



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED
01/04/18
04:59 PM

C1801005

Blue Casa Telephone, LLC (U7222C)

Complainant,

v.

Pacific Bell Telephone Co. d/b/a AT&T California
(U1001C),

Defendant.

C. _____

COMPLAINT BY BLUE CASA TELEPHONE, LLC (U7222C)

Goodin, MacBride,
Squeri & Day, LLP
John L. Clark
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: jclark@goodinmacbride.com

Attorneys for Blue Casa Telephone, LLC

Dated: January 4, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Blue Casa Telephone, LLC (U7222C)

Complainant,

v.

Pacific Bell Telephone Co. d/b/a AT&T California
(U1001C),

Defendant.

C. _____

COMPLAINT BY BLUE CASA TELEPHONE, LLC (U7222C)

Pursuant to Article 4 of the Commission's Rules of Practice and Procedure, Blue Casa Telephone, LLC ("Blue Casa") hereby submits this Complaint against Pacific Bell Telephone Co. d/b/a AT&T California (U1001C) ("AT&T").

INTRODUCTION

On August 3, 2017, AT&T filed a complaint against Blue Casa and TruConnect Communications, Inc. f/k/a Telscape Communications, Inc. ("TruConnect"). That complaint is now pending in the proceeding designated as C.17-08-003. By its complaint, AT&T is seeking recovery of various amounts that it alleges are owed by Blue Casa or TruConnect pursuant to a certain "Transfer Agreement" among AT&T, TruConnect, and Blue Casa, a copy of which was appended as Attachment 1 to AT&T's complaint and is, likewise, appended to this Complaint.

In its answer to AT&T's complaint, Blue Casa asserted that it had fully paid all amounts owed to AT&T under the Transfer Agreement. In fact, as noted in the answer and as explained further, below, Blue Casa actually overpaid AT&T. By this Complaint, which is, in effect, a counterclaim, Blue Casa seeks a refund of such overpayments .

The Transfer Agreement was entered into among AT&T, Blue Casa, and TruConnect in order to facilitate a transfer of customers from TruConnect to Blue Casa. Under the Transfer Agreement, Blue Casa agreed to pay AT&T directly for certain services and facilities that were being used by TruConnect to continue serving the subject customers while they were being migrated to Blue Casa's network. Specifically, the Transfer Agreement provided that Blue Casa was responsible for paying AT&T's charges to TruConnect for "Unbundled Network Element (UNE) loops" and "Resale services" that were "**used to serve active residential wireline customers in California as of the Cutover Date.**" (Emphasis added.) The Cutover Date is defined in the Transfer Agreement as "August 31, 2015."

AT&T submitted monthly invoices to Blue Casa for the facilities and services used to serve such customers under the Transfer Agreement, and Blue Casa paid those invoices in full. However, it subsequently became evident to Blue Casa that those invoices included charges for facilities and services that were not used to serve residential customers who were active as of the Cutover Date (i.e., customers being migrated to Blue Casa). Instead, those facilities and services had been used to serve other customers, customers who had either already switched to other providers or had otherwise disconnected their TruConnect service before the "Cutover Date," perhaps even years before the Cutover Date, in some cases. Blue Casa does not know whether AT&T's billing for such services and facilities was due to errors in AT&T's inventory records or was due to TruConnect's failure to properly submit disconnect orders, or

was due to a combination of both. Blue Casa does know, however, that any amounts it paid to AT&T for those services and facilities were not owed or otherwise payable by Blue Casa.¹

Blue Casa was not aware of the overcharges, at the time, because AT&T provided TruConnect, but not Blue Casa, with the underlying bill detail. Blue Casa reasonably assumed that AT&T's invoices were calculated properly as Blue Casa had provided AT&T with continuing migration updates showing the active residential customers that were being served on TruConnect's network; so, AT&T should have had no difficulty determining which charges were payable by Blue Casa. For this reason, Blue Casa innocently paid the invoices, in full, without question. But, as Blue Casa has since learned, its trust in AT&T was misplaced.

Blue Casa estimates that such overpayments amounted to over \$350,000.

Through data requests in C.17-08-003 and in this proceeding, Blue Casa will seek the specific billing details and other information that will enable a precise accounting of the total amount of overpayments.

I. Identification of Complainant and Communications

Complainant's name, address, and telephone number are as follows:

Blue Casa Telephone, LLC
114 E. Haley Street, Suite A
Santa Barbara, California 93101
Tel: 805 886-2862.

All communications regarding this matter should be directed to Blue Casa's attorneys as follows:

¹ For these very same reasons, the amounts that AT&T is seeking to collect in C.17-08-003 are simply not Blue Casa's responsibility.

John L. Clark
Goodin, MacBride, Squeri, & Day, LLP
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 765-8443
Facsimile: (415) 398-4321
Email: jclark@goodinmacbride.com

II. Identification of Defendant

The Defendant is Pacific Bell Telephone Co. d/b/a AT&T California.

Complainant believes that Defendant's address and telephone number, for the purpose of this proceeding, are as follows:

Pacific Bell Telephone Company
Attn: David J. Miller
AVP – Senior Legal Counsel
AT&T Services, Inc.
430 Bush Street, Room 310
San Francisco, CA 94108
Tel: (415) 676-9682
E-mail: dm9282@att.com

and that Defendant's counsel are as follows:

David J. Miller
AVP – Senior Legal Counsel
AT&T Services, Inc.
430 Bush Street, Room 310
San Francisco, CA 94108
Tel: (415) 676-9682
E-mail: dm9282@att.com

J. Tyson Covey
Mayer Brown LLP
71 South Wacker Dr.
Chicago, IL 60606
Tel: (312) 782-0600
E-mail: jcovey@mayerbrown.com

III. Specific Allegations

1. On or about April 20, 2015, Blue Casa and TruConnect entered into an agreement providing for Blue Casa's acquisition of wireline telephone customer accounts and certain related assets from TruConnect ("Asset Purchase Agreement").

