

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE: §  
UPH HOLDINGS, INC. § CASE NO. 13-10570  
PAC-WEST TELECOMM, INC. § CASE NO. 13-10571  
TEX-LINK COMMUNICATIONS, INC. § CASE NO. 13-10572  
UNIPOINT HOLDINGS, INC. § CASE NO. 13-10573  
UNIPOINT ENHANCED SERVICES, INC. § CASE NO. 13-10574

UNIPOINT SERVICES, INC. § CASE NO. 13-10575  
NWIRE, LLC § CASE NO. 13-10576  
PEERING PARTNERS § CASE NO. 13-10577  
COMMUNICATIONS, LLC §

DEBTORS. § CHAPTER 11

EIN: 45-1144038; 68-0383568; 74-2729541;  
20-3399903; 74-3023729; 38-3659257; 37-  
1441383; 27-2200110; 27-4254637

6500 RIVER PL. BLVD., BLDG. 2, # 200 § JOINTLY ADMINISTERED UNDER  
AUSTIN, TEXAS 78730 § CASE NO. 13-10570

DEBTORS' OMNIBUS MOTION TO ASSUME AND ASSIGN  
CERTAIN AGREEMENTS TO TNCI OPERATING COMPANY, LLC

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

TO THE HONORABLE U.S. BANKRUPTCY JUDGE TONY M. DAVIS:

COME NOW UPH Holdings, Inc., ("UPH"), Pac-West Telecomm, Inc., ("Pac-West"),  
Tex-Link Communications, Inc. ("Tex-Link"), UniPoint Holdings, Inc. ("UniPoint Holdings"),  
UniPoint Enhanced Services, Inc. ("UniPoint Enhanced"), UniPoint Services, Inc., ("UniPoint"),  
nWire, LLC ("nWire"), and Peering Partners Communications, LLC ("Peering Partners")  
(collectively the "Debtors") and file this Omnibus Motion to Assume and Assign Certain

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Agreements to TNCI Operating Company, LLC (“Motion”). In support of the Motion, the Debtors respectfully represent as follows:

### **I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are §§ 105, 363(b), and 365(a) and (b) of the Bankruptcy Code.

### **II. PROCEDURAL BACKGROUND**

2. On March 28, 2013, (the “Petition Date”), the Debtors filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (“Bankruptcy Code”). Pursuant to Bankruptcy Code §§ 1107(a) and 1108, the Debtors are managing their affairs as debtors-in-possession. No trustee or examiner has been appointed in these cases. On April 15, 2013, the Committee of Unsecured Creditors (“Committee”) [Dckt. No. 91] was appointed.

3. On June 20, 2013, the Debtors filed their Motion for Entry of Orders (I) Approving Procedures and Providing Certain Protections and (II) Authorizing (A) the Sale of Substantially all of the Debtors’ Assets; (B) the Payment of the Net Proceeds of Sale to Hercules Technology II, L.P.; and (C) the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (“Sale Motion”) [Dckt. No. 255]. On June 28, 2013, the Bankruptcy Court entered an order approving the sale procedures set forth in the Sale Motion (“Bid Procedures Order”) [Dckt. No. 280]. On July 22, 2013, the Bankruptcy Court held a hearing to approve a sale to TNCI. On July 23, 2013, the Court entered an order approving the sale to TNCI (“Sale”), including the assumption and assignment to TNCI of certain executory contracts (“Sale Order”) [Dckt. No. 446].

4. On July 3, 2013, in connection with the Sale Motion, the Debtors filed their Notice of Cure Amounts and Deadline for Objection to Cure Amounts ("Notice of Cure Amounts") [Dckt. No. 426], which, among other things, provided a deadline for objections to amounts listed as Cure Amounts of July 15, 2013, for those agreements to be assumed and assigned to TNCI ("Sale Order Assumed Contracts"). As stated, pursuant to the Notice of Cure Amounts, objection deadlines were set for those counter-parties to the Sale Order Assumed Contracts to object to the cure amounts, which has long since elapsed; thus, no further cure amounts are required to be paid.

