

# Large Filing Separator Sheet

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**APPENDIX RECORDING  
(Recording, Message Processing And  
Provision Of Interexchange Carrier Transported  
Message Detail Appendix)**

**1.0 INTRODUCTION**

- 1.1 This Appendix sets forth the terms and conditions under which SBC-13STATE will provide recording, message processing and message detail services to a Facility-Based Provider as described in **Exhibit I** and **Exhibit II**, Exhibits I and II are part of this Appendix by reference. The terms and conditions under this Appendix will also apply when the Facility-Based Provider is the Recording Company.

**2.0 RESERVED FOR FUTURE USE**

**3.0 RESPONSIBILITIES OF THE PARTIES**

- 3.1 SBC-13STATE will record all IXC transported messages for LEVEL 3 carried over all Feature Group Switched Access Services that are available to SBC-13STATE provided recording equipment or operators. Unavailable messages (i.e., certain operator messages that are not accessible by SBC-13STATE provided equipment or operators) will not be recorded. The recording equipment will be provided at locations selected by SBC-13STATE.
- 3.2 SBC-13STATE will perform assembly and editing, message processing and provision of applicable access usage record detail for IXC transported messages if the messages are recorded by SBC-13STATE.
- 3.3 SBC-13STATE will provide access usage records that are generated by SBC-13STATE.
- 3.4 Assembly and editing will be performed on all IXC transported messages recorded by SBC-13STATE, during the billing period established by SBC-13STATE and selected by LEVEL 3.
- 3.5 Standard EMI record formats for the provision of billable message detail and access usage record detail will be established by SBC-13STATE and provided to LEVEL 3.
- 3.6 Recorded billable message detail and access usage record detail will not be sorted to furnish detail by specific end users, by specific groups of end users, by office, by feature group or by location.
- 3.7 SBC-13STATE will provide message detail to LEVEL 3 in data files, (a File Transfer Protocol or Connect:Direct "NDM"), or any other mutually agreed upon process to receive and deliver messages using software and hardware acceptable to both parties.
- 3.8 In **Exhibit II**, LEVEL 3 will identify separately the location where the data transmissions should be sent (as applicable) and the number of times each month the information should be provided, except for SBC-2STATE. For SBC-2STATE, LEVEL 3 will identify the location and number of times each month the information should be provided via Appendix Data Exchange's Technical Requirements Form document. SBC-13STATE reserves the right to limit the frequency of transmission to existing SBC-13STATE processing and work schedules, holidays, etc.

- 3.9 SBC-13STATE will determine the number data files required to provide the access usage record detail to LEVEL 3.
- 3.10 Recorded billable message detail and/or access usage record detail previously provided to LEVEL 3 or LEVEL 3's billing agent and lost or destroyed through no fault of SBC-13STATE will not be recovered and made available to LEVEL 3 except on an individual case basis at a reasonable cost.
- 3.11 When SBC-13STATE receives rated billable messages from an IXC or another Local Exchange Carrier (LEC) that are to be billed by LEVEL 3, SBC-13STATE will forward those messages to LEVEL 3 or LEVEL 3's billing agent.
- 3.12 SBC-13STATE will record the applicable detail necessary to generate access usage records and forward them to LEVEL 3 or LEVEL 3's billing agent for its use in billing access to the IXC
- 3.13 When LEVEL 3 is the Recording Company, LEVEL 3 will provide its recorded billable messages detail and access usage record detail data to SBC-13STATE under the terms and conditions of this Appendix.

#### **4.0 BASIS OF COMPENSATION**

- 4.1 SBC-13STATE as the Recording Company, agrees to provide recording, assembly and editing, message processing and provision of message detail for Access Usage Records (AURs) ordered/required by LEVEL 3 in accordance with this Appendix on a reciprocal, no-charge basis. LEVEL 3, as the Recording Company, agrees to provide any and all Access Usage Records (AURs) required by SBC-13STATE on a reciprocal, no-charge basis. The Parties agree that this mutual exchange of records at no charge to either Party shall otherwise be conducted and according to the guidelines and specifications contained in the Multiple Exchange Carrier Access Billing (MECAB) document.

#### **5.0 LIABILITY**

- 5.1 Except as otherwise provided herein, neither Party shall be liable to the other for any special, indirect, or consequential damage of any kind whatsoever. A Party shall not be liable for its inability to meet the terms of this Agreement where such inability is caused by failure of the first Party to comply with the obligations stated herein. Each Party is obliged to use its best efforts to mitigate damages.
- 5.2 When either Party is notified that, due to error or omission, incomplete data has been provided to the non-Recording Company, each Party will make reasonable efforts to locate and/or recover the data and provide it to the non-Recording Company at no additional charge. Such requests to recover the data must be made within sixty (60) calendar days from the date the Recording company provides the message detail for access usage record to the non-Recording Company. If the non-Recording Company fails to provide written notification post-marked, faxed or dated by commercial courier within sixty (60) calendar days from the date the Recording company provides the message detail for access usage record to the non-Recording Company, the Recording Company shall have no further obligation to recover the data and shall have no further liability to the non-Recording Company for the compensation arising from the message detail for access usage records.
- 5.3 If, despite timely notification by the non-Recording Company, message detail is lost and unrecoverable as a direct result of the Recording Company having lost or damaged tapes or incurred system outages while performing recording, assembly and editing, rating, message

processing, and/or transmission of message detail, both Parties will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, the Recording Company's liability shall be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost message detail.

- 5.4 Each Party will not be liable for any costs incurred by the other Party when transmitting data files via data lines and a transmission failure results in the non-receipt of data. Notwithstanding the foregoing, the Parties agree to use best efforts to ensure the timely and accurate delivery or exchange of billing data between each Party.
- 5.5 Each Party agrees to defend, indemnify, and hold harmless the other Party from any and all losses, damages, or other liability, including attorney fees, that it may incur as a result of claims, demands, or other suits brought by any party that arise out of the use of this service by the other Party, its customers or end users.
- 5.6 Each Party ("Indemnifying Party") also agrees to release, defend, indemnify and hold harmless the other Party ("Indemnified Party") from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person(s), caused or claimed to be caused, directly or indirectly, by the Indemnifying Party's employees and equipment associated with provision of this service to the extent such claim does not arise from the willful misconduct or gross negligence of the Indemnified Party. This includes, but is not limited to suits arising from disclosure of any customer specific information associated with either the originating or terminating numbers used to provision this service.
- 5.7 Each Party also agrees to release, defend, indemnify and hold harmless the Recording Company from any claim, demand or suit to perform under this Agreement should any regulatory body or any State or Federal Court find the existing terms of this contract to either be illegal, unenforceable, against public policy, or improper for the Recording Company.
- 5.8 Each Party makes no representations or warranties, express or implied, including but not limited to any warranty as to merchantability or fitness for intended or particular purpose with respect to services provided hereunder. Additionally, each Party assumes no responsibility with regard to the correctness of the data supplied when this data is accessed and used by a third party.

**EXHIBIT I****SERVICES**

The attached pages of this Exhibit show the service options that are offered under this Agreement.

**EXPLANATION OF SERVICE OPTIONS****ORIGINATING 1+ DDD RECORDINGS - IXC TRANSPORTED MESSAGE DETAIL  
AND ACCESS USAGE RECORDS**

**Option #1:** This option has been withdrawn.

**Option #2:** The Recording Company performs recording, assembly and editing of the billable message detail and extracts that detail to the IXC for all 1+ IXC transported messages originating from the LEVEL 3 end office. The Recording Company creates Access Usage Records for this traffic and forwards those AUR records to LEVEL 3.

**Option #3:** The Interexchange Carriers do own billable message recording for their 1+ IXC transported messages originating from the CLEC end office. The Recording Company performs recording for Access purposes only, assembles and edits this data, creates AURs and forwards the AUR records to the CLEC.

**ORIGINATING OPERATOR RECORDINGS - IXC TRANSPORTED MESSAGE  
DETAIL AND ACCESS USAGE RECORDS**

**Option #4:** LEVEL 3 Non-Equal Access End Office - The Interexchange Carriers do own billable message recording. The Recording Company performs local and intraLATA operator services for LEVEL 3. The Recording Company performs recording at the operator switch for all 0+, 0-, Coin Sent Paid, CAMA and International IXC transported messages. The Recording Company assembles and edits this data, creates AURs and forwards the AUR records to LEVEL 3.

**Option #5:** LEVEL 3 Equal Access End Office - The Interexchange Carriers do own billable message recording. The Recording Company performs local and intraLATA operator services for LEVEL 3. The Recording Company performs recording at the operator switch for 0- only IXC transported messages. The Recording Company assembles and edits this data, creates AURs and forwards the AUR records to LEVEL 3.

**Option #6:** This option has been withdrawn.

**Option #7:** This option has been withdrawn.

**800 RECORDINGS - IXC TRANSPORTED MESSAGE DETAIL**

**Option #8:** Recording Company performs SSP function for LEVEL 3 end office and bills query charge to the appropriate Interexchange Carrier. The Recording Company performs recording for Access purposes only, assembles and edits this data, creates AURs and forwards AUR records to LEVEL 3.

**Option #9:** This option has been withdrawn.

**Option #10:** Recording Company performs SCP function for LEVEL 3. The Recording Company performs recording at the SCP, assembles and edits this data, creates SCP records and forwards SCP records to LEVEL 3.

**TERMINATING RECORDINGS - IXC TRANSPORTED ACCESS USAGE RECORDS**

- Option #11:** Recording Company provides tandem function for LEVEL 3. LEVEL 3 requests Recording Company to provide all Feature Group B, Feature Group C and Feature Group D terminating usage recordings including Feature Group B over D and Feature Group C over D. Recording Company creates terminating AURs for this data and forwards AUR records to LEVEL 3.
- Option #12:** Recording Company provides tandem function for LEVEL 3. LEVEL 3 requests Recording Company to provide all Feature Group B terminating usage recordings excluding B over D. Recording Company creates terminating AURs for this data and forwards AUR records to LEVEL 3.
- Option #13:** Recording Company provides tandem function for LEVEL 3. LEVEL 3 requests Recording Company to provide all Feature Group B terminating usage recordings including Feature Group B over D. Recording Company creates terminating AURs for this data and forwards AUR records to LEVEL 3.
- Option #14:** Recording Company provides tandem function for LEVEL 3. LEVEL 3 requests Recording Company to provide all Feature Group D terminating usage recordings including B over D and C over D. Recording Company creates terminating AURs for this data and forwards AUR records to LEVEL 3.
- Option #15:** Recording Company provides tandem function for LEVEL 3. LEVEL 3 requests Recording Company to provide all Feature Group D terminating usage recordings including B over D. Recording Company creates terminating AURs for this data and forwards AUR records to LEVEL 3.

**EXHIBIT II****INVOICE DESIGNATION**

COMPANY NAME:

EXCHANGE COMPANY I.D. NUMBER (OCN):

BILLABLE INVOICE INTERVAL:

Check One:

☐ Daily (Full Status RAO Companies will receive billable messages daily, Monday-Friday excluding holidays.)

