

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2022-05-05** | Period of Report: **2022-03-31**
SEC Accession No. [0001104659-22-056265](#)

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FILER

COGENT COMMUNICATIONS HOLDINGS, INC.

CIK: **1158324** | IRS No.: **522337274** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **10-Q** | Act: **34** | File No.: **000-51829** | Film No.: **22894853**
SIC: **4899** Communications services, nec

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 10-Q

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended March 31, 2022

OR

- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission File No. 000-51829

COGENT COMMUNICATIONS HOLDINGS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State of Incorporation)

46-5706863
(I.R.S. Employer
Identification Number)

2450 N Street N.W.
Washington, D.C. 20037
(Address of Principal Executive Offices and Zip Code)

(202) 295-4200
(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange on which Registered</u>
Common Stock, par value \$0.001 per share	CCOI	NASDAQ Global Select Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer" "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock, \$.001 par value 47,935,352 Shares Outstanding as of April 29, 2022

INDEX

PART I
FINANCIAL INFORMATION

Item 1.	Financial Statements	3
	Condensed Consolidated Financial Statements (Unaudited)	
	Condensed Consolidated Balance Sheets of Cogent Communications Holdings, Inc. and Subsidiaries as of March 31, 2022 (Unaudited) and December 31, 2021	3
	Condensed Consolidated Statements of Comprehensive Income (Loss) of Cogent Communications Holdings, Inc. and Subsidiaries for the Three Months Ended March 31, 2022 and March 31, 2021 (Unaudited)	4
	Condensed Consolidated Statements of Cash Flows of Cogent Communications Holdings, Inc. and Subsidiaries for the Three Months Ended March 31, 2022 and March 31, 2021 (Unaudited)	5
	Notes to Interim Condensed Consolidated Financial Statements (Unaudited)	6
	Management’s Discussion and Analysis of Financial Condition and Results of Operations	16
Item 2.		
Item 3.	Quantitative and Qualitative Disclosures About Market Risk	28
Item 4.	Controls and Procedures	28

PART II
OTHER INFORMATION

Item 1.	Legal Proceedings	29
Item 1A.	Risk Factors	29
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds	29
Item 6.	Exhibits	29
<u>SIGNATURES</u>		30
<u>CERTIFICATIONS</u>		

PART I FINANCIAL INFORMATION

ITEM 1.

FINANCIAL STATEMENTS

COGENT COMMUNICATIONS HOLDINGS, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS
AS OF MARCH 31, 2022 AND DECEMBER 31, 2021
(IN THOUSANDS, EXCEPT SHARE DATA)

	March 31, 2022	December 31, 2021
	(Unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	\$ 281,485	\$ 319,609
Restricted cash	30,286	9,015
Accounts receivable, net of allowance for credit losses of \$1,476 and \$1,510, respectively	41,662	41,938
Prepaid expenses and other current assets	41,757	39,015
Total current assets	395,190	409,577
Property and equipment, net	456,419	457,880
Right-of-use leased assets	100,909	101,687
Deposits and other assets	17,251	15,413
Total assets	<u>\$ 969,769</u>	<u>\$ 984,557</u>
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	\$ 13,808	\$ 11,923
Accrued and other current liabilities	48,314	39,057
Installment payment agreement, current portion	218	785
Current maturities, operating lease liabilities	12,118	12,197
Current maturities, finance lease obligations	17,147	17,048
Total current liabilities	91,605	81,010
Senior unsecured 2024 Euro Notes, net of unamortized debt costs of \$1,917 and \$2,121, respectively, and net of discount of \$684 and \$772, respectively	386,418	394,112
Senior secured 2026 Notes, net of unamortized debt costs of \$1,094 and \$1,156, respectively, and net of discount of \$1,454 and \$1,536, respectively	497,452	497,308
Operating lease liabilities, net of current maturities	111,656	111,794
Finance lease obligations, net of current maturities	228,102	228,822
Other long-term liabilities	63,142	44,609
Total liabilities	<u>1,378,375</u>	<u>1,357,655</u>
Commitments and contingencies:		
Stockholders' equity:		
Common stock, \$0.001 par value; 75,000,000 shares authorized; 47,926,580 and 47,674,189 shares issued and outstanding, respectively	48	48
Additional paid-in capital	554,552	547,734
Accumulated other comprehensive income — foreign currency translation	(13,168)	(11,003)
Accumulated deficit	(950,038)	(909,877)
Total stockholders' deficit	<u>(408,606)</u>	<u>(373,098)</u>
Total liabilities and stockholders' deficit	<u>\$ 969,769</u>	<u>\$ 984,557</u>

The accompanying notes are an integral part of these condensed consolidated balance sheets.

COGENT COMMUNICATIONS HOLDINGS, INC. AND SUBSIDIARIES

**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
FOR THE THREE MONTHS ENDED MARCH 31, 2022 AND MARCH 31, 2021
(IN THOUSANDS, EXCEPT SHARE AND PER SHARE AMOUNTS)**

	<u>Three Months Ended</u> <u>March 31, 2022</u>	<u>Three Months Ended</u> <u>March 31, 2021</u>
	(Unaudited)	(Unaudited)
Service revenue	\$ 149,175	\$ 146,777
Operating expenses:		
Network operations (including \$144 and \$2,076 of equity-based compensation expense, respectively, exclusive of depreciation and amortization shown separately below)	57,449	57,092
Selling, general, and administrative (including \$5,912 and \$5,231 of equity-based compensation expense, respectively)	40,627	41,442
Depreciation and amortization	22,688	21,970
Total operating expenses	120,764	120,504
Gains on equipment transactions	—	18
Gains on lease terminations	373	—
Operating income	28,784	26,291
Interest expense	(35,439)	(15,836)
Unrealized foreign exchange gain on 2024 Euro Notes	8,014	18,870
Loss on debt extinguishment and repurchase – 2022 Notes	—	(3,868)
Interest income and other, net	319	744
Income before income taxes	1,678	26,201
Income tax expense	(541)	(7,350)
Net income	<u>\$ 1,137</u>	<u>\$ 18,851</u>
Comprehensive (loss) income:		
Net income	\$ 1,137	\$ 18,851
Foreign currency translation adjustment	(2,165)	(5,210)
Comprehensive (loss) income	<u>\$ (1,028)</u>	<u>\$ 13,641</u>
Net income per common share:		
Basic and diluted net income per common share	\$ 0.02	\$ 0.41
Dividends declared per common share	\$ 0.855	\$ 0.755
Weighted-average common shares - basic	46,575,848	46,067,096
Weighted-average common shares - diluted	46,929,191	46,507,258

The accompanying notes are an integral part of these condensed consolidated statements.

COGENT COMMUNICATIONS HOLDINGS, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE THREE MONTHS ENDED MARCH 31, 2022 AND MARCH 31, 2021
(IN THOUSANDS)

	Three Months Ended March 31, 2022 (Unaudited)	Three Months Ended March 31, 2021 (Unaudited)
Cash flows from operating activities:		
Net income	\$ 1,137	\$ 18,851
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	22,688	21,970
Amortization of debt discount and premium	417	441
Equity-based compensation expense (net of amounts capitalized)	6,056	7,307
Gains – lease transactions	(373)	—
Gains - equipment transactions and other, net	525	371
Unrealized foreign currency exchange gain on 2024 Euro Notes	(8,014)	(18,870)
Loss on debt extinguishment and repurchase of 2022 Notes	—	3,868
Deferred income taxes	(58)	4,497
Changes in operating assets and liabilities:		
Accounts receivable	76	2,420
Prepaid expenses and other current assets	(2,953)	2,826
Accounts payable, accrued liabilities and other long-term liabilities	31,317	2,951
Deposits and other assets	(1,407)	474
Net cash provided by operating activities	<u>49,411</u>	<u>47,106</u>
Cash flows from investing activities:		
Purchases of property and equipment	(18,121)	(15,444)
Net cash used in investing activities	<u>(18,121)</u>	<u>(15,444)</u>
Cash flows from financing activities:		
Dividends paid	(41,298)	(36,081)
Repurchase and extinguishment of 2022 Notes	—	(119,679)
Proceeds from exercises of stock options	204	215
Principal payments on installment payment agreement	(571)	(2,378)
Principal payments of finance lease obligations	(5,863)	(5,744)
Net cash used in financing activities	<u>(47,528)</u>	<u>(163,667)</u>
Effect of exchange rates changes on cash	<u>(615)</u>	<u>(1,316)</u>
Net decrease in cash, cash equivalents and restricted cash	<u>(16,853)</u>	<u>(133,321)</u>
Cash, cash equivalents and restricted cash, beginning of period	<u>328,624</u>	<u>371,301</u>
Cash, cash equivalents and restricted cash, end of period	<u>\$ 311,771</u>	<u>\$ 237,980</u>
Supplemental disclosure of non-cash financing activities:		
Finance lease obligations incurred	<u>\$ 6,982</u>	<u>\$ 6,336</u>

The accompanying notes are an integral part of these condensed consolidated statements.

COGENT COMMUNICATIONS HOLDINGS, INC., AND SUBSIDIARIES

NOTES TO INTERIM CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Description of the business:

Reorganization and merger

On May 15, 2014, pursuant to the Agreement and Plan of Reorganization (the “Merger Agreement”) by and among Cogent Communications Group, Inc. (“Group”), a Delaware corporation, Cogent Communications Holdings, Inc., a Delaware corporation (“Holdings”) and Cogent Communications Merger Sub, Inc., a Delaware corporation, Group adopted a new holding company organizational structure whereby Group is now a wholly owned subsidiary of Holdings. Holdings is a “successor issuer” to Group pursuant to Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). References to the “Company” for events that occurred prior to May 15, 2014 refer to Cogent Communications Group, Inc. and its subsidiaries and on and after May 15, 2014 the “Company” refers to Cogent Communications Holdings, Inc. and its subsidiaries. Cogent Communications, Inc. is wholly owned by Group and the vast majority of Cogent’s assets, contractual arrangements, and operations are executed by Cogent Communications, Inc.

Description of business

The Company is a facilities-based provider of low-cost, high-speed Internet access, private network services, and data center colocation space and power. The Company’s network is specifically designed and optimized to transmit packet switched data. The Company delivers its services primarily to small and medium-sized businesses, communications service providers and other bandwidth-intensive organizations in 50 countries across North America, Europe, Asia, South America, Australia and Africa. The Company is a Delaware corporation and is headquartered in Washington, DC.

The Company offers on-net Internet access services exclusively through its own facilities, which run from its network to its customers’ premises. The Company offers its on-net services to customers located in buildings that are physically connected to its network. As a result, the Company is not dependent on local telephone companies or cable TV companies to serve its customers for its on-net Internet access and private network services. The Company’s on-net service consists of high-speed Internet access and private network services offered at speeds ranging from 100 megabits per second to 400 gigabits per second.

The Company provides its on-net Internet access and private network services to its corporate and net-centric customers. The Company’s corporate customers are located in multi-tenant office buildings and typically include law firms, financial services firms, advertising and marketing firms, as well as health care providers, educational institutions and other professional services businesses. The Company’s net-centric customers include bandwidth-intensive users that leverage its network to either deliver content to end users or to provide access to residential or commercial internet users. Content delivery customers include over the top (“OTT”) media service providers, content delivery networks, web hosting companies, and commercial content and application software providers. Access customers include access networks comprised of other Internet Service Providers (“ISPs”), telephone companies, mobile phone operators and cable television companies that collectively provide internet access to a substantial number of broadband subscribers and mobile phone subscribers across the world. These net-centric customers generally receive the Company’s services in carrier neutral colocation facilities and in the Company’s own data centers. The Company operates data centers throughout North America and Europe that allow its customers to collocate their equipment and access the Company’s network.

In addition to providing on-net services, the Company provides Internet access and private network services to customers that are not located in buildings directly connected to its network. The Company provides these off-net services primarily to corporate customers using other carriers’ circuits to provide the “last mile” portion of the link from the customers’ premises to the Company’s network. The Company also provides certain non-core services that resulted from acquisitions. The Company continues to support but does not actively sell these non-core services.

[Table of Contents](#)

Basis of presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission. In the opinion of management, the unaudited condensed consolidated financial statements reflect all normal recurring adjustments that the Company considers necessary for the fair presentation of its results of operations and cash flows for the interim periods covered, and of the financial position of the Company at the date of the interim condensed consolidated balance sheet. Certain information and footnote disclosures normally included in the annual consolidated financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP") have been condensed or omitted pursuant to such rules and regulations. The operating results for interim periods are not necessarily indicative of the operating results for the entire year. While the Company believes that the disclosures are adequate to not make the information misleading, these interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes included in its annual report on Form 10-K for the year ended December 31, 2021.

The accompanying unaudited condensed consolidated financial statements include all wholly owned subsidiaries. All inter-company accounts and activity have been eliminated.

Use of estimates

The preparation of consolidated financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results may differ from these estimates.

Financial instruments

At March 31, 2022 and December 31, 2021, the carrying amount of cash and cash equivalents, restricted cash, accounts receivable, prepaid and other current assets, accounts payable, and accrued expenses approximated fair value because of the short-term nature of these instruments. The Company measures its cash equivalents and restricted cash at amortized cost, which approximates fair value based upon quoted market prices (Level 1). Based upon recent trading prices (Level 2—market approach) at March 31, 2022 the fair value of the Company's \$500.0 million senior secured notes due 2026 was \$476.3 million, the fair value of the Company's €350.0 million (\$389.0 million) senior unsecured notes due 2024 was \$387.1 million and the estimated liability fair value of the Company's interest rate swap agreement was \$30.3 million.

Restricted cash and interest rate swap agreement

Restricted cash represents amounts held in a segregated bank accounts by our clearing broker as margin in support of our interest rate swap agreement as discussed in Note 3 and was \$30.3 million as of March 31, 2022. Additional cash may be further restricted to maintain our interest rate swap instrument as interest rates fluctuate and margin requirements change. The Company does not use derivative financial instruments for trading purposes.

Gross receipts taxes, universal service fund and other surcharges

Revenue recognition standards include guidance relating to taxes or surcharges assessed by a governmental authority that are directly imposed on a revenue-producing transaction between a seller and a customer and may include, but are not limited to, gross receipts taxes, excise taxes, Universal Service Fund fees and certain state regulatory fees. Such charges may be presented gross or net based upon the Company's accounting policy election. The Company records certain excise taxes and surcharges on a gross basis and includes them in its revenue and network operations expense. Excise taxes and surcharges billed to customers and recorded on a gross basis (as service revenue and network operations expense) were \$3.7 million and \$4.5 million for the three months ended March 31, 2022 and March 31, 2021, respectively.

Basic and diluted net income per common share

Basic earnings per share (“EPS”) excludes dilution for common stock equivalents and is computed by dividing net income or (loss) available to common stockholders by the weighted-average number of common shares outstanding for the period. Diluted EPS is based on the weighted-average number of shares of common stock outstanding during each period, adjusted for the effect of dilutive common stock equivalents. Shares of restricted stock are included in the computation of basic EPS as they vest and are included in diluted EPS, to the extent they are dilutive, determined using the treasury stock method.

[Table of Contents](#)

The following details the determination of diluted weighted average shares:

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Weighted average common shares - basic	46,575,848	46,067,096
Dilutive effect of stock options	21,310	26,065
Dilutive effect of restricted stock	332,033	414,097
Weighted average common shares - diluted	<u>46,929,191</u>	<u>46,507,258</u>

The following details unvested shares of restricted common stock as well as the anti-dilutive effects of stock options and restricted stock awards outstanding:

	March 31, 2022	March 31, 2021
Unvested shares of restricted common stock	1,352,439	1,454,033
Anti-dilutive options for common stock	85,921	77,832
Anti-dilutive shares of restricted common stock	479,655	392,410

Stockholders' Deficit

The following details the changes in stockholders' deficit for the three months ended March 31, 2022 and March 31, 2021 (in thousands except share amounts):

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount				
Balance at December 31, 2020	<u>47,214,077</u>	<u>\$ 47</u>	<u>\$ 515,867</u>	<u>\$ (1,306)</u>	<u>\$ (807,774)</u>	<u>\$ (293,166)</u>
Forfeitures of shares granted to employees	(19,676)	—	—	—	—	—
Equity-based compensation	—	—	7,831	—	—	7,831
Foreign currency translation	—	—	—	(5,210)	—	(5,210)
Issuances of common stock	323,700	1	—	—	—	1
Exercises of options	4,571	—	215	—	—	215
Dividends paid	—	—	—	—	(36,081)	(36,081)
Net income	—	—	—	—	18,851	18,851
Balance at March 31, 2021	<u>47,522,672</u>	<u>\$ 48</u>	<u>\$ 523,913</u>	<u>\$ (6,516)</u>	<u>\$ (825,004)</u>	<u>\$ (307,559)</u>

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount				
Balance at December 31, 2021	<u>47,674,189</u>	<u>\$ 48</u>	<u>\$ 547,734</u>	<u>\$ (11,003)</u>	<u>\$ (909,877)</u>	<u>\$ (373,098)</u>
Forfeitures of shares granted to employees	(9,582)	—	—	—	—	—
Equity-based compensation	—	—	6,614	—	—	6,614
Foreign currency translation	—	—	—	(2,165)	—	(2,165)
Issuances of common stock	256,800	—	—	—	—	—
Exercises of options	5,173	—	204	—	—	204
Dividends paid	—	—	—	—	(41,298)	(41,298)
Net income	—	—	—	—	1,137	1,137
Balance at March 31, 2022	<u>47,926,580</u>	<u>\$ 48</u>	<u>\$ 554,552</u>	<u>\$ (13,168)</u>	<u>\$ (950,038)</u>	<u>\$ (408,606)</u>

[Table of Contents](#)

Revenue recognition

The Company recognizes revenue under ASU No. 2014-09, *Revenue from Contracts with Customers* (“ASC 606”), which requires an entity to recognize the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. Under ASC 606 the Company recognizes installation fees for contracts with terms longer than month-to-month over the contract term. The Company believes that for contracts with terms longer than month-to-month the installation fee does not give rise to a material right as defined by ASC 606. The Company recognizes revenue over the estimated average customer life for installation fees associated with month-to-month contracts, because the installation fee represents a material right as defined by ASC 606. The Company capitalizes certain contract acquisition costs that relate directly to a customer contract, including commissions paid to its sales team and sales agents and amortizes these costs on straight-line basis over the period the services are transferred to the customer for commissions paid to its sales team (estimated customer life) and over the remaining original contract term for agent commissions. Management assesses these costs for impairment at least quarterly and as “triggering” events occur that indicate it is more likely than not that an impairment exists.

The Company’s service offerings consist of on-net and off-net telecommunications services. Fixed fees are billed monthly in advance and usage fees are billed monthly in arrears. Amounts billed are due upon receipt and contract lengths range from month to month to 60 months. The Company satisfies its performance obligations to provide services to customers over time as the services are rendered. In accordance with ASC 606, revenue is recognized when a customer obtains the promised service. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for these services. The Company has adopted the practical expedient related to certain performance obligation disclosures since it has a right to consideration from its customer in an amount that corresponds directly with the value to the customer of the Company’s performance completed to date.

To achieve this core principle, the Company follows the following five steps:

- 1) Identification of the contract, or contracts with a customer
- 2) Identification of the performance obligations in the contract
- 3) Determination of the transaction price
- 4) Allocation of the transaction price to the performance obligations in the contract
- 5) Recognition of revenue when, or as, the Company satisfies its performance obligations

Fees billed in connection with customer installations are deferred (as deferred revenue) and recognized as noted above. To the extent a customer contract is terminated prior to its contractual end the customer is subject to termination fees. The Company vigorously seeks payment of these termination fees. The Company recognizes revenue for termination fees as they are collected.

Service revenue recognized from amounts in deferred revenue (contract liabilities) at the beginning of the period during the three months ended March 31, 2022 was \$1.9 million and during the three months ended March 31, 2021 was \$1.8 million. Amortization expense for contract costs was \$4.7 million for the three months ended March 31, 2022 and \$4.6 million for the three months ended March 31, 2021.

[Table of Contents](#)

Leases

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (“ASU 2016-02”). ASU 2016-02 replaced most existing lease accounting guidance. The operating lease liability under ASU 2016-02 is not considered a liability under the consolidated leverage ratio calculations in the indentures governing the Company’s senior unsecured and senior secured note obligations. The Company has made an accounting policy election to not apply the recognition requirements of ASU 2016-02 to its short-term leases - leases with a term of one year or less. The Company has also elected to apply certain practical expedients under ASU 2016-02 including not separating lease and non-lease components on its finance and operating leases.

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
<i>Finance lease costs</i>		
Amortization of right-of-use assets	\$ 6,998	\$ 6,346
Interest expense on finance lease liabilities	5,081	5,226
Operating lease cost	4,773	4,417
Total lease costs	<u>16,852</u>	<u>15,989</u>
<i>Other lease information</i>		
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from finance leases	(6,621)	(5,396)
Operating cash flows from operating leases	(4,811)	(4,993)
Financing cash flows from finance leases	(5,863)	(5,744)
Right-of-use assets obtained in exchange for new finance lease liabilities	6,982	6,336
Right-of-use assets obtained in exchange for new operating lease liabilities	4,841	2,720
Weighted-average remaining lease term — finance leases (in years)	12.6	12.4
Weighted-average remaining lease term — operating leases (in years)	18.5	19.9
Weighted average discount rate — finance leases	8.9 %	10.1 %
Weighted average discount rate — operating leases	5.4 %	5.6 %

Finance leases—fiber lease agreements

The Company has entered into lease agreements with numerous providers of dark fiber under indefeasible-right-of-use agreements (“IRUs”). These IRUs typically have initial terms of 15- 20 years and include renewal options after the initial lease term. The Company establishes the number of renewal option periods used in determining the lease term based upon its assessment at the inception of the lease of the number of option periods for which failure to renew the lease imposes a penalty in such amount that renewal appears to be reasonably certain. The option to renew may be automatic, at the option of the Company or mutually agreed to between the dark fiber provider and the Company. Once the Company has accepted the related fiber route, leases that meet the criteria for treatment as finance leases are recorded as a finance lease obligation and an IRU asset. The interest rate used in determining the present value of the aggregate future minimum lease payments is the Company’s incremental borrowing rate for the reasonably certain lease term. The implicit rates within the Company’s operating leases are generally not determinable and the Company determines its incremental borrowing rate for each lease using its current borrowing rate, adjusted for various factors including level of collateralization and term to align with the term of the lease. The determination of the Company's incremental borrowing rate requires judgment. Finance lease assets are included in property and equipment in the Company’s consolidated balance sheets. As of March 31, 2022, the Company had committed to additional dark fiber IRU lease agreements totaling \$30.3 million in future payments to be paid over periods of up to 20 years. These obligations begin when the related fiber is accepted, which is generally expected to occur in the next 12 months.

[Table of Contents](#)

Operating leases

The Company leases office space and data center facilities under operating leases. In certain cases the Company also enters into short-term operating leases for dark fiber. Right-of-use assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent its obligation to make lease payments under the lease. Operating lease right-of-use assets and liabilities are recognized at the lease commencement date based on the present value of lease payments over the reasonably certain lease term. The implicit rates within the Company's operating leases are generally not determinable and the Company uses its incremental borrowing rate at the lease commencement date to determine the present value of its lease payments. The Company determines its incremental borrowing rate for each lease using its current borrowing rate, adjusted for various factors including level of collateralization and term to align with the term of the lease. The determination of the Company's incremental borrowing rate requires judgment. Certain of the Company's leases include options to extend or terminate the lease. The Company establishes the number of renewal option periods used in determining the operating lease term based upon its assessment at the inception of the operating lease of the number of option periods for which failure to renew the lease imposes a penalty in such amount that renewal appears to be reasonably certain. The option to renew may be automatic, at the option of the Company or mutually agreed to between the landlord or dark fiber provider and the Company. Once the Company has accepted the related fiber route or the facility lease term has begun, the present value of the aggregate future minimum operating lease payments is recorded as an operating lease liability and a right-of-use leased asset. Lease incentives and deferred rent liabilities for facilities operating leases are presented with, and netted against, the right-of-use leased asset. Lease expense for lease payments is recognized on a straight-line basis over the term of the lease.

The future minimum payments under these operating lease and finance lease agreements are as follows (in thousands):

For the Twelve Months Ending March 31,	Operating Leases	Finance Leases
2022	\$ 17,795	\$ 36,157
2023	18,263	35,470
2024	17,161	35,999
2025	14,325	28,815
2026	12,601	28,349
Thereafter	110,462	250,421
Total minimum lease obligations	190,607	415,211
Less—amounts representing interest	(66,833)	(169,962)
Present value of minimum lease obligations	123,774	245,249
Current maturities	(12,118)	(17,147)
Lease obligations, net of current maturities	\$ 111,656	\$ 228,102

Allowance for credit losses

As of January 1, 2020, the Company maintained an allowance for credit losses to cover its current expected credit losses on its trade receivables arising from the failure of customers to make contractual payments. The Company estimates credit losses expected over the life of its trade receivables based on historical information combined with current conditions that may affect a customer's ability to pay and reasonable and supportable forecasts. While the Company uses various credit quality metrics, it primarily monitors collectability by reviewing the duration of collection pursuits on its delinquent trade receivables. Based on the Company's experience, the customer's delinquency status is the strongest indicator of the credit quality of the underlying trade receivables, which is analyzed monthly.

Description	Beginning Balance	Current-period Provision for Expected Credit Losses	Write offs Charged Against Allowance	Ending Balance
<i>Allowance for credit losses (deducted from accounts receivable)</i>				

Three months ended March 31, 2022	\$	1,510	\$	946	\$	(980)	\$	1,476
Three months ended March 31, 2021	\$	1,921	\$	2,012	\$	(2,476)	\$	1,457

Net bad debt expense for the three months ended March 31, 2022 was \$0.3 million which is net of bad debt recoveries of \$0.6 million. Net bad debt expense for the three months ended March 31, 2021 was \$0.8 million which is net of bad debt recoveries of \$1.2 million.

2. Property and equipment:

Depreciation and amortization expense related to property and equipment and finance leases was \$22.7 million and \$22.0 million for the three months ended March 31, 2022 and 2021, respectively. The Company capitalized salaries and related benefits of employees working directly on the construction and build-out of its network of \$3.2 million and \$3.2 million for the three months ended March 31, 2022 and 2021, respectively.

3. Long-term debt:

As of March 31, 2022, the Company had outstanding \$500.0 million aggregate principal amount of Senior Secured Notes due 2026 (the “2026 Notes”) and €350.0 million (\$389.0 million USD) aggregate principal amount of Senior Unsecured Euro Notes due 2024 (the “2024 Notes”). The 2026 Notes are due on May 1, 2026 and bear interest at a rate of 3.50% per year. Interest on the 2026 Notes is paid semi-annually on May 1 and November 1 of each year. The 2024 Notes are due on June 30, 2024 and bear interest at a rate of 4.375% per year. Interest on the 2024 Notes is paid semi-annually on June 30 and December 30 of each year.

Limitations under the indentures

The indentures governing the 2024 Notes (the “2024 Notes Indenture”) and the 2026 Notes (the “2026 Notes Indenture”), among other things, limit the Company’s ability to incur indebtedness; to pay dividends or make other distributions; to make certain investments and other restricted payments; to create liens; to consolidate, merge, sell or otherwise dispose of all or substantially all of its assets; to incur restrictions on the ability of a subsidiary to pay dividends or make other payments; and to enter into certain transactions with its affiliates. There are certain exceptions to the limitations on the Company’s ability to incur indebtedness under the 2024 Notes Indenture and the 2026 Notes Indenture, including IRU agreements incurred in the normal course of business and any additional indebtedness if (i) under the 2024 Notes Indenture, the Company’s consolidated leverage ratio, as defined in the 2024 Notes Indenture, is less than 6.0 to 1.0 and (ii) under the 2026 Notes Indenture, either the Company’s consolidated leverage ratio, as defined in the 2026 Notes Indenture, is less than 6.0 to 1.0 or the Company’s fixed charge coverage ratio, as defined in the 2026 Notes Indenture, is greater than 2.0 to 1.0. The Company can also incur unlimited liens (which can be used, together with capacity under the debt covenant, to incur additional secured indebtedness) if the Company’s consolidated secured leverage ratio, as defined in each of the 2024 Notes Indenture and the 2026 Notes Indenture, is less than 4.0 to 1.0. The 2024 Notes Indenture permits restricted payments, such as dividends and stock purchases, using accumulated consolidated cash flow, as defined in the 2024 Notes Indenture, when the Company’s consolidated leverage ratio, as defined by the 2024 Notes Indenture, is less than 4.25 to 1.00. Under the 2026 Notes Indenture, such accumulated consolidated cash flow, as defined therein, can be used to make such restricted payments if the Company is able to incur \$1 of debt, as defined (i.e., either its consolidated leverage ratio is less than 6.0 to 1.0 or its fixed charge coverage ratio is greater than 2.0 to 1.0). As of March 31, 2022 the Company’s consolidated leverage ratio was above 4.25 and the Company’s fixed charge coverage ratio was above 2.0. As of March 31, 2022, a total of \$145.5 million was unrestricted and permitted for restricted payments including dividends and stock purchases.

Interest rate swap agreement

As of March 31, 2022, the Company was party to an interest rate swap agreement (the “Swap Agreement”) that has the economic effect of modifying the fixed interest rate obligation associated with its 2026 Notes to a variable interest rate obligation based on the Secured Overnight Financing Rate (“SOFR”) so that the interest payable on the 2026 Notes effectively became variable based on overnight SOFR. The critical terms of the Swap Agreement match the terms of the 2026 Notes, including the notional amount and the optional redemption date on February 1, 2026. The Company did not elect hedge accounting for the Swap Agreement. The Swap Agreement is recorded at its fair value at each reporting period, and the Company incurs gains and losses due to changes in market interest rates. By entering into the Swap Agreement, the Company has assumed the risk associated with variable interest rates. Changes in interest rates affect the interest expense that the Company recognizes in its consolidated statements of comprehensive income. The values that the Company reports for the Swap Agreement as of each reporting date are recognized as interest expense with the corresponding amounts included in assets or liabilities in the Company’s consolidated balance sheets. As of March 31, 2022 the fair value of the Swap Agreement was a net liability of \$30.3 million of which \$0.6 million is presented with accrued and other current liabilities and \$29.7 million is presented with other long-term liabilities. The

Company recorded an unrealized loss related to the Swap Agreement of \$21.3 million in the three months ended March 31, 2022 which is presented in interest expense in the consolidated statement of comprehensive income. The Company has made a \$35.0 million deposit with the counterparty to the Swap Agreement. If the fair value of the Swap Agreement exceeds a net liability of \$35.0 million the Company will be required to deposit additional funds with the counterparty equal to the net liability fair value in excess of \$35.0 million. As of March 31, 2022, \$30.3 million of the deposit was restricted and \$4.7 million was unrestricted.

[Table of Contents](#)

Under the Swap Agreement, the Company pays the counterparty a semi-annual payment based upon overnight SOFR plus a contractual interest rate spread, and the counterparty pays the Company a semi-annual fixed 3.50% interest payment. The settlement payment is made each November and May until the Swap Agreement expires in February 2026. Under the first Swap Agreement settlement payment the Company received a payment of \$0.6 million from the counterparty for a net cash savings of \$0.6 million for the period from August 9, 2021 (the Swap Agreement inception date) to October 31, 2021. Under the settlement payment made on May 4, 2022, the Company received a payment of \$1.2 million from the counterparty for a net cash savings of \$1.2 million for the period from November 1, 2021 to April 30, 2022.

Debt extinguishment and repurchase of 2022 Notes

In March 2021, Group repurchased \$115.9 million of its 5.375% Senior Secured Notes due 2022 (“2022 Notes”) at a price of 103.2% of the principal amount plus \$0.4 million of accrued interest. As a result of this transaction, the Company incurred a loss on debt extinguishment and repurchase of \$3.9 million from the premium payment above par value, the amortization of the remaining unamortized notes cost and certain transaction expenses.

On April 6, 2021, Group issued a notice of conditional partial redemption for \$45.0 million of the 2022 Notes. On May 6, 2021, Group redeemed the \$45.0 million aggregate principal amount of the 2022 Notes at par plus the “make-whole amount” as defined in the 2022 Notes indenture of \$1.9 million (\$41.41533 per \$1,000 aggregate principal amount), plus accrued interest to, but excluding, the redemption date of \$0.4 million (\$9.70486 per aggregate principal amount). Following the redemption, there was \$284.1 million aggregate principal amount of the 2022 Notes remaining. On May 7, 2021, Group used the net proceeds from the offering of its 2026 Notes to satisfy and discharge its remaining obligations under its 2022 Notes. As a result of these transactions, the Company incurred a loss on debt extinguishment and redemption of \$10.8 million from the payment of \$11.5 million of interest on the 2022 Notes through December 1, 2021, and the amortization of the remaining unamortized notes costs and debt premium.

4. Commitments and contingencies:

Current and potential litigation

In accordance with the accounting guidance for contingencies, the Company accrues its estimate of a contingent liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Where it is probable that a liability has been incurred and there is a range of expected loss for which no amount in the range is more likely than any other amount, the Company accrues at the low end of the range. The Company reviews its accruals at least quarterly and adjusts them to reflect the impact of negotiations, settlements, rulings, advice of legal counsel, and other information and events pertaining to a particular matter. The Company has taken certain positions related to its obligations for leased circuits for which it is reasonably possible could result in a loss of up to \$3.6 million in excess of the amount accrued at March 31, 2022. The Company is also engaged in litigation in Virginia in which a former provider of transoceanic capacity to the Company is seeking approximately \$0.6 million for alleged unpaid fees and the Company’s early termination of the arrangement. The complaint was filed in December 2021 in the Circuit Court of Fairfax County, Virginia. The Company is contesting its obligation to pay these amounts.

In the ordinary course of business the Company is involved in other legal activities and claims. Because such matters are subject to many uncertainties and the outcomes are not predictable with assurance, the liability related to these legal actions and claims cannot be determined with certainty. Management does not believe that such claims and actions will have a material impact on the Company’s financial condition or results of operations. Judgment is required in estimating the ultimate outcome of any dispute resolution process, as well as any other amounts that may be incurred to conclude the negotiations or settle any litigation. Actual results may differ from these estimates under different assumptions or conditions and such differences could be material.

5. Income taxes:

The components of income before income taxes consist of the following (in thousands):

Three Months Ended Three Months Ended

	<u>March 31, 2022</u>	<u>March 31, 2021</u>
Domestic	\$ 3,352	\$ 28,502
Foreign	(1,674)	(2,301)
Total	<u>\$ 1,678</u>	<u>\$ 26,201</u>

6. Common stock buyback program and stock options and award plan:

The Company's Board of Directors has approved purchases of the Company's common stock under a buyback program (the "Buyback Program") through December 31, 2022. As of March 31, 2022, there was \$30.4 million remaining for purchases under the Buyback Program. There were no purchases of common stock during both the three months ended March 31, 2022 and March 31, 2021.

During the three months ended March 31, 2022 the Company granted 256,800 shares of restricted stock to its executive employees valued at \$17.8 million that primarily vest over periods ending in December 2025. The vesting of 104,800 of these shares is subject to certain performance conditions. Of the 104,800 total performance shares granted, the vesting of up to 29,334 performance shares granted to the Company's CEO is subject to the total shareholder return of the Company's common stock compared to the total shareholder return of the Nasdaq Telecommunications Index.

7. Dividends on common stock:

On April 29, 2022, the Company's Board of Directors approved the payment of a quarterly dividend of \$0.88 per common share. This estimated \$41.0 million dividend payment is expected to be made on May 27, 2022.

The payment of any future dividends and any other returns of capital, including stock buybacks will be at the discretion of the Company's Board of Directors and may be reduced, eliminated or increased and will be dependent upon the Company's financial position, results of operations, available cash, cash flow, capital requirements, limitations under the Company's debt indentures and other factors deemed relevant by the Company's Board of Directors. The Company is a Delaware corporation and under the General Corporate Law of the State of Delaware distributions may be restricted including a restriction that distributions, including stock purchases and dividends, do not result in an impairment of a corporation's capital, as defined under Delaware law. The indentures governing the Company's notes limit the Company's ability to return cash to its stockholders.

8. Related party transactions:

Office leases

The Company's headquarters is located in an office building owned by Sodium LLC whose owner is the Company's Chief Executive Officer. The fixed annual rent for the headquarters building is \$1.0 million per year plus an allocation of taxes and utilities. The lease began in May 2015 and the lease term was for five years. In February 2020 the lease term was extended to May 2025. The lease is cancellable by the Company at no cost upon 60 days' notice. The Company's audit committee reviews and approves all transactions with related parties. The Company paid \$0.5 million and \$0.4 million in the three months ended March 31, 2022 and 2021, respectively, for rent and related costs (including taxes and utilities) to Sodium LLC for this lease.

9. Segment information:

The Company operates as one operating segment. The Company's service revenue by geographic region and product class and long-lived assets by geographic region are as follows (in thousands):

Three Months Ended March 31, 2022				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 86,442	\$31,710	\$ 140	\$ 118,292
Europe	21,496	4,274	10	25,780
Asia Pacific	3,141	337	3	3,481
Latin America	1,392	58	1	1,451
Africa	163	8	—	171
Total	\$112,634	\$36,387	\$ 154	\$149,175

Three Months Ended March 31, 2021				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 84,464	\$31,843	\$ 89	\$ 116,396
Europe	22,420	4,592	18	27,030
Asia Pacific	2,173	271	—	2,444
Latin America	812	16	—	828
Africa	78	1	—	79
Total	\$109,947	\$36,723	\$ 107	\$146,777

	March 31, 2022	December 31, 2021
Long-lived assets, net		
North America	\$330,769	\$ 331,537
Europe and other	125,661	126,355
Total	\$456,430	\$ 457,892

The majority of North American revenue consists of services delivered within the United States.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis together with our condensed consolidated financial statements and related notes included in this report. The discussion in this report contains forward-looking statements that involve risks and uncertainties, such as statements of our plans, objectives, expectations and intentions. The cautionary statements made in this report should be read as applying to all related forward-looking statements wherever they appear in this report. Our actual results could differ materially from those discussed here. Factors that could cause or contribute to these differences include, but are not limited to:

The COVID-19 pandemic and accompanying government policies worldwide; vaccination and in-office requirements, delays in the delivery of network equipment and optical fiber, future economic instability in the global economy, which could affect spending on Internet services; the impact of changing foreign exchange rates (in particular the Euro to US dollar and Canadian dollar to US dollar exchange rates) on the translation of our non-US dollar denominated revenues, expenses, assets and liabilities into US dollars; legal and operational difficulties in new markets; the imposition of a requirement that we contribute to the US Universal Service Fund on the basis of our Internet revenue; changes in government policy and/or regulation, including rules regarding data protection, cyber security and net neutrality; increasing competition leading to lower prices for our services; our ability to attract new customers and to increase and maintain the volume of traffic on our network; the ability to maintain our Internet peering arrangements on favorable terms; our ability to renew our long-term leases of optical fiber that comprise our network; our reliance on an equipment vendor, Cisco Systems Inc., and the potential for hardware or software problems associated with such equipment; the dependence of our network on the quality and dependability of third-party fiber providers; our ability to retain certain customers that comprise a significant portion of our revenue base; the management of network failures and/or disruptions; our ability to make payments on our indebtedness as they become due and outcomes in litigation, risks associated with variable interest rates under our interest rate swap agreement as well as other risks discussed from time to time in our filings with the Securities and Exchange Commission including, without limitation, our annual report on Form 10-K for the year ended December 31, 2021.

Ukraine & Russia

Following the Russian invasion of Ukraine in February 2022, we terminated services to customers linked to Russia and the Russian government. These customers represented less than 0.3% of our consolidated revenues for the three months ended March 31, 2022. We do not provide service within Russia but we do provide services in Ukraine via our Ukrainian subsidiary, TOV Cogent Communications Ukraine ("Cogent Ukraine"). As a result of the damage to facilities caused by the war, our services in Ukraine have experienced periodic outages which our third-party fiber provider repairs for us. We have taken steps to enhance our network security, provide financial flexibility to our Ukrainian customers and assist our Ukrainian employees. We do not believe that the termination of services to certain Russian customers or the impact of the war on our ability to provide services in Ukraine will have, taken together, a material impact on our network, financial statements or operating results. Cogent Ukraine represented less than 0.4% of our consolidated revenues for the three months ended March 31, 2022 and less than 0.7% of our consolidated assets as of March 31, 2022.

General Overview

We are a facilities-based provider of low-cost, high-speed Internet access, private network services, and data center colocation space. Our network is specifically designed and optimized to transmit packet switched data. We deliver our services primarily to small and medium-sized businesses, communications service providers and other bandwidth-intensive organizations in 50 countries across North America, Europe, Asia, South America, Australia and Africa. We are a Delaware corporation, and we are headquartered in Washington, DC.

We offer on-net Internet access services exclusively through our own facilities, which run from our network to our customers' premises. We offer our on-net services to customers located in buildings that are physically connected to our network. As a result, we are not dependent on local telephone companies or cable TV companies to serve our customers for our on-net Internet access and private network service. Our on-net service consists of high-speed Internet

access and private network services offered at speeds ranging from 100 megabits per second (“Mbps”) to 400 gigabits per second (“Gbps”).

Our on-net revenues represented 75.5% of our revenues for the three months ended March 31, 2022 and 74.9% of our revenues for the three months ended March 31, 2021. We provide our on-net Internet access and private network services to our corporate and net-centric customers. Our corporate customers are located in multi-tenant office buildings and typically include law firms, financial services firms, advertising and marketing firms, as well as health care providers, educational institutions and other professional services businesses. Our net-centric customers include bandwidth-intensive users that leverage our network to either deliver content to end users or to provide access to residential or commercial internet users. Content delivery customers include over

[Table of Contents](#)

the top (“OTT”) media service providers, content delivery networks, web hosting companies, and commercial content and application software providers. Our net-centric customers include 7,625 access networks comprised of other Internet service providers (“ISPs”), telephone companies, mobile phone operators and cable television companies that collectively provide internet access to a substantial number of broadband subscribers and mobile phone subscribers across the world. These net-centric customers generally receive our services in carrier neutral colocation facilities and in our data centers. We operate data centers throughout North America and Europe that allow our customers to collocate their equipment and access our network.

In addition to providing our on-net services, we provide Internet access and private network services to customers that are not located in buildings directly connected to our network. We provide these off-net services primarily to corporate customers using other carriers’ circuits to provide the “last mile” portion of the link from the customers’ premises to our network. Our off-net revenues represented 24.4% of our revenues for the three months ended March 31, 2022 and 25.0% of our revenues for the three months ended March 31, 2021.

We also provide certain non-core services that resulted from acquisitions. We continue to support but do not actively sell these non-core services. We expect revenue from non-core services to continue to decline or to remain flat. Our non-core revenues represented less than 0.1% of our revenues for both the three months ended March 31, 2022 and March 31, 2021.

Competitive Advantages

We believe we address many of the data communications needs of small and medium-sized businesses, communications service providers and other bandwidth-intensive organizations by offering them high-quality, high-speed Internet access and private network services at attractive prices. We believe that our organization has the following competitive advantages:

Low Cost of Operation: We believe that the wireline telecom industry is undergoing, and will continue to face, significant price deflation for its applications and services. This price deflation is a result of a variety of factors including increased competition, enhanced substitutability of certain products and services and the continued impact of Moore’s Law, which has driven down the cost of technology, particularly for fiber optic Wavelength Division Multiplexing (“WDM”) equipment and optically interfaced routers. Faced with the backdrop of continued price deflation in our industry, we have made a series of discreet choices around our network design, operating strategy and product offerings that are consistent with our objective of becoming the low cost operator in our industry. Since our initiation of operations, this strategy has resulted in a rapid decline in our cost to transmit bits, which has increased our margins and decreased our capital intensity as measured by our capital expenditures per total revenues. Over the last five fiscal years, our cost of goods sold per bit delivered for our customers has declined at a compounded annual rate of 23.3%. Important components of our low cost operating strategy include:

- **One Network Protocol.** Upon our founding, we selected to operate our network solely using Ethernet protocol. We made this selection in order to take advantage of the significantly greater installed base and lower cost of Ethernet network equipment versus other protocols, the substantially lower costs associated with operating and maintaining one network protocol and the continued benefits of the rapid price performance ratio improvements of Ethernet-related equipment. Our single network design allows us to avoid many of the costs that our competitors who operate circuit-switched, TDM and hybrid fiber coaxial networks incur related to provisioning, monitoring and maintaining multiple transport protocols. Selecting one operating protocol has also had positive effects in terms of our operating overhead and the simplicity of our organization. We believe the vast majority of our competition currently operates their networks with multiple protocols and we believe that attempts to upgrade their networks to one protocol would be operationally challenging and costly.
- **Widespread Access to Fiber on a Cost Effective, Long-Term Basis.** We have acquired a large portfolio of dark fiber leases from around the world sourced from the excess inventory of existing networks. This choice to lease rather than build reduces our capital intensity and the operating costs of our intercity and metro networks. The nature of this portfolio and the individual leases provides us long-term access to dark fiber at attractive rates and the opportunity in many cases to extend these leases for multiple terms. On average, a modest number of our dark fiber leases come up for renewal each year. We have relationships with 297 dark fiber vendors across

the globe enabling us to lease dark fiber on a long-term, cost-effective basis to virtually any geographic route or facility we require.

[Table of Contents](#)

- **Narrow and Focused Product Set.** Since our founding, we have strategically focused on delivering a very narrow product set to our customers. The vast majority of our revenue is driven or related to our high-capacity, bi-directional, symmetric internet access services which can be accessed on-net in multi-tenant office buildings and carrier neutral data centers or off-net through other carriers' "last mile" connections to customer facilities. There are significant cost advantages as a result of this narrow product set. We believe that the relative size of our salesforce training, support and overhead is lower than comparable telecom providers which tend to offer a broader, one-stop shop product set to their client base.
- **Scalable Network Equipment and Hub Configurations.** Due to our single network protocol and narrow product set, our transmission and network operations rely mainly on two sets of equipment for operation. In order to further scale our operating leverage, we have systematically reused older equipment in less dense portions of our network. Due to interoperability between the generations of products, we are able to transfer older equipment from our core, high-traffic areas to newer, less congested routes. The result of this dynamic grooming process is that we are able to utilize our equipment for materially longer time frames than the expected life of this equipment thereby reducing our capital investment in our network. We design and build all of our network hubs to the same standards and configurations. This replication strategy provides us scale benefits in equipment purchases, training, and maintenance.

Greater Control and Superior Delivery. Our on-net service does not rely on circuits that must be provisioned by a third-party carrier. In our on-net multi-tenant office buildings ("MTOBs") we provide our customers the entire network, including the "last mile" and the in-building wiring connecting to our customer's suite. In our carrier neutral data centers ("CNDCs") we are collocated with our customers. As a result, only a cross-connection within the data center is required to provide our services to our customers. The structure of our on-net service provides us more control over our service, quality and pricing. It also allows us to provision services more quickly and efficiently than provisioning services on a third-party carrier network. The vast majority of our on-net services can be installed in less than two weeks which is materially faster than the installation times for some of our incumbent competitors.

High-Quality, Reliable Service. We are able to offer high-quality Internet service due to our network design and composition. We believe that we deliver a high level of technical performance because our network is optimized for packet switched traffic. Its design increases the speed and throughput of our network and reduces the number of data packets dropped during transmission compared to traditional circuit-switched networks. We believe that our network is more reliable and carries traffic at lower cost than networks built as overlays to traditional circuit-switched, or TDM networks.

Large Addressable Market. We have systematically evaluated and chosen our network extensions to buildings, data centers and markets based upon a rigorous set of criteria to evaluate the economic opportunity of network locations. Additional factors relevant to our pursuit of new buildings include the willingness of building owners to grant us access rights, the availability of optical fiber networks to serve those buildings, the costs to connect buildings to our network and equipment availability. We have also begun to evaluate the sustainability of new locations by evaluating the LEED Green Rating of Buildings, the potential to source renewable energy at potential locations and the potential impact of climate change on a location including access to water and the risk of flooding. Our network is connected to 3,065 total buildings located in 216 metropolitan markets. These buildings include 1,824 large MTOBs (totaling 992.3 million square feet of office space) in major North American cities where we offer our services to a diverse set of high-quality corporate customers within close physical proximity of each other. These buildings also include 1,383 CNDCs located in 1,187 buildings in North America, Europe, Asia, South America, Australia and Africa where our net-centric customers directly interconnect with our network. We also operate 54 of our own data centers across the United States and in Europe which comprise over 606,000 square feet of floor space and are directly connected to our network. We believe that these network points of presence strategically position our network to attract high levels of Internet traffic and maximize our revenue opportunities and profitability.

Balanced, High-Traffic Network. Since its inception, our network has grown significantly in terms of its geographic reach, customer connections, and traffic. We currently serve 7,625 access networks as well as numerous large and small content providers and 45,393 corporate customer connections. As a result of these growing bases of customers who distribute (content providers) and receive (access networks) content on our network, we believe that the majority of all the traffic remains "on-net" by both originating and terminating on our network. This control of traffic is

an important differentiator as it increases our service reliability and speed of traffic delivery. The increasing share of traffic delivered from content providers to access networks also enhances our margins as we are compensated by both the originating customer and terminating customer. The breadth of our network, extensive size of our customer base, and the volume of our traffic enables us to be one of a handful of Tier 1 networks that are interconnected on a settlement-free basis. This Tier 1 peering status broadens our geographic delivery capability and materially reduces our network costs.

[Table of Contents](#)

Proven and Experienced Management Team. Our senior management team is composed of seasoned executives with extensive expertise in the telecommunications industry as well as knowledge of the markets in which we operate. The members of our senior management team have an average of over 20 years of experience in the telecommunications industry and many have been working together at the Company for several years. Several members of the senior management team have been working together at the Company since 2000. Our senior management team has designed and built our network and, during our formative years, led the integration of network assets we acquired through 13 significant acquisitions and managed the expansion and growth of our business.

Our Strategy

We intend to become the leading provider of high-quality, high-speed Internet access and private network services and to continue to improve our profitability and cash flow. The principal elements of our strategy include:

Grow our Corporate Customer Base. Our on-net corporate customers are typically small to medium-sized businesses connected to our network through multi-tenant office buildings or connected to our network through one of our carrier neutral data centers. We generally sell two types of services to our corporate customers: dedicated internet access and private network services. We typically sell dedicated internet access at the same price per connection as our competitors, but our customers benefit from our significantly faster speeds and rapid installation times. These customers are increasingly integrating off-site data centers and cloud services into their IT infrastructure in order to take advantage of the safety, security and redundancy that is offered by locating company processing power, storage and software at a data center. An important part of this new infrastructure is a high-speed, dedicated internet connection from the corporate premises to the data center and the Internet and from one corporate premises to another corporate premises. We believe that the importance of data centers will increasingly lead tenants to reconfigure their communications infrastructure to include dedicated internet access across their locations.