2. Blue Casa sought and obtained Commission authorization of the transaction contemplated by the Asset Purchase Agreement through Blue Casa's Advice Letter No. 9, as supplemented, which was submitted pursuant to the Commission's advice letter approval process established by Decision (D.) 04-10-038, D.97-06-096, and D.94-05-051.

3. Just prior to the date scheduled for closing the transaction under the Asset Purchase Agreement, AT&T filed a lien against TruConnect's assets based on TruConnect's failure to pay certain amounts owed to AT&T.

4. Because of the lien filing, the closing was delayed by Blue Casa until such time as the encumbrance on the subject assets could be cleared.

5. Subsequently, Blue Casa, TruConnect, and AT&T negotiated arrangements that would satisfy AT&T's concerns and allow the transaction to go forward without material change. These arrangements included entering into the Transfer Agreement, by which Blue Casa would make payments directly to AT&T for certain facilities and services that TruConnect needed in order to continue serving affected customers while they were being migrated to Blue Casa's network after the closing.

6. Specifically, Blue Casa agreed to pay AT&T's charges to TruConnect for "Unbundled Network Element (UNE) loops" and "Resale services" that were "**used to serve active residential wireline customers in California as of the Cutover Date.**" (Emphasis added.) The Cutover Date is defined in the Transfer Agreement as "August 31, 2015."

7. Blue Casa did not agree to pay AT&T's charges to TruConnect for loops, resold services, or other facilities or services, except as so provided in the Transfer Agreement

8. AT&T submitted invoices to Blue Casa on a monthly basis for the facilities and services for which Blue Casa was liable under the Transfer Agreement.

9. Such invoices did not include the underlying billing detail, which was provided to TruConnect, but not to Blue Casa. Blue Casa reasonably assumed that the invoices were calculated properly as Blue Casa had provided AT&T with continuing migration updates showing the active residential customers that were being served on TruConnect's network; so, AT&T should have had no difficulty determining which charges were payable by Blue Casa.

10. Blue Casa innocently paid the invoices, in full, without question. Such payments amounted to approximately \$1,045,221.

11. On information and belief, Blue Casa alleges that AT&T's invoices actually included charges for facilities or services that were not used to serve any residential customers who were active as of the Cutover Date (i.e., that were being migrated to Blue Casa); but, instead, had been used to serve other customers, customers who had either already switched to other providers or had otherwise disconnected their TruConnect service before the "Cutover Date," perhaps even years before the Cutover Date, in some cases.

12. On information and belief, Blue Casa alleges that AT&T's billing for such charges was due either to errors in AT&T's inventory records or TruConnect's failure to properly submit disconnect orders, or was due to a combination of both.

13. Blue Casa alleges on information and belief that, as a result of AT&T's inclusion of improper charges in the invoices issued to Blue Casa under the Transfer Agreement, Blue Casa overpaid AT&T by a total amount exceeding \$350,000.

14. AT&T has no right to retain any overpayment made by Blue Casa under the Transfer Agreement, and the full amount of such overpayment is now due and owing to Blue Casa.

III. PRAYER

Blue Casa prays for relief as follows:

1. For an order requiring AT&T to provide a complete accounting of its charges for which Blue Casa made payment under the Transfer Agreement, including, without limitation, bill detail and other information demonstrating which charges were for, and which charges were not for, "Unbundled Network Element (UNE) loops" and "Resale services" that were "used to serve active residential wireline customers in California as of the Cutover Date," as defined in the Transfer Agreement;

2. For an order requiring AT&T to pay Blue Casa, immediately, the full amount of overcharges paid by Blue Casa under the Transfer Agreement, as determined subject to proof in this proceeding, plus interest thereon at the legal rate;

3. For such other and further relief as may be justified under the premises.

IV. SCOPING INFORMATION

Categorization: Blue Casa submits that this proceeding should be categorized as adjudicatory.

Need for Hearing: Blue Casa believes that a proper accounting by AT&T will allow this proceeding to be resolved without hearing; however, an evidentiary hearing may be required to the extent that if AT&T is unable or unwilling to provide such an accounting.

Issues: To what extent did AT&T's invoices under the Transfer Agreement contain charges for facilities or services that were not payable by Blue Casa under that agreement?

Should AT&T be ordered to repay to Blue Casa the amount of such charges? Should AT&T be ordered to pay to Blue Casa interest at the legal rate on the amount of such charges?

Proposed Schedule:

1. Answer/Response to Complaint: 30 days after service of Complaint
2. Prehearing Conference: 20 days after Answer
3. Blue Casa Opening Testimony: 60 days after Prehearing Conference
4. AT&T Reply Testimony: 20 days after Blue Casa Opening Testimony
5. Blue Casa Rebuttal Testimony: 20 days after AT&T Reply Testimony
6. Evidentiary Hearing (if needed): 10 days after Blue Casa Rebuttal Testimony
7. Blue Casa Opening Brief: 30 days after evidentiary hearing
8. AT&T Reply Brief: 20 days after Blue Casa Opening Brief
9. Blue Casa Rebuttal Brief: 15 days after AT&T Reply Brief
10. Presiding Officer's Decision: 60 days after Blue Casa Rebuttal Brief

Respectfully submitted January 4, 2018 at San Francisco, California.