5. In addition, the Court entered the following agreed orders and stipulations with respect to the assumption and assignment of particular agreements, including:

(1) On August 5, 2013, the Court entered the Agreed Order Regarding the Assumption and Assignment of Various Executory Contracts Among One or More of the Above-Captioned Debtors and the CenturyLink Entities ("Qwest Agreed Order") [Dckt. No. 468];

(2) On August 5, 2013, the Court entered the Agreed Order Regarding the Assumption and Assignment of Various Executory Contracts Among One or More of the Above-Captioned Debtors and the AT&T Entities ("AT&T Agreed Order") [Dckt. No. 467];

(3) On September 12, 2013, the Court entered the Agreed Order Between Hines Reit One Wilshire LP and Debtors Regarding Assumption and Assignment of Lease of Non-Residential Real Property Located at 624 S. Grand, One Wilshire Building, Los Angeles, CA 90017 ("Hines Reit Agreed Order") [Dckt. No. 500];

(4) On January 27, 2014, the Court entered the Stipulation and Consent Order for Assumption and Assignment of Executory Contracts and Related Cure, Among the Debtors, the Affiliates of Verizon Communications Inc., and the Buyer ("Verizon Stipulation") [Dckt. No. 712];

(5) On January 31, 2014, the Court entered the Stipulation and Order By and Among the Debtors, TNCI Operating Company, LLC, and Alpheus Communications, LLC Assuming and

Assigning Wholesale Master Service Agreement Dated June 1, 2006, Between Alpheus and Tex-Link Communications, Inc. (“Alpheus Stipulation”) [Dckt. No. 726]; and

(6) On February 11, 2014, the Court entered the Agreed Order Regarding the Assumption and Assignment of Various Executory Contracts Among One or More of the Above-Captioned Debtors and the Level 3 Entities (“Level 3 Agreed Order,” and together with the Qwest Agreed Order, AT&T Agreed Order, Hines Reit Agreed Order, Verizon Stipulation, and Alpheus Stipulation, “Stipulated Assumed Contracts”) [Dckt. No. 743].

With respect to the Stipulated Assumptions, as with the Sale Order Assumed Contracts, no further cure is required for the assumption and assignment of the Stipulated Assumed Contracts.

6. Moreover, on January 30, 2014, the Court entered the Order Granting Debtors’ Motion to Assume and Assign nWire Interconnection Agreement to TNCI Operating Company, LLC (“nWire Assumed Contract”) [Dckt. No. 725]. As with the Stipulated Assumed Contracts and the Sale Order Assumed Contracts, no further cure is required for the nWire Assumption.

### **III. RELIEF REQUESTED**

7. This Motion seeks to address those unexpired contracts or leases (“Contracts”) to which the Debtors may be a party that are neither Sale Order Assumed Contracts or Stipulated Assumed Contracts, that they may wish to assume and assign to TNCI, which include those that are listed on the attached Exhibit A. With respect to these Contracts, to the extent that the counterparty to the Contract asserts that an additional cure amount is owed, such assertion should be set forth in an objection filed with the Court, including the basis for the Contract to qualify as an executory contract or not. Importantly, notwithstanding the inclusion of any contract or lease or any other notice, schedule, pleading, court filing, or any other document, nothing contained herein shall constitute, nor is it intended to constitute, an admission as to the executory nature of any such contract or lease. The Debtors expressly preserve all rights to contend that any contract is not an executory contract.

#### IV. BASIS FOR RELIEF REQUESTED

8. Sections 363(a), (b), and (f) permit the Debtors to assume and assign an executory contract or unexpired lease. Bankruptcy Code §§ 365(a) and (b) authorize a debtor in possession to assume, subject to the court's approval, executory contracts or unexpired leases of the debtor. See 11 U.S.C. § 365(a) and (b); *In re Jamesway Corp.*, 201 B.R. 73, 76 (Bankr. S.D.N.Y. 1996). Pursuant to § 365(a) of the Bankruptcy Code, a debtor, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." Section 365(b)(1) in turn, codifies the requirements for assuming an unexpired lease or executory contract of a debtor, providing that:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee:

- (A) cures or provides adequate assurance that the trustee will promptly cure, such default;
- (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and
- (C) provide adequate assurance of future performance under such contract or lease.

