

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2022-157-C - ORDER NO. 2022-576(A)

AUGUST 30, 2022

IN RE: Application of United Commercial Telecom, LLC for a Certificate of Public Convenience and Necessity to Provide Access Services and Local Exchange Telecommunications Services) and for Local Service Offerings to Be Regulated in Accordance with Procedures Authorized for NewSouth Communications, LLC in Order No. 1998-165 in Docket No. 1997-467-C	)	ORDER GRANTING CERTIFICATE AND APPROVING ALTERNATIVE AND FLEXIBLE REGULATION AND WAIVERS OF REGULATIONS 103-607, 103-610, 103-631 AND 103- 612.2.3
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After the issuance of Order No. 2022-576, it was revealed that S.C. Code Ann. Regs. 103-607 was inadvertently left out of the Conclusions of Law and Ordering Provisions. Counsel for United Commercial Telecom, LLC raised the omission and requested that it be addressed. The waiver is hereby granted by the filing of this Amended Order. No other changes have been made.

**I. PROCEDURAL HISTORY**

This matter comes before the Public Service Commission of South Carolina (Commission) on the Application of United Commercial Telecom, LLC (United) for a Certificate of Public Convenience and Necessity (CPCN), authorizing United to provide access services and local exchange telecommunications within the State of South Carolina. United also seeks alternative and flexible regulation, in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 1997-467-C.

United filed its Application on April 28, 2022, pursuant to S.C. Code Ann. section 58-9-280, and the rules and regulations of the Commission. As noted, United requests

flexible regulation and a waiver of certain Commission regulations, in accordance with procedures authorized for New South Communications in Order No. 98-165 in docket No. 97-467-C and the general regulatory authority of the Commission.

The Clerk's Office of the Commission instructed United to publish, one time, a Notice of Filing (Notice) in newspapers of general circulation in the areas of the state affected by the Application. The Notice provided information regarding the nature of the proceeding and advised any person desiring to participate as a party of record to file a Petition to Intervene on or before June 16, 2022. The Applicants complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

The South Carolina Telephone Coalition (SCTC), represented by Margaret M. Fox, Esquire, and M. John Bowen, Esquire, filed a Petition to Intervene on May 25, 2022. The Petition was granted<sup>1</sup>. Following SCTC's intervention, SCTC and United reached a Stipulation. SCTC withdrew its opposition to the granting of a statewide CPCN to United, provided the conditions contained in the Stipulation are met. At the hearing, the Stipulation was submitted into evidence and is incorporated into this Order as Order Exhibit I.

The Office of Regulatory Staff (ORS), a party of record pursuant to section 58-4-10 of the South Carolina Code of Laws (Supp. 2021), filed a Notice of Appearance of Donna L. Rhaney, Esquire, and Alexander W. Knowles, Esquire, on May 9, 2022. ORS reviewed the Application and concluded United's request for a CPCN was consistent with the public interest. Additionally, in correspondence dated June 21, 2022, ORS informed the Commission that it did not intend to appear at the hearing.

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<sup>1</sup> Order No. 2022-60-H.

A virtual hearing was held on July 21, 2022, at 10:00 A.M. before Hearing Examiner Sandra V. Moser, Esquire, appointed by Commission Order No. 2022-375. Appearing on behalf of the Applicant was Scott Elliott, Esquire. Mark Schuh, United's President, testified in support of the Application. Neither SCTC nor ORS were present at the hearing.

## **II. EVIDENCE OF RECORD**

United is a limited liability company (LLC) organized under the laws of the State of Florida<sup>2</sup> and registered to do business in the State of South Carolina. Application, p. 3 ¶ 1. United seeks authority to offer access service to other carriers and business customers throughout South Carolina. Application, p. 2. United plans to commence offering service upon the establishment of resale arrangements with the existing Local Exchange Carriers (LECs) that presently serve the state. *Id.* Specifically, United “intends to provide local exchange service to customers located in non-rural local exchange carriers’ service areas of South Carolina” and plans to negotiate an interconnection/resale agreement with BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (AT&T) to provide local service. *Id.*

In addition to its Application, United provided its Certificate of Formation, Certificate of Authority to Operate in South Carolina, a Proposed Access Services Tariff, biographies of United's management, and its parent company's financial statements. These documents, as well as the Stipulation with SCTC and Mr. Schuh's testimony, provide evidentiary support for granting United a Certificate of Public Convenience and Necessity.

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<sup>2</sup> United's headquarters are at 725 Primera Blvd., Suite 120 Lake Mary, Florida 32746.

