allstar provides interstate and international telecommunications services as a nondominant common carrier pursuant to authority of the Federal Communications Commission. Pursuant to an Asset Purchase Agreement executed by OneStar and Allstar, Allstar will transfer select assets, including its entire long distance customer base



to OneStar. As a result, OneStar will provide the same services that are currently provided by Allstar. The foregoing information on the transfer of the customer base and its consequences is dependent on several conditions. In order for the transaction to succeed, the Parties must be able to effect the transfer of customer bases in a timely fashion.

Although the transaction detailed above may technically constitute a change in subscribed carrier for the customers of Allstar, it is the position of OneStar that a strict compliance to the Commission's Carrier Change Orders will result in unnecessary disruptions of service to the transferred customers, negating the expected benefits of the proposed transaction. OneStar believes that attempts to obtain written or third party verifications from these customers may be unheeded and some of Allstar's current customers may lose essential telecommunications services, such as E911, when the transfer is consummated. These customers, suddenly without service, may be forced to accept poorer quality, more expensive service in the interim. Furthermore, because Allstar provides service to businesses, any disruption of service might seriously jeopardize the financial viability of these companies. These circumstances show good cause for a waiver of the Commission's rules and how the waiver is in the public interest. Moreover, the requested waiver is consistent with Commission precedent and the Commission's standard treatment of transfers of customer bases.

To comply with the general purpose of the Carrier Change, OneStar and Allstar will jointly send all of their customers a notice to inform them of the impending transaction and that upon receiving the appropriate approval, the telecommunications services provided to them will be through a different company, OneStar. A copy of this notice is enclosed with the petition as **Attachment A**. OneStar commits itself to working with the Commission and the transferor company to resolve any customer complaints that may arise from the change in carrier. Given the measures laid out above, OneStar believes that any customer concerns related to the change in telecommunications provider can be either avoided or effectively resolved to the benefit of the transferred customer bases.

In an effort to minimize the delay in consummating the discussed transaction, and to eliminate the possible service problems this delay may incur for the customers of Allstar, OneStar respectfully requests expedited treatment of this waiver petition. Waiver of the Commission's Carrier Change Orders will facilitate a seamless transfer of services to OneStar, and the customer notices sent to the transferred customers will ensure that they understand their rights and options in this situation.

Therefore, OneStar requests that the Commission grant this petition for an expedited waiver of the Commission's Carrier Change Orders.

Respectfully Submitted,

A handwritten signature in black ink that reads "Ami Larrison". The signature is written in a cursive style with a large initial "A".

Ami Larrison  
Director of Regulatory Affairs  
OneStar Long Distance, Inc.

**Attachment**  
**A**



**OneStar** Long Distance, Inc.

**ALLSTAR telecom**

September 2001

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