9. The standard applied by a court in determining whether the assumption or rejection of an executory contract or unexpired lease pursuant to § 365(a) should be approved is the "business judgment" test, which requires a debtor to determine that the requested assumption or rejection would be beneficial to the estate. See, e.g., *In re Group of Institutional Investors*,

*Inc. v. Chicago, Milwaukee St, Paul and Pac. R.R. Co.*, 318 U.S. 523, 550 (1943) (“the question [of assumption] is one of business judgment”); *Orion Pictures Corp. v. Showtime Networks, Inc.* (*In re Orion Pictures Corp.*), 4 F.3d 1095, 1098-99 (2d Cir. 1993) (to decide a motion to assume, the bankruptcy court must put itself in the position of the trustee and determine whether such assumption would be a good decision or a bad one).

10. Courts generally will not second-guess a debtor’s business judgment concerning the assumption of an executory contract or unexpired lease. *See In re Paolo Gucci*, 193 B.R. 411, 414 (S.D.N.Y. 1996); *see also Sharon Steel Corp. v. National Gas Fuel Distrib. Corp.* (*In re Sharon Steel Corp.*), 872 F.2d 36, 40 (3d Cir. 1989); *In re III Enter., Inc.*, 163 B.R. 453, 469 (Bankr. E.D. Pa. 1994) (“Generally, a court will give great deference to a debtor’s decision to assume or reject an executory contract. A debtor need only show that its decision to assume or reject the contract is an exercise of sound business judgment—a standard which we have concluded many times is not difficult to meet.”).

11. Further, a debtor in possession may assign an executory contract or an unexpired lease of the debtor if it assumes the agreement in accordance with § 365(a), and provides adequate assurance of future performance by the assignee, whether or not there has been a default under the agreement. *See* 11 U.S.C. § 365(f)(2). Significantly, among other things, adequate assurance may be provided by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. *See, e.g., In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (stating that adequate assurance of future performance is present when the prospective assignee of a lease from the debtor has financial resources and has expressed willingness to devote sufficient funding to the business in order to give it a strong likelihood of succeeding). The meaning of “adequate assurance of future

performance” depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” *EBG Midtown South Corp. v. McLaren/Hart Environmental Engineering Corp. (In re Sanshoe Worldwide Corp.)*, 139 B.R. 585, 592 (S.D.N.Y. 1992) (citations omitted), *aff’d*, 993 F.2d 300 (2d Cir. 1993).

12. The Debtors’ decision to assume and assign the Contracts is based on sound business judgment and as a related to the Sale to TNCI. Subsequent to the Sale of their assets to TNCI, the Contracts have little value to the Debtors, and such assumption and assignment of the Contracts to TNCI is sound exercise of the Debtors’ business judgment. In addition, should the counter-parties to any of the Contracts assert that additional cure amounts, such assertions should be set forth in an objection filed with the Court, also setting forth the basis for why the Contract qualifies as an executory contract or not.

13. To assist in the assumption and assignment of the Contracts, the Debtors request that the Court enter an order providing that any anti-assignment provisions in the Contracts shall not restrict, limit, or prohibit the assumption, assignment, and sale of the Contracts, and are deemed and found to be unenforceable anti-assignment provisions within the meaning of § 365(f) of the Bankruptcy Code. Section 365(g)(1) of the Bankruptcy Code permits a debtor to assign unexpired leases and contracts free from such anti-assignment restrictions, providing in pertinent part that:

14. Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this section.

15. Section 365(f)(1) by operation of law, invalidates provision that prohibit, restrict, or condition assignment of an executory contract or unexpired lease. *See, e.g., Coleman Oil Co., Inc. v. The Circle K Corp. (In re The Circle K Corp.)*, 127 F.3d 904, 910-11 (9th Cir. 1997) (“no principle of bankruptcy or contract law precludes us from permitting the [d]ebtors here to extend their leases in a manner contrary to the leases’ terms, when to do so will effectuate the purposes of § 365”). Section 365(f)(3) goes beyond the scope of § 365(f)(1) by prohibiting the enforcement of any clause creating a right to modify or terminate the contract or lease upon a proposed assumption or assignment thereof. *See, e.g., In re Jamesway Corp.*, 201 B.R. 73 (Bankr. S.D.N.Y. 1996) (section 365(f)(3) prohibits enforcement of any lease clause creating a right to terminate such lease because it is being assumed or assigned, thereby indirectly barring assignment by debtor; all lease provisions, not merely those entitled “anti-assignment” clauses, are subject to court’s scrutiny regarding anti-assignment effect).