Goodin, MacBride,
Squeri & Day, LLP
John L. Clark
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
Email: jclark@goodinmacbride.com

By /s/ John L. Clark

John L. Clark

Attorneys for Blue Casa Telephone, LLC

VERIFICATION

I, Jeff Compton, am an officer of Blue Casa Telephone, LLC, the Complainant herein, and am authorized to verify the foregoing Complaint on its behalf. I have read the Complaint and am familiar with its contents. The matters stated in the Complaint are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of January 2018 at Santa Barbara, California.

A handwritten signature in black ink, appearing to read "Jeff Compton", is written over a horizontal line. The signature is stylized and cursive.

ATTACHMENT

TRANSFER AGREEMENT

Subject to Modification Until Executed

Agreement

Among

BLUE CASA TELEPHONE, LLC

AND

TELSCAPE COMMUNICATIONS, INC

AND

PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA

AGREEMENT

This Agreement ("Agreement") is effective on the date when signed by the last Party hereto (the "Effective Date"), and is by and among Blue Casa Telephone, LLC ("Blue Casa"), Telscape Communications, Inc. and Pacific Bell Telephone Company d/b/a AT&T California, each of which may be referred to in the singular as "Party" or in the plural as "Parties." (The Parties acknowledge that although Blue Casa is acquiring from Telscape the right to use the name "Telscape Communications," all references herein to "Telscape" are intended to refer to Telscape Communications, Inc. or its successor and not to Blue Casa.)

RECITALS:

WHEREAS, Blue Casa is a carrier that has a current Interconnection Agreement ("ICA") with AT&T and is registered to conduct business in the state of California; and,

WHEREAS, Telscape is a carrier that has a current ICA with AT&T and is registered to conduct business in the state of California; and,

WHEREAS, Telscape has agreed to migrate its end user customers to Blue Casa and all required regulatory approvals for the migration have been obtained; and,

WHEREAS, AT&T furnishes the Wholesale Services as defined below in Section 2 to Telscape; and,

WHEREAS, AT&T furnishes access services and collocation to Telscape; and

WHEREAS, Telscape and Blue Casa have entered certain agreements related to the transactions covered by this Agreement; and

WHEREAS, Blue Casa and Telscape have requested that AT&T facilitate the migration of the Wholesale Services from Telscape to Blue Casa or Blue Casa's underlying wholesale service providers, which have an ICA with AT&T; and,

WHEREAS, pursuant to the Parties' Memorandum of Understanding, which is being executed simultaneously with this Agreement, AT&T has or will receive payment of all invoiced amounts to Telscape for the Wholesale Services, access services and collocation arrangements and services up to and including the Cutover Date, and

WHEREAS, Blue Casa has agreed to pay for the Wholesale Services, in accordance with section 3, below on and after the Cutover Date.

NOW, THEREFORE, in consideration of these mutual promises, the Parties agree as follows:

1.0 Recitals

This Agreement is composed of the foregoing recitals, the terms and conditions set forth below.

2.0 Definitions

2.1 Cutover Date – means Monday, August 31, 2015.

2.2 Wholesale Services include all: (a) Unbundled Network Element (UNE) loops ("UNE Wholesale Services"); and, (b) Resale services (Resale Wholesale Services"), used by Telscape to serve active residential wireline customers in California as of the Cutover Date that are billed to the attached list of Billing Account Numbers ("BANs") for the Wholesale Services. Collectively the UNE Wholesale Services and Resale Wholesale Services are referred herein as "Wholesale Services."

2.3 In addition to the above Wholesale Services, AT&T provides access services and collocation arrangements and services to Telscape that are billed to the attached list of BANs for access service and collocation arrangements and services. The access services and collocation arrangements and services provided to Telscape are not being migrated to Blue Casa or its underlying wholesale service providers, but will be

tuned down and removed on a separate schedule under Telscape's direction. The access services and collocation arrangements are not included in the definition of Wholesale Services for purposes of this Agreement and are separately treated.

3.0 General Obligations

3.1 (a) Blue Casa shall be responsible for and pay AT&T all non-recurring charges (including connection charges and related service order charges), monthly recurring charges, taxes, fees and surcharges for the Wholesale Services on and after the Cutover Date. Once the individual Wholesale Service, such as a resale line or UNE Loop, is successfully migrated to either Blue Casa's or its underlying wholesale provider's BAN or a new BAN assigned to Blue Casa or its underlying wholesale provider, Blue Casa or its underlying wholesale provider shall be responsible as the case may be and pay AT&T all non-recurring charges and monthly charges pursuant to the terms and conditions of Blue Casa's or its underlying wholesale providers' agreements with AT&T. Telscape, Blue Casa, and Blue Casa on behalf of its underlying wholesale providers acknowledge and agree that AT&T retains its right to suspend and disconnect for nonpayment pursuant to the terms and conditions of the applicable ICA, any other applicable agreement, or tariff and pursuant to applicable law.

(b) Each Wholesale Service shall continue to be supplied subject to the rates of Telscape's current Interconnection Agreement and such charges will continue to be billed to Telscape's Billing Account Numbers until such time as all of the Wholesale Services are successfully migrated to either an existing Blue Casa BAN or a new BAN assigned to Blue Casa or either an existing or new assigned BAN of Blue Casa's underlying wholesale provider. The Parties agree that no Party shall be entitled to demand a true-up of any charges billed by AT&T to the Telscape BANs that have not been successfully migrated to Blue Casa's or its underlying wholesale service providers' BANs.