Increase our Share of the Net-Centric Market. We are currently one of the leading providers of high-speed internet access to a variety of content providers and access networks across the world. We intend to further load our high-capacity network as a result of the growing demand for high-speed internet access generated by these types of bandwidth-intensive applications such as over-the-top (“OTT”) media services, online gaming, video, Internet of Things (“IoT”), voice over IP (“VOIP”), remote data storage, and other services. We expect that we will continue to grow our shares of these segments by offering our customers a series of attractive features including:

- Geographic breadth – We have the broadest carrier neutral data center footprint in the industry and currently offer network services in 50 countries – as net-centric customers seek a more international audience this footprint is a significant advantage;
- High capacity and reliability – We offer 100 Mbps to 100 Gbps ports in all of the carrier neutral data centers and 400Gbps in selected locations on our network, which differentiates the capacity choices we provide our net-centric clients;
- Balanced customer base – Our leading share of content providers and access networks increases the amount of traffic that originates and terminates on our network thereby reducing latency and enhancing reliability;
- Large and dedicated salesforce – Our team of 208 net-centric sales professionals is one of the largest salesforces in this industry segment and enables us to better serve this customer segment while also identifying new sales opportunities and gaining new business and customers; and
- Competitive pricing – We aggressively price and offer discounts for our services to customers in order to attract new customers and drive volume.

Develop a Worldwide Peering Platform. In late 2020 we introduced a new product, Global Peer Connect (“GPC”), targeted at the growing demand for certain net-centric customers to dynamically peer traffic anywhere on our global platform. Our GPC product provides access to our Global Peer Exchange (“GPE”) which is a worldwide connectivity platform for the exchange of peering traffic destined for the Internet. Similar product offerings in the marketplace offer a materially smaller geographic footprint configuration and require a higher fixed cost for customers.

[Table of Contents](#)

Pursue On-net Customer Growth. Our high-capacity network provides us with the ability to add a significant number of customers to our network with minimal direct incremental costs. We intend to increase usage of our network and operational infrastructure by adding customers in our existing on-net buildings, as well as developing additional markets and connecting more multi-tenant office buildings and carrier neutral data centers to our network. We emphasize our on-net services because they generate greater profit margins and we have more control over service levels, quality, pricing and our on-net services are provisioned in considerably less time than our off-net services. Our fiber network connects directly to our on-net customers' premises and we pay no local access ("last mile") charges to other carriers to provide our on-net services.

Continue to Improve our Sales Efforts and Productivity. A critical factor in our success has been our investment and focus on our sales and marketing efforts. We seek to maintain a consistent level of sales productivity as measured by the number of connections sold per salesperson per month, taking into account adjustments to the changing mix of products sold and installed. In order to gain market share in our targeted businesses, we expect to continue our sales efforts including introducing strategies and tools to optimize and improve our sales productivity.

Expand our Off-net Corporate Internet Access Business. We have agreements with national carriers providing us last mile network access to over 4.0 million commercial buildings across North America that are lit by fiber optic cable and that are not currently served by our network. We believe these agreements broaden our addressable market for corporate dedicated internet access and enhances our competitive position through the ability to provide enterprise-wide connectivity for corporate customers. In order to take advantage of this large set of commercial buildings we have developed an automated process to enable our salesforce to identify opportunities in the off-net market for dedicated internet access and to quickly offer pricing proposals to potential customers. We continue to negotiate reduced pricing under our numerous carrier agreements that enable us to reduce our cost of off-net services which enhances our competitive position in the marketplace.

Three Months Ended March 31, 2022 Compared to the Three Months Ended March 31, 2021

Our management reviews and analyzes several key financial measures in order to manage our business and assess the quality and variability of our service revenue, operating results and cash flows. The following summary tables present a comparison of our results of operations with respect to certain key financial measures. The comparisons illustrated in the tables are discussed in greater detail below.

	Three Months Ended		Percent Change
	March 31,		
	2022	2021	
	(in thousands)		
Service revenue	\$ 149,175	\$ 146,777	1.6 %
On-net revenue	112,634	109,947	2.4 %
Off-net revenue	36,387	36,723	(0.9)%
Network operations expenses (1)	57,449	57,092	0.6 %
Selling, general, and administrative expenses (2)	40,627	41,442	(2.0)%
Depreciation and amortization expenses	22,688	21,970	3.3 %
Unrealized foreign exchange gain on 2024 Notes	8,014	18,870	NM
Loss on debt extinguishment and repurchase – 2022 Notes	—	3,868	NM
Interest expense	35,439	15,836	123.8 %
Income tax expense	541	7,350	NM

(1) Includes equity-based compensation expenses of \$144 and \$2,076 in the three months ended March 31, 2022 and 2021, respectively.

(2) Includes equity-based compensation expenses of \$5,912 and \$5,231 in the three months ended March 31, 2022 and 2021, respectively.

NM – not meaningful



[Table of Contents](#)

	Three Months Ended		Percent Change
	March 31,		
	2022	2021	
Other Operating Data			
<i>Average Revenue Per Unit (ARPU)</i>			
ARPU—on-net	\$ 463	\$ 471	(1.8)%
ARPU—off-net	\$ 948	\$ 1,012	(6.4)%
Average Price per Megabit — installed base	\$ 0.31	\$ 0.38	(18.6)%
<i>Customer Connections—end of period</i>			
On-net	81,627	78,389	4.1 %
Off-net	12,922	12,216	5.8 %

Service Revenue. We continually work to grow our total service revenue by increasing the number of potential customers that we can reach on our network. We do this by investing capital to expand the geographic footprint of our network, increasing the number of buildings that we are connected to, including carrier neutral data centers and multi-tenant office buildings, and increasing our penetration rate into our existing buildings. These efforts broaden the global reach of our network and increase the size of our potential addressable market. We also seek to grow our service revenue by investing in our sales and marketing team. We typically sell corporate connections at similar pricing to our competitors, but our clients benefit from our significantly faster speeds, enhanced service level agreements and rapid installation times. In the net-centric market, we offer comparable services in terms of capacity but typically at significantly lower prices.

Our service revenue increased by 1.6% from the three months ended March 31, 2021 to the three months ended March 31, 2022. Exchange rates negatively impacted our increase in service revenue by \$1.9 million. All foreign currency comparisons herein reflect results for the three months ended March 31, 2022 translated at the average foreign currency exchange rates for the three months ended March 31, 2021. We increased our total service revenue by expanding our network, by adding additional buildings to our network, by increasing our penetration into the buildings connected to our network and by gaining market share by offering our services at lower prices than our competitors.

Revenue recognition standards include guidance relating to any tax assessed by a governmental authority that is directly imposed on a revenue-producing transaction between a seller and a customer and may include, but is not limited to, gross receipts taxes, Universal Service Fund fees and certain state regulatory fees. We record these taxes billed to our customers on a gross basis (as service revenue and network operations expense) in our consolidated statements of comprehensive income. The impact of these taxes including the Universal Service Fund, resulted in a decrease to our revenues of \$0.8 million from the three months ended March 31, 2021 to the three months ended March 31, 2022.

Our corporate customers generally purchase their services on a price per connection basis. Our net-centric customers generally purchase their services on a price per megabit basis. Revenues from our corporate and net-centric customers represented 57.7% and 42.3% of total service revenue, respectively, for the three months ended March 31, 2022 and represented 62.7% and 37.3% of total service revenue, respectively, for the three months ended March 31, 2021. Revenues from corporate customers decreased by 6.4% to \$86.1 million for the three months ended March 31, 2022 compared to the three months ended March 31, 2021. Revenues from our net-centric customers increased by 15.1% to \$63.1 million for the three months ended March 31, 2022 compared to the three months ended March 31, 2021.

Our corporate customers take advantage of our superior speeds, service levels and installation times versus our competitors. The growing trend of customers installing second lines for redundancy in order to construct Virtual Private Networks (“VPN’s) has also led to our ability to increase our corporate revenues. However, beginning in the second quarter of 2020, we saw corporate customers take a more cautious approach to new configurations and upgrades as well as a reduction in demand for connecting smaller satellite offices as a result of the challenges and uncertainties of the COVID-19 pandemic. We also witnessed a deteriorating real estate market in and around the buildings we service, with rising vacancy levels and falling lease initiations or renewals resulting in fewer sales opportunities for our salesforce. As a result, we have experienced a slowdown in new sales to our corporate customers which negatively impacted our corporate revenue results. While we believe that demand for office space in the buildings in which we operate will

remain among the strongest in our markets, we may experience increased corporate customer turnover, fewer upgrades of existing corporate customer configurations and fewer new tenant opportunities which would negatively impact our corporate revenue growth.

[Table of Contents](#)

Our revenue from our net-centric customers increased primarily due to an increase in our number of net-centric customers and growth in network traffic from these customers partly offset by a decline in our average price per megabit. Our net-centric customers purchase our services on a price per megabit basis. The net-centric market exhibits significant pricing pressure due to the continued introduction of new technology which lowers the marginal cost of transmission and routing, and the commodity nature of the service where price is typically the only differentiating factor for these customers. Our average price per megabit of our installed base of customers declined by 18.6% from the three months ended March 31, 2021 to the three months ended March 31, 2022. We expect that our average price per megabit will continue to decline at similar rates. The impact of foreign exchange rates has a more significant impact on our net-centric revenues.

Our on-net revenues increased by 2.4% from the three months ended March 31, 2021 to the three months ended March 31, 2022. Our on-net revenues increased as we increased the number of our on-net customer connections by 4.1% at March 31, 2022 from March 31, 2021. On-net customer connections increased at a greater rate than on-net revenues primarily due to a decrease in our on-net ARPU from the three months ended March 31, 2021 to the three months ended March 31, 2022 and the negative impact of foreign exchange. ARPU is determined by dividing revenue for the period by the average customer connections for that period.

Our off-net revenues decreased by 0.9% from the three months ended March 31, 2021 to the three months ended March 31, 2022. Our off-net revenues decreased primarily from the decrease in our off-net ARPU from the three months ended March 31, 2021 to the three months ended March 31, 2022 offsetting the 5.8% increase in the number of our off-net customer connections from March 31, 2021 to March 31, 2022 and the negative impact of foreign exchange.

Network Operations Expenses. Network operations expenses include the costs of personnel associated with service delivery, network management and customer support, network facilities costs, fiber and equipment maintenance fees, leased circuit costs, access and facilities fees paid to building owners and excise taxes billed to our customers and recorded on a gross basis. Our network operations expenses, including non-cash equity-based compensation expense, increased by 0.6% from the three months ended March 31, 2021 to the three months ended March 31, 2022. Non-cash equity-based compensation expense is included in network operations expenses consistent with the classification of the employee's salary and other compensation. The increase in network operations expense is primarily attributable to an increase in costs related to our network and facilities expansion activities being partly offset by a \$1.9 million decrease in equity-based compensation expense from the vesting of restricted employee shares that occurred in the three months ended March 31, 2021 and by price reductions obtained in certain of our leased circuit costs.

Selling, General, and Administrative ("SG&A") Expenses. Our SG&A expenses, including non-cash equity-based compensation expense, decreased by 2.0% from the three months ended March 31, 2021 to the three months ended March 31, 2022. Non-cash equity-based compensation expense is included in SG&A expenses consistent with the classification of the employee's salary and other compensation. SG&A expenses decreased primarily from a decrease in salaries and benefits from a reduction in our total headcount and a reduction in our bad debt expense. Our sales force headcount was 620 at March 31, 2022 and 693 at March 31, 2021, and our total headcount was 987 at March 31, 2022 and 1,066 at March 31, 2021. We experienced an increase in both voluntary and involuntary employee departures, particularly within our sales department, in the second half of 2021 and in the first quarter of 2022. We believe that this rise in departures was attributable both to an increased focus on monitoring sales productivity and to the unwillingness of some employees to be vaccinated and/or to return to a full-time, in-office environment.

Depreciation and Amortization Expenses. Our depreciation and amortization expense increased by 3.3% from the three months ended March 31, 2021 to the three months ended March 31, 2022. The increase is primarily due to the depreciation expense associated with the increase in deployed fixed assets.

Interest Expense and Losses on Debt Extinguishment and Redemptions. Our interest expense resulted from interest incurred on our 2022 Notes until these notes were fully extinguished in May 2021, interest incurred on our €350.0 million of 2024 Notes, interest incurred on our \$500.0 million of 2026 Notes that we issued in May 2021, interest incurred on our installment payment agreement and interest incurred on our finance lease obligations. In March 2021, we repurchased and extinguished \$115.9 million of our 2022 Notes at 103.24% of par value resulting in a loss on debt extinguishment and repurchase of \$3.9 million and reduced the par value from \$445.0 million to \$329.1 million. In May 2021, we extinguished the remaining \$329.1 million of our 2022 Notes at par value.

In August 2021 we entered into an interest rate swap agreement (the “Swap Agreement”) that has the economic effect of modifying the fixed interest rate obligation associated with our 2026 Notes to a variable interest rate obligation based on the Secured Overnight Financing Rate (“SOFR”) which results in the interest payable on the 2026 Notes effectively becoming variable based on overnight SOFR. The Swap Agreement is recorded at its fair value at each reporting period, and we incur gains and losses due to changes in market interest rates. The values that we report for the Swap Agreement as of each reporting date are recognized as non-

[Table of Contents](#)

cash interest expense with the corresponding amounts included in assets or liabilities in our consolidated balance sheets. As of March 31, 2022 the fair value of our Swap Agreement was a net liability of \$30.3 million and we recorded an unrealized loss as non-cash interest expense of \$21.3 million in the three months ended March 31, 2022. We did not elect hedge accounting for our Swap Agreement. Under our Swap Agreement, we pay the counterparty a semi-annual payment based upon overnight SOFR plus a contractual interest rate spread, and the counterparty pays us a semi-annual fixed 3.50% interest payment. These settlement payment is made in November and May until the Swap Agreement expires in February 2026. Under the first Swap Agreement settlement payment we received a payment of \$0.6 million from the counterparty for a net cash savings of \$0.6 million for the period from August 9, 2021 (the Swap Agreement inception date) to October 31, 2021. Under the settlement payment made on May 4, 2022, we received a payment of \$1.2 million from the counterparty for a net cash savings of \$1.2 million for the period from November 1, 2021 to April 30, 2022. Our interest expense increased by 123.8% from the three months ended March 31, 2021 to the three months ended March 31, 2022. This increase was primarily due to the reduction in interest expense from the lower interest rate on our 2026 Notes as compared to our 2022 Notes being offset by the additional \$21.3 million of additional non-cash interest expense we recorded related to our Swap Agreement in the three months ended March 31, 2022.

Unrealized Gain on Foreign Exchange – 2024 Notes. Our 2024 Notes were issued in Euros and are reported in our reporting currency – US Dollars. As of March 31, 2022, our 2024 Notes were valued at \$389.0 million. Our unrealized gain on foreign exchange on our 2024 Notes from converting our 2024 Notes into USD was \$8.0 million for the three months ended March 31, 2022 and \$18.9 million for the three months ended March 31, 2021. We have not entered into hedging arrangements for our foreign currency obligations.

Income Tax Expense. Our income tax expense was \$0.5 million for the three months ended March 31, 2022 and \$7.4 million for the three months ended March 31, 2021. The decrease in our income tax expense is primarily related to the decrease in our income before income taxes.

Buildings On-net. As of March 31, 2022 and 2021, we had a total of 3,065 and 2,939 on-net buildings connected to our network, respectively. The increase in our on-net buildings was a result of our disciplined network expansion program. We anticipate adding a similar number of buildings to our network for the next several years.

Liquidity and Capital Resources

In assessing our liquidity, management reviews and analyzes our current cash and restricted cash balances, accounts receivable, accounts payable, accrued liabilities, capital expenditure commitments, and required finance lease and debt payments and other obligations. As our business has grown as a result of an increasing customer base, broader geographic coverage and increased traffic on our network, we have produced a growing level of operating cash flow. As a result of the operating leverage of our network, our annual capital expenditures as measured as a percentage of revenues has fallen over the last decade. Increasing our operating cash flow is in part dependent upon expanding our geographic footprint and increasing our network capacity. Recent supply chain issues in obtaining network equipment may adversely impact our ability to grow our network and revenue.

We have also had increasing success in raising capital by issuing notes and arranging financing and leases that have had a lower cost and more flexible terms. The combination of this improved operating performance and access to capital has enhanced our financial flexibility and increased our ability to make distributions to shareholders in the form of cash dividends or through share repurchases. Since our initial public offering, we have returned over \$1.0 billion to our shareholders through share repurchases and dividends. We will continue to assess our capital and liquidity needs and, where appropriate, return capital to shareholders.

Over the next several years we have significant contractual and anticipated cash outlays including our indicative dividend payments on our common stock, our maturing debt obligations, interest payments on our debt obligations and our projected capital expenditure requirements in order to help execute our business plan. Based upon our historical growth rate of our dividend, we expect that we would have to provide approximately \$363 million in order to meet our expected quarterly dividend payments over the next two years. Our \$500.0 million 2026 Notes mature in May 2026 and include annual interest payments of \$17.5 million until maturity. Our €350 million 2024 Notes mature in June 2024 and include annual interest payments €15.3 million until maturity. Our €350 million 2024 Notes are denominated in Euros and expose us to potentially unfavorable adverse movements in foreign currency rate changes. Our overseas operations provides us access to Euros, however these amounts may be insufficient to fund our obligations

under our 2024 Notes. Additionally, we have not entered into foreign currency hedging arrangements which would seek to reduce our risks related to foreign exchange volatility.

[Table of Contents](#)

Interest rate swap agreement

As of March 31, 2022, we were party to our Swap Agreement that has the economic effect of modifying the fixed interest rate obligation associated with our 2026 Notes to a variable interest rate obligation based on the SOFR so that the interest payable on our 2026 Notes effectively became variable based on overnight SOFR. The critical terms of our Swap Agreement match the terms of our 2026 Notes, including the notional amount and the optional redemption date on February 1, 2026. The Swap Agreement is recorded at its fair value at each reporting period, and we incur non-cash gains and losses due to changes in market interest rates. By entering into the Swap Agreement, we have assumed the risk associated with variable interest rates. Changes in interest rates affect the interest expense that we recognize in our consolidated statements of comprehensive income. The values that we report for the Swap Agreement as of each reporting date are recognized as non-cash interest expense with the corresponding amounts included in assets or liabilities in our consolidated balance sheets.

As of March 31, 2022 the fair value of the Swap Agreement was a net liability of \$30.3 million of which \$0.6 million is presented with accrued and other current liabilities and \$29.7 million is presented with other long-term liabilities. We recorded an unrealized loss related to the Swap Agreement of \$21.3 million in the three months ended March 31, 2022 which is presented in interest expense in our statement of comprehensive income. We have made a \$35.0 million deposit with the counterparty to the Swap Agreement. If the fair value of the Swap Agreement exceeds a net liability of \$35.0 million we will be required to deposit additional funds with the counterparty equal to the net liability fair value in excess of \$35.0 million. As of March 31, 2022, \$30.3 million of the deposit was restricted and \$4.7 million was unrestricted.

Under the Swap Agreement, we pay the counterparty a semi-annual payment based upon overnight SOFR plus a contractual interest rate spread and the counterparty pays us a semi-annual fixed 3.50% interest payment. The settlement payments is made in November and May until the Swap Agreement expires in February 2026. Under the first Swap Agreement settlement payment, we received a payment of \$0.6 million from the counterparty for a net cash savings of \$0.6 million for the period from August 9, 2021 (the Swap Agreement inception date) to October 31, 2021. Under the settlement payment made on May 4, 2022, we received a payment of \$1.2 million from the counterparty for a net cash savings of \$1.2 million for the period from November 1, 2021 to April 30, 2022.

Any future acquisitions or other significant unplanned costs or cash requirements in excess of amounts we currently hold may require that we raise additional funds through the issuance of debt or equity. We cannot assure you that such financing will be available on terms acceptable to us or our stockholders, or at all. Insufficient funds may require us to delay or scale back the number of buildings and markets that we add to our network, reduce our planned increase in our sales and marketing efforts, or require us to otherwise alter our business plan or take other actions that could have a material adverse effect on our business, results of operations and financial condition. If issuing equity securities raises additional funds, substantial dilution to existing stockholders may result.

We may need to or elect to refinance all or a portion of our indebtedness at or before maturity and we cannot provide assurances that we will be able to refinance any such indebtedness on commercially reasonable terms or at all. In addition, we may elect to secure additional capital in the future, at acceptable terms, to improve our liquidity or fund acquisitions or for general corporate purposes. In addition, in an effort to reduce future cash interest payments as well as future amounts due at maturity or to extend debt maturities, we may, from time to time, issue new debt, enter into interest rate swap agreements, enter into debt for debt, or cash transactions to purchase our outstanding debt securities in the open market or through privately negotiated transactions. We will evaluate any such transactions in light of the existing market conditions. The amounts involved in any such transaction, individually or in the aggregate, may be material.

We or our affiliates may, at any time and from time to time, seek to retire or purchase our outstanding debt through cash purchases and/or exchanges for equity or debt, in open-market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will be upon such terms and at such prices as we may determine, and will depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors. The amounts involved may be material.

In light of the economic uncertainties associated with the COVID-19 pandemic, our executive officers and Board have continued to carefully monitor our liquidity and cash requirements. Based on current circumstances, we plan to continue our current dividend policy. Given uncertainties regarding the duration of the pandemic and timing for economic recovery, we will continue to monitor our capital spending. As we do each year, we will continue to monitor our future sources and uses of cash, and anticipate that we will make adjustments to our capital allocation strategies when, as and if determined by our Board of Directors.

Cash Flows

The following table sets forth our consolidated cash flows.

(in thousands)	Three Months Ended March 31,	
	2022	2021
Net cash provided by operating activities	\$ 49,411	\$ 47,106
Net cash used in investing activities	(18,121)	(15,444)
Net cash used in financing activities	(47,528)	(163,667)
Effect of exchange rates changes on cash	(615)	(1,316)
Net decrease in cash and cash equivalents	\$ (16,853)	\$ (133,321)

Net Cash Provided by Operating Activities. Our primary source of operating cash is receipts from our customers who are billed on a monthly basis for our services. Our primary uses of operating cash are payments made to our vendors, employees and interest payments made to our finance lease vendors and our note holders. Our changes in cash provided by operating activities are primarily due to changes in our operating profit and changes in our interest payments. Cash provided by operating activities for the three months ended March 31, 2021 include interest payments on our note obligations of \$12.4 million. There were no interest payments on our note obligations for the three months ended March 31, 2022.

Net Cash Used In Investing Activities. Our primary use of cash for investing activities is for purchases of property and equipment. Purchases of property and equipment were \$18.1 million and \$15.4 million for the three months ended March 31, 2022 and 2021, respectively. The changes in purchases of property and equipment are primarily due to the timing and scope of our network expansion activities including geographic expansion and adding buildings to our network.

Net Cash Used In Financing Activities. Our primary uses of cash for financing activities are payments to redeem and extinguish our debt, dividend payments, principal payments under our finance lease obligations and our installment payment agreement, and for purchases of our common stock. During the three months ended March 31, 2022 and 2021 we paid \$41.3 million and \$36.1 million, respectively, for our quarterly dividend payments. Our quarterly dividend payments have increased due to increases in our quarterly dividend per share amounts. In March 2021, we paid \$119.7 million to repurchase and extinguish \$115.9 million of our 2022 Notes at 103.24% of par value. Principal payments under our finance lease obligations were \$5.9 million and \$5.7 million for the three months ended March 31, 2022 and 2021, respectively. The changes in our principal payments under our finance lease obligations are primarily due to the timing and extent of our network expansion activities including geographic expansion and adding buildings to our network. Principal payments under our installment payment agreement were \$0.6 million and \$2.4 million for the three months ended March 31, 2022 and 2021, respectively. There were no purchases of our common stock in both the three months ended March 31, 2022 and 2021.

Cash Position and Indebtedness

Our total indebtedness, at par, at March 31, 2022 was \$1.1 billion and our total cash, cash equivalents and restricted cash was \$311.8 million. Our total indebtedness at March 31, 2022 includes \$245.2 million of finance lease obligations for dark fiber under long-term IRU agreements.

Summarized Financial Information of Holdings

Holdings is not a restricted subsidiary as defined under the indentures governing our 2026 Notes and our 2024 Notes. Holdings is a guarantor under these notes. Under the indentures we are required to disclose financial information of Holdings including its assets, liabilities and its operating results (“Holdings Financial Information”). The Holdings Financial Information as of and for the three months ended March 31, 2022 is detailed below (in thousands).



[Table of Contents](#)

	March 31, 2022
	(Unaudited)
Cash and cash equivalents	\$ 107,589
Accrued interest receivable	5
Total assets	<u>\$ 107,594</u>
Investment from subsidiaries	\$ 409,909
Common stock	48
Accumulated deficit	(302,363)
Total equity	<u>\$ 107,594</u>
	Three Months Ended
	March 31, 2022
	(Unaudited)
Equity-based compensation expense	6,614
Interest income	15
Net loss	<u>\$ (6,599)</u>

Common Stock Buyback Program

Our Board of Directors has approved purchases of our common stock under a buyback program (the “Buyback Program”). There were no purchases of our common stock in the three months ended March 31, 2022 and 2021. As of March 31, 2022, there was a total of \$30.4 million available under the Buyback Program which is authorized to continue through December 31, 2022.

Dividends on Common Stock and Return of Capital Program

On April 29, 2022, our Board of Directors approved the payment of our quarterly dividend of \$0.88 per common share. This estimated \$41.0 million dividend payment is expected to be made on May 27, 2022.

The payment of any future dividends and any other returns of capital, including stock buybacks, will be at the discretion of our Board of Directors and may be reduced, eliminated or increased and will be dependent upon our financial position, results of operations, available cash, cash flow, capital requirements, limitations under our debt indentures and other factors deemed relevant by the our Board of Directors. We are a Delaware corporation and under the General Corporate Law of the State of Delaware distributions may be restricted including a restriction that distributions, including stock purchases and dividends, do not result in an impairment of a corporation’s capital, as defined under Delaware Law. The indentures governing our notes limit our ability to return cash to our stockholders. See Note 3 of our interim condensed consolidated financial statements for additional discussion of limitations on distributions.

Future Capital Requirements

We believe that our cash on hand and cash generated from our operating activities will be adequate to meet our working capital, capital expenditure, debt service, dividend payments and other cash requirements for the next twelve months if we execute our business plan.

Any future acquisitions or other significant unplanned costs or cash requirements in excess of amounts we currently hold may require that we raise additional funds through the issuance of debt or equity. We cannot assure you that such financing will be available on terms acceptable to us or our stockholders, or at all. Insufficient funds may require us to delay or scale back the number of buildings and markets that we add to our network, reduce our planned increase in our sales and marketing efforts, or require us to otherwise alter our business plan or take other actions that could have a material adverse effect on our business, results of operations and financial condition. If issuing equity securities raises additional funds, substantial dilution to existing stockholders may result.

[Table of Contents](#)

We may need to or elect to refinance all or a portion of our indebtedness at or before maturity and we cannot provide assurances that we will be able to refinance any such indebtedness on commercially reasonable terms or at all. In addition, we may elect to secure additional capital in the future, at acceptable terms, to improve our liquidity or fund acquisitions or for general corporate purposes. In addition, in an effort to reduce future cash interest payments as well as future amounts due at maturity or to extend debt maturities, we may, from time to time, issue new debt, enter into debt for debt, or cash transactions to purchase our outstanding debt securities in the open market or through privately negotiated transactions. We will evaluate any such transactions in light of the existing market conditions. The amounts involved in any such transaction, individually or in the aggregate, may be material.

Off-Balance Sheet Arrangements

We do not have relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. In addition, we do not engage in trading activities involving non-exchange traded contracts. As such, we are not materially exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in these relationships.

Impact of COVID-19 on Our Liquidity and Operating Performance

We continue to operate with a high level of liquidity, and as of March 31, 2022, we had cash, cash equivalents and restricted cash of \$311.8 million. The COVID-19 pandemic has not impacted our credit rating to date, nor do we believe that it has materially changed our cost of capital. We believe we are able to timely service our debt obligations and will not require any concessions to do so. We believe we will have access to additional capital from a variety of sources and the public capital markets for debt and equity.

In late March 2020, we adopted a mandatory policy through which we required all employees to work from home and follow shelter in place guidelines issued by state and local authorities. In July 2021, we allowed all employees to return voluntarily to all offices in the United States. In August 2021, we notified our employees that they would be required to return to the office on a full time basis in the United States beginning in September 2021 and that they would be required to attest that they were fully vaccinated against the COVID-19 virus to do so. Employees had until October 11, 2021 to provide their vaccine self-attestation. Fully vaccinated employees in the United States returned to our offices on a full-time basis in early September 2021. In October 2021, we opened most of our non-US offices for employees to return on a voluntary basis and, where permitted, on a mandatory basis in November 2021.

The spread of the Omicron variant around the world in December 2021 caused us to modify further our office environment. First, we mandated that all U.S. employees receive a COVID-19 booster vaccine no later than six weeks after first becoming eligible for such vaccine. Second, we mandated that all U.S. employees provide proof of vaccination to us. Third, for offices around the world that had not been closed by government order, we shifted much of our workforce to fully remote status on a temporary basis at the end of 2021 in order to reduce the density of our offices. Sales representatives with less than 12 months tenure, sales representative on performance improvement plans and their managers remained working in our offices on a full-time basis, as we believe that the training and coaching required by new and underperforming sales representatives is significantly more effective when provided in an in-office environment. In March 2022, all of our US employees returned to our offices on a full-time basis, and our employees around the world have returned to the office as and when permitted by local regulations.

Our employees have largely complied with our vaccine mandate in the United States. However, we experienced an increase in both voluntary and involuntary employee departures, particularly within our sales department, in the second half of 2021 and first quarter of 2022. We believe this rise in departures is attributable both to an increased focus on managing underperforming sales representatives and to the unwillingness of some employees to be vaccinated and/or to return to a full time, in office environment. As a result of our decisions to mandate COVID vaccination and to require employees to return to our offices on a full time basis, we may find it difficult to retain existing employees or hire new employees. If this occurs, we may experience lower sales, revenue and profitability.

We have experienced certain corporate customers taking a more cautious approach to new configurations and upgrades as well as a reduction in demand for connecting smaller satellite offices as a result of the challenges and

uncertainties of the COVID-19 pandemic. We also have witnessed a deteriorating real estate market in and around the buildings we service with rising vacancy levels and falling lease initiations or renewals which resulted in fewer sales opportunities for our salesforce and a reduction in VPN opportunities. As a result, we experienced a slowdown in new sales to our corporate customers which negatively impacted our corporate revenue growth. Moreover, with the spread of the Delta variant of COVID-19 in the summer of 2021 and then the Omicron variant in December of 2021, we believe many companies delayed the return of their employees to in-office work. As the pandemic

[Table of Contents](#)

has continued, and the return of employees to their offices has been delayed, a greater number of corporate customers with contracts that reached their termination date have elected not to renew their service with us. As such, we began to see increased corporate customer turnover. We also experienced a reduction in new sales to corporate customers. While we believe that demand for office space in the buildings in which we operate will remain among the strongest in our markets, and that most employers will eventually require their employees to return to their offices, we may experience increased customer turnover, fewer upgrades of existing customer configurations and fewer new tenant opportunities. These trends may negatively impact our revenue growth, cash flows and profitability.

We continue to experience a slowdown in the availability and delivery of networking equipment and optical fiber. While we believe we can adequately manage the operation, maintenance, upgrading and growth of our network, a worsening or prolonged slowdown may impact our ability to expand and augment our network.

Shortly after COVID-19 began its rapid spread around the world, domestic and worldwide capital markets ceased normal operations for a short period. While worldwide capital markets have remained unstable or unpredictable since then, particularly for non-investment grade issuers, legislative bodies and reserve banks have taken various actions in response to the pandemic that have impacted the capital markets, and we expect that these efforts may continue. We cannot predict whether new COVID-19 variants will arise and spread widely, the impact of the spread of new COVID-19 variants on the global economy, how national and local governments may react to the spread of new variants nor predict the impact the variants and any measures taken in response may have on our operations, employee retention, revenue growth, cash flows and our profitability.

Critical Accounting Policies and Significant Estimates

Management believes that as of March 31, 2022, there have been no material changes to our critical accounting policies and significant estimates from those listed in Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” of our annual report on Form 10-K for the year ended December 31, 2021.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Management believes that as of March 31, 2022, there have been no material changes to our exposures to market risk from those disclosed in Item 7A “Quantitative and Qualitative Disclosures About Market Risk” of our annual report on Form 10-K for the year ended December 31, 2021.

ITEM 4. CONTROLS AND PROCEDURES.

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by SEC Rule 13a-15(b), an evaluation was performed under the supervision and with the participation of our management, including our principal executive officer and our principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based upon that evaluation, our management, including our principal executive officer and our principal financial officer, concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of the end of the period covered by this report.

There has been no change in our internal control over financial reporting during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are involved in legal proceedings in the ordinary course of our business that we do not expect to have a material impact on our operations or results of operations. Note 4 of our interim condensed consolidated financial statements includes information on these proceedings.

ITEM 1A. RISK FACTORS

Management believes that as of March 31, 2022, there have been no material changes to our risk factors from those disclosed in Item 1A “Risk Factors,” of our annual report on Form 10-K for the year ended December 31, 2021.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Our Board of Directors has authorized a plan to permit the repurchase of our common stock in negotiated and open market transactions through December 31, 2022. We may purchase shares from time to time depending on market, economic, and other factors. There were no purchases of shares of our common stock during the first quarter of 2022.

ITEM 6. EXHIBITS.

(a) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
3.1	Amended and Restated Bylaws of Cogent Communications Holdings, Inc. (as of May 4, 2022) (previously filed as Exhibit 3.1 to our Current Report on Form 8-K filed on May 4, 2022 and incorporated herein by reference).
10.1	Dark Fiber IRU Agreement, dated April 14, 2000, between WiTel Communications, Inc. and Cogent Communications, Inc., as amended June 27, 2000, December 11, 2000, January 26, 2001, and February 21, 2001, filed as Exhibit 10.1 hereto and incorporated herein by reference.*
10.2	Restricted Stock Award, dated as of January 3, 2022, between the Company and David Schaeffer (previously filed as Exhibit 10.1 to our Current Report on Form 8-K, filed on January 5, 2022, and incorporated herein by reference).
31.1	Certification of Chief Executive Officer (filed herewith)
31.2	Certification of Chief Financial Officer (filed herewith)
32.1	Certification of Chief Executive Officer (furnished herewith)
32.2	Certification of Chief Financial Officer (furnished herewith)
101.1	The following materials from the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, formatted in Inline Extensible Business Reporting Language (XBRL), include: (i) the Condensed Consolidated Statements of Comprehensive Income (Loss), (ii) the Condensed Consolidated Balance Sheets, (iii) the Condensed Consolidated Statements of Cash Flows, and (iv) related notes (filed herewith).
104	Cover Page Data File (the cover page XBRL tags are embedded within the iXBRL document).

* Certain confidential information contained in this agreement has been omitted because it (i) is not material and (ii) would be competitively harmful if publicly disclosed.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

COGENT COMMUNICATIONS HOLDINGS, INC.

Date: May 5, 2022

By: /s/ David Schaeffer

Name: David Schaeffer

Title: Chief Executive Officer

Date: May 5, 2022

By: /s/ Thaddeus G. Weed

Name: Thaddeus G. Weed

Title: Chief Financial Officer and Treasurer
(Principal Accounting Officer)



Certain information contained in this document, marked by brackets, has been omitted because it is both (i) not material and (ii) is the type that the registrant treats as private or confidential.

DARK FIBER IRU AGREEMENT

Between

WILLIAMS COMMUNICATIONS, INC. (“Williams”)

and

COGENT COMMUNICATIONS, INC. (“Cogent”)

Dated: April 14, 2000

TABLE OF CONTENTS

ARTICLE	Page
<u>ARTICLE I DEFINITIONS</u>	1
<u>ARTICLE II GRANT OF LEASE/IRU RIGHTS</u>	5
<u>ARTICLE III CONSIDERATION</u>	8
<u>ARTICLE IV CONSTRUCTION</u>	10
<u>ARTICLE V CONNECTION AND ACCESS TO THE SYSTEM</u>	13
<u>ARTICLE VI COLLOCATION; FUTURE AGREEMENTS</u>	13
<u>ARTICLE VII TERM</u>	14
<u>ARTICLE VIII MAINTENANCE AND RELOCATION</u>	15
<u>ARTICLE IX USE OF THE SYSTEM</u>	16
<u>ARTICLE X AUDIT RIGHTS</u>	18
<u>ARTICLE XI WARRANTIES</u>	18
<u>ARTICLE XII DEFAULT</u>	19
<u>ARTICLE XIII INDEMNIFICATION</u>	20
<u>ARTICLE XIV LIMITATION OF LIABILITY</u>	21
<u>ARTICLE XV INSURANCE</u>	22
<u>ARTICLE XVI TAXES AND GOVERNMENTAL FEES</u>	23
<u>ARTICLE XVII NOTICE</u>	24
<u>ARTICLE XVIII CONFIDENTIALITY</u>	25
<u>ARTICLE XIX PROHIBITION ON IMPROPER PAYMENTS</u>	26
<u>ARTICLE XX FORCE MAJEURE; EMINENT DOMAIN</u>	27
<u>ARTICLE XXI ARBITRATION AND DISPUTE RESOLUTION</u>	27
<u>ARTICLE XXII RULES OF CONSTRUCTION</u>	29
<u>ARTICLE XXIII ASSIGNMENT</u>	30
<u>ARTICLE XXIV ENTIRE AGREEMENT; AMENDMENT; EXECUTION</u>	33

EXHIBITS

Exhibit A	System Description A-1 Map of Major Segments A-2 Major Segment Listing
Exhibit B	Collocation B-1 Collocation Provisions (Transmission Sites) B-2 Description of Transmission Sites and POP Collocation Sites; Cogent Racks B-3 Collocation Provisions (POPs)
Exhibit C	Fiber Splicing, Testing, and Acceptance Standards and Procedures
Exhibit D	Fiber Specifications
Exhibit E	Cable Installation Specifications
Exhibit F	As-Built Drawing Specifications
Exhibit G	Operations Specifications
Exhibit H	Interconnections

DARK FIBER IRU AGREEMENT

THIS DARK FIBER IRU AGREEMENT (this "Agreement") is made on this 14th day of April, 2000 (the "Effective Date"), by and between WILLIAMS COMMUNICATIONS, INC., a Delaware corporation ("Williams"), and COGENT COMMUNICATIONS, INC., a Delaware corporation ("Cogent").

WITNESSETH:

WHEREAS, Williams has constructed or acquired, or will construct or acquire, a fiber optic communication system along the route segments described and/or depicted in Exhibits A-1 and A-2 attached hereto;

WHEREAS, Cogent desires to acquire from Williams, and Williams desires to provide to Cogent, rights to use certain optical fibers in the System (hereinafter defined) upon the terms and conditions set forth below; and

WHEREAS, the parties desire to establish additional ongoing obligations and rights that will be in effect during the term of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

In addition to other terms defined elsewhere in this Agreement, where capitalized, the following words and phrases shall be defined as follows:

"Acceptance" and all capitalized derivations of the word shall have the definition set forth in Exhibit C.

"Acceptance Date" shall have the definition set forth in Exhibit C.

"Acceptance Standards" means the standards set forth in Exhibit C with respect to the testing and condition of the Cogent Fibers.

"Additional Fibers" shall have the definition set forth in Section 2.4(c).

"Affiliate" means, with respect to any entity, any other entity controlling, controlled by or under common control with such entity, whether directly or indirectly through one or more intermediaries. "Control" and its derivatives mean legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding voting capital stock (or other ownership interest, if not a corporation) of an entity, or management or operational control over such entity.

“As-builts” shall have the definition set forth in Section 4.6.

“Cable” means the fiber optic cable and fibers contained therein, including the Cogent Fibers, and associated splicing connections, splice boxes and vaults, and conduit.

“Claim” means any claim, action, dispute, or proceeding of any kind between Cogent (or any of its Affiliates, successors or assigns) and Williams (or any of its Affiliates, successors, or assigns) and any other claim, transaction, occurrence, loss, liability, expense or other matter arising out of, in connection with, or in any way related to, the Cogent Lease/IRU Rights, the Cable, the System, this Agreement or any other instrument, arrangement or understanding related to the Cogent Lease/IRU Rights.

“Cogent” means Cogent Communications, Inc., a Delaware corporation.

“Cogent Equipment” shall mean optronics (opto-electrical), electronics, or optical equipment, or materials, facilities, or other equipment owned, possessed, or utilized (other than the System) by Cogent.

“Cogent Fibers” means the Initial Cogent Fiber and the Additional Fibers.

“Cogent IRU” shall have the definition set forth in Section 2.2.

“Cogent Lease/IRU Rights” shall have the definition set forth in Section 2.3.

“Collocation Provisions” means the collocation provisions for Transmission Sites or POP Collocation Sites as set forth in Exhibits B-1 and B-3, as applicable.

“Connecting Point” means a point where the network or facilities of Cogent will connect to the System (subject to the provisions of Section 5.1 and as more particularly defined in Exhibit H).

“Contract Price” shall have the definition set forth in Section 3.1.

“Costs” means actual, direct costs incurred and computed in accordance with the established accounting procedures used by Williams to bill third parties for reimbursable projects and U.S. generally accepted accounting principles. Such costs include the following:

- (a) labor costs, including wages, salaries, and benefits plus overhead allocable to such labor costs (the overhead allocation shall not exceed thirty percent (30%) of the labor costs computed without such overhead); and
- (b) other costs and out-of-pocket expenses on a pass-through basis (such as equipment, materials, supplies, contract services, costs of capital, Required Rights, sales, use or similar taxes, etc.) plus ten percent (10%) of such expenses.

“Dark Fibers” means optical fiber provided without electronics or optronics, and which is not “lit” or activated.

CONFIDENTIAL AND PROPRIETARY

“Effective Date” means the date defined in the introductory paragraph to this Agreement above.

“Estimated Completion Dates” means the dates defined in Section 4.3 below.

“Facility Owners/Lenders” means any entity (other than Williams): (a) owning any portion of the System or any property or security interest therein, (b) leasing to Williams, or providing an IRU to Williams in, any portion of the System, or (c) that is a Lender with respect to Williams or any Affiliates of Williams.

“Fiber Acceptance Testing” means the fiber acceptance testing described in Exhibit C.

“Fiber Miles” means the number of Route Miles in a Major Segment multiplied by the relevant number of Cogent Fibers in such Major Segment. For example, if there are four Cogent Fibers in a Major Segment with 100 Route Miles, there would be 400 Fibers Miles of Cogent Fibers in such Major Segment.

“Fibers” means any optical fibers contained in the System including the Cogent Fibers, the fibers of Williams and the fibers of any third party in the System excluding, however, any fibers granted (whether through ownership, IRU, lease or otherwise) to governmental entities in exchange for allowing use of streets, rights-of-way or other property under the jurisdiction of such entity.

“Force Majeure Event” shall have the definition set forth in Section 20.1.

“Indefeasible Right of Use” or “IRU” means an exclusive, indefeasible right to use the optical fibers or other specified property; provided that the granting of the same does not convey legal title to such fibers or other property. Notwithstanding the above, “Cogent Lease/IRU Rights” refers to both Cogent’s lease rights set forth in Section 2.1 and the Cogent IRU granted pursuant to Section 2.2 or Subsection 2.4(c).

“Indemnified Parties” shall have the definition set forth in Section 13.1.

“Indemnitor” shall have the definition set forth in Section 13.1.

“Initial Cogent Fiber” means that certain one (1) strand of Dark Fiber designated by Williams in the Cable on each Major Segment of the type set forth in Exhibit A-2 and further described in Exhibit D in which Cogent shall be granted the Cogent Lease/IRU Rights hereunder as set forth in Section 2.1.

“Initial Term” shall have the definition set forth in Section 7.1.

CONFIDENTIAL AND PROPRIETARY

“Major Segments” means the individual identified portions of the Route between each of the city pairs listed on Exhibit A-2.

“Non-Routine Maintenance” shall have the definition set forth in the Section 8.1.

“Per Mile Rate” shall have the definition set forth in Section 3.1.

“POPs” shall mean Williams’ designated points of presence at the locations along the Route listed in Exhibit A-2.

“POP Collocation Sites” shall mean those specific Williams POPs in which Cogent is granted collocation rights hereunder as listed in Exhibit B-2.

“Pro Rata Share” means a proportion equal to a fraction, the numerator of which is the number of Cogent Fibers and the denominator of which is: (a) during the Initial Term of a Major Segment all Fibers in the Cable and (b) during any renewal term of a Major Segment all Fibers in the Cable that are in service for Williams, Cogent and/or any third party as of the date such share is being computed. If this fraction varies over a particular Segment, then the Pro Rata Share shall be equal to the weighted average (weighted by length as set forth in Williams’ As-Built Drawings) of the relevant portions. For example, if the fraction for 100 feet of the affected Segment is 0.1 and the fraction for the remaining 50 feet of the affected Segment is 0.07, the weighted average for the entire Segment would be 0.09.

“Rack Space” means space for a standard non-enclosed equipment rack with outside dimensions measuring twenty-six inches (26”) in width, twenty-four inches (24”) in depth and either seventy-eight inches (78”) or eighty-four inches (84”) in height, in Transmission Sites and POP Collocation Sites which are of type, size and quality standard in the telecommunications industry.

“Released Party” means each of the following:

- (a) any Affiliates or Lenders of the other party and any Facility Owners/Lenders;
- (b) any employee, officer, director, stockholder, partner, member, or trustee of the other party or of its Affiliates, Lenders, or Facility Owners/Lenders; or
- (c) assignees of the entities included in the above subparagraphs (a) or (b) and any employee, officer, director, stockholder, partner, member, or trustee of such assignees.

“Renewal Terms” shall have the definition set forth in Section 7.2 below.

“Representatives” shall have the definition set forth in Section 18.1 below.

“Required Rights” shall have the definition set forth in Section 4.2 below.

CONFIDENTIAL AND PROPRIETARY

“Right-of-Way Agreements” means agreements with right of way owners, property owners, utilities, railroads, government entities or other parties that Williams has entered into, or will enter into, to obtain some or all of the Required Rights.

“Route” shall mean the route, including spurs, upon which the System will be constructed and installed consisting of the Major Segments.

“Route Miles” means the actual miles traversed by the Cable along the Route (including spurs) based on the As-builts.

“Routine Maintenance” shall have the definition set forth in Section 8.1.

“Segment” means a discrete portion of the System and may refer to a Span, a portion between two POPs or a POP and a System end point, or a portion of the System affected by a relocation or other circumstance.

“Span” means a portion of the System between (a) a Transmission Site, a Williams-designated POP, or a System end point and (b) the next closest Transmission Site, Williams-designated POP, or a System end point along the Route from such site.

“System” means Williams’ fiber optic communications system constructed or to be constructed along the Route which will contain the Cogent Fibers including, but not limited to, the Cable, fibers, conduits, handholes, manholes and all other appurtenances and components of said communications system.

“Taking” shall have the definition set forth in Section 20.2.

“Term” means the Initial Term and any Renewal Term(s) of this Agreement as defined in Sections 7.1 and 7.2.

“Transmission Sites” shall mean Williams’ designated optical amplifier, regenerator or junction sites along the Route as specified in Exhibit B-1.

“Williams” means Williams Communications, Inc., a Delaware corporation, formerly known as Vyvx, Inc..

ARTICLE II GRANT OF LEASE/IRU RIGHTS

2.1 **Lease/IRU.** Effective as of the Acceptance Date for each Major Segment (or with respect to Additional Fibers, the Acceptance Date of such Additional Fibers), provided that Cogent has made all payments previously due pursuant to Sections 3.2 and 3.3, Williams grants to Cogent (a) an exclusive, but defeasible, lease of the Cogent Fibers on such Major Segment and (b) an associated non-exclusive, but defeasible, lease, for the purposes of and subject to the terms and conditions set forth herein, of the tangible and intangible property needed for the operation of the Cogent Fibers, including, but not limited to, the System and Required Rights, subject to underlying

CONFIDENTIAL AND PROPRIETARY

real property and contractual limitations and restrictions and excluding any electronic or optronic equipment, all on the terms and subject to the conditions set forth herein. The parties agree that the lease shall constitute a true lease and not a disguised sale for all purposes. Such lease shall terminate upon the first to occur of (x) an event of default and resulting termination of such lease under the terms of Article XII below, or (y) with respect to the affected Cogent Fibers, when Cogent obtains an IRU in such fibers pursuant to Section 2.2 or Subsection 2.4(c).

2.2 Grant of IRU in Initial Cogent Fiber. After Williams' receipt of all payments required under Subsections 3.2(a) through 3.2(d) (including any interest and as adjusted pursuant to Section 3.7), or with respect to Additional Fibers after Williams' receipt of all payments required under Section 3.3, Williams shall grant Cogent (a) an IRU in the Initial Cogent Fiber and Additional Fibers, if applicable, without further action required, for the purposes described herein and (b) an associated non-exclusive but Indefeasible Right of Use, for the purposes of and subject to the terms and conditions set forth herein, in the tangible and intangible property needed for the operation of the Initial Cogent Fiber and Additional Fibers, if applicable, including, but not limited to, the System and Required Rights, subject to underlying real property and contractual limitations and restrictions and excluding any electronic or optronic equipment; all on the terms and subject to the conditions set forth herein (the "Cogent IRU") effective as of (x) the Acceptance Date for each such Major Segment subsequently Accepted by Cogent hereunder, or (y) the date on which final payment, as described above, is received by Williams with respect to each Major Segment previously Accepted by Cogent.

2.3 Cogent Lease/IRU Rights. Cogent's lease rights and the Cogent IRU granted under this Article II shall collectively be referred to as the "Cogent Lease/IRU Rights." Upon the effective date of the Cogent IRU under Section 2.2, Cogent's IRU shall replace Cogent's lease of such Fibers. The Cogent Lease/IRU Rights:

- (a) shall be subject to the terms and conditions set forth herein;
- (b) do not convey any legal title to any real or personal property, including the Fibers, the Cable, or the System; and
- (c) do not include any optronic or electronic equipment used in connection with transmitting capacity over or "lighting" the Fibers except for facilities and services provided by Williams pursuant to the terms of the Collocation Provisions.