☐ Bill period (Please choose a maximum of five dates for SBC SOUTHWEST REGION 5-STATE.  
A file will be created approximately 3 to 5 workdays after the chosen bill date(s):

1 3 5 7 9 11 13 15 17 19 21 23 25 27 29

AUR INVOICE INTERVAL:

Check One:

☐ Daily (Full Status RAO Companies will receive AURs daily, Monday-Friday except holidays.)

☐ Bill period (Please choose a maximum of five dates for SBC SOUTHWEST REGION 5-STATE.  
A file will be created approximately 3 to 5 workdays after the chosen bill date(s):

1 3 5 7 9 11 13 15 17 19 21 23 25 27 29

## APPENDIX SS7



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## **1.0 INTRODUCTION**

- 1.1 This Appendix sets forth the terms and conditions under which LEVEL 3 and SBC-13STATE will interconnect their respective Common Channel Signaling/Signaling System 7 (CCS/557) signaling networks.

## **2.0 SERVICE DESCRIPTION**

- 2.1 Either party may choose to provide its own SS7 signaling for its facility-based services, or to the extent available, it may purchase SS7 signaling from the other party under the terms and conditions of that party's tariff offering. Alternatively, either party may choose to obtain SS7 signaling from a third-party provider.
- 2.1.1 In the event that LEVEL 3 chooses to act as its own SS7 service provider, the parties will effectuate a Bill and Keep arrangement and shall share the cost of the SS7 quad links in each LATA between their STPs; provided, however, that said Bill and Keep arrangement and use of SS7 quad links apply only to LEVEL 3 CLEC calls and not to calls that are subject to traditional access compensation as found between a long distance carrier and a local exchange carrier, including LEVEL 3 acting as a long distance carrier.

## **3.0 ADDITIONAL SS7 SERVICES**

- 3.1 Any request for SS7 service beyond offerings contained within the parties' tariffs must be negotiated between the Parties.

**APPENDIX-PRICING  
(OHIO)**

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## APPENDIX PRICING (OHIO)

### 1. INTRODUCTION

- 1.1 This Appendix sets forth the pricing terms and conditions only for the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) identified in 1.3 below. The rate table included in this Appendix is divided into the following five categories: Unbundled Network Elements (UNEs), Resale, Other (Resale), Other and Reciprocal Compensation. These categories are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement, including but not limited to the term "Lawful UNE," as that term is defined and used in this Agreement.
- 1.2 **SBC Communications Inc. (SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.3 **SBC OHIO** - As used herein, **SBC OHIO** means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.
- 1.4 Replacement of Non-Interim Rates

Certain of the non-interim rates, prices and charges set forth in this Agreement may have been established by the Commission ("Commission-established Non-Interim Rate(s)"). All rates included in this Agreement that are not specifically excluded from treatment under this Section 1.4, or that are not marked as interim or as "TBD" (To Be Determined) shall be considered Commission-established Non-Interim Rates. If, during the Term of this Agreement the Commission or the FCC modifies a Commission-established Rate(s) in an order or docket that is established by the Commission or FCC to be generally applicable to the Interconnection, Unbundled Network Elements, Collocation, functions, facilities, Resale discounts, or products or services ("Products or Services") available under this Agreement (i.e. *not* an order or docket relating only to a specific complaint or interconnection agreement arbitration), either Party may provide written notice ("Rate Change Notice") to the other Party, *after the effective date of such order*, that it wishes for the modified Commission-established Non-Interim Rate(s), ("Modified Rate(s)") to replace and supersede the Commission-established Non-Interim Rate(s) already set forth in this Agreement. Following such Rate Change Notice by either Party, and without the need for any formal amendment or further Commission action, the CLEC's billing tables will be updated to reflect (and CLEC will be charged) the Modified Rate(s), pursuant to timeframes as specifically set forth in Sections 1.4.1 and 1.4.3, below, and the Modified Rate(s) will be deemed effective between the Parties as provided in Sections 1.4.1 and 1.4.3, below. Nonetheless, the Parties shall negotiate a conforming amendment which shall reflect that the Commission-established Non-Interim Rate(s) were replaced by the Modified Rate(s), and shall submit such Amendment to the state commission for approval. In addition, as soon as is reasonably practicable after such Rate Change Notice, each Party shall issue to the other Party any adjustments that are necessary to reflect that the Modified Rate(s) became effective between the Parties as provided below:

- 1.4.1 If the Rate Change Notice is issued by a Party within ninety (90) days after the effective date of any such order, the Modified Rate(s) will be deemed effective between the Parties as of the effective date of the order, and **SBC OHIO** will issue any adjustments that are

appropriate (e.g., billing of additional charges, billing credit adjustments) to retroactively true-up the Modified Rate(s) with the Commission-established Non-Interim Rate(s) for the period after the effective date of the order, in accordance herewith.

- 1.4.2 In the event that neither Party issues a Rate Change Notice to the other Party with respect to an order, the Commission-established Non-Interim Rate(s) set forth in the Agreement shall continue to apply, notwithstanding the issuance of that order.
- 1.4.3 In the event that a Party issues a Rate Change Notice under this Section 1.4, but not within ninety (90) days after the effective date of the order, then the Modified Rate(s) will be deemed effective between the Parties as of the date the amendment incorporating such Modified Rate(s) into the Agreement is effective between the Parties (following the date the amendment is approved or is deemed to have been approved by the state commission), and shall apply, upon the amendment effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Commission-established Non-Interim Rate(s) with the Modified Rate(s) for any period prior to the effective date of such amendment.
- 1.4.4 In the event the terms and conditions of this Section 1.4 was not part of an approved and effective agreement between the Parties at the time the order became effective, either Party may still give a Rate Change Notice, and the Modified Rate(s) shall be effective as of the date the Parties' Agreement (the Agreement containing this Section 1.4) becomes effective (following the date the Agreement is approved or deemed to have been approved by the Commission) and shall apply, beginning on the Agreement's effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Commission-established Non-Interim Rate(s) with the Modified Rate(s) for any period prior to the effective date of the Agreement containing this Section 1.4.
- 1.5 The Parties understand and agree that on May 9, 2003, the Public Utilities Act of Illinois was amended to add Sections 13-408 and 13-409, 220 ILCS 5/13-408 and 13-409, and enacted into law ("Illinois Law"). The Illinois Law establishes a specific method for setting certain UNE rates in Illinois, mandates that the Illinois Commerce Commission ("ICC") apply the method and determine the rates ("ICC Rates"), and expressly deems all interconnection agreements to be amended to contain the ICC Rates immediately upon the ICC's announcement of such adjusted rates, without further action. The Parties understand and agree that the rates in the attached Pricing Schedule are based upon SBC Illinois' obligations under FCC rules and regulations, and applicable ICC orders as they existed prior to the ICC's promulgation of rates, terms and conditions pursuant to the Illinois Law. The Parties understand and agree that the ICC Rates shall automatically apply to this Agreement, and shall replace and supersede any corresponding rates currently contained in this Agreement (for the state of Illinois only) as of the effective date of any such ICC order(s) upon the written request of either Party ("Written Notice"). As soon as practical following the Written Notice, SBC Illinois shall begin billing CLEC the ICC Rates; provided, however, the Parties acknowledge and agree that no later than sixty (60) days from the Written Notice, the Parties will execute a conforming Amendment to this Agreement so that the Agreement accurately reflects the ICC Rates, and SBC Illinois will issue any adjustments, as needed (e.g., billing of additional charges, billing credit adjustments), to reflect that the ICC Rates became effective between the Parties as of the effective date of the applicable ICC order(s) and to retroactively true-up the ICC Rates with the corresponding rates currently contained in this Agreement (for the state of Illinois only) for the period after the effective date of the applicable ICC order(s), in accordance herewith.
- 1.6 Replacement of Interim Rates

Certain of the rates, prices and charges set forth in this Agreement may be denoted as interim rates ("Current Interim Rates"). Upon the effective date of a Commission Order establishing non-interim rates for any rates, prices, charges, Products or Services specifically identified herein as

interim, either Party may, within ninety (90) days *after the effective date of such Commission order*, provide written notice ("Replacement Rate Notice") to the other Party that it wishes to obtain the non-interim Commission-established rate(s) ("Replacement Rates") to replace and supersede the Current Interim Rate counterpart(s) in this Agreement. Following such Replacement Rate Notice, and without the need for any formal amendment or further Commission action, SBC OHIO will update CLEC's billing tables to replace the Current Interim Rates with their Replacement Rate(s) counterpart(s), as specified in the Replacement Rate Notice. Nonetheless, the Parties shall negotiate a conforming amendment to reflect such Replacement Rates and shall submit such amendment to the Commission for approval.

- 1.6.1 If the Replacement Rate Notice is given within 90 days after the effective date of such order, then the Replacement Rate(s) shall apply as of the effective date of the order and SBC OHIO will issue any adjustments that are appropriate (e.g., billing of additional charges, billing credit adjustments) to retroactively true-up the Replacement Rates with the Current Interim Rates for the period after the effective date of this Agreement, in accordance herewith.
- 1.6.2 In the event that neither Party issues a Rate Notice to the other Party with respect to an order, the Current Interim Rate(s) set forth in the Agreement shall continue to apply, notwithstanding the issuance of that order.
- 1.6.3 In the event that a Party issues a Rate Notice under this Section 1.6, but not within ninety (90) days after the effective date of the order, then the Replacement Rate(s) will be deemed effective between the Parties as of the date the amendment incorporating such Replacement Rate(s) into the Agreement is effective between the Parties (following the date the amendment is approved or is deemed to have been approved by the Commission), and shall apply, upon the amendment effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Current Interim Rate(s) with the Replacement Rate(s) for any period prior to the effective date of such amendment.
- 1.6.4 In the event the terms and conditions of this Section 1.6 was not part of an approved and effective agreement between the Parties at the time the order became effective, either Party may still give a Replacement Rate Notice, and the Replacement Rate(s) shall be effective as of the date the Parties' Agreement (the Agreement containing this Section 1.6) becomes effective (following the date the Agreement is approved or deemed to have been approved by the Commission) and shall apply, beginning on the Agreement's effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Current Interim Rate(s) with the Replacement Rate(s) for any period prior to the effective date of the Agreement containing this Section 1.6.

## 1.7 Notice to Adopting CLECs

- 1.7.1 Notwithstanding anything to the contrary in this Appendix and Agreement, in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting CLEC"), the Adopting CLEC would only be entitled to the non-interim and/or interim rates set forth in this Agreement as of the date that the MFN'd Agreement provisions become effective between SBC OHIO and the Adopting CLEC (i.e., following the date the Commission approves or is deemed to have approved the Adopting CLEC's Section 252(i) adoption ("MFN Effective Date")) and on a prospective basis only. Nothing in this Agreement shall entitle an Adopting CLEC to any retroactive application of any rates under this Agreement to any date prior to the MFN Effective Date and any Adopting CLEC is foreclosed from making any such claim hereunder.