(c) Telscape shall continue to be responsible for and pay AT&T all non-recurring charges, monthly recurring charges, taxes, fees and surcharges on and after the Cutover Date for access services and collocation arrangements and services that Telscape receives until the collocation arrangements/services and access services are discontinued.

(d) Subject to AT&T receiving the payment provided for in the Parties' Memorandum of Understanding, after the Cutover Date, Telscape shall have no further payment obligations to AT&T for any Wholesale Services furnished under this Agreement, the AT&T Telscape ICA or applicable tariffs (if any).

3.4 TELSCAPE will change, or in alternative authorizes BLUE CASA to change, the billing address for the Wholesale Services so the invoices and all related communications for the Wholesale Services after the Cutover Date are delivered to BLUE CASA. Telscape further authorizes AT&T to disclose and discuss with Blue Casa any and all charges AT&T bills Telscape after the Cutover Date for the Wholesale Services, as well as, the Wholesale Services themselves. Until the billing address is changed, TELSCAPE will be responsible for sending AT&T's invoices and related AT&T communications for the Wholesale Services during the Agreement to BLUE CASA. AT&T will not be responsible for any delay by TELSCAPE in transmitting such invoices and communications to BLUE CASA.

3.5 This Agreement shall remain in effect for nine (9) months, after which it shall expire and any Resale Wholesale Services not migrated to Blue Casa shall be disconnected, any UNE Wholesale Services not migrated to Blue Casa or its underlying wholesale service providers shall be disconnected, any remaining access services and collocation arrangements and services shall be disconnected, and Telscape shall terminate its interconnection agreement with AT&T, unless all the Parties agree in writing to extend the Agreement. If the migration of the Wholesale Services is completed before nine (9) months, this Agreement shall expire thirty (30) days after the completion of the migration of the Wholesale Services and any remaining access services and collocation arrangements and services shall be disconnected and Telscape shall terminate its interconnection agreement with AT&T. Telscape retains the right to dispute under its ICA

and/or any applicable tariffs any charges billed by AT&T for access services and collocation arrangements and services during this period.

- 4.0 BLUE CASA further acknowledges and agrees that:
- 4.1 In order to complete the transfer of the Wholesale Services memorialized in this Agreement, BLUE CASA shall be responsible for submitting Local Service Requests (LSRs) and/or Access Service Requests (ASRs) to the appropriate AT&T service center to complete the migration of the Wholesale Services memorialized in this Agreement from Telscape to Blue Casa or its underlying wholesale service providers. Blue Casa shall be responsible for its, and its underlying wholesale service providers' abiding by the specific processes and interval guidelines for the Wholesale Service(s) as outlined in the CLEC Handbook available from the AT&T CLEC Online website and/or the AT&T Prime Access website.
- 4.2 Within one week of the Cutover Date, Blue Casa shall provide Telscape and AT&T a preferred migration schedule specifying the date Blue Casa will seek to migrate users, by Central Office (and associated CLLI). Telscape and Blue Casa will cooperate in good faith to adjust this preferred migration schedule to enable Telscape to turn down AT&T-provided access services and collocation arrangement and services on an expeditious and efficient basis, with a goal of minimizing the on-going cost to Telscape. Both Blue Casa and Telscape acknowledge and agree that AT&T is not bound to the preferred migration schedule.
- 4.3 Blue Casa shall be responsible for assuring that it or its underlying wholesale service providers, as applicable, use their appropriate Access Customer Name Abbreviations ("ACNAs"), Operating Company Numbers ("OCNs") and Carrier Identification Codes ("CICs") (collectively referred to herein as "Company Codes"), under their legal names in the state of California for the Wholesale Services being migrated from Telscape to Blue Casa's underlying wholesale providers to allow for accurate billing and record keeping.
- 4.4 The Wholesale Services shall be migrated from Telscape to Blue Casa or its underlying wholesale service providers, as applicable, pursuant to rates, terms and conditions, including applicable service order and any other nonrecurring charges, as set forth in their respective Interconnection Agreements or other applicable agreements with AT&T.
- 4.5 Blue Casa shall be responsible for any and all access charges associated with a migrated end user's inbound and outbound toll usage. To this end Blue Casa will ensure that when an individual end user is migrated the end user's long distance service PICs will be changed on a concurrent basis so the end user is no longer able to use Telscape's toll services. To the extent a migrated end user line incurs any access charges on a Telscape access BAN Blue Casa shall, upon notice, repay Telscape for the access usage charges. For the avoidance of doubt, this provision does not create an obligation on AT&T's part.
- 4.6 BLUE CASA SHALL INDEMNIFY AND HOLD AT&T HARMLESS FROM AND DEFEND AT&T AGAINST ANY AND ALL CLAIMS, COSTS, DAMAGES OR OTHER CHARGES (INCLUDING ATTORNEYS' FEES), ACCRUING, ARISING OUT OF, RESULTING FROM OR ASSOCIATED WITH ANY OPERATIONAL PROBLEMS THAT MAY ARISE IN IMPLEMENTING THE TRANSFER OF THE WHOLESALE SERVICES DUE TO ANY DELAY BY BLUE CASA IN PROVIDING ANY INFORMATION TO AT&T NECESSARY TO PERFORM THE TRANSFER OF SUCH WHOLESALE SERVICES.
- 4.7 Any deposit(s) and/or escrow payments required by AT&T to be made by Blue Casa shall be handled pursuant to the terms and conditions contained in Blue Casa's Interconnection Agreement. Any deposit(s) and/or escrow payments required by AT&T to be made by Blue Casa's underlying wholesale service providers shall be handled pursuant to the terms and conditions contained in their respective Interconnection Agreements or other applicable agreements with AT&T.
- 5.0 TELSCAPE further acknowledges and agrees that:

