

May 22, 2012

**ELECTRONICALLY FILED**

Mr. Dave Danner  
Executive Director/Secretary  
Washington Utilities & Transportation Commission  
1300 South Evergreen Park Drive, SW  
P.O. Box 47250  
Olympia, Washington 98504

Re: *Informational Filing* to Notify the Commission of a Pro Forma Change  
in Ownership Involving XO Communications Services, LLC and Nextlink  
Wireless, LLC

Dear Mr. Danner:

XO Communications Services, LLC (“XOCS”) and Nextlink Wireless, LLC (“Nextlink”; together with XOCS, the “XO Subsidiaries”), respectfully notify the Washington Utilities & Transportation Commission (“Commission”) of certain transactions and related actions that result in a *pro forma* change to the ownership of the XO Subsidiaries (the “Transaction”).<sup>1</sup> As discussed below, ultimate *de facto* control of the XO Subsidiaries will remain unaltered. Following the Transaction, Carl C. Icahn (“Mr. Icahn”) will continue to hold ultimate ownership and control of the XO Subsidiaries as before.

Similarly, following the Transaction, the XO Subsidiaries will continue to offer the same services at the same rates, terms and conditions as previously, pursuant to their existing authorizations and tariffs. Accordingly, the Transaction will be entirely transparent to the XO

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<sup>1</sup> This is the first notification of a *pro forma* change in the ownership of the XO Subsidiaries that the XO Subsidiaries have filed with the Commission in 2012.

Subsidiaries' customers. Because there will be no change whatsoever in the ultimate control of the XO Subsidiaries and the Transaction will have no impact on the XO Subsidiaries' customers, it is the understanding of the XO Subsidiaries that prior approval of the Commission is not required and that notice of the Transaction is sufficient.<sup>2</sup> Accordingly, the XO Subsidiaries submit this informational letter as an update for the Commission's files.

### The XO Subsidiaries

*XOCS.* XOCS is authorized by the Commission to provide competitive intrastate telecommunications services in Washington.<sup>3</sup> XOCS is a Delaware corporation and a direct, wholly-owned subsidiary of XO Communications, LLC ("XO LLC"). XO LLC, a Delaware limited liability company, is a leading national provider of local and long distance telecommunications services to businesses, large enterprises and telecommunications carriers. XO LLC is authorized by the Federal Communications Commission to provide interstate and international telecommunications services. Through its subsidiaries – primarily XOCS<sup>4</sup> – XO LLC is authorized to provide intrastate interexchange services in 49 states and to provide competitive local exchange services in 48 states as well as in the District of Columbia.

XO LLC is a direct, wholly-owned subsidiary of XO Holdings ("XO Holdings"), a Delaware general partnership. ACF Industries Holdings Sub LLC ("ACF Sub"), a Delaware limited liability company, and Barberry Sub LLC ("Barberry Sub"), a Delaware limited liability company, are the general partners of XO Holdings and hold 100% of the direct interests in XO Holdings. Various U.S. entities controlled by Mr. Icahn (the "Parent Group"), including but not limited to Buffalo Investors I LLC ("Buffalo Investors"), Highcrest Investors LLC ("Highcrest Investors"), and Barberry Corporation ("Barberry"), collectively hold 100% of the interests in ACF Sub and Barberry Sub. Mr. Icahn is a U.S. citizen.

*Nextlink.* Nextlink is a Delaware corporation and a direct, wholly-owned subsidiary of XO Holdings. In Washington, Nextlink has been authorized as a competitive carrier to provide competitive telecommunications services.<sup>5</sup> Nextlink offers broadband wireless

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<sup>2</sup> In the event that the Commission determines that prior approval of the Transaction is required, XOCS respectfully requests that the Commission accept and treat this notice as the required application.

<sup>3</sup> XOCS was authorized to provide local and interexchange services in docket UT-041511 on December 31, 2004.

<sup>4</sup> XOCS does not operate in Nevada and Virginia, where XO LLC provides service through two additional subsidiaries: Telecommunications of Nevada, LLC and XO Virginia, LLC, respectively.

