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8.23.040183-28

■19 Other (explain) amendment filed in connection with an agreement in a pending NAG case (NOT automatic, 15 copies)

THE FOLLOWING ARE TRF FILINGS ONLY, NOT NEW CASES (0-day notice, 3 copies)

- ☐ 20 Introduction or Extension of Promotional Offering
- ☐ 21 New Price List Rate for Existing Service
 - ☐ a. Tier 1 ☐ b. Tier 2
- ☐ 22 Designation of Registrant's Process Agent(s)
- ☐ 23 Update to Registrant's Maps
- ☐ 24 Annual Tariff Option For Tier 2 Services - indicate which option you intend to adopt to maintain the tariff. NOTE, changing options is only permitted once per calendar year.
 - ☐ Paper Tariff ☐ Electronic Tariff. If electronic, provide the tariff's web address: _____

THE FOLLOWING ARE CTR FILINGS ONLY, NOT NEW CASES (0-day notice, 7 copies)

- ☐ 25 Application to establish, revise, or cancel an end-user contract. (NOTE: see item 6 on page 1 of this form for carrier-to-carrier contract amendments)
CTR Docket No. _____ - _____ - TP - CTR (Use same CTR number throughout calendar year)

II. Please indicate which of the following exhibits have been filed. The numbers (corresponding to the list on page (1) and above) indicate, at a minimum, the types of cases in which the exhibit is required:

<input type="checkbox"/>	[all]	A copy of any motion for waiver of O.A.C. rule(s) associated with this filing. NOTE: the filing of a motion for waiver tolls any automatic timeframe associated with this filing.
<input type="checkbox"/>	[3]	Completed Service Requirements Form.
<input type="checkbox"/>	[3, 9(vii)]	A copy of registrant's proposed tariffs. (Carrier-to-Carrier resale tariff also required if facilities-based)
<input type="checkbox"/>	[3]	Evidence that the registrant has notified the Ohio Department of Taxation of its intent to conduct operations as a telephone utility in the State of Ohio.
<input type="checkbox"/>	[3]	Brief description of service(s) proposed.
<input type="checkbox"/>	[3a-b,3d]	Explanation of whether applicant intends to provide <input type="checkbox"/> resold services, <input type="checkbox"/> facilities-based services, or <input type="checkbox"/> both resold and facilities-based services.
<input type="checkbox"/>	[3a-b,3d]	Explanation as to whether CLEC currently offers CTS services under separate CTS authority, and whether it will be including those services within its CLEC filing, or maintaining such CTS services under a separate affiliate.
<input type="checkbox"/>	[3a-b,3d]	Explanation of how the proposed services in the proposed market area are in the public interest.
<input type="checkbox"/>	[3a-b,3d]	Description of the proposed market area.
<input type="checkbox"/>	[3a-b,3d]	Description of the class of customers (e.g., residence, business) that the applicant intends to serve.
<input type="checkbox"/>	[3a-b,3d]	Documentation attesting to the applicant's financial viability, including, at a minimum, a pro forma income statement and a balance sheet. If the pro forma income statement is based upon a certain geographical area(s) or information in other jurisdictions, please indicate.
<input type="checkbox"/>	[3a-d]	Documentation attesting to the applicant's technical and managerial expertise relative to the proposed service offering(s) and proposed service area.
<input type="checkbox"/>	[3a-d]	Documentation indicating the applicant's corporate structure and ownership.
<input type="checkbox"/>	[3a-b,3d]	Information regarding any similar operations in other states. Also, if this company has been previously certified in the State of Ohio, include that certification number.
<input type="checkbox"/>	[3a-b,3d]	Verification that the applicant will maintain local telephony records separate and apart from any other accounting records in accordance with the GAAP.
<input type="checkbox"/>	[3a-b,3d]	Verification of compliance with any affiliate transaction requirements.
<input type="checkbox"/>	[3a-b,3d]	Explanation as to whether rates are derived through (check all applicable): <input type="checkbox"/> interconnection agreement, <input type="checkbox"/> retail tariffs, or <input type="checkbox"/> resale tariffs.
<input type="checkbox"/>	[1,3a-b,3d]	Explanation as to which service areas company currently has an approved interconnection or resale agreement.
<input type="checkbox"/>	[3a-b,3d, 9a(i-iii)]	Explanation of whether applicant intends to provide Local Services which require payment in advance of Customer receiving dial tone.
<input type="checkbox"/>	[3a,3b,3d, 9a(i-iii)]	Tariff sheet(s) listing the services and associated charges that must be paid prior to customer receiving dial tone (if applicable).
<input type="checkbox"/>	[3a-b,3d,8]	Letters requesting negotiation pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and a proposed timeline for construction, interconnection, and offering of services to end users.
<input type="checkbox"/>	[3-5,7,10-11,13]	Certification from Ohio Secretary of State as to party's proper standing (domestic or foreign corporation, authorized use of fictitious name, etc.). In transfer of certificate cases, the transferee's good standing must be established.
<input type="checkbox"/>	[3-4,7,10-11,13]	List of names, addresses, and phone numbers of officers and directors, or partners.
<input type="checkbox"/>	[3]	A sample copy of the customer bill and disconnection notice the applicant plans to utilize.
<input type="checkbox"/>	[1,4,9,10-13,16-21]	Copy of superseded tariff sheet(s) & price list(s), if applicable, marked as Exhibit A.
<input type="checkbox"/>	[1,4,9,10-13,16-21]	Copy of revised tariff sheets & price lists, marked as Exhibit B.
<input type="checkbox"/>	[3]	Provide a copy of any customer application form required in order to establish residential service, if applicable.
<input type="checkbox"/>	[1-2,4-7,9,12-13,16,18-23,25]	Description of and rationale for proposed tariff changes, including a complete description of the service(s) proposed or affected. Specify for each service affected whether it is <input type="checkbox"/> business; <input type="checkbox"/> residence; or <input type="checkbox"/> both. Also indicate whether it is a <input type="checkbox"/> switched or <input type="checkbox"/> dedicated service. Include this information in either the cover letter or Exhibit C.

