

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 25, 2016
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Toni J. Earnhart, Public Utility Analyst II, Division of Economics *TE*
RE: Primus Telecommunications, Inc. (TX371) Chapter 15 Bankruptcy Filing

Primus Telecommunications, Inc. is a foreign owned telecommunications company that has filed for reorganization in Canada. The bankruptcy filing information attached was forwarded to my attention in an email related to regulatory assessment fee discussions.

Please accept this bankruptcy informational filing as an undocketed item. The bankruptcy code in the Master Commission Directory is being discussed and no decision has been finalized at this time. Staff will notify the Commission Clerk's staff when a Chapter 15 Bankruptcy Code has been established.

RECEIVED-FPSC
2016 MAR 25 PM 3:04
COMMISSION
CLERK

c: Beth Salak, TEL

Toni Earnhart

From: Elena Thomasson <ethomasson@primustel.com>
Sent: Friday, March 18, 2016 3:55 PM
To: Toni Earnhart
Subject: RE: Primus Telecommunications, Inc. (TX371)

Toni,

Primus Telecommunications has filed for Chapter 15 bankruptcy reorganization on January 19, 2016. The 2015 RAF fee was not paid since this was a debt relating to a period of petition filings. The Florida PUC should receive a notification of the proceedings for payments prior to the filing of this reorganization, further information and notifications is publish at the following site:

<http://cfcanada.fticonsulting.com/primus/courtOrders.htm>

Regards,

Elena

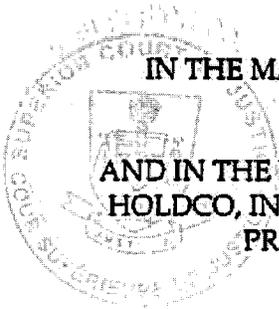
From: Toni Earnhart [<mailto:TEarnhar@PSC.STATE.FL.US>]
Sent: Friday, March 18, 2016 2:43 PM
To: Elena Thomasson
Subject: Primus Telecommunications, Inc. (TX371)
Importance: High

Please see the attached 2015 RAF return attached for submission and the mailed, certified return receipt, delinquency letter for 2015 RAF. The letter was received and signed for at the address delivered.

Non-Payment of RAF fees results in a Compliance Action than can lead to an Involuntary Cancellation.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 2nd
)
JUSTICE WILTON-SIEGEL) DAY OF MARCH, 2016
)



**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT
HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC.,
PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC**

Applicants

ASSIGNMENT ORDER

THIS MOTION, made by Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the "Vendors") for an order assigning the rights and obligations of the Vendors under the Assigned Contracts (as defined below) as contemplated by an agreement of purchase and sale (the "APA") between, *inter alios*, the Vendors and Birch Communications, Inc. ("Birch", and Birch or its permitted assign pursuant to the APA, as applicable, being the "Purchaser") dated January 19, 2016, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn February 2, 2016 and the affidavits of Robert Nice sworn February 20, 2016 and February 29, 2016, respectively, and the Exhibits attached thereto, the Second Report of FTI Consulting Canada Inc., in its capacity as Monitor of the Vendors (the "Monitor"), dated February, 19, 2016, and on hearing the submissions of counsel for the Monitor, the Vendors, the Purchaser, Bell Canada and BCE Nexxia Corp., and those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavits of service of

Vlad Calina sworn February 4, 2016, February 11, 2016 and the affidavit of Teresa Koren, sworn February 26, 2016:

1. **THIS COURT ORDERS** that any capitalized term used but not defined herein shall have the meaning ascribed to such term in the APA.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

ASSIGNMENT OF AGREEMENTS

3. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate (the "Monitor's Certificate") referred to in the Order of Justice Hainey dated February 25, 2016, (the "Approval and Vesting Order"), all of the rights and obligations of the Vendors under the agreements set out in Schedule "A" hereto (collectively, the "Assigned Contracts") shall be assigned to the Purchaser pursuant to section 2.3 of the APA and pursuant to section 11.3 of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended ("CCAA"). Nothing in this order shall affect or assign any Post-Filing Expenses (as that term is defined in the Stay Extension and Distribution Order dated February 25, 2016) under the Assigned Contracts incurred up to Closing.

4. **THIS COURT ORDERS** that, with respect to the Assigned Contracts that are real property leases (collectively the "Real Property Leases"), upon delivery of the Monitor's Certificate, the Purchaser shall be entitled and subject to all of the rights and obligations as tenant pursuant to the terms of the Real Property Leases and registrations thereof and may enter into and upon and hold and enjoy each premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Vendor, the landlords under the Real Property Leases or any person whomsoever claiming through or under any of the Vendor or the landlords under the Real Property Leases.

5. **THIS COURT ORDERS** that the assignment to the Purchaser of the rights and obligations of the Vendors under the Assigned Contracts to the Purchaser, or such related party as the Purchaser may designate (provided however, that such designated related party agrees to be bound by the terms of such Assigned Contract and the Purchaser is not released from any obligation or liability thereunder), pursuant to the CCAA and this Order is valid and binding upon all of the counterparties to the Assigned Contracts notwithstanding any restriction or prohibition contained in any such Assigned Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.

6. **THIS COURT ORDERS** that the Vendors' right, title and interest in the Assigned Contracts shall vest absolutely in the Purchaser free and clear of all Encumbrances other than the Permitted Encumbrances (as such terms are defined in the Approval and Vesting Order) in accordance with the provisions of the Approval and Vesting Order.

7. **THIS COURT ORDERS** that each counterparty to the Assigned Contracts is prohibited from exercising any right or remedy under the Assigned Contracts by reason of any defaults thereunder arising from the assignment of the Assigned Contracts, the insolvency of the Vendors, the commencement of these CCAA proceedings or the chapter 15 of Title 11 of the United States Code, 11 U.S.C. §§ 101- 1532 proceedings, or any failure of the Vendors to perform a non-monetary obligation under the Assigned Contracts.

8. **THIS COURT ORDERS** that the Cure Costs of the Assigned Contracts listed in Schedule "A" hereto shall be in amounts set out in Schedule "A" hereto and that, following the Closing, all Cure Costs under the Assigned Contracts shall be paid in accordance with paragraph 7 of the Approval and Vesting Order by the dates set out therein.

9. **THIS COURT ORDERS** that, other than the Cure Costs listed on Schedule "A" hereto, which shall be paid by the Vendors and the Purchaser in accordance with the terms of the APA and the Approval and Vesting Order, the Purchaser shall not be liable for any other amounts of any kind due in respect of any Assigned Contract for the period up to the Closing Time as defined in the APA.

10. THIS COURT DIRECTS the Vendors to send a copy of this Order to all of the counterparties to the Assigned Agreements.

11. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Vendors, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

W. Ober - d. M. J.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 02 2016
h

Schedule A - Assigned Contracts
 On each case, including all applicable, associated or related schedules, appendices, addendum, orders, amendments, supplements, restatement and other modifications.]