2.4 Right to Request Lease/IRU Rights in Additional Dark Fibers. Cogent may order rights in additional Fibers as follows:

- (a) Cogent shall have the right to request Cogent Lease/IRU rights in one additional Dark Fiber in all of the Major Segments, subject to availability at the time of exercise, at a price of [*] per Fiber Mile. Availability of such Dark Fibers will be determined by Williams in its sole and absolute discretion. Cogent shall make such request by giving written notice to Williams within three (3) years after the Effective Date. If notice is not given within such 3-year period, any and all of Cogent's rights under this Subsection 2.4(a) shall expire and be of no further force or effect. Within sixty (60)

CONFIDENTIAL AND PROPRIETARY

days after receipt of Cogent's notice requesting Cogent Lease/IRU Rights in additional Dark Fibers under this Subsection 2.4(a), Williams shall either (i) inform Cogent in writing that Dark Fiber is available in all Major Segments, or (ii) provide Cogent with a written list of all Major Segments in which there are no Dark Fibers available. In the event Williams notifies Cogent under clause (ii) that Dark Fibers are not available in all Major Segments but that the Major Segments in which Dark Fiber is available total [*] Route Miles or more, Cogent shall give further written notice to Williams indicating its intent to obtain Cogent Lease/IRU rights in additional Dark Fibers with respect to the Major Segments identified as available by Williams. Alternatively, Cogent may elect to withdraw its prior notice requesting Cogent Lease/IRU Rights in additional Dark Fibers under this Subsection 2.4(a) after which Cogent's rights hereunder shall expire and be of no further force or effect. In the event Cogent fails to provide such further notice to Williams within thirty (30) days after Williams' notice under clause (ii) above, Cogent's rights under this Subsection 2.4(a) shall expire and be of no further force or effect. If Williams notifies Cogent under clause (ii) above that there are no Dark Fibers available in any Major Segment or that the Major Segments in which Dark Fiber is available total less than [*] Route Miles within the above-described 60-day period, then Cogent's rights to obtain Additional Fibers under this Subsection 2.4(a) shall expire and be of no further force or effect.

- (b) In addition to the rights granted under Subsection 2.4(a), Cogent may request additional Dark Fibers on individual Major Segments at any time during the Initial Term. Within a reasonable time after receipt of a written request for such additional Dark Fibers from Cogent, Williams shall inform Cogent as to whether such requested additional Dark Fibers are available. Availability of any requested additional Dark Fibers will be determined by Williams in its sole and absolute discretion. If such Dark Fibers are available, as determined by Williams, Williams will use commercially reasonable efforts to price such fibers in a manner consistent with the pricing applicable to the Initial Cogent Fiber under this Agreement so long as Williams is able to maintain similar economic benefits under such terms. The pricing for any such additional Dark Fibers requested and provided under this Subsection 2.4(b) shall be as mutually agreed upon by the parties.
- (c) Dark Fibers in which Cogent obtains Cogent Lease/IRU Rights under the terms of Subsection 2.4(a) or Subsection 2.4(b) are referred to herein as "Additional Fibers". Subject to satisfaction of all payment obligations set forth in Section 3.3, Cogent shall have the same rights in the Additional Fibers as it has pursuant to Sections 2.1 through 2.3 with respect to the Initial Cogent Fiber subject to all applicable terms and conditions of this Agreement. Upon Cogent's purchase of Cogent Lease/IRU Rights in Additional Fibers under the terms of Subsection 2.4(a) or Subsection 2.4(b), the parties shall execute an addendum to this Agreement incorporating this Agreement by reference, specifically identifying the Dark Fibers and Major Segments affected and the price to be paid for the Cogent Lease/IRU Rights to be granted in and to the Additional Fibers, and containing such other terms as mutually agreed upon by the

CONFIDENTIAL AND PROPRIETARY

parties. For purposes of this Section 2.4, Williams may consider intended or planned uses of Fibers which are not consistent with granting Cogent an IRU and not only whether such Fibers are then currently in use in determining “availability” of fibers in any Major Segment under this Section 2.4.

ARTICLE III CONSIDERATION

3.1 **Consideration for Cogent IRU.** Subject to performance by Williams of its obligations hereunder and in addition to any other consideration provided for in this Agreement, Cogent agrees to pay to Williams for the Cogent IRU in the Cogent Fibers, a non-recurring payment in the amount of [*] (the “Contract Price”) which equals [*] per Fiber Mile for the Initial Cogent Fiber constructed, installed, tested and Accepted hereunder (the “Per Mile Rate”).

3.2 **Payment Terms.** The Contract Price for all Major Segments shall be paid by Cogent to Williams as follows:

- (a) The sum of [*] is due and payable within three (3) banking days after the Effective Date;
- (b) The sum of [*] is due and payable on October 16, 2000;
- (c) The sum of [*] is due and payable on April 16, 2001;
- (d) The sum of [*], is due and payable on October 15, 2001.

Cogent may, at its option, prepay any or all of the payments under (a) through (d) above at any time prior to the applicable due date(s) without penalty.

3.3 **Charges for Rights in Additional Fibers.** The price for Cogent Lease/IRU Rights in Additional Fibers provided under Subsection 2.4(b) shall be negotiated between Williams and Cogent at the time Williams agrees to grant a request for Additional Fibers submitted by Cogent. The total price for Cogent Lease/IRU Rights in Additional Fibers obtained by Cogent under Subsection 2.4(a) shall be computed based upon a [*] per Fiber Mile rate. The charge for Routine Maintenance under Section 3.4 shall not be separately charged or changed for Major Segments in which Cogent obtains Additional Fibers. The total price determined for the Cogent Lease/IRU Rights in any Additional Fibers provided hereunder shall be paid by Cogent to Williams as follows:

- (a) twenty-five percent (25%) of the estimated price of the Additional Fibers (based on the estimated Fiber Miles of the Major Segments set forth in Exhibit A-2 except for Major Segments for which As-builts have been provided to Cogent hereunder in which case the price shall be determined using actual Route Miles) within three (3) banking days after the date the addendum referred to in Subsection 2.4(c) is executed by the parties; and

CONFIDENTIAL AND PROPRIETARY

- (b) the remaining seventy-five percent (75%) of the estimated price within three (3) banking days after the Acceptance Date of the Additional Fibers.

3.4 **Charges for Routine Maintenance.** Cogent shall pay Williams [*] per Route Mile per month throughout the Term (beginning on the Acceptance Date for each Major Segment) for Routine Maintenance, subject to the adjustments set forth below. Until Williams determines the actual Route Miles, Cogent shall pay estimated Routine Maintenance charges based on the estimated Route Miles set forth in Exhibit A-2. The [*] amount shall be increased annually on a date selected by Williams by two percent (2%) of the charges for Routine Maintenance applicable to the immediately preceding annual period. Cogent shall pay such amounts for each Major Segment on or before the first day of each calendar month following the Acceptance Date (with the first payment including amounts accrued during the month in which the Acceptance Date occurs as well as the payment for the first full month after Acceptance). Payments shall be prorated, as necessary, for partial months in which the Acceptance Date occurs or the Term expires.

3.5 **Charges for Non-Routine Maintenance and Relocations.** Cogent shall pay its Pro Rata Share of Williams' Costs of performing Non-Routine Maintenance and relocations (except voluntary relocations, as described in Section 8.2), if the gross cost of such work relating to any single event or multiple, closely related events is greater than [*]. Notwithstanding the foregoing: (a) Williams shall repair any damage caused by the negligence or willful misconduct of Cogent or its employees, contractors or agents, at Cogent's sole expense and at Williams' then-prevailing rates, and (b) to the extent Cogent is obligated to reimburse Williams for all or a portion of the Costs incurred pursuant to other Articles of this Agreement (including the Collocation Provisions), such alternative reimbursement obligations shall apply instead of the obligations set forth in this Section.

To the extent a third party not having an interest in the System or fibers in the System reimburses some or all of Williams' gross Costs of performing Non-Routine Maintenance or relocations, Williams shall reduce the gross Costs by the amount of such reimbursement for purposes of computing Cogent's Pro Rata Share of Costs; provided that Williams: (a) shall be entitled to reduce such amount by legal and collection costs incurred; and (b) shall have the right to prorate such reimbursement among itself, Cogent and other owners of an IRU or other ownership interest in Fibers within the System. Williams shall either reflect such reduction in its invoice or shall promptly refund such reduction when it receives such reimbursement.

3.6 **Charges for Collocation.** The charges for collocation space provided to Cogent in Transmission Sites and POP Collocation Sites hereunder shall be as set forth in the Collocation Provisions.

3.7 **Method of Payment.** Except for monthly collocation and Routine Maintenance charges, all payments to Williams set forth in this Article III shall be made by wire transfer of immediately available funds to the account or accounts designated by Williams. In addition to any other remedies set forth in this Agreement, all late payments shall bear interest accruing from the date due until paid at a rate equal to eighteen percent (18%) per annum or, if lower, the highest rate allowed by applicable law. All payments required under this Agreement shall be made in United States Dollars.

CONFIDENTIAL AND PROPRIETARY

3.8 **True-Up of Contract Price.** In the event the actual Route Miles for any Major Segment, as shown by the As-builts, differ from the estimated Route Miles set forth on Exhibit A-2, the Contract Price for such Major Segment shall be recomputed using the actual Fiber Miles based upon the Per Mile Rate. With respect to each Major Segment, any excess of such recomputed Contract Price for such Major Segment over the portion of the Contract Price allocable to such Major Segment previously paid by Cogent shall be paid by Cogent to Williams within thirty (30) days after receipt of the As-builts from Williams. Likewise, any excess of the portion of the Contract Price allocable to such Major Segment previously paid by Cogent over such recomputed Contract Price for such Major Segment shall be refunded by Williams to Cogent within thirty (30) days after delivery of the As-builts to Cogent. Neither Williams nor Cogent shall be liable for interest on such difference prior to the end of such thirty-day period. Notwithstanding the foregoing, the parties agree that for purposes of recomputing the Contract Price under this Section 3.8, the aggregate actual Route Miles of all of the Major Segments shall not be more than 105% or less than 95% of the aggregate estimated Route Miles as set forth in Exhibit A-2. If, after delivery of the As-builts for the last Major Segment to be delivered to and Accepted by Cogent hereunder, either party notifies the other that the aggregate actual Route Miles for all Major Segments is greater than 105%, or less than 95%, of the aggregate estimated Route Miles set forth in Exhibit A-2, then Williams shall refund, or Cogent shall pay, as appropriate, the difference between the Contract Price actually paid by Cogent and 105% or 95%, as applicable, of the estimated Contract Price set forth in Exhibit A-2.

3.9 **Adjustment of Maintenance Charges.** When Williams provides the As-builts pursuant to Section 4.6, it shall also provide Cogent a statement of the actual Route Miles of the Major Segment and beginning with the next monthly payment of Routine Maintenance charges due hereunder, Cogent shall pay the adjusted amount for such Major Segment for the remainder of the Term. Cogent shall not be required to pay, and Williams shall not be required to refund, amounts underpaid or overpaid by Cogent for periods prior to the adjustment under this Section.

3.10 **Time of Payment.** Where no due date is specified for any payment obligation under this Agreement, each party shall pay such amounts within thirty (30) calendar days after the invoice delivery date, as determined by Section 17.2.

ARTICLE IV CONSTRUCTION

4.1 **Fiber Acceptance Testing.** Exhibit C sets forth Fiber Acceptance Testing procedures and test deliverables Williams shall provide to Cogent, and procedures for determining the Acceptance Date of a Major Segment.

4.2 **Acceptance Date Obligations.** As of the Acceptance Date of any Major Segment:

- (a) Williams or the underlying facility owner shall have obtained all rights, licenses, authorizations, easements, leases, fee interests, or agreements that provide for the occupancy by such Major Segment of real property or fixtures (such as conduit, bridges, river crossings, or transmission towers) associated with such Major Segment;

CONFIDENTIAL AND PROPRIETARY

- (b) Williams shall have obtained by IRU agreement, lease, or otherwise the right to use Major Segments it does not own; and
- (c) such Major Segment shall be designed, engineered, installed, and constructed in accordance with the specifications set forth in Exhibits C, D and E in a workmanlike manner and in accordance with industry standards and applicable laws; provided that any portions of the System Williams elects to acquire from third parties, (whether under a lease, sublease, indefeasible right of use or otherwise) in lieu of constructing and installing such portion of the System shall be or have been constructed substantially in accordance with the specifications and procedures required by this Agreement except for such deviations which do not, in the reasonable discretion of Williams, materially diminish the utility, reliability or expected useful life of the System.

The rights Williams is required to obtain pursuant to Subsections (a) and (b) above as are necessary for Williams to grant to Cogent the Cogent Lease/IRU Rights are referred to as "Required Rights." Williams shall obtain and maintain in full force and effect all Required Rights through at least the Initial Term of each Major Segment subject to Cogent's obligations specified below in this paragraph and except as provided in and subject to the provisions of Section 8.2 (Relocation Procedures) and Section 20.1 (Excused Performance). In the event title to the System or Required Rights is contested during the Initial Term, or if any third party or government authority contests the property rights or the rights of the parties to use the System for any reason, Williams shall proceed to take all necessary steps to perfect title including, but not limited to, contesting the claims of any such third party or government authority; provided that, if such contest does not result from the negligent acts of Williams, Cogent shall reimburse Williams for its Pro Rata Share of all Costs incurred by Williams in perfecting title as described above.

Notwithstanding any other provision herein to the contrary, Cogent shall be solely responsible for obtaining, at its sole cost and expense, any and all necessary franchises, authorizations or permits specifically required in addition to the Required Rights as a result of Cogent's, as opposed to Williams', use, operation, access or connection of or with the Cogent Fibers and its operation, maintenance, repair, and replacement of all Cogent Equipment associated therewith.

4.3 **Prior Construction.** Cogent acknowledges that some or all of said design, engineering, installation, construction, splicing and testing described above has previously been completed.

4.4 **Estimated Completion Dates.**

- (a) Subject to extension for delays described in Section 20.1 and to extension or delay as otherwise permitted or provided in this Agreement, the "Estimated Completion Dates" for completion of all construction, installation, Williams' Fiber Acceptance Testing and hand-over of Williams' test results and the Cogent Fibers to Cogent for the Major Segments are the dates set forth in Exhibit A-2. Williams shall use commercially reasonable efforts to meet the applicable Estimated Completion Date

CONFIDENTIAL AND PROPRIETARY

for each Major Segment. Williams shall give notice to Cogent as early as reasonably possible of any known events that could reasonably be expected to delay completion of any Major Segment hereunder.

- (b) If for any reason (except for a Force Majeure Event) Williams fails to complete any Major Segment within [*]after the Estimated Completion Date (the “Grace Period”) for such Major Segment, then Williams shall pay Cogent monthly payments equal to [*] of the Contract Price allocable to such Segment as liquidated damages for up to [*] until such Major Segment(s) are completed and Accepted or until Cogent terminates this Agreement with respect to such Major Segment under Section 4.4(c) below, whichever is earlier. In no event shall Williams be obligated to pay the payments described in the preceding sentence beyond the date which is [*] after expiration of the Grace Period. The payment of the sums set forth above in this Subsection 4.4(b) are agreed upon as liquidated damages and not as a penalty. The parties hereto have computed, estimated and agreed upon the sum as an attempt to make a reasonable forecast of probable actual loss because of the difficulty of estimating the damages which will result.
- (c) If Williams has not completed any Major Segment(s) on or before the date which is [*] after expiration of the Grace Period, Williams will no longer be required to pay the liquidated damages described in 4.4(b) above, and Cogent will have the right to terminate this Agreement with respect to the affected Major Segment(s) only. In the event of such termination by Cogent, Williams shall refund to Cogent the portion of the initial deposit of the Contract Price described in Section 3.1(a) previously paid by Cogent allocable to such Major Segment(s) based on the number of Fiber Miles contained therein. In addition, Williams shall pay Cogent interest on such refund at the prime rate plus three percentage points accruing from the date payment is made by Cogent under Section 3.1(a). The remedies described in this Section 4.4 shall be Cogent’s sole and exclusive remedies for Williams’ failure to deliver any Major Segment(s) prior to expiration of the Grace Period. For purposes of the preceding sentence, “prime rate” shall mean the rate published in the Money Rates Section of The Wall Street Journal as the prime rate on corporate loans at large United States money center commercial banks.

4.5 **Alteration of Construction Specifications.** Notwithstanding any other provision of this Agreement, Williams may, in its sole discretion, alter the construction specifications as construction progresses to facilitate actual construction needs. Any such alteration shall be consistent with standard telecommunications practices, shall not alter the location of the endpoints of or intermediate POPs within any Major Segment, shall not cause a substantial deviation from the Transmission Site spacing requirements hereunder, and shall not result in a modification of Cogent’s rights under this Agreement that could reasonably be expected to interfere with Cogent’s use of the Cogent Fibers hereunder.

4.6 **Provision of As-Built Drawings.** Within one hundred eighty (180) days after Cogent’s Acceptance of each Major Segment, Williams shall provide Cogent with as-built drawings

CONFIDENTIAL AND PROPRIETARY

for the portion of the System in such Major Segment complying with the specifications for as-built drawings set forth in Exhibit F (the "As-builts"). If there is a material change in the As-builts as a result of maintenance or relocation, Williams shall deliver updated As-builts to Cogent with respect to the relevant Segment within one-hundred eighty (180) calendar days following the completion of such change.

ARTICLE V CONNECTION AND ACCESS TO THE SYSTEM

5.1 **Connections.** Cogent shall have the right to access Transmission Sites and POP Collocation Sites in accordance with the terms and conditions specified in the Collocation Provisions. Subject to the provisions herein, Cogent shall pay for and arrange all connections of its facilities with the Cogent Fibers which connections shall be made by Williams only at Connecting Points in accordance with the terms and procedures set forth in Exhibit H. Cogent shall reimburse Williams for any and all Costs incurred as a result of making such connections including, but not limited to, the Costs of obtaining any rights to access, connect, install, or maintain such connections or the spur connecting to the System and shall pay all any other applicable charges or fees as specified in Exhibit H.

5.2 **No Unauthorized Access to System.** Cogent shall not access any physical part of the System (other than pursuant to the Collocation Provisions) without the prior written consent of Williams, and then only upon the terms and conditions specified by Williams.

ARTICLE VI COLLOCATION; FUTURE AGREEMENTS

6.1 **Transmission Sites.** Williams agrees to provide to Cogent and Cogent agrees to accept and utilize collocation space in each of Williams' Transmission Sites along the Route as listed and described in Exhibit B-2 at the rates and in accordance with the terms and conditions set forth in Exhibit B-1. Transmissions Sites have been or shall be constructed by Williams at approximately forty (40) mile intervals along the Route except where geographic or other factors require or allow different spacing in accordance with generally accepted practices in the telecommunications industry.

6.2 **POP Collocation Sites.** Williams agrees to provide and Cogent agrees to accept and utilize collocation space in each of POP Collocation Sites as described in Exhibit B-2 at the rates and subject to the terms and conditions set forth in Exhibit B-3.

6.3 **Preferred Provider.** During the Term of this Agreement, Cogent will first seek to obtain its interLATA transport requirements (including dark fiber, data, voice and video circuits) from Williams; provided, however, that this Section 6.3 shall not apply to collocation space requirements at points of presence. When Cogent has a need for such transport services, Cogent will request a quote from Williams, which request will identify the desired services and indicate whether quality, availability, provisioning date or price are most important to Cogent for the particular request. Williams will respond to Cogent's request for such products within five (5) business days after Williams' receipt of such request and will provide to Cogent information regarding quality,

CONFIDENTIAL AND PROPRIETARY

pricing, availability, whether or not the product is “on-net” (i.e. available on Williams operated fiber optic network between Williams’ POPs), and what date Williams expects the product to be provisioned. Cogent may order such products from Williams based on the terms of the quote provided by Williams or Cogent may obtain a competitive, bona fide quote for comparable transport products in the marketplace. In the event Cogent receives a similar, bona fide offering of equivalent or better quality, provisioning date, or price, Cogent will provide Williams with an opportunity to match such third party offer by notifying Williams, in writing, which notice shall include a summary of the material terms of such third party offer, including, without limitation, the term, quality, provisioning date, and price of the services to be provided. In the event Williams notifies Cogent, in writing, that it has the ability and agrees to match such offer within a reasonable time after receiving the notice described in the preceding sentence from Cogent, Cogent will be obligated to order such products from Williams. Notwithstanding the foregoing, Cogent may order such products from a third party if Williams is unable to provide such services or products on a physically diverse route if such diversity was part of Cogent’s request described above. In the event Williams does not agree to match such offer, Cogent may order such products from the third party that provided the quote.

6.4 **Carrier Services Agreement.** The Parties agree that within thirty (30) days after the Effective Date, they will negotiate and enter into a carrier services agreement upon mutually agreeable terms and conditions (the “Carrier Services Agreement”). Such Carrier Services Agreement will govern the Parties respective rights and obligations with respect to any capacity services ordered by Cogent under Section 6.3 or otherwise and/or other services described in the Carrier Services Agreement.

ARTICLE VII TERM

7.1 **Initial Term.** This Agreement shall be in force and effect between the parties on and after the Effective Date. The term of the Cogent Lease/IRU Rights for each Major Segment shall commence on each such Major Segment’s Acceptance Date and shall end on the twentieth (20th) anniversary of such date unless earlier terminated pursuant to the terms hereof (the “Initial Term”).

7.2 **Renewal Terms.** This Agreement and the Cogent IRU may be renewed by Cogent for two (2) additional terms of five (5) years each (the “Renewal Term(s)”) (the Initial Term and Renewal Term(s) collectively, the “Term”); provided, however, that such rights to renew shall be subject to Section 7.3 below and to the right of Williams to require Cogent to pay its Pro Rata Share of Williams’ Costs of extending or replacing Required Rights for such Renewal Term as a condition to Cogent’s rights to renew. If Cogent elects to renew the Cogent IRU pursuant to this Section 7.2, such payments shall be payable by Cogent both before and during the Renewal Term(s) as Williams incurs such Costs and within thirty (30) days after receipt of Williams’ invoice therefor. Except as provided in the preceding sentences and except for maintenance, collocation or other recurring and non-recurring charges specified in this Agreement, Cogent shall not be charged additional consideration for the renewal of this Agreement under this Section 7.2. Cogent may renew this Agreement by giving written notice to Williams at least one (1) year prior to the expiration of the Initial Term or then effective Renewal Term. All terms and conditions of this Agreement shall be applicable during any Renewal Terms.

CONFIDENTIAL AND PROPRIETARY

7.3 **Conditions on Renewal.** Notwithstanding any other provision herein to the contrary, Cogent may not exercise its right to renew this Agreement with respect to any Major Segment(s) if Williams (a) determines, in its sole and absolute discretion, not to continue operation of such Major Segment(s) and/or to abandon the same and (b) gives notice of such determination to Cogent at least six (6) months prior to expiration of the Initial Term or then current Renewal Term.

7.4 **Effect of Termination.** No termination of this Agreement shall affect the rights or obligations of any party hereto:

- (a) with respect to any payment hereunder for services rendered prior to the date of termination;
- (b) pursuant to Articles X (Audit Rights), XIII (Indemnification), XIV (Limitation of Liability), XV (Insurance), XVI (Taxes and Governmental Fees), XVIII (Confidentiality), XIX (Prohibition on Improper Payments), XXI (Arbitration and Dispute Resolution), or XXII (Rules of Construction) or Sections 11.2 (Exclusion of Warranties) or 11.3 (No Third-Party Warranties); or
- (c) pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement.

ARTICLE VIII MAINTENANCE AND RELOCATION

8.1 **Maintenance.** During the Term, Williams shall perform all required Routine Maintenance and Non-Routine Maintenance. “Non-Routine Maintenance” means maintenance and repair work that Williams is obligated to provide under this Agreement and described in Exhibit G other than:

- (a) the work specifically identified as Routine Maintenance in Exhibit G;
- (b) work in which the aggregate amount of Costs incurred as a result of any single event or multiple, closely related events is less than or equal to [*]; or
- (c) work for which Cogent is obligated to reimburse Williams for all or a portion of the Costs incurred pursuant to other Articles of this Agreement.

“Routine Maintenance” means maintenance and repair work that is described in Subsections 8.1(a) or 8.1(b).

8.2 **Relocation Procedures.**

- (a) Williams may relocate all or any portion of the System or any of the facilities used or required in providing Cogent with the Cogent Lease/IRU Rights:
 - (i) if a third party with legal authority to do so orders or threatens to order such relocation (e.g., through filing or threatening to file a condemnation suit),

CONFIDENTIAL AND PROPRIETARY

- (ii) in order to comply with applicable laws,
 - (iii) for bona fide operational reasons,
 - (iv) to reduce governmental fees or taxes assessed against it or Cogent, or
 - (v) if it determines to do so in its reasonable business judgment.
- (b) For purposes of Section 8.2(a)(iii), a Williams relocation shall be for bona fide operational reasons only if undertaken in good faith (i) to settle or avoid a bona fide threatened or filed condemnation action or order by a governmental authority to relocate, (ii) to reduce the likelihood of physical damage to the System, (iii) as the result of a Force Majeure Event, or (iv) for other operational reasons to which Cogent has consented, provided that Cogent shall not unreasonably withhold such consent.
- (c) A relocation made solely pursuant to Section 8.2(a)(v) shall be considered a voluntary relocation for purposes of Section 3.5. Williams shall provide Cogent sixty (60) calendar days' prior notice of any such relocation, if reasonably feasible. Williams shall have the right to direct such relocation, including the right to determine the extent of, the timing of, and methods to be used for such relocation, provided that any such relocation:
- (i) shall be constructed and tested in accordance with the specifications and requirements set forth in this Agreement and applicable Exhibits;
 - (ii) shall not result in a materially adverse change to the operations, performance, Connecting Points with the network of Cogent, spacing of Transmission Sites or end points of the Major Segment; and
 - (iii) shall not unreasonably interrupt service on the System.

8.3 **Maintenance of Cogent Equipment Excluded.** Williams shall have no obligation under this Agreement to maintain, repair, or replace Cogent Equipment. The parties may, but shall not be obligated to, enter into a separate agreement under which Williams will agree to maintain the Cogent Equipment and perform other managed services for Cogent for the consideration and upon terms and conditions mutually agreed upon between the parties.

ARTICLE IX USE OF THE SYSTEM

9.1 **Compliance with Law.** Cogent warrants that its use of the Cogent Fibers and the System shall comply in all material respects with applicable government codes, ordinances, laws, rules, regulations and restrictions and shall not have an adverse effect on the System or its use by Williams or third parties.

CONFIDENTIAL AND PROPRIETARY

9.2 **Cogent's Rights Exclusive.** Cogent may use the Cogent Fibers for any lawful purpose. Williams shall have no right to use the Cogent Fibers during the Term of any Major Segment except in the event of a Cogent default pursuant to the terms hereof.

9.3 **Notice of Damage.** Cogent shall promptly notify Williams of any matters pertaining to any damage or impending damage to or loss of the use of the System that are known to it and that could reasonably be expected to adversely affect the System. Williams shall promptly notify Cogent of any matters pertaining to any damage or impending damage to or loss of the Cogent Fibers that are known to it and that could reasonably be expected to adversely affect the Cogent Fibers.

9.4 **Preventing Interference with Other Fibers.** Neither Cogent nor Williams shall use equipment, technologies, or methods of operation that interfere in any way with or adversely affect the System or the use of the System by the other party or third parties or their respective Fibers, equipment, or facilities associated therewith. Each party shall take all reasonable precautions to prevent damage to the System or to fibers used or owned by the other party or third parties. Notwithstanding the above, the provisions of this Section shall not prevent a party from using commercially reasonable equipment, technologies, or methods of operation if the interference or adverse effect on the other party or a third party results primarily from such other party or third party's use of equipment, technologies, or methods of operation that are not commercially reasonable or that are not standard in the telecommunications industry.

9.5 **Liens.** Cogent shall not cause or permit any part of the System to become subject to any mechanic's, materialmen's, or vendor's lien, or any similar lien. Williams shall not cause or permit any of Cogent's rights under this Agreement or any Cogent Equipment to become subject to any mechanic's, materialmen's, or vendor's lien, or any similar lien. If a party breaches its obligations under this Section, it shall immediately notify the other party in writing, shall promptly cause such lien to be discharged and released of record without cost to the other party, and shall indemnify the other party against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such lien.

9.6 **Precautionary Financing Statement.** Prior to payment in full of all Contract Price payments under Section 3.2 and Section 3.3, if applicable, Williams shall have the right, at its own expense, to file precautionary financing statements (including renewals or extensions thereof) to secure Williams' rights set forth in Section 12.2, including the right thereunder to terminate Cogent's rights in any Cogent Fibers in which Cogent does not have an IRU. Such financing statements shall be in a form reasonably limited to such purpose and shall not apply to any assets other than Cogent's rights under this Agreement. Cogent shall promptly execute such documents and take such additional actions as are necessary to allow Williams to perfect and maintain perfection of the precautionary security interest to be created by such financing statements. It is the parties' intent that the Cogent Lease/IRU Rights with respect to the Cogent Fibers shall not be considered to be fixtures and the parties further agree that no fixture filings are necessary to perfect Williams' security interest therein. Upon payment in full of the Contract Price by Cogent in accordance with the terms of Section 3.2 and 3.3, if applicable, Williams shall file termination statements with respect to any and all filed financing statements under this Section.

CONFIDENTIAL AND PROPRIETARY

**ARTICLE X
AUDIT RIGHTS**

10.1 **Right to Audit.** Each party shall keep such books and records (which shall be maintained on a consistent basis and substantially in accordance with U.S. generally accepted accounting principles) as shall readily disclose the basis for any charges (except charges fixed in advance by this Agreement or by separate agreement of the parties) or credits, ordinary or extraordinary, billed or due to the other party under this Agreement and shall make them available for examination, audit, and reproduction by the other party and its agents for a period of one (1) year after such charge or credit is billed or due.

**ARTICLE XI
WARRANTIES**

11.1 **Warranties Relating to Agreement Validity.** In addition to any other representations and warranties contained in this Agreement, each party hereto represents and warrants to the other that:

- (a) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this Agreement;
- (b) it has taken all requisite corporate action to approve the execution, delivery, and performance of this Agreement;
- (c) this Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms; and
- (d) its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state, or federal government agency, court, or body.

11.2 **EXCLUSION OF WARRANTIES.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, WILLIAMS MAKES NO WARRANTY TO COGENT OR ANY OTHER ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY FIBERS, THE SYSTEM, OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

11.3 **NO THIRD-PARTY WARRANTIES.** NO FACILITY OWNERS/LENDERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, TO COGENT CONCERNING WILLIAMS, THE COGENT FIBERS, THE CABLE, OR THE SYSTEM OR AS TO ANY OF THE MATTERS SET FORTH IN SECTIONS 11.1 OR 11.2. NO COGENT LENDERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, TO WILLIAMS CONCERNING COGENT, THE

CONFIDENTIAL AND PROPRIETARY

COGENT FIBERS, THE CABLE, OR THE SYSTEM OR AS TO ANY OF THE MATTERS SET FORTH IN SECTIONS 11.1 OR 11.2 OR AS TO ANY OTHER MATTER.

ARTICLE XII DEFAULT

12.1 **Default and Cure.** Cogent's sole remedies for any failure of Williams to complete all Major Segments by the applicable Estimated Completion Dates shall be as specified in Section 4.4 above. Otherwise, except as set forth in Section 12.2, a party shall not be in default under this Agreement unless and until the other party provides it written notice of such default and the first party shall have failed to cure the same within thirty (30) calendar days after receipt of such notice; provided, however, that where such default cannot reasonably be cured within such thirty (30) day period, if the first party shall proceed promptly to cure the same and prosecute such curing with due diligence, the time for curing such default shall be extended for such period of time as may be necessary to complete such curing, but in any event such period of time shall not exceed ninety (90) days. Any event of default may be waived at the non-defaulting party's option. Upon the failure of a party to timely cure any such default after notice thereof from the other party and expiration of the above cure periods or upon a payment default in the amount of [*] or more under the terms of the Carrier Services Agreement which shall be considered a default under this Agreement, then the non-defaulting party may, subject to the terms of Articles XIV (Limitation of Liability) and XXI (Arbitration), pursue any legal remedies it may have under applicable law or principles of equity relating to such breach.

12.2 **Failure to Pay Contract Price.** If Cogent fails to fully pay any of the Contract Price payments described in Section 3.2(a) through (d) within ten (10) days after the due date or fails to pay any other amount(s) payable hereunder totaling more than [*] for a period in excess of thirty (30) days beyond the applicable due date(s) specified herein (excluding in either case amounts paid into escrow pursuant to Section 21.4), or if a court of competent jurisdiction in bankruptcy or receivership proceedings brought by or against Cogent determines that Cogent's lease rights under this Agreement are in the nature of a disguised sale rather than a true lease, Williams may, in addition to any other remedies that it may have under this Agreement or by law, in its sole discretion, take some or all of the following actions upon ten (10) business days' notice to Cogent if such payment (together with applicable interest) is not made within such ten-day period:

- (a) disconnect the Cogent Fibers from any POP, Cogent Equipment, or Connecting Point;
- (b) terminate Cogent's collocation rights in Transmission Sites and/or POPs provided under this Agreement and/or require Cogent to remove any Cogent Equipment from Williams' premises upon commercially reasonable notice;
- (c) if such failure occurs prior to payment in full by Cogent of all Contract Price Payments under Subsections 3.2(a) through 3.2(d) above, terminate the Cogent Lease/IRU Rights with respect to the Cogent Fibers, if Cogent fails to pay all amounts in arrears, together with applicable interest, within thirty (30) days of receipt of further notice from Williams; and

CONFIDENTIAL AND PROPRIETARY

- (d) if such failure occurs prior to payment in full by Cogent of all Contract Price Payments under Subsections 3.2(a) through 3.2(d) above, exercise an option to purchase all of the Cogent Lease/IRU Rights in exchange for Williams' forgiveness of the Cogent arrears and applicable interest. In the event that Williams exercises its option to acquire the Cogent Lease/IRU Rights hereunder, then to the extent Cogent remains obligated to Williams for any additional amounts under this Agreement which have not yet accrued, Williams shall retain a claim for such amounts without regard to the debt forgiven in the exercise of the option.

12.3 **Interest.** If either Williams or Cogent fails to make any payment under this Agreement when due, such amounts shall accrue interest, from the date such payment is due until paid, including accrued interest, at the rate specified in Section 3.6 or, if lower, the highest percentage allowed by law.

ARTICLE XIII INDEMNIFICATION

13.1 **Indemnification.** Each party ("Indemnitor") hereby releases and shall indemnify, defend, protect, and hold harmless the other party, its employees, members, managers, officers, directors, shareholders, agents, contractors, Facility Owners/Lenders, and Affiliates and the employees, members, managers, officers, directors, shareholders, agents and contractors of such Affiliates (collectively and individually, "Indemnified Parties"), from and against, and assumes liability for:

- (a) any injury, death, loss, or damage to any person, tangible property, or facilities of any entity (including reasonable attorneys' fees and costs at trial and appeal), to the extent arising out of or resulting from the acts or omissions, negligent or otherwise, of Indemnitor, its officers, employees, servants, Affiliates, agents, contractors, or underlying facility owners or from any entity for whom it is in law responsible, or otherwise resulting from, arising in connection with or relating to its performance (including breach or failure thereto) under this Agreement;
- (b) any claims, liabilities or damages arising out of any violation by Indemnitor of regulations, rules, statutes, or court orders of any local, state, or federal governmental agency, court, or body in connection with its performance under this Agreement or otherwise; or
- (c) any liability to a third party arising directly or through one or more intermediate parties, from an action or claim brought by the Indemnitor, to the extent such third party has a right of indemnification, impleader, cross-claim, contribution, or other right of recovery against any Indemnified Party for any indirect, special, or consequential damages of the Indemnitor.

13.2 **Claims of Customers.** In addition to the foregoing indemnities, with respect to third parties that use services provided over the Cogent Fibers, Cogent shall defend, indemnify and hold

CONFIDENTIAL AND PROPRIETARY

harmless Williams and its Indemnified Parties against any claims by such third parties for damages arising or resulting from any defect in or failure of the Cogent Fibers or the System.

13.3 **Material and Continuing Obligation.** Each party's obligation to indemnify, defend, protect, and save the Indemnified Parties harmless is a material obligation to the continuing performance of the other party's obligations hereunder.

ARTICLE XIV LIMITATION OF LIABILITY

14.1 **EXCLUSION OF CONSEQUENTIAL DAMAGES.** EXCEPT AS PROVIDED IN SECTION 4.4(b) ABOVE, NEITHER PARTY NOR ANY INDEMNIFIED PARTIES (AS DEFINED ABOVE) OF A PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES AS A RESULT OF THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, OR ITS ACTS OR OMISSIONS RELATED TO THIS AGREEMENT OR ITS USE OF THE SYSTEM, WHETHER OR NOT ARISING FROM SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, OR VIOLATION OF LAW.

14.2 **Indemnity Provisos.** Notwithstanding the provisions of Section 14.1 or any other provision of this Agreement:

- (a) except as set forth in Subsection 14.2(b), the limitations on liability set forth in Section 14.1 shall apply to claims of a party or third party arising from any defect, error, interruption, delay, or attenuation of any telecommunications service, capacity, data, or transmission; and
- (b) liability arising from Cogent's failure to comply with the provisions of Section 14.5 shall not be subject to the limits on liability set forth in Section 14.1.

14.3 **No Recourse Against Released Parties.** Neither party shall have any recourse of any kind against any Released Party or any assets of a Released Party in respect of any Claim, it being expressly agreed and understood that no liability whatsoever shall attach to or be incurred by any Released Party in respect of any Claim under or by reason of this Agreement or any other instrument, arrangement or understanding related to the Cogent Lease/IRU Rights. Each party waives all such recourse to the extent set forth in this Section on behalf of its successors, assigns, and any entity claiming by, through, or under such party.

14.4 **Pursuit of Actions Against Third Parties.** Except as provided in Subsection 13.1(c) and Section 13.2 nothing contained in this Agreement shall operate as a limitation on the right of either Williams or Cogent to bring an action or claim for damages against any third party (other than Indemnified Parties of the other party or any third party who has a right of indemnification or contribution resulting from such action or claim by Williams or Cogent, as applicable, against such other party hereto to the extent of such indemnification or right of contribution). Each of Williams and Cogent shall assign such rights of claims, execute such documents, and do whatever else may

CONFIDENTIAL AND PROPRIETARY

be reasonably necessary to enable the other (at such other party's sole expense) to pursue any such action or claim against such third party.

14.5 **Customer Contracts.** Cogent, in any contract or tariff offering of service, capacity, or rights of use that in any of the preceding instances involves use of the System, shall include in such contract or tariff a written limitation of liability that is binding on Cogent's customers and in all material respects at least as restrictive as the limitations set forth in Sections 14.1 and 14.3.

ARTICLE XV INSURANCE

15.1 **Obligation to Obtain.** During the Term, the parties shall each obtain and maintain not less than the following insurance:

- (a) Commercial General Liability Insurance, including coverage for sudden and accidental pollution legal liability, with a combined single limit of \$5,000,000 for bodily injury and property damage per occurrence and in the aggregate.
- (b) Worker's Compensation Insurance in amounts required by applicable law and Employers Liability Insurance with limits not less than \$1,000,000 each accident. If work is to be performed in Nevada, North Dakota, Ohio, Washington, Wyoming or West Virginia, the party shall participate in the appropriate state fund(s) to cover all eligible employees and provide a stop gap endorsement.
- (c) Automobile Liability Insurance with a combined single limit of \$1,000,000 for bodily injury and property damage per occurrence, to include coverage for all owned, non-owned, and hired vehicles.

The limits set forth above are minimum limits and shall not be construed to limit the liability of either party.

15.2 **Policy Requirements.** Each party shall obtain and maintain the insurance policies required above with companies rated A- or better by Best's Key Rating Guide or with a similar rating by another generally recognized rating agency. The other party, its Affiliates, officers, directors, and employees, and any other party entitled to indemnification hereunder shall be named as additional insureds to the extent of such indemnification. Each party shall provide the other party with an insurance certificate confirming compliance with the insurance requirements of this Article. The insurance certificate shall indicate that the other party shall be notified not less than thirty (30) calendar days prior to any cancellation or material change in coverage. If either party provides any of the foregoing coverages through a claims-made policy basis, that party shall cause such policy or policies to be maintained for at least three (3) years beyond the expiration of this Agreement.

15.3 **Waiver of Subrogation.** The parties shall each obtain from the insurance companies providing the coverages required by this Agreement a waiver of all rights of subrogation or recovery in favor of the other party and, as applicable, its members, managers, shareholders, Affiliates,

CONFIDENTIAL AND PROPRIETARY

assignees, officers, directors, and employees or any other party entitled to indemnity under this Agreement to the extent of such indemnity.

15.4 **Blanket Policies.** Nothing in this Agreement shall be construed to prevent either party from satisfying its insurance obligations pursuant to this Agreement under a blanket policy or policies of insurance that meet or exceed the requirements of this Article. Williams retains the right to self-insure the above requirements.

ARTICLE XVI TAXES AND GOVERNMENTAL FEES

16.1 **Cogent Obligations.** Cogent shall timely report, make filings for, and pay any and all sales, use, income, gross receipts, excise, transfer, ad valorem, or other taxes, and any and all franchise fees or similar fees assessed against it due to its ownership of the Cogent Lease/IRU Rights, its use of the Cogent Fibers, including the provision of services over the Cogent Fibers, its use of any other part of the System, or its ownership or use of facilities connected to the Cogent Fibers. The above obligation applies to sales and excise taxes applicable to the grant of the Cogent Lease/IRU Rights or to charges for maintenance, collocation, or other Williams services provided pursuant to this Agreement.

16.2 **Williams Obligations.** The parties acknowledge that a material premise of this Agreement is that during the Initial Term, Williams shall obtain and maintain all Required Rights at its own cost. Williams shall timely pay all (i) taxes, franchise, license and permit fees based on the physical location of the System and/or the construction thereof in or on public roads, highways or other public right-of-way and (ii) all payments with respect to Required Rights. Williams shall timely report, make filings for and pay any and all sales, use, income, gross receipts, excise, transfer, ad valorem or other taxes, and any and all franchise fees or similar fees assessed against it due to its construction, ownership, physical location or use of the System, provided that Cogent shall reimburse Williams for its Pro Rata Share of property taxes (including ad valorem, use, property, or similar taxes, franchise fees, or assessments that are based on the value of property or of a property right) attributable to the System, including taxes based on the value, operation, or existence of the System.

16.3 **Reimbursement of Taxes Paid on Cogent's Behalf.** If Williams is assessed for any taxes or fees related to Cogent's ownership of the Cogent Lease/IRU Rights or Cogent's use of the Cogent Fibers or that Cogent is obligated to pay pursuant to Sections 16.1 or 16.2, Cogent shall reimburse Williams for any payment of such taxes or fees.

16.4 **Cooperation.** The parties shall cooperate in any contest of any taxes or fees and in making tax-related reports and filings, so as to avoid, to the extent reasonably possible, prejudicing the interests of the other party.

16.5 **Unexpected Fee Increases.** If the charges for Required Rights payable to governmental or quasi-governmental agencies or for use of governmental or quasi-governmental rights of way during a calendar year for any Major Segment exceed twice the amount payable during

CONFIDENTIAL AND PROPRIETARY

the first full calendar year after the Acceptance Date, then Cogent shall pay its Pro Rata Share of such excess.

16.6 **Reseller Certificate.** Within sixty (60) days of the Acceptance Date for any Major Segment, Cogent shall provide Williams a reseller certificate for any United States jurisdiction where the Cogent Fibers on the Major Segment are located. Cogent shall, upon Williams' written request, provide Williams additional reseller certificates or similar documentation for any U.S. jurisdiction to assist Williams in avoiding charging Cogent sales, use, excise, or other taxes on any Cogent Fibers or any other product or service Williams provides under this Agreement.

ARTICLE XVII NOTICE

17.1 **Notice Addresses.** Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other party as follows:

If to Cogent:	Cogent Communications, Inc. Attn: Chief Executive Officer 1015 31 st Street, N.W. Washington, D.C. 20007 Facsimile: (202) 338-xxxx
With a copy to:	Cogent Communications, Inc. Attn: Corporate Counsel 1015 31 st Street, N.W. Washington, D.C. 20007 Facsimile: (202) 338-xxxx
If to Williams:	Williams Communications, Inc. Attn: Contract Administration One Williams Center, Suite 26-5 Tulsa, Oklahoma 74172 Facsimile No.: (918) 573-xxxx
With a copy to:	Williams Communications, Inc. Attn: General Counsel One Williams Center, Suite 4100 Tulsa, Oklahoma 74172 Facsimile No.: (918) 573-xxxx
With copies of all notices pertaining to fiber testing to:	Williams Communications, Inc. Attn: IRU Administration One West Third Street, Suite 200, MDTI-2

CONFIDENTIAL AND PROPRIETARY

Tulsa, OK 74103
or
P.O. Box 22067, MDTI-2
Tulsa, OK 74121
Soft copies to: xxx@wilcom.com

or at such other address as may be designated in writing to the other party.

17.2 **Notice and Invoice Delivery.** Unless otherwise provided herein, notices and invoices shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile, and shall be deemed served or delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by facsimile, on the day after being sent when sent by overnight delivery service, or three (3) United States Postal Service business days after deposit in the mail when sent by U.S. mail.

ARTICLE XVIII CONFIDENTIALITY

18.1 **Confidentiality Obligation.** If either party provides confidential information to the other or, if in the course of performing under this Agreement or negotiating this Agreement a party learns confidential information regarding the facilities or plans of the other, the receiving party shall (a) protect the confidential information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, but in any case with at least reasonable care and (b) refrain from using such confidential information except in negotiating or performing under this Agreement. Notwithstanding the above, a party may provide such confidential information to its directors, officers, directors, members, managers, employees, agents, contractors, consultants, advisors, attorneys and accountants (“Representatives”), and Affiliates, financial institutions, underlying facility owners, potential assignees of this Agreement (provided and on condition that such potential assignees are bound by a written agreement restricting use and disclosure of confidential information), and Representatives of Affiliates, in each case whose access is reasonably necessary. Each such recipient of confidential information shall be informed by the party disclosing confidential information of its confidential nature, and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each party shall be liable (with respect to the other party) for any breach of this provision by any entity to whom that party discloses confidential information. The terms of this Agreement (but not its execution or existence) shall be considered confidential information for purposes of this Article, except as set forth in Section 18.3. The obligations set forth in this Section shall survive expiration or termination of this Agreement for a period of two (2) years, except that, with respect to any confidential information designated by the disclosing party as a trade secret, and entitled to protection as such, the obligations set forth in this Section shall survive such expiration or termination indefinitely.

18.2 **Permitted Disclosures.** Notwithstanding any other provision herein, neither Williams nor Cogent shall be required to hold confidential any information that:

- (a) becomes publicly available other than through the recipient;

CONFIDENTIAL AND PROPRIETARY

- (b) is required to be disclosed by a governmental, regulatory authority, or judicial order, rule, or regulation or proceedings with respect to this Agreement or a party's obligations as a publicly held company, provided that a party subject to such requirement shall promptly notify the other party of such requirement;
- (c) is independently developed by the receiving party;
- (d) becomes available to the receiving party without restriction from a third party;
- (e) is required by its lenders or investors and is given to such lenders or investors on a confidential basis; or
- (f) to the extent disclosure by the receiving party as required by applicable law or regulation.

18.3 **Goodwill and Publicity.** Neither party shall use the name, trade name, service mark, or trademark of the other in any promotional or advertising material without the prior written consent of the other. The parties shall coordinate and cooperate with each other when making public announcements related to the terms of this Agreement and each party shall have the right to promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other party that refer to, or that describe any aspect of, this Agreement. Notwithstanding the above, either party may, without the other party's approval but after allowing the other party a reasonable opportunity to comment on a proposed press release, issue a press release announcing execution of this Agreement. Such release may disclose the route of the Cogent Fibers, the estimated revenues/payments under this Agreement, and the identity of the other party as long as such release does not disclose any per-Fiber Mile or other per-unit price under this Agreement.

18.4 **Enforcement of Confidentiality Obligation.** Each party agrees that the disclosing party would be irreparably injured by a breach of this Article XVIII by the receiving party or its Representatives or other parties to whom the receiving party discloses confidential information of the disclosing party and that the disclosing party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Article XVIII. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Article XVIII, but shall be in addition to all other remedies available at law or in equity.

ARTICLE XIX PROHIBITION ON IMPROPER PAYMENTS

Neither party shall use any funds received under this Agreement for illegal or otherwise "improper" purposes. Neither party shall pay any commission, fees or rebates to any employee of the other party. If either party has reasonable cause to believe that one of the provisions in this Article has been violated, it, or its representative, may audit the books and records of the other party for the sole purpose of establishing compliance with such provisions.

CONFIDENTIAL AND PROPRIETARY

ARTICLE XX
FORCE MAJEURE; EMINENT DOMAIN

20.1 **Excused Performance.** Neither Williams nor Cogent shall be in default under this Agreement with respect to any delay in its performance (other than a failure to make payments when due) caused by any of the following conditions (each a “Force Majeure Event”): (a) act of God; (b) fire; (c) flood; (d) material shortage or unavailability not resulting from the responsible party’s failure to timely place orders or take other necessary actions therefor; (e) government codes, ordinances, laws, rules, regulations, or restrictions; (f) war or civil disorder; or (g) any other cause beyond the reasonable control of such party. The party claiming relief under this Article shall promptly notify the other in writing of the existence of the Force Majeure Event relied on, the expected duration of the Force Majeure Event, and the cessation or termination of the Force Majeure Event. The party claiming relief under this Article shall exercise commercially reasonable efforts to minimize the time for any such delay.

20.2 **Eminent Domain.** Should any portion of the System or any other interest belonging to Williams be acquired by eminent domain, nationalization, or expropriation (each of which, a “Taking”) by any authority or entity possessing such power, then each party shall be excused from performance of its obligations to the extent provided in Section 20.1. In the proceeding for any such Taking or an involuntary discontinuance of the use of a portion of the System in anticipation of a Taking, the interests of Cogent and Williams in the affected portion shall be severed. Any awards resulting from the proceeding or otherwise provided shall be allocated between Cogent and Williams in accordance with such interests. In addition, Cogent and Williams shall each be entitled to claim and receive the portion of the total award attributable to its interest in the System and may claim damages payable on account of relocation or re-routing expenses relating to the System. Except to the extent set forth in this Section, the provisions of Sections 3.4 and 8.2 shall apply to any relocation resulting from a Taking.

ARTICLE XXI
ARBITRATION AND DISPUTE RESOLUTION

21.1 **Binding Arbitration.** Any dispute arising between Williams and Cogent in connection with this Agreement that is not settled to their mutual satisfaction within the applicable notice or cure periods provided in this Agreement, shall be settled by arbitration in Houston, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date that a party gives notice of its demand for arbitration under this Article. The submitting party shall submit such dispute to arbitration by providing a written demand for arbitration to the other party. If the parties cannot agree on a single arbitrator within fifteen (15) calendar days after the applicable notice or cure period has expired, Williams and Cogent shall each select an arbitrator within such fifteen (15) day period and the two (2) arbitrators shall select a third arbitrator within ten (10) calendar days. If the parties fail to appoint arbitrators or the arbitrators cannot agree on a third arbitrator, then either party may request that the American Arbitration Association select and appoint a neutral arbitrator who shall act as the sole arbitrator. The parties shall be entitled to submit expert testimony and/or written documentation in such arbitration proceeding. The decision of the arbitrator or arbitrators shall be final and binding upon Williams and

CONFIDENTIAL AND PROPRIETARY

Cogent and shall include written findings of law and fact, and judgment may be obtained thereon by either Williams or Cogent in a court of competent jurisdiction. Williams and Cogent shall each bear the cost of preparing and presenting its own case. The cost of the arbitration, including the fees and expenses of the arbitrator or arbitrators, shall be shared equally by Williams and Cogent unless the award otherwise provides. The arbitrator or arbitrators shall be instructed to establish procedures such that a decision can be rendered within sixty (60) calendar days of the appointment of the arbitrator or arbitrators. In no event shall the arbitrator or arbitrators have the power to award any damages described in and limited by Article XIV (Limitation of Liability) which Article shall be binding on the arbitrator(s).