<sup>5</sup> Nextlink was authorized to provide these services in docket UT-051924 on January 8, 2006.

access services, managed network services, and wireless access solutions for mobile and wireline voice, data, and video applications to wireless and wireline communications carriers, businesses, and government agencies in the U.S. Nextlink is authorized to provide intrastate services in 26 states as well as in the District of Columbia.

The XO Subsidiaries, XO LLC, and XO Holdings are located at 13865 Sunrise Valley Drive, Herndon, Virginia 20171, (703) 547-2000. The address of Carl C. Icahn is 767 Fifth Avenue, 47th Floor, New York, New York 10153. The principal business address of the Parent Group is c/o White Plains Plaza, 445 Hamilton Avenue, Suite 1210, White Plains, New York 10601. Organizational charts for the XO Subsidiaries, including the post-transaction ownership structure, are provided as *EXHIBIT A*.

### **The Transaction**

Certain members of the Parent Group have entered into various agreements, the purpose of which is to restructure the ownership interests of the Parent Group. In the course of implementing these agreements and related actions, a new member is being added to the Parent Group, a member of the Parent Group is being eliminated, and indirect interests in XO Holdings are being transferred among Parent Group members. Most notably, Icahn Institutional Services LLC ("Icahn Institutional"), a Delaware limited liability company that is wholly owned and controlled by Mr. Icahn, is being added to the Parent Group. Icahn Institutional holds 7.5% of the direct membership interests in Barberry Sub and 0.5% of the direct membership interests in Highcrest. The interests of Barberry in Barberry Sub decrease from 100% to 92.5%. Also, Buffalo Investors is being merged with and into Starfire Holding Corporation, as a result of which Starfire Holding Corporation holds 99.5% of the interests in Highcrest. The XO Subsidiaries expect that the Transaction will be completed no later than June 1, 2012.

Upon completion of the Transaction, ACF Sub and Barberry Sub will remain the general partners of XO Holdings and continue to jointly hold 100% of the direct interests in XO Holdings. ACF Sub, Barberry Sub, and all members of the Parent Group, including but not limited to Icahn Institutional, are ultimately owned and controlled by Mr. Icahn. As such, the Transaction does not result in a change in the actual control of the XO Subsidiaries and is wholly *pro forma* in nature.

### **Public Interest Considerations**

The Transaction serves the public interest, as it enhances the strategic and financial flexibility of the XO Subsidiaries. These advantages inure to the benefit of the XO Subsidiaries and their customers.

At the same time, the Transaction holds no adverse consequences for consumers. In short, the Transaction is transparent to XO's customers. There is no change to the operating entities which directly serve XO customers. The XO Subsidiaries remain wholly-owned subsidiaries of XO Holdings, and will continue under the ultimate control of Mr. Icahn. There is no change to the services provided to customers or to the terms and conditions under which these services are delivered. There is no change to the management of the XO Subsidiaries or to their operational and financial qualifications as a result of the Transaction.

As explained above, the XO Subsidiaries are submitting this letter for the Commission's information only and request that it be retained in the appropriate file. Should the Commission have any questions or believe that any further information is required, please contact Rex Knowles at 801.983.1504 or via e-mail at [rex.knowles@xo.com](mailto:rex.knowles@xo.com).

Respectfully submitted,

XO Communications Services, LLC and  
Nextlink Wireless, LLC

A handwritten signature in black ink that reads "Rex M. Knowles" followed by a stylized monogram "Kf".

