

1776 K STREET NW  
WASHINGTON, DC 20006  
PHONE 202.719.7000  
FAX 202.719.7049

7925 JONES BRANCH DRIVE  
MCLEAN, VA 22102  
PHONE 703.905.2800  
FAX 703.905.2820

[www.wileyrein.com](http://www.wileyrein.com)

December 30, 2014

Thomas J. Navin  
202.719.7487  
[tnavin@wileyrein.com](mailto:tnavin@wileyrein.com)

**VIA ELECTRONIC DELIVERY**

Kathy Shepherd  
Competitive Provider Analyst  
Public Utility Commission of Oregon  
3930 Fairview Industrial Drive SE  
Salem OR 97302

**Re: X5 PDX, LLC and X5 OpCo LLC – Transfer of Certificate of Authority**

Dear Ms. Shepherd:

X5 PDX, LLC, together with its affiliate X5 Solutions, Inc. (“X5” or “Transferors”) and X5 OpCo LLC (“X5 OpCo” or “Transferee,” jointly, “Applicants”) hereby respectfully notify the Public Utility Commission of Oregon (“Commission”) of a pending transaction between Transferors and Transferee pursuant to which Transferors will transfer substantially all of their telecommunications assets and Oregon customer base to Transferee (the “Transaction”).

The Parties submit this letter to supplement their Application for Transfer of Certificate of Authority to Provide Competitive Telecommunications Services in Oregon.

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## **I. PARTIES**

### **A. X5 PDX, LLC and X5 Solutions, Inc. (Transferors)**

X5 PDX, LLC is a Seattle, Washington-based privately-held limited liability company organized under the laws of the State of Washington on August 7, 2002. X5 PDX, LLC and its affiliate, X5 Solutions, Inc., provide local exchange and domestic interexchange telecommunications services primarily to commercial and governmental institution subscribers, wholesale telecommunications network facilities and services to carriers, and switched exchange access services to interconnecting carriers in the States of Washington, Oregon, and Utah. X5 PDX, LLC provides services primarily in the State of Oregon. X5 PDX, LLC is authorized to provide intraexchange (local exchange) switched services and non-switched private line services in Oregon.<sup>1</sup> X5 serves approximately 160 customers in the state of Oregon.

### **B. X5 OpCo LLC (Transferee)**

X5 OpCo is a limited liability company formed under the laws of the State of Delaware in 2014. X5 OpCo is a wholly owned subsidiary of X5 Holdings LLC (“X5 Holdings”) which is controlled by NewSpring Holdings Management Company LLC (“NewSpring”). X5 OpCo has been formed specifically to effect the proposed Transfer. NewSpring is a limited liability company organized under the laws of the State of Delaware. NewSpring is affiliated with NewSpring Holdings LLC, a private equity fund that seeks to partner with successful business owners and management teams to grow profitable businesses. Neither X5 OpCo, X5 Holdings or NewSpring currently provide telecommunications services. After consummation of the Transfer, X5 OpCo will manage Transferors’ operations and business under its current organization. X5 OpCo is not and has never been authorized to provide telecommunications service in Oregon.

## **II. DESIGNATED CONTACTS**

Correspondence concerning this matter should be directed to:

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<sup>1</sup> See *Application for a Certificate of Authority to Provide Telecommunications Service in Oregon and Classification as a Competitive Provider*, Order, Docket No. CP 1126, Order No. 03-167 (2003).



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For Transferor:

Barbara Meyer  
Controller  
X5 Solutions, Inc.  
1301 Fifth Ave.  
Suite #2301  
Seattle, WA 98101  
Telephone: 206.973.5800

With a copy to:

Andrew O. Isar  
Regulatory Consultant  
Miller Isar, Inc.  
4423 Point Fosdick Drive, NW  
Suite 306E  
Gig Harbor, WA 98335  
Telephone: 253.851.6700  
Email: aisar@millerisar.com

For Transferee:

Walter P. Maner  
Chairman  
X5 OpCo LLC  
c/o NewSpring Holdings LLC  
555 E. Lancaster Ave, Suite 444  
Radnor, PA 19087  
Telephone: 610.567.2380

With a copy to:

Thomas J. Navin, Esq.  
Wiley Rein LLP  
1776 K Street, NW  
Washington, DC 20006  
Telephone: 202.719.7487

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Email: [tnavin@wileyrein.com](mailto:tnavin@wileyrein.com)

### **III. DESCRIPTION OF THE TRANSACTION AND PUBLIC INTEREST STATEMENT**

Transferors seek to sell, and Transferee seeks to acquire, substantially all of the assets and business of Transferors as an ongoing operation. Under the terms of the proposed acquisition, Transferors will sell the entirety of their interest in operational assets, customer and supplier contracts, and the transfer of all personnel to Transferee. Following the grant of the proposed Transfer, Transferee will operate the assets and business of Transferors and will continue to provide domestic telecommunications services to commercial subscribers, wholesale carrier customers, and interconnecting carriers, and otherwise operate under Transferors' current name, organization, and service rates, terms, conditions and authority. The Transaction will provide Transferors' business with additional capitalization needed to innovate, expand operations and generally increase competitiveness. The Transaction will be entirely transparent to Transferors' subscribers and wholesale customers.