<input type="checkbox"/>	[1,2,4,9a(v-vi), 5,10,16,18(b-c), 20-21]	Specify which notice procedure has been utilized: <input type="checkbox"/> direct mail; <input type="checkbox"/> bill insert; <input type="checkbox"/> bill notation or <input type="checkbox"/> electronic mail. NOTE: Tier 1 price list increases must be within an approved range of rates.
<input type="checkbox"/>	[2,4-5,9a(v), 9b, 10,12-13,16, 18(b-c),20-21]	Copy of real time notice which has been provided to customers.
<input type="checkbox"/>	[1,2,5,9a(v),11-13, 21(increase only)]	Affidavit attesting that customer notice has been provided.
<input type="checkbox"/>	[2,12]	Copy of Notice which has been provided to ILEC(s).
<input type="checkbox"/>	[2,12]	Listing of Assigned (NPA) NXX's where in the LECs (NPA) NXX's would be reassigned.
<input type="checkbox"/>	[2,4,10,12-13,]	List of Ohio exchanges specifically involved or affected.
<input type="checkbox"/>	[14]	The interconnection agreement adopted by negotiation or mediation.
<input type="checkbox"/>	[15]	For commercial mobile radio service providers, a statement affirming that registrant has obtained all necessary federal authority to conduct operations being proposed, and that copies have been furnished by cellular, paging, and mobile companies to this Commission of any Form 401, 463, and / or 489 which the applicant has filed with the Federal Communications Commission.
<input type="checkbox"/>	[15]	Exhibits must include company name, address, contact person, service description, and evidence of registration with the Ohio Secretary of State.
<input type="checkbox"/>	[24]	Affidavit that total price of contract exceeds total cost of all regulated services.
<input type="checkbox"/>	[5,13]	New title sheet with proposed new company name.
<input type="checkbox"/>	[1,3,13]	For CLECs, List of Ohio Exchanges the applicant intends to serve (Use spreadsheet from: http://www.puc.state.oh.us/puco/forms/form.cfm?doc_id=357).
<input type="checkbox"/>	[1,3a-b,3d,7, 10,13, 23]	Maps depicting the proposed serving and calling areas of the applicant. If Mirroring Large ILEC exchanges for both serving area and local calling areas: • Serving area must be clearly reflected on an Ohio map attached to tariffs and textually described in tariffs by noting that it is reflecting a particular large ILEC/CLEC territory, and listing the involved exchanges. • Local calling areas must be clearly reflected on an Ohio map attached to the tariffs, and/or clearly delineated in tariffs, including a complete listing of each exchange being served and all exchanges to which local calls can be made from each of those exchanges. If Self-defining serving area and/or local calling area as an area other than that of the established ILEC exchange(s): • Serving Area must be clearly reflected on an Ohio map attached to the tariffs, and textually described in tariffs by listing the involved exchanges. • Local Calling Areas must be described in the tariff through textual delineation and clear maps. Maps for self-defined serving and local calling areas are required to be traced on United States Geological Survey topography maps. These maps are the Standard Topographic Quadrangle maps, 7.5 minute 1:24,000.
<input type="checkbox"/>		Other information requested by the Commission staff.
<input type="checkbox"/>	[3]	Initial certification that includes Tier 2 Services, indicate which option you intend to adopt to maintain the tariff: <input type="checkbox"/> Paper Tariff <input type="checkbox"/> Electronic Tariff - If electronic, provide the web address for the tariff:

