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E-Filed: July 2, 2010

100000-0T

8 UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF NEVADA

10 In re:
11 COMMPARTNERS HOLDING CORPORATION, a
12 Nevada corporation

Case No.: BK-S-10-20932-LBR; Chapter 11
Jointly Administered with:

12 Affects this Debtor.

10-20933 CommPartners, LLC

13 Affects all Debtors.

10-20934 CommPartners Carrier Services Corp.

14 Affects COMMPARTNERS, LLC, a Nevada limited
15 liability company

10-20935 CommPartners Network Services, LLC

16 Affects COMMPARTNERS CARRIER SERVICES
17 CORPORATION, a Nevada corporation

18 Affects COMMPARTNERS NETWORK
19 SERVICES, LLC, a Nevada limited liability
20 company

Date:
Time:

21 **EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR**
22 **DEBTOR'S MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 366 FOR AN ORDER**
23 **DETERMINING THAT CERTAIN ENTITIES ARE NOT UTILITIES, OR IN THE**
24 **ALTERNATIVE, THAT ADEQUATE ASSURANCES HAVE BEEN PROVIDED**

25 Debtors, CommPartners Holding Corporation, a Nevada corporation; CommPartners,
26 LLC, a Nevada limited liability company; CommPartners Carrier Services Corporation, a
27 Nevada corporation; and CommPartners Network Services, LLC, a Nevada limited liability
28 company (collectively, the "Debtors"), debtors and debtors-in-possession, by and through their
proposed attorneys, the law firm of Gordon Silver, filed their Motion Pursuant to 11 U.S.C. §§
105(a) and 366 for an Order Determining that Certain Entities are not Utilities, or in the

DOCUMENT NUMBER-DATE

05641 JUL-9 2010

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1 Alternative, that Adequate Assurances have been Provided (the "Motion"). This *ex parte*
2 application for order shortening time to hear the Motion (the "*Ex Parte* Application") is made
3 and based upon Fed. R. Bankr. P. 9006, the following memorandum of points and authorities, the
4 Affidavit of Matthew C. Zirzow in support of the Application ("Zirzow Affidavit"), the Attorney
5 Information Sheet filed contemporaneously herewith, and the papers and pleading on file herein,
6 judicial notice of which is respectfully requested.

7 **I.**
8 **AFFIDAVIT OF MATTHEW C. ZIRZOW, ESQ.**

9 STATE OF NEVADA)
) ss.
10 COUNTY OF CLARK)

11 I, Matthew C. Zirzow, Esq., declare as follows:

12 1. I am over the age of 18, am mentally competent, have personal knowledge of the
13 facts in this matter, and if called upon to testify, could and would do so.

14 2. I am a shareholder with the law firm of Gordon Silver, counsel for the Debtors in
15 the above-captioned matter, and am duly licensed to practice law in the State of Nevada.

16 3. Since the Petition Date, Debtors have received various demands for adequate
17 assurances from creditors who are claiming that they are "utilities" within the meaning of
18 Section 366 of the Bankruptcy Code. Debtors did not anticipate various creditors making such
19 meritless demands especially given that the Debtors are themselves in the telecommunications
20 business and they purchase wholesale services provided by these creditors in order to provide
21 service to the Debtor's own customers, rather than purchasing services from the creditors for the
22 Debtor's own internal use. Nonetheless, the Debtors are filing this Motion in order to obtain
23 clarity and certainty to this issue given the potential consequences under Section 366 of the
24 Bankruptcy Code.

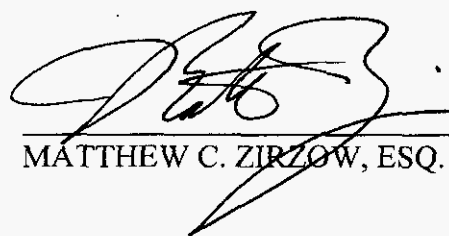
25 4. The Debtors request that the Court determine that the any creditor receiving
26 notice of this motion (the "Alleged Utilities") be determined to not be a "utility" within the
27 meaning of Section 366 of the Bankruptcy Code, and thus are not entitled to adequate assurances
28 pursuant to that statute.

1 5. In the alternative, to the extent the Court affirmatively determines that any of the
2 Alleged Utilities are "utilities" within the meaning of Section 366 of the Bankruptcy Code (the
3 "Utility Providers"), that the Court order as follows: (a) determining that their Utility Providers
4 have been provided with adequate assurance of payment within the meaning of Section 366 of
5 the Bankruptcy Code; (b) prohibiting the Utility Providers from altering, refusing or
6 discontinuing services on account of pre-petition amounts outstanding and on account of any
7 perceived inadequacy of the Debtors' proposed adequate assurance; and (c) determining that the
8 Debtors are not required to provide any additional adequate assurance, beyond what is proposed
9 by this Motion.