The transfer is scheduled to take place on or around March 16, 2015, assuming receipt of all necessary regulatory approvals. The Transferors' customer base will receive notice of the Transaction in accordance with Oregon state requirements and the rules and regulations of the Federal Communications Commission. The Applicants separately are filing a request to waive Oregon's 90-day customer notice requirement period.

The Applicants intend to file or have filed applications seeking authorization for the Transaction with the Federal Communications Commission, the Washington Utilities and Transportation Commission and the Utah Public Service Commission. The Applicants expect the Transaction will receive streamlined treatment from the FCC. To date, no regulatory approvals have been issued.

Applicants submit that the Transaction is consistent with the public interest. The Transaction will provide additional capitalization needed to expand services and operations, and enhance the ability to provide competitive telecommunications services to the public. Further, broad management experience will enable Transferee to explore new innovative service opportunities and provide added value to Transferors' subscribers and customers. The proposed transfer does not raise any

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competitive concerns. The only impact of the proposed transaction is that Transferors' business will obtain access to increased resources that will result in a stronger, more capable and robust company, capable of pursuing opportunities.

The Transaction will be entirely transparent to subscribers and customers. The Transaction will not result in any immediate change in service rates, terms, and conditions, and will not result in the discontinuance, reduction, loss, or impairment of service to subscribers or customers. Attached as **Exhibit A** is a customer notification letter that Applicants intend to send to affected customers.

The public interest will also be served by expeditious consideration and approval of the Transaction. The proposed Transaction seeks to strengthen the competitive capabilities of the business being transferred to Transferee. Delays in obtaining regulatory approval could impede the initiatives planned following consummation of the Transaction. Such delays could further create uncertainty and risk to Company subscribers, customers, and employees.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully Submitted,

*/s/ Thomas J. Navin*

Thomas J. Navin  
*Counsel for X5 OpCo LLC*

# **EXHIBIT A**

[DATE]

[ADDRESS]

Dear Valued Customer:

X5 OpCo LLC recently announced an agreement with X5 Solutions, Inc. and X5 PDX, LLC to acquire certain assets of X5 Solutions, Inc. and X5 PDX, LLC's business, subject to regulatory approval, including your account. Once that happens, your service will be provided by X5 OpCo LLC but under your current contract with X5 Solutions, Inc. or X5 PDX, LLC.

Please rest assured that the transaction will not affect the service you currently receive. You will continue to receive services with the same rates, features, terms and conditions as you currently enjoy. Any changes to your service following the transaction will be made in compliance with your contract, service terms and applicable federal and state regulatory requirements. X5 OpCo LLC will automatically become your telecommunications provider upon final close on or after March 16, 2015.

This change will be completely seamless for you and you do not need to do anything in order for it to occur. X5 OpCo LLC will take care of all of the details and will be responsible for any change fees associated with transferring your account. However, it is important that you be aware of the following information. You are responsible for continued payment of your monthly recurring and usage charges throughout this period. Unless you have made arrangements on your own to switch your provider prior to the date that your services are transferred to X5 OpCo LLC, your account will automatically be transferred and your service contract assigned to X5 OpCo LLC. All preferred carrier freezes will be lifted for purposes of completing the transfer of your services to X5 OpCo LLC. X5 OpCo LLC will reinstate any preferred carrier freeze you may have with X5 Solutions, Inc. or X5 PDX, LLC if you currently receive local telephone service from X5 Solutions, Inc. or X5 PDX, LLC. In the event that you currently receive local service from a provider other than X5 Solutions, Inc. or X5 PDX, LLC, you will need to contact your existing or new local service provider to reinstate your preferred carrier freeze. In addition, any deposit or prepayment you have paid, if any, will be transferred with your account to X5 OpCo LLC.

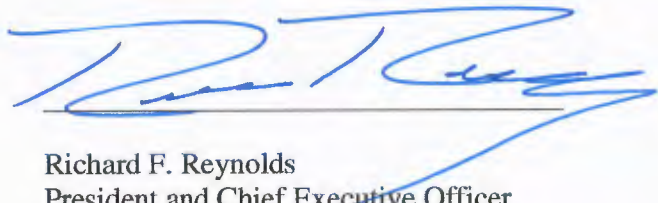
Subject to the terms of your current contract, you have the option to select another provider. We value your business and we hope that X5 OpCo LLC may continue to serve you. If you should choose another provider you will need to contact that carrier directly to arrange for the change prior to the transfer of your services to X5 OpCo LLC. We note that it can take several weeks for a new carrier to make the switch and you may also incur service initiation fees from that provider such as service order, installation and other similar charges associated with establishing a new service account.