- 5.1 Consistent with the purposes of this Agreement and the Asset Purchase Agreement between Blue Casa and Telscape, dated April 20, 2015, Telscape retains full discretion and control over disconnection and termination of collocation arrangements and services at any and all wire centers, as well as access services provided to Telscape subject to applicable law and California Public Utilities Commission rules. Telscape shall notify AT&T when AT&T can disconnect the collocation arrangements and services at a particular wire center, as well as access services provided to Telscape, and shall indemnify, defend, and hold AT&T harmless from any and all claims, damages, expenses, liabilities, complaints, and lawsuits arising from AT&T's disconnection of the access services and collocation arrangements and services performed pursuant to Telscape's direction.
- 5.2 Telscape and Blue Casa on behalf of itself and its underlying wholesale providers acknowledge and agree that AT&T reserves and is not waiving any right(s), including suspension and/or disconnection in the event of non-payment of the Wholesale Services, access services or collocation arrangement or services.
- 5.3 Telscape releases AT&T from any and all claims related to payments, refunds and/or credits arising out of or related to the Wholesale Services (including but not limited to any Performance Measurement Tier 1 remedy and/or escrow payments payments) for any period prior to the Cutover Date.
- 6.0 AT&T further acknowledges and agrees that:
- 6.1 That it will not assess any fees for redesignation or for the migration based upon the transactions contemplated herein, except as set forth in sections 3.1 and 4.4 .
- 6.2 Upon receipt of the payment as provided in the Parties' Memorandum of Understanding, AT&T releases Telscape from any and all claims (whether known or unknown) as to payment for the Wholesale Services, including, potential back-charges or true-ups for any period prior to, on, and after the Cutover Date.
- 7.0 Force Majeure:
- No Party shall be responsible for delays or failures in performance of any part of this Agreement resulting from a "Force Majeure Event" or any delaying event caused by the other Party or any other circumstances beyond the Party's reasonable control. A "Force Majeure Event" is defined as an act(s) or occurrence(s) beyond the reasonable control of a Party or the Parties, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any governmental authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, labor difficulties, including without limitation, strikes, slowdowns, picketing, boycotts or other work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers, individually and collectively a Force Majeure Event. If a Force Majeure Event shall occur, the Party affected shall give notice to the other Party of such Force Majeure Event within a reasonable period of time following such an event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like Notice and proceed to perform with dispatch once the causes are removed or cease.
- 7.0 Governing Law:

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California without regard to its conflict of laws principles.

8.0 Waivers:

No failure or delay of any Party to: (a) enforce any of the provisions hereof against any other Party, (b) exercise any option provided herein, or (c) require performance of any of the provisions hereof, shall be construed to be a waiver of such provision(s) or option(s), and, notwithstanding such failure or delay, each Party shall have the right thereafter to insist upon the performance of any or all of the provision(s) of this Agreement.

9.0 Necessary Approvals:

Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, governmental authorities, building and property owners, other carriers, and any other persons or entities that may be required in connection with the performance of its obligations under this Agreement. Each Party shall reasonably cooperate with any other Party in obtaining and maintaining any required approvals and rights for which such other Party is responsible.

10.0 Notices:

Notices given by any one Party to any other Party under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be made pursuant to at least one of the following methods: (a) delivered personally, or mailed via certified mail or first class U.S. Postal Service, with postage prepaid and a return receipt requested; or b) delivered by facsimile and by an overnight nationally recognized delivery service.

11. Notices will be deemed given as of the earliest of:

- 11.1 (a) the date of actual receipt; (b) one Business Day after the Business Day which the Party sending notice contracted for delivery to be made; (c) five (5) calendar days after mailing in the case of certified or first class U.S. Postal Service; or (d) the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone; but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.

11.2 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	
NAME/TITLE	Jeff Compton
STREET ADDRESS	2300 Main Street, Suite 340 114 E. Halley St.
CITY, STATE, ZIP CODE	Kansas City, Missouri 64108 Suite A
FACSIMILE NUMBER	Santa Barbara, CA 93101
PHONE NUMBER*	805 886-2862

NOTICE CONTACT	
NAME/TITLE	Robert Yap
STREET ADDRESS	1149 S. Hill Suite 400
CITY, STATE, ZIP CODE	Los Angeles, California, 90015
FACSIMILE NUMBER	
PHONE NUMBER*	213-379-9971

NAME/TITLE	Contract Management
------------	---------------------

91

Address City, State, Zip Code Facsimile Number	ATTN: Notices Manager 9 th Floor, Room A22 311 S Akard Street Dallas, TX 75202 Facsimile Number: 214-712-5792 And AT&T Credit and Collections ATTN: Julie Scherzer 722 N. Broadway, Floor 7 Milwaukee, Wisconsin 53202 Office Number: 414-274-7103 Facsimile Number: 414-283-0941
--	---

*Informational only and not to be considered as an official notice vehicle under this Section.