1.8 The following defines the zones found in this Appendix Pricing:

For Loops:

<u>Access Area:</u>	<u>Total Access Lines:</u>
B	See: Tariff 20, Part 4, Section 1, Sheets 1-47
C	See: Tariff 20, Part 4, Section 1, Sheets 1-47
D	See: Tariff 20, Part 4, Section 1, Sheets 1-47

- 1.9 **SBC OHIO's** obligation to provide Interconnection, Lawful Unbundled Network Elements, Collocation, Resale discounts, functions, facilities, products or services ("Products or Services") under this Agreement does not extend to Products or Services for which rates, terms and conditions are not contained in this Agreement. Accordingly, to the extent a CLEC orders a Product or Service for which there are not rates, terms and conditions contained in this Agreement, **SBC OHIO** may reject the order. In the event such an order is rejected, and the Product or Service is appropriate for BFR treatment under the BFR provisions set forth in Appendix Lawful UNEs of this Agreement, the CLEC may submit a BFR, which will be evaluated pursuant to such BFR provisions. Alternatively, if the Product or Service is available in a state commission approved Agreement in the state in which the CLEC is seeking to order the Product or Service, the CLEC may: (i) seek to adopt pursuant to Section 252(i) of the Act the rates, terms and conditions for such Product or Service (including any legitimately related terms) from a state commission approved Agreement in that state in which such Product or Service is available; or (ii) seek to amend this Agreement to incorporate rates, terms and conditions for the Product or Service into this Agreement, to the extent such Product or Service is still available at the time of the request. In the event that CLEC orders, and **SBC OHIO** provisions, a Product or Service to CLEC for which there are not rates, terms and conditions in this Agreement, then CLEC understands and agrees that one of the following will occur:

- 1.9.1 CLEC shall pay for the Product or Service provisioned to CLEC at the rates set forth in **SBC OHIO's** applicable intrastate tariff(s) for the Product or Service or, to the extent there are no tariff rates, terms or conditions available for the Product or Service in the applicable state, then CLEC shall pay for the Product or Service at **SBC OHIO's** current generic contract rate for the Product or Service set forth in **SBC OHIO's** applicable state-specific generic pricing schedule as published on **SBC OHIO's** CLEC website; or
- 1.9.2 CLEC will be billed and shall pay for the product or service as provided in Section 1.9.1, above, and **SBC OHIO** may, without further obligation, reject future orders and further provisioning of the product or service until such time as applicable rates, terms and conditions are incorporated into this Agreement as set forth in this Section 1.9.
- 1.9.3 **SBC OHIO's** provisioning of orders for such Products or Services is expressly subject to this Section 1.9 and in no way constitutes a waiver of **SBC OHIO's** right to charge and collect payment for such Products and/or Services.

1.10 Establishment of "TBD" Rates

- 1.10.1 When a rate, price or charge in this Agreement is noted as "To Be Determined" or "TBD" or is blank, the Parties understand and agree that when a rate, price or charge is established by **SBC OHIO** for that Product or Service and incorporated into **SBC OHIO's** current state-specific generic pricing schedule as published on **SBC OHIO's** CLEC website, that rate(s) ("Established Rate") shall automatically apply to the Product or Service provided under this Agreement back to the effective date of this Agreement as to any orders CLEC submitted and **SBC OHIO** provisioned for that Product or Service without the need for any additional modification(s) to this Agreement or further Commission action. **SBC OHIO** shall provide written notice to CLEC of the application of the rate, price or charge that has been established, and the CLEC's billing tables will be updated to reflect (and CLEC will be charged) the Established Rate, and the Established



Rate will be deemed effective between the Parties as of the effective date of the Agreement. The Parties shall negotiate a conforming amendment which shall reflect the Established Rate to ensure that the Agreement accurately reflects the specific Established Rate(s) that apply to such Product or Service pursuant to this Section 1.10, and shall submit such Amendment to the state commission for approval. In addition, as soon as is reasonably practicable after such Established Rate begins to apply, SBC OHIO shall bill CLEC to reflect the application of the Established Rate retroactively to the effective date of the Agreement between the Parties.

- 1.10.2 SBC OHIO's provisioning of such orders for such Products or Services is expressly subject to this Section 1.10 and in no way constitutes a waiver of SBC OHIO's right to charge and collect payment for such Products and/or Services.

## **2. RECURRING CHARGES**

- 2.1 Unless otherwise identified in the Pricing Tables, where rates are shown as monthly, a month will be defined as a 30 day calendar month. The minimum term for each monthly rated Unbundled Network Element (UNE), Resale, Other (Resale), Other and Reciprocal Compensation elements will be one (1) month. After the initial month, billing will be on the basis of whole or fractional months used. The minimum term for non-monthly rated UNEs, if applicable, will be specified in the rate table included in this Appendix. A longer minimum service period may apply for Lawful UNEs provided under the BFR process, as set forth in the Lawful UNEs Appendix of this Agreement.
- 2.2 For purposes of reciprocal compensation only, measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.
- 2.3 Where rates are distance sensitive, the mileage will be calculated on the airline distance involved between the locations. To determine the rate to be billed SBC OHIO will first compute the mileage using the V&H coordinates method, as set forth in the National Exchange Carrier Association, Inc. Tariff FCC No 4. When the calculation results in a fraction of a mile, SBC OHIO will round up to the next whole mile before determining the mileage and applying rates.

## **3. NON-RECURRING CHARGES**

- 3.1 Where rates consist of usage sensitive charges or per occurrence charges, such rates are classified as "non-recurring charges".
- 3.2 Nonrecurring Charges may be applicable for all five (5) categories of rates.
- 3.3 Consistent with FCC Rule 51.307(d), there may be non-recurring charges for each Lawful UNE.
- 3.4 For Resale, when a CLEC converts an End User currently receiving non-complex service from the SBC OHIO network, without any changes to SBC OHIO's network, the normal service order charges and/or nonrecurring charges associated with said additions and/or changes will apply.
- 3.5 CLEC shall pay a non-recurring charge when a CLEC adds a signaling point code. The rates and charges for signaling point code(s) are identified in the applicable access tariffs. This charge also applies to point code information provided by CLEC allowing others to use CLEC's SS7 signaling network.
- 3.6 CLEC shall pay a service order processing/administration charge for each service order submitted by CLEC to SBC OHIO to process a request for installation, disconnection, rearrangement, changes to or record orders for Lawful UNEs and Resale.

3.7 Some items, which must be individually charged (e.g., extraordinary charges, CLEC Changes and etc.), are billed as nonrecurring charges.

3.8 Time and Material charges (a.k.a. additional labor charges) are defined in the Pricing Tables.

#### **4. BILLING**

4.1 For information regarding billing, non-payment, disconnects and dispute resolution, see the General Terms and Conditions of this Agreement.

#### **5. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS**

5.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

This pricing schedule may not include the rates adopted by the Commission in various Dockets before the effective date of this agreement and after the date the parties filed for arbitration. SBC and Level 3 agree that within thirty days (30) of the date that this Interconnection Agreement is filed with the Commission, they will agree upon pricing appendices which they will then file as an amendment to this ICA to update the pricing contained in this Appendix to include the rates ordered and effective by the Commission prior to the filing date but which rates shall apply retroactively to the Effective Date of this Agreement, which filing shall take place immediately upon approval of the Successor Agreement and First Superseding Amendment. SBC, accordingly, agrees that upon filing of this Agreement that it will provide to Level 3 notice of change of pricing as well as the legal basis for such changes (e.g. it will reference the decisions and/or effective orders it relies upon as grounds for such changes).

The Parties acknowledge that the Pricing Schedule may contain rates for unbundled network elements that are not available pursuant to the terms and conditions of the ICA. The Parties agree that, to the extent that SBC is not required to provide certain unbundled network elements according to federal law that rates for such elements will not be included in the pricing appendix when it is amended by the Parties as set forth above. Thus, the inclusion of such rates in this pricing schedule does not entitle Level 3 to order the network element(s), product(s) or service(s) that are no longer available pursuant to the terms and conditions of the ICA.