Contract Counterparty	Contract(s) to be Assigned	Currency	Case Costs	
151 From: Street View Holdings Limited Broadsoft	151 From: Street View Holdings Limited - 151A Amending Agreement - Sept 14, 2014 to Aug 31, 2019	CAD	\$ -	
	Broadsoft - Canada (C10746)	CAD	\$ -	
152 COMMUNICATIONS Broadsoft - US	Broadsoft - US	CAD	\$ 15,961.16	
	202 Terminations Agreement			
Aeroplan/AMBA Bell Canada	202 Dishes Services Addendum	CAD	\$ 26,510.99	
	202 Terminations Agreement Primus - Aeroplan 2013-17 Renewal Amendment FINAL	CAD	\$ 3,270,999.59	
1-7937430461-M1 - RCM Master Service Agreement MCCAT124463 - Master Communications Agreement ULL Letter agreement: 1-795560479 (Primus-Loop Letter - Globility Gov. Hook_2011-02-270C) Master Communications Agreement Non-Tariffed (Wholesale) 1-34008971-4M1 MCCANT 1-361324687-M1 MCCANT 1-31516360-M1 Master Agreement for Local Interconnection, CRIC No. 1944/00 Master Agreement for CLEC-CIC Interconnection, CRIC No. 1955/00 Master Communications Agreement - Non-Tariffed 1-79170073-M1 GCC - Central Office License Agreement 848 Canada_0402005 GCC - Interconnection Agreement for the Provision of 931 Service to a CLEC_Bell Canada_063202 Bell Utility Interchange File Agreement, Dated 31 January 2004 Ethernet Access Agreement (1-34339173-M1) Master Wholesale Agreement for Selective Chime(s) (MVA180508)		CAD	\$ -	
	CDW			
		VMware vSphere 5 Standard for 1 processor x 8	CAD	\$ 2,085.18
		Coreco 2 IG Toronto to Windsor 20120319	CAD	\$ -
	Coreco	Space_Amd_power 900 N. Alameda, LA 1st cabinet UMG renewal 20150378.pdf	CAD	\$ -
		Space_Amd_power 900 N. Alameda, LA 2nd cabinet 20120402 case.pdf		
		Space_Amd_power 900 N. Alameda, LA 20130412.pdf		
		NetVISA 20130316 (Alameda)		
	Coreco	Coreco Contract Apr 2015-16 renewal	CAD	\$ 39,910.01
	Data Access Solutions	Data Access Solutions Technical Service Agreement 20120024 case	USD	\$ 21,469.93
	Equinix	Equinix 105 PAIX 20130913	USD	\$ 8,867.38
		Switch & Data MSA		
	Ericsson	Ericsson Support Agreement	CAD	\$ -
		Primus Canada - Frichest of Ericsson SS6E SWUS		
	Excel Milpro	Master Service Agreement (including related Form Rider June 2013 agreement)	CAD	\$ 18,288.13
T3 Networks	T3 Service Agreement	CAD	\$ -	
Phis Solutions	Master Agreement; CRIC No. 1940-M29-200304262			
	IP Interconnection Agreement; CRIC No. 2062/00			
	IP Interconnection Agreement Schedule C; CRIC No. 2077/00			
	Master Agreement for Local Interconnection; CRIC No. 1902/00			
LOT	LOT Service Agreement	USD	\$ 65,181.64	
Interactive Intelligence	Hosted ACD	CAD	\$ 61,007.79	
MDM	MDM Rate Schedule.xlsx	CAD	\$ 144,138.17	
		USD	\$ 1,971.90	
MVA1	MVA1 Switch Support Service Level Agreement		\$ -	

Schedule A - Assigned Contracts

(In each case, including all applicable, associated or related schedules, appendices, addendum, orders, amendments, supplements, restatement and other modifications.)

Contract Counterparty	Contract(s) to be Assigned	Currency	Cure Costs
Neustar	MSA - October 22, 2009	CAD	\$ 8,120.15
Ons	Cisco Smartnet Vvware, 50 x Vsphere (3year enterprise license and support)	CAD	\$ 12,742.87
Oracle	(Pillar Data Systems), AXIOM 600 Acme - Canada (Oracle) Acme - US (Oracle)	CAD	\$ 10,961.54
Premier Global	Conferencing - Amended September 2014	CAD	\$ 21,445.32
Rogers	Rogers 10 Gig TDM (and all applicable service schedules) Rogers DS3 Van-NewWest, Ham-St.Cath (and all applicable service schedules) Rogers GigE NNI Toronto 20110915 (and all applicable service schedules) Third Party Internet Access (TPIA) Agreement executed on November 12, 2013, including all schedules and orders associated thereto and Carrier Services Group (CSG) Agreement for (TPIA) executed on November 12, 2013. Cityfone Affinity Partner Agreement executed on April 3, 2012 Rogers TPIA 10G wave to York Mills POI router 20150302 (and all applicable service schedules) Master Agreement for Local IP Interconnection, CRTC No. 2062/00, between Fido Solutions Inc. and Primus on May 25, 2015, as amended on June 30, 2015, CRTC No. 2077/00. Master Agreement for Local Interconnection, CRTC No. 0981/00, between Globility Communications Corporation, now Primus and 20134156 Ontario Inc., now known as Rogers Communications Canada Inc. on February 14, 2005 (and all applicable service schedules) Master Agreement for Local Interconnection, CRTC No. 8340-C43-200318297 (Call-Net Communications Inc.) (and all applicable service schedules) Wholesale Services Agreement with Telecom Ottawa Limited and Telecom Ottawa Regional Ltd. 1/07/2007 (and all applicable service schedules) Carrier Data Services Quotation dated June 1, 2015 (and all applicable service schedules) Carrier Data Services Quotation dated November 20, 2015 (and all applicable service schedules) Carrier Data Services Quotation dated December 16, 2015 (and all applicable service schedules)	CAD	\$ 232,623.69
Saskatchewan Telecommunications Inc.	Dedicated Services Agreement - 04NOV2004	CAD	\$ 11,472.81
Smartbox	Smartbox LD Agreement 20120430	CAD	\$ -
Telehouse	Telehouse NYIK 10G 201303 elec	CAD	\$ -
Tellasonera	Tellasonera Signed Agreement	USD	\$ 57,320.33
Telus	Wholesale Services Agreement - Tariffed and Forborne Services between Primus Telecommunications Canada Inc. and TELUS Communications Company dated September 1, 2011 (TELUS Contract No. 27252) (including all related amendments and service orders). Customer Agreement - Tariffed and Forborne Services (Cantrex Service) between Primus Telecommunications Canada Inc. and TELUS Communications Company dated July 15, 2014 (TELUS Contract No. 84027) Customer Agreement - Tariffed and Forborne Services (Local Business Line Service) between Primus Telecommunications Canada Inc. and TELUS Communications Company dated July 15, 2014 (TELUS Contract No. 84028) Direct Connect Call Termination Services Agreement between Primus Telecommunications Canada Inc. and TELUS Communications Company dated Oct 23, 2014 Ethernet Access Service Agreement between Primus Telecommunications Canada Inc. and TELUS Communications Company dated Oct 9, 2014 (TELUS Contract No. 88670) Ethernet Access Service Agreement between Primus Telecommunications Canada Inc. and TELUS Communications Company dated May 26, 2014 (TELUS Contract No. 80783) Wholesale Services Agreement - Non-Regulated / Forborne Services between Primus Telecommunications Canada Inc. and TELUS Communications Company dated March 30, 2007 (TELUS Contract No. 3761) (including all related amendments and service orders) Network to Network Interface Agreement between Primus Telecommunications Canada Inc. and TELUS Communications Company dated November 20, 2015 (TELUS Contract No. 108727) Definitive Agreement for Operator Services between Primus Telecommunications Canada Inc. and TELUS Communications Company (legal successor in interest to TELUS Communications Company) dated November 1, 2008 (TELUS Contract No. 2904)	CAD	\$ 266,749.19

