

Wabash Mutual Telephone Company

Amended and Restated Articles of Incorporation and Bylaws

As presented at the Special Meeting of the Members on September 22, 2009

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
WABASH MUTUAL TELEPHONE COMPANY
(the “Association”)**

ARTICLE 1

NAME

The name of the Association is **Wabash Mutual Telephone Company**.

ARTICLE 2

PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Association is in Washington Township, Mercer County, Ohio.

ARTICLE 3

PURPOSE; POWERS

- 3.1 **PURPOSE.** The purpose of the Association is to associate individuals and commercial enterprises on a cooperative basis:
- A. To reduce their costs through joint action in operating, using, regulating and otherwise coordinating the maintenance and ownership of a mutual cooperative telephone and communications system in accordance with these Articles, the Regulations (Bylaws) and Section 501(C)(12) of the Internal Revenue Code;
 - B. To procure for its Members optimum use of this system; and
 - C. To perform any related services for its Members.
- 3.2 **POWERS.** The Association is a nonprofit mutual benefit corporation organized under the Ohio Nonprofit Corporation Law (Chapter 1702 of the Ohio Revised Code). The Association is operated on a cooperative basis for the mutual benefit of its Members. It has all powers and rights conferred on corporations by the Nonprofit Corporation Law. The foregoing powers include the power to apply for, acquire, own, use and develop any interest in patents, trademarks, service marks and copyrights connected with or incidental to the business of the Association; the power to form, acquire, join, or hold an interest in any business or nonprofit corporation, cooperative association or other legal entity; the power to enter into partnerships, joint ventures, marketing agreements and other business relationships.

ARTICLE 4

CAPITAL

- 4.1 **NON-STOCK COOPERATIVE.** The Association is a cooperative association without capital stock.

4.2 **CAPITAL CREDITS.**

- A. Capital Credits are issued to Patrons of the Association to represent retention of Patronage Refunds for reinvestment in the Association.
- B. Capital Credits represent a stated portion of the Association's capital.
- C. Capital Credits may not be issued for less consideration than their stated amount.
- D. Capital Credits may be issued in any allocation pool established by the Board of Directors.

4.3 **TRANSFER OF CAPITAL CREDITS.** Capital Credits of the Association may be transferred only with the written consent of the Board of Directors.

4.4 **REDEMPTION OF CAPITAL CREDITS.** Capital Credits may be redeemed when and in the manner, amount, and order determined by the Board of Directors. If Capital Credits are redeemed, they must be redeemed at their stated amount or book value, whichever is less.

4.5 **DIVIDENDS.** There are no dividends on Capital Credits.

4.6 **LIEN AND RIGHT OF OFFSET.** The Association has a first lien on all Capital Credits and Patronage Refunds issued or allocated by the Association for all indebtedness and other obligations of the respective holder or owner to the Association. The Association, at the option of the Board of Directors, has the right to offset the stated amount of Capital Credits and Patronage Refunds against the indebtedness or other obligation. Nothing in these Articles gives the holder or owner of Capital Credits or a Patronage Refund any right to require an offset.

4.7 **NET MARGINS OF THE ASSOCIATION.** All Net Margins of the Association in excess of the Association Net Margins are allocated and distributed to the Members annually as Patronage Refunds as defined and more particularly provided in the Bylaws.

4.8 **CONDITION OF FORFEITURE.** It is a condition of all Patronage Refunds and Capital Credits that the Association may effect forfeiture to the Association of these interests that are issued or allocated to a person whose current address and status cannot be confirmed by the Association.

ARTICLE 5

MEMBERSHIP AND DISTRIBUTION OF NET MARGINS

5.1 **ELIGIBILITY.** The Association admits as Members all individuals and other persons who subscribe for the services offered by the Association and who pay the prescribed Membership Fee. The Bylaws further define and restrict Membership and Membership Fees.

5.2 **VOTING.** Each Member of the Association is entitled to one vote in the affairs of the Association. No equity ownership in the Association otherwise confers upon the holder any right to vote in the affairs of the Association.