WHEREFORE, PREMISES CONSIDERED the Debtors respectfully request that this Court grant the relief requested herein, including ordering that no further cure amounts are owed to any counterparty to any of either the Sale Order Assumed Contracts (as defined herein), the Stipulated Assumed Contracts (as defined herein), or the nWire Assumed Contract (as defined herein); and permitting the assumption and assignment of the Contracts as requested herein; and granting such other and further relief to which the Debtors are justly entitled.

Dated: February 27, 2014.

Respectfully submitted,

JACKSON WALKER L.L.P.  
100 Congress Ave., Suite 1100  
Austin, Texas 78701  
(512) 236-2000  
(512) 236-2002 - FAX

By: /s/ Patricia B. Tomasco

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**COUNSEL FOR DEBTORS**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of February 2014, a true and correct copy of the foregoing has been served electronically through the Court's CM/ECF electronic notification system and/or via United States mail, postage prepaid, to the following on the attached Service List.

*/s/ Patricia B. Tomasco* \_\_\_\_\_

Patricia B. Tomasco

Counter Party	Description	Address
8MS-CSF Corporation	BAN #781, Toll-Free MRC's	285 Davidson Avenue Somerset NJ 08873
360 Networks (USA) Inc.	Master Service Agreement; dated December 4, 2000	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
360 Networks (USA) Inc.	1st Addendum to MSA; dated December 4, 2000	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
360 networks (USA) Inc.	Master Services Agreement dated December 4, 2000, plus addendum and amendments	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
AboveNet	Wholesale Agreement dated October 29, 2010 & additional amendments	360 Hamilton Ave White Plains, NY 10601
Access Cost Engineer	Software License and Professional Services Agreement dated September 15, 2009 & additional amendments	P.O. Box 614 Ofallon, MO 63366
Access Cost Engineering Systems	LI, Software License, Software Maintenance, and Professional Services Agreement, dated 12/1/06	P.O. Box 614 Ofallon, MO 63366
Advance Global Communications	Carrier Service Agreement with Grande Communication Networks, Inc.	2651 North Harwood Ste 370 Dallas, TX 75201
Alliance Global Networks	BAN #441, Off-Net termination usage	1221 Post Road East Westport, CT 06880
American Telesis	Private Line Service Agreement dated March 17,2008	38B New Orleans Rd Hilton Head Island, SC 29928
Arrival Communications, Inc.	Settlement Agreement and General Release, dated 4/2/07	515 South Flower St, 4th Floor Los Angeles, CA 90071
Backbone Communications, Inc.	BAN #17923, Off-Net termination usage	550 S Hope St Suite 1050 Los Angeles, CA 90071