Our mission is to provide superior products and services to our customers. We want to thank you for your continued support. If you have any questions regarding your current services or about the transaction, please call the customer service department at 888-588-1501.

X5 OpCo LLC looks forward to serving you.

**VERIFICATION**

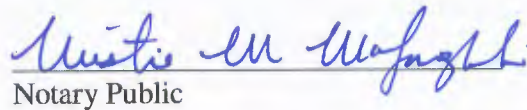
I, Richard F. Reynolds, am the President and Chief Executive Officer of X5 Solutions, Inc. and X5 PDX, LLC. The factual statements and representations made in the foregoing by and concerning X5 Solutions, Inc. and X5 PDX, LLC and the transactions described therein are true and correct to the best of my knowledge and belief.



Richard F. Reynolds  
President and Chief Executive Officer  
X5 Solutions, Inc.  
X5 PDX, LLC

County of Chelan )  
State of Washington )

Subscribed and sworn to before me by Richard F Reynolds this 24<sup>th</sup> day of December, 2014.



Notary Public


My Commission Expires: Dec 20, 2015





VERIFICATION

I, Walter P. Maner, am the Chairman of X5 OpCo LLC. The factual statements and representations made in the foregoing by and concerning X5 OpCo LLC and the transactions described therein are true and correct to the best of my knowledge and belief.

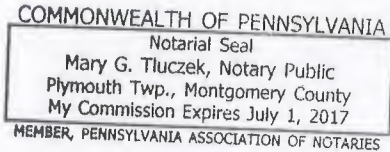


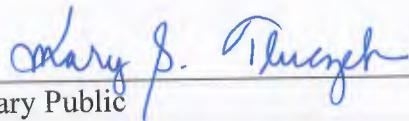
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Walter P. Maner  
Chairman  
X5 OpCo LLC

County of Montgomery  
State of PA

Subscribed and sworn to before me by Walter P. Maner this 23<sup>rd</sup> day of December, 2014.



  
Notary Public

My Commission Expires: 7-1-17

**APPLICATION FOR TRANSFER OF CERTIFICATE OF AUTHORITY TO  
PROVIDE COMPETITIVE TELECOMMUNICATIONS SERVICES IN OREGON**

INSTRUCTIONS: Complete every applicable section of this application. Attach additional documents and/or sheets to complete responses (if needed). You will be notified when the Commission receives your application, and again when it has been processed. Upon acceptance of this application, the Commission will publish notice pursuant to ORS 759.020(2). After submitting this application electronically, mail one copy with original signature and all attachments.

Desired Effective Date:

To guarantee processing by the effective date, the Commission must receive an application at least 60 days prior to the desired effective date unless Commission Staff and Applicant have agreed to an earlier effective date. The Commission allows filing and notice prior to effective date of transaction. The Commission will issue an order on the desired effective date unless Applicant files a notice of extension or withdraws the application.

**SECTION I -- Transferee/Surviving Entity Information**

1. Exact Legal Name of Surviving Entity or Transferee:

**X5 OpCo LLC**

Applicant's Assumed Business Name(s) (if any) (e.g., dba, aka)  
*Must be registered with the Corporation Division.*

Applicant's Type of Legal Entity (e.g., corporation, limited partnership)

**LLC**

Business Address

**c/o NewSpring Holdings LLC  
555 E. Lancaster Ave., Suite 444  
Radnor PA 19087**

Phone **610-567-2380**

Fax **610-567-2388**

Email **smaner@newspringcapital.com**

2. Name and Address of Person to be Contacted for Further Information Regarding This Application:

**Walter P. Maner  
NewSpring Holdings LLC  
555 E. Lancaster Ave., Suite 444  
Radnor PA 19087**

Phone **610-567-2380**

Fax **610-567-2388**

Email **smaner@newspringcapital.com**

3. Name and Address of Person to be Contacted for Regulatory Information (Commission will send requests for information to this person).

**Walter P. Maner  
NewSpring Holdings LLC  
555 E. Lancaster Ave., Suite 444  
Radnor PA 19087**

Phone **610-567-2380**

Fax **610-567-2388**

Email **smaner@newspringcapital.com**

**4. Affiliated Interests:**

As of the date of the transfer, will you be, or are you now, or have you ever been affiliated with any provider of telecommunications service that serves Oregon? If so, who? When? Describe affiliation. Affiliated interest is defined in OAR 860-032-0001.

Not applicable.