Schedule A - Assigned Contracts

[In each case, including all applicable, associated or related schedules, appendices, addendums, orders, amendments, supplements, restatement and other modifications.]

Contract Counterparty	Contract(s) to be Assigned	Currency	Cure Costs
	Standalone ISDN PRI contract numbers: 4142; 4932; 15089; 27404 Any other existing service agreements between Primus Telecommunications Canada Inc. and TELUS Communications Company entered into prior to the effective date of the assignment relating to Primus' business of providing telecommunications services to its customers or end users.		
Unifone Communications Corp.	Unifone WSA 20131011	CAD	\$ 1,996.29
Verizon	Verizon - Advanced Toll Free (ATF) Standard Rates (04.2014)_539947 Verizon - WTSA Verizon - WTSA addendum 20140516 Verizon - WTSA attachment for ATF 20140516 executed	CAD	\$ 99,319.30
Vertes	Vertes - tax modules update	CAD	\$ -
Videotron	Videotron Local Resell Agmt 20111024 Videotron PRI St.Nicolas 20111028 Videotron PRI Victoriaville 20111024	CAD	\$ 2,498.15
VMware	VMware vSphere 6 Standard for 1 processor x 16 VMware vSphere 6 Standard for 1 processor x 14 VMware vCenter Server6 Standard for vSphere 5 (Per Instance) x 1 VMware vSphere 6 Standard for 1 processor x 2	USD	\$ 3,278.85
Xplornet Communications Inc.	Master Agreement for Local Interconnection, CRTX No. 2030/00	CAD	\$ -
		Subtotal CAD	\$ 4,336,230.30
		Subtotal USD	\$ 194,830.66
		Total in CAD [1]	\$ 4,518,997.31

NOTES:

[1] USD converted to CAD using the Bank of Canada noon rate on January 19, 2016.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-16-11257-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

ASSIGNMENT ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

SUPPLEMENTAL MOTION RECORD
(RETURNABLE FEBRUARY 25, 2016)

March 11/16

- K. Esaw & M. Konyukhova for the applicants
- P. O'Neill for the purchaser
- L. Rogers & A. Shalviri for the Monitor
- R. Jayragan for Bell Canada
- D. Mirojevic for BMO as agent for the first lien lender

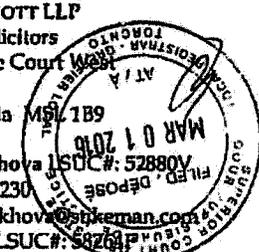
The applicants seek approval under section 11.3 of the Companies Creditors Arrangement Act of the assignment of the contracts listed in Schedule A to the order. The counterparties to these contracts have received notice of this motion including the quantum of the cure costs as calculated by the applicants. This motion is consented to by Bell and not opposed by any of the other counterparties including Rogers and Telus. There is also no outstanding issue with any of the counterparties regarding the quantum of the cure costs.

I am satisfied that the requirements of section 11.3 have been satisfied on the following basis. The Monitor approves the assignment of these contracts which are clearly fundamental to the continued operation of the business. The purchaser is solvent and adequately capitalized and is able and willing to perform the obligations to be assumed under the contracts, as evidenced by the affidavit of Mr. Odo on behalf of the purchaser, etc.

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5P 1B9

Maria Konyukhova LSUC#: 52880Y
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants



included in the second supplemental motion record. The assignment of the contracts is a condition precedent to the closing of the sale transaction approved by order of Harry T. dated February 25, 2014 and the transaction provides for the payment of all pre-filing monetary amounts owing under such contracts. As such, it is appropriate to provide for the assignment of the contracts to the purchaser to enable it to carry on the purchased business.

Order to go on the form attached.
W. Hon-Int T.

February 25, 2016

This application is not opposed.
I am satisfied that it should
be granted on the terms
of the attached approval
and vesting order and the
stay extension and
distribution order.

Hairy J.

served as appears from the affidavits of Vlad Calina sworn February 4, 2016 and February 22, 2016 filed:

1. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Purchaser, with the approval of the Monitor, may agree upon. The Vendors and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS that the Vendors are authorized and directed to perform their obligations under the Sale Agreement and any ancillary documents related thereto.

4. THIS COURT ORDERS AND DECLARES that, other than the transfer of the Regulated Customer Relationships which shall vest absolutely in the Purchaser free and clear of and from any and all Encumbrances (as defined below) when such Regulated Customer Relationships transfer to the Purchaser in accordance with the terms of the Sale Agreement, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Monitor's Certificate"), all of the Vendors' right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed or constructive trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, taxes, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Perry dated January 19, 2016; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are

collectively referred to as the "Encumbrances" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS AND DIRECTS the Monitor:

- (i) from and after the Closing Time, to hold the Regulated Customer Relationships Escrow, if applicable, in escrow, in a segregated bank account in the name of the Monitor (the "Escrow Account");
- (ii) to release the Regulated Customer Relationships Escrow, or any portion thereof, from the Escrow Account to an account to be designated by the Monitor (the "Designated Account"), at such times and in such amounts as are contemplated by the Sale Agreement and upon the release of such funds from the Escrow Account the Purchaser shall have no claim, interest or right in or to the portion of the Regulated Customer Relationships Escrow released by the Monitor from the Escrow Account to the Designated Account;
- (iii) as soon as reasonably practicable following the day which is 6 months from the Closing Date or such later date as may be agreed upon by the Vendors and the Purchaser in writing (the "Escrow Outside Date"), to return to the Purchaser any amount of the Regulated Customer Relationships Escrow remaining in the Escrow Account on the Escrow Outside Date and upon the return of the Remaining Escrow Funds to the Purchaser the Vendors shall have no claim, interest or right in or to the Remaining Escrow Funds;

in each case, unless otherwise ordered by the Court.