Counter Party	Description	Address
Bandwidth.Com, Inc.	Dash 911, dated April 6, 2011	4001 Weston Parkway Cary, NC 27513
Bandwidth.Com, Inc.	Service Order, Dated November 19, 2010	4001 Weston Parkway Cary, NC 27513
Bandwidth.Com, Inc.	Rate Change SOF; dated November 19, 2010	4001 Weston Parkway Cary, NC 27513
Bandwidth.Com, Inc.	Master Service Agreement - Emergency Services; dated April 6, 2011	4001 Weston Parkway Cary, NC 27513
Bandwith.com, Inc.	Master Service Agreement dated October 18, 2010, plus addendum and amendments	4001 Weston Parkway Cary, NC 27513
Bandwith.com, Inc.	Master Service Agreement dated April 6, 2011	4001 Weston Parkway Cary, NC 27513
Bell Canada	Bilateral Voice Services Agreement, and Schedules A, B, and C thereto, dated effective January 1, 2013	BCE Nexxis Corp. c/o Bell Canada, Comcast Customer Ingress to BCE Egress, 700 De La Gauchetiere O 14S2, Montreal Canada
Bluemile, Inc. (formerly Bluetone)	BAN #3191, Master Services Agreement with Point One	226 N 5th Street, Suite 300 Columbus, OH 43215
C3 Communications, Inc.	General Service Agreement, dated January 30, 2002	9250 West Flagler St Miami, FL 33174
C3 Communications, Inc.	Colocation License Agreement- 2323 Bryan, Suite 2323; dated January 30, 2002	9250 West Flagler St Miami, FL 33174
C3 Communications, Inc. (purchased by NextEra FiberNet, LLC d/b/a FPL Fibernet)	General Services Agreement dated January 30, 2002	9250 West Flagler St Miami, FL 33174
Canopco, Inc.	BAN #23463, Audio-Ex Conference Wholesale Conference Agreement with	3960 Howard Hughes Parkway, Suite 500

Counter Party	Description	Address
	Tex-Link	Las Vegas, NV 89109
Citizen Telecommunication Co to Tuolumne	Compensation Agreement' dated January 1, 2008	180 S Clinton Ave Rochester, NY 14646
Citizen Telecommunications Company of California, Inc.	Agreement for Local Wireline Network Interconnection; dated November 1, 1999	180 S Clinton Ave Rochester, NY 14646
Citizen Telecommunications Company of California, Inc.	Amendment #8 to ICA; dated August 31, 2007	180 S Clinton Ave Rochester, NY 14646
Citizen Telecommunications Company of California, Inc.	Amendment #9 to ICA; dated May 1, 2009	180 S Clinton Ave Rochester, NY 14646
Citizen's Telecommunication Company of California, Inc.	Agreement for Local Wireline Network Interconnection dated November 1, 1999, plus amendments and extensions	180 S Clinton Ave Rochester, NY 14646
Cox Arizona Telecom, LLC	Network Interconnection Agreement dated February 9,2004	1400 Lake Hearn Drive NE Atlanta, GA 30319
COX California Telecom LLC	Network Interconnection Agreement; dated February 1, 2003	2200 Powell St, Suite 1035 Emeryville, CA 94608
Cox California Telecom, LLC	Network Interconnection Agreement dated December 1, 2003	2200 Powell St, Suite 1035 Emeryville, CA 94608
COX Nevada Telcom LLC	CLEC Interconnection Agreement; dated September 13,2007	1400 Lake Hearn Drive NE Atlanta, GA 30319
Cox Nevada Telecom, LLC	CLEC Interconnection Agreement dated September 18,2007	1400 Lake Hearn Drive NE Atlanta, GA 30319
EarthLink Inc.	Master Service Agreement; dated July 1, 2006	1430 W Peachtree Suite 400 Atlanta, GA 30309
EarthLink Inc.	Addendum to MSA; dated July 15,2006	1430 W Peachtree Suite 400 Atlanta, GA 30309

Counter Party	Description	Address
EarthLink Inc.	Amendment #1 to MSA; dated January 9, 2006	1430 W Peachtree Suite 400 Atlanta, GA 30309
EarthLink Inc.	Amendment #3 to MSA; dated October 27,2008	1430 W Peachtree Suite 400 Atlanta, GA 30309
EarthLink Inc.	Amendment #4 to MSA; dated January 26, 2009	1430 W Peachtree Suite 400 Atlanta, GA 30309
EarthLink Inc.	Amendment #5 to MSA; dated July 20, 2009	1430 W Peachtree Suite 400 Atlanta, GA 30309
Electric Lightwave, LLC	Carrier Account Master Service Agreement dated April 19, 2004	440 NE 77th Avenue Vancouver, WA 98662
Equinix Operating Co., Inc.	Master Service Agreement United States October 28,2010	1715 N Westshore Blvd, Suite 650 Tampa, FL 33607
FPL FiberNet	Notice of assumption of C3 and Grande; dated December 7, 2010	9250 West Flagler St Miami, FL 33174
Global Crossing Telecommunications, Inc.	Master Services Agreement dated November 6, 2009, plus amendment	225 Kenneth Drive Rochester, NY 14623
GLOBAL POPs	BAN #37270, Service Orders with Grande Communications	8 Penn Center West, Suite 101 Pittsburgh, PA 15276
Global Valley Network, Inc.	Compensation Agreement; dated January 1, 2007	180 S Clinton Ave Rochester, NY 14646
Grande Communications Networks, Inc.	Master Service Agreement dated May 1, 2002, plus amendments	401 Carlson Circle San Marcos, TX 78666
Grande Communications Networks, Inc.	Amendment to Master Services Agreement - Interconnection to 2323 Bryan; dated November 1, 2003	401 Carlson Circle San Marcos, TX 78666
GTE California	Interconnect Agreement between GTE California and	205 N Michigan Ave Chicago, IL 60601