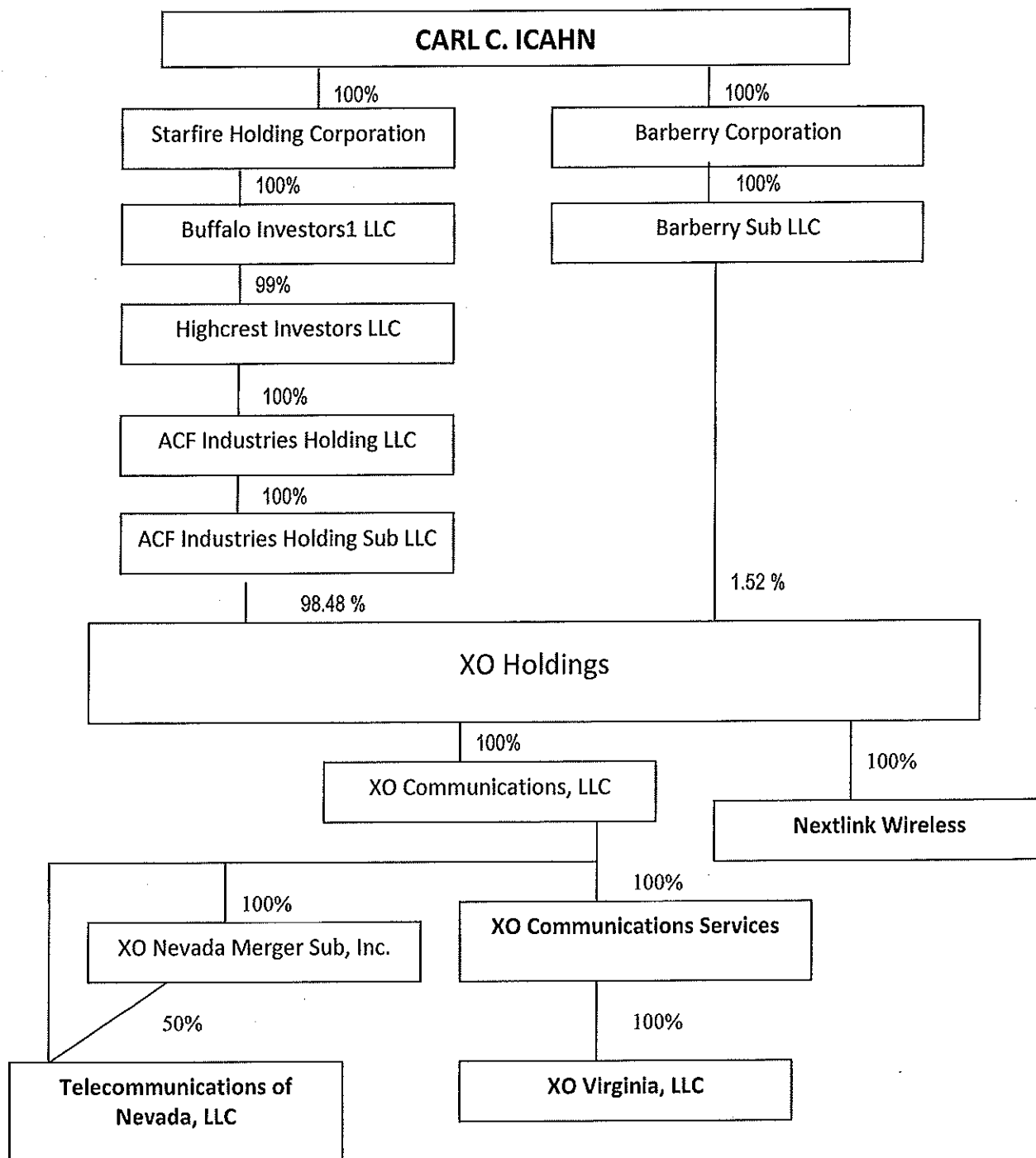
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Rex M. Knowles  
Executive Director