United is a wholly owned subsidiary of ARMS Holdings, Inc. (ARMS), a privately traded entity. Application, p. 3, ¶ 1. During the hearing, Mr. Schuh corrected his pre-filed testimony to reflect that ARMS Holdings, Inc. is the parent company, not United Commercial Telecom, Inc. Further, United is a privately - not publicly - held company. As such, there are no publicly filed financial records, such as 10-Qs and 10-Ks, as indicated in the pre-filed testimony. Additionally, Mr. Schuh amended his pre-filed testimony by removing the Masters in Industrial Engineering and adding an honorable discharge from the United States Marine Corps. Mr. Schuh's revised direct testimony was filed on July 21, 2022.

**a. Financial Resources**

Mr. Schuh testified that United has substantial financial resources to provide its telecommunication services in South Carolina. Schuh Revised Direct Testimony, p. 7. During the hearing, Mr. Schuh offered to supplement the record with additional financial information. Accordingly, a financial review of the company was requested by the hearing examiner. A management report<sup>3</sup> was received by the Commission on August 12, 2022, confirming the previous financial information and supporting the fact that United is sufficiently funded to provide the services requested. Further, no judgments have been levied against the company. Schuh, p. 5:3.

**b. Managerial and Technical Resources**

According to the Application, United is managerially and technically qualified to provide local exchange and telecommunications service in South Carolina. Application, p.

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<sup>3</sup> United's management report was prepared by Teeling & Company, CPAs of Tampa, Florida.

4 ¶ 2. United “has extensive experience in the technical, managerial, and financial aspects of the telecommunications industry.” *Id.* In particular, “Applicant’s key management personnel have significant business and telecommunications experience.” Application, p. 4 ¶ 3.

United is currently authorized to provide local exchange services in the states of Florida, Georgia, Pennsylvania, Texas, and Tennessee. Application, p. 4 ¶ 3. United’s customer service representatives are available to assist its customers and will promptly respond to all customer inquiries. Application, p. 3 ¶ 2. The customer service representatives are specifically prepared to respond to a range of service matters, including monthly billing statements, rates, problems with customer’s current service, and general service matters. Application, p. 4. United also plans to rely upon the technical expertise and telecommunications experience of its underlying carriers. Application, p. 5 ¶ 3.

Based on the evidence in the record, the Applicant has sufficient technical, financial, and managerial resources to provide the requested services. Finally, Mr. Schuh testified that United intends to comply with all applicable Commission rules, regulations, guidelines, and Orders.

**c. Providing Service**

United’s business and network plans “anticipate provision of service via its own fiber as a carrier’s carrier.” Application, p. 5 ¶ 3. United will utilize the infrastructure it currently owns and plans to build to service other carriers throughout South Carolina. Schuh, p. 7. Pursuant to the Stipulation, United agrees that any Certificate which may be granted will authorize it to provide service only to customers located in non-rural LEC service areas of South Carolina, except as provided in the Stipulation. Stipulation, ¶ 2. As

such, United plans to resell the facilities of the existing LECs or underlying carriers that presently serve South Carolina, primarily AT&T. Application, p. 5. United will also use unbundled network elements and services purchased from other incumbent local exchange providers, where applicable, to provide service through United's facilities. *Id.*

**d. Public Interest**

United asserts approval of this Application “will promote the public interest by increasing the level of competition in the South Carolina telecommunications market.” Application, p. 2. Moreover, United represents that its provision of local services will not adversely impact the availability of affordable local service; it will participate in the support of universally available telephone service at affordable rates, to the extent required by the Commission; and its provision of local services will not adversely impact the public interest. Application, p. 6. United intends to “. . . provide quality service at competitive rates, while resulting in profitable operation. . .” Application, p. 4.

United anticipates a competitive market in which business will compete “based on price, innovation, and customer service.” Application, p. 6. United asserts “entry into the local exchange markets will not unreasonably prejudice or disadvantage any telephone service providers.” *Id.* Mr. Schuh also states that they plan to “utilize in-house marketing staff as well as outside salespersons and agents” to market their services. Schuh, p. 7:20-23. Pursuant to the South Carolina Public Service Commission's Order No. 95-658 (issued March 20, 1995), United affirms it “will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in South Carolina.” Application, p. 9. Additionally, United understands it will be responsible for the marketing practices of its contracted telemarketers for compliance with this provision. *Id.*

**e. Waivers**

As a part of this Application, United requests several different waivers. First, United does not intend to offer residential local service and requests a waiver of the bond requirement. Application, p. 5. In the event United provides retail residential local exchange services in South Carolina, it “will comply with the provisions of S.C. Code Ann. Regs. Section 103-607.” *Id.*