Line	OHIO - Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
2	<b>NETWORK ELEMENTS</b>			
3	<b>Loops</b>			
4	2-Wire Analog - Metro (Access Area B)	U2HXB	\$ 8.84	See NRC prices below
5	2-Wire Analog - Suburban (Access Area C)	U2HXC	\$ 10.38	See NRC prices below
6	2-Wire Analog - Rural (Access Area D)	U2HXD	\$ 11.43	See NRC prices below
7	2-Wire Ground Start, Analog - Metro (Access Area B)	U2JXB	\$ 8.07	See NRC prices below
8	2-Wire Ground Start, Analog - Suburban (Access Area C)	U2JXC	\$ 8.50	See NRC prices below
9	2-Wire Ground Start, Analog - Rural (Access Area D)	U2JXD	\$ 10.02	See NRC prices below
10	2-Wire Ground Start, DID Business - Metro (Access Area B)	U2WXB	\$ 8.07	See NRC prices below
11	2-Wire Ground Start, DID Business - Suburban (Access Area C)	U2WXC	\$ 8.50	See NRC prices below
12	2-Wire Ground Start, DID Business - Rural (Access Area D)	U2WXD	\$ 10.02	See NRC prices below
13	2-Wire COPTS Coin - Metro (Access Area B)	U2CXB	\$ 8.84	See NRC prices below
14	2-Wire COPTS Coin - Suburban (Access Area C)	U2CXC	\$ 10.38	See NRC prices below
15	2-Wire COPTS Coin - Rural (Access Area D)	U2CXD	\$ 11.43	See NRC prices below
16	2-Wire EKL - Metro (Access Area B)	U2KXB	\$ 7.36	See NRC prices below
17	2-Wire EKL - Suburban (Access Area C)	U2KXC	\$ 12.02	See NRC prices below
18	2-Wire EKL - Rural (Access Area D)	U2KXD	\$ 13.35	See NRC prices below
19	Conditioning for dB Loss			See NRC prices below
20	4-Wire Analog - Metro (Access Area B)	U4HXB	\$ 10.29	See NRC prices below
21	4-Wire Analog - Suburban (Access Area C)	U4HXC	\$ 16.41	See NRC prices below
22	4-Wire Analog - Rural (Access Area D)	U4HXD	\$ 19.37	See NRC prices below
23	2-Wire Digital - Metro (Access Area B)	U2QXB	\$ 6.38	See NRC prices below
24	2-Wire Digital - Suburban (Access Area C)	U2QXC	\$ 9.34	See NRC prices below
25	2-Wire Digital - Rural (Access Area D)	U2QXD	\$ 10.79	See NRC prices below
26	<b>DSL Capable Loops</b>			
27	<b>2-Wire xDSL Loop</b>			
28	PSD #1 - 2-Wire xDSL Loop Access Area B- Metro	2SLA1	\$ 8.84	See NRC prices below
29	PSD #1 - 2-Wire xDSL Loop Access Area C- Suburban	2SLA2	\$ 10.38	See NRC prices below
30	PSD #1 - 2-Wire xDSL Loop Access Area D- Rural	2SLA3	\$ 11.43	See NRC prices below
31				
32	PSD #2 - 2-Wire xDSL Loop Access Area B- Metro	2SLC1	\$ 8.84	See NRC prices below
33	PSD #2 - 2-Wire xDSL Loop Access Area C- Suburban	2SLC2	\$ 10.38	See NRC prices below
34	PSD #2 - 2-Wire xDSL Loop Access Area D- Rural	2SLC3	\$ 11.43	See NRC prices below
35				
36	PSD #3 - 2-Wire xDSL Loop Access Area B- Metro	2SLB1	\$ 8.84	See NRC prices below
37	PSD #3 - 2-Wire xDSL Loop Access Area C- Suburban	2SLB2	\$ 10.38	See NRC prices below
38	PSD #3 - 2-Wire xDSL Loop Access Area D- Rural	2SLB3	\$ 11.43	See NRC prices below
39				
40	PSD #4 - 2-Wire xDSL Loop Access Area B- Metro	2SLD1	\$ 8.84	See NRC prices below
41	PSD #4 - 2-Wire xDSL Loop Access Area C- Suburban	2SLD2	\$ 10.38	See NRC prices below
42	PSD #4 - 2-Wire xDSL Loop Access Area D- Rural	2SLD3	\$ 11.43	See NRC prices below
43				
44	PSD #5 - 2-Wire xDSL Loop Access Area B- Metro	UWRA1	\$ 8.84	See NRC prices below
45	PSD #5 - 2-Wire xDSL Loop Access Area C- Suburban	UWRA2	\$ 10.38	See NRC prices below
46	PSD #5 - 2-Wire xDSL Loop Access Area D- Rural	UWRA3	\$ 11.43	See NRC prices below
47				
48	PSD #7 - 2-Wire xDSL Loop Access Area B- Metro	2SLF1	\$ 8.84	See NRC prices below
49	PSD #7 - 2-Wire xDSL Loop Access Area C- Suburban	2SLF2	\$ 10.38	See NRC prices below
50	PSD #7 - 2-Wire xDSL Loop Access Area D- Rural	2SLF3	\$ 11.43	See NRC prices below
51	<b>4-Wire xDSL Loop</b>			
52	PSD #3 - 4-Wire xDSL Loop Access Area B- Metro	4SL11	\$ 10.29	See NRC prices below
53	PSD #3 - 4-Wire xDSL Loop Access Area C- Suburban	4SL12	\$ 16.41	See NRC prices below
54	PSD #3 - 4-Wire xDSL Loop Access Area D- Rural	4SL13	\$ 19.37	See NRC prices below
55	<b>IDSL Capable Loop</b>			
56	IDSL Loop Access Area B - Metro	UY5FB	\$ 6.38	See NRC prices below
57	IDSL Loop Access Area C - Suburban	UY5FC	\$ 9.34	See NRC prices below
58	IDSL Loop Access Area D - Rural	UY5FD	\$ 10.79	See NRC prices below
59				
60	<b>Loop Non-Recurring Charges</b>			
61	Service Ordering - Per Order	SEPUP	N/A	\$ 16.02 N/A
62	Service Ordering - Add/Change Per Order	REA-H9	NA	\$ 16.02 N/A
63	Line Connection - Per Loop	SEPUC	N/A	\$ 30.81 N/A
64	Line Connection - Add/Change Per Loop	REA-H5	NA	\$ 30.81 N/A
65				
66	<b>Service Coordination fee per account, per CO.</b>		\$ 0.48	
67				
68	<b>LST</b>			
69	Line & Station Transfer(LST) performed on CO/SLAM Loop	URCLD	N/A	\$ 172.76
70	Line & Station Transfer(LST) performed on Sub Loop	URCLB	N/A	\$ 153.03

Line	OHIO - Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
71				
72	<b>Loop Qualification Process</b>			
73	** Loop Qualification Process - Mechanized	NR9BU	N/A	\$ 0.10 N/A
74	** Loop Qualification Process - Manual	NR8XU	N/A	\$ 22.50 N/A
75				
76	** Interim loop qualification rates ordered by the PUCO in Docket Nos. 96-922-TP-UNC and 90-1388-TP-ATA, on March 13, 2003 and shall be subject to			
77	retroactive true-up upon the establishment of final rate(s) by the PUCO back to the later of: (1) March 13, 2003; (2) the effective date of this Agreement; or			
78	(3) the effective date of the Amendment incorporating this Pricing Schedule into the Agreement.			
79				
80	<b>xDSL Conditioning Options</b>			
81	*** DSL Conditioning Options - >12KFT and < 17.5KFT			
82	*** Removal of Repeater Options	NRBXV	N/A	\$ 121.89 N/A
83	*** Removal Bridged Tap Option	NRBXW	N/A	\$ 417.78 N/A
84	*** Removal of Load Coil	NRBXZ	N/A	\$ 437.91 N/A
85	*** DSL Conditioning Options - >17.5KFT in addition to the rates for > 12KFT and < 17.5KFT			
86	*** Removal of Repeater Options	NRBNL	N/A	\$ 152.54 N/A
87	*** Removal Bridged Tap Option	NRBNK	N/A	\$ 362.11 N/A
88	*** Removal of Load Coil	NRBNJ	N/A	\$ 588.49 N/A
89				
90				
91	*** On March 13, 2003, the PUCO established the following interim, non-recurring loop conditioning rates which shall apply to each CLEC in OH who ordered/orders			
92	an xDSL capable loop, the HFPL and for the HFPL, subject to retroactive true-up upon the PUCO's establishment of final rates: For loops 17,500 feet in actual			
93	loop length or less: \$10.28; and for loops greater than 17,500 feet in actual loop length: \$66.10 ("Interim PUCO Rates"). However, due to necessary programming			
94	changes, these Interim PUCO Rates will not be implemented in OH until in or around December 2003. When implemented, the Parties acknowledge and agree that			
95	the Interim PUCO Rates shall automatically apply to this Agreement and shall replace the loop conditioning rates set forth hereinabove effective back to			
96	March 13, 2003 ("Rate Effective Date"); and shall apply on a prospective basis until the			
97	establishment of final rate(s) by the PUCO. Upon the PUCO's establishment of final loop rate(s), the Interim PUCO Rates shall be subject to retroactive true-up			
98	with the PUCO final loop conditioning rate(s) back to the Rate Effective Date.			
99				
100				
101	<b>SUB-LOOPS</b>			
102	## ECS to SAI sub-loop			
103	## 2 Wire Analog - area B	PENDING	\$ 0.95	See NRC prices below
104	## 2 Wire Analog - area C	PENDING	\$ 1.16	See NRC prices below
105	## 2 Wire Analog - area D	PENDING	\$ 1.70	See NRC prices below
106	## 4 Wire Analog - area B	PENDING	\$ 1.89	See NRC prices below
107	## 4 Wire Analog - area C	PENDING	\$ 2.31	See NRC prices below
108	## 4 Wire Analog - area D	PENDING	\$ 3.36	See NRC prices below
109	## 2 Wire DSL - area B	PENDING	\$ 0.95	See NRC prices below
110	## 2 Wire DSL - area C	PENDING	\$ 1.16	See NRC prices below
111	## 2 Wire DSL - area D	PENDING	\$ 1.70	See NRC prices below
112	## 4 Wire DSL - area B	PENDING	\$ 1.89	See NRC prices below
113	## 4 Wire DSL - area C	PENDING	\$ 2.31	See NRC prices below
114	## 4 Wire DSL - area D	PENDING	\$ 3.36	See NRC prices below
115	## ECS to Terminal sub-loop			
116	## 2 Wire Analog - area B	PENDING	\$ 3.44	See NRC prices below
117	## 2 Wire Analog - area C	PENDING	\$ 5.92	See NRC prices below
118	## 2 Wire Analog - area D	PENDING	\$ 8.40	See NRC prices below
119	## 4 Wire Analog - area B	PENDING	\$ 6.93	See NRC prices below
120	## 4 Wire Analog - area C	PENDING	\$ 11.81	See NRC prices below
121	## 4 Wire Analog - area D	PENDING	\$ 16.77	See NRC prices below
122	## 2 Wire DSL - area B	PENDING	\$ 3.44	See NRC prices below
123	## 2 Wire DSL - area C	PENDING	\$ 5.92	See NRC prices below
124	## 2 Wire DSL - area D	PENDING	\$ 8.40	See NRC prices below
125	## 4 Wire DSL - area B	PENDING	\$ 6.93	See NRC prices below
126	## 4 Wire DSL - area C	PENDING	\$ 11.81	See NRC prices below
127	## 4 Wire DSL - area D	PENDING	\$ 16.77	See NRC prices below
128	## ECS to NID sub-loop			
129	## 2 Wire Analog - area B	PENDING	\$ 4.40	See NRC prices below
130	## 2 Wire Analog - area C	PENDING	\$ 7.02	See NRC prices below
131	## 2 Wire Analog - area D	PENDING	\$ 9.66	See NRC prices below
132	## 4 Wire Analog - area B	PENDING	\$ 8.82	See NRC prices below
133	## 4 Wire Analog - area C	PENDING	\$ 14.00	See NRC prices below
134	## 4 Wire Analog - area D	PENDING	\$ 19.29	See NRC prices below
135	## 2 Wire DSL - area B	PENDING	\$ 4.40	See NRC prices below
136	## 2 Wire DSL - area C	PENDING	\$ 7.02	See NRC prices below
137	## 2 Wire DSL - area D	PENDING	\$ 9.66	See NRC prices below
138	## 4 Wire DSL - area B	PENDING	\$ 8.82	See NRC prices below
139	## 4 Wire DSL - area C	PENDING	\$ 14.00	See NRC prices below
140	## 4 Wire DSL - area D	PENDING	\$ 19.29	See NRC prices below
141	## SAI to Terminal sub-loop			
142	## 2 Wire Analog - area B	PENDING	\$ 3.59	See NRC prices below
143	## 2 Wire Analog - area C	PENDING	\$ 5.61	See NRC prices below
144	## 2 Wire Analog - area D	PENDING	\$ 7.70	See NRC prices below
145	## 4 Wire Analog - area B	PENDING	\$ 7.25	See NRC prices below
146	## 4 Wire Analog - area C	PENDING	\$ 11.22	See NRC prices below
147	## 4 Wire Analog - area D	PENDING	\$ 15.42	See NRC prices below

TBD - To be determined  
NRC - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