12. **Good Faith Performance:**

Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

13. **Multiple Counterparts:**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document (e.g., pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of original signatures.

14.0 **Miscellaneous**

14.1 **Severability** - In the event the FCC, state commission or a court rejects any portion or determines that any provision of this Agreement is contrary to law, or is invalid or unenforceable for any reason, the Parties shall continue to be bound by the terms of this Agreement, insofar as possible, except for the portion rejected or determined to be unlawful, invalid, or unenforceable. In such event, the Parties shall negotiate in good faith to replace the rejected, unlawful, invalid, or unenforceable provision. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of federal or state law, or any regulations or orders adopted pursuant to such law.

14.2 **Assignment/Binding Effect** - Any assignment by a Party to any non-Affiliate entity of any right or of any other interest under this Agreement, in whole or in part, without the prior written consent of the other Parties will be void. A Party assigning this Agreement or any right, obligation, duty or other interest under this Agreement to an Affiliate shall provide sixty (60) calendar days' prior written notice to the other Party. All obligations and duties of any Party under this Agreement will be binding on all successors in interest and assigns of that Party. No assignment of this Agreement (in whole or part) will relieve the assignor of its obligations under this Agreement.

14.3 Liability - No Party shall be liable under this Agreement for any indirect, incidental, consequential, reliance, or special damages suffered by any other Party (including without limitation damages for harm to business, lost revenues, lost savings, or lost profits suffered by such other Party), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including without limitation negligence of any kind whether active or passive, and regardless of whether the Parties knew of the possibility that such damages could result. Each Party hereby releases the other Parties (and such other Party's subsidiaries and affiliates, and their respective officers, directors, employees and agents) from any such claim.

14.4 Nothing in this Agreement shall be construed to modify or amend in any respect the provisions of any of Parties' Commercial Agreement(s), ICAs, other agreements, or state or federal tariffs, service guides, or guidebooks.

14.5 Bankruptcy. (a) In the event that a voluntary or involuntary petition has been or is in the future filed by or against Telscape under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding shall be known as an "Insolvency Proceeding"), then: (a) all rights of AT&T under such laws, including, without limitation, all rights of AT&T under 11 U.S.C. § 366, shall be preserved, and Blue Casa's execution of this Agreement shall in no way impair such rights of AT&T; and (b) all rights of Blue Casa resulting from Blue Casa's execution of this Agreement shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to AT&T pursuant to 11 U.S.C. § 366. Except as provided for herein, all monetary obligations of the Parties to one another under Telscape's ICA shall remain in full force and effect and shall constitute monetary obligations of Telscape under this Agreement. In the event that this Agreement is assumed pursuant to 11 U.S.C. §365 or any other similar law in an Insolvency Proceeding, such monetary obligations shall be cured as part of such assumption.

(b) Further, in the event of an Insolvency Proceeding, and to the extent allowed by applicable bankruptcy or insolvency laws, Telscape and its estate(s), the estates of its subsidiaries and affiliates, any estate representative(s), or any reorganized entity (ies) or its successors and assigns waive any and all claims, they may have against AT&T under the Bankruptcy Code, including, but not limited to those actions arising under chapter 5 of the Bankruptcy Code as to any payments made to AT&T pursuant to this Agreement. In the event, AT&T is ordered to disgorge or otherwise repay any amounts paid by Telscape under this Agreement whether pursuant to an order of a court (including a bankruptcy court), a commission or otherwise, then AT&T shall be entitled to recover the full amount of monies owed under this Agreement, including any unpaid or disgorged amount and will be granted an allowed secured claim against Telscape, its estate(s), the estate of its subsidiaries and affiliates, or any reorganized entity(ies) or its successors and assigns for such amounts that are disgorged and amounts that remain unpaid under this Agreement. Except as provided immediately above nothing in this Agreement grants any unsecured or secured rights to AT&T to any Telscape funds, receivables or assets.

15.0 Entire Agreement:

The terms contained in this Agreement and attachments constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written between the Parties during the negotiations of this Agreement and through the Effective Date of this Agreement. This Agreement shall not operate as or constitute a novation of any agreement or contract between the Parties that predates the Effective Date of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, which may be completed in multiple counterparts, each of which will be deemed to be an original instrument, by their duly authorized representatives as of the date first set forth above. This Agreement will not affect any orders executed by AT&T and TELSCAPE prior to the date of this Agreement.

Pacific Bell Telephone Company, d/b/a AT&T California

By: *William A. Bockelman*

Printed Name: William A. Bockelman

Title: Director

Date: August 31, 2015

Blue Casa Telephone, LLC

By: _____

Printed Name: _____

Title: _____

Date: _____

Telcape Communications, Inc.

By: _____

Printed Name: _____

Title: _____

Date: _____

Pacific Bell Telephone Company, d/b/a AT&T California

By: _____

Printed Name: _____

Title: _____

Date: _____

Blue Casa Telephone, LLC

By:  _____

Printed Name: Jeff Compton

Title: CEO/President

Date: 8-31-15

Telscape Communications, Inc.

By: _____

Printed Name: _____

Title: _____

Date: _____

Pacific Bell Telephone Company, d/b/a AT&T California

By: _____

Printed Name: _____

Title: _____

Date: _____

Blue Casa Telephone, LLC

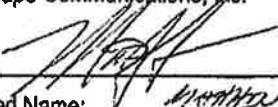
By: _____

Printed Name: _____

Title: _____

Date: _____

Telscape Communications, Inc.