21.2 Exceptions to Arbitration Obligation. The obligation to arbitrate shall not be binding upon any party with respect to (a) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual dispute or (b) actions to collect payments not subject to a bona fide dispute.

21.3 Arbitrator Confidentiality Obligation. Any arbitrator appointed to act under this Article must agree to be bound to the provisions of Article XVIII (Confidentiality) with respect to the terms of this Agreement and any information obtained during the course of the arbitration proceedings.

21.4 Payment Disputes. Cogent and Williams shall attempt in good faith to resolve any bona fide dispute arising out of or relating to any monetary obligation under this Agreement as expeditiously as possible by negotiations between a Vice President of Cogent or his or her designated representative with sufficient authority to negotiate a resolution of the dispute and an executive of Williams with similar authority. Either Cogent or Williams may give the other party written notice of any such payment dispute which notice shall include documentation substantiating the dispute. In the event the amount in dispute is in excess of [*] and is not resolved on or before its actual or purported due date hereunder, then the amount in dispute shall be deposited with an escrow agent mutually acceptable to the parties who shall hold said sum along with all interest earned thereon, in escrow, pending resolution of the dispute hereunder and shall distribute said sums in accordance with the resolution of the parties under this Section or the decision of the arbitrator under Section 21.1. All other payments shall be paid in accordance with the due date set forth herein regardless of any dispute hereunder. Within twenty (20) days after delivery of notice of a payment dispute as described above, the designated executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days after the first meeting, either Cogent or Williams may demand arbitration in accordance with the provisions of Section 21.1. To the extent any payment dispute described hereunder is resolved in favor of a party, whether pursuant to the provisions of this Section or pursuant to arbitration, the escrow agent shall pay all or a portion, if appropriate, of the sums previously placed in escrow under this Section plus a proportionate amount of the interest earned (net of any account charges) thereon while in escrow (with any amount remaining in escrow, if any, returned to the party who deposited same). All negotiations conducted pursuant to this Section shall be confidential.

CONFIDENTIAL AND PROPRIETARY

ARTICLE XXII
RULES OF CONSTRUCTION

22.1 **Interpretation.** The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement or as amplifying or limiting any of its content. Words in this Agreement that import the singular connotation shall be interpreted as plural, and words that import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. References to “person” or “entity” each include natural persons and legal entities, including corporations, limited liability companies, partnerships, sole proprietorships, business divisions, unincorporated associations, governmental entities, and any entities entitled to bring an action in, or that are subject to suit in an action before, any state or federal court of the United States. The word “including” means “including, but not limited to.” “Days” refers to calendar days, except that references to “banking days” exclude Saturdays, Sundays and holidays during which nationally chartered banks in Tulsa, Oklahoma are authorized or required to close. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

22.2 **Cumulative Remedies; Insurance.** Except as set forth to the contrary herein, any right or remedy of Williams or Cogent shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not. The provisions of Article XV (Insurance) shall not be construed as limiting the Indemnitor’s obligations pursuant to Article XIII (Indemnification) or other provisions of this Agreement.

22.3 **No Third-Party Rights.** Nothing in this Agreement is intended to provide any legal rights to anyone not an executing party of this Agreement except under the indemnification and insurance provisions and except that (a) the Released Parties shall have the benefit of Sections 14.3, 23.1, and 24.2 and (b) the Facility Owners/Lenders shall be entitled to rely on and have the benefit of Sections 11.2 and 24.2.

22.4 **Agreement Fully Negotiated.** This Agreement has been fully negotiated between and jointly drafted by Williams and Cogent.

22.5 **Document Precedence.** In the event of a conflict between the provisions of this Agreement and those of any Exhibit, the provisions of this Agreement shall prevail and such Exhibits shall be corrected accordingly.

22.6 **Industry Standards.** Except as otherwise set forth herein, for the purpose of this Agreement the normal standards of performance within the telecommunications industry in the relevant market shall be the measure of whether a party’s performance is reasonable and timely.

22.7 **Cross References.** Except as the context otherwise indicates, all references to Exhibits, Articles, Sections, Subsections, Clauses, and Paragraphs refer to provisions of this Agreement.

22.8 **Limited Effect of Waiver.** The failure of either Williams or Cogent to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as

CONFIDENTIAL AND PROPRIETARY

a general waiver or relinquishment on its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

22.9 **Applicable Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New York without reference to its choice of law principles. The laws of such state shall govern all disputes referred to arbitration and the statute of limitations and the remedies for any wrongs that may be found.

22.10 **Severability.** If any term, covenant or condition in this Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the parties hereto and to the intended economic benefits of the parties.

22.11 **No Partnership Created.** The relationship between Williams and Cogent shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Williams and Cogent, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

22.12 **Payment Plan not a Loan.** The parties agree that neither the payment plan set forth in Section 3.1, the payment schedule set forth in Section 3.2 for Additional Fibers, nor any other provision of this Agreement constitutes a loan by Williams or the incurrence of debt by Cogent but that the obligations of both parties represent ongoing obligations under this Agreement.

ARTICLE XXIII ASSIGNMENT

23.1 **Conditions to Effective Assignment.** An assignment (or other transfer) of this Agreement or a party's rights or obligations hereunder to any other party shall not be effective without (a) either the prior written consent of the non-assigning party, or, if such consent is not required pursuant to specific terms in this Article XXIII, written notice to the non-assigning party, (b) the written agreement of the assignee to be bound by all terms and conditions of this Agreement including, without limitation, the indemnification provisions and limitations on liability and recourse set forth in this Agreement (including those benefiting the Released Parties), and (c) such assignee's agreement to cure all prior defaults of the assigning party under this Agreement.

23.2 **Impermissible Assignments.** Except as set forth in Section 23.4 or 23.9, the non-assigning party may withhold consent to an assignment in its sole discretion, if the assignment:

- (a) is made by a party within one (1) year of the Effective Date, other than as part of a sale of substantially all of a party's assets; or
- (b) is an assignment of less than all of a party's rights or obligations hereunder.

CONFIDENTIAL AND PROPRIETARY

23.3 **Consent not to be Unreasonably Withheld.** Except to the extent Section 23.2 provides the non-assigning party the right to withhold its consent in its sole discretion and except as set forth in Section 23.5, the non-assigning party shall not unreasonably withhold its consent to an assignment if neither the assigning party nor the proposed assignee is in material default under this Agreement or any other agreement with the non-assigning party. For purposes of this Section, Williams' consent to a requested assignment or transfer shall not be considered unreasonably withheld if such requested assignment or transfer is to a party which does not have the technical ability or financial capability to perform Cogent's obligations under this Agreement.

23.4 **Assignments to Particular Classes of Entities.** The provisions of Section 23.2 notwithstanding:

- (a) Williams may assign some or all of its rights and obligations hereunder to State Street Bank and Trust Company of Connecticut, National Association, in connection with a financing by Williams of construction of its fiber optic network; in addition, State Street Bank and Trust Company of Connecticut, National Association, may further assign this Agreement as collateral for such financing. If Williams makes an assignment pursuant to this Subsection 23.4(a), Williams (or its assignee pursuant to an assignment made under the other provisions of this Article) shall guarantee performance of the assignee's obligations.
- (b) Neither the provisions of this Article nor any other provisions of this Agreement shall limit the ability of any Facility Owners/Lenders or of any Released Parties to assign their rights under this Agreement and such Facility Owners/Lenders and Released Parties may assign their rights hereunder at any time and from time to time without the consent of, notice to, or any other action by any other entity. The provisions of this Agreement benefiting the Facility Owners/Lenders and Released Parties shall inure to the benefit of such entities and their respective Affiliates, successors, and assigns.
- (c) Williams may assign all of its rights and obligations to the underlying facilities owner or operator with respect to portion(s) of the System with the prior written consent of Cogent, which consent shall not be unreasonably withheld if neither Williams nor the proposed assignee is in material default under this Agreement or any other agreement with the Cogent.
- (d) Either party may assign its interest in this Agreement without the prior consent of the other party (i) to any corporation or other entity which is a successor to such party either by merger or consolidation, or (ii) to a purchaser of all or substantially all of such party's assets, or (iii) to a corporation or other entity which is an Affiliate of such party; provided that the assigning party shall remain fully liable, jointly and severally with any assignee(s) under this Subsection 23.4(d) for all obligations under this Agreement.

23.5 **Restriction on Transfer of Dark Fiber Rights.** Cogent shall not convey any interest in the rights granted herein with respect to any Cogent Fibers except by means of the provision of

CONFIDENTIAL AND PROPRIETARY

capacity or a permitted assignment of this Agreement. Without limiting the generality of the foregoing, Cogent is expressly prohibited from providing IRU grants, sales, leases, assignments, or other grants of rights in the Cogent Fibers. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be construed to prohibit or restrict Cogent's ability to provide capacity services to its customers including, without limitation, selling optical waves or "lambdas".

23.6 Agreement Binds Successors. This Agreement and the rights and obligations under this Agreement (including the limitations on liability and recourse set forth in this Agreement benefiting the other party and the Released Parties) shall be binding upon and shall inure to the benefit of Williams and Cogent and their respective permitted successors and assigns.

23.7 Change in Control Not an Assignment. Notwithstanding any presumptions under applicable state law that a change in control of a party constitutes an assignment of an agreement, a change in control of a party, not made for purposes of circumventing restrictions on assignment or of depriving the other party of rights under this Agreement, shall not be deemed an assignment for purposes of this Agreement.

23.8 Right to Subcontract. Williams may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder or may have the underlying facility owner or its contractor perform such obligations, provided that Williams shall remain liable for all of its obligations hereunder.

23.9 Financing Arrangements. Either party shall have the right, directly or through an Affiliate, to enter into financing arrangements (including secured loans, leases, sales with lease-back, or leases with lease-back arrangements, purchase-money or vendor financing, conditional sales transactions, or other arrangements) with or to collaterally assign its rights hereunder to one or more financial institutions, vendors, suppliers or other financing sources (individually and collectively, "Lenders"), that, with respect to Williams, relate to the System and, with respect to Cogent, relate to the Cogent Lease/IRU Rights (and not to any property right in the System).

23.10 Right of First Refusal. In the event that at any time prior to Cogent's payment in full of the Contract Price, Cogent attempts to assign its interests in this Agreement and fails to obtain Williams' consent (if such consent is required), or if Cogent seeks to assign this Agreement in a manner which requires Williams' consent under the terms of this Article 23 (whether such assignment is voluntary or involuntary), then Williams shall have a right of first refusal to acquire all of the Cogent Lease/IRU Rights with respect to the Cogent Fibers. Upon Williams' request, Cogent will provide detailed information regarding the proposed assignment including, without limitation, the amount of consideration to be paid by the proposed assignee. Williams may exercise its right of first refusal by matching the highest bona fide assignment offer received and accepted by Cogent, but, if Cogent is in default under the terms of this Agreement, then Williams may exercise its option to purchase the Cogent Lease/IRU Rights in accordance with the terms of Section 12.2(d) above.

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ARTICLE XXIV
ENTIRE AGREEMENT; AMENDMENT; EXECUTION

24.1 **Integration; Exhibits.** This Agreement constitutes the entire and final agreement and understanding between Williams and Cogent with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits referred to herein are integral parts hereof and are made a part of this Agreement by reference.

24.2 **No Parole Amendment.** This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Williams and Cogent. No such amendment, modification, or supplement shall result in any modification of (a) any indemnity benefiting any Facility Owners/Lenders or their respective Affiliates or (b) any limitation of liability or recourse benefiting any Released Parties that is adverse to such Released Parties.

24.3 **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

24.4 **Facsimile Delivery.** This Agreement may be duly executed and delivered by a party by execution and facsimile delivery of the signature page of a counterpart to the other party, provided that, if delivery is made by facsimile, the executing party shall promptly deliver, via overnight delivery, a complete original counterpart that it has executed to the other party.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Williams and Cogent have executed this Agreement as of the Effective Date.

“Williams”:

WILLIAMS COMMUNICATIONS, INC.

By: /s/ S. Miller Williams
Print Name: S. Miller Williams
Title: Senior VP

“Cogent”:

COGENT COMMUNICATIONS, INC.

By: /s/ David Schaeffer
Print Name: David Schaeffer
Title: President

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EXHIBIT A-1

MAP OF MAJOR SEGMENTS

[OBJECT OMITTED]

EXHIBIT A-2

MAJOR SEGMENT LISTING

Route Segment		Estimated	Estimated	Fiber	Fibers	Discounted	Total
Origin	Destination	Completion	Mileage	Type	Offered	Price per Fiber Mile	Fiber Payment
Atlanta	Macon						
Macon	Jacksonville	Complete	355	LEAF	1	[\$***]	[\$***]
Denver	Topeka						
Topeka	Kansas City	Complete	635	LEAF	1	[\$***]	[\$***]
Herndon	Washington D.C.	Complete	26	SMF-LS	1	[\$***]	[\$***]
Tampa	Orlando						
Orlando	Daytona Beach	Complete	153	LEAF	1	[\$***]	[\$***]
Salt Lake City	Denver	Complete	551	LEAF	1	[\$***]	[\$***]
Jacksonville	Daytona Beach						
Daytona Beach	Melbourne						
Melbourne	West Palm Beach						
West Palm Beach	Ft. Lauderdale	Jul-00	310	SMF-28	1	[\$***]	[\$***]
Tallahassee	Tampa						
Tampa	Ft. Myers	Complete	344	LEAF	1	[\$***]	[\$***]
New Orleans	Mobile						
Mobile	Pensacola						
Pensacola	Tallahassee	Complete	469	LEAF	1	[\$***]	[\$***]
Washington D.C.	Baltimore						
Baltimore	Philadelphia						
Philadelphia	Newark						
Newark	New York City	Jun-00	336	LEAF	1	[\$***]	[\$***]
Herndon	Manassas Junction	Jul-00	28	SMF-LS	1	[\$***]	[\$***]
Albany	Springfield						
Springfield	Worcester						
Worcester	Boston	Jul-00	183	LEAF	1	[\$***]	[\$***]
Cleveland	Buffalo						
Buffalo	Rochester						
Rochester	Syracuse						
Syracuse	Albany	Jul-00	562	LEAF	1	[\$***]	[\$***]
Los Angeles	Riverside	Aug-00	65	LEAF	1	[\$***]	[\$***]
Houston	Dallas	Sep-00	250	LEAF	1	[\$***]	[\$***]
Dallas	Tulsa						
Tulsa	Kansas City	Sep-00	484	LEAF	1	[\$***]	[\$***]
San Francisco	Santa Clara	Sep-00	48	LEAF	1	[\$***]	[\$***]
San Francisco	Oakland						
Oakland	Sacramento	Sep-00	114	LEAF	1	[\$***]	[\$***]
Riverside	Phoenix						
Phoenix	Tucson						
Tucson	El Paso						
El Paso	San Antonio						
San Antonio	Austin						
Austin	Houston	Oct-00	1709	LEAF	1	[\$***]	[\$***]

[*] Indicates confidential treatment requested.

EXHIBIT A-2 (Continued)

Route Segment		Estimated	Estimated	Fibers	Fibers	Discounted	Total
Origin	Destination	Completion	Mileage	Type	Offered	Price per Fiber Mile	Fiber Payment
Riverside San Diego	San Diego Riverside	Dec-00	220	LEAF	1	\$[***]	\$[***]
Kansas City Columbia	Columbia St. Louis	Nov-00	270	LEAF	1	\$[***]	\$[***]
Ft. Myers	Miami	Dec-00	196	LEAF	1	\$[***]	\$[***]
Ft. Lauderdale	Miami	Dec-00	20	SMF-28	1	\$[***]	\$[***]
Atlanta Spartanburg Charlotte Greensboro Raleigh Richmond	Spartanburg Charlotte Greensboro Raleigh Richmond Washington D.C.	Dec-00	818	LEAF	1	\$[***]	\$[***]
Fremont Junction	Oakland	Dec-00	27	LEAF	1	\$[***]	\$[***]
Fremont Junction	Santa Clara	Dec-00	24	LEAF	1	\$[***]	\$[***]
Fremont Junction	Modesto	Dec-00	93	LEAF	1	\$[***]	\$[***]
Sacramento Reno	Reno Salt Lake City	Dec-00	661	LEAF	1	\$[***]	\$[***]
Sacramento Modesto Fresno Bakersfield	Modesto Fresno Bakersfield Los Angeles	Dec-00	671	LEAF	1	\$[***]	\$[***]
St. Louis Springfield Peoria	Springfield Peoria Chicago	Dec-00	339	LEAF	1	\$[***]	\$[***]
New York City Stamford New Haven Hartford Providence	Stamford New Haven Hartford Providence Boston	Jan-01	265	LEAF	1	\$[***]	\$[***]
Houston Baton Rouge New Orleans Jackson Birmingham	Baton Rouge New Orleans Jackson Birmingham Atlanta	Mar-01	1000	LEAF	1	\$[***]	\$[***]
Portland	Seattle	Mar-01	220	LEAF	1	\$[***]	\$[***]
Portland Eugene	Eugene Sacramento	Mar-01	688	LEAF	1	\$[***]	\$[***]
Chicago South Bend Toledo	South Bend Toledo Cleveland	Apr-01	350	LEAF	1	\$[***]	\$[***]
Totals			12,484				\$[***]



EXHIBIT B-1

COLLOCATION PROVISIONS (Transmission Sites)

1. General.

A. Types of Transmission Sites and Collocation Arrangements. Williams shall designate each Transmission Site as an optical amplifier site, a regenerator site, or a junction. Williams may provide, either as Basic Services or Additional Services as defined below, collocation services at Transmission Sites through:

- (i) Joint Use Collocation Arrangements (“JUCA”); or
- (ii) separately accessed space (“Non-JUCA”) in increments of seventy-five (75) square feet.

Subject to the terms of these Collocation Provisions, Cogent shall have the right to locate, install, maintain, and operate Cogent Equipment at the Transmission Sites during the Term. The nature of Cogent’s rights and the applicable charges shall depend on the type of Transmission Site and the type of arrangement (JUCA or non-JUCA) at such sites.

B. No Property Rights Conveyed. No use of Transmission Sites required or permitted under these Collocation Provisions shall create or vest in Cogent any easements, leasehold interests, or other ownership or property rights of any nature in Williams’ real or personal property.

C. Compliance with Industry Standards. Williams shall construct and operate such space, and Cogent shall cause the Cogent Equipment to be installed and operated, in accordance with telecommunications industry standards for similar collocation arrangements.

D. No Restrictions. Williams’ right to maintain and operate its facilities in such a manner as will best enable it to fulfill its own service requirements is in no manner limited by these Collocation Provisions, except as specifically set forth in these Collocation Provisions or the Agreement.

E. Services Subject to Availability. Until Williams accepts a firm Cogent order for collocation services, and except for the Basic Services set forth in Section 3 of this Exhibit, such services are subject to availability of appropriate space, power, and other infrastructure requirements. Except for Basic Services, Williams may decline to accept an order that would impose operational difficulties or result in inefficient use of space or power.

F. Spacing. Williams generally designs Spans with an approximate length of 40 miles.

CONFIDENTIAL AND PROPRIETARY

Exhibit B-1, Page 1

2. Types of Arrangements.

A. JUCA Space. When Williams provides collocation services by means of JUCA space, Cogent shall not access such space without a Williams-designated escort. Williams shall provide such escort pursuant to Subsection 8.A of these Collocation Provisions.

B. Non-JUCA Space. If Williams provides collocation services by means of Non-JUCA space, Williams shall provide Cogent secure, separate, unescorted twenty-four hour access to the Cogent Equipment. Such Non-JUCA space shall be outside of (or separated by caging/barriers from) Williams backbone or JUCA area.

3. Basic Services.

A. Space and Power. The services provided pursuant to this Subsection shall be referred to as the “Basic Services.” At each Transmission Site, Williams shall provide, and Cogent shall pay for, the number of Rack Spaces designated in Exhibit B-2 in JUCA space, HVAC, and 20 amps of –48v DC power per Rack Space for the Cogent Equipment.

Each “Rack Space” shall be adequate to contain a standard equipment rack (with outside dimensions of twenty-six inches (26”) (width) x twenty-four inches (24”) (depth) x seventy-eight (78”) or eighty-four inches (84”) (height)). The total linear inches for Cogent Rack Space within each Transmission Site shall not exceed the sum of the number of Rack Spaces for the specified Transmission Site multiplied by twenty-six (26”) inches.

Notwithstanding the above provisions of this Subsection3(A), with respect to Transmission Sites for which no address or location description is specified in Exhibit B-2, Cogent shall have the right to cancel Basic Services for any such Transmission Site if the location thereof is not compatible with Cogent’s network plan by giving written notice to Williams within the fifteen (15) day period after receipt of Williams’ test results for the Major Segments on which such Transmission Sites are located as described in Section 7(A) of Exhibit C to the Agreement. In addition, Cogent may change the number of Rack Spaces to be provided as part of the Basic Services from one (1) Rack Space to two (2) Rack Spaces, or from two (2) Rack Spaces to one (1) Rack Space, in any Transmission Site along the applicable Major Segment by giving written notice to Williams within the above-described 15-day period.

B. Charges for Basic Services. Cogent shall pay Williams [*] per Rack Space per month per Transmission Site for JUCA space throughout the Term (beginning on the earlier of the Transmission Site Ready Date or Access Date for each Transmission Site) for the Basic Services. The above-described monthly fees shall be increased annually throughout the Term by two percent (2%) of the charges payable during the immediately preceding annual period on a date selected by Williams. Cogent shall pay such amounts on or before the first day of each calendar month during the Term. Payments shall be prorated, as necessary, for the first and last months such charges apply. Charges for Basic Services shall begin to apply when the Transmission Site Ready Date occurs.

4. Additional Services.

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Exhibit B-1, Page 2

A. Procedures for Requesting Additional Services. Cogent may request in writing installation services, AC power or additional DC power, technical assistance or additional space or racks (collectively referred to as the “Additional Services”) at any Transmission Site. Within fifteen (15) business days after receiving such written request, Williams shall notify Cogent whether the Additional Services are available and, if they are, Williams’ then current standard rates for the Additional Services and Williams’ estimate of any upgrade or expansion Costs. Cogent shall provide written notice to Williams confirming its request for such Additional Services at the quoted rates (and estimates, if applicable) prior to Williams providing such Additional Services. If upgrades or expansions to Transmission Sites or its facilities are necessary to accommodate Cogent’s request, Williams may include the entire Cost of such upgrades or expansions in the Cost to Cogent.

B. Charges for Additional Services. If Cogent chooses to receive the Additional Services, Cogent shall pay any and all (initial and continuing) Costs reasonably incurred by Williams in providing and/or mutually agreed upon charges for such Additional Services or, if Williams has standard rates for such service, then at such standard rates. Upon at least thirty (30) days’ notice to Cogent, Williams may adjust recurring charges for the Additional Services once each calendar year to equal its then-current standard charges.

5. Establishing Collocations.

A. Physical Access to Transmission Sites. Williams shall allow Cogent reasonable access to each Transmission Site for purposes of installing Cogent Equipment beginning on or before the Acceptance Date for the relevant Major Segment, provided that, if a Transmission Site is not ready for installation of equipment other than security, alarm, HVAC, power, back-up power or other common systems on such date, Williams shall allow such access within five (5) days of the first date such Transmission Site is ready for such installation. The date on which Cogent is granted access to a Transmission Site under this Section shall be the “Access Date” for such Transmission Site.

B. Notice to Collocate. No later than sixty (60) days prior to Cogent’s planned installation of its Cogent Equipment at any Transmission Site, Cogent shall provide to Williams the “Collocation Notice.” The Collocation Notice shall include notice of Cogent’s desire to collocate in a particular Transmission Site, a copy of Cogent’s construction design drawings and installation schedule. The Collocation Notice shall also include: (i) Cogent’s requested installation date(s); (ii) any excess cable storage requirements; (iii) identification of all Cogent Equipment to be installed; (iv) a diagram of the desired location of the Cogent Equipment and power feeds; (v) the space, power, environmental, and other requirements for the Cogent Equipment; (vi) all other information reasonably required by Williams. Within twenty-one (21) days of receiving the Collocation Notice, Williams shall respond to Cogent’s Collocation Notice with its acceptance or objections to Cogent’s proposal in the Collocation Notice.

6. Transmission Site Ready Date. The “Transmission Site Ready Date” shall be the Acceptance Date for the Cogent Fibers connected to such Transmission Site provided that the Transmission Site Ready Date shall be deferred beyond the Acceptance Date as set forth below:

A. Failure to Provide Access. If Williams fails to provide physical access to the Transmission Site pursuant to the Subsection entitled Physical Access to Transmission Sites, the

CONFIDENTIAL AND PROPRIETARY

Transmission Site Ready Date shall be delayed until the earlier of the date Williams provides such physical access or the date Cogent's Equipment is installed.

B. Failure to Provide Power. If Williams fails to provide power as required for the Basic Services, the Transmission Site Ready Date shall be delayed until it provides such power, unless such failure is due to Cogent's failure to properly and timely provide information pursuant to the Subsection 5.B of this Exhibit.

C. Cogent may elect by written notice to delay the Transmission Site Ready Date for any Transmission Site until the Transmission Site Ready Date has occurred for all Transmission Sites on a Major Segment.

7. Cogent Equipment.

A. Interface. Interface points between the Cogent Fibers and facilities wholly within Transmission Sites shall be at fiber distribution panels or digital cross-connect (DSX-N) panels located in the Transmission Sites and designated by Williams. Such panels shall be the demarcation to establish each party's operational and maintenance responsibilities. All cables placed to interface such panels shall conform to all applicable Williams standards.

B. Power Use. Cogent shall not install any electrical or other equipment that overloads any electrical paneling, circuitry, or wiring.

C. Racks. Cogent shall supply its own racks or may request that Williams provide such racks as an Additional Service at its standard rates.

D. Standards. Cogent shall ensure that the Cogent Equipment (including racks) is delivered, installed, operated, and maintained to meet or exceed any reasonable requirements of Williams, any requirements of Williams' building management or insurance underwriters, and any applicable local, state and federal codes and public health and safety laws and regulations (including fire regulations and the National Electric Code).

E. Intervention. If any part of Cogent's fiber or Cogent Equipment is not placed and maintained in accordance with the terms and conditions of these Collocation Provisions and Cogent fails to correct the violation within thirty (30) days from receipt of written notice thereof from Williams, then Williams may, at its option, without further notice to Cogent, correct the deficiency at Cogent's expense without liability for damages to the fiber, Interconnect Facilities or Cogent Equipment or for any interruption of Cogent's services. As soon as practicable thereafter, Williams shall advise Cogent in writing of the work performed or the action taken. Cogent shall reimburse Williams for all Costs reasonably incurred by Williams associated with any work or action performed by Williams pursuant hereto.

F. Removal of Cogent Equipment. Within thirty (30) days after the end of the Term (or other termination of the Lease/IRU Rights in the Cogent Fibers), Cogent shall remove all Cogent Equipment from the System or any other Williams facilities at Cogent's sole cost under Williams' supervision. Cogent shall provide Williams with at least thirty (30) days' notice prior to such removal. If Cogent fails to remove the same within said thirty-day period, Williams shall either:

CONFIDENTIAL AND PROPRIETARY

- (i) remove Cogent's Equipment and issue an invoice to Cogent for the Cost of removal and storage and or delivery to Cogent; or
- (ii) notify Cogent that Williams elects to take ownership of such abandoned Cogent Equipment, in which case Cogent shall execute a bill of sale or other document evidencing Williams' title to such Cogent Equipment.

8. Access to Transmission Site.

A. Common and JUCA Space. If Cogent requires access to Williams' common space or JUCA space, Williams shall make commercially reasonable efforts to provide escorted access within seventy-two (72) hours of Cogent's request (or at its option shall waive the escort requirement on a case-by-case basis). In the event of a service-affecting fault, Williams shall use commercially reasonable efforts to provide access as soon as practicable. Cogent shall pay Williams' reasonable charges for such access, which may include minimum call-out times, and night, weekend, and holiday differentials or multipliers. In no case shall Cogent enter Williams' common space or JUCA space without a Williams escort, except that a Cogent employee or Cogent contractor certified by Williams pursuant to Subsection 8(b) may enter JUCA space unescorted.

B. Certification of Cogent Employees and Contractors. Only Cogent employees and Cogent contractors certified by Williams shall enter JUCA space unescorted. Williams shall grant certification to a Cogent employee or contractor if Cogent demonstrates that such employee or contractor has sufficient knowledge and experience in the installation and maintenance of telecommunications equipment. Each certified employee or contractor shall abide by Williams' Maintenance and Safety Manual, as updated from time-to-time. The manual contains Williams' access policy, safety, engineering, and equipment installation standards. Cogent, in turn, shall supply each employee or contractor that seeks certification with a copy of the manual and, subsequent to certification, with any updates thereto which are provided to Cogent by Williams. Until such time as Williams provides the manual to Cogent, certified Cogent employees and Cogent contractors shall conduct activities in JUCA space in accordance with telecommunications industry practices. The procedures for certification are as follows:

- (i) Cogent's single point of contact, discussed below in Subsection C, shall be Williams' Network Control Center at (800) 348-6925 (alternate number (800) 582-9069) to seek certification for a Cogent employee. Employee applicants shall be deemed certified seventy-two (72) hours after Williams receives all requested qualification information, unless Williams notifies Cogent's single point of contact that more information is reasonably required or that the applicant is denied certification in Williams' reasonable discretion.
- (ii) For each Cogent contractor that seeks certification, Cogent shall provide Williams' Network Control Center with a letter of authorization signed by Cogent and the contractor. At a minimum, the letter of authorization shall state that the contractor is an agent of Cogent for the purpose of installing, maintaining or repairing Cogent Equipment or for other purposes specified by Cogent in the letter, set forth the names of contractor's employees for which Cogent seeks certification, and contain a statement that the contractor has received a copy of Williams' Maintenance and

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Safety Manual and the contractor agrees to abide by the reasonable policies contained therein and to those contained in any updated manuals provided to Cogent by Williams. If Cogent has not received a copy of Williams' Maintenance and Safety Manual by the time it submits a letter of authorization, the contractor shall state in the letter that it will abide by the policies and rules contained in the manual when it is provided. Cogent contractors shall be deemed certified seventy-two (72) hours after the latter of Williams' receipt of the letter of authorization or Williams' receipt of all additional requested qualification information, unless Williams notifies the applicant that more information is reasonably required or that the applicant is denied certification in Williams reasonable discretion.

Once certified, Cogent's employees or contractors must call Williams' Network Control Center at (800)348-6925 (alternate number (800) 582-9069) prior to entering or exiting the space. Cogent shall provide Williams' Network Control Center with a list of "certified" employees or contractors that have passed Williams' certification process. It shall be Cogent's duty to notify Williams of any changes in Cogent's list of certified employees and contractors or if a certified Cogent employee or contractor leaves Cogent's or the contractor's employ.

C. Single Point of Contact. Within thirty (30) days after the Effective Date of the Agreement, Cogent shall designate a single point of contact for all future communications regarding common and JUCA space which shall be available twenty-four (24) hours a day, seven (7) days a week. Cogent's single point of contact shall be responsible for distributing information to Cogent's certified employees and contractors. Williams shall have no obligation to provide information regarding JUCA space to any technician other than the aforementioned single point of contact.

D. Security. Cogent shall abide by Williams' reasonable security requirements. When Williams' reasonable security requirements have been met, Cogent employees, customers, contractors, or representatives shall be issued passes or visitor identification cards which must be presented upon request before entry to Transmission Sites. Such passes or other identification shall be issued only to persons meeting any reasonable security criteria applicable at the relevant Transmission Site for such purpose. Williams shall provide Cogent's single point of contact, discussed in Subsection 8(c), with the access devices (e.g., access codes, card keys, keys, visitor identification cards) necessary for Cogent's certified employees and contractors to gain access to Cogent Equipment in JUCA space. Cogent's single point of contact shall be responsible for distributing access devices to Cogent's employees and contractors certified pursuant to Subsection 8(b) and shall distribute access devices only to such persons. Access devices will be provided by Williams to Cogent with Williams' Costs thereof to be reimbursed by Cogent within thirty (30) days after receipt of an invoice therefor. Cogent's certified employees and contractors shall not disseminate access codes or devices to any other person. Cogent shall be liable for any losses caused by use or misuse of such access devices and shall surrender access devices upon demand for cause or upon termination of the Agreement. Nothing in this Subsection shall be construed as preventing Cogent from having twenty-four hour, seven days per week unescorted access to any of its Non-

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JUCA space. Cogent acknowledges that third parties will have access to the JUCA or common space in which Cogent's Rack Spaces are located and agrees that Williams shall in no event be liable for the acts or omissions of such third parties.

E. Right to Terminate Individual's Access. Notwithstanding any other provision of these Collocation Provisions, Williams shall, without threat of liability, have the right to immediately terminate the right of access of any Cogent personnel or representative should it determine in its reasonable discretion for any lawful reason that termination of such access is necessary or reasonably advisable in order to assure the security of its facilities and/or to prevent damage to the System or to the Equipment of Williams or third parties. Williams shall promptly notify Cogent of any such termination, and Cogent shall have a reasonable opportunity to demonstrate that the terminated rights of access should be reinstated. Any termination of a specific individual's access shall remain in effect pending Williams' final determination as to the advisability of such reinstatement.

F. Subcontractors. For purposes of Section 8 of this Exhibit, the word "contractor" shall also include subcontractors of Cogent.

9. Relocation. In the event relocation of Cogent's Interconnect Facilities or any Cogent Equipment is reasonably requested by Williams for bona fide operational reasons, then Cogent shall, at Williams' expense, relocate its fiber, Interconnect Facilities and Cogent Equipment within Transmission Site upon Williams' written request and in the reasonable (under the circumstances) time frame required by Williams. Williams' shall make commercially reasonable efforts to allow and coordinate such relocation so that it may be conducted at a time and in a manner which minimizes interruption to Cogent's service. If the entire Transmission Site is relocated, Article VIII (Maintenance and Relocation) of the Agreement shall govern such relocation.

10. Transmission Site Specifications and Monitoring.

A. Redundant HVAC. All Transmission Sites shall have redundant HVAC (heating, ventilation, and air conditioning) units each capable of handling the site's full HVAC load.

B. Backup Power. All unattended (unmanned) Transmission Sites shall have a minimum of eight (8) hours' battery reserve. All attended Transmission Sites without an on-site generator shall have a minimum of eight (8) hours' battery reserve. All attended Transmission Sites with an on-site generator shall have a minimum of four (4) hours' battery reserve. All on-site generators shall be capable of powering the total site for a minimum of twenty-four (24) hours.

C. Alarms. Williams shall continuously monitor Transmission Site security, environmental, and power alarms at one or more manned monitoring centers. At Cogent's request, Williams shall, as an Additional Service, establish procedures to allow Cogent, at Cogent's expense, to share or (at Williams' option) indirectly receive security and environmental alarm information.

11. Interconnections. Exhibit H governs interconnections at Transmission Sites with facilities outside or extending outside such sites.

12. Inspections.

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A. Williams' Right to Inspect. Williams reserves the right to make periodic inspections of any part of the Fiber, Interconnect Facilities, or Cogent Equipment located within or physically attached to the Transmission Sites. Williams shall give Cogent advance notice of such inspections and Cogent shall have the right to have one or more of its employees or representatives present during the time of any such inspection, except in those instances where Williams determines that safety considerations justify the need for such an inspection without the delay of providing notice. The making of periodic inspections or the failure to do so shall not operate to impose upon Williams any liability of any kind whatsoever nor relieve Cogent of any responsibility, obligation, or liability allocated to it in these Collocation Provisions.

B. Williams Access. Cogent shall not directly or indirectly prevent Williams from having twenty-four hour access to Cogent's assigned Non-JUCA space.

13. Threat to Persons or Property. If Williams determines that Cogent's actions or failure to fulfill an obligation of these Collocation Provisions, or its Interconnect Facilities or Cogent Equipment poses an immediate threat to the safety of Williams' employees or the public, interferes with the performance of Williams' service obligations, or poses an immediate threat to the physical integrity of Williams' facilities, Williams may perform such work and/or take such action that it deems necessary without notice to Cogent and without subjecting itself to any liability (except to the extent the Agreement permits recovery for Williams' gross negligence) for damage to the fiber, Interconnect Facilities or the Cogent Equipment or for any interruption of Cogent's services. As soon as practicable thereafter, Williams shall advise Cogent in writing of the work performed or the action taken. Cogent shall reimburse Williams for all Costs reasonably incurred by Williams associated with any work or action performed by Williams pursuant hereto.

14. Liens and Encumbrances. Cogent shall not have the power, authority or right to create and shall not permit any lien or encumbrance, including, without limitation, tax liens, mechanics' liens, or other liens or encumbrances with respect to work performed, in connection with the delivery, installation, repair, maintenance, or operation of its Cogent Equipment, Interconnect Facilities or other property installed within the Transmission Site.

15. Subordination. Cogent's rights under these Collocation Provisions shall be totally subordinate to any bona fide mortgages, loans, deeds of trust, or any other borrowing upon the real or personal property which may be incurred by Williams. Cogent shall sign any such reasonable documents as are necessary to satisfy any lender, private or institutional, to reflect said subordination; provided such lender agrees not to disturb Cogent's rights hereunder so long as Cogent is not in default of the Agreement under the terms hereof.

16. Independent Parties. The presence of a Williams or Cogent employee or representative (as an inspector or otherwise) while an employee or representative of the other party is at the Transmission Site or performing work pursuant to these Collocation Provisions shall not make either party liable for the actions of the other party and shall not be deemed to waive the responsibility of either party to perform its obligations in a safe and workmanlike manner.

17. Compliance with Agreement. Each party shall comply with the provisions of the Agreement relating to Transmission Sites, including:

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Exhibit B-1, Page 8

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REQUESTED BY COGENT COMMUNICATIONS, INC.**

- A. Williams' obligations to provide as-built drawings of Transmission Sites showing Cogent rack placement and assignment within one hundred eighty (180) days after Acceptance of the applicable Major Segment;
- B. the Operations Specifications set forth in Exhibit G; and
- C. the Interconnection provisions set forth in Exhibit H.

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Exhibit B-1, Page 9

EXHIBIT B-2

Description of Transmission Sites and Pop Collocations Sites; Cogent Racks

See attached.

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Exhibit B-2, Page 1

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Atlanta-Jacksonville	355	LEAF				
Atlanta, GA POP			874 Dekalb Avenue, Atlanta, GA 30307			0
					Covington, Covington, GA 30307	1
					8036 Highway 11 South, Monticello, GA 31064	1
Macon, GA POP			Charter Medical Bldg., 577 Mulberry St., Suite 175, Macon, GA 31201			1
					4060 Highway 80 W, Montrose, GA 31065	1
					Route 1 Box 304, Alamo, GA 30411	2
				544 Buckhorn Road NE, Baxley, GA 31513		1
					5860 North Campus Road, Patterson, GA 31557	1
					Route 1 Box 845, Folkston, GA 31537	1
Jacksonville, FL POP			608 W. Adams St., Jacksonville, FL 32204			1
Atlanta-Washington DC (2)	818	LEAF				
Atlanta, GA POP			874 Dekalb Avenue, Atlanta, GA 30307			0
					790 Mcart Rd., Lawrenceville, GA 30245	1
					920 Smith Road, Athens, GA 30646	1
					4260 Liberty Mill Rd., Hartwell, GA	0
					9744 Augusta Rd., Greenville, SC 29669	1
Spartanburg, SC POP			BTC Building, 145 N. Church St., Suite 3, Spartanburg, SC 29306			1
					2154 Templeton Rd., York, SC	2
Charlotte, NC POP			112 N. Meyers St., Charlotte, NC 28202			1
					295 Upright Rd., Salisbury, NC 28125	1
				Kernersville JCT		1
SPUR TO GREENSBORO, NC AND RALEIGH. NC			South Elm Center, 201-E Creek Ridge Road, Greensboro, NC 27406			0
					6102 Old Greensboro Rd. Chapel Hill, NC 27516	0

Raleigh, NC POP

3440 Tarheel Drive,
Bldg #3, Suite 105,
Raleigh, NC 27609

0

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Exhibit B-2, Page 2

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2							
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks	
					1301 Ashley Loop, Reidsville, NC	1	
					945 Transco Rd., Chatham, VA 24531	2	
					Hwy. 691 SW, Appomattox, VA 24522	1	
					Scottsville JCT	1	
SPUR TO RICHMOND, VA					3901 River Rd West, Goochland, VA 23063	0	
Richmond, VA POP					3600 W. Broad St, Suite 472, Richmond, VA 23230	0	
Washington, DC POP					74444 Everona Rd., Unionville, VA 22587	1	
					10699 Piperlane, Manassas, VA	1	
					1220 L St NW, Suite 200, Washington, DC 20005	0	
Kansas City-Denver	635	LEAF					
Kansas City, MO POP					The Bryant Bldg., 1102 Grand Ave. #300, Kansas City, MO 64106	0	
						13804 246th St., Lawrence, KS 66044	1
Topeka, KS POP					101 SE Monroe, Topeka, KS 66603	1	
						1836 County Rd. 330, Osage City, KS 66868	1
						RR 1, Elmdale, Cottonwood Falls, KS 66850	1
						937 Falcon Road, Newton, KS 67503	2
						380 Plum Ave., Inman, KS 67546	1
						1150 E BARTON CO. ROAD, Ellinwood, KS 67526	1
						Bison, Ks, Bison, KS 67520	1
						RR1, Ellis, KS 67672	2
						U02 COUNTY ROAD 50, Grainfield, KS 67839	1
						2317 Daydream Road, Oakley, KS 67764	1
						5655 Road #16, Goodland, KS 67735	1
						32353 County Rd. 40, Burlington, CO 80805	2
						7250 County Rd. HH, Flagler, CO 80815	1
	1018 HIGHWAY 71, Woodrow, CO 80801	1					

Exhibit B-2, Page 3

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Denver, CO POP			910 15th St., Suite 716, Denver, CO 80202			0
Herndon-Washington DC	26	SMF-LS				
Herndon, VA POP			520 and 524 Van Buren, Hemdon, VA, 22070			1
Washington, DC POP			1220 L Street NW, Suite 200, Washington, DC, 2005			0
Daytona Beach-Tampa	153	LEAF				
Daytona Beach, FL POP			111 N. Seagrave, Daytona Beach, FL 32114			*
					110 Collins Street, Sanford, FL 32754	1
Orlando, FL POP			510 Columbia Street, Orlando, FL 32805			0
					400 B Highway 17-92 South, Haines City, FL 33837	1
					1075 Pine Chase Avenue, Lakeland, FL 33815	1
Tampa, FL POP			1700 N. 25th, Tampa, FL 33605			0
Denver-Salt Lake City	551	LEAF				
Denver, CO POP			91015th St., Suite 716, Denver, CO 80202			0
					Platteville Op amp	1
					Nunn Op amp	1
					Remount Op amp	1
					W. Laramie Op amp	1
				Wagonhound Regen		2
					Sinclair Op amp	1
					Echo Springs Op amp	1
					Table Rock Op amp	1
					S. Baxter Op amp	1
				Little America Regen		2
					Fort Bridger Op amp	1
					Hilliard Flat Op amp	1
					Wanship Op amp	1
Salt Lake City, UT POP			5035 Harold Gatty Drive, Salt Lake City, UT84116			1
Jacksonville-Miami	330	SMF-28				
Jacksonville, FL POP			608 W. Adams St., Jacksonville, FL 32204			*

Daytona Beach, FL POP

		Dupont Center, FI, St Augustine, FL	2
111 N. Seagrave, Daytona Beach, FL 32114			1
		Titusville, FI, Titusville, FL 33142	1

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 4

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Melbourne, FL POP			1110 Line Street, Melbourne, FL 32901			1
					Viking, FI, Vero Beach, FL	2
					Port Salerno, FI, Stuart, FL	1
West Palm Beach, FL POP			410 Hampton Rd., West Palm Beach, FL 33405			1
Ft. Lauderdale, FL POP			220 NW 2nd St., Ft. Lauderdale, FL 33316			1
Miami, FL POP			2115 NW 22nd Street, Miami, FL 33142			0
Tallahassee-Miami						
Tallahassee-Miami	540	LEAF				
Tallahassee, FL POP			1416 S. Adams, Tallahassee, FL 32301			1
					Perry Op amp	2
					Cross City Op amp	1
				Chiefland Regen		1
					Crystal River Op amp	1
					Brooksville Co Op amp	1
Tampa, FL POP			1700 N. 25th, Tampa, FL 33605			0
					Wimauma Co Op amp	1
					Zolfo Springs Op amp	1
					Arcadia Op amp	2
Ft. Myers, FL POP			1523 Seaboard, Ft. Myers, FL 33916			1
					Labell Op amp	1
					Belle Glade Op amp	1
					Weston Op amp	1
Miami, FL POP			2115 NW 22nd Street, Miami, FL 33142			0
Washington DC-New York City						
Washington DC-New York City	336	LEAF				
Washington, DC POP			1220 L Street NW, Suite 200, Washington, DC 20005			0
					Ellicot City Sta 190 Op amp	1
Baltimore, MD POP			One Market Square, 300 W. Lexington, Baltimore, MD 21201			1
					Woodbin Sta 195 Op amp	2
					Bacton Sta 200 Op amp	1
Philadelphia, PA POP			2401 Locust St., 4th Fl., Suite 400, Philadelphia, PA 19103			0

		Willingboro Op amp	1
		Jamesburg Op amp	1
Newark, NJ POP	165 Halsey St., Suite 625, Newark, NJ 07102		1
New York City, NY POP	601 W 26th Street, 6th floor, New York, NY 10011		0

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 5

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Herndon-Manassas	28	SMF-LS				
Herndon POP			520 and 524 Van Buren, Herndon, VA, 22070			*
Manassas Junction				10699 Piperlane, Manassas, VA		*
 						
New Orleans-Tallahassee	469	LEAF				
New Orleans, LA POP			Poydrous Plaza, 639 Loyola Ave, Suite 2020, New Orleans, LA 70113			1
					White Kitchen 46532 Hwy 90, Slidell, LA 70461	1
					Harrison Co. 13343 Cable Bridge Rd., Pass Christian, MS 39571	1
				Jackson Co., 11151 Oneal Rd., Van Cleave, MS 39565		1
					Miller Creek, 3735 Newman Rd., Mobile, AL 36695	2
Mobile, AL POP			50 N. Lawrence Street, Mobile, AL 36602			1
Pensacola, FL POP					Robertsdale, 22154 US Hwy 90, Robertsdale, AL 36567	1
			221 N. Baylen Street, Pensacola, FL 32501			1
					Santa Rosa, 10955 Hwy 90, Harold, FL 32583	1
					Alpine Heights 35 Wells Street, DeFuniak Springs, FL 32433	2
				Dismal Creek, 9926 State Hwy 20 E, Ponce DeLeon, FL 32455		1
				Juniper Creek, 12440 E Hwy 20,	1	

			Youngstown, FL 32466	
			Hosford, Hosford, FL 32334	1
Tallahassee, FL POP			1416 S. Adams, Tallahassee, FL 32301	*
Boston-Albany	183	LEAF		
Boston, MA POP			One Summer Street, Boston, MA 02110	0
Worcester, MA POP			Worcester, MA - Pending	1
Springfield, MA POP			One Federal Street, Bldg 104B, Springfield, MA 01105	1
			Lee Op amp	1

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 6

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Albany, NY POP			194 Washington Ave., 5th Fl., Suite 502, Albany, NY 12210			2
Cleveland-New York City	562	LEAF				
Cleveland, OH POP			RF Keith Bldg, 1621 Euclid Ave., Suite 522, Cleveland, OH 44115			1
					Montville Op amp	2
					Monroe Op amp	1
				Waterford Regen		1
					Dunkirk Op amp	1
					Angola Op amp	2
				Buffalo Junction		1
					Batavia Op amp	1
				Rochester Junction		1
					Waterloo Op amp	1
				Salina Junction		2
					Westmoreland Op amp	1
					Danube Op amp	1
					Florida Op amp	1
				Albany Junction		1
Los Angeles-Riverside	65	LEAF				
Los Angeles, CA POP			One Wilshire Bldg., 624 South Grand, Suite 1706, Los Angeles, CA 90017			0
					Pamona Op amp	1
Riverside, CA POP			1550 Malborough Avenue, Riverside, CA 92507			1
Riverside-Houston	1709	LEAF				
Riverside, CA POP			1550 Malborough Avenue, Riverside, CA 92507			*
					Banning Op amp	1
					Indio Op amp	2

		Mortmar Op amp	1
		Flowing Well Op amp	1
	Sidewinder regen		1
		Liguria Op amp	1
		Growler Op amp	2
		Hyder Op amp	1
		Palo Verde Op amp	1

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 7

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Phoenix, AZ POP			17 E. Virginia, Phoenix, AZ 85004			1
					Queen Creek Op amp	1
					Red Rock Op amp	2
Tucson, AZ POP			135 North 6th Ave., Tucson, AZ 85701			1
					Mescal Op amp	1
					Dragoon Op amp	1
					Luzena Op amp	1
					Road Forks Op amp	2
				Separ Regen		1
					Came Op amp	1
					Afton Op amp	1
El Paso, TX POP			501 W. Overland Ave., El Paso, TX 79901			1
					Op Amp 18 @ Tornillo	2
					1291 Lasca Rd., Fort Hancock, TX 79839	1
					428 Guest Ranch, Hot Wells, TX 79851	1
				14338 US Hwy 90, Valentine, TX 79854		1
					1500 W San Antonio, Marfa, TX 79843	1
					22313 US Hwy 90, Alpine, TX 79830	2
					38372 US Hwy 90, Marathon, TX 79842	1
				538 E Hwy 90, Sanderson, TX 79848		1
					4297 E US Hwy 90, Langtry, TX 78871	1
					33838 US Hwy 90W, Comstock. TX 78837	1
					4256 US Hwy90E, Del Rio, TX 78841	2
				15402 US Hwy 90E, Brackettville, TX 98832		1
					61 C.R. 305, Knippa, TX 78870	1
					3280 C.R. 4514 Devine, TX 78016	1
San Antonio, TX POP			1203 N. Frio, San Antonio, TX 78207			1
					3004 FM 1104, Kingsbury, TX 78838	2
Austin, TX POP			500 Chicon Street, Austin, TX 78702			1
					2528 Hwy 290E, McDade, TX 78850	1
					55 Wildflower Rd, Brenham, TX 77833	1
					20805 FM 362, Waller, TX 77484	1
Houston, TX POP			1124 Hardy Street, Houston, TX 77020			0