THE OHIO BELL  
TELEPHONE COMPANY d/b/a SBC OHIO  
August 16, 2004

APPENDIX PRICING/ALL TRAFFIC  
SBC OHIO/LEVEL 3

Line	OHIO	- Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
148	##	2 Wire DSL - area B	PENDING	\$ 3.58	See NRC prices below
149	##	2 Wire DSL - area C	PENDING	\$ 5.61	See NRC prices below
150	##	2 Wire DSL - area D	PENDING	\$ 7.70	See NRC prices below
151	##	4 Wire DSL - area B	PENDING	\$ 7.25	See NRC prices below
152	##	4 Wire DSL - area C	PENDING	\$ 11.22	See NRC prices below
153	##	4 Wire DSL - area D	PENDING	\$ 15.42	See NRC prices below
154	##	SAI to NID sub-loop			
155	##	2 Wire Analog - area B	PENDING	\$ 4.54	See NRC prices below
156	##	2 Wire Analog - Area C	PENDING	\$ 6.71	See NRC prices below
157	##	2 Wire Analog - area D	PENDING	\$ 8.97	See NRC prices below
158	##	4 Wire Analog - area B	PENDING	\$ 9.14	See NRC prices below
159	##	4 Wire Analog - area C	PENDING	\$ 13.42	See NRC prices below
160	##	4 Wire Analog - area D	PENDING	\$ 17.94	See NRC prices below
161	##	2 Wire DSL - area B	PENDING	\$ 4.54	See NRC prices below
162	##	2 Wire DSL - area C	PENDING	\$ 6.71	See NRC prices below
163	##	2 Wire DSL - area D	PENDING	\$ 8.97	See NRC prices below
164	##	4 Wire DSL - area B	PENDING	\$ 9.14	See NRC prices below
165	##	4 Wire DSL - area C	PENDING	\$ 13.42	See NRC prices below
166	##	4 Wire DSL - area D	PENDING	\$ 17.94	See NRC prices below
167	##	Terminal to NID sub-loop			
168	##	2 Wire Analog - area B	PENDING	\$ 1.38	See NRC prices below
169	##	2 Wire Analog - Area C	PENDING	\$ 1.61	See NRC prices below
170	##	2 Wire Analog - area D	PENDING	\$ 1.76	See NRC prices below
171	##	4 Wire Analog - area B	PENDING	\$ 2.78	See NRC prices below
172	##	4 Wire Analog - area C	PENDING	\$ 3.18	See NRC prices below
173	##	4 Wire Analog - area D	PENDING	\$ 3.53	See NRC prices below
174	##	2 Wire DSL - area B	PENDING	\$ 1.38	See NRC prices below
175	##	2 Wire DSL - area C	PENDING	\$ 1.61	See NRC prices below
176	##	2 Wire DSL - area D	PENDING	\$ 1.76	See NRC prices below
177	##	4 Wire DSL - area B	PENDING	\$ 2.78	See NRC prices below
178	##	4 Wire DSL - area C	PENDING	\$ 3.18	See NRC prices below
179	##	4 Wire DSL - area D	PENDING	\$ 3.53	See NRC prices below
180	##	NID sub-loop element			
181	##	2 Wire Analog - area B	PENDING	\$ 0.18	See NRC prices below
182	##	2 Wire Analog - Area C	PENDING	\$ 0.18	See NRC prices below
183	##	2 Wire Analog - area D	PENDING	\$ 0.18	See NRC prices below
184	##	4 Wire Analog - area B	PENDING	\$ 0.35	See NRC prices below
185	##	4 Wire Analog - area C	PENDING	\$ 0.33	See NRC prices below
186	##	4 Wire Analog - area D	PENDING	\$ 0.33	See NRC prices below
187	##	2 Wire DSL - area B	PENDING	\$ 0.18	See NRC prices below
188	##	2 Wire DSL - area C	PENDING	\$ 0.18	See NRC prices below
189	##	2 Wire DSL - area D	PENDING	\$ 0.18	See NRC prices below
190	##	4 Wire DSL - area B	PENDING	\$ 0.35	See NRC prices below
191	##	4 Wire DSL - area C	PENDING	\$ 0.33	See NRC prices below
192	##	4 Wire DSL - area D	PENDING	\$ 0.33	See NRC prices below
193	##	2 Wire ISDN Compatible - area B	PENDING	\$ 0.18	See NRC prices below
194	##	2 Wire ISDN Compatible - area C	PENDING	\$ 0.18	See NRC prices below
195	##	2 Wire ISDN Compatible - area D	PENDING	\$ 0.18	See NRC prices below
196	##	Sub-Loop Non-Recurring Charges			
197	##	2-Wire Analog Sub-Loop	PENDING		\$ 217.57
198	##	4-Wire Analog Sub-Loop	PENDING		\$ 218.54
199	##	2-Wire xDSL Digital Sub-Loop	PENDING		\$ 250.83
200	##	4-Wire xDSL Digital Sub-Loop	PENDING		\$ 255.11
201	##	2-Wire ISDN Digital Sub-Loop	PENDING		\$ 278.37
202	##	Sub-Loop Service Order Charge			
203	##	Establish, per occasion	PENDING		\$ 16.23
204	##	Sub-Loop Line Connection Charge			
205	##	per occasion	PENDING		\$ 31.00
206					
207		Cross Connects			
208		2-Wire	CXCT2	\$ 0.15	NA
209					
210					
211		Routine Modifications			
212		Routine Modifications of Existing Facilities Charge	NA	NA	ICB
213					
214					
215		LNP			
216		****Local Number Portability	NSR	\$ 0.18	N/A
217		****Pursuant to FCC Tariff #2, Section 4 effective from June 1, 2004 and shall cease billing			
218		effective October 1, 2004.			
219					
220		OTHER			
221	##	Directory Assistance			
222		Facility-based DA			
223		Directory Assistance, per call	OPEN	\$ 0.30	NA NA
224		per call	OPEN	\$ 0.35	NA NA
225		Business Category Search (BCS), per call	OPEN	\$ 1.10	NA NA

TBD - To be determined  
NRC - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

Line	OHIO - Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
226	Directory Assistance Call Completion (DAOC)	OPEN	\$ 0.15	NA NA
227				
228	Branding - Other - Initial/Subsequent Load	OPEN		\$ 1,800.00
229	- per call	OPEN	\$ 0.025	
230	Branding - Facility Based - Initial/Subsequent Load			
231	- Branding, per trunk group	OPEN	NA	\$ 800.00
232	Rate Reference - Initial Load	OPEN	NA	\$ 2,200.00 NA
233	Rate Reference - Subsequent Load	OPEN	NA	\$ 1,000.00 NA
234	DA Listing License			
235	Option #1 Full File (all states inclusive) Non-Billable Release (no query charges)			
236	- per listing for initial load	OPEN	NA	\$ 0.040
237	- per listing for subsequent updates	OPEN	NA	\$ 0.060
238	Option #2 Full File (all states inclusive) Billable Release			
239	- per listing for initial load	OPEN	NA	\$ 0.020
240	- per listing for subsequent updates	OPEN	NA	\$ 0.030
241	- per usage/query	OPEN	NA	\$ 0.020
242	Option #3 Pick & Choose (by state) Non-billable Release (no query charges)			
243	- per listing for initial load	OPEN	NA	\$ 0.050
244	- per listing for subsequent updates	OPEN	NA	\$ 0.060
245	Option #4 Pick & Choose (by state) Billable Release			
246	- per listing for initial load	OPEN	NA	\$ 0.020
247	- per listing for subsequent updates	OPEN	NA	\$ 0.030
248	- per usage/query	OPEN	NA	\$ 0.020
249				
250	Operator Services			
251	Fully Automated Call Processing, per occurrence	OPEN	\$ 0.15	NA
252	Operator Assisted Call Processing, per work second	OPEN	\$ 0.02	NA
253	Branding - Other - Initial/Subsequent Load	OPEN		\$ 1,800.00
254	- per call	OPEN	\$ 0.025	
255	Branding - Facility Based - Initial/Subsequent Load			
256	- per trunk group	OPEN	NA	\$ 800.00 NA
257	Operator Services - Rate Reference - Initial Load	OPEN	NA	\$ 2,200.00 NA
258	Operator Services - Rate Reference - Subsequent Load	OPEN	NA	\$ 1,000.00 NA
259				
260	Ancillary Message Billing Compensation (Per Message)	OPEN	\$ 0.03	NA
261				
262	Structure Access - Poles & Ducts		Annually	
263	Pole Attachments, per Pole attachment*	OPEN	\$ 2.52	
264	Conduit, per Foot of Innerduct	OPEN	\$ 0.74	
265	Innerduct, per ft	OPEN	\$ 0.37	
266	Application fee	OPEN		\$ 200.00
267	*For (1) each one foot of usable space, or fraction thereof, occupied and (2) each			
268	additional one foot of space, or fraction thereof, rendered unusable by the attachment's presence.			
269				
270	Emergency Number Service Access			
271	911 Selective Router Interconnection			
272	-Each OSO Installed	USAGE	N/A	\$ 364.69
273	-Analog Channel Interface	EV69X	\$ 28.72	\$ 456.82
274	ANAL/ISR and Database Management			
275	- Per 100 records, rounded up to nearest 100	9589X	\$ 107.18	\$ 21.54
276	911 Selective Router Switch Administration			
277	-Per Selective Router	USAGE	\$ 5.55	\$ 2,645.15
278				
279	INTERCARRIER COMPENSATION			
280	Rate for All ISP-Bound and Section 251(b)(5) Traffic as per FCC 01-131, per MOU	USAGE	\$ 0.0007	
281				
282				
283	Rate elements not included in TELRIC order			
284	Per and only to the extent required by PUCO 7/11/02 order in 98-922-TP-UNC and 00-1368-TP-ATA.*			
285	Does not apply to pre-existing UNE-P Migrations. This Non-Recurring Charge is the only NRC charged for New UNE-P Residential POTS Combinations.			
286	Per and only to the extent required by PUCO 7/11/02 order in 98-922-TP-UNC and 00-1368-TP-ATA application of rates is Interim and subject to SBC			
287	Ohio reservation of rights pertaining to and subject to modification as a result of reconsideration, appeal, further PUCO action, or other change of law.			
288	The Parties also acknowledge and agree that the interim rates set forth are subject to true-up or true-down pending PUCO established rates.			
289				
290	RESALE		RESALE DISCOUNTS	RESALE DISCOUNTS
291	BUSINESS		RECURRING	NON-RECURRING
292	LOCAL EXCHANGE SERVICE			
293	Business 1 Party	RESALE	20.29%	20.29%
294	Business - Measured	RESALE	20.29%	20.29%
295	Customer Operated Pay Telephone (COPT)	RESALE	20.29%	20.29%
296				
297	EXPANDED LOCAL CALLING			
298	Extended Area Service	RESALE	20.29%	20.29%
299				
300	VERTICAL SERVICES			
301	Anonymous Call Rejection	RESALE	20.29%	20.29%

TBD - To be determined  
NRO - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