III. Registrant hereby attests to its compliance with the following requirements in the Service Requirements Form, as well as all pertinent entries and orders issued by the Commission with respect to these issues. Further, registrant hereby affirms that it will maintain with its TRF docket an up-to-date, properly marked, copy of the Service Requirements Form available for public inspection.

MANDATORY REQUIREMENTS FOR ALL BASIC LOCAL EXCHANGE AND CTS PROVIDERS:

- ☒ Sales tax
- ☒ Minimum Telephone Service Standards (MTSS)
- ☒ Surcharges

MANDATORY REQUIREMENTS FOR ALL BASIC LOCAL EXCHANGE PROVIDERS:

- ☒ 1+ IntralATA Presubscription

SERVICE REQUIREMENTS FOR PROVISION OF CERTAIN SERVICES (CHECK ALL APPLICABLE):

- ☐ Discounts for Persons with Communication Disabilities and the Telecommunication Relay Service [Required if toll service provided]
- ☐ Emergency Services Calling Plan [Required if toll service provided]
- ☐ Alternative Operator Service (AOS) requirements [Required for all providing AOS (including inmate services) service]
- ☐ Limitation of Liability Language [Required for all who have tariff language that may limit their liability]
- ☐ Termination Liability Language [Required for all who have early termination liability language in their tariffs]
- ☐ Service Connection Assistance (SCA) [Required for all LECs]
- ☐ Local Number Portability and Number Pooling [Required for facilities-based LECs]
- ☐ Package Language [Required for tariffs containing packages or service bundles containing both local and toll and/or non-regulated services]

IV. List names, titles, phone numbers, and addresses of those persons authorized to respond to inquiries from the Consumer Services Department on behalf of the applicant regarding end-user complaints:

Robert J. Wentz, Manager, 614/223-7950, Susan Drombetta, State Regulatory Advocate, 614/223-8184, Jon F. Kelly, Counsel, 614/223-7928, or Mary Ryan Fenlon, Counsel, 614/223-3302, SBC Ohio, 150 E. Gay Street, Room 4-C, Columbus, Ohio 43215

- V. List names, titles, phone numbers, and addresses of those persons authorized to make and/or affirm or verify filings at the Commission on behalf of the applicant:

Kathy Gentile-Klein
45 Erieview Plaza

Manager-Customer Complaints (216) 822-2395
Cleveland, Ohio 44114

NOTE: An annual report is required to be filed with the Commission by each company on an annual basis. The annual report form will be sent for completion to the address and individual(s) identified in this Section unless another address or individual is so indicated.