ARTICLE 6

BOARD OF DIRECTORS

Government of the Association and the management of its affairs is vested in a Board of Directors. The Bylaws prescribe the terms, qualifications, and manner of election of the Board of Directors.

ARTICLE 7

DISSOLUTION

In the event of liquidation or winding up of the affairs of the Association, whether voluntary or involuntary, all property remaining after all claims of creditors have been paid belongs and must be distributed to the Members and equity holders as follows:

- 7.1 **First**, to the holders of Capital Credits, the stated amount of their Capital Credits;
- 7.2 **Then**, any property remaining, to the Members on the basis of their respective Patronage Transactions over the previous ten (10) years.

ARTICLE 8

AMENDMENT

The Members may amend these Articles of Incorporation by an affirmative vote of a simple majority of the Members who vote on the amendment. Notice of a Member vote on a proposed amendment must contain the text of the proposed amendment.

AMENDED AND RESTATED

REGULATIONS (BYLAWS)

OF

WABASH MUTUAL TELEPHONE COMPANY

ARTICLE ONE DEFINITIONS

As used or referred to in these Bylaws, and in the Articles of Incorporation, the following terms have the meanings provided next to them:

- 1.1 **Absentee Vote** is the vote of a Member that is cast without the Member's physical presence at the meeting in which the vote is tallied.
- 1.2 **Articles** are the Association's Articles of Incorporation as amended from time to time.
- 1.3 **Association** is Wabash Mutual Telephone Company.
- 1.4 **Board** is the Board of Directors of the Association.
- 1.5 **Bylaws** are the Association's Regulations adopted in accordance with the Ohio Nonprofit Corporation Law.
- 1.6 **Capital Credits** are equity interests in the Association, other than capital stock, that are allocated and issued to individual equityholders. Capital Credits are further defined and described in the Articles.
- 1.7 **Capital Reserve** is the capital reserve of the Association authorized in Bylaw 7.5. The Capital Reserve may be undifferentiated or it may include designated reserves. The Capital Reserve may be subject to claims of current and former Member Patrons upon dissolution of the Association or as otherwise provided in the Articles or these Bylaws, but it must include the portion of the Association's shareholder equity that is not allocated to any equityholder of the Association.
- 1.8 **Code** is the Internal Revenue Code of 1986, as amended.
- 1.9 **Member** or **Members** are the Members of the Association who are eligible and admitted to Membership by the Board in accordance with the Articles and these Bylaws.
- 1.10 **Net Margins** are the annual net proceeds or savings from the Association's business as defined in Bylaw 7.2. Net Margins are subject to allocation as provided in Bylaw 7.3.
- 1.11 **Ohio Nonprofit Corporation Law** is Chapter 1702 of the Ohio Revised Code.
- 1.12 **Patron** is a person to whom the Association is obligated, by Membership under these Bylaws or by separate written agreement or both, to allocate and distribute a Patronage Refund. Patron is further defined and described in Bylaw 7.1.
- 1.13 **Patronage Refund** is the portion of Net Margins attributable to a Patron's Patronage Transactions

that is allocated and distributed to the Patron in accordance with Bylaws 7.3 and 7.4. Patronage Refund has the same meaning as given to “patronage dividend” in Section 1388 of the Code.

- 1.14 **Patronage Stock** is the Association’s Capital Credits that are originally issued as the non-cash portion of a Patronage Refund.
- 1.15 **Patronage Transaction** is business that the Association does on a cooperative basis with or for a Patron. Board policy determines what business of the Association is done on a cooperative basis, but a Patron’s Patronage Transactions will generally include substantially all of the business that the Association does with or for the Patron. Patronage Transaction is further defined and described in Bylaw 7.1.