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 8

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Riverside-San Diego Loop	220	LEAF				
Riverside, CA POP			1550 Malborough Avenue, Riverside, CA 92507			*
					Hemet Op amp	1
					Mesa Rock Op amp	1
San Diego, CA POP			Kearney Mesa Complex, 8923 Complex Drive, San Diego, CA 92123			0
Houston-Dallas	250	LEAF				
Houston, TX POP			1124 Hardy Street, Houston, TX 77020			0
					Waller Op amp	1
					Millican Op amp	1
				Hearne Regen		1
					Reagan Op amp	1
				Waco Junction		2
					Hillsboro Op amp	1
Dallas, TX POP			400 South Akard, Dallas, TX			0
					Venus Op amp	1
Dallas-Kansas City	484	LEAF				
Dallas, TX POP			400 South Akard, Dallas, TX			0
					Denton Op amp	1
					Thackerville Op amp	1
				Springer Regen		1
					Byars Op amp	1
					Swawnee Op amp	2
					Drumright Op amp	1
Tulsa, OK POP			Tulsa, OK - Pending			1
					Barnsdall Op amp	1
					Tyro Op amp	1
					Chanute Op amp	2
					Selma Station Op amp	1
					Spring Hill Op amp	1
Kansas City, MO POP			The Bryant Bldg., 1102 Grand Ave. #300, Kansas City, MO 64106			0
Kansas City-St Louis	270	LEAF				
Kansas City, MO POP			The Bryant Bldg., 1102 Grand Ave. #300, Kansas City, MO 64106			0
					Elm Op amp	1
					Valley City Op amp	1
					Pilot Grove Op amp	2

Columbia, MO POP

3320 Falling Leaf Lane, Columbia, MO 65201			1
		Centralia Station Op amp	1
		Buell Op amp	1
	Maryknoll Regen		2

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 9

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
St Louis, MO POP			900 Walnut Street, Suite 124, St. Louis, MO 63102			1
Houston-Atlanta (2)	1000	LEAF				
Houston, TX POP			1124 Hardy Street, Houston, TX 77020			0
					33902 Huffman-Cleveland R, Porter, TX 77336	1
					Hwy 105 West, Sour Lake, TX 77659	1
					Hwy 62 South, Buna, TX 77612	1
				17329 Hwy 171 North, Ragley, LA 70657		1
					1919 Hunter Rd., Basile, LA 70515	2
					2343 Hwy 359, Port Barre, LA 70589	1
				Zachary JCT		1
SPUR TO BATON ROUGE. LA AND NEW ORLEANS. LA			445 N. Blvd., Suite 600, Baton Rouge, LA 70802			1
					Reserve, LA	2
New Orleans, LA POP			639 Loyola Ave. Suite 2020, New Orleans, LA 70113			*
					Hwy 43 North, Greensburg, LA 70441	0
					967 Hwy 583, Tylertown, MS 39667	0
				Siminary JCT		0
SPUR TO JACKSON, MS				3498 Simpson Hwt 49, Mendenhall, MS 39114		0
Jackson, MS POP			Capitol Bldg, 111 E Capitol St Suite 248, Jackson MS 39201			0
					1666 Bonner Road, Laurel, MS 39477	0
					240 Vyvx Lane, Quitman, MS	0
					Hwy 69 South, Linden, AL 36763	0
					1713 County Road 179, Selma, AL 36724	0
				Clanton JCT		0
SPUR TO BIRMINGHAM, AL				157 County Road 95. Calera. AL 35041		0
Birmingham. AL POP			2001 Park Place Towers North, Suite 102, Birmingham, AL 35203			0
					25 Highway 9, Alexander City, AL 35089	0
					1140 County Rd 41, Wadley, AL 36276	0

Atlanta, GA POP

		Newnan, GA	0
874 Dekalb Avenue, Atlanta, GA 30307			0

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 10

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
San Francisco-Santa Clara	48	LEAF				
San Francisco, CA POP			200 Paul St., 4th Fl., San Francisco, CA 94107			0
Santa Clara, CA POP			3045 Raymond Street, Santa Clara, CA, 95054			0
Sacramento-San Francisco	114	LEAF				
Sacramento, CA POP			1005 North B Strret, Sacramento, CA			0
					Creed Op amp	1
					Baypoint Op amp	1
Oakland, CA POP			1331 Harrison St., Oakland, CA 94612			0
San Francisco, CA POP			200 Paul St., 4th Floor, San Francisco, CA 94107			0
Chicago-Cleveland	350	LEAF				
Chicago, IL POP			2101 Roberts Drive, Chicago (Broadview), IL 60163			0
					Op Amp 1	1
					Op Amp 2	1
South Bend, IN POP			South Bend, IN - Pending			1
					Op Amp 3	2
					Op Amp 4	1
				Regen 1		1
					Op Amp 5	1
					Op Amp 6	2
Toledo, OH POP			639 Oliver St., Toledo, OH 43609			1
					Op Amp 7	1
					Op Amp 8	1
Cleveland, OH POP			2215 East 14th Street, Cleveland, OH 44115			0
Fremont-Oakland	27	LEAF				
Fremont Junction				Junction 1		1
Oakland POP			1330 Broadway, Oakland, CA			*
Fremont-Santa Clara	24	LEAF				
Fremont Junction				Junction 1		*
Santa Clara POP			3045 Raymond Street, Santa Clara, CA 95054			0
Fremont-Modesto	93	LEAF				
Fremont Junction				Junction 1		*
					Opamp 1	1
Modesto POP			13th & M Street, Modesto, CA 95354			1

NYC-Boston	265	LEAF	6	0	1	
NYC POP			601 W, 26th Street, 6th floor, New York, NY 10011			0

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 11

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Stamford POP			86 Viaduct Road, Stamford, CT, 06907			1
New Haven POP			54 Meadow Street, New Haven, CT 06519			1
Hartford POP			300 Windsor Street, Hartford, CT 06120			2
					Op Amp 1	1
Providence POP			546 Atwells Ave., Providence, RI 02904			1
Boston POP			One Summer Street, Boston, MA 02110			0
Seattle-Portland						
Seattle-Portland	220	LEAF				
Seattle, WA POP			1501 5th Avenue, Seattle, WA 98101			0
					Puyallup Op amp	1
					Centralia Op amp	1
					Kalama Op amp	1
					Op amp	1
Portland, OR POP			707 SW Washington St., 4th Fl., Suite 410, Portland, OR 97205			0
Portland-Sacramento						
Portland-Sacramento	688	LEAF				
Portland, OR POP			707 SW Washington St., 4th Fl., Suite 410, Portland, OR 97205			*
					Salem Op amp	1
					Shedd Op amp	1
				Jasper Junction		1
					Oakridge Op amp	1
					Chlmult Op amp	2
				Chiloquin Regen		1
					Klamath Falls Op amp	1
					Tionesta Op amp	1
				Fall River Regen		1
					Oak Run Op amp	2
					Red Bluff Op amp	1
				West Chico Regen		1
					Biggs Op amp	1
					Robbins Op amp	1
Sacramento, CA POP			1005 North B Strret, Sacramento, CA			0
Sacramnto-Salt Lake City						
Sacramnto-Salt Lake City	661	LEAF				
Sacramento, CA POP			1005 North B Strret, Sacramento, CA			0
					Auburn alt Op amp	1
					Blue Canyon Op amp	1
					Truckee Op amp	2
Reno, NV POP			200 Gardener Street, Reno, NV 89503			1
					Hot Springs Flat Op amp	1
					Lovelock Op amp	1

	Mill City Regen		1
		Golconda Butte Op amp	2
		Snow Gulch Op amp	1
		Dunphy T-S Op amp	1
	Hunter / Elko Regen		1

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 12

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

Exhibit B-2						
Route Segment	Estimated Miles	Type of Fibers	POP Locations	Regen and Junction Location	Op Amp Locations	# of Racks
Salt Lake City, UT POP					Deeth Op amp	1
					Oasis Op amp	2
				Wndover Regen		1
					Barro Op amp	1
					Timpie Op amp	2
			5035 Harold Gatty Drive, Salt Lake City, UT 84116			*
Sacramento-Los Angeles						
Sacramento, CA POP	671	LEAF	1005 North B Strret, Sacramento, CA			0
Modesto, CA POP			1224 13th Street, Modesto, CA 95354		Op Amp 1	0
					Op Amp 2	0
					On Amp 3	2
					Op Amp 4	1
Fresno, CA POP			364 W. Fallbrook Avenue, Fresno, CA 93711			1
					Op Amp 5	1
					Regen 1	2
					Op Amp 6	1
Bakersfield, CA POP			2020 P Street Bakersfield, CA 93301			1
					Op Amp 7	1
					Op Amp 8	2
					Regen 2	1
					Op Amp 9	1
					Op Amp 10	1
Los Angeles, CA POP			One Wilshire Bldg., 624 South Grand, Suite 1706, Los Angeles, CA 90017			0
St. Louis-Chicago						
St. Louis, MO POP	339	LEAF	The Valley Bldg., 900 Walnut Street, Suite 124, St Louis, MO 63102			*
Springfield, IL POP			Springfield, IL - Pending		Worden Op amp	1
					Farmersville Op amp	1
Peoria, IL POP			Peoria, IL - Pending			1
					Hartsburg Op amp	2
					Gridley Op amp	1
					Dwight Op amp	1
Chicago, IL POP			2101 Roberts Drive, Chicago (Broadview), IL 60153		Plainfield Op amp	1
						0

Total	12,484	320
[REDACTED]		
[REDACTED] = Two diverse paths to Junction site		
[REDACTED] = Single fiber spur to Junction site		
* = POP rack(s) counted in previous Route Segment		

CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 13



CONFIDENTIAL AND PROPRIETARY

Exhibit B-2, Page 14

EXHIBIT B-3

Collocation Provisions (POP Sites)

1. POP Collocation Services:

1.1 POP Collocation Services Description.

“POP Collocation Services” are defined as the granting by Williams, subject to the terms and conditions below, of a license to Cogent to occupy, access and locate certain Cogent Equipment for the purpose of interconnecting the same with the Cogent Fibers or with Williams’ telecommunications transmission network in Rack Spaces (hereafter defined) within Williams POPs which are located in premises (“Premises”) currently owned or leased by Williams.

1.2 Basic POP Collocation Services.

Williams agrees to provide and Cogent agrees to accept and utilize for the Term of the Agreement, at the rates set forth below, POP Collocation Services as described in this Subsection 1.2 in each of the Williams POPs and for the number of Rack Spaces in each such site as listed and described in Exhibit B-2 of the Agreement (the “Basic POP Collocation Services”). Williams shall use commercially reasonable efforts to make Basic POP Collocation Service available no later than the dates set forth in Exhibit B-2.

A “Rack Space” consists of floor space within the Premises adequate in size to contain a rack (outside dimensions measuring twenty-six inches (26”) (width) x twenty-four inches (24”) (depth) x seventy-eight inches (78”) or eighty-four inches (84”) (height)). Cogent shall supply its own cabinets and racks. All Rack Spaces provided hereunder shall include HVAC and 60 amps of –48v DC power.

The total linear inches for Cogent Rack Space within each Williams’ POP shall not exceed the sum of the number of Rack Spaces for the specified POP multiplied by twenty-six inches (26”). Williams agrees to use commercially reasonable efforts to make all Rack Spaces provided to Cogent within the same POP hereunder contiguous; provided, that Williams shall not be liable to Cogent if, despite making such commercially reasonable efforts, it is unable to so provide. In the event Rack Spaces provided in the same POP hereunder are non-contiguous, then Williams shall provide and install, at no cost or expense to Cogent, a dark fiber cross connect or “jumper” connecting such non-contiguous Rack Spaces.

As a condition to Williams’ obligation to provide the Basic POP Collocation Services described above, Cogent shall submit Williams’ standard Collocation Service Request forms for each of the Williams’ POPs listed in Exhibit B-2 within sixty (60) days after the Effective Date of the Agreement. In addition, within ten (10) days after receipt of signed and approved Collocation Service Orders from Williams, Cogent shall sign and return the same to Williams. Williams agrees to fully cooperate with Cogent in complying with the terms of this Section.

CONFIDENTIAL AND PROPRIETARY

1.3 Additional POP Collocation Services.

A. Procedures for Requesting Additional POP Collocation Services. Cogent may request installation services, AC power or additional DC power, technical assistance or additional space or racks (collectively referred to as the “Additional POP Collocation Services”) at any Williams POP. Additional POP Collocation Services shall be requested by completion and submission of the form included as Attachment II to this Exhibit (the “Collocation Service Request”). Williams shall notify Cogent within fifteen (15) business days (or thirty (30) days if additional Rack Space is requested) after receiving such Collocation Service Request, whether the requested services are available and, if they are, Williams’ then current standard rates for the services requested. Cogent shall provide written notice to Williams confirming its request for such Additional POP Collocation Services at the quoted rates (and estimates, if applicable) prior to Williams providing such Additional POP Collocation Services. If upgrades or expansions to POPs or other Williams’ facilities are necessary to accommodate Cogent’s request, Williams may include the entire Cost of such upgrades or expansions in the Cost quoted to Cogent.

B. Charges for Additional POP Collocation Services. If Cogent chooses to receive Additional POP Collocation Services, Cogent shall pay any and all (initial and continuing) Costs reasonably incurred by Williams in providing such Additional POP Collocation Services or, if Williams has standard rates for such service, then at such standard rates. Recurring charges for Additional POP Collocation Services shall be specified in the Collocation Service Order. Upon at least thirty (30) days’ notice to Cogent, Williams may adjust applicable charges related to Additional POP Collocation Services not specifically addressed in the Collocation Service Order once each calendar year to equal its then-current standard charges.

C. Cogent’s right to obtain Additional POP Collocation Services requested on a Collocation Service Request shall be subject to availability, as determined in Williams’ sole discretion, and shall be provided at Williams’ standard rates in effect at the time Cogent requests such services. Such rights to receive Additional POP Collocation Services hereunder shall be granted only by mutual execution of a collocation service order, an example of which is attached to this Exhibit as Attachment III (the “Collocation Service Order”). The Basic POP Collocation Services and Additional POP Collocation Services subsequently agreed to be provided by Williams hereunder shall be collectively referred to herein as the “POP Collocation Services”.

D. All Rack Space provided hereunder including, without limitation, the Rack Space provided as part of the Basic POP Collocation Services, shall be accepted by Cogent “as-is” and, except for the specifications set forth in this Exhibit or in the Agreement, Williams makes no representation as to the fitness of the space for Cogent’s intended purpose. Cogent shall abide by the standard specifications as set forth in the Technical Specifications as attached hereto. No work related to POP Collocation Service shall commence until the Agreement, and if applicable, the Collocation Service Request and the relevant Collocation Service Order(s) are mutually executed.

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 2

1.4 Interconnection; Cross-connects.

Exhibit H governs interconnections and cross-connects within Williams' POPs.

2. Collocation Effective Date:

The "Collocation Effective Date" for Basic POP Collocation Services and Additional POP Collocation Services is defined as the date identified on the relevant Collocation Service Order as the date of POP Collocation Service delivery or, if later, the date upon which Williams delivers POP Collocation Service.

3. Collocation Service Term:

The "Collocation Service Term" shall commence upon the Collocation Effective Date with respect to each POP and shall continue thereafter (i) for the Term of the Agreement (unless earlier terminated pursuant to the terms hereof), or (ii) for the duration specified within the relevant Collocation Service Order with respect to any Additional POP Collocation Services. Once the Collocation Effective Date has passed, Cogent must pay for the applicable POP Collocation Services through the end of the Collocation Service Term for the affected services, regardless of whether Cogent is actually using such services.

4. Rates & Charges:

Cogent shall pay Williams for POP Collocation Services rendered pursuant to this Exhibit charges consisting of the following:

4.1 Service Fees.

Cogent shall pay Williams Service Fees for the Basic POP Collocation Services in the amount of [*] per Rack Space per month throughout the Term (unless the Basic POP Collocation Services are earlier terminated pursuant to the terms hereof) commencing with respect to each POP listed on Exhibit B-2 on the Collocation Effective Date which rate includes thirty (30) amps of dual feed -48v DC power. Such rate shall apply to all Rack Space utilized in any Williams designated POP hereunder even where such POP is utilized by Cogent only as an optical amplifier, regenerator or junction site. The amount payable for Basic POP Collocation Services and any Additional POP Collocation Services shall be increased each year by two percent (2%) of the service fees payable for the immediately preceding annual period on a date selected by Williams. Cogent shall pay such amounts on or before the first day of each calendar month during the Term. Payments shall be prorated, as necessary, for the first and last months such charges apply.

Service fees for Additional POP Collocation Service shall be payable on a monthly basis at the rates and in accordance with the terms of the applicable Collocation Service Order(s). Such service fees shall be payable in advance commencing on the Collocation Effective Date and on the first day of each calendar month thereafter during the applicable Collocation Service Term. Such Service fees shall be increased annually in the same manner as provided in the preceding paragraph. Service fees for partial months shall be prorated.

CONFIDENTIAL AND PROPRIETARY

4.2 Installation Fee.

The installation fee is an amount to be invoiced Cogent as a one-time fee for POP Collocation Service installation consisting of charges associated with the initial installation of the POP Collocation Service. Installation fees shall be identified on the relevant Collocation Service Order if applicable. Notwithstanding the foregoing, such installation fees shall not be applicable to the Basic POP Collocation Services.

4.3 Build-Out Fees.

Build-out fees are one-time charges applicable to Additional POP Collocation Services rendered that are outside the standard collocation offering. Build-out fees are individually quoted and set forth on the applicable Collocation Service Order. Build-out fees are payable in full to Williams upon execution of a Collocation Service Order and no work will be performed by Williams or Cogent to build out space prior to Williams' receipt of said payment.

4.4 Ancillary Charges.

Ancillary charges related to changes of Additional POP Collocation Service delivery are set forth below. Ancillary charges are for Ancillary Services as more fully described in Section 8 of this Exhibit.

	Charge Per Occurrence
Change of Collocation Effective Date (pre-install)	\$[***]
Change of Collocation Service Order (pre-Collocation Effective Date)	\$[***]
Change of Collocation Service (post-Collocation Effective Date)	\$[***]
Order Cancellation (>/=30 days from Collocation Effective Date)	\$[***]
Order Cancellation (<30 days from Collocation Effective Date)	\$[***]
AC power addition (post Collocation Effective Date)	\$[***]

4.5 Dispatch Labor Charges.

Dispatch labor charges are assessed for Cogent requested site labor. Dispatch requires a minimum of ten (10) days advance written notice to Williams.

	Charge Per Hour
M-F Business Hours	\$[***]
M-F Off Business Hours	\$[***]
Saturday & Sunday	\$[***]
Holidays	\$[***]

CONFIDENTIAL AND PROPRIETARY

For purposes of the above table “Business Hours” shall be Monday through Friday, 8:00 a.m. – 5:00 p.m. local time. All charges specified in this Subsection and Subsection 4.4 are Williams’ current standard rates which may be changed from time to time hereafter in Williams’ sole discretion.

5. POP Collocation Service Delivery.

Upon mutual acceptance of a Collocation Service Order, Williams shall confirm Collocation Effective Date, or inform Cogent of the estimated date for the delivery of such POP Collocation Service. Williams shall use reasonable efforts to deliver POP Collocation Service on or before the Collocation Effective Date specified in the Collocation Service Order, but the inability of Williams to deliver POP Collocation Services by such date shall not be a default under this Exhibit.

In the event Williams fails to tender possession of the Rack Space to Cogent by the Collocation Effective Date, Cogent shall not be obligated to pay applicable service fees or installation fees until such time as Williams tenders possession of the Rack Space to Cogent.

If Williams fails to make POP Collocation Services available within ninety (90) days after the Collocation Effective Date set forth in the Collocation Service Order (due to any reason other than the acts or omissions of Cogent), Cogent’s sole remedies shall be to (i) cancel the Collocation Service Order covering the affected POP Collocation Services, and (ii) to pursue the remedies specified in Section 4.4 of the Agreement. Otherwise, Williams shall not be liable to Cogent in any way as a result of such delay or failure to tender possession.

6. Contract Expiration.

Following the expiration of the Collocation Service Term or failure of the parties to enter into any renewal periods, Cogent’s license to occupy the space shall continue in effect on a month-to-month basis upon the same terms and conditions specified within this Exhibit and relevant Collocation Service Order, unless terminated by either Cogent or Williams upon thirty (30) days’ prior written notice.

Cogent’s option to continue its license on a month-to-month basis as described above and to occupy the Rack Space shall be contingent on the election by Williams to continue to own or lease the premises in which the Rack Space is located, such election to be exercised at the sole discretion of Williams.

7. Intentionally omitted.

8. Change of Collocation Services:

8.1 Change of Collocation Effective Date (pre-install). Cogent will be assessed a change of Collocation Effective Date charge by Williams for any changes of Collocation Effective Date requested within thirty (30) days prior to original Collocation Effective Date for Additional POP Collocation Services. Cogent will also be charged for any charges incurred by Williams from third party providers as a result of a request by Cogent for a Change of Collocation

CONFIDENTIAL AND PROPRIETARY

Effective Date, regardless of date of Cogent notification. Cogent shall have no right to change or request changes in the Collocation Effective Date of the Basic POP Collocation Services.

8.2 Change of Collocation Service Order (pre-Collocation Effective Date). All modifications to the information contained in an executed Collocation Service Order will be reviewed on an individual case basis and the Collocation Service Order shall be amended accordingly upon Williams' acceptance of the POP Collocation Service modifications. Any modifications will permit Williams to likewise amend applicable rates, charges and Collocation Effective Dates from the original Collocation Service Order. Cogent will be assessed a one time fee for changes to a Collocation Service Order. Cogent will also be charged for any charges incurred by Williams from third party providers as a result of a request by Cogent for a Change of Collocation Service Order, regardless of date of Cogent notification.

8.3 Change of POP Collocation Service (post-Collocation Effective Date). If Cogent requests a change to POP Collocation Services after such POP Collocation Services have been installed, the request will be reviewed by Williams on an individual case basis with no guarantees granted by Williams as to the ability to provide such changed POP Collocation Service. All change of POP Collocation Service requests shall be authorized by Williams via a change Collocation Service Order. Williams may impose additional service and/or installation fee(s) for the changed POP Collocation Service. Cogent will be assessed a one time fee for POP Collocation Service changes. Cogent will also be charged for any charges incurred by Williams from third party providers as a result of a request by Cogent for a change of POP Collocation Service, regardless of date of Cogent notification.

8.4 Order Cancellation. Cogent may cancel a Collocation Service Order for Additional POP Collocation Services by written notice to Williams prior to the Collocation Effective Date. Cogent will incur a one-time cancellation fee for Additional POP Collocation Services canceled in the amounts specified in Section 4.4 of this Exhibit.

9. Improvements to Rack Space:

In the event Cogent desires to make improvements to the Rack Space which improvements are deemed material and substantial as reasonably determined by Williams ("Material Improvements"), Cogent shall submit all plans and specifications for such work to be performed in the Rack Space to Williams for Williams' prior written approval, which approval shall not be unreasonably withheld or delayed. No construction may commence until Williams has given its written approval. Cogent agrees that its use or construction of the Rack Space shall not interfere with Williams' use of its Premises or other tenants' use of their premises in the building in which the Premises are located.

Cogent shall not employ any contractor to perform Material Improvements unless previously approved in writing by Williams which approval shall not be unreasonably withheld (and approved in writing by the Landlord if required by the lease). Cogent and each contractor and subcontractor participating in performing Material Improvements shall warrant that such work shall be free from all mechanic's and/or materialman's liens and free from any and all defects in workmanship and materials for the period of time which customarily applies in good contracting practice, but in no

CONFIDENTIAL AND PROPRIETARY

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event for less than one (1) year after the acceptance of the work by Cogent and Williams. The aforesaid warranties of each such contractor and subcontractor and Cogent shall include the obligation to repair or replace in a thoroughly first-class and workmanlike manner all defects in workmanship and materials without any additional charge. All the Material Improvements shall be contained in the contracts and subcontracts for performance of Cogent's work and shall be written so that they shall inure to the benefit of Williams and Cogent as their respective interests may appear. Such warranties shall be so written that they can be directly enforced by either Cogent or Williams, and Cogent shall give to Williams any assignment or other assurance to effectuate the same.

It shall be Cogent's responsibility to cause each of Cogent's contractors and subcontractors to maintain continuous protection of the premises adjacent to the Rack Space in such manner as to prevent any damage to such adjacent property by reason of the performance of Cogent's work.

All of Cogent's work shall be coordinated with all work being performed or to be performed by Williams and other tenants of the building in which the Premises are located. The contractor or subcontractor shall not at any time damage, injure, interfere with or delay the completion of any other construction within the building; and they and each of them shall comply with all procedures and regulations prescribed by Williams and the Landlord of the Premises for integration of Cogent's work with the work to be performed in connection with the construction of the building, and all other construction within the building which comprises or contains the Premises.

All fixtures, alterations, additions, repairs, improvements and/or appurtenances attached to or built into, on or about the Rack Space prior to or during the applicable Collocation Service Term, whether by Williams at its expense or at the expense of Cogent, or by Cogent at its expense or by previous occupants of the Rack Space, shall be and remain part of the Rack Space and shall not be removed by Cogent at the end of the Collocation Service Term. Upon termination or expiration of the Collocation Service Term, Williams shall allow Cogent thirty (30) days from the date of such termination or expiration, at Cogent's sole cost and expense, to remove all trade fixtures (including, but not limited to, rectifiers/chargers, batteries, AC power conditioning equipment, telecommunication switching equipment, channel banks, etc.) installed by Cogent provided that the Rack Space is restored by Cogent to its condition before the installation of such items and that all such work (including restoration) is performed in accordance with the other provisions of this Exhibit. If Cogent shall fail to complete such removal and restoration within the aforesaid thirty (30) day time period, all such trade fixtures remaining within the Rack Space or at the Premises may, at Williams' option, become the sole property of Williams, and Williams may dispose of such trade fixtures as it deems appropriate. Cogent shall continue to pay the service fees specified herein or in the relevant Collocation Service Order, as applicable, until the earlier of: (i) Cogent's removal of such trade fixtures and completion of such restoral or (ii) Williams' taking possession of such trade fixtures as set forth above.

All work affecting the Rack Space shall be in compliance with all laws, ordinances, rules, regulations, orders and directives of governmental and quasi-governmental bodies and authorities having jurisdiction over the Premises and the Rack Space from time to time and Cogent shall obtain and keep in effect all licenses, permits and other authorizations required with respect to the business conducted by Cogent within the Rack Space.

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 7

10. Sole Use of Rack Space by Cogent.

Cogent acknowledges that it has been granted only a license to occupy the Rack Space and that it has not been granted any real property interests in the Rack Space. Except as part of a permitted assignment of the Agreement under the terms of Article XXIII of the Agreement, Cogent further agrees that neither this Exhibit nor any interest created herein shall be assigned, mortgaged, subleased, encumbered or otherwise transferred, and that neither the Rack Space nor any part thereof shall be encumbered in any manner by reason of any act or omission on the part of Cogent. Cogent further agrees that the Rack Space or any part thereof shall not be used or occupied, nor permitted to be used or occupied, by anyone other than Cogent. Any attempt to allow the use or occupation of the Rack Space by anyone other than Cogent, or to assign, mortgage, sublease or encumber any rights under this Exhibit by Cogent except as part of an assignment of the Agreement as aforesaid, shall, unless otherwise agreed to in writing by Williams, be void. In such event and in addition to any other remedies set forth in the Agreement, Williams shall have the right to terminate this Exhibit as to any or all Rack Space occupied by Cogent. Williams' agreement to any of these arrangements shall be in the sole discretion of Williams. Cogent's right to access the POPs in which POP Collocation Services are provided shall be subject to Williams' standard rules and regulations, as now or hereafter adopted or amended, applicable to Williams' collocation customers in such POPs.

11. Eminent Domain.

In the event of a taking by eminent domain (or a conveyance by any Landlord of all or any portion of the Premises to an entity having the power of eminent domain after receipt of actual notice of the threat of such taking) of all or any portion of the Premises so as to prevent, in Williams' sole discretion, the utilization by Cogent of the Rack Space in the Premises, the POP Collocation Services and license granted hereunder or the relevant Collocation Service Order(s) shall terminate as of the date of such taking or conveyance with respect to the Rack Space which is affected by such taking or conveyance and the service fees paid or to be paid by Cogent shall be reduced accordingly. Except as set forth below, Cogent shall have no claim against Williams for the value of the unexpired Collocation Service Term of the Rack Space affected thereby (or any portion thereof) or any claim or right to any portion of the amount that might be awarded to the Landlord of the Premises or Williams as a result of any such payment for condemnation or damages. Nothing contained in this Exhibit shall prohibit Cogent from seeking an award for its moving expenses under applicable law in the event of an eminent domain proceeding or condemnation which affects the Rack Space.

12. Damage to Premises.

If the building in which the Premises are located is damaged by fire or other casualty, Williams shall give notice to Cogent of such damage as quickly as practicable under the circumstances. If a Landlord or Williams exercises an option to terminate a particular Lease due to damage or destruction of the Premises subject to such Lease, or if Williams decides not to rebuild such building or portion thereof in which the Rack Space is located, the POP Collocation Service and license granted hereunder or under the relevant Collocation Service Order(s) shall terminate as of the date of such exercise or decision as to the affected Rack Space and the service fees paid by Cogent shall be modified accordingly. If neither the Landlord of the affected Premises nor Williams exercises the right to terminate, Williams shall repair the particular Rack Space to substantially the

CONFIDENTIAL AND PROPRIETARY

same condition it was in prior to the damage, completing the same with reasonable speed. In the event that Williams shall fail to complete the repair within a reasonable time period, Cogent shall thereupon have the option to terminate relevant POP Collocation Services with respect to the affected Rack Space, which option shall be the sole remedy available to Cogent against Williams under this Exhibit relating to such failure. If the Rack Space or any portion thereof shall be rendered unusable by reason of such damage, the service fees for such Rack Space shall proportionately abate, based on the amount of square footage which is rendered unusable, for the period from the date of such damage to the date when such damage shall have been repaired for the portion of the Rack Space rendered unusable.

13. Conduct in Rack Space & Premises.

Cogent shall abide by Williams' and applicable Landlord's rules with regard to conduct in the Premises. Such rules include, but are not limited to, a prohibition against smoking in the POP or the Premises by Cogent's employees, agents, representatives, contractors, subcontractors, invitees or licensees. Further, Cogent shall maintain the Rack Space in a safe condition, including but not limited to the preclusion of storing combustible materials in the Rack Space.

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 9

ATTACHMENT I TO EXHIBIT B-3

TECHNICAL SPECIFICATION FOR POP COLLOCATION SERVICE

1. Williams Network Standards, Descriptions & Tasks

1.1 DC Power

- 1.1.1 Backup electrical power, including batteries and shared use of an emergency generator to the extent such generator exists and is maintained to support the Premises.
- 1.1.2 DC power adequate for Cogent's consumption equated to power specified in applicable Collocation Service Order. A low-voltage and high-voltage battery alarm will be monitored by Williams.
- 1.1.3 Nominal 50 +/- 6V DC battery and charger supply with a minimum four (4) hour reserve will be provided by Williams.
- 1.1.4 Redundant chargers of adequate size will be provided by Williams, so that in the event of a charger failure the full load will be supplied to Cogent's equipment. A charger failure alarm will be monitored by Williams.

1.2 AC Power

- 1.2.1 A 20-amp four-plex AC receptacle will be available within reach of Cogent's Equipment. AC power and outlets for use with test equipment only and is not provided to operate the Equipment. This AC power is not provided over an Uninterruptable Power Source (UPS).
- 1.2.2 AC power supply to Cogent equipment is backed by generator where available, but is not UPS. This excludes utility outlets described in the immediately preceding subsection 1.2.1.

1.3 Environmentals

- 1.3.1 Pre-reaction sprinkler protection, where available. Smoke and fire alarms monitored by Williams.
- 1.3.2 Lighting.
- 1.3.3 Ground Bus and cable interconnect.
- 1.3.4 Grounding conductor will be supplied by Williams between the bus bar and Cogent's Equipment.
- 1.3.5 Overhead cable ladder

CONFIDENTIAL AND PROPRIETARY

- 1.3.6 Interconnect signal and power cabling between Williams and Cogent.
- 1.3.7 Concrete floors will be covered with vinyl tile.
- 1.3.8 Ambient temperature will be maintained by Williams between 60-90°F with an objective of 20-65% humidity.
- 1.3.9 General and administrative services directly relating to the provision of the above listed Collocation Services.

2. Cogent Standards, Descriptions & Tasks

2.1 Equipment Specifications

- 2.1.1 The Equipment should be designed to operate satisfactorily between 60-90°F with 20-65% (non-condensing) humidity. Low 60° and high 90° temperature alarms will be monitored by Williams.
- 2.1.2 Cogent will ensure that the Equipment and surrounding area do not pose safety hazards to personnel. This includes exposed AC electrical hazards, trip and slip hazards, hazardous material storage deficiencies, improperly secured or overloaded equipment racks or ladders, inadequate ingress and egress space. OSHA and local codes will apply.
- 2.1.3 Cogent will notify Williams of any significant Equipment additions or deletions (i.e. shelf or rack). Installation and removals will be coordinated with local Williams management.

2.2 Rack Space Specifications

- 2.2.1 Cogent will not jeopardize Collocation Service or damage property of other collocated customers, Williams, or Landlord in any manner.
- 2.2.2 Cogent will take precautions to protect Williams' and Landlord's common facility and nearby equipment belonging to other customers. This includes floor, wall, and telecommunication equipment protection while moving Equipment and notifying Williams of any major rearrangements of Equipment, drilling, power work, and similar potentially disruptive work.
- 2.2.3 Cogent will follow good cleanliness practices. All trash must be disposed of daily at Cogent's expense. Any trash or empty boxes not disposed of by Cogent is subject to removal by Williams with any associated charges borne by Cogent.
- 2.2.4 Nothing may be stored outside of the assigned rack space. A minimum of 2.5' of aisle space must be maintained at front and rear of Equipment.
- 2.2.5 No metal ladders, stools, or chairs may be used.

CONFIDENTIAL AND PROPRIETARY

- 2.2.6 Combustible or hazardous material may not be stored in the area.
- 2.2.7 All Equipment must be installed within the assigned rack footprint (i.e. UPS units, spare equipment).
- 2.2.8 All cabling will be terminated on DSX panels in the Williams common area. Fiber will be terminated on an appropriate Fiber Distribution Panel (“FDP”). Any panels for Cogent end will be supplied at Cogent’s expense.
- 2.2.9 Cogent is responsible for the termination of the A & B DC power and signal cabling in its Equipment.
- 2.2.10 Maximum DC power provided to Cogent as A & B power shall be rated for the rating of a single feed. Cogent is liable for an outage caused by the DC power exceeding the single feed rating. Cogent will be responsible for payment of consumed power exceeding the single feed rating specified in the Collocation Service Order.
- 2.2.11 Cogent will follow normal telecommunications industry standards with regards to equipment installation and removal in a central office environment. Williams standards are to be followed for connection of cables that interface with Williams. All installations are subject to approval by Williams.
- 2.2.12 Permanent use of extension cords is not allowed.
- 2.2.13 Cogent will not jeopardize Williams’ ability to conduct business in any manner.
- 2.2.14 All local, state, and federal laws will be obeyed. Local requirements for union labor, especially for AC electrical work, will be observed. Building management guidelines will be followed.
- 2.2.15 If Williams notifies Cogent in writing of a violation of the above rules, or any other unsafe or unacceptable situation or practice, Cogent must correct the problem within seven days or provide a written plan for correction to Williams’ satisfaction and proposed completion date. If the problem is not resolved in seven days or within a longer time frame agreed upon by Williams, Williams will have the option of either (i) correcting the problem at Cogent’s expense, or (ii) terminating the Collocation Service Order and disconnecting power and signal connections from Cogent’s Equipment. Extreme safety violations are subject to immediate correction by Williams without prior notice to Cogent. Corrections made by Williams are at Cogent’s expense and will be billed to Cogent on a time and material basis.

2.3 Access to POPs.

- 2.3.1 **Twenty-Four Hour Access.** Subject to the terms, conditions and requirements of this Exhibit B-2, Cogent shall have access to its POP Equipment 24 hours a day, 7 days per week.

CONFIDENTIAL AND PROPRIETARY

- 2.3.2 **Compliance with Sign-In Procedures.** Cogent shall follow Williams' sign-in procedures at all times. Cogent must coordinate its first visit to a particular Williams site with Williams' Network Control Center at (800) 582-9069 giving at least five (5) business days notice of such visit. For all subsequent entries, Cogent shall follow the procedure set forth in this Section 2.3.
- 2.3.3 **Certification of Cogent Employees and Contractors.** Only Cogent employees and Cogent contractors certified by Williams shall enter POP Collocation Sites unescorted. Williams shall grant certification to a Cogent employee or contractor if Cogent demonstrates that such employee or contractor has sufficient knowledge and experience in the installation and maintenance of telecommunications equipment. In addition to the provisions of Section 2.3.5, each certified employee or contractor shall abide by Williams' POP Maintenance and Safety Manual, as updated from time-to-time. The manual contains Williams' POP access policy, safety, engineering, and equipment installation standards. Cogent shall supply each employee or contractor that seeks certification with a copy of the manual provided by Williams and, subsequent to certification, with any updates thereto provided to Cogent by Williams. Until such time as Williams provides the manual to Cogent, certified Cogent employees and Cogent contractors shall conduct activities on Premises in accordance with telecommunications industry practices. The procedures for certification are as follows:
- (i) Cogent's single point of contact, discussed below in Section 2.3.4, shall contact Williams' Network Control Center at (800) 348-6925 (alternate number (800) 582-9069) to seek certification for a Cogent employee. Employee applicants shall be deemed certified seventy-two (72) hours after Williams receives all requested qualification information, unless Williams notifies Cogent's single point of contact that more information is reasonably required or that the applicant is denied certification in Williams' reasonable discretion.
 - (ii) For each Cogent contractor that seeks certification, Cogent shall provide Williams' Network Control Center with a letter of authorization signed by Cogent and the contractor. At a minimum, the letter of authorization shall state that the contractor is an agent of Cogent for the purpose of installing, maintaining or repairing Cogent Equipment or for other purposes specified by Cogent in the letter, set forth the names of contractor's employees for which Cogent seeks certification, and contain a statement that the contractor has received a copy of Williams' POP Maintenance and Safety Manual and the contractor agrees to abide by the reasonable policies contained therein and to those contained in any updated manuals provided to Cogent by Williams. If Cogent has not received a copy of Williams' POP Maintenance and Safety Manual by the time it submits a letter of authorization, the contractor shall state in the letter that it will abide by the policies and rules contained in the manual when it is provided. Cogent contractors shall be deemed certified seventy-two (72) hours after the latter of Williams' receipt of the letter of

CONFIDENTIAL AND PROPRIETARY

authorization or Williams' receipt of all additional requested qualification information, unless Williams notifies the applicant that more information is reasonably required or that the applicant is denied certification in Williams' reasonable discretion.

Once certified, Cogent's employees or contractors must call Williams' Network Control Center at (800) 348-6925 (alternate number (800) 582-9069) prior to entering or exiting the Space. Cogent shall provide Williams' Network Control Center with a list of "certified" employees or contractors that have passed Williams' certification process. It shall be Cogent's duty to notify Williams of any changes in Cogent's list of certified employees and contractors or if a certified Cogent employee or contractor leaves Cogent's or the contractor's employ.

- 2.3.4 **Single Point of Contact.** Within thirty (30) days after the Effective Date of the Agreement, Cogent shall designate a single point of contact for all future communications regarding common and JUCA space which shall be available twenty-four (24) hours a day, seven (7) days a week. Cogent's single point of contact shall be responsible for distributing information to Cogent's certified employees and contractors. Williams shall have no obligation to provide information regarding JUCA space to any technician other than the aforementioned single point of contact.
- 2.3.5 **Security.** Cogent shall abide by Williams' reasonable security requirements to the extent Cogent has been made aware of the same. When Williams' reasonable security requirements have been met, Cogent employees, customers, contractors, or representatives shall be issued passes or visitor identification cards which must be presented upon request before entry to any Williams' POP. Such passes or other identification shall be issued only to persons meeting any reasonable security criteria applicable at the relevant POP for such purpose. Williams shall provide Cogent's single point of contact, discussed in Section 2.3.4, with the access devices (e.g., access codes, card keys, keys, visitor identification cards) necessary for Cogent's certified employees and contractors to gain access to Cogent Equipment in JUCA space within each POP. Cogent's single point of contact shall be responsible for distributing access devices to Cogent's employees and contractors certified pursuant to Section 2.3.3 and shall distribute access devices only to such persons. Access devices will be provided by Williams to Cogent with Williams' Costs thereof to be reimbursed by Cogent within thirty (30) days after receipt of an invoice therefor. Cogent's certified employees and contractors shall not disseminate access codes or devices to any other person. Subject to Section 15.1 of the Agreement, Cogent shall be liable for any losses caused by use or misuse of such access devices and shall surrender access devices upon demand for cause or upon termination of the Agreement. Cogent acknowledges that third parties will have access to the JUCA or common space in which Cogent's Rack Spaces are located and agrees that Williams shall in no event be liable for the acts or omissions of such third parties.
- 2.3.6 **Right to Terminate Individual's Access.** Notwithstanding any other provision of these Collocation Provisions, Williams shall, without threat of liability, have the right

CONFIDENTIAL AND PROPRIETARY

to immediately terminate the right of access of any Cogent personnel or representative should it determine in its sole and reasonable discretion for any lawful reason that termination of such access is in its best interest. Williams shall promptly notify Cogent of any such termination, and Cogent shall have a reasonable opportunity to demonstrate that the terminated rights of access should be reinstated. Any termination of a specific individual's access shall remain in effect pending Williams' final determination as to the advisability of such reinstatement.

- 2.3.7 **Escort Requirement.** Cogent shall not enter any part of the Premises, other than JUCA Space pursuant to Section 2.3.3, without a Williams' escort. Cogent shall request and pay for such escort pursuant to Williams' procedures. Williams shall use commercially reasonable efforts to provide such escort within seventy-two (72) hours of Cogent's request (or at its option shall waive the escort requirement on a case-by-case basis). In the event of a service-affecting fault for which such entry is required, Williams shall use commercially reasonable efforts to provide such escort as soon as reasonably practicable.
- 2.3.8 **Emergency Situations.** Williams may temporarily prohibit or restrict Cogent's access to its JUCA Space in the event of a bona fide emergency situation. After the emergency situation has passed, Williams will again allow Cogent access to its JUCA Space pursuant to the terms and conditions herein.
- 2.3.9 **Subcontractors.** For purposes of this Section 2.3 of this Exhibit, the word "contractor" shall also include subcontractors of Cogent.

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 15

ATTACHMENT II TO EXHIBIT B-3

WILLIAMS COLLOCATION SERVICE REQUEST

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 16

ATTACHMENT III TO EXHIBIT B-3

WILLIAMS COLLOCATION SERVICE ORDER

CONFIDENTIAL AND PROPRIETARY

Exhibit B-3, Page 17

EXHIBIT C

Fiber Splicing, Testing, and Acceptance Standards and Procedures

1. Initial Construction Testing

A. During initial construction, Williams shall use an optical time domain reflectometer (“OTDR”) to test splices and an OTDR and a 1-km launch reel to test pigtail connectors. Such initial construction tests shall be uni-directional and performed at 1550 nm.

B. If the loss value of two connectors and the associated pigtail splice exceeds 1 dB, Williams shall break the splice and re-splice until the loss value is 1.0 dB or less. If Williams is unable to achieve a loss value of 1.0 dB or less after five total splicing attempts, the splice shall be marked as Out-of-Spec (OOS).

C. If the loss value for a splice, when measured in one direction with an OTDR, exceeds 0.15 dB, Williams shall break the splice and re-splice until the loss value is 0.15 dB or less, provided that, if Williams is not able to achieve a loss value of 0.15 dB after three total splicing attempts, then the maximum loss value shall be 0.3 dB. If, after two additional resplicing attempts, Williams is not able to achieve a loss value of 0.3 dB or less, then Williams shall mark the splice as Out-of-Spec (OOS).

2. End-to-End Testing

A. After Williams has established end-to-end connectivity on the fibers during initial construction, it shall:

- perform bi-directional end-to-end tests,
- test continuity to confirm that no fibers have been “frogged” or crossed at any splice points,
- record loss measurements using a light source and a power meter, and
- take OTDR traces and record splice loss measurements.

B. Williams shall perform the bi-directional end-to-end tests and OTDR traces at both 1310 nm and 1550 nm, provided that 1310nm OTDR tests are not required for Spans longer than 64 kilometers. The results of such tests for any given Span of the System shall not be deemed within specification unless showing loss measurements between fiber distribution panels at each end of such Span to be in accordance with the loss specifications set forth in Exhibit D for the applicable fiber type and not to exceed a loss value of 0.3 dB per kilometer. Williams shall make commercially reasonable efforts to achieve a loss value on each Span of the System of 0.25 dB per kilometer. Williams shall measure and verify losses for each splice point in both directions and average the loss values. Williams shall mark any splice points as Out-of-Spec (OOS) that have an average loss value, based on bi-directional OTDR testing, in excess of 0.3 dB.

CONFIDENTIAL AND PROPRIETARY

Exhibit C, Page 1

3. Post-Construction Testing

After performing permanent resplicing (in conjunction with repair of a cable cut, replacement of a segment of cable, or other work after initial installation and splicing of the cable), the test procedures set forth in Section 2 (End-to-End Testing) of this Exhibit, shall apply to the relevant fibers and cable segments. The provisions in Sections 4 (OTDR Equipment and Settings) and 5 (Acceptance Test Deliverables) of this Exhibit, that are relevant to such testing shall also apply. Williams may, after the Acceptance Date, adopt any alternative methods of testing that are generally accepted in the industry and that provide sufficient data to fulfill the objectives of the tests set forth in this Exhibit.

4. Out-of-Spec Splices

Out-of-Spec splices shall be noted, but shall not preclude Acceptance of a fiber if the Out-of-Spec condition does not affect transmission capability (based on use of then-prevailing telecommunications industry standards applicable to equipment generally used with the relevant type of fiber) or create a significant possibility of an outage.

5. OTDR Equipment and Settings

Williams shall use OTDR equipment and settings that are, in its reasonable opinion, suitable for performing accurate measurements of the fiber installed. Such equipment and settings shall include, without limitation, the Laser Precision TD3000 and CMA4000 models and compatible models for OTDR testing, and the following settings:

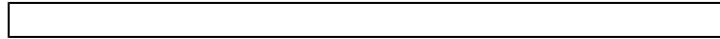
A. Index of refraction settings:

	1310 nm	1550 nm
Lucent Truwave	1.4738	1.4732
Corning SMF-28	1.4675	1.4681
Corning SMF-LS	1.471	1.470
Corning LEAF	1.470	1.469
Sumitomo fiber	1.467	1.467

B. Tests of a pigtail connector and its associated splice:

TD3000	CMA4000
4 km Range	4 km Range
10ns Pulse	10ns Pulse
0.25 m Resolution	0.25 m Resolution
Medium Averaging	Medium Averaging

CONFIDENTIAL AND PROPRIETARY



C. End-to-End Segment OTDR Testing:

TD3000	CMA4000
64 km Range	64 km Range
500 ns Pulse	1001 ns Pulse
4 m Resolution	4 m Resolution
Medium Averaging	Medium Averaging

Note: If the end points are more than 64 kilometers apart, Williams currently uses a TD3000 set at 128 km range setting and performs bi-directional testing only at 1550 nm.

6. Acceptance Test Deliverables

Williams shall provide computer media containing the following information for the relevant fibers and cable segments:

- A. Verification of end-to-end fiber continuity with power level readings for each fiber taken with a light source and power meter.
- B. Verification that the loss at each splice point is either (i) below 0.3 dB or (ii) in accordance with the requirements of Section 4 of this Exhibit.
- C. The final bi-directional OTDR test data, with distances.
- D. Cable manufacturer, cable type (buffer/ribbon), fiber type, number of fibers, number of fibers per tube, and distance of each section of cable between splice points.
- E. Identification of any portions utilizing optical groundwire.

7. General Testing Procedures and Acceptance

A. As soon as Williams determines that the Cogent Fibers in a given Major Segment meet the Acceptance Standards and all Transmission Sites and intermediate POP Collocation Sites which are not terminal endpoints of Major Segments along such Major Segment are completed and ready for occupancy by Cogent under the terms of Exhibit B-1 or Exhibit B-3 of the Agreement, as applicable, it shall provide the deliverables set forth in Section 6 of this Exhibit. As used in the preceding sentence, “terminal endpoints” of Major Segments are those certain POP Collocation Sites shown in bold print in Exhibit A-2 of the Agreement. Cogent shall have fourteen (14) calendar days

CONFIDENTIAL AND PROPRIETARY

after receipt of test deliverables for any Segment to provide Williams written notice of any bona fide determination that the Cogent Fibers on such Segment do not meet the Acceptance Standards. Such notice shall identify the specific data that indicate a failure to meet the Acceptance Standards.

- B. Upon receiving written notice pursuant to Subsection 7.A of this Exhibit, Williams shall either:
- (i) expeditiously take such action as shall be reasonably necessary to cause such portion of the Cogent Fibers to meet the Acceptance Standards and then re-test the Cogent Fibers in accordance with the provisions of this Exhibit; or
 - (ii) provide Cogent written notice that Williams disputes Cogent's determination that the Cogent Fibers do not meet the Acceptance Standards.

After taking corrective actions and re-testing the Cogent Fibers, Williams shall provide Cogent with a copy of the new test deliverables and Cogent shall again have all rights provided in this Article with respect to such new test deliverables. The cycle described above of testing, taking corrective action and re-testing shall take place until the Cogent Fibers meet the Acceptance Standards.

C. If Williams provides notice to Cogent pursuant to Clause B(ii), Cogent shall within five (5) calendar days of such notice designate by written notice to Williams the names and addresses of three reputable and independent fiber optic testing companies. Williams shall designate one of such companies to conduct an independent re-test of the Cogent Fibers for the relevant Segment. If, after such re-testing, the testing company determines that the Cogent Fibers

- (i) meet the Acceptance Standards, then Cogent shall pay the testing company's charges for performing the testing and the acceptance date for the relevant Segment shall be fourteen days after Williams provided its test deliverables.
- (ii) do not meet the Acceptance Standards, then Williams shall pay the testing company's charges for performing the testing and shall perform the corrective action and re-testing set forth in Subsection B(i).