6. THIS COURT ORDERS that Monitor is authorized and directed, subject to further Order of this Court, to hold the Closing Cash Payment in the Designated Account and that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets, including the net proceeds from the sale of the Regulated Customer

Relationships when released from the Escrow Account shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. THIS COURT ORDERS that the Purchaser shall pay the aggregate amount of Cure Costs (the "Cure Cost Amount") on Closing to the Monitor and the Monitor is authorized and directed to:

- (i) hold the Cure Cost Amount in the Designated Account; and
- (ii) disburse from the Designated Account, the amount of Cure Costs as agreed by the Purchaser, the counterparty to each applicable Assumed Contract (each a "Counterparty") and the Vendors, with the consent of the Monitor, or ordered by this Court, in full and final satisfaction of any Cure Costs owing to the Counterparty on account of any Assumed Contract by no later than the day that is 3 business days from the date that the Monitor receives wire remittance instructions or other satisfactory payment instructions from such Counterparty (provided Closing has occurred).

8. THIS COURT ORDERS that, except for gross negligence or willful misconduct, the Monitor shall incur no liability with respect to the payment of Cure Costs or its administration of the Designated Account, the Regulated Customer Relationships Escrow and the Escrow Account.

9. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

10. THIS COURT ORDERS that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

11. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the Vendors' right, title and interest in and to the Purchased Intellectual Property to the Purchaser, free and clear of and from any and all Claims.

12. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Vendors shall not derogate or otherwise affect any right or obligation of the Vendors or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendors and the Purchaser.

13. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendors' records pertaining to the Vendors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

14. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of the Vendors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

15. THIS COURT ORDERS that the Sale Agreement and any ancillary documents related thereto shall not be repudiated, disclaimed or otherwise compromised in these proceedings.

16. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

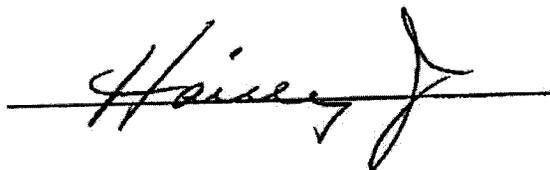
17. THIS COURT ORDERS AND DECLARES that the sales and investor solicitation process described in the Nowlan Affidavit (the "SISP") is approved *nunc pro tunc*.

18. THIS COURT ORDERS AND DECLARES that the actions of the Primus Entities and their advisors, including Origin Merchant Partners and FTI Consulting Canada Inc. in developing and implementing SISP and entering into the Sale Agreement and any ancillary agreements are approved *nunc pro tunc*.

19. THIS COURT ORDERS that the Pre-filing Report of FTI Consulting Canada Inc. in its capacity as the proposed monitor of the Primus Entities dated January 18, 2016, the First Report of the Monitor dated February 10, 2016 and the Second Report of the Monitor, dated February 19, 2016, and the activities of the proposed monitor and the Monitor described therein are hereby approved.

20. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Vendors and the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby

respectfully requested to make such orders and to provide such assistance to the Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Haisey J.", is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO.
LE / DANS LE REGISTRE NO.:

FEB 25 2016

A small, handwritten mark resembling the letter "A" is written below the date stamp.

Schedule A - Form of Monitor's Certificate

Court File No. CV-16-11257-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PRIMUS
TELECOMMUNICATIONS CANADA INC., PRIMUS TELECOMMUNICATIONS, INC
AND LINGO, INC.**

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Penny of the Ontario Superior Court of Justice (the "Court") dated January 19, 2016, Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "Vendors") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 and FTI Consulting Canada Inc. was appointed as the Monitor (the "Monitor") of the Vendors.

B. Pursuant to an Order of the Court dated February 25, 2016 (the "Approval and Vesting Order"), the Court approved the agreement of purchase and sale made as of January 19, 2016 (as may be amended, restated or modified from time to time, the "Sale Agreement") between the Vendors and Birch Communications Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets (other than the Regulated Customer Relationships, which shall vest in the Purchaser in accordance with the terms of the Approval and Vesting Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Closing Cash Payment; (ii) that the conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Vendors and

the Purchaser (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Vendors and the Purchaser have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. The Monitor has received the Closing Cash Payment, Cure Cost Amount and the Regulated Customer Relationships Escrow, if applicable; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ on _____.

**FTI Consulting Canada Inc., in its capacity as
Monitor of Primus Telecommunications Canada
Inc., Primus Telecommunications, Inc. and
Lingo, Inc., and not in its personal capacity**

Per: _____

Name:

Title:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-16-11257-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

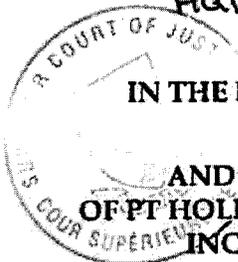
THE HONOURABLE MR.)

THURSDAY, THE 25TH

JUSTICE ~~NEWBOULD~~)

DAY OF FEBRUARY, 2016

Hainey



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS,
INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC

Applicants

STAY EXTENSION AND DISTRIBUTION ORDER

THIS MOTION, made by PT Holdco, Inc. ("Holdco"), Primus Telecommunications Canada Inc. ("Primus Canada"), PTUS, Inc. ("PTUS"), Primus Telecommunications, Inc. ("PTI") and Lingo, Inc. ("Lingo", and together with PTUS, PTI, Holdco and Primus Canada, the "Primus Entities") for an order: (i) approving an extension of the stay of proceedings referred to in the Initial Order made January 19, 2016 (the "Initial Order"), to September 19, 2016; and (ii) authorizing and directing FTI Consulting Canada Inc., in its capacity as Monitor of the Primus Entities (the "Monitor"), to disburse the Origin Fees (as the term is defined below) to Origin Merchant Partners ("Origin"); (iii) authorizing and directing the Monitor to make the Syndicate Distribution and the Additional Syndicate Distributions, in each case subject to maintaining the amount of the Holdback (as each term is defined below); (iv) authorizing the Monitor to disburse from time to time, amounts owing by the Primus Entities in respect of Priority Claims (as the term is defined below); (v) authorizing the Monitor to disburse, from time to time, amounts owing by the Primus Entities in respect of fees and expenses of the Monitor and the Monitor's legal counsel and of the legal counsel to the Primus Entities (collectively, the "Professional Expenses"); and (vi) authorizing the Monitor to disburse from the Designated Account, from time to time, on instruction from the

Primus Entities, any amounts owing by the Primus Entities in respect of obligations incurred by the Primus Entities since the commencement of these *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-3 proceedings (collectively, the "Post-Filing Expenses") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn February 2, 2016 and the Exhibits attached thereto, the affidavit of Robert Nice sworn February 20 2016, the First Report of the Monitor, dated February 10, 2016 and the Second Report of the Monitor, dated February 19, 2016, and on hearing the submissions of counsel for the Monitor, the Applicants, the Agent (as defined below) Bell Canada and BCE Nexxia Corp., those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavits of service of Vlad Calina sworn February 4, 2016, and February 22, 2016, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY OF PROCEEDINGS PERIOD

2. **THIS COURT ORDERS** that the Stay Period defined in paragraph 14 of the Initial Order is extended until September 19, 2016.