ARTICLE TWO

MEMBERSHIP

- 2.1 **Admission to Membership.** Only an eligible person (as described in the Articles) accepted to Membership by the Board may become a Member of the Association upon payment of a Membership Fee and agreement to comply with uniform conditions of Membership prescribed by the Board. Applicants for Membership may be assumed to have applied for Membership as of their first business transaction within the year of application for Membership.
- 2.2 **Membership Fees.**
- A. **Initial Membership Fee.** The Board may establish a one time initial Membership Fee to be paid as a condition of Membership in the Association.
 - B. **Annual Membership Fee.** The Board may establish annual Membership Fees to be paid as annual assessments of the Members if the Members have approved the annual Membership Fee by an affirmative vote in a Member meeting.
- 2.3 **Termination of Membership.** The Board may terminate the Membership of a Member who becomes ineligible or who has intentionally or repeatedly violated any Bylaw or condition of Membership in the Association, breached any contract with the Association, or obstructed or engaged in a material conflict with any lawful purpose or activity of the Association. A person whose Membership is terminated has no voting right in the Association. Termination of Membership does not alter the obligations of either party under any contract between the Association and the person whose Membership is terminated.

ARTICLE THREE

MEMBERS’ MEETINGS

- 3.1 **Annual Meeting.** An Annual Meeting of the Members must be held within six (6) months following the close of each fiscal year, at a time and place fixed by the Board.
- 3.2 **Regular Meetings.** The Board may schedule and call other regular meetings of the Members.
- 3.3 **Special Meeting.** A special meeting of the Members may be called at any time by the Board or upon the written petition of at least twenty percent (20%) of the Members. **No final action may be taken at any special meeting on any matter not specified in the notice of that meeting.**

3.4 **Notice of Meeting.** A written notice of each Member meeting must be sent to each Member at the Member's last known address not less than ten (10) days before the date of the meeting. Notice may be given by personal delivery, by mail, or by electronic communication such as telephone facsimile or e-mail.

3.5 **Voting.**

- A. **Voting Control.** The Members are entitled to all voting control of the Association.
- B. **One Member – One Vote.** Each Member has one vote on each matter submitted to a vote at a meeting of the Members.
- C. **Joint Membership.** If two or more persons hold a Membership in partnership, joint tenancy, or otherwise, the vote must be cast by any one of these persons.
- D. **Member Entity.** The vote of any Member that is a corporation or other legal entity (a **Member Entity**) must be cast by an individual designated by the Member Entity.
- E. **Absentee Vote.** A Member may cast an Absentee Vote on any matter to be acted on by the Members, if an Absentee Vote is authorized and prescribed by the Board. A Member may cast an Absentee Vote by personal delivery to the Secretary or the Secretary's designated representative, by mail, or by electronic communication such as telephone facsimile or e-mail on the terms prescribed for the Absentee Vote.

3.6 **Member Quorum.** A quorum necessary for any vote or other action by the Members are five percent (5%) of the Members participating in person or by Absentee Vote. If there are more than five hundred (500) Members, twenty five (25) Members will constitute a quorum. The quorum will be established by a registration of the Members present or otherwise participating in the meeting.

ARTICLE FOUR **BOARD OF DIRECTORS**

4.1 **Qualification and Election of Directors**

- A. **Number of Elected Directors.** The Board includes five (5) Elected Directors.
- B. **Election of Directors.** Elections must be held at each Annual Meeting of the Members (or a Special Meeting called for that purpose) to elect a successor for each Elected Director whose term expires.
- C. **Eligibility.** To be eligible for election as an Elected Director, a person must be and remain a Member or a representative of a Member of the Association. Any Elected Director who ceases to be a Member or a representative of a Member is disqualified and that Director position is vacant. An employee of the Association may not be an Elected Director.
- D. **Term; Term Limit.** Each Elected Director is elected for a term of three (3) years and until a successor is elected and qualified. A Member may not be elected to more than three (3) consecutive terms, but a Member who has been elected to three (3) consecutive

terms may again be nominated and elected as an Elected Director after having been off the Board for at least one (1) year.

E. **Board Representation.** The Board must adopt policies and guidelines for the nomination and election of Elected Directors that permit and encourage fair representation of the Members. These policies and guidelines must take into consideration both democratic representation of the Members from throughout the Association's trade area and representation of the diverse interests of the Members.