D. Unless Cogent provides a written objection pursuant to Subsection A, the acceptance date of a Segment shall occur on the fourteenth (14th) day after Williams provides the test deliverables for that Segment, or, if earlier, the date Cogent provides written acceptance of such Segment. Cogent's acceptance (pursuant to this subsection or of Subsection C) of the last Segment to be accepted within a Major Segment shall constitute Cogent's "Acceptance" of the Cogent Fibers for such Major Segment. The date of Cogent's Acceptance for each Major Segment shall be referred to as the "Acceptance Date".

8. Time for Delivery of Test Results; Test Schedule

A. If Williams' Fiber Acceptance Testing begins prior to the twentieth (20th) day after the Effective Date, then Williams shall provide Cogent with a copy of the test deliverables on a Segment-by-Segment basis within twenty (20) calendar days after the later of (i) the conclusion of such Fiber Acceptance Testing of a Segment or (ii) the Effective Date.

CONFIDENTIAL AND PROPRIETARY

B. If Williams' Fiber Acceptance Testing begins on or after the twentieth (20th) day after the Effective Date, the provisions of this subsection shall apply. Williams' Fiber Acceptance Testing shall progress Segment by Segment along the System as cable splicing progresses, so that test deliverables may be reviewed in a timely manner. Cogent shall have the right, but not the obligation, to have an individual present to observe the Fiber Acceptance Testing and Williams shall provide Cogent at least seven days' prior notice of Williams' testing schedule. Within twenty (20) calendar days after the conclusion of any Fiber Acceptance Testing of the Cogent Fibers conducted by Williams in any given Segment, Williams shall provide Cogent with a copy of the test deliverables.

C. Williams shall, upon written request, provide Cogent with its testing schedule for any Segment promptly after developing such schedule.

9. Cogent Testing

A. Cogent shall have the right, but not the obligation, at its sole expense, to conduct its own Fiber Acceptance Testing of the Cogent Fibers in accordance with Section 2 of this Exhibit, regardless of whether Williams has previously completed Fiber Acceptance Testing.

B. The following procedures shall apply to Cogent testing:

- (i) If Williams' Fiber Acceptance Testing begins on or after the twentieth (20th) day after the Effective Date, Cogent may perform its own concurrent Fiber Acceptance Testing of the Cogent Fibers at the same time Williams performs testing at each location. If Cogent elects to perform such testing, it shall notify Williams of its intent to do so no later than ten days after the Effective Date. The parties shall cooperate to facilitate such separate, but concurrent, Fiber Acceptance Testing, provided that the Cogent shall conform to Williams' testing schedule.
- (ii) If Williams' Fiber Acceptance Testing begins prior to the twentieth (20th) day after the Effective Date, or if Cogent does not elect to perform concurrent testing pursuant to Subsection 9.A of this Exhibit, Cogent may perform its own Fiber Acceptance Testing of the Cogent Fibers after Williams' Fiber Acceptance Testing begins. Cogent shall provide Williams at least seven days' prior notice of Cogent's testing schedule. Williams shall have the right, but not the obligation, to have an individual present to observe Cogent's Fiber Acceptance Testing.
- (iii) Within twenty (20) calendar days after the conclusion of any Fiber Acceptance Testing of the Cogent Fibers conducted by Cogent in any given Segment, Cogent shall notify Williams of any detected failures to meet the specifications set forth in Section 2 of this Exhibit. Cogent's exercise or non-exercise of its right to conduct Fiber Acceptance Testing shall not extend or shorten the time periods for Cogent to determine, pursuant to the Agreement, if the Fibers meet the Acceptance Standards.
- (iv) Cogent must notify Williams of its intent to perform acceptance testing within ten (10) calendar days following the receipt of either the notification of route completion or the final acceptance test results, whichever occurs later.

CONFIDENTIAL AND PROPRIETARY

EXHIBIT D

FIBER SPECIFICATIONS

[Engineering specifications including description, optical specifications, environmental specifications, dimensional specifications, mechanical specifications, and performance characterizations for Corning(R) Leaf(TM) CPC6 Single-Mode Non-Zero dispersion-shifted optical fiber and Corning(R) SMF-28(TM) CPC6 single-mode optical fiber.]

CONFIDENTIAL AND PROPRIETARY

Exhibit D, Page 1

EXHIBIT E

Cable Installation Specifications

1. Material

- Steel or PVC conduit shall be minimum schedule 40 wall thickness.
- Any exposed steel conduit, brackets or hardware (e.g., bridge attachments) shall be hot-dipped galvanized after fabrication.
- All split steel shall be flanged.
- Handholes shall have a minimum H-15 loading rating.
- Manholes shall have a minimum H-20 loading rating.
- Warning signs shall display universal do not dig symbol, "Warning-Buried Fiber-Optic Cable," company name and logo, local and emergency One Call toll-free numbers.

2. Minimum Depths

Minimum cover required in the placement of the conduit/cable shall be forty-two inches (42"), except in the following instances:

- The minimum cover in ditches adjacent to roads, highways, railroads and interstates is forty-eight inches (48") below the clean out line or existing grade, whichever is greater.
- The minimum cover across streams, river washes, and other waterways shall be sixty inches (60") below the clean out line or existing grade, whichever is greater.
- At locations where the cable crosses other subsurface utilities or other structures, the cable/conduit shall be installed to provide a minimum of twelve inches (12") of vertical clearance from the utility/obstacle. The cable/conduit can be placed above the utility/obstacle, provided the minimum clearance and applicable minimum depth can be maintained; otherwise the cable/conduit shall be installed under the existing utility or other structure.
- In rock, the cable/conduit shall be placed to provide a minimum of eighteen inches (18") below the surface of the solid rock, or provide a minimum of forty-two inches (42") of total cover, whichever requires the least rock excavation.
- Where existing pipe is used, current depth is sufficient.

3. Buried Cable Warning Tape

All cable/conduit shall be installed with buried cable warning tape. The warning tape shall be:

- laid a minimum of twelve inches (12") above the cable/conduit
- generally placed at a depth of twenty-four inches (24") below grade and directly above the cable/conduit

CONFIDENTIAL AND PROPRIETARY

- a minimum of three inches (3”) wide and display “Warning-Buried Fiber-Optic Cable,” a company name, logo and emergency one-call toll-free number repeated every twenty-four inches (24”).

4. Conduit Construction

- Conduits may be placed by means of trenching, plowing, jack and bore, multi-directional bore or directional bore.
- Conduits shall generally be placed on a level grade parallel to the surface, with only gradual changes in grade elevation.
- Steel conduit shall be joined with threaded collars, Zap-Lok or welding. (Welding is the preferred method.)
- All jack and bores shall use HDPE or steel conduit.
- All directional or mini-directional bores shall use HDPE or steel conduit.
- Any cable placed in swamp or wetland areas shall be placed in HDPE, PVC, or steel conduit.

Where required by the permitting agency:

- all crossings of paved city, county, state, federal, and interstate highways, or railroad crossings shall be encased in steel conduit,
- all longitudinal cable runs under paved streets shall be placed in steel or concrete encased PVC conduit,
- all cable placed in metropolitan areas shall be placed in steel or concrete covered PVC conduit, and
- at all foreign utility/underground obstacle crossings, steel conduit shall be placed and shall extend at least five feet (5’) beyond the outer limits of the obstacle in both directions.

5. Innerduct Installation

- No cable shall be placed directly in any split/solid steel conduit without innerduct.
- Innerduct(s) shall extend beyond the end of all conduits a minimum of eighteen inches (18”).

6. Cable Installation in Conduit

- The cable shall be installed using either a sealed pneumatic cable blowing system or a powered pulling winch and hydraulic powered assist pulling wheels.
- The maximum pulling force to be applied to the cable shall be six hundred pounds (600 lbs.).
- Sufficient pulling assists shall be available and used to insure the maximum pulling force is not exceeded at any point along the pull.
- The cable shall be lubricated at the reel and all pulling assist locations.
- A pulling swivel breakaway rated at six hundred pounds (600 lbs.) shall be used at all times.

CONFIDENTIAL AND PROPRIETARY

Exhibit E, Page 2

- Splices shall be allowed only at planned junctions and reel ends.
- All splices shall be contained in a handhole or manhole.
- A minimum of twenty meters (20m) of slack cable shall be left in all intermediate handholes and manholes.
- A minimum of thirty meters (30m) of slack cable shall be left in all splice locations.
- A minimum of fifty meters (50m) of slack cable shall be left in Transmission Sites and points of presence.
- PVC conduit/innerduct may be split, with the cable installed inside the split duct and plowed in.

7. Manholes and Handholes

- Manholes shall be placed in traveled surface streets and shall have locking lids.
- Handholes shall be placed in all other areas, and be installed with a minimum of eighteen inches (18") of soil covering lid.

8. EMS Markers

EMS Markers shall be placed directly above the lid of all buried handholes or shall be fabricated into the lids of the handholes.

9. Cable Markers (Warning Signs)

- Cable markers shall be installed at all changes in cable running line direction, splices, pull boxes, assist-pulling locations, and at both sides of street, highway or railroad crossings.
- Markers shall be spaced at intervals of no more than five hundred feet (500') apart in metropolitan areas (areas where there is either extensive development and improvement or rapid growth (new building construction) and within line of sight (not to exceed one thousand feet (1,000') in non-metropolitan areas.
- Markers shall be positioned so that they can be seen from the location of the cable and generally set facing perpendicular to the cable running line.
- Splices and pull boxes shall be marked on the cable marker post.

10. Fiber Optic Groundwire

The Williams Communications, Inc. Optical Groundwire Specifications (Issue 1; October 15, 1996) shall apply to optical groundwire (aerial fibers installed within power transmission groundwire cable). Sections 2 through 9 of this Exhibit shall be inapplicable to optical groundwire. Upon written request, Williams shall promptly provide a copy of its Optical Groundwire Specifications.

CONFIDENTIAL AND PROPRIETARY

11. Updating of Specifications

Williams may revise these Cable Installation Specifications to include new procedures, materials, or processes so long as the changes achieve the objectives of the specifications set forth above and are in accordance with, or superior to, then-current telecommunications industry standards.

CONFIDENTIAL AND PROPRIETARY

Exhibit E, Page 4

EXHIBIT F

As-Built Drawing Specifications

1. Alignment Sheets

A. As-Built Alignment Sheets shall include:

- survey information (either from existing data or new information)
- cable and conduit information
- splice locations
- assist point locations with permanent structures
- survey stations
- Transmission Site locations
- optical distances to the nearest Transmission Sites from each splice location.

B. As-Built Alignment Sheets shall be updated with actual construction field data.

C. The scale of As-Built Alignment Sheets shall not exceed 1" = 200' in metropolitan areas (areas where there is either extensive development and improvement or rapid growth (new building construction)) or 1" = 500' in non-metropolitan areas.

2. Format

Drawings shall be "blue lines", as such term is understood in the industry or in CAD format revision 13 or a later revision. Williams may, after the Acceptance Date, adopt any replacement method of creating or providing drawings that is generally accepted in the industry and that provides equivalent information.

3. Transmission Site Floor Plans

Floor plans for Transmission Sites shall show rack placement and assignment for Cogent's floor space.

CONFIDENTIAL AND PROPRIETARY

EXHIBIT G

Operations Specifications

1. Routine Maintenance

Williams shall perform the work and provide the services set forth in the following paragraphs A through E as Routine Maintenance:

A. NCC Functions. Williams shall operate a manned Network Control Center (“NCC”) twenty-four (24) hours a day, seven (7) days a week that monitors the System by means of remote surveillance equipment and dispatches maintenance and repair personnel to handle and repair problems detected by the NCC or reported by Cogent or other parties. Williams shall provide Cogent a toll-free telephone number to report problems to the NCC.

B. Cable Maintenance. Williams shall perform appropriate routine maintenance on the Cable in accordance with Williams’ then-current preventative maintenance procedures as specified in Williams’ Operations Manual (the “Operations Manual”). Williams may revise the Operations Manual to include new procedures, materials or processes from time to time. Williams’ preventative maintenance procedures shall not substantially deviate from industry practice.

C. Transmission Site Maintenance. Williams shall perform appropriate routine maintenance on regenerator, optical amplifier, and junction buildings, including the DC power plant, HVAC equipment, and basic building safety equipment including alarms and emergency generators in accordance with Williams’ then current preventative maintenance procedures. Williams’ preventative maintenance procedures shall not substantially deviate from industry practice.

D. Route Patrol. Williams shall patrol the System route on a reasonable, routine basis and shall perform all required Cable locates. Williams shall belong to a state or regional one-call (call-before you dig) center when available.

E. Spare Cable. Williams shall maintain an inventory of spare cable at strategic locations to facilitate timely restoration.

2. Planned Network Maintenance Activity

A. Timing. Williams shall avoid performing maintenance between 0600-2200 local Tulsa time, Monday through Friday, inclusive, that will have a disruptive impact on the continuity or performance level of the Cogent Fibers. However, the preceding sentence does not apply to restoration of continuity to a severed or partially severed fiber optic cable, restoration of dysfunctional power and ancillary support equipment, or correction of any potential jeopardy conditions.

B. Notice. Williams shall provide Cogent with telephone, facsimile, or written notice of all non-emergency planned network maintenance (a) no later than three (3) banking days prior to performing maintenance that, in its reasonable opinion, has a substantial likelihood of affecting Cogent’s traffic for up to 50 milliseconds, and (b) no later than ten (10) banking days prior to

CONFIDENTIAL AND PROPRIETARY

performing maintenance that, in its reasonable opinion, has a substantial likelihood of affecting Cogent's traffic for more than 50 milliseconds. If Williams' planned activity is canceled or delayed, Williams shall promptly notify Cogent and shall comply with the provisions of the previous sentence to reschedule any delayed activity.

3. Fiber and Cable

A. Emergency Repair. Williams shall correct or repair Cable discontinuity or damage in accordance with the procedures set forth in the Operations Manual. Williams shall use commercially reasonable efforts to repair Cable traffic discontinuity within the following times:

- Dispatch of personnel to problem area – immediately upon learning of discontinuity
- Arrival of first maintenance employee on site – within four (4) hours of learning of discontinuity
- Restoration of Cable continuity – continuity of at least one fiber shall be established within six (6) hours of learning of discontinuity; restoration shall continue until all in-service fibers are restored in accordance with the alternating fiber restoral procedure described in the Operations Manual.

B. Permanent Repair. Within twenty-four (24) hours after completion of an emergency repair, Williams shall commence its planning for permanent repair, shall notify Cogent of such plans, and shall implement such permanent repair within an appropriate time thereafter.

C. Splicing Specifications. Williams shall comply with the Cable splicing specifications as provided in Exhibit C. Williams shall provide to Cogent any modifications to these specifications for Cogent's approval, which shall not be unreasonably withheld or delayed, so long as the modifications do not substantially deviate from industry standards.

4. Miscellaneous

A. Full-Time Dispatch Capability. Williams' maintenance employees shall be available for dispatch twenty-four (24) hours a day, seven (7) days a week. Williams shall use commercially reasonable efforts to have its first maintenance employee at the site requiring an emergency maintenance activity within four (4) hours from the time of alarm identification by Williams' NCC or notification by Cogent, whichever occurs first. Emergency maintenance is defined as any service-affecting situations requiring an immediate response.

B. Standard of Care; Cooperation. In performing its services hereunder, Williams shall take workmanlike care to prevent impairment to the signal continuity and performance of the System. In addition, Williams shall reasonably cooperate with Cogent in sharing information and analyzing the disturbances regarding the cable and/or fiber facilities.

C. Cogent Equipment. Nothing contained herein shall make Williams responsible for Cogent Equipment. If, however, Williams agrees to maintain Cogent Equipment, Cogent shall provide equipment spares, vendor training and documentation for each technician along the System route when Cogent uses equipment different from that used by Williams.

CONFIDENTIAL AND PROPRIETARY

D. Escalation List. Williams shall, at Cogent's request, provide Cogent an operations escalation list for use in reporting and seeking redress of exceptions noted in Williams' performance of Routine Maintenance and Non-Routine Maintenance.

CONFIDENTIAL AND PROPRIETARY

Exhibit G, Page 3

EXHIBIT H

Interconnections

1. Interconnection Points

A. Permitted Connecting Points. Cogent may request that Williams establish Connecting Points with other telecommunications facilities (“Interconnect Facilities”) at Williams’ standard rates, at (i) fiber distribution panels at the Cable end points, (ii) fiber distribution panels at Transmission Sites, or (iii) at particular agreed to splice points in meet me vaults subject to the terms and conditions of Attachment 1 to this Exhibit H ((i), (ii) and (iii) collectively, “Connecting Points”). Cogent shall have no right to establish any connection to the System other than at such locations. Any splice described in clause (iii) above established hereunder shall be referred to herein as a “Cogent Splice”.

B. No Cogent Access to Cable. Cogent shall have no right to access any Fibers within the Cable or to enter any splice or Williams vault.

2. Requests for Interconnections

A. Connection Requests. Cogent shall provide Williams at least thirty (30) days’ notice (the “Interconnect Notice”) of the date it requests that a connection be completed or sixty (60) days’ notice if the connection requires installation of Cogent Equipment at a Transmission Site or POP. The Interconnect Notice shall set forth a description of the work required to be performed including:

- (i) the connection location (which shall be at a permitted Connecting Point as set forth in Subsection 1.A of this Exhibit);
- (ii) a copy of Cogent’s construction design drawings including a diagram of the desired location of the Interconnect Facilities and Cogent Equipment;
- (iii) identification of all Interconnect Facilities and Cogent Equipment to be installed;
- (iv) Cogent’s requested installation schedule;
- (v) any excess cable storage requirements;
- (vi) the space, power, environmental and other requirements for the Interconnect Facilities and Cogent Equipment;
- (vii) the estimated in-service and termination dates for the interconnection; and
- (viii) all other information reasonably required by Williams.

B. Response to Requests. Within twenty-one (21) days of receiving the Interconnect Notice, Williams shall respond with its acceptance or objections to the proposed interconnection. Williams shall use commercially reasonable efforts to accommodate the request, but may restrict

CONFIDENTIAL AND PROPRIETARY

such work to the planned system work periods set forth in Exhibit G. Williams may decline to make a requested connection if Williams determines, in its reasonable discretion, that there is a significant likelihood that (i) Cogent's use of a proposed connection would cause a material and adverse effect on the System or the use thereof; (ii) use of a particular location will cause a significant technical impediment; or (iii) the making or existence of the connection presents an unreasonable risk of creating an interruption of transmission.

3. Demarcation and Ownership

A. Demarcation Points. Williams shall designate an installation demarcation point and a maintenance demarcation point (which may be a different point) for each interconnection in order to safeguard and maintain sole control over the System. Williams shall perform all installation work on facilities on its side of the installation demarcation point and shall perform all post-installation work on facilities on its side of the maintenance demarcation point. Cogent shall pay the Costs of such installation and post-installation work as set forth in this Exhibit. Installation by Williams of the Interconnect Facility shall extend no further than the boundary of Williams' right-of-way or other property unless otherwise mutually agreed to by the parties.

B. Ownership. Cogent shall retain ownership of Interconnect Facilities during the Term. At the end of the Term, title to any portion of an Interconnect Facility located on Transmission Sites or other Williams premises or right-of-way shall pass to Williams.

4. Installation of Interconnect Facilities

A. Spur Cable. Cogent shall, prior to the requested connection date, provide a spur cable adequate to reach the Connecting Point with an additional length (minimum 25 meters) sufficient for Williams to perform splicing.

B. Rights of Way and Equipment. Cogent shall provide, at its sole cost and expense, any and all necessary rights of way, permits, access rights, and any required consents or authorizations, and Williams-approved materials and equipment (including cables and conduit) necessary for the construction, use, operation, maintenance and repair of each Interconnect Facility. If necessary, and where applicable, Williams shall assist Cogent, at Cogent's expense, in obtaining from any third-party building owner or Williams' lessor access to existing building entrance facilities, if available, to access and exit Transmission Sites. Otherwise, Cogent shall be solely responsible for obtaining all necessary rights for the Interconnect Facility, as described in the first sentence of this Subsection, and Williams does not make and hereby disclaims any warranties or representations that such rights are available at any particular location or regarding the cost or availability of such rights.

5. Maintenance of Interconnect Facilities

A. Maintenance and Changes. Cogent shall provide all maintenance and repair of the Interconnect Facility on Cogent's side of the maintenance demarcation point. Any improvement, modification, addition to, relocation, or removal of, the Interconnect Facility by Cogent at Transmission Sites or other Williams premises shall be subject to Williams' prior review and written approval and shall be performed by Williams to the extent required work is on Williams' side of the applicable demarcation point. Cogent shall pay the Cost of such improvement, modification,

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 2

addition to, relocation, or removal of, the Interconnect Facility and of the Cost of repairing any damage due to Cogent's actions. Williams' maintenance responsibility shall be limited to the Interconnect Facilities on its side of the maintenance demarcation point and the associated cross connect or other connection at that point.

B. Unusual Costs. Williams may require Cogent to pay additional Costs incurred in maintaining any connection that presents unusual problems of access for Williams.

C. Standards. Cogent shall (except to the extent Williams has installation or maintenance responsibility) ensure that any Interconnect Facilities are installed, operated, and maintained to meet or exceed any reasonable requirements of Williams, any requirements of Williams' building management or insurance underwriters, and any applicable local, state and federal codes and public health and safety laws and regulations (including fire regulations and the National Electric Code).

6. Additional Provisions Applicable to Transmission Sites and POPs

A. Limitations on Transmission Site Interconnections. Transmission Sites are established and designed to support network transmission equipment and, therefore, no interconnections may be made at such sites for other purposes, such as directly or indirectly connecting to local exchange carrier facilities or other local access facilities or for purposes of providing local exchange carrier or local access services.

B. Prohibition on Dark Fiber Cross-Connects with Other Collocation Customers. Cogent shall not establish Dark Fiber cross-connects between Cogent's collocated facilities or the Cogent Equipment and the collocated facilities of other parties who are using a Transmission Site or POP. Cogent shall not use any Interconnect Facility to allow third parties collocated in any Transmission Site or POP to interconnect with each other at that Transmission Site or POP.

C. Additional Collocation Requirements. If any Interconnect Facility requires installation or storage of Cogent Equipment (other than the spur cable) at Williams premises, Cogent must arrange for collocation of such Cogent Equipment through the Collocation Provisions (as an Additional Service) or pursuant to a separate written agreement.

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 3

Attachment 1 to Exhibit H

Requirements Applicable to Cogent Splices

- A. At any time there is cable activity (including without limitation, initial installation of the Cogent Splice, repair of cable cuts or other cable damage, and relocation of cable) on the span (the “Spliced Span”) where the Cogent Splice is located, Cogent shall (a) provide Williams access to Cogent’s fiber distribution panels (“FDPs”) to conduct bi-directional testing of the Spliced Span and (b) at Williams’ request (written, oral, or electronic) promptly provide a trained and qualified technician with an optical time-domain reflectometer (OTDR) at its FDP to aid in the cable activity. If Cogent cannot provide the technician and OTDR then Cogent shall provide Williams access to Cogent’s FDP for the duration of the cable activity.
- B. Williams shall perform all splicing activity at the Cogent Splice point.
- C. Williams’ Network Control Center (NCC) shall remain the central point of contact, and shall control all cable activity.
- D. Williams shall be relieved from any obligations in the Agreement or otherwise to restore or maintain the Cogent Fibers to the extent the existence of the Cogent Splice interferes with or increases the time for performing such obligations.
- E. During a cable emergency situation in which Williams requires access to Cogent’s FDP or other facilities because of the Cogent Splice, Williams shall make reasonable efforts to coordinate with Cogent’s technician. If Cogent’s technician is not on site and available to work with the Williams technicians, then Williams shall proceed with “blind” fiber splicing of the Cogent’s Fibers (i.e., splicing without the ability to test the Spliced Span). Williams may defer blind splicing until all other fibers in the damaged cable are spliced.
- F. The Agreement does not provide for fiber rolls to dark fiber to restore Cogent’s service. However, if Williams does elect to provide fiber rolls, it may elect not to allow fiber rolls on the Spliced Span.
- G. If Cogent reports a damaged fiber on the Spliced Span and Williams is not aware of any continuity problems on its System, Cogent shall have the burden of demonstrating that the problem is a result of damage to a Cogent Fiber. Cogent must use an OTDR to demonstrate that the problem is not a result of conditions off the System and beyond the Cogent Splice point.
- H. The provisions of Paragraphs D, F, and G and the provisions of Paragraph E relating to blind splices shall apply (i) only to the Cogent Fibers having a mid-span interconnection Cogent Splice and (ii) only to the extent such Cogent fibers are on a Spliced Span.
- I. Cogent may only have Williams perform a mid-span interconnection Cogent Splice at existing Williams splice points and then only with Williams’ prior written consent.
- J. Williams is not obligated to perform any maintenance, repair, or restoration on the Cogent interconnection beyond the Cogent Splice.

CONFIDENTIAL AND PROPRIETARY

FIRST AMENDMENT TO DARK FIBER IRU AGREEMENT

THIS FIRST AMENDMENT TO DARK FIBER IRU AGREEMENT (this “Amendment”) is made as of June 27, 2000 by and between WILLIAMS COMMUNICATIONS, INC., a Delaware corporation (“Williams”) and COGENT COMMUNICATIONS, INC., a Delaware corporation (“Cogent”).

WITNESSETH:

WHEREAS, Williams and Cogent entered into that certain Dark Fiber IRU Agreement (the “Agreement”) on April 14, 2000 under which Williams granted to Cogent and Cogent acquired from Williams the Cogent Lease/IRU Rights in and to the Initial Cogent Fibers as defined and described therein;

WHEREAS, pursuant to the terms of Subsection 2.4(a) of the Agreement, Cogent has the option to acquire Additional Fibers from Williams as hereafter described; and

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties hereto agree as follows:

1. **Exercise of Option to Obtain Lease/IRU Rights in Additional Fibers.** Pursuant to Subsection 2.4(a) of the Agreement, Cogent hereby exercises, and Williams hereby confirms availability and accepts Cogent’s exercise of, its right to obtain Cogent IRU/Lease Rights in one (1) additional Dark Fiber in all Major Segments at a price of [*] per Fiber Mile. As provided in Section 2.4 of the Agreement, the Cogent Lease/IRU Rights in the Additional Dark Fibers acquired pursuant to this Amendment shall be subject to all terms and conditions set forth in the Agreement except as modified by this Amendment and except that the Estimated Completion Date with respect to the Additional Fibers obtained hereunder in the Atlanta to Washington, D.C. Segment shall be March 1, 2001. Cogent acknowledges and agrees that the option described in Subsection 2.4(a) is a one-time option and as a result of its exercise thereof under this Amendment, Cogent shall have no further rights or options under said Subsection 2.4(a).

2. **Payment for Additional Fibers Acquired Under this Amendment.** The total estimated Contract Price for the Cogent Lease/IRU Rights in the Additional Fibers acquired by Cogent under this Amendment for all Major Segments is set forth in Exhibit A. Williams and Cogent hereby agree that for purposes of this Amendment and Cogent’s exercise of the option under Section 2.4(a) hereunder only, Section 3.3 of the Agreement is hereby amended by deleting clauses (a) and (b) therein and replacing the same with the following:

(a) The sum of [*] is due and payable within three (3) banking days after the date this Amendment has been executed by both parties;

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 5

- (b) The sum of [*] is due and payable on December 27, 2000; and
- (c) The sum of [*] is due and payable on June 27, 2001.

Cogent may, at its option, prepay any or all of the payments under (a) through (c) above at any time prior to the applicable due date(s) without penalty. Notwithstanding any provision of this Amendment or the Agreement to the contrary, the amounts payable under this Section for the Cogent Lease/IRU Rights in the Additional Fibers acquired by Cogent under this Amendment shall not be considered or included in the computation of liquidated damages payable by Williams under Section 4.4(b) of the Agreement.

3. **Counterparts; Capitalized Terms.** This Amendment may be executed in several counterparts, each of which shall be deemed an original and each of which alone and all of which together, shall constitute one and the same instrument. The definition of "Agreement" in the Agreement is hereby amended to include this Amendment and the terms of any other amendment thereto executed by the parties. All capitalized terms used herein but not defined shall have the meanings given to such terms in the Agreement.

4. **Effect of Amendment.** Except as expressly amended or modified herein, all other terms, covenants, conditions and Exhibits of the Agreement shall be unaffected by this Amendment and shall remain in full force and effect.

5. **Date of Amendment.** This Amendment shall be effective as of the date on which both parties have executed the same.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Williams and Cogent have executed this Amendment on the dates set forth below.

WILLIAMS COMMUNICATIONS, INC.

By: /s/ Gordon Martin
Print Name: Gordon Martin
Title: President Carrier Services

COGENT COMMUNICATIONS, INC.

By: /s/ David Schaeffer
Print Name: David Schaeffer
Title: President

CONFIDENTIAL AND PROPRIETARY

EXHIBIT A

Estimated Contract Price for Additional Fibers Added by Amendment

Origin	Route Segment Destination	Estimated Mileage	Fibers Type	Add'l Fibers Offered	Discounted Price per Fiber Mile	Total Fiber Payment*
Atlanta Macon	Macon Jacksonville	355	LEAF	1	\$[***]	\$[***]
Denver Topeka	Topeka Kansas City	635	LEAF	1	\$[***]	\$[***]
Herndon	Washington D.C.	26	SMF-LS	1	\$[***]	\$[***]
Tampa Orlando	Orlando Daytona Beach	153	LEAF	1	\$[***]	\$[***]
Salt Lake City	Denver	551	LEAF	1	\$[***]	\$[***]
Jacksonville Daytona Beach Melbourne Melbourne West Palm Beach	Daytona Beach Melbourne West Palm Beach Ft. Lauderdale	310	SMF-28	1	\$[***]	\$[***]
Tallahassee Tampa	Tampa Ft. Myers	344	LEAF	1	\$[***]	\$[***]
New Orleans Mobile Pensacola	Mobile Pensacola Tallahassee	469	LEAF	1	\$[***]	\$[***]
Washington D.C. Baltimore Philadelphia Philadelphia Newark	Baltimore Philadelphia Newark New York City	336	LEAF	1	\$[***]	\$[***]
Herndon	Manassas Junction	28	SMF-LS	1	\$[***]	\$[***]
Albany Springfield Worcester	Springfield Worcester Boston	183	LEAF	1	\$[***]	\$[***]
Cleveland Buffalo Rochester Rochester Syracuse	Buffalo Rochester Syracuse Albany	562	LEAF	1	\$[***]	\$[***]
Los Angeles	Riverside	65	LEAF	1	\$[***]	\$[***]
Houston	Dallas	250	LEAF	1	\$[***]	\$[***]
Dallas Tulsa	Tulsa Kansas City	484	LEAF	1	\$[***]	\$[***]
San Francisco	Santa Clara	48	LEAF	1	\$[***]	\$[***]
San Francisco Oakland	Oakland Sacramento	114	LEAF	1	\$[***]	\$[***]
Riverside Phoenix Phoenix Tucson Tucson El Paso El Paso San Antonio San Antonio Austin Austin	Phoenix Tucson El Paso San Antonio Austin Houston	1709	LEAF	1	\$[***]	\$[***]

CONFIDENTIAL AND PROPRIETARY

EXHIBIT A (Continued)

Origin	Route Segment Destination	Estimated Mileage	Fibers Type	Add'l Fibers Offered	Discounted Price per Fiber Mile	Total Fiber Payment*
Riverside San Diego	San Diego Riverside	220	LEAF	1	\$[***]	\$[***]
Kansas City Columbia	Columbia St. Louis	270	LEAF	1	\$[***]	\$[***]
Ft. Myers	Miami	196	LEAF	1	\$[***]	\$[***]
Ft. Lauderdale	Miami	20	SMF-28	1	\$[***]	\$[***]
Atlanta Spartanburg Charlotte Greensboro Raleigh Richmond	Spartanburg Charlotte Greensboro Raleigh Richmond Washington D.C.	818	LEAF	1	\$[***]	\$[***]
Fremont Junction	Oakland	27	LEAF	1	\$[***]	\$[***]
Fremont Junction	Santa Clara	24	LEAF	1	\$[***]	\$[***]
Fremont Junction	Modesto	93	LEAF	1	\$[***]	\$[***]
Sacramento Reno	Reno Salt Lake City	661	LEAF	1	\$[***]	\$[***]
Sacramento Modesto Fresno Bakersfield	Modesto Fresno Bakersfield Los Angeles	671	LEAF	1	\$[***]	\$[***]
St. Louis Springfield Peoria	Springfield Peoria Chicago	339	LEAF	1	\$[***]	\$[***]
New York City Stamford New Haven Hartford Providence	Stamford New Haven Hartford Providence Boston	265	LEAF	1	\$[***]	\$[***]
Houston Baton Rouge New Orleans Jackson Birmingham	Baton Rouge New Orleans Jackson Birmingham Atlanta	1000	LEAF	1	\$[***]	\$[***]
Portland	Seattle	220	LEAF	1	\$[***]	\$[***]
Portland Eugene	Eugene Sacramento	688	LEAF	1	\$[***]	\$[***]
Chicago South Bend Toledo	South Bend Toledo Cleveland	350	LEAF	1	\$[***]	\$[***]
Totals		12,484				\$[***]

* Total estimated Contract Price for Additional Fibers provided under this Amendment

[*] Indicates confidential treatment requested.

CONFIDENTIAL AND PROPRIETARY

SECOND AMENDMENT TO DARK FIBER IRU AGREEMENT

THIS SECOND AMENDMENT TO DARK FIBER IRU AGREEMENT (this "Amendment") is made as of November __, 2000 by and between WILLIAMS COMMUNICATIONS, INC., a Delaware corporation ("Williams") and COGENT COMMUNICATIONS, INC., a Delaware corporation ("Cogent").

WITNESSETH:

WHEREAS, Williams and Cogent entered into that certain Dark Fiber IRU Agreement on April 14, 2000 (the "Agreement") under which Williams granted to Cogent and Cogent acquired from Williams the Cogent Lease/IRU Rights in and to the Initial Cogent Fibers as defined and described therein;

WHEREAS, Williams and Cogent entered into that certain First Amendment of Dark Fiber IRU Agreement dated June 27, 2000;

WHEREAS, Cogent desires to acquire from Williams, and Williams desires to provide to Cogent, rights to use certain optical fibers in Williams' telecommunications system along certain routes between Williams' POPs in certain metropolitan areas (as hereafter described) which is not currently subject to the Agreement upon the terms and conditions set forth below; and

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties hereto agree as follows:

1. **Grant of Cogent IRU/Lease Rights.** The parties hereby agree that the Dark Fibers in the route segments described in Exhibit A to this Amendment (the "Interconnects") shall be considered Cogent Fibers and each of the Interconnects shall be considered a Major Segment under the Agreement subject to the terms and conditions set forth in this Amendment; provided, however, that Sections 2.4, 3.1, 3.2 and 3.3 of the Agreement shall not apply to the Interconnects. In the event that, subsequent to the date of this Amendment, Williams constructs an alternate fiber route between the origin and destination of any of the Interconnects, as specifically described in Exhibit A to this Amendment, and intends to sell Dark Fibers within such alternate route, Williams may offer Cogent the right to exchange its IRU in up to two (2) of the Cogent Fibers in the affected Interconnect for up to two (2) fiber strands on the new alternate route in order to provide Cogent with diverse routing. If, in any such exchange, the Fiber Miles of the fibers in the new alternate route exceed the Fiber Miles of the Cogent Fibers to be exchanged, then Cogent shall pay, as additional Contract Price, the amount determined by multiplying the per Fiber Mile price for the affected Interconnect set forth in Exhibit A by such excess Fiber Miles. Notwithstanding any of the provisions above, the decision to allow Cogent to exchange Cogent Fibers in any Interconnect with fiber strands in new alternate routes as described above will be at Williams' sole and absolute discretion. If an exchange is agreed upon pursuant to the foregoing provisions, the parties will enter into an amendment to the Agreement identifying the Interconnect(s) affected thereby, establishing new Interconnects under the Agreement, increasing the Contract Price (if applicable) and setting forth Scheduled Delivery Dates and other necessary information applicable to any new Interconnect.

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 9

2. **Payment for Cogent Fibers in the Interconnects.** The total estimated Contract Price for the Cogent Lease/IRU Rights in the Cogent Fibers in all of the Interconnects is set forth in Exhibit A. Williams and Cogent hereby agree that for purposes of this Amendment and with respect to the Cogent Fibers in the Interconnects only, the estimated Contract Price applicable to the Cogent Fibers in the Interconnects set forth in Exhibit A shall be paid by Cogent to Williams as follows:

- (a) twenty-five percent (25%) of such estimated Contract Price within three (3) banking days after the parties' execution of this Amendment; and
- (b) the remaining seventy-five percent (75%) of the estimated Contract Price attributable to each Interconnect as set forth in Exhibit A shall be due for each such Interconnect within three (3) banking days after the Acceptance Date of the Cogent Fibers in each such Interconnect.

3. **Charges for Routine Maintenance.** With respect to the Cogent Fibers in the Interconnects only, Section 3.4 of the Agreement is hereby amended by deleting [*] in each place it appears and replacing such figure with [*] in each such place.

4. **Counterparts; Capitalized Terms.** This Amendment may be executed in several counterparts, each of which shall be deemed an original and each of which alone and all of which together, shall constitute one and the same instrument. The definition of "Agreement" in the Agreement is hereby amended to include this Amendment and the terms of any other amendment thereto executed by the parties. All capitalized terms used herein but not defined shall have the meanings given to such terms in the Agreement.

5. **Effect of Amendment.** Except as expressly amended or modified herein, all other terms, covenants, conditions and Exhibits of the Agreement shall be unaffected by this Amendment and shall remain in full force and effect.

6. **Date of Amendment.** This Amendment shall be effective as of the date on which both parties have executed the same.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Williams and Cogent have executed this Amendment on the dates set forth below.

WILLIAMS COMMUNICATIONS, INC.

COGENT COMMUNICATIONS, INC.

By: /s/ Greg S. Floerke
Print Name: Greg S. Floerke
Title: Senior Vice President

By: /s/ David Schaeffer
Print Name: David Schaeffer
Title: Chief Executive Officer

CONFIDENTIAL AND PROPRIETARY

EXHIBIT A

Interconnects

Origin	Route Segment Destination	Estimated Completion	Estimated Mileage	Fibers Type	Add'l Fibers Offered	Price per Fiber Mile	Total Fiber Payment
600 South Federal 6th Floor, Suite 600 Chicago, IL 60605	2101 Roberts Road Broadview, IL 60153	Dec-00	20	SMF-28	4	\$ [***]	\$ [***]
1201 Main Street, Ste C-112, Dallas, TX, 75202	400 S. Akard, Dallas II, TX	Dec-00	0.5	LEAF	4	\$ [***]	\$ [***]
770 L Street, Suite 120 Sacramento, CA 95814	1005 North "B" Street, Sacramento II, CA 938140303	Feb-01	1.5	SMF-28	2	\$ [***]	\$ [***]
1005 North "B" Street, Sacramento II, CA 93814-0303	770 L Street, Suite 120, Sacramento, CA 95814	Feb-01	2.8	SMF-28	2	\$ [***]	\$ [***]
Totals			24.8				\$ [***]

CONFIDENTIAL AND PROPRIETARY

THIRD AMENDMENT TO DARK FIBER IRU AGREEMENT

THIS THIRD AMENDMENT TO DARK FIBER IRU AGREEMENT (this "Amendment") is made as of the Effective Date (hereafter defined) by and between WILLIAMS COMMUNICATIONS, INC., a Delaware corporation ("Williams") and COGENT COMMUNICATIONS, INC., a Delaware corporation ("Cogent").

WITNESSETH:

WHEREAS, Williams and Cogent entered into that certain Dark Fiber IRU Agreement (the "Agreement") on April 14, 2000 under which Williams granted to Cogent and Cogent acquired from Williams the Cogent Lease/IRU Rights in and to the Initial Cogent Fibers as defined and described therein;

WHEREAS, pursuant to the terms of Subsection 2.4(a) of the Agreement, Cogent has the option to acquire Additional Fibers from Williams as hereafter described; and

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties hereto agree as follows:

1. **Amendment of Exhibit A to Second Amendment.** In order to add the additional Cogent Fibers to the Interconnects in Sacramento, California as described in the above recitals, the parties hereby agree that Exhibit A of the Second Amendment is hereby deleted in its entirety and replaced with Exhibit A to this Amendment, which is attached hereto and made part hereof.

2. **Additional Payment.** Due to the increase in the number of Cogent Fibers in the Sacramento Interconnects as described above, Cogent acknowledges the increased Contract Price as set forth in Exhibit A to this Amendment. Further, Cogent agrees to pay, within three (3) banking days after the Effective Date of this Amendment, the sum of [*], which sum represents the additional amount due under Section 2(a) of the Second Amendment as a result of the additional Cogent Fibers in the Sacramento Interconnects as described herein.

3. **Effective Date of Second Amendment.** The parties acknowledge that each has previously executed the Second Amendment but that the same was inadvertently left undated. The parties hereby further acknowledge and agree that the effective date of the Second Amendment is December 11, 2000.

4. **Counterparts; Capitalized Terms.** This Amendment may be executed in several counterparts, each of which shall be deemed an original and each of which alone and all of which together, shall constitute one and the same instrument. All capitalized terms used herein but not defined shall have the meanings given to such terms in the Agreement or any prior amendment thereto.

5. **Effect of Amendment.** Except as expressly amended or modified herein, all other terms, covenants, conditions and Exhibits of the Agreement, as amended, shall be unaffected by this Amendment and shall remain in full force and effect.

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 12

6. **Date of Amendment.** This Amendment shall be effective as of the latest date shown below on which both parties have executed the same (the "Effective Date").

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Williams and Cogent have executed this Amendment on the dates set forth below.

WILLIAMS COMMUNICATIONS, INC.

Date: _____, 2001

By: /s/ William L. Cornog
Print Name: William L. Cornog
Title: Senior Vice President, Network Services

COGENT COMMUNICATIONS, INC.

Date: January 26, 2001

By: /s/ William R. Curren
Print Name: William R. Curren
Title: President

CONFIDENTIAL AND PROPRIETARY

EXHIBIT A

Interconnects

Origin	Route Segment Destination	Estimated Completion	Est. Mileage	Fiber Type	Add'l Fibers Offered	Price per Fiber Mile	Total Contract Price*
600 South Federal 6th Floor, Suite 600 Chicago, IL 60605	2101 Roberts Road Broadview, IL 60153	Dec-00	20	SMF-28	4	\$ [***]	\$ [***]
1201 Main Street, Ste C-112, Dallas, TX, 75202	400 S. Akard, Dallas II, TX	Dec-00	0.5	LEAF	4	\$ [***]	\$ [***]
770 L Street, Suite 120 Sacramento, CA 95814	1005 North "B" Street, Sacramento II, CA 938140303	Feb-01	1.5	SMF-28	3	\$ [***]	\$ [***]
1005 North "B" Street, Sacramento II, CA 93814-0303	770 L Street, Suite 120, Sacramento, CA 95814	Feb-01	2.8	SMF-28	3	\$ [***]	\$ [***]
Totals			24.8				\$ [***]

CONFIDENTIAL AND PROPRIETARY

FOURTH AMENDMENT TO DARK FIBER IRU AGREEMENT

THIS FOURTH AMENDMENT TO DARK FIBER IRU AGREEMENT (this “Amendment”) is made as of the Effective Date (hereafter defined) by and between WILLIAMS COMMUNICATIONS, LLC, a Delaware limited liability company formerly known as Williams Communications, Inc. (“Williams”) and COGENT COMMUNICATIONS, INC., a Delaware corporation (“Cogent”).

WITNESSETH:

WHEREAS, Williams and Cogent entered into that certain Dark Fiber IRU Agreement on April 14, 2000 (as amended, the “Agreement”) under which Williams granted to Cogent and Cogent acquired from Williams the Cogent Lease/IRU Rights in and to the Initial Cogent Fibers as defined and described therein;

WHEREAS, Williams and Cogent entered into that certain First Amendment of Dark Fiber IRU Agreement dated June 27, 2000 (the “First Amendment”), that certain Second Amendment to Dark Fiber IRU Agreement dated December 11, 2000, and that certain Third Amendment to Dark Fiber IRU Agreement dated January 27, 2001 (the “Third Amendment”); and

WHEREAS, the parties mutually desire to further amend the Agreement as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties hereto agree as follows:

1. **Reconfiguration of Certain California Major Segments.**

(a) **Removal and Replacement of Riverside-San Diego-Riverside Major Segment.** Cogent acknowledges that it has been informed by Williams of alterations to Williams’ previously planned network topology which affect the Riverside-San Diego-Riverside Major Segment described on page 2 of Exhibit A-2 to the Agreement and page 2 of Exhibit A to the First Amendment (the “Original Riverside Major Segment”). Instead of the Original Riverside Major Segment, Williams has constructed and/or will construct one segment between Riverside, California and San Diego, California and a separate segment from San Diego, California to Los Angeles, California. As a result of the foregoing and in consideration of the mutual covenants and agreements set forth below, the parties agree that the row describing the Original Riverside Major Segment is hereby deleted from Exhibit A-2 of the Agreement, and thereby removed as a Major Segment under the Agreement, and is replaced with the following:

Los Angeles	San Diego	31-May-01	150	LEAF	1	\$ [***]	\$ [****]
San Diego	Riverside	30-Apr-01	107	LEAF	1	\$ [***]	\$ [****]

[*] Indicates confidential treatment requested.

CONFIDENTIAL AND PROPRIETARY

**FOIA CONFIDENTIAL TREATMENT
REQUESTED BY COGENT COMMUNICATIONS, INC.**

The parties further agree that the row describing the Original Riverside Major Segment is hereby deleted from Exhibit A to the First Amendment and replaced with the following:

Los Angeles	San Diego	31-May-01	150	LEAF	1	\$ [***]	\$ [****]
San Diego	Riverside	30-Apr-01	107	LEAF	1	\$ [***]	\$ [****]

From and after the Effective Date of this Amendment, the above-described Los Angeles-San Diego and San Diego-Riverside segments shall be “Major Segments” and the fibers therein shall be “Cogent Fibers” under the Agreement.

(b) Removal of Los Angeles-Riverside Major Segment. As a result of the above changes, Cogent hereby agrees, and Williams acknowledges, that Cogent will have no long-term need for the Los Angeles-Riverside Major Segment described on page 1 of Exhibit A-2 of the Agreement and on page 1 of Exhibit A to the First Amendment (the “LA-Riverside Major Segment”). However, Cogent desires to use the LA-Riverside Major Segment until it has had an opportunity to install Cogent Equipment along the Los Angeles-San Diego Major Segment described in Subsection 1(a) above. The parties agree that effective as of the date which is sixty (60) days after the later of the Acceptance Date of the Cogent Fibers in the Riverside-San Diego Major Segment described in Subsection 1(a) or the Acceptance Date of the Cogent Fibers in the Los Angeles-San Diego Major Segment described in Subsection 1(a) (the “Transition Date”): (i) the LA-Riverside Major Segment is hereby deleted from Exhibit A-2 of the Agreement and Exhibit A of the First Amendment; (ii) all rights and obligations of Cogent and all obligations of Williams with respect to the LA-Riverside Major Segment shall cease, terminate and be of no further force or effect; and (iii) all of Cogent’s rights and interests in and to the Cogent Fibers in, and other rights under the Agreement pertaining to, the LA-Riverside Major Segment shall revert fully to Williams.

(c) Removal of Cogent Equipment from LA-Riverside Major Segment. Cogent shall remove the Cogent Equipment from all Transmission Sites along the LA-Riverside Major Segment before the Transition Date in accordance with all terms and conditions of the Agreement. In the event Cogent fails to remove such Cogent Equipment in accordance with the preceding sentence, Williams shall have the rights specified in the Agreement upon such a failure by Cogent.

(d) Effect of Reconfiguration on Route Mileage. The Parties acknowledge that the reconfiguration of Major Segments described in Subsections 1(a) and 1(b) above will, after the Transition Date, result in a net decrease of twenty-eight (28) Route Miles to the Route under the Agreement.

2. Atlanta-Washington, D.C. Major Segment.

(a) Change from LEAF to SMF-LS Fiber. Cogent acknowledges that due to a change in Williams’ plans, LEAF fibers are not currently available in the Atlanta-Washington, D.C. Major Segment described in Exhibit A-2 of the Agreement and Exhibit A of the First Amendment (the “Atlanta-DC Major Segment”). Subject to the terms hereinafter set forth in this Section 2, Cogent agrees to accept, subject to satisfaction of all testing and Acceptance obligations under the Agreement, SMF-LS fibers as the Cogent Fibers in the Atlanta-DC Major Segment. As a result, the parties hereby agree to amend the description of the Atlanta-DC Major Segment on page 2 of Exhibit

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A-2 of the Agreement and on page 2 of Exhibit A of the First Amendment by deleting “LEAF” and replacing the same with “SMF-LS.” In consideration of Cogent’s agreement to accept SMF-LS fibers under this Subsection, Williams hereby agrees to reduce the Contract Price for the Atlanta-DC Major Segment to [*] per Fiber Mile. The parties acknowledge Cogent’s prior payment of the Contract Price under the Agreement and agree that a credit shall be granted under Section 3 of this Amendment to account for the reduction described in the preceding sentence.

(b) Upgrade to LEAF. If, at any time during the Term of the Agreement (provided, however, that Cogent has not exercised its option to terminate the Atlanta-DC Major Segment under Subsection 2(c) below), Williams decides to install an additional Cable along the Atlanta-DC Major Segment, Cogent shall have the option to exchange its then existing Cogent Fibers for Dark Fibers in the new Cable. Williams will notify Cogent of its decision to install a new Cable as aforesaid, identify the type of Cable to be installed and provide estimated availability dates. Within thirty (30) days after its receipt of Williams’ notice, Cogent may elect to exchange the Cogent Fibers for Dark Fibers in the new Cable by giving written notice to Williams. If Cogent fails to notify Williams within such 30-day period, Cogent’s right to exchange the initial Cogent Fibers under this paragraph shall expire. If Cogent elects to obtain Dark Fibers in the new Cable, such Dark Fibers shall be tested and Accepted in accordance with the terms of the Agreement and, within ten (10) days after the Acceptance Date thereof, Cogent shall pay Williams the amount equal to [*] per Fiber Mile of the Dark Fibers in the new Cable. Ninety (90) days after such payment by Cogent, all of Cogent’s rights and interests in the initial Cogent Fibers shall expire and be of no further force or effect, with all such rights reverting fully to Williams, and the new Dark Fibers shall become Cogent Fibers under the Agreement. All work associated with migrating Cogent’s network to the new fibers including, without limitation, disconnection and reconnections, rerouting of interconnections, or equipment upgrades or replacements, shall be the sole responsibility of Cogent (except to the extent the Agreement requires Williams to perform such work) and in all events shall be at Cogent’s sole cost and expense. Cogent’s migration of its network to the new fibers and all work associated therewith shall be subject to the terms and conditions of the Agreement.