- VI. List Name(s), DBA(s) and PUCO Certification Number(s) of any affiliates you have operating in Ohio under PUCO authority, whether Telecommunication or other. (If needed, use a separate sheet and check here: ☐)

Ameritech Advanced Data Services of Ohio, Inc., d/b/a SBC Advanced Solutions, Inc., Cert. No. 90-5181; Cincinnati SMSA Limited Partnership, d/b/a Cingular, Cert. No. 90-5304; Ameritech Wireless Communications, Inc., d/b/a Cingular, Cert. No. 90-5354; Ameritech Mobile Communications, Inc., d/b/a SBC Paging, Cert. No. 90-5541, Southwestern Bell Communications Services, Inc. d/b/a SBC Long Distance, Cert. No. 90-6150.

AFFIDAVIT

Minimum Telephone Service Standards

I am an officer of the applicant corporation, _____, and am authorized to make this statement
(Name of Company)
on its behalf. I attest that these tariffs comply with the Minimum Telephone Service Standards (MTSS) for the state of Ohio. I understand that the Minimum Telephone Service Standards, as modified and clarified from time to time, supercede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

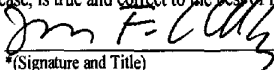
Executed on _____ at _____
(Date) (Location)

*(Signature and Title) (Date)

**** This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.***

VERIFICATION

I, Jon F. Kelly verify that I have utilized, verbatim, the Commission's Telecommunications Application Form and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.



*(Signature and Title) Counsel/8-23-04
(Date)

****Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.***

Send your completed Application Form, including all required attachments as well as the required number of copies, to:

Public Utilities Commission of Ohio
Attention: Docketing Division (or to the Telecommunications Division Chief if a prefiling submittal)
180 East Broad Street, Columbus, OH 43215-3793

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter Of The Application)	
For Approval Of An Agreement Amendment)	
Between SBC Ohio and)	Case No. 04-1216-TP-NAG
KMC Telecom III, LLC)	
Pursuant To Section 252 of the)	
Telecommunications Act of 1996.)	

APPLICATION FOR APPROVAL OF AN AGREEMENT
AMENDMENT PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

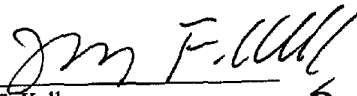
SBC Ohio hereby files the attached First Amendment dated August 16, 2004 ("the Amendment") to the agreement between SBC Ohio and KMC Telecom III, LLC., dated August 3, 2004 ("the Agreement") for review and approval by the Commission pursuant to the provisions of Section 252(e) of the Telecommunications Act of 1996, 47 U.S.C. § 252(e) ("the Act"). The Amendment adds Terminating Traffic Language to Article III in the Agreement.

The Agreement is waiting approval by the Commission in Case No. 04-1216-TP-NAG. SBC Ohio requests that the Commission approve the Amendment.