F. **Vacancy.** Each vacancy in an Elected Director position, other than by removal from office by the Members or expiration of term, may be filled for the unexpired term by appointment by a majority of the Elected Directors then in office. An Elected Director may be removed from office at any time by a majority vote of the Members, in which case the Members must fill the vacancy for the remainder of the term.

4.2 **Appointed Director.** The Elected Directors may appoint one (1) or two (2) additional nonvoting Directors to the Board. An appointed Director need not be a Member of the Association. An appointed Director may be appointed for any term or an indefinite term, and may be removed from the Board by a majority vote of the Elected Directors. An appointed Director has the same status on the Board as other Directors, except that an appointed Director may not vote as a Director.

4.3 **Meetings.** The Board must meet regularly when and where it determines. Special meetings of the Board may be called by the Chair, President, or any three (3) Directors. All meetings will be held on notice prescribed by the Board. Any matter may be considered at any meeting without specification of the matter in the notice of the meeting.

4.4 **Organizational Meeting.** An organizational meeting of the Board must be held at or before the next regular Board meeting following each Members Annual Meeting to elect officers and consider other matters that come before the meeting. The Directors and officers in office before the Members Annual Meeting will continue to hold office until the organizational meeting.

4.5 **Board Quorum and Voting.** A quorum of the Board are three (3) Elected Directors. A majority vote of the Elected Directors present at the Board meeting will decide all questions except when a greater majority vote is required by law.

4.6 **Director Fees, Reimbursement.** Directors will be reimbursed for their reasonable expenses incurred when engaged in affairs of the Association, and will be paid a reasonable Director fee for their time, attention, and service as a Director. Director fees may be determined by resolution of the Board.

4.7 **Faithful Performance.** The Board must require that each officer, agent, and employee having control or custody of material amounts of the Association's funds or property is insured for faithful performance. The cost of this is borne by the Association.

4.8 **Audits.** The Board must have the financial statements of the Association audited by an independent certified public accountant at least once each fiscal year. A report of this audit must be made at the next Annual Meeting of the Members.

4.9 **Borrowings.** The Board may authorize the Association to borrow money and undertake other

obligations and to encumber assets of the Association as security for repayment of amounts borrowed and performance of those obligations. The Association may provide a financial guaranty or surety for an obligation of another person if the Board determines that the guaranty or surety will serve the Association's business interests.

- 4.10 **Committees.** The Board may appoint an Executive Committee, Audit Committee, Patronage/Governance Committee, and other committees, and delegate authority and responsibility to these committee(s) as the Board determines. The decision or act of any committee may be amended or repealed by the Board in accordance with any condition imposed by the Board in its delegation or charge to the committee. Each committee must make timely report of their activities and recommendations to the Board.

ARTICLE FIVE **OFFICERS**

- 5.1 **Election of Officers.** The Board must elect officers of the Association at each organizational meeting. These officers include a Chair, Vice Chair, Secretary, and Treasurer, and may include other officers as the Board considers necessary or desirable. The Chair and Vice Chair must be Directors of the Association. Officers serve at the pleasure of the Board and the Board may remove and replace any officer whenever the Board determines that the best interest of the Association is served by removal and replacement. If any vacancy occurs among the officers of the Association, it must be filled by the Board.

- 5.2 The **Chair** must:

- A. Preside at all meetings of the Members and of the Directors; and
- B. Perform other duties and have authority as the Board requires or delegates.

- 5.3 The **Vice Chair** must:

- A. In the absence or disability of the Chair, perform the duties of the Chair; and
- B. Perform other duties and have authority as the Board requires or delegates.

- 5.4 The **Secretary** must:

- A. Keep a record of each meeting of the Members and of the Board, and supervise keeping of a record of each meeting of a committee appointed by the Board;
- B. Give notices as required by law; and
- C. Perform other duties and have authority as the Board requires or delegates.

- 5.5 The **Treasurer** must:

- A. Supervise the safekeeping of funds and property of the Association;
- B. Supervise the records of financial transactions of the Association; and
- C. Perform other duties and have authority as the Board requires or delegates.