Line	OHIO	- Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
302		Repeat Dialing (Auto Redial)	RESALE	20.29%	20.29%
303		Repeat Dialing-Per Use (Auto Redial - Usage Sensitive)	RESALE	20.29%	20.29%
304		Call Blocker	RESALE	20.29%	20.29%
305		Call Forwarding	RESALE	20.29%	20.29%
306		Call Forwarding - Busy Line	RESALE	20.29%	20.29%
307		Call Forwarding - Busy Line/Don't Answer	RESALE	20.29%	20.29%
308		Call Forwarding - Don't Answer	RESALE	20.29%	20.29%
309		Automatic CallBack (Call Return)	RESALE	20.29%	20.29%
310		Automatic CallBack-Per Use (Call Return - Usage Sensitive)	RESALE	20.29%	20.29%
311		Call Trace	RESALE	20.29%	20.29%
312		Call Waiting	RESALE	20.29%	20.29%
313		Caller ID With Name (Calling Name)	RESALE	20.29%	20.29%
314		Caller ID (Calling Number)	RESALE	20.29%	20.29%
315		MultiRing Service -1 (Personalized Ring - 1 Dependent Number)	RESALE	20.29%	20.29%
316		MultiRing Service -2 (Personalized Ring - 2 Dependent Numbers)	RESALE	20.29%	20.29%
317		Remote Access to Call Forwarding (Grandfathered)	RESALE	0.00%	0.00%
318		Selective Call Forwarding	RESALE	0.00%	0.00%
319		Multi-Path Call Forwarding (Simultaneous Call Forwarding)	RESALE	20.29%	20.29%
320		Remote Call Forwarding-Per Feature	RESALE	20.29%	20.29%
321		RCF, Interstate, Interexchange	RESALE	20.29%	20.29%
322		RCF, Intrastate	RESALE	20.29%	20.29%
323		RCF, Interstate, International	RESALE	20.29%	20.29%
324		RCF, Intrastate, Interexchange	RESALE	20.29%	20.29%
325		RCF to 800	RESALE	20.29%	20.29%
326		RCF Additional	RESALE	20.29%	20.29%
327		Speed Calling 8	RESALE	20.29%	20.29%
328		Speed Calling 30	RESALE	20.29%	20.29%
329		Three Way Calling	RESALE	20.29%	20.29%
330		Call Screening	RESALE	20.29%	20.29%
331		Busy Line Transfer	RESALE	20.29%	20.29%
332		Alternate Answer	RESALE	20.29%	20.29%
333		Message Waiting - Tone	RESALE	20.29%	20.29%
334		Easy Call	RESALE	20.29%	20.29%
335		Prime Number Service	RESALE	20.29%	20.29%
336		SBC Ohio Privacy Manager	RESALE	20.29%	20.29%
337		Name and Number Delivery Service	RESALE	20.29%	20.29%
338					
339		DID			
340		DID	RESALE	20.29%	20.29%
341					
342		TRUNKS			
343		Trunk	RESALE	20.29%	20.29%
344					
345		AIN			
346		Area Wide Networking	RESALE	20.29%	20.29%
347		Emergency Referral Message Service (Disaster Routing Service)	RESALE	20.29%	20.29%
348		SBC Ohio Switch Alternate Routing (ANSAR)	RESALE	20.29%	20.29%
349		SBC Ohio Customer Location Alternate Routing (ACLAR)	RESALE	20.29%	20.29%
350					
351		OTHER			
352		Grandfathered Services	RESALE	0.00%	0.00%
353		Promotions (Greater than 90 days)	RESALE	20.29%	20.29%
354		TouchTone (Business)	RESALE	20.29%	20.29%
355		TouchTone (Trunk)	RESALE	20.29%	20.29%
356					
357		Data Services			
358		Gigabit Ethernet Metropolitan Area Network (GigaMAN)	RESALE	20.29%	20.29%
359		PBX Trunks	RESALE	20.29%	20.29%
360		Multi-Service Optical Network (MON)	RESALE	20.29%	20.29%
361		OCn-PTP	RESALE	20.29%	20.29%
362		ADTS-E	RESALE	20.29%	20.29%
363		DS0	RESALE	20.29%	20.29%
364		DS1	RESALE	20.29%	20.29%
365		DS3	RESALE	20.29%	20.29%
366					
367		ISDN			
368		ISDN	RESALE	20.29%	20.29%
369					
370		DIRECTORY ASSISTANCE SERVICES	RESALE	20.29%	20.29%
371		Local Operator Assistance Service	RESALE	20.29%	20.29%
372		Reverse Directory Assistance	RESALE	\$1.25	NA
373		Business Category Search (BCS), per call	RESALE	20.29%	20.29%
374		TOLL			
375		TOLL	RESALE	20.29%	20.29%
376					
377		OPTIONAL TOLL CALLING PLANS			
378		Optional Toll Calling Plans	RESALE	20.29%	20.29%
379					

TBD - To be determined  
NRO - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

Line	OHIO - Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
380	<b>CENTREX (PLEXAR)</b>			
381	CENTREX ACS	RESALE	20.29%	20.29%
382	CENTREX ACS SBC Ohio CENTREX Network Manager	RESALE	0.00%	0.00%
383				
384	<b>PRIVATE LINE</b>			
385	Analog Private Lines	RESALE	20.29%	20.29%
386	Private Line Channel Services	RESALE	20.29%	20.29%
387				
388	<b>RESIDENCE</b>		<b>RESALE DISCOUNTS</b>	<b>NON- RECURRING</b>
389	<b>LOCAL EXCHANGE SERVICE</b>		<b>RECURRING</b>	
390	Life Line	RESALE	0.00%	0.00%
391	Residence 1 Party	RESALE	20.29%	20.29%
392	Residence Measured	RESALE	20.29%	20.29%
393				
394	<b>EXPANDED LOCAL CALLING</b>			
395	Extended Area Service	RESALE	20.29%	20.29%
396				
397	<b>VERTICAL SERVICES</b>			
398	Anonymous Call Rejection	RESALE	20.29%	20.29%
399	Repeat Dialing (Auto Redial)	RESALE	20.29%	20.29%
400	Repeat Dialing - Per Use (Auto Redial - Usage Sensitive)	RESALE	20.29%	20.29%
401	Call Blocker	RESALE	20.29%	20.29%
402	Call Forwarding	RESALE	20.29%	20.29%
403	Call Forwarding - Busy Line	RESALE	20.29%	20.29%
404	Call Forwarding - Busy Line/Don't Answer	RESALE	20.29%	20.29%
405	Call Forwarding - Don't Answer	RESALE	20.29%	20.29%
406	Automatic Call-Back (Call Return)	RESALE	20.29%	20.29%
407	Automatic Call-Back Per Use (Call Return - Usage Sensitive)	RESALE	20.29%	20.29%
408	Call Trace	RESALE	20.29%	20.29%
409	Call Waiting	RESALE	20.29%	20.29%
410	Caller ID with Name (Calling Name)	RESALE	20.29%	20.29%
411	Caller ID (Calling Number)	RESALE	20.29%	20.29%
412	Multi-Ring Service - 1 (Personalized Ring - 1 dependent number)	RESALE	20.29%	20.29%
413	Multi-Ring Service - 2 (Personalized Ring - 2 dependent numbers - 1st dependent number)	RESALE	20.29%	20.29%
414	Remote Access to Call Forwarding (GF)	RESALE	0.00%	0.00%
415	RCF, Intrastate, Interexchange	RESALE	20.29%	20.29%
416	RCF, Intrastate	RESALE	20.29%	20.29%
417	RCF, Intrastate, International	RESALE	20.29%	20.29%
418	RCF, Intrastate, Interexchange	RESALE	20.29%	20.29%
419	RCF to 800	RESALE	20.29%	20.29%
420	RCF Additional	RESALE	20.29%	20.29%
421	Selective Call Forwarding	RESALE	20.29%	20.29%
422	Speed Calling 8	RESALE	20.29%	20.29%
423	Three Way Calling	RESALE	20.29%	20.29%
424	Call Screening	RESALE	20.29%	20.29%
425	Busy Line Transfer	RESALE	20.29%	20.29%
426	Alternate Answer	RESALE	20.29%	20.29%
427	Message Waiting - Tone	RESALE	20.29%	20.29%
428	Easy Call	RESALE	20.29%	20.29%
429	SBC Ohio Privacy Manager	RESALE	20.29%	20.29%
430	Name and Number Delivery Service	RESALE	20.29%	20.29%
431				
432	<b>ISDN</b>			
433	ISDN	RESALE	20.29%	20.29%
434				
435	<b>DIRECTORY ASSISTANCE SERVICES</b>	RESALE	20.29%	20.29%
436	Local Operator Assistance Service	RESALE	20.29%	20.29%
437	Reverse Directory Assistance	RESALE	\$1.25	NA
438				
439	<b>OTHER</b>			
440				
441	Grandfathered Services	RESALE	0.00%	0.00%
442	Promotions (Greater than 90 Days)	RESALE	20.29%	20.29%
443	TouchTone	RESALE	20.29%	20.29%
444	Home Services Packages	RESALE	20.29%	20.29%
445				
446	<b>TOLL</b>			
447				
448	Custom and Dedicated 800 Service (Home 800)	RESALE	20.29%	20.29%
449	IntraLATA MTS	RESALE	20.29%	20.29%
450	900/976 Call Blocking (900/976 Call Restriction)	RESALE	20.29%	20.29%
451	976 (976 Information Delivery Service)	RESALE	20.29%	20.29%
452	Access Services (See Access Tariff)	RESALE	0%	0%
453	Additional Directory Listings	RESALE	20.29%	20.29%
454	Carrier Disconnect Service (Company Initiated Suspension Service)	RESALE	20.29%	20.29%



THE OHIO BELL  
TELEPHONE COMPANY db/a SBC OHIO  
August 18, 2004

APPENDIX PRICING/ALL TRAFFIC  
SBC OHIO LEVEL 3

Line	OHIO	- Generic Rate Sheets	USOC	Monthly - Recurring	Non-Recurring
455		Connection Services	RESALE	20.29%	20.29%
456		Premise Services/Line Backer (Maintenance of Service Charges)	RESALE	0%	0%
457		Shared Tenant Service	RESALE	0%	0%
458		Toll Restriction	RESALE	20.29%	20.29%
459		Restoral of Service Charge	RESALE	0%	0%
460					
461		Electronic Billing Information Data (daily usage)	RESALE	\$0.00	
462		per message			
463					
464		Local disconnect Report (LDR)			
465		Per WTN	RESALE	\$0.00	
466					
467		Line Connection Charge			
468		Complex (Residence)	RESALE		20.29%
469		Complex (Business)	RESALE		20.29%
470		Simple (Residence)	RESALE		20.29%
471		Simple (Business)	RESALE		20.29%
472					
473		Service Order/Service Request Charge			
474		Complex (Residence)	RESALE		20.29%
475		Complex (Business)	RESALE		20.29%
476		Simple (Residence)	RESALE		20.29%
477		Simple (Business)	RESALE		20.29%
478					
479		Non-Electronic (Manual) Service Order Charge			
480		Complex (Residence)	RESALE		\$9.02
481		Complex (Business)	RESALE		\$9.02
482		Simple (Residence)	RESALE		\$9.02
483		Simple (Business)	RESALE		\$9.02