Respectfully submitted,

SBC OHIO

By:


Jon F. Kelly

SBC

150 E. Gay St., Rm. 4-C
Columbus, OH 43215

(614) 223-7928

Its Attorney

AMENDMENT NO. 1

to the

INTERCONNECTION AGREEMENT - OHIO

by and between

THE OHIO BELL TELEPHONE COMPANY d/b/a SBC OHIO

AND

KMC TELECOM III LLC

The Interconnection Agreement ("the Agreement") by and between KMC Telecom III LLC ("KMC") and The Ohio Bell Telephone Company d/b/a SBC Ohio¹ ("SBC Ohio") is hereby amended as follows:

1.0 AMENDMENTS TO THE AGREEMENT

Article III of the Agreement is amended by adding the following:

3.15 Terminating Traffic Language

- 3.15.1 SBC Ohio will use commercially reasonable efforts to open future NPA-NXX codes that are not assigned to a SBC Ohio Incumbent exchange ("out of area exchanges") for KMC on SBC Ohio's network.
- 3.15.2 Prior to SBC Ohio opening any codes that relate to InterLATA local traffic that is covered by an FCC approved or court ordered InterLATA boundary waiver SBC Ohio and KMC will negotiate appropriate terms and conditions for the exchange of this traffic.
- 3.15.3 For KMC originated traffic, since KMC operates as a CLEC within SBC Ohio exchange areas and has a switch and/or a point of interconnection located within SBC Ohio exchange areas for the purpose of providing telephone exchange service and exchange access in such exchange areas, SBC Ohio will accept traffic at its tandem switch to or from out of area exchanges over local interconnection facilities currently in place, or that may be established, between the Parties up to a DS1 (24 DS0s) level of traffic. When such out of area traffic is Local Traffic that is exchanged between the end users of KMC and SBC Ohio, the Parties agree to establish direct end office trunks as specified in the Parties' Interconnection Agreement and the Amendment Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms.
- 3.15.4 For SBC ILECs originating traffic the Parties agree that this traffic will be delivered to KMC's existing POI arrangements in the LATA where the traffic originates in accordance with the POI requirements set forth in KMC's underlying Agreement and Amendment Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms until the expiration of such amendment at which time the POI requirements in the underlying ICA shall apply. There shall be

¹ The Ohio Bell Telephone Company ("Ohio Bell"), an Ohio corporation, is a wholly-owned subsidiary of SBC Midwest, which owns the former Bell operating companies in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin. Ohio Bell uses the registered trade name SBC Ohio. SBC Midwest is a wholly owned subsidiary of SBC Communications Inc.

no limitation on the amount of out of area Local Traffic that can be exchanged between KMC and SBC Ohio over direct end office trunks where such traffic is terminated to end users served by the affected end office.

- 3.15.5 For Transit Traffic, as that term is defined in this Agreement, KMC agrees to establish direct end office trunks to any third party carrier's end office when traffic levels exceed one DS1 (24 DS0s) to or from that end office for a period of three months.
- 3.15.6 The compensation arrangements for all types of traffic exchanged between the Parties shall be as set forth in the Parties' Interconnection Agreement and the Amendment Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms until the expiration of such amendment at which time the Reciprocal Compensation terms and conditions of the underlying ICA shall apply.
- 3.15.7 The underlying ICA sets forth the terms and conditions pursuant to which SBC Ohio agrees to provide CLEC with access to unbundled network elements (UNEs) under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act in SBC Ohio's incumbent local exchange areas for the provision of CLEC's Telecommunications Services. The Parties acknowledge and agree that SBC Ohio is only obligated to make available UNEs and access to UNEs, Collocation, Interconnection and/or Resale to CLEC in SBC Ohio's incumbent local exchange areas. SBC Ohio has no obligation to provide such UNEs, Collocation, Interconnection and/or Resale to CLEC for the purposes of CLEC providing and/or extending service outside of SBC Ohio's incumbent local exchange areas. In addition, SBC Ohio is not obligated to provision UNEs or to provide access to UNEs, Collocation, Interconnection and/or Resale and is not otherwise bound by any 251(c) obligations in geographic areas other than SBC Ohio's incumbent local exchange areas. Therefore, the Parties understand and agree that the rates, terms and conditions set forth in the underlying ICA, and any associated provisions set forth in amendments to the current ICA (including but not limited to the rates set forth in this Agreement associated with UNEs under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act), shall apply only to the Parties and be available to CLEC for provisioning telecommunication services within an SBC Ohio incumbent local exchange area(s) in the State in which CLEC's current ICA with SBC Ohio has been approved by the relevant state Commission and is in effect.