PAYMENTS TO THE DESIGNATED ACCOUNT

3. **THIS COURT ORDERS** that, at any time after date of this Order, the Primus Entities are authorized and permitted to deposit and pay over any cash on hand to the Monitor to be deposited to the Designated Account (as defined in the Approval and Vesting Order dated February 25, 2016, "Approval and Vesting Order") and disbursed in accordance with this Order.

APPROVAL OF INTERIM AND FUTURE DISTRIBUTIONS

4. **THIS COURT ORDERS** that in consultation with the Primus Entities the Monitor is hereby authorized and directed to disburse to Origin from the Designated Account, the amounts owing to Origin (the "Origin Fees") under the engagement letter dated August 7, 2015 (the "Origin Engagement") by way of:

- (a) an initial payment in an amount, which in the Monitor's view represents the minimum amount of Origin Fees that would be payable pursuant to the terms of the Origin Engagement (the "Initial Origin Payment"), within five (5) business days after the day of filing the Monitor's Certificate referred to in the Approval and Vesting Order (the "Monitor's Certificate");
- (b) further distributions, if needed, from time to time, up to a maximum amount of the Origin Fees that would be payable pursuant to the terms of the Origin Engagement (the "Additional Origin Distributions" and together with the Initial Origin Payment, the "Origin Payment");

in each case, provided that the Agent (as defined below) has been provided with at least seven days' notice of any Origin Payment setting out the quantum and scheduled date of such payment and has not provided the Monitor with a written objection to such payment at least one day before the scheduled date of such payment. If such written objection is received by the Monitor, the applicable Origin Payment shall not be made unless and until the objection is resolved by agreement to the satisfaction of the Monitor, the Primus Entities, the Agent and Origin or by further Order of the Court.

5. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to disburse from the Designated Account, within five business days from the day of filing the Monitor's Certificate, to Bank of Montreal as administrative agent (the "Agent") for Bank of Montreal, HSBC Bank Canada and ATB Corporate Financial Service (collectively, the "Syndicate"), an amount not exceeding the maximum amount of the Syndicate's secured obligations ("Senior Secured Obligations") owing by the Primus Entities under the Credit

Agreement dated July 31, 2013 (as amended by an amending agreement dated September 23, 2014) (the "Syndicate Distribution"), subject to the maintenance of a holdback of funds in the Designated Account (the "Holdback"), in an amount satisfactory to the Monitor in consultation with the Primus Entities or in an amount determined by the Court, for the payment of the Origin Payment, Professional Expenses and Post-Filing Expenses and to secure the obligations under the Administration Charge, D&O Charge (each as defined in the Initial Order), and any other obligations of the Applicants that rank in priority to the Syndicate's Senior Secured Obligations (the "Priority Claims").

6. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to make further distributions to the Agent from the Designated Account, if needed, from time to time, up to a maximum amount of the Syndicate's secured obligations ("Additional Syndicate Distributions"), but in each case subject to the Holdback.

7. **THIS COURT ORDERS** that the Monitor, on instruction from the Primus Entities and on behalf of the Primus Entities, is hereby authorized and empowered, without further Order of the Court, to disburse from the Designated Account, from time to time, amounts owing by the Primus Entities in respect of Professional Expenses.

8. **THIS COURT ORDERS** that the Monitor, on instruction from the Primus Entities and on behalf of the Primus Entities, is hereby authorized and empowered, without further Order of the Court, to disburse from the Designated Account, from time to time, any amounts owing by the Primus Entities in respect of Post-Filing Expenses.

9. **THIS COURT ORDERS** that the Monitor, on instruction from the Primus Entities and on behalf of the Primus Entities, is hereby authorized and empowered, to disburse from time to time from the Designated Account, amounts owing by the Primus Entities in respect of Priority Claims (and any other amounts owing by the Primus Entities with the consent of the Monitor and the Agent), if any, provided that the Agent has been provided at least seven days' notice of any Priority Claims payment setting out the quantum and scheduled date of such payment and has not provided the Monitor with a written objection to such payment at least one day before the scheduled date of such payment. If such written objection is received by the Monitor, the applicable Priority Claims payment shall not be made unless

and until the objection is resolved by agreement to the satisfaction of the Monitor, the Primus Entities, the Agent and the applicable Priority Claims claimant or by further Order of the Court.

10. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the "BIA") and any order issued pursuant to any such petition;
- (c) any application for a receivership order; or
- (d) any provisions of any federal or provincial legislation;

the holdbacks, payments, distributions and disbursements contemplated in this Order, are made free and clear of any Encumbrances (as defined in the Approval and Vesting Order), are binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Primus Entities, Origin, the Agent, the Syndicate or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

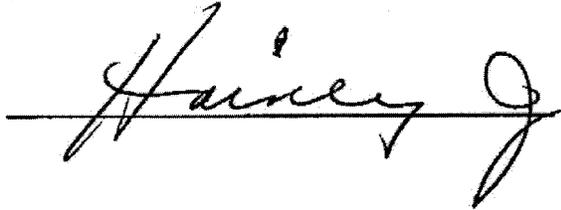
11. **THIS COURT DECLARES** that no action lies against the Monitor, its affiliates, agents, employees, officers or directors, by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court.

12. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

13. **THIS COURT DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and

complement this Order. All courts and jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

14. THIS COURT REQUESTS the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hainey J", is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO..

FEB 25 2016
h

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-16-11257-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**STAY EXTENSION AND
DISTRIBUTION ORDER**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)

WEDNESDAY, THE 10TH

JUSTICE PENNY)

DAY OF FEBRUARY, 2016

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS,
INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC

Applicants

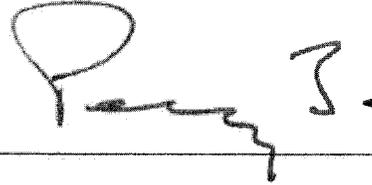
STAY EXTENSION ORDER

THIS MOTION, made by PT Holdco, Inc. ("**Holdco**"), Primus Telecommunications Canada Inc. ("**Primus Canada**"), PTUS, Inc. ("**PTUS**"), Primus Telecommunications, Inc. ("**PTI**") and Lingo, Inc. ("**Lingo**", and together with PTUS, PTI, Holdco and Primus Canada, the "**Primus Entities**") for an order approving an extension of the stay of proceedings referred to in the Initial Order of the Honourable Justice Penny dated January 19, 2016, to February 26, 2016 was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn February 9, 2016 and the Exhibits attached thereto, the First Report of FTI Consulting Canada Inc., dated February 9, 2016, in its capacity as Monitor of the Primus Entities (the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, the Monitor and the Bank of Montreal as administrative agent ("**Agent**") for the Bank of Montreal, HSBC Canada and ATB Corporate Financial Service, those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Vlad Calina sworn February 9, 2016, filed:

EXTENSION OF THE STAY PERIOD

1. **THIS COURT ORDERS** that the Stay Period referred to in the Initial Order of the Honourable Justice Penny dated January 19, 2016, is extended until February 26, 2016.
2. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Primus Entities and the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Primus Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Primus Entities and the Monitor and their agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 10 2016

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-16-11257-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**STAY EXTENSION
ORDER**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com

Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

Feb. 08, 2016
Court File No.: CV-16-11257

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT
HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC.,
PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

February 8, 2016.