United also requests a waiver of S.C. Code Ann. Regs. 103-610, which would require the company to maintain its books in both South Carolina as well as Florida. Application, p. 8. Maintaining a separate set of records outside of its principal place of business would be unduly burdensome, and United prefers to keep its records at its principal place of business. *Id.*

Pursuant to S.C. Code Ann. Regs. 103- 611, United requests an exemption from record-keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). Application, p. 8. United currently maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). *Id.*

Additionally, United seeks a waiver of Commission Regulation 103-631, so that it will not be required to publish local exchange directories. Application, p. 8. Instead, the company will contract with incumbent local exchange carriers for the inclusion of its CLEC databases into the master customer database of the local exchange carrier. *Id.*

As United’s local exchange calling areas will initially mirror the service area of the incumbent local exchange carriers, the company requests a waiver of the map filing requirement of Commission Regulations 103-612.2.3. Application, p. 9.

Finally, United requests that its local service offerings be regulated in accordance with procedures authorized for New South Communications in Order No. 98-165 in docket No. 97-467-C. Application, p. 9. Prior to providing local exchange services to the public in South Carolina, United will file a complete Final Tariff and/or Price List with the Commission. Application, p. 7.

After consideration of the applicable law, United's Application, and the evidence presented at and after the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **III. FINDINGS OF FACT**

1. United is a limited liability corporation organized under the laws of the State of Florida and registered to do business in the State of South Carolina.

2. United is a provider of access and local exchange services and wishes to provide its services in South Carolina.

3. United has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1).

4. United's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3).

5. United will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4).

6. The services to be provided by United will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

7. The provision of local exchange and access services by United "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5).



8. As the result of the Stipulation, SCTC has withdrawn its opposition to the Application.

9. The Stipulation between SCTC and United is in the public interest.

10. The issuance of a Certificate of Public Convenience and Necessity to the Company to operate as a provider of access services and local exchange telecommunications services in South Carolina would be in the public interest of South Carolina by providing competitive choices.

11. ORS did not appear at the hearing and did not oppose granting the CPCN herein.

12. United's requested waiver of S.C. Code Ann. Regs. 103-607, 103-610, 103-611, 103-612.2.3, and 103-631 are reasonable and in the public interest.

#### **IV. CONCLUSIONS OF LAW**

1. The Commission concludes that United possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1) (2015).

2. The Commission concludes that United will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

3. The Commission concludes that United's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. § 58-9-280(B)(3) (2015).

4. The Commission concludes that United will, to the extent that the company may be required to do so by the Commission, participate in the support of universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4) (2015).

5. The Commission concludes that United will collect 911 and dual-party relay service surcharges and remit those funds to the appropriate authorities.

6. The Commission concludes that approval of United's Application to provide resold and facilities-based local exchange and interexchange telecommunications services within South Carolina does not otherwise adversely impact the public interest. S.C. Code Ann. § 58-9-280(B)(5) (2015).

7. The Stipulation between United and SCTC, as documented in Order Exhibit 1, is approved and adopted as part of this Order. Any proposal to provide local telecommunications service to rural service areas, regardless of the technology employed, is therefore subject to the terms of the Stipulation.

8. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to United to provide access services and local exchange telecommunications services.

9. The Commission concludes United's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within thirty (30) days of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the

investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. The Commission concludes that United's request for waiver of S.C. Code Ann. Regs. 103-610 should be granted, because strict compliance with the regulation potentially causes undue hardship on the company. We also grant exemption from the policies requiring the use of USOA, pursuant to S.C. Ann. Regs 103-611, and grant waiver of S.C. Code Ann. Regs. 103-631, regarding publication of a local telephone directory. We further grant the waiver of S.C. Code Ann. Regs. 103-607 because United does not intend to offer retail residential local exchange service at this time. Finally, we grant waivers of S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

## **V. ORDERING PROVISIONS**

### **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**

1. A Certificate of Public Convenience and Necessity should be granted to United Commercial Telecom, LLC to provide competitive local exchange telecommunications services on a facilities-based or resold basis and to provide access services.

2. The terms of the Stipulation between United and SCTC are hereby approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The regulatory treatment adopted for United’s services shall conform to the design described in Conclusions of Law above.

4. If it has not already done so, United shall file its revised tariff utilizing the Commission’s e-filing system for tariffs by the date of the issuance of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the Commission’s DMS System (<http://dms.psc.sc.gov/Web>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission’s ETariff System (<http://etariff.psc.sc.gov/Organization>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order, agreements with other parties to this case, and the Commission’s Rules and Regulations. The revised tariffs shall be filed as stated within 30 days of receipt of this Order.