2.0 MISCELLANEOUS

- 2.1 This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement nor the Amendment Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms, but rather, this Amendment shall be coterminous with the underlying Agreement.
- 2.2 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT AND THE AMENDMENT SUPERSEDING CERTAIN RECIPROCAL COMPENSATION, INTERCONNECTION AND TRUNKING TERMS SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- 2.3 This Amendment shall be filed by SBC Ohio with and is subject to approval by the Public Utilities Commission of Ohio (PUC-OH) and shall become effective ten (10) days following approval by the PUC-OH.

- 2.4 In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98 and 98-147 (FCC 03-36) and the FCC's Biennial Review Proceeding; the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001) (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Inter-carrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"); provided, however, nothing in this paragraph is intended nor should be construed as modifying or superseding the rates, terms and conditions in the Parties' Amendment Superseding Certain Compensation, Interconnection and Trunking Provisions ("Superseding Amendment"), except as otherwise explicitly provided by the KMC's Amendment Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms ("Superseding Amendment") for the time period from its effective date through December 31, 2004, as specifically set forth below. Rather, except as otherwise explicitly provided in the Superseding Amendment, in entering into this Amendment, each Party fully reserve all of their rights, remedies and arguments. This reservation of rights includes but is not limited to its right to dispute whether any UNEs and/or UNE combinations identified in the Agreement and this Amendment must be provided under Sections 251(c)(3) and 251(d) of the Act, and under this Agreement. Further, neither Party will argue or take the position before any state or federal regulatory commission or court that any provisions set forth in this Agreement and this Amendment constitute an agreement or waiver relating to the appropriate routing, treatment and compensation for Voice Over Internet Protocol traffic and/or traffic utilizing in whole or part Internet Protocol technology; rather, each Party expressly reserves any rights, remedies, and arguments they may have as to such issues including but not limited, to any rights each may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (rel. April 21, 2004). The Parties acknowledge and agree that they previously entered into the Superseding Amendment, in which they waived certain rights they may have under the Intervening/Change in Law paragraph of the Agreement with respect to any reciprocal compensation, compensable traffic (as defined in the Superseding Amendment), POIs or trunking requirements that are subject to the Superseding Amendment from the effective date of the KMC's Superseding Certain Reciprocal Compensation Superseding Amendment through December 31, 2004. Notwithstanding anything to the contrary in the Agreement and this Amendment, and in addition to reserving their other rights, the Parties acknowledge and agree that SBC Ohio has exercised its option to adopt the FCC ISP terminating compensation plan ("FCC Plan") in Ohio and that in entering into this Amendment, SBC Ohio is reserving its right to seek conforming modifications to the Agreement to formally incorporate the rates, terms and conditions of such FCC Plan into the Agreement to formally incorporate the rates, terms and conditions of such FCC plan into the Agreement which shall apply between the Parties upon expiration of the Superseding Amendment, unless the Parties otherwise mutually agreed in writing to another arrangement and such other arrangement is approved and in effect as of the date of expiration of the Superseding Amendment. If any action by any state or federal regulatory or

legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be modified as required to effectuate the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement associated with any such invalidation, modification or stay. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this 16th day of Aug., 2004, by SBC Ohio, signing by and through its duly authorized representative, and KMC, signing by and through its duly authorized representative.

KMC Telecom III LLC

Signature: [Signature]

Name: Maria Brown Johnson

Title: Vice President & Senior Counsel

Date: 7/29/04

The Ohio Bell Telephone Company d/b/a SBC Ohio
by SBC Telecommunications, Inc., its authorized
agent

Signature: [Signature]

Name: Mike Auinbauh

Title: For/President - Industry Markets

Date: 8-16-04