See attached counsel letter.

This motion is adjourned to
February 23, 2016 for 1/2 day.

Any responding evidence shall
be filed by February 15, 2016.

Cross examination to be scheduled
if needed, prior to February 23, 2016.

BMO indicates it will resist
any attempt to cross examine
a representative as a witness
on a pending motion.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF JAMES EDMUND OSLER
(Sworn February 2, 2016)

LERNERS LLP
130 Adelaide Street West
Suite 2400
Toronto, ON M5H 3P6

Domenico Magisano LS# 45725E
Tel: 416.601.4121
Fax: 416.601.4123

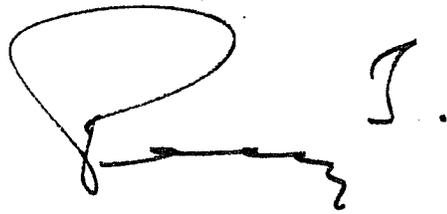
Emily Y. Fan LSUC#: 59788H
Tel: 416.601.2390
Fax: 416.867.2452
efan@lerner.ca

Lawyers for Origin Merchant Partners



If I am available not to be before me. If there is urgency, however, if I am not available, it shall be heard by another available judge.

The Feb 17 2016 date is vacated.

 R. J.

112

EN

GE
DA
GO,

AF

et

st

52

na
LF

n

ts

CITATION: PT Holdco Inc. (Re) 2016 ONSC 495
COURT FILE NO.: CV-16-11257-00CL
DATE: 20160121

SUPERIOR COURT OF JUSTICE – ONTARIO – COMMERCIAL LIST

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

BEFORE: Penny J.

COUNSEL: *Maria Konyukhova and Vlad Calina* for the Applicants

Linc Rogers and Aryo Shalviri for the Monitor

Brendan O'Neill for Birch Telecommunications Inc.

Natasha MacParland for the Bank of Montreal

Greg Azeff and Stephanie DeCaria for Manulife

D. Magisano for Origin Merchant Partners

HEARD: January 19, 2016

REASONS

[1] This is an application for court protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), including authorization to apply for recognition in the United States pursuant to Chapter 15 of the United States Bankruptcy Code, 11 U.S. Code § 1501-1532 (the "Code").

[2] I granted the initial order on January 19, 2016 with reasons to follow. These are those reasons.

[3] The applicants (collectively Primus) offer telecommunications services in Canada and the United States. Primus' principal business is the re-selling of residential and commercial telecommunications services within the United States and Canada.

[4] Primus has been experiencing rapidly declining revenues, its customer base is being lost to lower profit margin services and, yet, its capital costs remain high. As a result, Primus does not have the liquidity to meet its payment obligations as they become due. Primus is unable to satisfy the financial covenants set out in its secured credit agreements and has defaulted under these credit agreements. If these agreements are enforced, Primus would be unable to satisfy its

obligations. Primus has operated under forbearance agreements in respect of these defaults since February 4, 2015. Primus has been unable to successfully restructure its business outside of formal insolvency proceedings.

[5] The Primus North American operations are thoroughly integrated. Internally, Primus shares networks, platforms, infrastructure and personnel (including senior management).

[6] Holdco is the principal holding company of Primus with PTUS and Primus Canada the wholly owned subsidiaries of Holdco. Primus Canada is the Canadian operating company. PTUS is the holding company for PTI and Lingo, which are Primus' U.S. operating companies.

[7] Holdco and Primus Canada are private companies incorporated under the Ontario *Business Corporations Act*, with registered head offices in Toronto, Ontario. PTUS, PTI, and Lingo are private companies incorporated under the laws of Delaware, with registered head offices in Wilmington, Delaware.

[8] Primus Canada does not own sufficient telecommunications network infrastructure to provide telecommunications services without the assistance of a major carrier. Primus Canada's business and operations are heavily dependent on the major carriers. The largest vendors are Bell, Allstream, Rogers and Telus, which collectively account for approximately 50% of supplier obligations. Primus Canada purchases services from major carriers at wholesale rates determined by the CRTC or through negotiated arrangements to re-sell to its own residential and commercial consumers. The majority of Primus Canada's gross revenue is earned by providing these resale services.

[9] Primus Canada is also dependent on its credit card processing service provider. Approximately 30% of Primus Canada's customers pay for their services by credit card. Primus Canada could not process credit card transactions without the continued supply of credit card services.

[10] Primus Canada generates 88% of the Primus gross revenues of which 78% is generated in Ontario with 10% in Quebec, 6% in British Columbia, 4% in Alberta, and 2% in other provinces.

[11] Primus Canada has approximately 204,000 residential accounts and 23,000 commercial accounts. In 2014, approximately 56% of Primus Canada's revenue was generated from residential customers and approximately 44% was generated from commercial customers.

[12] Typical residential agreements are for two years or less. Typical commercial agreements range between two to three years.

[13] The U.S. Primus entities' revenues account for approximately 12% of the Primus gross revenue. U.S. Primus primarily offers digital home phone services and long-distance phone services.

[14] U.S. Primus has about 27,000 residential customers, of which approximately 1,100 are located in Puerto Rico. The balance of the U.S. Primus customers are located in the United States.

[15] Primus Canada employs 502 people and U.S. Primus employs 28 people. Certain of the Primus employees provide services to both the U.S. and Canadian operations. The Primus workforce is non-unionized. Primus does not have a pension plan for its employees.

[16] Primus' gross revenue decreased from \$229 million in 2012 to \$199 million in 2013, to \$180 million in 2014. Gross revenue is forecasted to drop to \$166 million in 2015. Since 2012, the Primus consolidated revenue has declined an average of 9% per year. During the same period, the Canadian residential business, representing approximately 56% of gross revenue for 2015, has declined an average of 9% year-over-year. At the same time, revenue has declined 18% in Canada and 25% in the United States. Despite these declining revenues, Primus has not been able to reduce capital expenditures due to the capital-intensive nature of its business. Consequently, Primus reported a net loss of \$830,000 in 2014 and has forecast a net loss of \$13,078,000 for 2015.

[17] As a result of their financial difficulties and resulting defaults with their lenders, the Primus entities are insolvent and unable to meet their obligations as they come due.