## **EXHIBIT B**

***First Amendment  
Superseding Certain Intercarrier Compensation,  
Interconnection and Trunking Provisions***

This First Amendment Superseding Certain Intercarrier Compensation, Interconnection and Trunking Terms ("First Amendment") is applicable to this and any future Interconnection Agreement as provided herein between SBC Operations, Inc. ("SBC") on behalf of and as agent for Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, Wisconsin Bell Inc. d/b/a SBC Wisconsin, Nevada Bell Telephone Company d/b/a SBC Nevada, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC SNET, and Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, SBC Oklahoma, SBC Texas, SBC Arkansas, and SBC Kansas and any of its future Affiliates or subsidiaries which are the Incumbent Local Exchange Carrier (hereinafter each individually being a "SBC ILEC," and collectively being the "SBC ILECs") and Level 3 Communications, LLC and any of its future Affiliates or subsidiaries which are a Certified Local Exchange Carrier ("Level 3"), in the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio, or Connecticut from January 1, 2005 through and including the Termination Date, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) "Most Favored Nation" ("MFN") rights. Each of the SBC ILECs and Level 3 may be referred to individually as "Party," or collectively as the "Parties";

WHEREAS, SBC ILECs and Level 3 entered into interconnection agreements pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") that were approved by the applicable state commissions (the "ICAs"); and

WHEREAS, SBC ILECs and Level 3 agree that they would not have agreed to this First Amendment except for the fact that it was entered into on a 13-State basis and included the totality of rates, terms and conditions listed herein;

WHEREAS, for the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio and Connecticut, the Parties entered into a Second Amendment to Level 3 Contracts Superseding Certain Reciprocal Compensation, Interconnection and Trunking Terms which expired on December 31, 2004; and

WHEREAS, for the states of California, Nevada, Texas, Missouri, Oklahoma, Kansas, Arkansas, Illinois, Wisconsin, Michigan, Indiana, Ohio and Connecticut, the Parties desire to extend the Amendment for the period from January 1, 2005 up through and including the Termination Date subject to the modifications set forth herein.

NOW, THEREFORE, for and in consideration of the promises, mutual promises and covenants contained in this First Amendment, and other good and valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 Term, Scope of Agreement and Lock In:

1.1 The term of this First Amendment shall commence on January 1, 2005 and shall continue until December 31, 2006 ("Termination Date"). Thereafter, provided that Level 3 does not MFN into or otherwise adopt an underlying Interconnection Agreement with a term ending after December 31, 2006, this Amendment will remain in full force and effect unless terminated by either Party according to the terms and conditions of the underlying Interconnection Agreement to which this First Amendment applies. The Parties agree that this First Amendment will act to supersede, amend and modify the applicable provisions currently contained in the ICAs. This First Amendment shall also be incorporated into and become a part of, by exhibit, attachment or otherwise, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between the Parties for the period from January 1, 2005<sup>1</sup> up through and including the Termination Date, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights.

1.2 Any inconsistencies between the provisions of this First Amendment and other provisions of the current ICAs or future interconnection agreement(s) described above for the period from January 1, 2005 through and including the Termination Date, will be governed by the provisions of this First Amendment, unless this First Amendment is specifically and expressly superseded by a future amendment between the Parties.

1.3 If the underlying ICAs or any future interconnection agreement(s) expire sooner than the Termination Date, the Parties agree that the First Amendment shall not extend or otherwise alter the term and termination rights of the underlying ICAs or any future interconnection agreement(s), but instead, the First Amendment will be incorporated into any successor interconnection agreement(s) between the Parties through December 31, 2006. To the extent that the date of state PUC approval of the underlying interconnection agreement precedes the date of state PUC approval of the First Amendment, the Parties agree that the rates, terms and conditions of the First Amendment will, upon state PUC approval of the First Amendment, apply retroactively to January 1, 2005.

1.4 Level 3 hereby waives its section 252(i) MFN rights; provided, however, that if another agreement contains rates, terms, and conditions for intercarrier compensation, points of interconnection or trunking that have been voluntarily agreed to

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<sup>1</sup> It is SBC's position that notwithstanding anything to the contrary in the Agreement (including, as applicable, this Amendment and any other Amendments to the Agreement ("Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting CLEC") after January 1, 2005, such Adopting CLEC shall only be entitled to receive the rates, terms and conditions as set forth in this amendment prospectively beginning from the date that the MFN provisions become effective between ILEC and the Adopting CLEC, following the date the applicable public utilities commission approves or is deemed to have approved the Adopting CLEC's Section 252(i) adoption ("Section 252(i) Effective Date"). In no event shall an Adopting CLEC be entitled to the application of the rates, terms and conditions under its MFN Provisions to a date prior to its Section 252(i) Effective Date."

by SBC ILEC across the thirteen-state region as a whole, Level 3 may exercise its rights under section 252(i) to obtain the agreement in its entirety provided that the agreement is otherwise available for adoption. This waiver includes, but is not limited to, any lease, transfer, sale or other conveyance by Level 3 of all or a substantial portion of its assets, in which case Level 3 shall obtain the purchaser's agreement to be bound by the terms and conditions set forth herein, but only as to that portion of purchaser's operations resulting from the purchase of Level 3

## 2.0 Change of Law:

2.1 During the period from January 1, 2005 up through and including the Termination Date, the Parties waive any rights they may have under the Parties' current ICAs or any future interconnection agreement(s) to which this First Amendment is added, or any other amendments thereto with respect to Total Compensable Local Traffic (as defined herein), POIs or trunking requirements that are subject to this First Amendment, except as set forth in Sections 7 below. Provided, however, that if the FCC acts without issuing an order in the *Level 3, LLC Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b)* WC Docket 03-266, (filed Dec. 23, 2003) ("*Level 3 Forbearance Petition*") or the *Level 3 Forbearance Petition* otherwise takes effect by operation of Section 10 of the Act or if the FCC issues an order in CC Docket 96-98, the FCC's rulemaking in *In the Matter of Developing a Unified Inter-carrier Compensation Regime*, CC Docket 0192, established in Notice of Proposed Rulemaking Order No. 01-132 (April 27, 2001) and/or *In the Matter of IP Enabled Services*, WC Docket 04-36 (collectively or individually "FCC Order"), the affected provisions of this Amendment relating to reciprocal compensation, Total Compensable Local Traffic (as defined herein), POIs or trunking requirements shall be invalidated, modified, or stayed, consistent with such FCC Order, with such invalidation, modification, or stay becoming effective only upon the date of the written request of either Party once the FCC Order has become effective (the "Written Request"). In such event, upon receipt of the Written Request, the Parties shall expend diligent efforts to arrive at an agreement regarding the appropriate conforming modifications to the ICAs, future interconnection agreement(s) and Amendment (including any separate amendments to such agreements). If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such FCC Order shall be resolved pursuant to the dispute resolution process provided for in the ICAs or future interconnection agreement(s), provided, however, that the rates, terms and conditions ultimately ordered by a state commission, court, or other body of competent jurisdiction in the complaint proceeding or negotiated by the Parties during the dispute resolution process shall be retroactive to the effective date of the Written Request following such FCC Order. Except with respect to the specific exceptions in this Section 2.2 as to the specific provisions relating to Total Compensable Local Traffic (as defined herein), POIs or trunking requirements, during the time period from January 1, 2005 up through and including the Termination Date, each Party shall otherwise have full intervening law rights under the underlying ICAs or future interconnection agreement(s), and may invoke such intervening law/change in law rights as to any provisions in the

Agreement (including any separate amendments to the Agreement) impacted by any regulatory, legislative or judicial action.

3.0 Reservations of Rights:

3.1 Notwithstanding the remedies set forth in Section 7.0 and any other remedies or procedures reflected herein, SBC or Level 3 may also elect, at their sole discretion, to immediately pursue their legal remedies against each other and/or any other carrier in a court of law or other venue in lieu of or in addition to the remedies or procedures set forth herein.

3.2 When traffic is misclassified as set forth herein, both Parties shall fully cooperate, to the fullest extent allowed by law, in the assertion and/or prosecution of any claims, defense or other actions against other carriers.

3.3 Except as specifically modified by this First Amendment with respect to their mutual obligations herein and subject to Section 2.0, and including, but not limited to: (1) whether ISP calls constitute local traffic and is or is not subject to reciprocal compensation obligations; (2) what should be the appropriate treatment (compensation and routing/trunking) of IP-PSTN traffic and what facilities should be used to transport such traffic; and (3) what should be the appropriate treatment (compensation and routing) of Virtual Foreign Exchange traffic, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body. The Parties further agree that nothing in this First Amendment shall be construed as an admission on the matters set forth above and that neither Party will claim, in any forum, that the matters set forth herein indicated the other Party's agreement or acquiescence that the arrangements set forth herein are the proper arrangements under Section 251 of the Act.

4.0 Network Architecture Requirements:

4.1 In California and Illinois, Level 3 will establish a physical point of interconnection ("POI") in each mandatory local calling area. The Parties agree that this requirement is satisfied if Level 3 (at its sole option) establishes a POI either:

(i) at each SBC access or local tandem and each end office where Level 3 maintains a physical collocation arrangement (but only for those trunk groups associated with that end office); or

(ii) within 15.75 miles of the Vertical and Horizontal coordinate of each local calling area where an SBC end office does not subtend an SBC tandem.

4.2 In Connecticut, Indiana, Michigan, Nevada, Ohio, and Wisconsin, Level 3 will establish a POI in each mandatory local calling area. The Parties agree that this requirement is satisfied if Level 3 establishes a POI at each SBC access or local tandem

and at an End Office not served by a SBC Tandem when traffic to that end office exceeds 6 DSIs at peak over three (3) consecutive months.

4.3 In Texas, Oklahoma, Missouri, Kansas and Arkansas, Level 3 will establish a POI in 80% of the total number of mandatory local calling areas within each state ("MLCA POIs"). Once Level 3 has established such MLCA POIs in 80% of the total number of mandatory local calling areas within a state:

- (i) Level 3 shall maintain its existing MLCA POIs within that state; and
- (ii) and for mandatory local calling areas where Level 3 has not established a POI Level 3 will establish or maintain at least one POI per LATA and will establish additional POIs:
  - (a) at a tandem separate from the existing POI arrangement, when traffic to that tandem and its subtending end offices exceeds twenty-four DSIs at peak over three (3) consecutive months; or
  - (b) at an End Office not served by a SBC Tandem when traffic to that end office exceeds 6 DSIs at peak busy hour over three (3) consecutive months.