**5. Previous Certificates of Authority:**

List each certificate of authority previously granted by the Oregon PUC to Applicant and to each affiliated entity, under a legal name, an assumed business name, or any other name. Include all certificates whether or not canceled. For each certificate include: name of entity, docket number, and order number.

	Name of Entity	Docket Number	Order Number
a.	None		
b.			
c.			
d.			

**SECTION II -- Transferring Entity (Transferor) Information**

*By completing this information the Transferor acknowledges that it will no longer have authority and cannot provide the telecommunications services that are transferred.*

**1. Exact Legal Name of Transferring or Merging Entity (Transferor):**

**X5 PDX LLC**

Applicant's Assumed Business Name(s) (if any) (e.g., dba, aka)

*Must be registered with the Corporation Division.*

**X5 Solutions**

Applicant's Type of Legal Entity (e.g., corporation, limited partnership)

**LLC**

Business Address

**1301 Fifth Ave.**

**Suite 2301**

**Seattle WA 98101**

Phone **206-973-5800**

Fax

Email **info@x5solutions.com**

**2. Name and Address of Person to be Contacted for Further Information Regarding the Application:**

**Barbara Meyer**

**1301 Fifth Ave.**

**Suite 2301**

**Seattle WA 98101**

Phone **206-973-5800**

Fax

Email **bmeyer@x5solutions.com**

**3. Name and Address of Person to be Contacted for Regulatory Information (Commission will send requests for information to this person). Please provide the email address:**

**Barbara Meyer**

**1301 Fifth Ave.**

**Suite 2301**

**Seattle WA 98101**

Phone **206-973-5800**

Fax

Email **bmeyer@x5solutions.com**

**4. Certificates of Authority to be Transferred:**

- a. List each certificate of authority previously granted by the Oregon PUC to Transferor, under its legal name, an assumed business name, or any other name. Include all certificates whether or not canceled. For each certificate provide the name of entity, docket number, and order number.

	Name of Entity	Docket Number	Order Number
1)	X5 PDX LLC	CP 1126	03-167
2)			
3)			
4)			

- b. Do you request that ALL authority to provide telecommunications service be transferred?  Yes  No
- c. If response to 4.b. is No, describe what authority is to be transferred and what authority is to be retained by the Transferor.

**Note: The transferring entity (Transferor) will no longer be authorized to provide the telecommunications services that are transferred.**

**SECTION III -- Nature of Transaction between Transferee and Transferor (describe in detail)**

Please see attached letter.

**Please use additional sheets if necessary to fully answer any item.**

**SECTION IV -- Conditions of a Certificate of Authority**

As a condition of a certificate of authority, certificate holder must comply with all applicable Commission rules and state law, as well as conditions listed in the certificate.

For your convenience, following is a summary of some conditions from OAR 860-032-0001 et seq. (Division 32). Additional conditions will be specified in the certificate.

- a. Certificate holder shall provide only telecommunications services authorized by the certificate.
- b. Certificate holder's books and records shall be open to inspection by the Commission to the extent necessary to verify information required by the Commission's rules.
- c. Certificate holder shall pay all access charges and subsidies imposed pursuant to the Commission's rules.
- d. Certificate holder shall pay an annual fee to the Commission pursuant to the Commission's rules. This fee will be based on the certificate holder's annual gross retail intrastate revenues and will be no less than \$100 per calendar year. The certificate holder shall collect the fee by charging an equitable amount to each retail customer and describe the amount of the apportioned charge on each retail customer's bill, pursuant to the Commission's rules.
- e. The surviving entity (Transferee) is responsible for the annual PUC fee and all other fees incurred by the transferring entity (Transferor) as of the date the Commission approves the transfer.
- f. Certificate holder shall respond in a timely manner to Commission inquiries.

Pursuant to Residential Service Protection statutes, Chapter 290, Oregon Laws 1987, and Division 033, certificate holder shall be responsible to ensure that the Residential Service Protection Fund surcharge is remitted to the Commission. This surcharge is assessed against each paying retail subscriber at a rate that is set annually by the Commission.

Applicant understands that all services provided by Applicant must comply with all applicable Commission rules and state law, and with conditions of the certificate (check box at left).

<b>Signature of Person Authorized to Represent Transferee/Surviving Entity</b> <hr/> Typewritten Name <b>Walter P. Maner</b>	Title <b>Chairman</b>  Date <b>12/30/2014</b>
<b>Person Authorized to Represent Transferring Entity (Transferor)</b> <hr/> Typewritten Signature <b>Richard F. Reynolds</b>	Title <b>CEO</b>  Date <b>12/30/2014</b>
<b>By signing this document I certify that I am a legal representative of this entity and that by transferring the authority to provide telecommunications to the above noted surviving entity, the transferring entity no longer has authority to provide telecommunications services that are transferred.</b>	