By:  _____

Printed Name: MICHAEL J. JOHNSON

Title: CO-CEO

Date: 8/31/15

BANs for Wholesale Services Attachment

Customer name	Segment	Account Number
TELSCAPE COMMUNICATIONS	RSL	0234012603555
TELSCAPE COMMUNICATIONS	RSL	0237012603555
TELSCAPE COMMUNICATIONS	UNB	3725308263691
TELSCAPE COMMUNICATIONS	RSL	0234042603555
TELSCAPE COMMUNICATIONS	RSL	0234132603555
TELSCAPE COMMUNICATIONS	RSL	0234192603555
TELSCAPE COMMUNICATIONS	RSL	0237162603555
TELSCAPE COMMUNICATIONS	RSL	0234052603555
TELSCAPE COMMUNICATIONS	RSL	0234102603555
TELSCAPE COMMUNICATIONS	RSL	0234162603555
TELSCAPE COMMUNICATIONS	RSL	0237042603555
TELSCAPE COMMUNICATIONS	RSL	0237142603555
TELSCAPE COMMUNICATIONS	RSL	0234082603555
TELSCAPE COMMUNICATIONS	RSL	0234172603555
TELSCAPE COMMUNICATIONS	RSL	0234222603555
TELSCAPE COMMUNICATIONS	RSL	0237132603555
TELSCAPE COMMUNICATIONS	RSL	0237252603555
TELSCAPE COMMUNICATIONS	RSL	0234022603555
TELSCAPE COMMUNICATIONS	RSL	0237082603555
TELSCAPE COMMUNICATIONS	RSL	0237102603555
TELSCAPE COMMUNICATIONS	RSL	0237112603555
TELSCAPE COMMUNICATIONS	RSL	0234112603555
TELSCAPE COMMUNICATIONS	RSL	0234252603555
TELSCAPE COMMUNICATIONS	RSL	0234072603555
TELSCAPE COMMUNICATIONS	RSL	0234282603555
TELSCAPE COMMUNICATIONS	RSL	0237072603555
TELSCAPE COMMUNICATIONS	RSL	0237232603555
TELSCAPE COMMUNICATIONS	RSL	0237022603555
TELSCAPE COMMUNICATIONS	RSL	0237172603555
TELSCAPE COMMUNICATIONS	RSL	0237202603555
TELSCAPE COMMUNICATIONS	RSL	0237262603555
TELSCAPE COMMUNICATIONS	RSL	0234142603555
TELSCAPE COMMUNICATIONS	RSL	0234202603555
TELSCAPE COMMUNICATIONS	RSL	0234232603555
TELSCAPE COMMUNICATIONS	RSL	0234262603555
TELSCAPE COMMUNICATIONS	RSL	0237052603555
TELSCAPE COMMUNICATIONS	RSL	0237192603555
TELSCAPE COMMUNICATIONS	RSL	0237222603555
TELSCAPE COMMUNICATIONS	RSL	0237282603555
TELSCAPE COMMUNICATIONS	UNB	2725302766466
TELSCAPE COMMUNICATIONS	UNB	2725303447677
TELSCAPE COMMUNICATIONS	UNB	2735307075469
TELSCAPE COMMUNICATIONS	UNB	3725305805332
TELSCAPE COMMUNICATIONS	UNB	3725306905609
TELSCAPE COMMUNICATIONS	UNB	3725307694764
TELSCAPE COMMUNICATIONS	UNB	3735302386846

BANs for Wholesale Services Attachment

TELSCAPE COMMUNICATIONS	UNB	3735307076358
TELSCAPE COMMUNICATIONS	UNB	2725302389347
TELSCAPE COMMUNICATIONS	UNB	2735304356982
TELSCAPE COMMUNICATIONS	UNB	3725304028409
TELSCAPE COMMUNICATIONS	UNB	3725304321109
TELSCAPE COMMUNICATIONS	UNB	3725305807954
TELSCAPE COMMUNICATIONS	UNB	3725306909605
TELSCAPE COMMUNICATIONS	UNB	2735302385007
TELSCAPE COMMUNICATIONS	UNB	3725302384960
TELSCAPE COMMUNICATIONS	UNB	3725302390973
TELSCAPE COMMUNICATIONS	UNB	3725307896686
TELSCAPE COMMUNICATIONS	UNB	3735302380979
TELSCAPE COMMUNICATIONS	UNB	2725305806743
TELSCAPE COMMUNICATIONS	UNB	2725306894300
TELSCAPE COMMUNICATIONS	UNB	2725306898536
TELSCAPE COMMUNICATIONS	UNB	2725307693347
TELSCAPE COMMUNICATIONS	UNB	2735302387225
TELSCAPE COMMUNICATIONS	UNB	3725302773486
TELSCAPE COMMUNICATIONS	UNB	3725303448391
TELSCAPE COMMUNICATIONS	UNB	3725303540583
TELSCAPE COMMUNICATIONS	UNB	3725306471429
TELSCAPE COMMUNICATIONS	UNB	3725306902651
TELSCAPE COMMUNICATIONS	UNB	3725306904543
TELSCAPE COMMUNICATIONS	UNB	3725306906369
TELSCAPE COMMUNICATIONS	UNB	2725302691066
TELSCAPE COMMUNICATIONS	UNB	2725302772332
TELSCAPE COMMUNICATIONS	UNB	2725302842493
TELSCAPE COMMUNICATIONS	UNB	2725303539107
TELSCAPE COMMUNICATIONS	UNB	2725304320847
TELSCAPE COMMUNICATIONS	UNB	2725305804210
TELSCAPE COMMUNICATIONS	UNB	2725306896931
TELSCAPE COMMUNICATIONS	UNB	2725306897029
TELSCAPE COMMUNICATIONS	UNB	2725307895641
TELSCAPE COMMUNICATIONS	UNB	3735304357730
TELSCAPE COMMUNICATIONS	UNB	2725302712440
TELSCAPE COMMUNICATIONS	UNB	2725306900719
TELSCAPE COMMUNICATIONS	UNB	2735302663554
TELSCAPE COMMUNICATIONS	UNB	3725302692013
TELSCAPE COMMUNICATIONS	UNB	3725302767585
TELSCAPE COMMUNICATIONS	UNB	3725306903743
TELSCAPE COMMUNICATIONS	UNB	3735305194507
TELSCAPE COMMUNICATIONS	UNB	2725302383080
TELSCAPE COMMUNICATIONS	UNB	2725305066661
TELSCAPE COMMUNICATIONS	UNB	2725306470671
TELSCAPE COMMUNICATIONS	UNB	2725306899958
TELSCAPE COMMUNICATIONS	UNB	2735305193603
TELSCAPE COMMUNICATIONS	UNB	3725306908597