(c) Cogent’s Right to Terminate Atlanta-DC Major Segment. Upon expiration of the three (3) year period beginning on the Effective Date of this Amendment (provided, however, that Cogent has not previously elected to exchange for new Dark Fibers under Subsection 2(b)), Cogent may terminate the Agreement with respect to the Atlanta-DC Major Segment only by giving written notice of such termination on or before the date which is thirty (30) days after the expiration date of such 3-year period. Cogent’s rights under this Subsection (c) shall expire if Cogent’s termination notice is not received by Williams within such 30-day period. Upon a termination of the Agreement with respect to the Atlanta-DC Major Segment pursuant to this Subsection 2(c): (i) Cogent shall not be entitled to a refund of any portion of the Contract Price, Routine Maintenance charges, collocation charges or any other fees or charges payable under the Agreement prior to the date of such termination; (ii) the Atlanta-DC Major Segment shall be deleted from Exhibit A-2 of the Agreement and Exhibit A of the First Amendment; (iii) all rights and obligations of Cogent and all obligations of Williams with respect to the Atlanta-DC Major Segment shall cease, terminate and be of no further force or effect; and (iv) all of Cogent’s rights and interests in and to the Cogent Fibers in, and other rights under the Agreement pertaining to, the Atlanta-DC Major Segment shall revert fully to Williams.

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 17

(d) **Restriction on Transfer of Dark Fiber Rights.** After expiration of the 3-year period described in the first sentence of Subsection 2(c) above and until the earlier of (i) termination or expiration of the Agreement, or (ii) Cogent's exercise of its right to exchange the initial Cogent Fibers in the Atlanta-DC Major Segment for Dark Fibers in a new Cable under Subsection 2(b) above; Sections 23.2(b) and 23.5 of the Agreement shall not apply to the Cogent Fibers in the Atlanta-DC Major Segment.

3. Credits.

(a) **Credit for Reduction in Atlanta-DC Major Segment Contract Price.** Due to the reduction in the Contract Price previously paid by Cogent under Subsection 2(a) above, Williams agrees that Cogent is currently entitled to a credit equal to [*].

(b) **Credit for Reconfiguration of Certain California Major Segments.** In addition to the credit described in Subsection 3(a) and due to the decrease in the number of Route Miles of the System resulting from the reconfiguration described in Section 1 above, Williams agrees that after the Transition Date and Cogent's removal of the Cogent Equipment under Subsection 1(c), Cogent shall be entitled to a credit equal to [*].

(c) **Application of Credits.** As soon as available under the terms of Subsections 3(a) or 3(b), as applicable, the credits described therein shall be applied against payments due for the Contract Price under Section 3.2 of the Agreement or for collocation services under Exhibit B-1 of the Agreement. At any time Cogent desires for a credit, or any portion thereof, to be applied to such payments, it shall provide a written statement to Williams setting forth the amount of the credit(s) applied and specifically identifying the invoice(s) affected by such application.

4. Counterparts; Capitalized Terms. This Amendment may be executed in several counterparts, each of which shall be deemed an original and each of which alone and all of which together, shall constitute one and the same instrument. All capitalized terms used herein but not defined shall have the meanings given to such terms in the Agreement or any prior amendment thereto.

5. Effect of Amendment. Except as expressly amended or modified herein, all other terms, covenants, conditions and Exhibits of the Agreement, as amended, shall be unaffected by this Amendment and shall remain in full force and effect.

6. Date of Amendment. This Amendment shall be effective as of the date on which both parties have executed the same (the "Effective Date").

7. Williams' Conversion. The parties acknowledge the conversion pursuant to Delaware law of Williams Communications, Inc. to Williams Communications, LLC, a Delaware limited liability company, effective January 1, 2001. Williams hereby ratifies and confirms in all respects the Third Amendment which inadvertently failed to describe such conversion.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Amendment and intending to be legally bound hereby, Williams and Cogent have executed this Amendment on the dates set forth below.

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WILLIAMS COMMUNICATIONS, LLC

Date: February 22, 2001

By: /s/ Paul Savill

Print Name: Paul Savill

Title: Vice President, Data Services

COGENT COMMUNICATIONS, INC.

Date: February 21, 2001

By: /s/ David Schaeffer

Print Name: David Schaeffer

Title: Chief Executive Officer

CONFIDENTIAL AND PROPRIETARY

Exhibit H, Page 19

CERTIFICATIONS

Certification of Chief Executive Officer

I, David Schaeffer, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cogent Communications Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 5, 2022

/s/ David Schaeffer

Name: David Schaeffer
Title: Chief Executive Officer

Certification of Chief Financial Officer

I, Thaddeus G. Weed certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cogent Communications Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 5, 2022

/s/ Thaddeus G. Weed

Name: Thaddeus G. Weed

Title: Chief Financial Officer and Treasurer



Certification of Chief Executive Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Cogent Communications Holdings, Inc. (the “Company”) hereby certifies, to such officer’s knowledge, that:

- (i) the accompanying Quarterly Report on Form 10-Q of the Company for the fiscal quarter ended March 31, 2022 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), of the Securities Exchange Act of 1934, (15 U.S.C. 78m or 78o(d)); and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 5, 2022

/s/ David Schaeffer

David Schaeffer
Chief Executive Officer

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Certification of Chief Financial Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Cogent Communications Holdings, Inc. (the “Company”) hereby certifies, to such officer’s knowledge, that:

- (i) the accompanying Quarterly Report on Form 10-Q of the Company for the fiscal quarter ended March 31, 2022 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), of the Securities Exchange Act of 1934, (15 U.S.C. 78m or 78o(d)); and
- (ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 5, 2022

/s/ Thaddeus G. Weed

Thaddeus G. Weed
Chief Financial Officer and Treasurer

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

**Document and Entity
Information - shares**

**3 Months Ended
Mar. 31, 2022**

Apr. 29, 2022

Document and Entity Information

<u>Document Type</u>	10-Q	
<u>Document Quarterly Report</u>	true	
<u>Document Transition Report</u>	false	
<u>Document Period End Date</u>	Mar. 31, 2022	
<u>Entity File Number</u>	000-51829	
<u>Entity Registrant Name</u>	COGENT COMMUNICATIONS HOLDINGS, INC.	
<u>Entity Incorporation, State or Country Code</u>	DE	
<u>Entity Tax Identification Number</u>	46-5706863	
<u>Entity Address, Address Line One</u>	2450 N Street N.W.	
<u>Entity Address, Country</u>	US	
<u>Entity Address, City or Town</u>	Washington, D.C	
<u>Entity Address, Postal Zip Code</u>	20037	
<u>City Area Code</u>	202	
<u>Local Phone Number</u>	295-4200	
<u>Title of 12(b) Security</u>	Common Stock	
<u>Trading Symbol</u>	CCOI	
<u>Security Exchange Name</u>	NASDAQ	
<u>Entity Current Reporting Status</u>	Yes	
<u>Entity Interactive Data Current</u>	Yes	
<u>Entity Filer Category</u>	Large Accelerated Filer	
<u>Entity Small Business</u>	false	
<u>Entity Emerging Growth Company</u>	false	
<u>Entity Shell Company</u>	false	
<u>Entity Common Stock, Shares Outstanding</u>		47,935,352
<u>Current Fiscal Year End Date</u>	--12-31	
<u>Document Fiscal Year Focus</u>	2022	
<u>Document Fiscal Period Focus</u>	Q1	
<u>Entity Central Index Key</u>	0001158324	
<u>Amendment Flag</u>	false	

**CONDENSED
CONSOLIDATED
BALANCE SHEETS - USD
(\$)
\$ in Thousands**

**Mar. 31, Dec. 31,
2022 2021**

Current assets:

<u>Cash and cash equivalents</u>	\$ 281,485	\$ 319,609
<u>Restricted cash</u>	30,286	9,015
<u>Accounts receivable, net of allowance for credit losses of \$1,476 and \$1,510, respectively</u>	41,662	41,938
<u>Prepaid expenses and other current assets</u>	41,757	39,015
<u>Total current assets</u>	395,190	409,577
<u>Property and equipment, net</u>	456,419	457,880
<u>Right-of-use leased assets</u>	100,909	101,687
<u>Deposits and other assets</u>	17,251	15,413
<u>Total assets</u>	969,769	984,557

Current liabilities:

<u>Accounts payable</u>	13,808	11,923
<u>Accrued and other current liabilities</u>	48,314	39,057
<u>Installment payment agreement, current portion</u>	218	785
<u>Current maturities, operating lease liabilities</u>	12,118	12,197
<u>Current maturities, finance lease obligations</u>	17,147	17,048
<u>Total current liabilities</u>	91,605	81,010
<u>Operating lease liabilities, net of current maturities</u>	111,656	111,794
<u>Finance lease obligations, net of current maturities</u>	228,102	228,822
<u>Other long-term liabilities</u>	63,142	44,609
<u>Total liabilities</u>	1,378,375	1,357,655

Commitments and contingencies:

Stockholders' equity:

<u>Common stock, \$0.001 par value; 75,000,000 shares authorized; 47,926,580 and 47,674,189 shares issued and outstanding, respectively</u>	48	48
<u>Additional paid-in capital</u>	554,552	547,734
<u>Accumulated other comprehensive income - foreign currency translation</u>	(13,168)	(11,003)
<u>Accumulated deficit</u>	(950,038)	(909,877)
<u>Total stockholders' deficit</u>	(408,606)	(373,098)
<u>Total liabilities and stockholders' deficit</u>	969,769	984,557

Senior unsecured 2024 Notes

Current liabilities:

<u>Senior unsecured 2024 Euro Notes, net of unamortized debt costs of \$1,917 and \$2,121, respectively, and net of discount of \$684 and \$772, respectively</u>	386,418	394,112
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Senior secured 2026 Notes

Current liabilities:

<u>Senior secured 2026 Notes, net of unamortized debt costs of \$1,094 and \$1,156, respectively, and net of discount of \$1,454 and \$1,536, respectively</u>	\$ 497,452	\$ 497,308
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**CONDENSED
CONSOLIDATED
BALANCE SHEETS**
(Parenthetical) - USD (\$)
\$ in Thousands

Mar. 31, 2022 Dec. 31, 2021

Assets

Accounts receivable, allowance for credit losses (in dollars) \$ 1,476 \$ 1,510

Liabilities and stockholders' equity

Common stock, par value (in dollars per share) \$ 0.001 \$ 0.001

Common stock, shares authorized 75,000,000 75,000,000

Common stock, shares issued 47,926,580 47,674,189

Common stock, shares outstanding 47,926,580 47,674,189

Senior unsecured 2024 Notes

Liabilities and stockholders' equity

Unamortized debt costs \$ 1,917 \$ 2,121

Unamortized debt premium noncurrent 684 772

Senior secured 2026 Notes

Liabilities and stockholders' equity

Unamortized debt costs 1,094 1,156

Unamortized debt premium noncurrent \$ 1,454 \$ 1,536

**CONDENSED
CONSOLIDATED
STATEMENTS OF
COMPREHENSIVE
INCOME (LOSS) - USD (\$)
\$ in Thousands**

3 Months Ended

**Mar. 31, Mar. 31,
2022 2021**

**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE
INCOME (LOSS)**

<u>Service revenue</u>	\$ 149,175	\$ 146,777
<u>Operating expenses:</u>		
<u>Network operations (including \$144 and \$2,076 of equity-based compensation expense, respectively, exclusive of depreciation and amortization shown separately below)</u>	57,449	57,092
<u>Selling, general, and administrative (including \$5,912 and \$5,231 of equity-based compensation expense, respectively)</u>	40,627	41,442
<u>Depreciation and amortization</u>	22,688	21,970
<u>Total operating expenses</u>	120,764	120,504
<u>Gains on equipment transactions</u>		18
<u>Gains on lease terminations</u>	373	
<u>Operating income</u>	28,784	26,291
<u>Interest expense</u>	(35,439)	(15,836)
<u>Unrealized foreign exchange gain on 2024 Euro Notes</u>	8,014	18,870
<u>Loss on debt extinguishment and repurchase - 2022 Notes</u>		(3,868)
<u>Interest income and other, net</u>	319	744
<u>Income before income taxes</u>	1,678	26,201
<u>Income tax expense</u>	(541)	(7,350)
<u>Net income</u>	1,137	18,851
<u>Comprehensive (loss) income:</u>		
<u>Net income</u>	1,137	18,851
<u>Foreign currency translation adjustment</u>	(2,165)	(5,210)
<u>Comprehensive (loss) income</u>	\$ (1,028)	\$ 13,641
<u>Net income per common share:</u>		
<u>Basic net income per common share</u>	\$ 0.02	\$ 0.41
<u>Diluted net income per common share</u>	0.02	0.41
<u>Dividends declared per common share</u>	\$ 0.855	\$ 0.755
<u>Weighted-average common shares - basic (in shares)</u>	46,575,848	46,067,096
<u>Weighted-average common shares - diluted (in shares)</u>	46,929,191	46,507,258

**CONDENSED
CONSOLIDATED
STATEMENTS OF
COMPREHENSIVE
INCOME (LOSS)
(Parenthetical) - USD (\$)
\$ in Thousands**

3 Months Ended

Mar. 31, 2022 Mar. 31, 2021

<u>Equity-based compensation expense</u>	\$ 6,056	\$ 7,307
<u>Network operations</u>		
<u>Equity-based compensation expense</u>	144	2,076
<u>Selling, general and administrative</u>		
<u>Equity-based compensation expense</u>	\$ 5,912	\$ 5,231

**CONDENSED
CONSOLIDATED
STATEMENTS OF CASH
FLOWS - USD (\$)
\$ in Thousands**

3 Months Ended

**Mar. 31,
2022** **Mar. 31,
2021**

Cash flows from operating activities:

Net income \$ 1,137 \$ 18,851

Adjustments to reconcile net income to net cash provided by operating activities:

Depreciation and amortization 22,688 21,970

Amortization of debt discount and premium 417 441

Equity-based compensation expense (net of amounts capitalized) 6,056 7,307

Gains - lease transactions (373)

Gains - equipment transactions and other, net 525 371

Unrealized foreign currency exchange gain on 2024 Euro Notes (8,014) (18,870)

Loss on debt extinguishment and repurchase of 2022 Notes 3,868

Deferred income taxes (58) 4,497

Changes in operating assets and liabilities:

Accounts receivable 76 2,420

Prepaid expenses and other current assets (2,953) 2,826

Accounts payable, accrued liabilities and other long-term liabilities 31,317 2,951

Deposits and other assets (1,407) 474

Net cash provided by operating activities 49,411 47,106

Cash flows from investing activities:

Purchases of property and equipment (18,121) (15,444)

Net cash used in investing activities (18,121) (15,444)

Cash flows from financing activities:

Dividends paid (41,298) (36,081)

Repurchase and extinguishment of 2022 Notes (119,679)

Proceeds from exercises of stock options 204 215

Principal payments on installment payment agreement (571) (2,378)

Principal payments of finance lease obligations (5,863) (5,744)

Net cash used in financing activities (47,528) (163,667)

Effect of exchange rates changes on cash (615) (1,316)

Net decrease in cash, cash equivalents and restricted cash (16,853) (133,321)

Cash, cash equivalents and restricted cash, beginning of period 328,624 371,301

Cash, cash equivalents and restricted cash, end of period 311,771 237,980

Supplemental disclosure of non-cash financing activities:

Finance lease obligations incurred \$ 6,982 \$ 6,336

Description of the business

[Description of the business](#)

[Description of the business](#)

1. Description of the business:

Reorganization and merger

On May 15, 2014, pursuant to the Agreement and Plan of Reorganization (the "Merger Agreement") by and among Cogent Communications Group, Inc. ("Group"), a Delaware corporation, Cogent Communications Holdings, Inc., a Delaware corporation ("Holdings") and Cogent Communications Merger Sub, Inc., a Delaware corporation, Group adopted a new holding company organizational structure whereby Group is now a wholly owned subsidiary of Holdings. Holdings is the "successor issuer" to Group pursuant to Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). References to "Cogent Communications Group, Inc." in this report and other documents filed with the SEC for events that occurred prior to May 15, 2014 refer to Cogent Communications Group, Inc. and its subsidiaries and on and after May 15, 2014 the "Cogent Communications Holdings, Inc. and its subsidiaries." Cogent Communications, Inc. is wholly owned by Group and the vast majority of Cogent's arrangements, and operations are executed by Cogent Communications, Inc.

Description of business

The Company is a facilities-based provider of low-cost, high-speed Internet access, private network services, and data center colocation services. The Company's network is specifically designed and optimized to transmit packet switched data. The Company delivers its services primarily to small and medium-sized businesses, communications service providers and other bandwidth-intensive organizations in 50 countries across North America, Europe, Asia, South America, and Africa. The Company is a Delaware corporation and is headquartered in Washington, DC.

The Company offers on-net Internet access services exclusively through its own facilities, which run from its network to its customers' premises. The Company also offers its on-net services to customers located in buildings that are physically connected to its network. As a result, the Company is not dependent on other service providers, such as telephone companies or cable TV companies to serve its customers for its on-net Internet access and private network services. The Company's on-net services include Internet access and private network services offered at speeds ranging from 100 megabits per second to 400 gigabits per second.

The Company provides its on-net Internet access and private network services to its corporate and net-centric customers. The Company's net-centric customers are located in multi-tenant office buildings and typically include law firms, financial services firms, advertising and marketing firms, as well as health care providers, educational institutions and other professional services businesses. The Company's net-centric customers include bandwidth-intensive users that either deliver content to end users or to provide access to residential or commercial internet users. Content delivery customers include over the top ("OTT") providers, content delivery networks, web hosting companies, and commercial content and application software providers. Access customers include carriers comprised of other Internet Service Providers ("ISPs"), telephone companies, mobile phone operators and cable television companies that collect and deliver content to a substantial number of broadband subscribers and mobile phone subscribers across the world. These net-centric customers generally receive their services in carrier neutral colocation facilities and in the Company's own data centers. The Company operates data centers throughout North America and allows its customers to collocate their equipment and access the Company's network.

In addition to providing on-net services, the Company provides Internet access and private network services to customers that are not located at its facilities and are not connected to its network. The Company provides these off-net services primarily to corporate customers using other carriers' circuits to provide the link from the customers' premises to the Company's network. The Company also provides certain non-core services that resulted from acquisitions and continues to support but does not actively sell these non-core services.

Basis of presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission. In the opinion of management, the unaudited condensed consolidated financial statements reflect all normal adjustments that the Company considers necessary for the fair presentation of its results of operations and cash flows for the interim periods covered, and of the Company's financial position at the date of the interim condensed consolidated balance sheet. Certain information and footnote disclosures normally included in the annual financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP") have been condensed or omitted pursuant to SEC regulations. The operating results for interim periods are not necessarily indicative of the operating results for the entire year. While the Company's disclosures are adequate to not make the information misleading, these interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes included in its annual report on Form 10-K for the year ended December 31, 2021.

The accompanying unaudited condensed consolidated financial statements include all wholly owned subsidiaries. All inter-company accounts and transactions have been eliminated.

Use of estimates

The preparation of consolidated financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported revenues and expenses during the reporting period. Actual results may differ from these estimates.

Financial instruments

At March 31, 2022 and December 31, 2021, the carrying amount of cash and cash equivalents, restricted cash, accounts receivable, prepaid expenses, accounts payable, and accrued expenses approximated fair value because of the short-term nature of these instruments. The Company measures its restricted cash at amortized cost, which approximates fair value based upon quoted market prices (Level 1). Based upon recent trading prices (Level 1), as of March 31, 2022 the fair value of the Company's \$500.0 million senior secured notes due 2026 was \$476.3 million, the fair value of the Company's \$500.0 million senior unsecured notes due 2024 was \$387.1 million and the estimated liability fair value of the Company's interest rate swap agreement was \$0.0 million.

Restricted cash and interest rate swap agreement

Restricted cash represents amounts held in a segregated bank accounts by our clearing broker as margin in support of our interest rate swap in Note 3 and was \$30.3 million as of March 31, 2022. Additional cash may be further restricted to maintain our interest rate swap instrument as margin requirements change. The Company does not use derivative financial instruments for trading purposes.

Gross receipts taxes, universal service fund and other surcharges

Revenue recognition standards include guidance relating to taxes or surcharges assessed by a governmental authority that are directly imputable to a producing transaction between a seller and a customer and may include, but are not limited to, gross receipts taxes, excise taxes, Universal Service Fund surcharges, state regulatory fees. Such charges may be presented gross or net based upon the Company's accounting policy election. The Company records these surcharges on a gross basis and includes them in its revenue and network operations expense. Excise taxes and surcharges billed to customers and (as service revenue and network operations expense) were \$3.7 million and \$4.5 million for the three months ended March 31, 2022 and March 31, 2021.

Basic and diluted net income per common share

Basic earnings per share ("EPS") excludes dilution for common stock equivalents and is computed by dividing net income or (loss) available to common stockholders by the weighted-average number of common shares outstanding for the period. Diluted EPS is based on the weighted-average number of common shares outstanding during each period, adjusted for the effect of dilutive common stock equivalents. Shares of restricted stock are included in the numerator if they vest and are included in diluted EPS, to the extent they are dilutive, determined using the treasury stock method.

The following details the determination of diluted weighted average shares:

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Weighted average common shares - basic	46,575,848	46,575,848
Dilutive effect of stock options	21,310	21,310
Dilutive effect of restricted stock	332,033	332,033
Weighted average common shares - diluted	46,929,191	46,929,191

The following details unvested shares of restricted common stock as well as the anti-dilutive effects of stock options and restricted stock:

	March 31, 2022	March 31, 2021
Unvested shares of restricted common stock	1,352,439	1,352,439
Anti-dilutive options for common stock	85,921	85,921
Anti-dilutive shares of restricted common stock	479,655	479,655

Stockholders' Deficit

The following details the changes in stockholders' deficit for the three months ended March 31, 2022 and March 31, 2021 (in thousands):

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit
	Shares	Amount			
Balance at December 31, 2020	47,214,077	\$ 47	\$ 515,867	\$ (1,306)	\$ (85,921)
Forfeitures of shares granted to employees	(19,676)	—	—	—	—
Equity-based compensation	—	—	7,831	—	—
Foreign currency translation	—	—	—	(5,210)	—
Issuances of common stock	323,700	1	—	—	—
Exercises of options	4,571	—	215	—	—
Dividends paid	—	—	—	—	(3,000)
Net income	—	—	—	—	—
Balance at March 31, 2021	47,522,672	\$ 48	\$ 523,913	\$ (6,516)	\$ (88,921)
	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit
	Shares	Amount			
Balance at December 31, 2021	47,674,189	\$ 48	\$ 547,734	\$ (11,003)	\$ (99,921)
Forfeitures of shares granted to employees	(9,582)	—	—	—	—
Equity-based compensation	—	—	6,614	—	—
Foreign currency translation	—	—	—	(2,165)	—
Issuances of common stock	256,800	—	—	—	—
Exercises of options	5,173	—	204	—	—
Dividends paid	—	—	—	—	(4,000)
Net income	—	—	—	—	—
Balance at March 31, 2022	47,926,580	\$ 48	\$ 554,552	\$ (13,168)	\$ (95,921)

Revenue recognition

The Company recognizes revenue under ASU No. 2014-09, *Revenue from Contracts with Customers* ("ASC 606"), which requires an entity to recognize revenue at the amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. Under ASC 606 the Company recognizes revenue for contracts with terms longer than month-to-month over the contract term. The Company believes that for contracts with terms longer than month-to-month the fee does not give rise to a material right as defined by ASC 606. The Company recognizes revenue over the estimated average customer life for in

with month-to-month contracts, because the installation fee represents a material right as defined by ASC 606. The Company capitalizes certain costs that relate directly to a customer contract, including commissions paid to its sales team and sales agents and amortizes these costs on straight-line basis as services are transferred to the customer for commissions paid to its sales team (estimated customer life) and over the remaining original contract term for commissions. Management assesses these costs for impairment at least quarterly and as “triggering” events occur that indicate it is more likely than not that the costs exist.

The Company’s service offerings consist of on-net and off-net telecommunications services. Fixed fees are billed monthly in advance and variable fees are billed monthly in arrears. Amounts billed are due upon receipt and contract lengths range from month to month to 60 months. The Company satisfies its performance obligations to provide services to customers over time as the services are rendered. In accordance with ASC 606, revenue is recognized when a customer obtains control of the services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for these services. The Company adopted the practical expedient related to certain performance obligation disclosures since it has a right to consideration from its customer in an amount that is directly with the value to the customer of the Company’s performance completed to date.

To achieve this core principle, the Company follows the following five steps:

- 1) Identification of the contract, or contracts with a customer
- 2) Identification of the performance obligations in the contract
- 3) Determination of the transaction price
- 4) Allocation of the transaction price to the performance obligations in the contract
- 5) Recognition of revenue when, or as, the Company satisfies its performance obligations

Fees billed in connection with customer installations are deferred (as deferred revenue) and recognized as noted above. To the extent a contract is terminated prior to its contractual end the customer is subject to termination fees. The Company vigorously seeks payment of these termination fees and recognizes revenue for termination fees as they are collected.

Service revenue recognized from amounts in deferred revenue (contract liabilities) at the beginning of the period during the three months ended March 31, 2022 was \$1.9 million and during the three months ended March 31, 2021 was \$1.8 million. Amortization expense for contract costs was \$4.7 million for the three months ended March 31, 2022 and \$4.6 million for the three months ended March 31, 2021.

Leases

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (“ASU 2016-02”). ASU 2016-02 replaced most existing lease accounting standards. Lease liability under ASU 2016-02 is not considered a liability under the consolidated leverage ratio calculations in the indentures governing the Company’s unsecured and senior secured note obligations. The Company has made an accounting policy election to not apply the recognition requirements of ASU 2016-02 to short-term leases - leases with a term of one year or less. The Company has also elected to apply certain practical expedients under ASU 2016-02 including the exclusion of lease components on its finance and operating leases.

	Three Months Ended March 31, 2022
<i>Finance lease costs</i>	
Amortization of right-of-use assets	\$ 6,998
Interest expense on finance lease liabilities	5,081
Operating lease cost	4,773
Total lease costs	16,852
<i>Other lease information</i>	
Cash paid for amounts included in the measurement of lease liabilities	
Operating cash flows from finance leases	(6,621)
Operating cash flows from operating leases	(4,811)
Financing cash flows from finance leases	(5,863)
Right-of-use assets obtained in exchange for new finance lease liabilities	6,982
Right-of-use assets obtained in exchange for new operating lease liabilities	4,841
Weighted-average remaining lease term — finance leases (in years)	12.6
Weighted-average remaining lease term — operating leases (in years)	18.5
Weighted average discount rate — finance leases	8.9 %
Weighted average discount rate — operating leases	5.4 %

Finance leases—fiber lease agreements

The Company has entered into lease agreements with numerous providers of dark fiber under indefeasible-right-of use agreements (“IRU”). These agreements have initial terms of 15- 20 years and include renewal options after the initial lease term. The Company establishes the number of renewal options based upon its assessment at the inception of the lease of the number of option periods for which failure to renew the lease would be such amount that renewal appears to be reasonably certain. The option to renew may be automatic, at the option of the Company or mutually agreed upon between the fiber provider and the Company. Once the Company has accepted the related fiber route, leases that meet the criteria for treatment as finance leases are recognized as a lease obligation and an IRU asset. The interest rate used in determining the present value of the aggregate future minimum lease payments is the Company’s borrowing rate for the reasonably certain lease term. The implicit rates within the Company’s operating leases are generally not determinable and the Company uses its incremental borrowing rate for each lease using its current borrowing rate, adjusted for various factors including level of collateralization and term of the lease. The determination of the Company’s incremental borrowing rate requires judgment. Finance lease assets are included in property and

Company's consolidated balance sheets. As of March 31, 2022, the Company had committed to additional dark fiber IRU lease agreements totaling payments to be paid over periods of up to 20 years. These obligations begin when the related fiber is accepted, which is generally expected to occur

Operating leases

The Company leases office space and data center facilities under operating leases. In certain cases the Company also enters into short-term dark fiber. Right-of-use assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent its obligations under the lease. Operating lease right-of-use assets and liabilities are recognized at the lease commencement date based on the present value of lease payments over the reasonably certain lease term. The implicit rates within the Company's operating leases are generally not determinable and the Company uses its incremental borrowing rate at the lease commencement date to determine the present value of its lease payments. The Company determines its incremental borrowing rate for its operating leases at the current borrowing rate, adjusted for various factors including level of collateralization and term to align with the term of the lease. The determination of the incremental borrowing rate requires judgment. Certain of the Company's leases include options to extend or terminate the lease. The Company estimates the number of renewal option periods used in determining the operating lease term based upon its assessment at the inception of the operating lease of the number of renewal options which failure to renew the lease imposes a penalty in such amount that renewal appears to be reasonably certain. The option to renew may be automatically exercised by the Company or mutually agreed to between the landlord or dark fiber provider and the Company. Once the Company has accepted the related fiber rental term has begun, the present value of the aggregate future minimum operating lease payments is recorded as an operating lease liability and a right-of-use asset. Lease incentives and deferred rent liabilities for facilities operating leases are presented with, and netted against, the right-of-use leased asset. Lease expense is recognized on a straight-line basis over the term of the lease.

The future minimum payments under these operating lease and finance lease agreements are as follows (in thousands):

For the Twelve Months Ending March 31,	Operating Leases
2022	\$ 17,795
2023	18,263
2024	17,161
2025	14,325
2026	12,601
Thereafter	110,462
Total minimum lease obligations	190,607
Less—amounts representing interest	(66,833)
Present value of minimum lease obligations	123,774
Current maturities	(12,118)
Lease obligations, net of current maturities	\$ 111,656

Allowance for credit losses

As of January 1, 2020, the Company maintained an allowance for credit losses to cover its current expected credit losses on its trade receivables due to the failure of customers to make contractual payments. The Company estimates credit losses expected over the life of its trade receivables based on historical experience combined with current conditions that may affect a customer's ability to pay and reasonable and supportable forecasts. While the Company uses various metrics, it primarily monitors collectability by reviewing the duration of collection pursuits on its delinquent trade receivables. Based on the Company's experience, a customer's delinquency status is the strongest indicator of the credit quality of the underlying trade receivables, which is analyzed monthly.

Description	Beginning Balance	Current-period Provision for Expected Credit Losses	Write offs Charged Against Allowance
<i>Allowance for credit losses (deducted from accounts receivable)</i>			
Three months ended March 31, 2022	\$ 1,510	\$ 946	\$ ()
Three months ended March 31, 2021	\$ 1,921	\$ 2,012	\$ (2)

Net bad debt expense for the three months ended March 31, 2022 was \$0.3 million which is net of bad debt recoveries of \$0.6 million. Net bad debt expense for the three months ended March 31, 2021 was \$0.8 million which is net of bad debt recoveries of \$1.2 million.

Property and equipment

**3 Months Ended
Mar. 31, 2022**

Property and equipment

Property and equipment

2. Property and equipment:

Depreciation and amortization expense related to property and equipment and finance leases was \$22.7 million and \$22.0 million for the three months ended March 31, 2022 and 2021, respectively. The Company capitalized salaries and related benefits of employees working directly on the construction and build-out of its network of \$3.2 million and \$3.2 million for the three months ended March 31, 2022 and 2021, respectively.

Long-term debt

**3 Months Ended
Mar. 31, 2022**

Long-term debt

Long-term debt

3. Long-term debt:

As of March 31, 2022, the Company had outstanding \$500.0 million aggregate principal amount of Senior Secured Notes due 2026 (the “2026 Notes”) and €350.0 million (\$389.0 million USD) aggregate principal amount of Senior Unsecured Euro Notes due 2024 (the “2024 Notes”). The 2026 Notes are due on May 1, 2026 and bear interest at a rate of 3.50% per year. Interest on the 2026 Notes is paid semi-annually on May 1 and November 1 of each year. The 2024 Notes are due on June 30, 2024 and bear interest at a rate of 4.375% per year. Interest on the 2024 Notes is paid semi-annually on June 30 and December 30 of each year.

Limitations under the indentures

The indentures governing the 2024 Notes (the “2024 Notes Indenture”) and the 2026 Notes (the “2026 Notes Indenture”), among other things, limit the Company’s ability to incur indebtedness; to pay dividends or make other distributions; to make certain investments and other restricted payments; to create liens; to consolidate, merge, sell or otherwise dispose of all or substantially all of its assets; to incur restrictions on the ability of a subsidiary to pay dividends or make other payments; and to enter into certain transactions with its affiliates. There are certain exceptions to the limitations on the Company’s ability to incur indebtedness under the 2024 Notes Indenture and the 2026 Notes Indenture, including IRU agreements incurred in the normal course of business and any additional indebtedness if (i) under the 2024 Notes Indenture, the Company’s consolidated leverage ratio, as defined in the 2024 Notes Indenture, is less than 6.0 to 1.0 and (ii) under the 2026 Notes Indenture, either the Company’s consolidated leverage ratio, as defined in the 2026 Notes Indenture, is less than 6.0 to 1.0 or the Company’s fixed charge coverage ratio, as defined in the 2026 Notes Indenture, is greater than 2.0 to 1.0. The Company can also incur unlimited liens (which can be used, together with capacity under the debt covenant, to incur additional secured indebtedness) if the Company’s consolidated secured leverage ratio, as defined in each of the 2024 Notes Indenture and the 2026 Notes Indenture, is less than 4.0 to 1.0. The 2024 Notes Indenture permits restricted payments, such as dividends and stock purchases, using accumulated consolidated cash flow, as defined in the 2024 Notes Indenture, when the Company’s consolidated leverage ratio, as defined by the 2024 Notes Indenture, is less than 4.25 to 1.00. Under the 2026 Notes Indenture, such accumulated consolidated cash flow, as defined therein, can be used to make such restricted payments if the Company is able to incur \$1 of debt, as defined (i.e., either its consolidated leverage ratio is less than 6.0 to 1.0 or its fixed charge coverage ratio is greater than 2.0 to 1.0). As of March 31, 2022 the Company’s consolidated leverage ratio was above 4.25 and the Company’s fixed charge coverage ratio was above 2.0. As of March 31, 2022, a total of \$145.5 million was unrestricted and permitted for restricted payments including dividends and stock purchases.

Interest rate swap agreement

As of March 31, 2022, the Company was party to an interest rate swap agreement (the “Swap Agreement”) that has the economic effect of modifying the fixed interest rate obligation associated with its 2026 Notes to a variable interest rate obligation based on the Secured Overnight Financing Rate (“SOFR”) so that the interest payable on the 2026 Notes effectively became variable based on overnight SOFR. The critical terms of the Swap Agreement match the terms of the 2026 Notes, including the notional amount and the optional redemption date on February 1, 2026. The Company did not elect hedge accounting for the Swap Agreement. The Swap Agreement is recorded at its fair value at each reporting period, and the Company incurs gains and losses due to changes in market interest rates. By entering into the Swap Agreement, the Company has assumed the risk associated with variable interest rates. Changes in interest rates affect the interest expense that the Company recognizes in its consolidated statements of

comprehensive income. The values that the Company reports for the Swap Agreement as of each reporting date are recognized as interest expense with the corresponding amounts included in assets or liabilities in the Company's consolidated balance sheets. As of March 31, 2022 the fair value of the Swap Agreement was a net liability of \$30.3 million of which \$0.6 million is presented with accrued and other current liabilities and \$29.7 million is presented with other long-term liabilities. The Company recorded an unrealized loss related to the Swap Agreement of \$21.3 million in the three months ended March 31, 2022 which is presented in interest expense in the consolidated statement of comprehensive income. The Company has made a \$35.0 million deposit with the counterparty to the Swap Agreement. If the fair value of the Swap Agreement exceeds a net liability of \$35.0 million the Company will be required to deposit additional funds with the counterparty equal to the net liability fair value in excess of \$35.0 million. As of March 31, 2022, \$30.3 million of the deposit was restricted and \$4.7 million was unrestricted.

Under the Swap Agreement, the Company pays the counterparty a semi-annual payment based upon overnight SOFR plus a contractual interest rate spread, and the counterparty pays the Company a semi-annual fixed 3.50% interest payment. The settlement payment is made each November and May until the Swap Agreement expires in February 2026. Under the first Swap Agreement settlement payment the Company received a payment of \$0.6 million from the counterparty for a net cash savings of \$0.6 million for the period from August 9, 2021 (the Swap Agreement inception date) to October 31, 2021. Under the settlement payment made on May 4, 2022, the Company received a payment of \$1.2 million from the counterparty for a net cash savings of \$1.2 million for the period from November 1, 2021 to April 30, 2022.

Debt extinguishment and repurchase of 2022 Notes

In March 2021, Group repurchased \$115.9 million of its 5.375% Senior Secured Notes due 2022 ("2022 Notes") at a price of 103.2% of the principal amount plus \$0.4 million of accrued interest. As a result of this transaction, the Company incurred a loss on debt extinguishment and repurchase of \$3.9 million from the premium payment above par value, the amortization of the remaining unamortized notes cost and certain transaction expenses.

On April 6, 2021, Group issued a notice of conditional partial redemption for \$45.0 million of the 2022 Notes. On May 6, 2021, Group redeemed the \$45.0 million aggregate principal amount of the 2022 Notes at par plus the "make-whole amount" as defined in the 2022 Notes indenture of \$1.9 million (\$41.41533 per \$1,000 aggregate principal amount), plus accrued interest to, but excluding, the redemption date of \$0.4 million (\$9.70486 per aggregate principal amount). Following the redemption, there was \$284.1 million aggregate principal amount of the 2022 Notes remaining. On May 7, 2021, Group used the net proceeds from the offering of its 2026 Notes to satisfy and discharge its remaining obligations under its 2022 Notes. As a result of these transactions, the Company incurred a loss on debt extinguishment and redemption of \$10.8 million from the payment of \$11.5 million of interest on the 2022 Notes through December 1, 2021, and the amortization of the remaining unamortized notes costs and debt premium.

Commitments and contingencies

3 Months Ended
Mar. 31, 2022

[Commitments and contingencies](#)

[Commitments and contingencies](#)

4. Commitments and contingencies:

Current and potential litigation

In accordance with the accounting guidance for contingencies, the Company accrues its estimate of a contingent liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Where it is probable that a liability has been incurred and there is a range of expected loss for which no amount in the range is more likely than any other amount, the Company accrues at the low end of the range. The Company reviews its accruals at least quarterly and adjusts them to reflect the impact of negotiations, settlements, rulings, advice of legal counsel, and other information and events pertaining to a particular matter. The Company has taken certain positions related to its obligations for leased circuits for which it is reasonably possible could result in a loss of up to \$3.6 million in excess of the amount accrued at March 31, 2022. The Company is also engaged in litigation in Virginia in which a former provider of transoceanic capacity to the Company is seeking approximately \$0.6 million for alleged unpaid fees and the Company's early termination of the arrangement. The complaint was filed in December 2021 in the Circuit Court of Fairfax County, Virginia. The Company is contesting its obligation to pay these amounts.

In the ordinary course of business the Company is involved in other legal activities and claims. Because such matters are subject to many uncertainties and the outcomes are not predictable with assurance, the liability related to these legal actions and claims cannot be determined with certainty. Management does not believe that such claims and actions will have a material impact on the Company's financial condition or results of operations. Judgment is required in estimating the ultimate outcome of any dispute resolution process, as well as any other amounts that may be incurred to conclude the negotiations or settle any litigation. Actual results may differ from these estimates under different assumptions or conditions and such differences could be material.

Income taxes

**3 Months Ended
Mar. 31, 2022**

[Income taxes](#)

[Income taxes](#)

5. Income taxes:

The components of income before income taxes consist of the following (in thousands):

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Domestic	\$ 3,352	\$ 28,502
Foreign	(1,674)	(2,301)
Total	<u>\$ 1,678</u>	<u>\$ 26,201</u>

**Common stock buyback
program and stock options
and award plan**

3 Months Ended

Mar. 31, 2022

**Common stock buyback
program and stock options
and award plan**

**Common stock buyback
program and stock options and
award plan**

6. Common stock buyback program and stock options and award plan:

The Company's Board of Directors has approved purchases of the Company's common stock under a buyback program (the "Buyback Program") through December 31, 2022. As of March 31, 2022, there was \$30.4 million remaining for purchases under the Buyback Program. There were no purchases of common stock during both the three months ended March 31, 2022 and March 31, 2021.

During the three months ended March 31, 2022 the Company granted 256,800 shares of restricted stock to its executive employees valued at \$17.8 million that primarily vest over periods ending in December 2025. The vesting of 104,800 of these shares is subject to certain performance conditions. Of the 104,800 total performance shares granted, the vesting of up to 29,334 performance shares granted to the Company's CEO is subject to the total shareholder return of the Company's common stock compared to the total shareholder return of the Nasdaq Telecommunications Index.

Dividends on common stock

3 Months Ended

Mar. 31, 2022

[Dividends on common stock](#)

[Dividends on common stock](#)

7. Dividends on common stock:

On April 29, 2022, the Company's Board of Directors approved the payment of a quarterly dividend of \$0.88 per common share. This estimated \$41.0 million dividend payment is expected to be made on May 27, 2022.

The payment of any future dividends and any other returns of capital, including stock buybacks will be at the discretion of the Company's Board of Directors and may be reduced, eliminated or increased and will be dependent upon the Company's financial position, results of operations, available cash, cash flow, capital requirements, limitations under the Company's debt indentures and other factors deemed relevant by the Company's Board of Directors. The Company is a Delaware corporation and under the General Corporate Law of the State of Delaware distributions may be restricted including a restriction that distributions, including stock purchases and dividends, do not result in an impairment of a corporation's capital, as defined under Delaware law. The indentures governing the Company's notes limit the Company's ability to return cash to its stockholders.

Related party transactions

**3 Months Ended
Mar. 31, 2022**

Related party transactions

Related party transactions

8. Related party transactions:

Office leases

The Company's headquarters is located in an office building owned by Sodium LLC whose owner is the Company's Chief Executive Officer. The fixed annual rent for the headquarters building is \$1.0 million per year plus an allocation of taxes and utilities. The lease began in May 2015 and the lease term was for five years. In February 2020 the lease term was extended to May 2025. The lease is cancellable by the Company at no cost upon 60 days' notice. The Company's audit committee reviews and approves all transactions with related parties. The Company paid \$0.5 million and \$0.4 million in the three months ended March 31, 2022 and 2021, respectively, for rent and related costs (including taxes and utilities) to Sodium LLC for this lease.

Segment information

**3 Months Ended
Mar. 31, 2022**

[Segment information](#)

[Segment information](#)

9. Segment information:

The Company operates as one operating segment. The Company's service revenue by geographic region and product class and long-lived assets by geographic region are as follows (in thousands):

Three Months Ended March 31, 2022				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 86,442	\$31,710	\$ 140	\$118,292
Europe	21,496	4,274	10	25,780
Asia Pacific	3,141	337	3	3,481
Latin America	1,392	58	1	1,451
Africa	163	8	—	171
Total	<u>\$112,634</u>	<u>\$36,387</u>	<u>\$ 154</u>	<u>\$149,175</u>

Three Months Ended March 31, 2021				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 84,464	\$31,843	\$ 89	\$116,396
Europe	22,420	4,592	18	27,030
Asia Pacific	2,173	271	—	2,444
Latin America	812	16	—	828
Africa	78	1	—	79
Total	<u>\$109,947</u>	<u>\$36,723</u>	<u>\$ 107</u>	<u>\$146,777</u>

	March 31, 2022	December 31, 2021
Long-lived assets, net		
North America	\$330,769	\$ 331,537
Europe and other	125,661	126,355
Total	<u>\$456,430</u>	<u>\$ 457,892</u>

The majority of North American revenue consists of services delivered within the United States.

**Description of the business
(Policies)**

**3 Months Ended
Mar. 31, 2022**

[Description of the business
Basis of presentation](#)

Basis of presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission. In the opinion of management, the unaudited condensed consolidated financial statements reflect all normal adjustments that the Company considers necessary for the fair presentation of its results of operations and cash flows for the interim periods covered, and of the Company at the date of the interim condensed consolidated balance sheet. Certain information and footnote disclosures normally included in the annual financial statements prepared in accordance with U.S. generally accepted accounting principles ("GAAP") have been condensed or omitted pursuant to SEC regulations. The operating results for interim periods are not necessarily indicative of the operating results for the entire year. While the Company's disclosures are adequate to not make the information misleading, these interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes included in its annual report on Form 10-K for the year ended December 31, 2021.

The accompanying unaudited condensed consolidated financial statements include all wholly owned subsidiaries. All inter-company accounts and transactions have been eliminated.

[Use of estimates](#)

Use of estimates

The preparation of consolidated financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the amounts of revenues and expenses during the reporting period. Actual results may differ from these estimates.

[Financial instruments](#)

Financial instruments

At March 31, 2022 and December 31, 2021, the carrying amount of cash and cash equivalents, restricted cash, accounts receivable, prepaid expenses, accounts payable, and accrued expenses approximated fair value because of the short-term nature of these instruments. The Company measures its restricted cash at amortized cost, which approximates fair value based upon quoted market prices (Level 1). Based upon recent trading prices (Level 1), as of March 31, 2022 the fair value of the Company's \$500.0 million senior secured notes due 2026 was \$476.3 million, the fair value of the Company's \$387.1 million senior unsecured notes due 2024 was \$387.1 million and the estimated liability fair value of the Company's interest rate swap agreement was \$3.7 million.

Restricted cash and interest rate swap agreement

Restricted cash represents amounts held in a segregated bank accounts by our clearing broker as margin in support of our interest rate swap instrument in Note 3 and was \$30.3 million as of March 31, 2022. Additional cash may be further restricted to maintain our interest rate swap instrument as it is subject to margin requirements change. The Company does not use derivative financial instruments for trading purposes.

[Restricted cash and interest
rate swap agreement](#)

Gross receipts taxes, universal service fund and other surcharges

[Gross receipts taxes, universal
service fund and other
surcharges](#)

Revenue recognition standards include guidance relating to taxes or surcharges assessed by a governmental authority that are directly imposed on and related to a producing transaction between a seller and a customer and may include, but are not limited to, gross receipts taxes, excise taxes, Universal Service Fund (USF) state regulatory fees. Such charges may be presented gross or net based upon the Company's accounting policy election. The Company records these charges on a gross basis and includes them in its revenue and network operations expense. Excise taxes and surcharges billed to customers and included in revenue (as service revenue and network operations expense) were \$3.7 million and \$4.5 million for the three months ended March 31, 2022 and March 31, 2021.

[Basic and diluted net income
per common share](#)

Basic and diluted net income per common share

Basic earnings per share ("EPS") excludes dilution for common stock equivalents and is computed by dividing net income or (loss) available to common stockholders by the weighted-average number of common shares outstanding for the period. Diluted EPS is based on the weighted-average number of common shares outstanding during each period, adjusted for the effect of dilutive common stock equivalents. Shares of restricted stock are included in the numerator of basic EPS and they vest and are included in diluted EPS, to the extent they are dilutive, determined using the treasury stock method.

The following details the determination of diluted weighted average shares:

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Weighted average common shares - basic	46,575,848	46,575,848
Dilutive effect of stock options	21,310	21,310
Dilutive effect of restricted stock	332,033	332,033
Weighted average common shares - diluted	46,929,191	46,929,191

The following details unvested shares of restricted common stock as well as the anti-dilutive effects of stock options and restricted stock:

	March 31, 2022	March 31, 2021
Unvested shares of restricted common stock	1,352,439	1,352,439
Anti-dilutive options for common stock	85,921	85,921
Anti-dilutive shares of restricted common stock	479,655	479,655

[Stockholder's Deficit](#)

Stockholders' Deficit

The following details the changes in stockholders' deficit for the three months ended March 31, 2022 and March 31, 2021 (in thousands):

	Additional	Accumulated Other
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	Common Stock		Paid-in Capital	Comprehensive Income (Loss)	Accumulated Deficit
	Shares	Amount			
Balance at December 31, 2020	47,214,077	\$ 47	\$ 515,867	\$ (1,306)	\$ (8)
Forfeitures of shares granted to employees	(19,676)	—	—	—	—
Equity-based compensation	—	—	7,831	—	—
Foreign currency translation	—	—	—	(5,210)	—
Issuances of common stock	323,700	1	—	—	—
Exercises of options	4,571	—	215	—	—
Dividends paid	—	—	—	—	(3)
Net income	—	—	—	—	—
Balance at March 31, 2021	47,522,672	\$ 48	\$ 523,913	\$ (6,516)	\$ (8)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit
	Shares	Amount			
Balance at December 31, 2021	47,674,189	\$ 48	\$ 547,734	\$ (11,003)	\$ (9)
Forfeitures of shares granted to employees	(9,582)	—	—	—	—
Equity-based compensation	—	—	6,614	—	—
Foreign currency translation	—	—	—	(2,165)	—
Issuances of common stock	256,800	—	—	—	—
Exercises of options	5,173	—	204	—	—
Dividends paid	—	—	—	—	(4)
Net income	—	—	—	—	—
Balance at March 31, 2022	47,926,580	\$ 48	\$ 554,552	\$ (13,168)	\$ (9)

Revenue recognition

Revenue recognition

The Company recognizes revenue under ASU No. 2014-09, *Revenue from Contracts with Customers* (“ASC 606”), which requires an amount of revenue to which it expects to be entitled for the transfer of promised goods or services to customers. Under ASC 606 the Company recognizes revenue for contracts with terms longer than month-to-month over the contract term. The Company believes that for contracts with terms longer than month-to-month, the installation fee does not give rise to a material right as defined by ASC 606. The Company recognizes revenue over the estimated average customer life for contracts with month-to-month contracts, because the installation fee represents a material right as defined by ASC 606. The Company capitalizes certain costs that relate directly to a customer contract, including commissions paid to its sales team and sales agents and amortizes these costs on straight-line basis over the life of the services are transferred to the customer for commissions paid to its sales team (estimated customer life) and over the remaining original contract term for commissions. Management assesses these costs for impairment at least quarterly and as “triggering” events occur that indicate it is more likely than not that the asset exists.

The Company’s service offerings consist of on-net and off-net telecommunications services. Fixed fees are billed monthly in advance and other fees are billed monthly in arrears. Amounts billed are due upon receipt and contract lengths range from month to month to 60 months. The Company satisfies its performance obligation to provide services to customers over time as the services are rendered. In accordance with ASC 606, revenue is recognized when a customer obtains control of the services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for these services. The Company adopted the practical expedient related to certain performance obligation disclosures since it has a right to consideration from its customer in an amount that is directly with the value to the customer of the Company’s performance completed to date.

To achieve this core principle, the Company follows the following five steps:

- 1) Identification of the contract, or contracts with a customer
- 2) Identification of the performance obligations in the contract
- 3) Determination of the transaction price
- 4) Allocation of the transaction price to the performance obligations in the contract
- 5) Recognition of revenue when, or as, the Company satisfies its performance obligations

Fees billed in connection with customer installations are deferred (as deferred revenue) and recognized as noted above. To the extent a customer terminates prior to its contractual end the customer is subject to termination fees. The Company vigorously seeks payment of these termination fees and recognizes revenue for termination fees as they are collected.