**EXHIBIT A**

**Organizational Charts for XO Companies**

**OWNERSHIP STRUCTURE  
on or about January 1, 2012\***

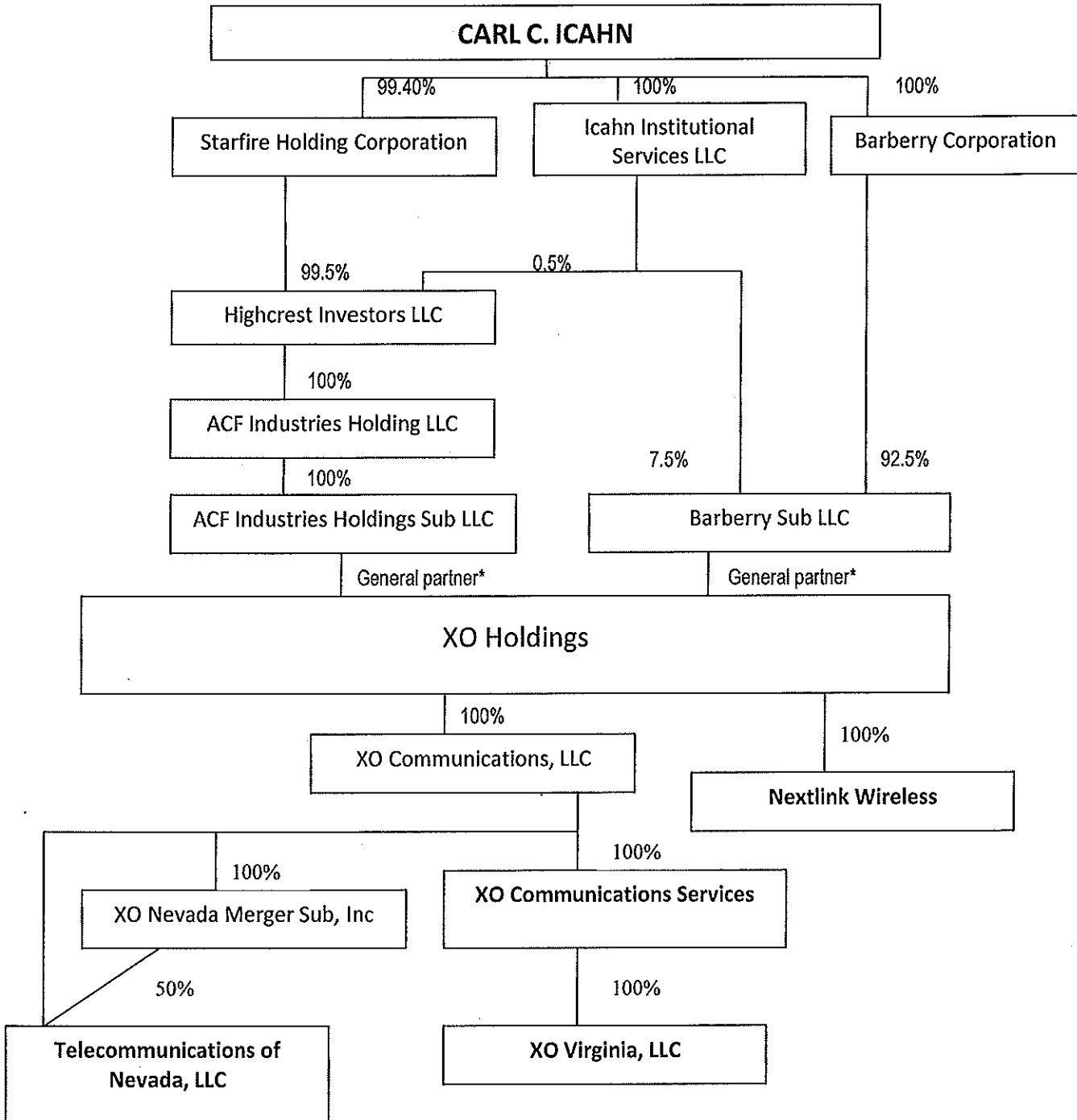


**Notes**

ACF Industries Holdings Sub LLC and Barberrry Sub LLC are the general partners of XO Holdings.

(\*) Ownership structure as submitted in the December 29, 2011 filing.

**OWNERSHIP STRUCTURE**  
on or about June 1, 2012



**Notes**

ACF Industries Holdings Sub LLC and Barberry Sub LLC are the general partners of XO Holdings.

\*In the December 29, 2011 filing dealing with the corporate structure of the XO Companies, it was stated that ACF Sub and Barberry Sub hold 98.48% and 1.52% of the direct interests in XO Holdings, respectively. That statement was not entirely accurate. The individual interest of each partner in XO Holdings is based on the amount contributed by each partner to the capital of the partnership and can fluctuate within certain ranges; specifically, ACF Sub can hold 96.5-99.9% of the direct interests in XO Holdings, while Barberry Sub can hold 0.1-3.5%. We regret this error and any inconvenience it may have caused.