- 5.6 **President.** The Board must appoint and employ a President who is the General Manager and Chief Executive Officer of the Association. The Board may terminate this employment at its discretion. The President actively supervises the business of the Association; controls the employment, compensation, supervision, discipline and discharge of the Association's employees; and performs other duties and has authority as the Board requires or delegates. The President may appoint and delegate authority to Vice Presidents as the President considers necessary for efficient and effective management of the Association's business.

ARTICLE SIX

INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES

- 6.1 **Indemnification.** Each person who is or was a Director or officer or employee of the Association or of any other entity that he or she served at the request of the Association is an **Indemnitee**. The Association must indemnify an Indemnitee against liability and related expense incurred in connection with any Claim. For the purpose of these Bylaws, a **Claim** includes any claim, suit or proceeding, whether criminal, civil, administrative, or investigative, and any related appeal, in which the Indemnitee is involved or accused by reason of the Indemnitee's position with the Association. Indemnification will be available whether or not the Indemnitee occupies the position when expense is incurred, but only if the Indemnitee has met the standard of conduct in Bylaw 6.2. The amount of indemnification must be reduced by the amount of any other indemnification or reimbursement of the Indemnitee for the Claim. Liability and related expense of a Claim includes, without limitation: Indemnitee's personal expenses; attorney fees and disbursements; fees and expenses of witnesses, experts and other consultants necessary to defend Indemnitee against a Claim; judgments, fines, or penalties; and amounts paid in settlement by or on behalf of an Indemnitee. The disposition of any Claim by judgment, order, settlement (whether with or without court approval), or conviction or upon a plea of guilty or of nolo contendere, or its equivalent, will not create a presumption that the Indemnitee did not meet the standard of conduct in Bylaw 6.2.
- 6.2 **Standard of Conduct for Indemnification.** In order to receive indemnification for a Claim, an Indemnitee must have:
- A. Acted in good faith; and
 - B. Reasonably believed:
 - 1. in the case of the Indemnitee's conduct in an official capacity with the Association, that the conduct was in the best interest of the Association;
 - 2. in all other cases, that the Indemnitee's conduct was not opposed to the Association's best interest; and
 - C. In the case of any criminal proceeding, had no reasonable cause to believe the conduct was unlawful.
- 6.3 **Determination of Entitlement to Indemnification.** Each Indemnitee who is successful on the merits with respect to any Claim is entitled to indemnification. Other indemnification is available if the Board, acting by a quorum consisting of Directors who are not parties (or who have been wholly successful with respect) to the Claim, finds that the Indemnitee has met the

standard of conduct in Bylaw 6.2, or independent legal counsel gives the Association a written opinion that the Indemnatee has met that standard.

- 6.4 **Advance of Expenses.** The Association may advance funds to pay expenses of a Claim before final disposition. In this case, the Indemnatee must agree to repay this amount if it is ultimately determined that the Indemnatee is not entitled to indemnification.
- 6.5 **Rights not Exclusive.** Indemnification provided in these Bylaws is in addition to any right to indemnification otherwise available to the Indemnatee by contract or as a matter of law. Indemnification is available whether or not the Claim is based on matters that antedate adoption of these Bylaws.
- 6.6 **Insurance.** The Association may purchase insurance to insure it against costs of indemnification.

ARTICLE SEVEN

PATRONS AND PATRONAGE REFUNDS

- 7.1 **Cooperative Operation.** The Association is operated on a cooperative basis. The Association's Patrons include and consist of Members doing business with the Association on a cooperative basis and other persons with whom the Association, by written agreement, does business on a cooperative basis. Each transaction conducted on a cooperative basis between the Association and each Patron is a Patronage Transaction and includes as a part of its terms each provision of the Articles and these Bylaws, whether referred to in the Patronage Transaction or not. Each Patron is entitled to a Patronage Refund as provided in these Bylaws.
- 7.2 **Computation of Net Margins.** Net Margins must be computed as of the end of each fiscal year as follows:
- A. **Gross Receipts.** The sum of proceeds of sales of all products marketed, amounts received for supplies and services, and amounts received from other sources (except capital contributions and debt) are the gross receipts.
 - B. **Net Margins – Book Income Method.** Net Margins are determined by deducting from the gross receipts the sum of all costs, expenses, and other charges that are excludable or deductible from the Association's gross income (including any provision for income taxes or other taxes) in accordance with the accounting principles that the Association consistently uses to determine its net income. The Patronage Refunds provided for in these Bylaws are not deducted for this purpose. The gross receipts that remain after the foregoing deductions are the **Net Margins**.
- 7.3 **Allocation.**
- A. **Association Net Margins.** Association Net Margins must be deducted from the Net Margins and applied as follows:
 - 1. Ten percent (10%) of the Net Margins, to be added to the Capital Reserve;
 - 2. The actual amount of income and related taxes that the Association is required to pay; and