Counter Party	Description	Address
	PacWest Telecomm; dated March 24, 2000	
GTE Northwest	Interconnect, Resale, Unbundling Agreement; dated March 17, 1999	205 N Michigan Ave Chicago, IL 60601
Electric Lightwave	Letter accepting transfer of Electric Lightwave ICA to PacWest with conditions; dated February 3, 2000	440 NE 77th Avenue Vancouver, WA 98662
GTE Southwest Inc.	Agreement for the State of Texas; dated April 7, 2004	205 N Michigan Ave Chicago, IL 60601
GTE Southwest Incorporated, d/b/a Verizon Southwest	Agreement (no date), plus amendments, adopted July 29, 2004 by Tex-Link	205 N Michigan Ave Chicago, IL 60601
Happy Valley Telephone Company	Compensation Agreement, dated 10/22/07	525 Junction Rd Madison, WI 53717
Hornitos Telephone Co.	Compensation Agreement, dated 10/22/07	525 Junction Rd Madison, WI 53717
Integra/Electric Lightwave	BAN #500220, Settlement Agreement and Mutual Release with Pac-West	440 NE 77th Avenue Vancouver, WA 98662
Intelepeer/Voex	BAN #1000119, Master Services Agreement with UniPoint Services, Inc.	2855 Campus Drive, Suite 200 San Mateo, CA 94403
Intrado Inc.	Agreement for 911 Network and Data Services dated January 12, 2005, plus amendment	1601 Dry Creek Dr. Longmont, CO 80503
Kerman Telephone Company	Compensation Agreement, dated 8/30/07	811 South Madera Ave Kerman, CA 93630
KWK Telecom, Inc. (NV)	Master Services Agreement with Peering Partners Communications, LLC	109 E 17th Street, Suite 31 Cheyenne, WY 82001
MetroPCS California, LLC	Interconnection Agreement for Transport and	8144 Walnut Hill Ln, Suite 800 Dallas, TX 75374

Counter Party	Description	Address
	Termination of Traffic dated June 1, 2006	
Mpower Communications Corp	Network Interconnection Agreement; dated July 1, 2004	515 S Flower St, 4th Floor Los Angeles, CA 90071
Mpower Communications, Corp.	Network Interconnection Agreement dated July 1, 2004	515 S Flower St, 4th Floor Los Angeles, CA 90071
NeuStar, Inc.	Master Services Agreement dated October 3, 2008	46000 Center Oak Plaza Sterling, VA 20166
NeuStar, Inc.	Service Order Number 1 dated October 3, 2008	46000 Center Oak Plaza Sterling, VA 20166
Neustar, Inc.	Neustar SIP-IX Statement of Work dated September 1, 2012, plus amendment	46000 Center Oak Plaza Sterling, VA 20166
NFS Leasing	Master Equipment Lease, 9/3/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Amendment #1 to MSA, 11/15/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Lease Agreement #1, 9/13/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Lease Schedule #2, 10/7/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Lease Schedule #3, 11/17/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Lease Schedule #4, 10/28/2010	900 Cummings Center, Suite 309-V Beverly, MA 01915
NFS Leasing	Lease Schedule #5, 1/25/2011	900 Cummings Center, Suite 309-V