BANs for Wholesale Services Attachment

TELSCAPE COMMUNICATIONS	UNB	3735302664741
TELSCAPE COMMUNICATIONS	UNB	2725304027064
TELSCAPE COMMUNICATIONS	UNB	2725306895020
TELSCAPE COMMUNICATIONS	UNB	2725306901573
TELSCAPE COMMUNICATIONS	UNB	2735302379211
TELSCAPE COMMUNICATIONS	UNB	3725302713979
TELSCAPE COMMUNICATIONS	UNB	3725302843841
TELSCAPE COMMUNICATIONS	UNB	3725305067340
TELSCAPE COMMUNICATIONS	UNB	3725306907939

BANs for Access Services and Colocation Arrangments and Services Attachment

Customer name	Segment	Account Number
TELSCAPE COMMUNICATIONS	COL	0730024324222
TELSCAPE COMMUNICATIONS	COL	0730024328222
TELSCAPE COMMUNICATIONS	COL	0730024331222
TELSCAPE COMMUNICATIONS	COL	0730024339222
TELSCAPE COMMUNICATIONS	COL	0730025509222
TELSCAPE COMMUNICATIONS	COL	0730024333222
TELSCAPE COMMUNICATIONS	COL	0730024338222
TELSCAPE COMMUNICATIONS	COL	0730025963764
TELSCAPE COMMUNICATIONS	COL	0730024329222
TELSCAPE COMMUNICATIONS	COL	0730024335222
TELSCAPE COMMUNICATIONS	COL	0730024336222
TELSCAPE COMMUNICATIONS	COL	0730024345222
TELSCAPE COMMUNICATIONS	COL	0730024348222
TELSCAPE COMMUNICATIONS	COL	0730024325222
TELSCAPE COMMUNICATIONS	COL	0730024353222
TELSCAPE COMMUNICATIONS	COL	0730024332222
TELSCAPE COMMUNICATIONS	COL	0730024343222
TELSCAPE COMMUNICATIONS	COL	0730024344222
TELSCAPE COMMUNICATIONS	COL	0730025510222
TELSCAPE COMMUNICATIONS	COL	0730024322222
TELSCAPE COMMUNICATIONS	COL	0730024330222
TELSCAPE COMMUNICATIONS	COL	0730024334222
TELSCAPE COMMUNICATIONS	COL	0730024337222
TELSCAPE COMMUNICATIONS	COL	0730024346222
TELSCAPE COMMUNICATIONS	COL	0730025512222
TELSCAPE COMMUNICATIONS	COL	0730024323222
TELSCAPE COMMUNICATIONS	COL	0730024342222
TELSCAPE COMMUNICATIONS	COL	0730024355222
TELSCAPE COMMUNICATIONS	COL	0730025511222
TELSCAPE COMMUNICATIONS	COL	0730025960699
TELSCAPE COMMUNICATIONS	COL	0730024326222
TELSCAPE COMMUNICATIONS	COL	0730024327222
TELSCAPE COMMUNICATIONS	COL	0730024340222
TELSCAPE COMMUNICATIONS	COL	0730024341222
TELSCAPE COMMUNICATIONS	COL	0730025964645
TELSCAPE COMMUNICATIONS	COL	0730023575222
TELSCAPE COMMUNICATIONS	COL	0730026415619
TELSCAPE COMMUNICATIONS	COL	0730026401155
TELSCAPE COMMUNICATIONS	COL	0730026272079
TELSCAPE COMMUNICATIONS	COL	0730026296394
TELSCAPE COMMUNICATIONS	COL	0730025983659
TELSCAPE COMMUNICATIONS	COL	0730025985552
TELSCAPE COMMUNICATIONS	COL	0730025987452
TELSCAPE COMMUNICATIONS	COL	0730025981523
TELSCAPE COMMUNICATIONS	COL	0730026277331
TELSCAPE COMMUNICATIONS	COL	0730025984143

BANs for Access Services and Colocation Arrangments and Services Attachment

TELSCAPE COMMUNICATIONS COL	0730025986584
TELSCAPE COMMUNICATIONS COL	0730025982446
TELSCAPE COMMUNICATIONS IXC	0730961371572
TELSCAPE COMMUNICATIONS IXC	0730065011895
TELSCAPE COMMUNICATIONS IXC	0730065001973