3. The aggregate of the amounts described in clauses (1) and (2) above must first come from Net Margins attributable to sources other than Patronage Transactions and any non-patronage source Net Margins not so applied must be added to the Capital Reserve.

B. **Patronage Refunds.** The balance of Net Margins after deduction of the Association Net Margins are the Patrons Net Margins. The Patrons Net Margins belong to the Patrons and must be allocated to the Patrons on the basis of their Patronage Transactions. These allocated amounts are **Patronage Refunds** due and distributable to the Patrons as provided in these Bylaws. Patronage Refunds may be allocated on the basis of Patronage Transactions and the Net Margins of **Allocation Pools** that the Board considers fair to the Patrons.

7.4 **Distribution of Patronage Refunds.**

A. **Notice of Allocation.** The Association must distribute Patronage Refunds to each Patron either in cash, Capital Credits or any combination of cash and Capital Credits within eight and one-half (8½) months after the end of each fiscal year. Patronage Refund distributions must include a written notice of allocation showing the amount of distribution, the manner of distribution, and the amount distributed in cash and Capital Credits.

B. **Differential Distribution.** The Board may adopt a base capital plan for distribution of Patronage Refunds in which the cash and non-cash portion of each Patron's Patronage Refund varies in order to fund a Member's or other Patron's required capital contribution through the retention and reinvestment of Patronage Refunds.

C. **Forfeiture of Patronage Refunds.** A Patronage Refund (or the Patronage Stock of a Patronage Refund, in the case of clause 2) forfeits and is irrevocably assigned back to the Association and added to the Capital Reserve if the Association allocates the Patronage Refund to a Patron who:

1. Is unable or unwilling to receive or accept distribution;
2. Cannot, after distribution, be located for redemption of the Patronage Stock of the Patronage Refund; or
3. Is entitled to a Patronage Refund of Two Dollars (\$2.00) or less.

7.5 **Capital Reserve.** The Association will maintain a Capital Reserve to provide a reserve against which the Association may charge losses and for other purposes for which a reserve may be necessary or desirable. The Capital Reserve includes unallocated amounts established under Bylaw 7.3(A) and other amounts that are directed to the Capital Reserve under the Articles and these Bylaws.

7.6 **Loss or Losses.** If there is a loss in an Allocation Pool of the Association, but not so much as to cause an overall loss for the fiscal year, the loss may be netted against Net Margins of the remaining Allocation Pool(s).

If the Association incurs an overall loss in any fiscal year, the loss may be charged against the Capital Reserve. If the loss exceeds the Capital Reserve or, in any event, if the Board so elect, the loss may be recovered by charge off in reduction of Patronage Stock or from subsequent years' Net Margins. This Bylaw does not otherwise permit an assessment or capital call against the Patrons for the loss. This Bylaw may not be construed to deprive the Association of the right to carry back or carry forward net operating losses in accordance with the Code or state tax statutes.

ARTICLE EIGHT
FISCAL YEAR

The fiscal year of the Association is designated by the Board.

ARTICLE NINE
AMENDMENT OF BYLAWS

These Bylaws may be amended by an affirmative vote of a majority of those Members who vote on the amendment. The notice for a Member vote on amendment must contain the text of the proposed amendment.

These Amended and Restated Bylaws replace and supersede all prior Bylaws of the Association.