[18] Primus elected to pursue a pre-filing sales process out of concern that the extensive period of CCAA protection necessary to implement a post-filing sales process would have a detrimental impact on the Primus business and its customers.

[19] Following a SISP, Primus selected a successful bidder. Subject to obtaining the initial order being sought, Primus intends to return on a motion seeking approval of the asset purchase agreement and associated sale transaction and ancillary relief.

Should the Court grant CCAA Protection to Primus?

[20] Primus Canada and Holdco, as companies incorporated under Ontario legislation meet the CCAA definition of "company" and are therefore eligible for CCAA protection.

[21] PTI, PTUS and Lingo are also "companies" within the definition of the CCAA because they are incorporated companies (under the laws of Delaware) having assets in Canada, being funds held on deposit in Canadian bank accounts, *Re Cinram*, 2012 ONSC 3767 (S.C.J. [Comm. List]).

[22] Although the CCAA does not define the term "insolvent," the definition of "insolvent person" under section 2(1) of the BIA is well-established as the governing definition in applications under the CCAA.

[23] Primus' precarious financial situation, including the defaults under credit agreements, has rendered Primus insolvent within the definition contemplated in both the BIA and the expanded definition set out in *Stelco Inc. (Re)* (2004), 48 C.B.R. (4th) 299 (Ont. S.C.J. [Comm. List]). None of the Primus entities have sufficient liquidity to satisfy their obligations as they come due. The continued forbearance of Primus' lenders is conditional on the granting of the Initial Order. Without this forbearance, the Primus entities' loans will be immediately due. Primus will not have the funds to satisfy these debts.

[24] Finally, the Primus entities, either individually or as a whole, have debts in excess of \$5 million. I find that the Primus entities are “debtor companies” to which the CCAA applies.

[25] Under s. 11.02(3) of the CCAA, on an initial application in respect of a “debtor company”, the Court may make an order on any terms that it considers appropriate where the applicant satisfies the Court that circumstances exist to make the order, including, among other things, staying all proceedings that might be taken in respect of the company under the BIA.

[26] A stay of proceedings is appropriate in liquidating CCAA proceedings such as this one, *Lehndorff General Partner Ltd. (Re)* (1993), 17 C.B.R. (3rd) 24 (Ont. Gen. Div. [Comm. List]), para. 6.

[27] As a result of the financial difficulties and liquidity issues outlined above, Primus requires CCAA protection to maintain operations while allowing it the time necessary to complete the sales process and thereby to maximize recovery for its stakeholders. Without CCAA protection, a shut-down of operations is inevitable. This would be disruptive to Primus’ efforts to maximize recovery.

Should the Court grant the Administration Charge?

[28] Primus seeks a charge on its assets in the maximum amount of \$1 million to secure the fees and disbursements incurred in connection with services rendered to Primus both before and after the commencement of the CCAA proceedings by counsel to Primus, the Monitor and the Monitor’s counsel (the “Administration Charge”).

[29] Primus worked with the proposed monitor to estimate the proposed quantum of the Administration Charge to ensure that it was reasonable and appropriate in the circumstances.

[30] The Administration Charge is proposed to rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise held by persons with notice of this application.

[31] Section 11.52 of the CCAA provides statutory jurisdiction to grant such a charge.

[32] In *Re Canwest Publishing Inc.*, (2010), 63 C.B.R. (5th) 115 (Ont. S.C.J. [Comm. List]), in addition to the considerations enumerated in section 11.52, Justice Pepall considered the following factors:

- (a) the size and complexity of the business being restructured;
- (b) the proposed role of the beneficiaries of the charge;
- (c) whether there is an unwarranted duplication of roles;
- (d) whether the quantum of the proposed charge appears to be fair and reasonable;
- (e) the position of the secured creditors likely to be affected by the charge; and

- (f) the position of the monitor.

[33] In the present matter, the following factors support the granting of the Administration Charge as requested:

- (a) Primus operates a business which is technical in nature, operates across North America, and is subject to regulatory obligations;
- (b) the beneficiaries of the Administration Charge will provide essential legal and financial advice throughout the CCAA proceedings;
- (c) there is no anticipated unwarranted duplication of roles;
- (d) the lenders were advised of the anticipated return date of this application, have or will have received copies of the application materials, and have not indicated opposition to the granting of the Administration Charge; and
- (e) the proposed Monitor, in its pre-filing report, supports the Administration Charge and its proposed quantum and believes it to be fair and reasonable in view of the complexity of Primus' CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge;

[34] Each of the proposed beneficiaries of this charge will play a critical role in the Primus restructuring and it is unlikely that these advisors will participate in the CCAA proceedings unless the Administration Charge is granted to secure their fees and disbursements. Accordingly, the Administrative Charge is granted.

Should the Court grant the Directors' Charge?

[35] Primus also seeks a charge over its assets in favour of the Primus former and current directors in the amount of \$3.1 million (the "D&O Charge") in order to protect the directors and officers from the risk of significant personal exposure. The D&O Charge is proposed to rank immediately behind the Administration Charge but in priority to all other encumbrances held by persons given notice of this application.

[36] Primus maintains directors' and officers' liability insurance for its directors and officers. The current D&O insurance policies provide a total of \$15 million in coverage. Under the D&O insurance, there are deductibles for certain claims and a large number of exclusions which create a degree of uncertainty. In addition, contractual indemnities which have been given to the directors and officers cannot be satisfied as Primus does not have sufficient funds to satisfy those indemnities should their directors and officers be found responsible for the full amount of the potential directors' liabilities. Adequate indemnification insurance is not otherwise available for the directors and officers at reasonable cost.

[37] The CCAA has codified the granting of directors' and officers' charges on a priority basis in section 11.51. The Court must be satisfied that the amount of the charge is appropriate in light of obligations and liabilities that may be incurred after the commencement of proceedings, *Re Canwest Global, supra*.

[38] Primus requires the continued involvement of its directors and officers in order to finalize the sales process already in progress. The directors and officers of Primus have indicated that, due to the significant personal exposure associated with Primus' liabilities, they will resign from their positions with Primus unless the Initial Order grants the D&O Charge.

[39] The D&O Charge will allow Primus to continue to benefit from the expertise and knowledge of its directors and officers. The quantum of the requested D&O Charge is reasonable given the complexity of Primus' business and the potential exposure of the directors and officers to personal liability.

[40] Further, the proposed monitor has advised that it is supportive of the D&O Charge, including the amount.

[41] The D&O Charge is therefore granted.

The Proposed Monitor

[42] FTI Consulting Canada Inc. has consented to act as the court-appointed monitor. FTI is a trustee within the meaning of s. 2 of the BIA and is not subject to any of the restrictions on who may be appointed as a monitor. The monitor has filed a pre-filing report indicating that it is supportive of the relief being sought. The appointment of FTI is granted.

Should the Court Authorize FTI Consulting Canada Inc. to Act as Foreign Representative?