Counter Party	Description	Address
		Beverly, MA 01915
One Communications	Wholesale Agreement dated April 15, 2008 & additional amendments	100 Chestnut Street, Suite 600 Rochester, NY 14604
Pac-West Telecomm, Inc.		4210 Coronado Ave Stockton, CA 95204
Pacific Centrex Services, Inc.	Network Interconnection Agreement, dated 12/31/08	6855 Tujunga Ave North Hollywood, CA 91605
PaeTec Communications (Windstream)	Traffic Exchange and Compensation Agreement dated December 21, 2007	1 Paetec Plaza 600 Willowbrook Office Park Fairport, NY 14450
Peerless Network	Customer Agreement with Pac-Tel, dated 12/3/10	222 S Riverside Plaza, Suite 2730 Chicago, IL 60606
Peerless Networks, LLC	Customer Agreement with CommPartners LLC, dated 3/17/09	222 S Riverside Plaza, Suite 2730 Chicago, IL 60606
Phonetime	Reciprocal Telecommunications Service Agreement, dated 5/8/09	140 Simcoe St, Suite 309 Toronto Ontario Canada M5H 4E9
Ponderosa Telephone Company	Compensation Agreement, dated 1/1/07	PO Box 21 O'Neals, CA 93645
Preferred Long Distance	Compensation Agreement, dated 12/27/07	16830 Ventura Blvd Encino, CA 91436
Sage Telecom – California	Traffic Termination and Compensation Agreement, dated 12/17/07	805 North Central Expressway Suite 700 Dallas, TX 75231
SMS/800, Inc.	BAN #800178, 800988, Toll-Free MRC's	P.O. Box 8122 Bridgewater, NJ 08807
Surewest Telephone	Agreement dated May 31, 2005	200 Vernon St Roseville, CA 95678
Switch and Data Management Company, LLC	Master Services Agreement dated July 31, 2008	1715 N Westshore Blvd, Suite 650 Tampa, FL 33607

Counter Party	Description	Address
Telcordia	Professional Services Contract dated December 2006	444 Hoes Lane Piscataway, NJ 08854-4151
TeleSphere Software, Inc.	Professional Services Agreement dated September 2,2010	1221 North Russell St Missoula, MT 59808
Telesphere Software, Inc.	Professional Service Agreement; dated September 2, 2010	1221 North Russell St Missoula, MT 59808
Telscape Communications	Traffic Exchange Agreement, dated 12/1/08	606 E Huntington Dr. Monrovia, Ca 91016
Time Warner Telecom	BAN #C0099XX000601, Master Services Agreement with Pac-West, dated 5/27/03	10475 Park Meadows Dr., Suite 400 Littleton, CO 80124
Verizon-CA	Interconnection Agreement dated May 28, 2003, plus amendments	205 N Michigan Ave Chicago, IL 60601
VoiP360, Inc.	Master Services Agreement dated May 19, 2010, plus amendments	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
VoiP360, Inc.	Master Service Agreement; dated May 19, 2010	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
VoiP360, Inc.	Amendment #1 to MSA; dated November 19,2010	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
VoiP360, Inc.	Amendment #2 to MSA; dated January 7, 2011	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
VoiP360, Inc.	Amendment #3 to MSA; dated May 5, 2011	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
VoiP360, Inc.	Termination Service Amendment to MSA; dated May 19,2010	370 Interlocken Blvd, Suite 600 Broomfield, CO 80021
WilTel Communications	Telecommunications Service Agreement dated March 19,2003	1025 Eldorado Blvd Broomfield, CO 80021

<b>Counter Party</b>	<b>Description</b>	<b>Address</b>
XO Communications, Inc.	Exchange Agreement – Settlement Agreement, dated 3/22/07	13865 Sunrise Valley Dr. Herndon, WA 20171
Zayo Group, LLC	Wholesale Agreement (as amended), dated 5/19/10	400 Centennial Pkwy, Suite 200 Louisville, CO 80021
ZOHO Corporation	Annual Subscription	P.O. Box 742760 Los Angeles, CA 90074

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Steve Hubbard / RBC  
202 US Route One, Suite 206  
Falmouth, ME 04105