5. United shall resell the services regulated by this Commission of only those local exchange carriers (LECs) authorized to do business in South Carolina by this Commission.

6. United shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina information. Therefore, United shall keep financial records on its South Carolina operations and all other operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS’s website at <https://ors.sc.gov/>. The title of this form is “Telecommunications Company Annual Report.” This form shall be utilized by United to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

7. Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at <https://ors.sc.gov/>, and the appropriate form is entitled “Gross Receipts Form.”

8. Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at <https://ors.sc.gov/>. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet must be completed in its entirety and is due to be filed annually no later than **August 1st** with the Commission and ORS.

9. United shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, United shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. United shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [http://psc.sc.gov/forms](http://psc.sc.gov/forms;); this form shall be utilized for the provision of this information to the Commission and ORS. This form shall be updated annually with the filing of United’s Telecommunications Company Annual Report. Further, United shall promptly notify the Commission and ORS

in writing if the representatives are replaced. If United changes or modifies its name, United shall file such changes with the Commission for approval.

10. United is directed to comply with all Rules and Regulations of the Commission unless a regulation is specifically waived by the Commission.

11. United requested a waiver of Code Ann. Regs. 103-610 (Supp. 2012), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The Commission finds United's requested waiver reasonable and understands the potential difficulty presented to the company should the waiver not be granted. The Commission therefore grants the requested waiver. However, United shall make available its books and records at all reasonable times upon request by ORS, at United's expense, and the company shall promptly notify the Commission and ORS if the location of its books and records changes. Further, United is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Commission grants United's request for the waiver of the requirement that it file a map of its service territory as required by S.C. Code Ann. Regs. 103-612.2.3 and the publication of directories as required by S.C. Code Ann. Regs. 103-631. The Commission grants United's request for a waiver of S.C. Code Ann. Regs. 103-607, as United does not intend to offer retail residential local exchange service at this time. United is directed to comply with all Rules and Regulations of the Commission unless the Commission specifically waives compliance with a regulation.


12. United is required to comply with Title 23, Chapter 47, South Carolina Code of Law Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or

“911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, in the event United offers or provides the appropriate services, the Commission hereby instructs the company to contact the appropriate authorities regarding 911 service in the counties and cities where it will be operating. Contact with the appropriate 911 service authorities is to be made before voice or dial tone service in South Carolina. By this Order and prior to providing voice or dial tone services within South Carolina, United shall contact the 911 coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system and shall provide information regarding United’s operations as required by the 911 system.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



  
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Florence P. Belser, Chair  
Public Service Commission of  
South Carolina

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2022-157-C

Re: Application of United Commercial )  
Telecom, LLC for a Certificate of Public )  
Convenience and Necessity to Provide )  
Access Services and Local Exchange )  
Telecommunications Services and for )  
Local Service Offerings to be Regulated in )  
Accordance with Procedures Authorized )  
for NewSouth Communications, LLC in )  
Order No. 1998-165 in Docket No. )  
1997-467-C )

**STIPULATION**

The South Carolina Telephone Coalition (“SCTC”) (see attachment “A” for list of companies) and United Commercial Telecom, LLC (“UCT”) hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose UCT’s Application. SCTC and Applicant stipulate and agree as follows:

1. SCTC does not oppose the granting of a Certificate of Public Convenience and Necessity to Applicant, provided the South Carolina Public Service Commissions (“Commission”) makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Applicant stipulates and agrees that any Certificate which may be granted will authorize Applicant to provide service only to customers located in non-rural local exchange company (“LEC”) service areas of South Carolina, except as provided herein.

3. Applicant stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.



4. Applicant stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Applicant provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Applicant acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Applicant stipulates and agrees that, if Applicant gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Applicant will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Applicant acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LEC's and Applicant, and this Stipulation in no way suspends or

adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Applicant agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Applicant hereby amends its application and its pre-filed testimony in this docket to the extent necessary to conform with this Stipulation.

United Commercial Telecom, LLC


South Carolina Telephone Coalition



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6/13/2022

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Comporium, Inc. (f/k/a Rock Hill Telephone Company)  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company, d/b/a Comporium  
Home Telephone ILEC, LLC d/b/a Home Telecom  
Lancaster Telephone Company, d/b/a Comporium  
Lockhart Telephone Company, d/b/a TruVista  
McClellanville Telephone Company (TDS)  
Norway Telephone Company (TDS)  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
PBT Telecom, d/b/a Comporium  
Ridgeway Telephone Company, d/b/a TruVista  
St. Stephen Telephone Company (TDS)  
TruVista Communications, Inc. (f/k/a Chester Telephone Company)  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company (TDS)