10 6. Pursuant to Section 366(c)(2) of the Bankruptcy Code, a true utility may alter,
11 refuse or discontinue utility services if within the 30-day period after the commencement of the
12 case, the utility is not provided with adequate assurances of payment for utility service. Debtors
13 filed their voluntary petitions for relief on June 13, 2010, and thus the 30-day deadline for
14 utilities expires on July 12, 2010. **As such, the Debtors request that the Motion be heard on**
15 **or before July 12, 2010.**

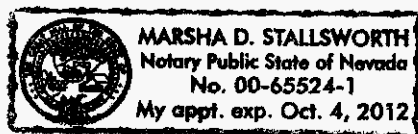
16 I declare under penalty of perjury of the laws of the United States that these facts are true
17 to the best of my knowledge and belief.

18 DATED this 2nd day of July, 2010.

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MATTHEW C. ZIRZOW, ESQ.

21 SUBSCRIBED AND SWORN to before me
22 this 2nd day of July, 2010.

23 
24 NOTARY PUBLIC



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II.
POINTS AND AUTHORITIES

Section 105 of the Bankruptcy Code allows this Court to issue such orders as are necessary to carry out the provisions of this title. Bankruptcy Rule 9006(c)(1) generally permits a Bankruptcy Court, for cause shown and in its discretion, to reduce the period during which any notice is given in accordance with the Bankruptcy Rules. Bankruptcy Rule 9006(c)(1) provides, in pertinent part, as follows: "when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced." 11 U.S.C. § 105. Local Rule 9006 provides further authority for shortening the time for a hearing. According to Local Rule 9006(b), every motion for an order shortening time must be accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the Zirzow Affidavit, there is a compelling reason for an expedited hearing.

Local Rule 9006 requires the moving party to submit an Attorney Information Sheet indicating whether opposing counsel was provided with notice, whether opposing counsel consented to the hearing on an order shortening time, the date counsel was provided with notice and how notice was provided or attempted to be provided. An Attorney Information Sheet was filed contemporaneously with this *Ex Parte* Application.

III.
CONCLUSION

WHEREFORE, Debtors respectfully requests that this Court grant this *Ex Parte* Application and issue an order shortening time to hear the Motion and for such other and further relief as the Court deems just and proper.

DATED this 2nd day of July, 2010.

GORDON SILVER

By: 

GREGORY E. GARMAN, ESQ.

MATTHEW C. ZIRZOW, ESQ.

ERIC J. VAN, ESQ.

Proposed Attorneys for Debtor

File a Motion:10-20932-lbr COMMPARTNERS HOLDING CORPORATION

Type: bk

Chapter: 11 v

Office: 2 (Las Vegas)

Assets: u

Judge: lbr

Case Flag: BAPCPA,
JNTADMN, LEAD**U.S. Bankruptcy Court****District of Nevada**

Notice of Electronic Filing

The following transaction was received from MATTHEW C. ZIRZOW entered on 7/2/2010 at 1:28 PM PDT and filed on 7/2/2010

Case Name: COMMPARTNERS HOLDING CORPORATION**Case Number:** 10-20932-lbr**Document Number:** 63**Docket Text:**

Ex Parte Motion for Order Shortening Time Filed by MATTHEW C. ZIRZOW on behalf of COMMPARTNERS CARRIER SERVICES CORPORATION, COMMPARTNERS HOLDING CORPORATION, COMMPARTNERS NETWORK SERVICES, LLC, COMMPARTNERS, LLC (ZIRZOW, MATTHEW)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**C:\fakepath\Ex Parte Application for OST.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=989277954 [Date=7/2/2010] [FileNumber=16425441-0]
[7ea5b61783ff1c7c8d13f0391516507d7ba8aca86d758e5c79dd0f0a8723c8c0f9c8
127f9ef23bd4d868ad787fc80ff2ac0b246a7b9873478ff529371552a077]]

10-20932-lbr Notice will be electronically mailed to:

BRUCE THOMAS BEESLEY on behalf of Creditor PAETEC COMMUNICATIONS, INC.
bbeesley@lrlaw.com, rmaples@lrlaw.com;jmoulian@lrlaw.com;mburns@lrlaw.com

DAWN M. CICA on behalf of Creditor PAETEC COMMUNICATIONS, INC.
dcica@lrlaw.com, jvienneau@lrlaw.com;cjordan@lrlaw.com

U.S. TRUSTEE - LV - 11
USTPRegion17.lv.ecf@usdoj.gov

MATTHEW C. ZIRZOW on behalf of Debtor COMMPARTNERS CARRIER SERVICES CORPORATION

bankruptcynotices@gordonsilver.com, bknotices@gordonsilver.com

10-20932-lbr Notice will not be electronically mailed to:

TRANSCOM ENHANCED SERVICES, INC.
C/O DAVID WOODS / STEVEN THOMAS/ MCGUIRE
2501 N HANWOOD, STE 1800
DALLAS, TX 75201