One Communications/Earthlink  
5 Wall Street  
Burlington, MA 01803

America OnLine  
22000 AOL Way  
Dulles, VA 20166

Telesense  
Cabs Department  
P.O. Box 364300  
Las Vegas, NV 89133-6430

Cox Communications  
1550 W. Deer Valley Rd.  
Phoenix AZ 85027

CenturyLink  
P.O. Box 2961  
Phoenix, AZ 85062-2961

Frontier  
P.O. Box 92713  
Rochester, NY 14692-0000

Cogent Communications  
P.O. Box 791087  
Baltimore, MD 21279-1087

Genband, Inc.  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>IN RE:</b>	§	
<b>UPH HOLDINGS, INC.</b>	§	<b>CASE NO. 13-10570</b>
<b>PAC-WEST TELECOMM, INC.</b>	§	<b>CASE NO. 13-10571</b>
<b>TEX-LINK COMMUNICATIONS, INC.</b>	§	<b>CASE NO. 13-10572</b>
<b>UNIPOINT HOLDINGS, INC.</b>	§	<b>CASE NO. 13-10573</b>
<b>UNIPOINT ENHANCED SERVICES, INC.</b>	§	<b>CASE NO. 13-10574</b>
	§	
<b>UNIPOINT SERVICES, INC.</b>	§	<b>CASE NO. 13-10575</b>
<b>NWIRE, LLC</b>	§	<b>CASE NO. 13-10576</b>
<b>PEERING PARTNERS COMMUNICATIONS, LLC</b>	§	<b>CASE NO. 13-10577</b>
	§	
<b>DEBTORS.</b>	§	<b>CHAPTER 11</b>
	§	
<b>EIN: 45-1144038; 68-0383568; 74- 2729541; 20-3399903; 74-3023729; 38- 3659257; 37-1441383; 27-2200110; 27- 4254637</b>	§	
	§	
<b>6500 RIVER PL. BLVD., BLDG. 2, # 200 AUSTIN, TEXAS 78730</b>	§	<b>JOINTLY ADMINISTERED UNDER CASE NO. 13-10570</b>

**ORDER GRANTING DEBTORS' OMNIBUS MOTION TO ASSUME AND ASSIGN  
CERTAIN AGREEMENTS TO TNCI OPERATING COMPANY, LLC**

CAME ON TO BE HEARD the Debtors' Omnibus Motion to Assume and Assign Certain Agreements to TNCI Operating Company, LLC ("Motion") filed by UPH Holdings, Inc., ("UPH"), Pac-West Telecom, Inc., ("Pac-West"), Tex-Link Communications, Inc. ("Tex-Link"), UniPoint Holdings, Inc. ("UniPoint Holdings"), UniPoint Enhanced Services, Inc. ("UniPoint Enhanced"), UniPoint Services, Inc., ("UniPoint"), nWire, LLC ("nWire"), and Peering Partners Communications, LLC ("Peering Partners") (collectively the "Debtors"). The Court, having considered same, any response(s) thereto, and found that notice of the Motion was proper, is of the opinion that the Motion should be, and is hereby GRANTED in its entirety; it is therefore

ORDERED ADJUDGED and DECREED that the Motion is GRANTED; it is further

ORDERED that any party that has not already objected or any party that has not entered into a separate cure agreement with TNCI Operating Company, LLC ("Buyer") is hereby deemed to have waived any claim or right for a cure amount; it is further

ORDERED that the Debtors are hereby authorized to assume and assign the Contracts (as defined in the Motion, and as listed on Exhibit A to the Motion) to Buyer; notwithstanding the inclusion of any contract or lease or any other notice, schedule, pleading, court filing, or any other document, nothing in this Order shall constitute a finding as to the executory nature of any such contract or lease, and the Debtors expressly preserve all rights to contend that any contract is not an executory contract; and any anti-assignment provisions in any of the Contracts shall not restrict, limit, or prohibit the assumption, assignment, and sale of the Contracts, and are hereby deemed and found to be unenforceable anti-assignment provisions within the meaning of 11 U.S.C. § 365(f).

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Order prepared and is being submitted by:

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