Service revenue recognized from amounts in deferred revenue (contract liabilities) at the beginning of the period during the three months ended March 31, 2021 was \$1.9 million and during the three months ended March 31, 2021 was \$1.8 million. Amortization expense for contract costs was \$4.7 million for the three months ended March 31, 2022 and \$4.6 million for the three months ended March 31, 2021.

Leases

Leases

In February 2016, the FASB issued ASU No. 2016-02, *Leases* (“ASU 2016-02”). ASU 2016-02 replaced most existing lease accounting requirements. Lease liability under ASU 2016-02 is not considered a liability under the consolidated leverage ratio calculations in the indentures governing the Company’s unsecured and senior secured note obligations. The Company has made an accounting policy election to not apply the recognition requirements of ASU 2016-02 for short-term leases - leases with a term of one year or less. The Company has also elected to apply certain practical expedients under ASU 2016-02 including the recognition of lease and non-lease components on its finance and operating leases.

Three Months

	Ended March 31, 2022
<i>Finance lease costs</i>	
Amortization of right-of-use assets	\$ 6,998
Interest expense on finance lease liabilities	5,081
Operating lease cost	4,773
Total lease costs	16,852
<i>Other lease information</i>	
Cash paid for amounts included in the measurement of lease liabilities	
Operating cash flows from finance leases	(6,621)
Operating cash flows from operating leases	(4,811)
Financing cash flows from finance leases	(5,863)
Right-of-use assets obtained in exchange for new finance lease liabilities	6,982
Right-of-use assets obtained in exchange for new operating lease liabilities	4,841
Weighted-average remaining lease term — finance leases (in years)	12.6
Weighted-average remaining lease term — operating leases (in years)	18.5
Weighted average discount rate — finance leases	8.9 %
Weighted average discount rate — operating leases	5.4 %

Finance leases—fiber lease agreements

The Company has entered into lease agreements with numerous providers of dark fiber under indefeasible-right-of-use agreements (“IRU”) which have initial terms of 15- 20 years and include renewal options after the initial lease term. The Company establishes the number of renewal options by determining the lease term based upon its assessment at the inception of the lease of the number of option periods for which failure to renew the lease for such amount that renewal appears to be reasonably certain. The option to renew may be automatic, at the option of the Company or mutually agreed to between the fiber provider and the Company. Once the Company has accepted the related fiber route, leases that meet the criteria for treatment as finance lease obligations are recorded as lease obligations and an IRU asset. The interest rate used in determining the present value of the aggregate future minimum lease payments is the Company’s incremental borrowing rate for the reasonably certain lease term. The implicit rates within the Company’s operating leases are generally not determinable and the Company uses its incremental borrowing rate for each lease using its current borrowing rate, adjusted for various factors including level of collateralization and term of the lease. The determination of the Company’s incremental borrowing rate requires judgment. Finance lease assets are included in property and equipment on the Company’s consolidated balance sheets. As of March 31, 2022, the Company had committed to additional dark fiber IRU lease agreements totaling \$111.7 million in payments to be paid over periods of up to 20 years. These obligations begin when the related fiber is accepted, which is generally expected to occur over the term of the lease.

Operating leases

The Company leases office space and data center facilities under operating leases. In certain cases the Company also enters into short-term leases for dark fiber. Right-of-use assets represent the Company’s right to use an underlying asset for the lease term and lease liabilities represent its obligations under the lease. Operating lease right-of-use assets and liabilities are recognized at the lease commencement date based on the present value of lease payments over the reasonably certain lease term. The implicit rates within the Company’s operating leases are generally not determinable and the Company uses its incremental borrowing rate at the lease commencement date to determine the present value of its lease payments. The Company determines its incremental borrowing rate for each lease using its current borrowing rate, adjusted for various factors including level of collateralization and term to align with the term of the lease. The determination of the incremental borrowing rate requires judgment. Certain of the Company’s leases include options to extend or terminate the lease. The Company estimates the number of renewal option periods used in determining the operating lease term based upon its assessment at the inception of the operating lease of the number of option periods which failure to renew the lease imposes a penalty in such amount that renewal appears to be reasonably certain. The option to renew may be automatic, at the option of the Company or mutually agreed to between the landlord or dark fiber provider and the Company. Once the Company has accepted the related fiber route, the lease term has begun, the present value of the aggregate future minimum operating lease payments is recorded as an operating lease liability and a right-of-use asset. Lease incentives and deferred rent liabilities for facilities operating leases are presented with, and netted against, the right-of-use leased asset. Lease expenses are recognized on a straight-line basis over the term of the lease.

The future minimum payments under these operating lease and finance lease agreements are as follows (in thousands):

For the Twelve Months Ending March 31,	Operating Leases
2022	\$ 17,795
2023	18,263
2024	17,161
2025	14,325
2026	12,601
Thereafter	110,462
Total minimum lease obligations	190,607
Less—amounts representing interest	(66,833)
Present value of minimum lease obligations	123,774
Current maturities	(12,118)
Lease obligations, net of current maturities	\$ 111,656

Allowance for credit losses

Allowance for credit losses

As of January 1, 2020, the Company maintained an allowance for credit losses to cover its current expected credit losses on its trade receivables in the event of a failure of customers to make contractual payments. The Company estimates credit losses expected over the life of its trade receivables based on historical experience combined with current conditions that may affect a customer's ability to pay and reasonable and supportable forecasts. While the Company uses various metrics, it primarily monitors collectability by reviewing the duration of collection pursuits on its delinquent trade receivables. Based on the Company's experience, a customer's delinquency status is the strongest indicator of the credit quality of the underlying trade receivables, which is analyzed monthly.

**Current-period
Provision for** **Write offs**

Description	Beginning Balance	Expected Credit Losses	Charged Against Allowance
<i>Allowance for credit losses (deducted from accounts receivable)</i>			
Three months ended March 31, 2022	\$ 1,510	\$ 946	\$ ()
Three months ended March 31, 2021	\$ 1,921	\$ 2,012	\$ (2)

Net bad debt expense for the three months ended March 31, 2022 was \$0.3 million which is net of bad debt recoveries of \$0.6 million. Net bad debt expense for the three months ended March 31, 2021 was \$0.8 million which is net of bad debt recoveries of \$1.2 million.

Description of the business
(Tables)

3 Months Ended
Mar. 31, 2022

[Description of the business](#)
[Schedule of diluted weighted](#)
[average shares](#)

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Weighted average common shares - basic	46,575,848	46,067,096
Dilutive effect of stock options	21,310	26,065
Dilutive effect of restricted stock	332,033	414,097
Weighted average common shares - diluted	46,929,191	46,507,258

[Schedule of unvested and anti-
dilutive shares](#)

	March 31, 2022	March 31, 2021
Unvested shares of restricted common stock	1,352,439	1,454,033
Anti-dilutive options for common stock	85,921	77,832
Anti-dilutive shares of restricted common stock	479,655	392,410

[Schedule of Stockholders'
Deficit](#)

The following details the changes in stockholders' deficit for the three months ended March 31, 2022 and March 31, 2021 (in thousands except share amounts):

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount				
Balance at December 31, 2020	47,214,077	\$ 47	\$515,867	\$ (1,306)	\$ (807,774)	\$ (293,166)
Forfeitures of shares granted to employees	(19,676)	—	—	—	—	—
Equity-based compensation	—	—	7,831	—	—	7,831
Foreign currency translation	—	—	—	(5,210)	—	(5,210)
Issuances of common stock	323,700	1	—	—	—	1
Exercises of options	4,571	—	215	—	—	215
Dividends paid	—	—	—	—	(36,081)	(36,081)
Net income	—	—	—	—	18,851	18,851
Balance at March 31, 2021	47,522,672	\$ 48	\$523,913	\$ (6,516)	\$ (825,004)	\$ (307,559)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount				
Balance at December 31, 2021	47,674,189	\$ 48	\$547,734	\$ (11,003)	\$ (909,877)	\$ (373,098)
Forfeitures of shares granted to employees	(9,582)	—	—	—	—	—
Equity-based compensation	—	—	6,614	—	—	6,614
Foreign currency translation	—	—	—	(2,165)	—	(2,165)
Issuances of common stock	256,800	—	—	—	—	—
Exercises of options	5,173	—	204	—	—	204
Dividends paid	—	—	—	—	(41,298)	(41,298)

Net income	—	—	—	—	1,137	1,137
Balance at						
March 31, 2022	47,926,580	\$ 48	\$554,552	\$ (13,168)	\$ (950,038)	\$ (408,606)

[Schedule of lease cost](#)

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
<i>Finance lease costs</i>		
Amortization of right-of-use assets	\$ 6,998	\$ 6,346
Interest expense on finance lease liabilities	5,081	5,226
Operating lease cost	4,773	4,417
Total lease costs	16,852	15,989
<i>Other lease information</i>		
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from finance leases	(6,621)	(5,396)
Operating cash flows from operating leases	(4,811)	(4,993)
Financing cash flows from finance leases	(5,863)	(5,744)
Right-of-use assets obtained in exchange for new finance lease liabilities	6,982	6,336
Right-of-use assets obtained in exchange for new operating lease liabilities	4,841	2,720
Weighted-average remaining lease term — finance leases (in years)	12.6	12.4
Weighted-average remaining lease term — operating leases (in years)	18.5	19.9
Weighted average discount rate — finance leases	8.9 %	10.1 %
Weighted average discount rate — operating leases	5.4 %	5.6 %

[Schedule of future minimum payments under these operating lease and finance lease agreements](#)

The future minimum payments under these operating lease and finance lease agreements are as follows (in thousands):

For the Twelve Months Ending March 31,	Operating Leases	Finance Leases
2022	\$ 17,795	\$ 36,157
2023	18,263	35,470
2024	17,161	35,999
2025	14,325	28,815
2026	12,601	28,349
Thereafter	110,462	250,421
Total minimum lease obligations	190,607	415,211
Less—amounts representing interest	(66,833)	(169,962)
Present value of minimum lease obligations	123,774	245,249
Current maturities	(12,118)	(17,147)
Lease obligations, net of current maturities	\$ 111,656	\$ 228,102

[Schedule of impact on financial statement line items from adopting ASC 326](#)

Description	Beginning Balance	Current-period Provision for Expected Credit Losses	Write offs Charged Against Allowance	Ending Balance
<i>Allowance for credit losses (deducted from accounts receivable)</i>				
Three months ended March 31, 2022	\$ 1,510	\$ 946	\$ (980)	\$ 1,476
Three months ended March 31, 2021	\$ 1,921	\$ 2,012	\$ (2,476)	\$ 1,457

Income taxes (Tables)

**3 Months Ended
Mar. 31, 2022**

Income taxes

Schedule of components of (loss) income before income taxes

The components of income before income taxes consist of the following (in thousands):

	Three Months Ended March 31, 2022	Three Months Ended March 31, 2021
Domestic	\$ 3,352	\$ 28,502
Foreign	(1,674)	(2,301)
Total	\$ 1,678	\$ 26,201

**Segment information
(Tables)**

**3 Months Ended
Mar. 31, 2022**

Segment information

Schedule of service revenue by geographic region and product class and long lived assets by geographic region

The Company operates as one operating segment. The Company's service revenue by geographic region and product class and long-lived assets by geographic region are as follows (in thousands):

Three Months Ended March 31, 2022				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 86,442	\$31,710	\$ 140	\$118,292
Europe	21,496	4,274	10	25,780
Asia Pacific	3,141	337	3	3,481
Latin America	1,392	58	1	1,451
Africa	163	8	—	171
Total	<u>\$112,634</u>	<u>\$36,387</u>	<u>\$ 154</u>	<u>\$149,175</u>

Three Months Ended March 31, 2021				
Revenues	On-net	Off-net	Non-core	Total
North America	\$ 84,464	\$31,843	\$ 89	\$116,396
Europe	22,420	4,592	18	27,030
Asia Pacific	2,173	271	—	2,444
Latin America	812	16	—	828
Africa	78	1	—	79
Total	<u>\$109,947</u>	<u>\$36,723</u>	<u>\$ 107</u>	<u>\$146,777</u>

	March 31, 2022	December 31, 2021
Long-lived assets, net		
North America	\$330,769	\$ 331,537
Europe and other	125,661	126,355
Total	<u>\$456,430</u>	<u>\$ 457,892</u>

Description of the business: (Details)	3 Months Ended	
	Mar. 31, 2022	
	country	
	GB	
	MB	
Number of countries entity operates country	50	
Minimum		
On-net service speed range MB	100	
Maximum		
On-net service speed range GB	400	

Description of the business:
Financial instruments
(Details) - Mar. 31, 2022
€ in Millions, \$ in Millions

USD (\$) EUR (€)

Level 2 | Interest Rate Swap

Financial instruments

Fair value of interest rate swaps \$ 30.3

long-term liability 30.3

Senior unsecured 2024 Notes

Financial instruments

Senior notes 389.0 € 350.0

Senior unsecured 2024 Notes | Level 2

Financial instruments

Senior notes, fair value 387.1

Senior secured 2026 Notes

Financial instruments

Senior notes 500.0

Senior secured 2026 Notes | Level 2

Financial instruments

Senior notes, fair value \$ 476.3

Description of the business: **3 Months Ended**
Gross receipts taxes,
universal service fund and
other surcharges (Details) - Mar. 31, 2022 Mar. 31, 2021
USD (\$)
\$ in Millions

Description of the business

<u>Excise taxes and surcharge</u>	\$ 3.7	\$ 4.5
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Description of the business: Basic and diluted net income per common share (Details) - shares	3 Months Ended	
	Mar. 31, 2022	Mar. 31, 2021
<u>Diluted weighted average shares</u>		
<u>Weighted average common shares - basic</u>	46,575,848	46,067,096
<u>Weighted average common shares - diluted</u>	46,929,191	46,507,258
<u>Stock options</u>		
<u>Diluted weighted average shares</u>		
<u>Dilutive effect</u>	21,310	26,065
<u>Anti-dilutive effects</u>		
<u>Anti-dilutive</u>	85,921	77,832
<u>Restricted stock</u>		
<u>Diluted weighted average shares</u>		
<u>Dilutive effect</u>	332,033	414,097
<u>Anti-dilutive effects</u>		
<u>Unvested shares of restricted common stock</u>	1,352,439	1,454,033
<u>Anti-dilutive</u>	479,655	392,410

Description of the business: Stockholders' deficit (Details) - USD (\$) \$ in Thousands	3 Months Ended	
	Mar. 31, 2022	Mar. 31, 2021
<u>Increase (Decrease) in Stockholders' Equity</u>		
<u>Balance</u>	\$ (373,098)	\$ (293,166)
<u>Balance (in shares)</u>	47,674,189	
<u>Equity-based compensation</u>	\$ 6,614	7,831
<u>Foreign currency translation</u>	(2,165)	(5,210)
<u>Issuances of common stock</u>		1
<u>Exercises of options</u>	204	215
<u>Dividends paid</u>	(41,298)	(36,081)
<u>Net income</u>	1,137	18,851
<u>Balance</u>	\$ (408,606)	(307,559)
<u>Balance (in shares)</u>	47,926,580	
<u>Common Stock</u>		
<u>Increase (Decrease) in Stockholders' Equity</u>		
<u>Balance</u>	\$ 48	\$ 47
<u>Balance (in shares)</u>	47,674,189	47,214,077
<u>Forfeitures of shares granted to employees (in shares)</u>	(9,582)	(19,676)
<u>Issuances of common stock</u>		\$ 1
<u>Issuances of common stock (in shares)</u>	256,800	323,700
<u>Exercises of options (in shares)</u>	5,173	4,571
<u>Balance</u>	\$ 48	\$ 48
<u>Balance (in shares)</u>	47,926,580	47,522,672
<u>Additional Paid-in Capital</u>		
<u>Increase (Decrease) in Stockholders' Equity</u>		
<u>Balance</u>	\$ 547,734	\$ 515,867
<u>Equity-based compensation</u>	6,614	7,831
<u>Exercises of options</u>	204	215
<u>Balance</u>	554,552	523,913
<u>Accumulated Other Comprehensive Income</u>		
<u>Increase (Decrease) in Stockholders' Equity</u>		
<u>Balance</u>	(11,003)	(1,306)
<u>Foreign currency translation</u>	(2,165)	(5,210)
<u>Balance</u>	(13,168)	(6,516)
<u>Accumulated Deficit</u>		
<u>Increase (Decrease) in Stockholders' Equity</u>		
<u>Balance</u>	(909,877)	(807,774)
<u>Dividends paid</u>	(41,298)	(36,081)
<u>Net income</u>	1,137	18,851
<u>Balance</u>	\$ (950,038)	\$ (825,004)

Description of the business:
Revenue recognition
(Details) - USD (\$)
\$ in Millions

3 Months Ended

Mar. 31, 2022 Mar. 31, 2021

Recent accounting pronouncements- adopted

Service revenue recognized

\$ 1.9 \$ 1.8

Amortization expense for contract costs

\$ 4.7 \$ 4.6

ASU 2014-09

Recent accounting pronouncements- adopted

Maximum contract lengths for billing due upon receipts (in months) 60 months

Description of the business: Leases (Details) - USD (\$) \$ in Thousands	3 Months Ended		Dec. 31, 2021
	Mar. 31, 2022	Mar. 31, 2021	
<u>Finance leases-fiber lease agreements</u>			
<u>Additional finance lease future payments due</u>	\$ 30,300		
<u>Cash paid for amounts included in the measurement of lease liabilities</u>			
<u>Amortization of right-of-use assets</u>	6,998	\$ 6,346	
<u>Interest expense on finance lease liabilities</u>	5,081	5,226	
<u>Operating lease cost</u>	4,773	4,417	
<u>Total lease costs</u>	16,852	15,989	
<u>Operating cash flows from finance leases</u>	(6,621)	(5,396)	
<u>Operating cash flows from operating leases</u>	(4,811)	(4,993)	
<u>Financing cash flows from finance leases</u>	(5,863)	(5,744)	
<u>Right-of-use assets obtained in exchange for new finance lease liabilities</u>	6,982	6,336	
<u>Right-of-use assets obtained in exchange for new operating lease liabilities</u>	\$ 4,841	\$ 2,720	
<u>Weighted-average remaining lease term - finance leases (in years)</u>	12 years 7 months 6 days	12 years 4 months 24 days	
<u>Weighted-average remaining lease term - operating leases (in years)</u>	18 years 6 months	19 years 10 months 24 days	
<u>Weighted average discount rate - finance leases</u>	8.90%	10.10%	
<u>Weighted average discount rate - operating leases</u>	5.40%	5.60%	
<u>Future minimum payments (principal and interest) under these finance leases</u>			
<u>2022</u>	\$ 36,157		
<u>2023</u>	35,470		
<u>2024</u>	35,999		
<u>2025</u>	28,815		
<u>2026</u>	28,349		
<u>Thereafter</u>	250,421		
<u>Total minimum lease obligations</u>	415,211		
<u>Less-amounts representing interest</u>	(169,962)		
<u>Present value of minimum lease obligations</u>	245,249		
<u>Current maturities</u>	(17,147)		\$ (17,048)
<u>Finance lease obligations, net of current maturities</u>	228,102		228,822
<u>Future minimum payments under these operating lease agreements</u>			
<u>2022</u>	17,795		
<u>2023</u>	18,263		
<u>2024</u>	17,161		
<u>2025</u>	14,325		
<u>2026</u>	12,601		

<u>Thereafter</u>	110,462	
<u>Total minimum lease obligations</u>	190,607	
<u>Less-amounts representing interest</u>	(66,833)	
<u>Present value of minimum lease obligations</u>	123,774	
<u>Current maturities</u>	(12,118)	(12,197)
<u>Lease obligations, net of current maturities</u>	\$ 111,656	\$ 111,794
<u>Minimum</u>		
<u>Finance leases-fiber lease agreements</u>		
<u>Initial terms</u>	15 years	
<u>Maximum</u>		
<u>Finance leases-fiber lease agreements</u>		
<u>Initial terms</u>	20 years	

**Description of the business:
Allowance for credit losses
(Details) - USD (\$)
\$ in Thousands**

3 Months Ended

Mar. 31, 2022 Mar. 31, 2021

Description of the business

<u>Balance at Beginning of Period</u>	\$ 1,510	\$ 1,921
<u>Current-period Provision for Expected Credit Losses</u>	946	2,012
<u>Write offs Charged Against Allowance</u>	(980)	(2,476)
<u>Balance at End of Period</u>	1,476	1,457
<u>Bad debt recoveries</u>	\$ 600	\$ 1,200

Description of the business: **3 Months Ended**
Allowance for doubtful
accounts (Details) - USD (\$) **Mar. 31, 2022** **Mar. 31, 2021**
\$ in Millions

Description of the business

Bad debt expense, net of recoveries \$ 0.3 \$ 0.8

**Property and equipment:
(Details) - USD (\$)
\$ in Thousands**

**3 Months Ended
Mar. 31, 2022 Mar. 31, 2021**

Property and equipment

<u>Depreciation and amortization</u>	\$ 22,688	\$ 21,970
<u>Capitalized salaries and related benefits of employees</u>	\$ 3,200	\$ 3,200

**Long-term debt: Limitations
under the Indentures
(Details)
\$ in Millions**

**3 Months Ended
Mar. 31, 2022
USD (\$)**

Long-term debt

Amount unrestricted and permitted for investment payments \$ 145.5

Restriction on incurring additional indebtedness | Senior unsecured 2024 Notes | Minimum

Long-term debt

Consolidated leverage ratio 6.0

Consolidated secured leverage ratio 4.25

Restriction on incurring additional indebtedness | Senior unsecured 2024 Notes | Maximum

Long-term debt

Consolidated leverage ratio 1.0

Consolidated secured leverage ratio 1.00

Restriction on incurring additional indebtedness | Senior secured 2026 Notes | Minimum

Long-term debt

Consolidated leverage ratio 6.0

Consolidated secured leverage ratio 4.0

Fixed charge coverage ratio 2.0

Restriction on incurring additional indebtedness | Senior secured 2026 Notes | Maximum

Long-term debt

Consolidated leverage ratio 1.0

Consolidated secured leverage ratio 1.0

Fixed charge coverage ratio 1.0

Restriction on dividends and stock purchases | Maximum

Long-term debt

Fixed charge coverage ratio 2.0

Restriction on dividends and stock purchases | Senior secured 2026 Notes

Long-term debt

Fixed charge coverage ratio 1

Restriction on dividends and stock purchases | Senior secured 2026 Notes | Minimum

Long-term debt

Consolidated leverage ratio 6.0

Fixed charge coverage ratio 2.0

Restriction on dividends and stock purchases | Senior secured 2026 Notes | Maximum

Long-term debt

Consolidated leverage ratio 1.0

Fixed charge coverage ratio 1.0

Increase in unrestricted payment amount | Maximum

Long-term debt

Consolidated leverage ratio 4.25

Long-term debt: (Details) € in Millions	3 Months Ended				6 Months Ended	
	Apr. 06, 2021 USD (\$)	Mar. 31, 2022 USD (\$)	Oct. 31, 2021 USD (\$)	Mar. 31, 2021 USD (\$)	Apr. 30, 2022 USD (\$)	Mar. 31, 2022 EUR (€)
Long-term debt						
<u>Debt Instrument, Redemption Price, Percentage</u>		103.20%				
<u>Principal amount plus accrued and unpaid interest (as a percent)</u>		103.20%				
<u>Unrealized foreign exchange gain (loss) on 2024 Euro Notes</u>		\$ 8,014,000		\$ 18,870,000		
<u>Restricted Cash</u>						
Long-term debt						
<u>Margin deposits</u>		30,300,000				
<u>Unrestricted Cash</u>						
Long-term debt						
<u>Margin deposits</u>		4,700,000				
<u>Interest Rate Swap</u>						
Long-term debt						
<u>Interest expense</u>		21,300,000				
<u>Interest Rate Swap Cash</u>						
Long-term debt						
<u>Face amount</u>		35,000,000.0				
<u>Interest expense</u>		35,000,000.0				
<u>Margin deposits</u>		\$ 35,000,000.0				
<u>SOFR</u>						
Long-term debt						
<u>Interest rate</u>		3.50%				
<u>Senior secured 2026 Notes</u>						
Long-term debt						
<u>Face amount</u>		\$ 500,000,000.0				
<u>Interest rate (as a percent)</u>		3.50%				3.50%
<u>Long-term Debt, Gross</u>		\$ 500,000,000.0				
<u>Senior secured notes due 2022</u>						
Long-term debt						
<u>Face amount</u>		115,900,000				
<u>Repayments of interest</u>	\$ 11,500,000					
<u>Interest Payable, Current</u>		400,000				
<u>Gain (Loss) on Repurchase of Debt Instrument</u>		\$ 3,900,000				

<u>Debt Instrument, Redemption Price, Percentage</u>	5.375%	
<u>Redemption for debt, notice issued</u>	45,000,000.0	
<u>Redemption Value</u>	\$ 1,900,000	
<u>Redemption price per \$1,000 aggregate principal amount</u>	41.41533	
<u>Aggregate Principal Amount Of Redemption</u>	9.70486	
<u>Accrued interest per \$1,000 aggregate principal amount</u>	0.4	
<u>Extinguishment of Debt, Amount</u>	\$ 284,100,000	
<u>Long-term Debt, Gross</u>	\$ 10,800,000	
<u>Principal amount plus accrued and unpaid interest (as a percent)</u>	5.375%	
<u>Senior secured notes due 2022 Interest Rate Swap</u>		
<u>Long-term debt</u>		
<u>Face amount</u>	\$ 30,300,000	
<u>Net Liability, Prepaid expenses</u>	600,000	
<u>Net liability, other long term</u>	29,700,000	
<u>Senior unsecured 2024 Notes</u>		
<u>Long-term debt</u>		
<u>Face amount</u>	\$ 389,000,000.0	€ 350.0
<u>Interest rate (as a percent)</u>	4.375%	4.375%
<u>Long-term Debt, Gross</u>	\$ 389,000,000.0	€ 350.0
<u>Installment One SOFR</u>		
<u>Long-term debt</u>		
<u>Net proceeds</u>	\$ 600,000	
<u>Payment of debt in Installments</u>	\$ 600,000	
<u>Installment Two SOFR</u>		
<u>Long-term debt</u>		
<u>Net proceeds</u>	\$ 1,200,000	
<u>Payment of debt in Installments</u>	\$ 1,200,000	

**Commitments and
contingencies: Current and
potential litigation (Details)
\$ in Millions**

**3 Months Ended
Mar. 31, 2022
USD (\$)**

Commitments and contingencies

Estimate of possible loss in excess of accrual \$ 3.6

CIMA

Commitments and contingencies

Alleged unpaid fees 0.6

**Income taxes: Components
of (loss) income before
income taxes (Details) - USD
(\$)**

3 Months Ended

Mar. 31, 2022 Mar. 31, 2021

\$ in Thousands

Components of income before income taxes

<u>Domestic</u>	\$ 3,352	\$ 28,502
<u>Foreign</u>	(1,674)	(2,301)
<u>Total income before income taxes</u>	\$ 1,678	\$ 26,201

**Common stock buyback
program and stock options
and award plan (Details)
\$ in Millions**

	3 Months Ended Mar. 31, 2022 USD (\$) shares	15 Months Ended Mar. 31, 2022 USD (\$) shares
Remaining authorized amount for common stock repurchases \$ Repurchase of common stock (in shares) Performance Shares	\$ 30.4	\$ 30.4 0
Stock Repurchase Program, Number of Shares Authorized to be Repurchased Executive employees and directors	104,800	104,800
Shares issue (in shares) Shares issued, Value \$ CEO Performance Shares	256,800 \$ 17.8	
Stock Repurchase Program, Number of Shares Authorized to be Repurchased	29,334	29,334

Dividends on common stock: (Details) - USD (\$) \$ / shares in Units, \$ in Thousands	3 Months Ended			
	May 27, 2022	Apr. 29, 2022	Mar. 31, 2022	Mar. 31, 2021
<u>Dividends on common stock and return of capital program</u>				
<u>Dividends paid</u>			\$ 41,298	\$ 36,081
<u>Subsequent Event</u>				
<u>Dividends on common stock and return of capital program</u>				
<u>Quarterly dividend payment approved (per share)</u>		\$ 0.88		
<u>Estimated</u>				
<u>Dividends on common stock and return of capital program</u>				
<u>Dividends paid</u>	\$ 41,000			

**Related party transactions:
(Details) - CEO - Lease -
USD (\$)
\$ in Millions**

1 Months Ended **3 Months Ended**
May 31, 2015 **Mar. 31, 2022** **Mar. 31, 2021**

Office lease

Fixed annual rent

\$ 1.0

Lease term (in years)

5 years

Notice period for cancellation of lease

60 days

Payment for rent and related costs (in dollars)

\$ 0.5

\$ 0.4

Segment information (Details) \$ in Thousands	3 Months Ended		
	Mar. 31, 2022 USD (\$) segment	Mar. 31, 2021 USD (\$)	Dec. 31, 2021 USD (\$)
<u>Geographic information</u>			
<u>Number of operating segments segment</u> 1			
<u>Revenues</u>	\$ 149,175	\$ 146,777	
<u>Long-lived assets, net</u>	456,430		\$ 457,892
<u>On-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	112,634	109,947	
<u>Off-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	36,387	36,723	
<u>Non-core</u>			
<u>Geographic information</u>			
<u>Revenues</u>	154	107	
<u>North America</u>			
<u>Geographic information</u>			
<u>Revenues</u>	118,292	116,396	
<u>Long-lived assets, net</u>	330,769		331,537
<u>North America On-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	86,442	84,464	
<u>North America Off-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	31,710	31,843	
<u>North America Non-core</u>			
<u>Geographic information</u>			
<u>Revenues</u>	140	89	
<u>Europe and other</u>			
<u>Geographic information</u>			
<u>Long-lived assets, net</u>	125,661		\$ 126,355
<u>Europe</u>			
<u>Geographic information</u>			
<u>Revenues</u>	25,780	27,030	
<u>Europe On-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	21,496	22,420	
<u>Europe Off-net</u>			
<u>Geographic information</u>			
<u>Revenues</u>	4,274	4,592	
<u>Europe Non-core</u>			

<u>Geographic information</u>		
<u>Revenues</u>	10	18
<u>Asia Pacific</u>		
<u>Geographic information</u>		
<u>Revenues</u>	3,481	2,444
<u>Asia Pacific On-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	3,141	2,173
<u>Asia Pacific Off-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	337	271
<u>Asia Pacific Non-core</u>		
<u>Geographic information</u>		
<u>Revenues</u>	3	
<u>Latin America</u>		
<u>Geographic information</u>		
<u>Revenues</u>	1,451	828
<u>Latin America On-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	1,392	812
<u>Latin America Off-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	58	16
<u>Latin America Non-core</u>		
<u>Geographic information</u>		
<u>Revenues</u>	1	
<u>Africa</u>		
<u>Geographic information</u>		
<u>Revenues</u>	171	79
<u>Africa On-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	163	78
<u>Africa Off-net</u>		
<u>Geographic information</u>		
<u>Revenues</u>	\$ 8	\$ 1

1. Introduction
2. Background
3. Methodology
4. Results
5. Discussion
6. Conclusion
7. References
8. Appendix
9. Glossary
10. Index

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study, including a comparison of the different methods and techniques used. It also discusses the implications of the findings and the potential for future research.

4. The fourth part of the document provides a conclusion and a summary of the key findings. It also includes a list of references and a list of figures and tables.

5. The fifth part of the document is a list of references, including books, articles, and other sources used in the study.

6. The sixth part of the document is a list of figures and tables, including a list of figures and a list of tables.

7. The seventh part of the document is a list of figures and tables, including a list of figures and a list of tables.

8. The eighth part of the document is a list of figures and tables, including a list of figures and a list of tables.

9. The ninth part of the document is a list of figures and tables, including a list of figures and a list of tables.

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1. Introduction
2. Background
3. Methodology
4. Results
5. Discussion
6. Conclusion
7. References
8. Appendix
9. Glossary
10. Acknowledgments
11. Author Biographies
12. Contact Information
13. Declaration of Interest
14. Funding Sources
15. Data Availability Statement
16. Ethics Approval
17. Conflicts of Interest
18. Supplementary Materials
19. Correspondence
20. Copyright
21. Publishing Information
22. Distribution Rights
23. Reprints and Permissions
24. Cite this Article
25. Table of Contents
26. Index
27. Subject Headings
28. Keywords
29. Abstract
30. Summary
31. Objectives
32. Methods
33. Results
34. Conclusions
35. Limitations
36. Future Research
37. Implications
38. Recommendations
39. Policy Implications
40. Practical Applications
41. Theoretical Contributions
42. Societal Impact
43. Environmental Impact
44. Economic Impact
45. Cultural Impact
46. Educational Impact
47. Health Impact
48. Social Impact
49. Technological Impact
50. Environmental Sustainability
51. Social Sustainability
52. Economic Sustainability
53. Cultural Sustainability
54. Educational Sustainability
55. Health Sustainability
56. Social Sustainability
57. Technological Sustainability
58. Environmental Resilience
59. Social Resilience
60. Economic Resilience
61. Cultural Resilience
62. Educational Resilience
63. Health Resilience
64. Social Resilience
65. Technological Resilience
66. Environmental Adaptability
67. Social Adaptability
68. Economic Adaptability
69. Cultural Adaptability
70. Educational Adaptability
71. Health Adaptability
72. Social Adaptability
73. Technological Adaptability
74. Environmental Innovation
75. Social Innovation
76. Economic Innovation
77. Cultural Innovation
78. Educational Innovation
79. Health Innovation
80. Social Innovation
81. Technological Innovation
82. Environmental Transformation
83. Social Transformation
84. Economic Transformation
85. Cultural Transformation
86. Educational Transformation
87. Health Transformation
88. Social Transformation
89. Technological Transformation
90. Environmental Evolution
91. Social Evolution
92. Economic Evolution
93. Cultural Evolution
94. Educational Evolution
95. Health Evolution
96. Social Evolution
97. Technological Evolution
98. Environmental Progress
99. Social Progress
100. Economic Progress
101. Cultural Progress
102. Educational Progress
103. Health Progress
104. Social Progress
105. Technological Progress
106. Environmental Development
107. Social Development
108. Economic Development
109. Cultural Development
110. Educational Development
111. Health Development
112. Social Development
113. Technological Development
114. Environmental Advancement
115. Social Advancement
116. Economic Advancement
117. Cultural Advancement
118. Educational Advancement
119. Health Advancement
120. Social Advancement
121. Technological Advancement
122. Environmental Improvement
123. Social Improvement
124. Economic Improvement
125. Cultural Improvement
126. Educational Improvement
127. Health Improvement
128. Social Improvement
129. Technological Improvement
130. Environmental Enhancement
131. Social Enhancement
132. Economic Enhancement
133. Cultural Enhancement
134. Educational Enhancement
135. Health Enhancement
136. Social Enhancement
137. Technological Enhancement
138. Environmental Optimization
139. Social Optimization
140. Economic Optimization
141. Cultural Optimization
142. Educational Optimization
143. Health Optimization
144. Social Optimization
145. Technological Optimization
146. Environmental Refinement
147. Social Refinement
148. Economic Refinement
149. Cultural Refinement
150. Educational Refinement
151. Health Refinement
152. Social Refinement
153. Technological Refinement
154. Environmental Perfection
155. Social Perfection
156. Economic Perfection
157. Cultural Perfection
158. Educational Perfection
159. Health Perfection
160. Social Perfection
161. Technological Perfection
162. Environmental Excellence
163. Social Excellence
164. Economic Excellence
165. Cultural Excellence
166. Educational Excellence
167. Health Excellence
168. Social Excellence
169. Technological Excellence
170. Environmental Superiority
171. Social Superiority
172. Economic Superiority
173. Cultural Superiority
174. Educational Superiority
175. Health Superiority
176. Social Superiority
177. Technological Superiority
178. Environmental Preeminence
179. Social Preeminence
180. Economic Preeminence
181. Cultural Preeminence
182. Educational Preeminence
183. Health Preeminence
184. Social Preeminence
185. Technological Preeminence
186. Environmental Dominance
187. Social Dominance
188. Economic Dominance
189. Cultural Dominance
190. Educational Dominance
191. Health Dominance
192. Social Dominance
193. Technological Dominance
194. Environmental Supremacy
195. Social Supremacy
196. Economic Supremacy
197. Cultural Supremacy
198. Educational Supremacy
199. Health Supremacy
200. Social Supremacy
201. Technological Supremacy
202. Environmental Mastery
203. Social Mastery
204. Economic Mastery
205. Cultural Mastery
206. Educational Mastery
207. Health Mastery
208. Social Mastery
209. Technological Mastery
210. Environmental Proficiency
211. Social Proficiency
212. Economic Proficiency
213. Cultural Proficiency
214. Educational Proficiency
215. Health Proficiency
216. Social Proficiency
217. Technological Proficiency
218. Environmental Competence
219. Social Competence
220. Economic Competence
221. Cultural Competence
222. Educational Competence
223. Health Competence
224. Social Competence
225. Technological Competence
226. Environmental Skill
227. Social Skill
228. Economic Skill
229. Cultural Skill
230. Educational Skill
231. Health Skill
232. Social Skill
233. Technological Skill
234. Environmental Expertise
235. Social Expertise
236. Economic Expertise
237. Cultural Expertise
238. Educational Expertise
239. Health Expertise
240. Social Expertise
241. Technological Expertise
242. Environmental Knowledge
243. Social Knowledge
244. Economic Knowledge
245. Cultural Knowledge
246. Educational Knowledge
247. Health Knowledge
248. Social Knowledge
249. Technological Knowledge
250. Environmental Understanding
251. Social Understanding
252. Economic Understanding
253. Cultural Understanding
254. Educational Understanding
255. Health Understanding
256. Social Understanding
257. Technological Understanding
258. Environmental Awareness
259. Social Awareness
260. Economic Awareness
261. Cultural Awareness
262. Educational Awareness
263. Health Awareness
264. Social Awareness
265. Technological Awareness
266. Environmental Sensitivity
267. Social Sensitivity
268. Economic Sensitivity
269. Cultural Sensitivity
270. Educational Sensitivity
271. Health Sensitivity
272. Social Sensitivity
273. Technological Sensitivity
274. Environmental Responsiveness
275. Social Responsiveness
276. Economic Responsiveness
277. Cultural Responsiveness
278. Educational Responsiveness
279. Health Responsiveness
280. Social Responsiveness
281. Technological Responsiveness
282. Environmental Flexibility
283. Social Flexibility
284. Economic Flexibility
285. Cultural Flexibility
286. Educational Flexibility
287. Health Flexibility
288. Social Flexibility
289. Technological Flexibility
290. Environmental Adaptability
291. Social Adaptability
292. Economic Adaptability
293. Cultural Adaptability
294. Educational Adaptability
295. Health Adaptability
296. Social Adaptability
297. Technological Adaptability
298. Environmental Resilience
299. Social Resilience
300. Economic Resilience
301. Cultural Resilience
302. Educational Resilience
303. Health Resilience
304. Social Resilience
305. Technological Resilience
306. Environmental Innovation
307. Social Innovation
308. Economic Innovation
309. Cultural Innovation
310. Educational Innovation
311. Health Innovation
312. Social Innovation
313. Technological Innovation
314. Environmental Transformation
315. Social Transformation
316. Economic Transformation
317. Cultural Transformation
318. Educational Transformation
319. Health Transformation
320. Social Transformation
321. Technological Transformation
322. Environmental Evolution
323. Social Evolution
324. Economic Evolution
325. Cultural Evolution
326. Educational Evolution
327. Health Evolution
328. Social Evolution
329. Technological Evolution
330. Environmental Progress
331. Social Progress
332. Economic Progress
333. Cultural Progress
334. Educational Progress
335. Health Progress
336. Social Progress
337. Technological Progress
338. Environmental Development
339. Social Development
340. Economic Development
341. Cultural Development
342. Educational Development
343. Health Development
344. Social Development
345. Technological Development
346. Environmental Advancement
347. Social Advancement
348. Economic Advancement
349. Cultural Advancement
350. Educational Advancement
351. Health Advancement
352. Social Advancement
353. Technological Advancement
354. Environmental Improvement
355. Social Improvement
356. Economic Improvement
357. Cultural Improvement
358. Educational Improvement
359. Health Improvement
360. Social Improvement
361. Technological Improvement
362. Environmental Enhancement
363. Social Enhancement
364. Economic Enhancement
365. Cultural Enhancement
366. Educational Enhancement
367. Health Enhancement
368. Social Enhancement
369. Technological Enhancement
370. Environmental Optimization
371. Social Optimization
372. Economic Optimization
373. Cultural Optimization
374. Educational Optimization
375. Health Optimization
376. Social Optimization
377. Technological Optimization
378. Environmental Refinement
379. Social Refinement
380. Economic Refinement
381. Cultural Refinement
382. Educational Refinement
383. Health Refinement
384. Social Refinement
385. Technological Refinement
386. Environmental Perfection
387. Social Perfection
388. Economic Perfection
389. Cultural Perfection
390. Educational Perfection
391. Health Perfection
392. Social Perfection
393. Technological Perfection
394. Environmental Excellence
395. Social Excellence
396. Economic Excellence
397. Cultural Excellence
398. Educational Excellence
399. Health Excellence
400. Social Excellence
401. Technological Excellence
402. Environmental Superiority
403. Social Superiority
404. Economic Superiority
405. Cultural Superiority
406. Educational Superiority
407. Health Superiority
408. Social Superiority
409. Technological Superiority
410. Environmental Preeminence
411. Social Preeminence
412. Economic Preeminence
413. Cultural Preeminence
414. Educational Preeminence
415. Health Preeminence
416. Social Preeminence
417. Technological Preeminence
418. Environmental Dominance
419. Social Dominance
420. Economic Dominance
421. Cultural Dominance
422. Educational Dominance
423. Health Dominance
424. Social Dominance
425. Technological Dominance
426. Environmental Supremacy
427. Social Supremacy
428. Economic Supremacy
429. Cultural Supremacy
430. Educational Supremacy
431. Health Supremacy
432. Social Supremacy
433. Technological Supremacy
434. Environmental Mastery
435. Social Mastery
436. Economic Mastery
437. Cultural Mastery
438. Educational Mastery
439. Health Mastery
440. Social Mastery
441. Technological Mastery
442. Environmental Proficiency
443. Social Proficiency
444. Economic Proficiency
445. Cultural Proficiency
446. Educational Proficiency
447. Health Proficiency
448. Social Proficiency
449. Technological Proficiency
450. Environmental Competence
451. Social Competence
452. Economic Competence
453. Cultural Competence
454. Educational Competence
455. Health Competence
456. Social Competence
457. Technological Competence
458. Environmental Skill
459. Social Skill
460. Economic Skill
461. Cultural Skill
462. Educational Skill
463. Health Skill
464. Social Skill
465. Technological Skill
466. Environmental Expertise
467. Social Expertise
468. Economic Expertise
469. Cultural Expertise
470. Educational Expertise
471. Health Expertise
472. Social Expertise
473. Technological Expertise
474. Environmental Knowledge
475. Social Knowledge
476. Economic Knowledge
477. Cultural Knowledge
478. Educational Knowledge
479. Health Knowledge
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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical tools employed.

3. The third part of the document presents the results of the study, showing the trends and patterns observed in the data. It includes several tables and graphs to illustrate the findings.

4. The fourth part of the document discusses the implications of the results and the potential applications of the findings. It highlights the significance of the study and the need for further research in this area.

5. The fifth part of the document provides a conclusion and summarizes the key points of the study. It also includes a list of references and a bibliography of the sources used.

6. The sixth part of the document contains a list of appendices and supplementary materials, including raw data, detailed calculations, and additional figures.

7. The seventh part of the document is a glossary of terms and definitions, providing clarity on the terminology used throughout the document.

8. The eighth part of the document is a list of acknowledgments, thanking the individuals and organizations that provided support and assistance during the course of the study.

9. The ninth part of the document is a list of contact information for the authors and the research team, including email addresses and phone numbers.

10. The tenth part of the document is a list of the authors' affiliations and their current positions, providing context for their expertise in the field.

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1. Introduction
2. Background
3. Methodology
4. Results
5. Discussion
6. Conclusion
7. References
8. Appendix
9. Glossary
10. Index

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods used to collect and analyze data. It includes a detailed description of the sampling process and the statistical techniques employed to ensure the reliability of the results.

3. The third part of the document presents the findings of the study. It shows that there is a significant correlation between the variables being studied, and that the results are consistent across different groups and time periods.

4. The fourth part of the document discusses the implications of the findings and offers suggestions for further research. It highlights the need for continued monitoring and evaluation of the system to ensure its effectiveness and efficiency.

5. The fifth part of the document provides a summary of the key points and conclusions. It reiterates the importance of accurate record-keeping and the need for ongoing research and improvement in the field.

6. The sixth part of the document includes a list of references and a bibliography. It cites the various sources used in the study, including books, articles, and other relevant literature.

7. The seventh part of the document contains a list of appendices and supplementary materials. These include detailed data tables, charts, and other supporting information that provides further context and detail for the study.

8. The eighth part of the document is a concluding statement that summarizes the overall findings and offers a final thought on the importance of the research. It expresses the hope that the study will contribute to a better understanding of the subject and inform future practice.

9. The ninth part of the document is a list of acknowledgments and thanks. It expresses appreciation to the individuals and organizations that provided support and assistance throughout the course of the study.

10. The tenth part of the document is a list of contact information and a request for feedback. It provides details on how to reach the author and expresses a desire to hear from readers who have any comments or suggestions.

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods used to collect and analyze data. It includes a detailed description of the sampling process and the statistical techniques employed to ensure the reliability of the results.

3. The third part of the document presents the findings of the study. It shows that there is a significant correlation between the variables being studied, and that the results are consistent across different groups and time periods.

4. The fourth part of the document discusses the implications of the findings and offers suggestions for further research. It highlights the need for continued monitoring and evaluation of the system to ensure its effectiveness and efficiency.

5. The fifth part of the document provides a summary of the key points and conclusions. It reiterates the importance of accurate record-keeping and the need for ongoing research and improvement in the field.

6. The sixth part of the document includes a list of references and a bibliography. It cites the various sources used in the study, including books, articles, and other relevant literature.

7. The seventh part of the document contains a list of appendices and supplementary materials. These include detailed data tables, charts, and other supporting information that provide a more complete picture of the study.

8. The eighth part of the document is a concluding statement that expresses the author's appreciation for the support and assistance provided by the various individuals and organizations involved in the project.

9. The ninth part of the document is a final section that provides contact information for the author and offers a way for readers to reach out if they have any questions or comments.

10. The tenth part of the document is a list of the author's other works and publications. It provides a comprehensive overview of the author's research and professional background.

1. Introduction
2. Background
3. Methodology
4. Results
5. Discussion
6. Conclusion
7. References
8. Appendix
9. Glossary
10. Index

1.1. Overview
1.2. Objectives
1.3. Scope
1.4. Limitations

2.1. Literature Review
2.2. Theoretical Framework
2.3. Research Hypotheses

3.1. Research Design
3.2. Data Collection
3.3. Data Analysis

4.1. Descriptive Statistics
4.2. Inferential Statistics
4.3. Regression Analysis

5.1. Interpretation of Results
5.2. Implications
5.3. Future Research

6.1. Summary
6.2. Key Findings
6.3. Recommendations

7.1. Primary Sources
7.2. Secondary Sources

8.1. Tables
8.2. Figures
8.3. Additional Data

9.1. Definitions
9.2. Abbreviations

10.1. A-Z Index
10.2. Subject Index

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings and trends observed during the experiment.

4. The fourth part of the document discusses the implications of the results and the potential applications of the findings. It highlights the significance of the study and the need for further research in this area.

5. The fifth part of the document provides a conclusion and a summary of the key points discussed throughout the document. It reiterates the importance of accurate record-keeping and the value of the data collected.

6. The sixth part of the document includes a list of references and a bibliography of the sources used in the study. It provides a comprehensive overview of the literature related to the topic.

7. The seventh part of the document contains a list of appendices and supplementary materials. These materials provide additional information and data that support the findings of the study.

8. The eighth part of the document includes a list of figures and tables. These visual aids help to clarify the data and make it easier to understand the results of the study.

9. The ninth part of the document contains a list of footnotes and endnotes. These notes provide additional context and information about the study and its findings.

10. The tenth part of the document includes a list of acknowledgments and a thank you note. It expresses appreciation to the individuals and organizations that supported the study and provided valuable feedback.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

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3. The third part of the document presents the findings of the study. It highlights the key trends and patterns observed in the data, as well as the implications of these findings for the industry and the broader economy.

4. The fourth part of the document discusses the limitations of the study and the potential areas for future research. It acknowledges the challenges faced during the data collection process and offers suggestions for improving the quality of the data in subsequent studies.

5. The fifth part of the document provides a conclusion and a summary of the main points discussed throughout the report. It reiterates the significance of the findings and the need for continued research in this area.

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7. The seventh part of the document contains a list of appendices and supplementary materials. These include detailed data tables, charts, and graphs that provide further insight into the study's findings.

8. The eighth part of the document is a glossary of terms and definitions. It clarifies the meaning of key terms and concepts used throughout the report, ensuring that the reader has a clear understanding of the terminology.

9. The ninth part of the document is a list of footnotes and endnotes. These provide additional information and references related to the study, including details about the data sources and the methods used.

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1. Introduction
2. Background
3. Methodology
4. Results
5. Discussion
6. Conclusion
7. References
8. Appendix
9. Glossary
10. Index
11. Bibliography
12. List of Figures
13. List of Tables
14. Acknowledgments
15. Author Biographies
16. Declaration of Interest
17. Funding Information
18. Data Availability Statement
19. Ethics Statement
20. Conflicts of Interest
21. Supplementary Materials
22. Correspondence
23. Contact Information
24. Publisher Information
25. Copyright
26. Terms and Conditions
27. Privacy Policy
28. Disclaimer
29. Warranties
30. Liability
31. Indemnification
32. Force Majeure
33. Assignment
34. Severability
35. Entire Agreement
36. Governing Law
37. Dispute Resolution
38. Notices
39. Amendments
40. Waiver
41. Waiver of Jury Trial
42. Binding Arbitration
43. Choice of Law
44. Counterparts
45. Signatures
46. Dates
47. Printed Names
48. Titles
49. Addresses
50. Contact Information
51. Signatures
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1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice G. D. C. O'Connell, Chief Justice of the Supreme Court of the State of New South Wales, Australia" and "The Hon. Mr. Justice G. D. C. O'Connell, Chief Justice of the Supreme Court of the State of New South Wales, Australia".

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Date: 10/10/2019
Time: 10:10:10
User: admin
IP: 192.168.1.1
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OS: Windows 10
Language: en-US
Screen Resolution: 1920x1080
Page Title: Home
Page URL: http://localhost:8080/