[43] Section 56 of the CCAA grants the court the unfettered authority to appoint "any person or body" to act as a representative for the purpose of having these CCAA proceedings recognized in any jurisdiction outside of Canada, including but not limited to the United States.

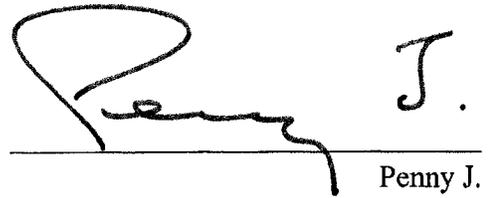
[44] In order to enforce the stay of proceedings established under the Initial Order in the United States and to facilitate the contemplated restructuring strategy, it is necessary to seek recognition of the Initial Order by the United States Bankruptcy Court. Accordingly, Primus seeks authorization for FTI, as foreign representative of Primus, to seek recognition of these proceedings in the United States under Chapter 15 of the Code.

[45] Courts have consistently encouraged comity and cooperation between courts in cross-border insolvencies to enable enterprises to restructure on a cross-border basis. To authorize FTI to act as foreign representative and seek recognition of these proceedings in the United States is consistent with and gives full effect to these principles.

[46] The commencement of proceedings in the United States is necessary and appropriate under the circumstances because, among other things, Primus operates a cross-border business that is operationally and functionally integrated in several significant respects. Among other things, Primus has assets and employees in the United States and many affected creditors are located in the United States. As a result, it is possible that one or more parties in the United States will seek to commence proceedings against one or more of the U.S. Primus entities.

[47] The appointment and authorization of FTI as foreign representative is granted.

[48] For all these reasons, I have granted the initial order in the form sought.

 Penny J.

Date: January 21, 2016

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

Court File No. _____

January 19, 2016

This is an application for an initial order under the CCAA. For reasons to follow, I am satisfied that I have the jurisdiction to make the order sought and that the statutory conditions for the grant of the specific relief sought have been met.

Order to issue in due form sought by me this day.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPLICATION RECORD
(RETURNABLE JANUARY 19, 2016)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

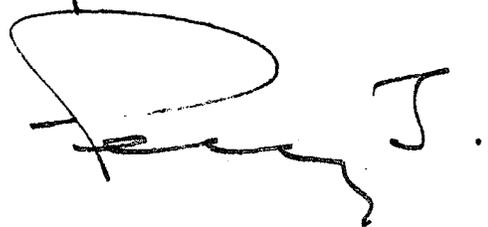
Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicants

this initial order is without prejudice to any party seeking a further stay or other active remedy should any proceeding be commenced by an unsuccessful bidder.

A return date  is tentatively fixed of February 17, 2016 at 9:00 a.m. for the hearing of a motion to approve the SISP process and ~~sale~~ 

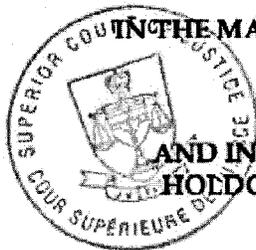
Order to issue in the form signed by me this day.


J. J.

CV-16-11257-00C
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
JUSTICE PENNY)
TUESDAY, THE 19th
DAY OF JANUARY, 2016



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC

INITIAL ORDER

THIS APPLICATION, made by PT Holdco, Inc. ("Holdco"), Primus Telecommunications Canada Inc. ("Primus Canada"), PTUS, Inc. ("PTUS"), Primus Telecommunications, Inc. ("PTI") and Lingo, Inc. ("Lingo", and together with PTUS, PTI, Holdco and Primus Canada, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn January 18, 2016 and the Exhibits thereto (the "Nowlan Affidavit"), the Pre-Filing Report of FTI Consulting Canada Inc., as proposed monitor, (the "Pre-Filing Report") and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the proposed Monitor, no one appearing for any other party although duly served as appears from the affidavit of service filed, and on reading the consent of FTI Consulting Canada Inc. to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "Business") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Nowlan Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management

System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee benefits (including, without limitation, any amounts relating to the provision of employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, and similar amounts owed to independent contractors, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) all outstanding and future insurance premiums (including property and casualty, group insurance policy, director and officers liability insurance, or other necessary insurance policy);
- (c) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations other than any refunds arising as a result of termination or cancellation of customer agreement or services; and
- (d) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise

may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$1,000,000 in the aggregate.
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or sale,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the

landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including February 18, 2016, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the

foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, credit card services provided by Chase Paymentech Solutions, Inc. or other credit card processors, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants without having to provide any security deposit or any other security in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "D&O Charge") on the Property, which charge shall not exceed an aggregate amount of \$3.1 million, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs 32 and 34 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall cooperate fully with the Monitor in the exercise of their powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) liaise with Assistants, to the extent required, with respect to all matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;

- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) assist the Applicants, to the extent required by the Applicants, with their restructuring activities and/or any sale of the Property and the Business or any part thereof;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (j) hold and administer funds in accordance with arrangements among any of the Applicants, any Person and the Monitor, or by Order of this Court; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario*

Water Resources Act, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants are confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, including for greater certainty in the Monitor's capacity as "foreign representative", save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of \$1,000,000 to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and their legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. **THIS COURT ORDERS** that the Monitor, Canadian and US counsel to the Monitor, and the Applicants' Canadian and US counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 32 and 34 herein.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the priorities of the Administration Charge and the D&O Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$1,000,000); and

Second - D&O Charge (to the maximum amount of \$3,100,000).

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge and the D&O Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that each of the Administration Charge and the D&O Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person that has not been served with notice of this order.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants

also obtain the prior written consent of the Monitor, and the beneficiaries of the Administration Charge or the D&O Charge, as applicable, or further Order of this Court.

36. **THIS COURT ORDERS** that the Administration Charge and the D&O Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, , and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

37. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

CHAPTER 15 PROCEEDINGS

38. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, but not required, to act as the foreign representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside of Canada including, if deemed advisable by the Monitor, to apply for recognition of these proceedings in the United States pursuant to Chapter 15 of Title 11 of the United States Code, 11 U.S.C. §§ 101- 1532 and to take such other steps as may be authorized by the Court and any ancillary relief in respect thereto.

SERVICE AND NOTICE

39. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner (provided that the list shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual), all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

40. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://cfcanada.fticonsulting.com/primus>'.

41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

42. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

43. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

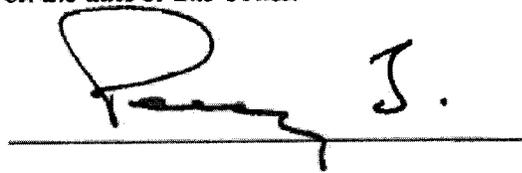
44. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

45. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a

representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

46. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

47. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO.
LE / DANS LE REGISTRE NO.:

JAN 19 2016
h

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-16-11257-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9
Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com
Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Email: kesaw@stikeman.com
Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866