4.4 The additional POI(s) will be established within 90 days of notification that the threshold has been met.

4.5 Level 3 shall be financially responsible for one hundred percent (100%) of the facilities, trunks, and equipment on its side of the POI. The financial responsibility for the facilities, trunks and equipment on SBC's side of POI shall be shared by the Parties based on the percentage of traffic carried over the facility that is interLATA and intraLATA access traffic out of the total interLATA, Section 251(b)(5), ISP-bound and intraLATA traffic carried over the facility. Level 3 shall be financially responsible for the percentage of the facility cost equivalent to the percentage of the interLATA and intraLATA access traffic that is transported over that facility. The portion of the facility cost that is equivalent to the percentage of IP-PSTN traffic transported over the facility will be placed by Level 3 into the escrow account addressed in Section 7 herein and shall be subject to all terms and conditions of Section 7. The parties will use the transport rate set forth in the state and interstate SBC switched access tariffs corresponding to the location of the facility as a proxy for determining the rates Level 3 will pay for its percentage. For example, but not by way of limitation, if 20% of the traffic transported over a particular facility is intraLATA and interLATA access traffic Level 3 will pay to SBC an amount equal to 20% of the tariffed switched access rate transport rate for interLATA traffic for the facility used to carry such traffic.

4.6 Level 3 may, at its sole option, establish a POI by obtaining dedicated Special Access services or facilities from SBC ILECs (without the need for Level 3 equipment, facilities, or collocation at the SBC ILECs' offices), or services or facilities from a First party, by establishing collocation, , or by provisioning such services or

facilities for itself. If Level 3 utilizes dedicated Special Access facilities, it shall be required to begin paying SBC ILEC for such facilities once the facilities are jointly tested and accepted at a trunk level.

4.7 The Parties will use the interconnection architecture described in this Section 4 ("Interconnection Arrangements") to exchange Section 251(b)(5), ISP-bound, IP-PSTN, PSTN-IP, intraLATA and interLATA traffic exchanged between (i) SBC end users and Level 3 end users or Level 3 customers' end users or (ii) Level 3 and end users served by First party telecommunications carriers using an SBC non-resale offering whereby SBC provides the end office switching on a wholesale basis. If Level 3 desires to act as a presubscribed interexchange carrier ("PIC") and desires to route such PIC traffic over the interconnection architecture, Level 3 will make a written request, and subject to the Parties' mutual agreement, the Parties will negotiate in good faith to evaluate the feasibility of transporting such traffic. If Level 3 utilizes the interconnection architecture described in Section 4 for purposes other than those set forth in this Section 4.7, Level 3 will compensate SBC for the carriage of such traffic and contact the terminating carrier to make appropriate compensation arrangements.

#### 4.7.1 Indemnification:

4.7.1.1 Notwithstanding the indemnification provisions in the underlying interconnection agreement to which this Amendment applies, where Level 3 utilizes the interconnection architecture for purposes other than those specified in Section 4.7 herein and SBC provides information that identifies Level 3 as having routed such traffic to a First party carrier in violation of section 4.7 and such carrier brings legal action against SBC for such traffic, Level 3 will also indemnify and defend and hold harmless SBC against such carrier(s) seeking compensation for such traffic to the extent such indemnification and hold harmless is related to the aforementioned traffic.

4.8 Level 3 agrees to abide by SBC ILECs' trunk engineering/administration guidelines as stated in the ICAs.

4.9 The Parties recognize that embedded one-way interconnection trunks may exist. Within forty five (45) days of the execution of this amendment, the Parties will agree to a transition plan to migrate the embedded one-way trunks to two-way trunks via a method described in Appendix NIM, which shall include a cutover and project management plan. The Parties will coordinate any such migration, trunk group prioritization, and implementation schedule.

4.10 Subject to Section 4.12 in order to qualify for receipt of reciprocal compensation for Total Compensable Local Traffic in a given tandem serving area as provided in this amendment, Level 3 will achieve and maintain a network architecture within that tandem serving area such that Direct End Office Trunking ("DEOT") does not fall below 70% of total trunking within such tandem serving area for two consecutive months. Subject to Section 4.11, if Level 3 has not established a POI required by this



Section 4.0, Level 3 shall not be entitled to intercarrier compensation for calls from that local calling area.

4.11 For new interconnections, Level 3 will achieve the DEOT criteria identified in Section 4.9 no later than six (6) months (or such other period as may be agreed to by the Parties) after the parties first exchange traffic for each new interconnection arrangement.

4.12 Under no circumstances shall Level 3 have any liability or otherwise be penalized under this First Amendment for non-compliance with the applicable POI and DEOT criteria specified herein during the transition period identified in Section 4.10. Furthermore, Level 3 will have no liability and will face no penalty for non-compliance with the POI and DEOT criteria specified herein at any time thereafter if such non-compliance results from SBC ILEC's inability to provide staffing, collocation space, trunking, or facilities necessary to satisfy the transition or from SBC ILEC's failure to perform required network administration activities (including provisioning, activation, and translations), regardless of whether SBC ILEC's inability or failure to perform is related to a Force Majeure event as that term is described in the underlying ICAs.

4.12.1 Establishing a New POI where Level 3 provides service as of the date of execution of this First Amendment: Level 3 will notify SBC ILEC of Level 3's intention to establish a new POI in an existing local calling area (or other applicable serving area in California, Nevada, Connecticut, and Ameritech territory) no later than 90 days prior to the end of the transition period by letter to the SBC ILEC Account Manager and project manager for Level 3. Level 3 and SBC ILEC will meet within 10 business days of such notice to plan the transition to any new POI. This notice and subsequent meeting are intended to give both parties adequate time to plan, issue orders, and implement the orders in the transition period under Section 4.10. Nothing in this paragraph specifically or this First Amendment generally shall prevent Level 3 from ordering, or excuse SBC ILECs from provisioning, trunks with respect to an existing POI for new growth or augments during the time that a new POI is being established.

4.12.2 Establishing a POI where Level 3 does not provide service as of the date of execution of this Amendment: Level 3 will notify its SBC ILEC Account Manager no later than 90 days prior to the LERG effective date for the new NPA-NXXs it wishes to activate. Joint planning meetings for the new POI will be held within 10 business days of SBC ILEC's receipt of such notification. The outcome of the joint planning meeting will be orders for facilities and trunks for the new POI to complete the establishment of the POI as promptly as possible, and in any event, by the LERG effective date for the new NPA-NXX. The POI must be established in the applicable Local Calling Area (or other applicable serving area in California, Nevada, Connecticut, and Ameritech territory) prior to the exchange of live traffic.

4.13 At any time as a result of either Party's own capacity management assessment, the Parties may begin the provisioning process. The intervals used for the

provisioning process will be the same as those used for SBC ILECs' Switched Access service.

4.14 The movement of existing trunks to new POIs, either on a rollover basis or a disconnect and add basis, will not be counted against any limitations otherwise placed on Level 3's ability to order and receive trunks in any given market.

4.15 In a blocking situation, Level 3 may escalate to its SBC ILEC Account Manager in order to request a shorter interval. The SBC ILEC Account Manager will obtain the details of the request and will work directly with the SBC ILEC LSC and network organizations in order to determine if Level 3's requested interval, or a reduced interval, can be met.

#### 5.0 Compensable Traffic:

5.1 If Level 3 designates different rating and routing points such that traffic that originates in one rate center terminates to a routing point designated by Level 3 in a rate center that is not local to the calling party even though the called NXX is local to the calling party, such traffic ("Virtual Foreign Exchange" traffic) shall be rated in reference to the rate centers associated with the NXX prefixes of the calling and called parties' numbers, and treated as Local traffic for purposes of compensation.

5.2 Section 251(b)(5) traffic, Virtual Foreign Exchange, Mandatory Local, Optional EAS traffic will be combined with traffic terminated to Internet Service Providers (ISPs) to determine the Total Compensable Local Traffic.

5.3 For intrastate and interstate toll traffic, compensation for termination of intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge where applicable, as set forth in each Party's applicable Tariffs, but such compensation shall not exceed the compensation contained in an ILEC's tariff in whose exchange area the End User is located.

5.4 Except as provided in Section 7.0 herein, all traffic terminated to SBC end users by Level 3 (including, but not limited to IP-PSTN traffic as defined herein), will be treated as if it were originated by Level 3 and compensated accordingly.

#### 6.0 Rate Structure and Rate Levels:

Total Compensable Local Traffic as defined herein will be exchanged in all states at the rates set forth below. These rates shall be payable to the party on whose network the call is terminating, and shall apply symmetrically for traffic originated by one party and terminated on the other party's network.

January 1, 2005 to June 30, 2005:	\$.00050 per minute of use;
July 1, 2005 to December 31, 2005:	\$.00045 per minute of use;
January 1, 2006 to Termination Date:	\$.00040 per minute of use.

In the event that this First Amendment continues beyond the Termination Date as set forth in Section 1.1, the Parties agree that the rate for Total Compensable Local Traffic shall be \$.00035 per minute of use.

**7.0 IP-PSTN Traffic**

7.1 For purposes of this agreement, Internet Protocol – Public Switched Telephone Network Traffic (“IP-PSTN Traffic”) is defined as traffic that originates in IP format over a broadband connection, is transmitted to the IP service provider in IP format, is converted from IP format to circuit switched format and is terminated to a party served by a circuit switch; and/or,

7.2 For purposes of this agreement, Public Switched Telephone Network - Internet Protocol Traffic (“PSTN-IP Traffic”) is defined as traffic that originates from a party served by a circuit switch, is converted from circuit-switched format to IP format, is transmitted by the IP service provider in IP format, and is terminated in IP format except that traffic PIC’d to an IXC is not included in this definition.

7.3 The Party delivering IP-PSTN Traffic for termination to the other Party’s end user customer (the “Delivering Party”) shall pay to the other party the rate for Total Compensable Local Traffic as defined in Section 6 above. On a monthly basis, no later than the 15th day of the succeeding month to which the calculation applies, the Delivering Party shall report its calculation of the difference between the amounts Level 3 paid to SBC for terminating such traffic (at rates applicable to Total Compensable Local Traffic (as defined herein)) and the amounts Level 3 would have paid had that traffic been rated according to SBC’s intrastate or interstate switched access tariffs based upon originating and terminating NPA-NXX (“Delta”). By the first day of the following month, the Parties will agree on the amount of the Delta. At such time as the Delta exceeds \$500,000 the Parties will negotiate resolution of the Delta for a period not to exceed eleven (11) business days. If the Parties are unable to reach resolution, Level 3 shall pay the Delta into an interest bearing escrow account with a First Party escrow agent mutually agreed upon by the Parties.

7.4 To be acceptable, the escrow agent and escrow account must meet all of the criteria established in the General Terms and Conditions of the Parties’ underlying Interconnection Agreement except disbursements from the escrow account will be limited to those authorized in writing by both Parties.

7.5 If SBC determines in good faith in any month that 2% or more of the traffic originated by Level 3 and/or its customers is classified by Level 3 (1) as IP-PSTN Traffic when it is not IP-PSTN Traffic (e.g. it is PSTN-IP-PSTN traffic), or (2) as traffic subject to the Total Compensable Local Traffic rate, when in reality the traffic is subject to the terminating party’s state or federal switched access tariff the Parties agree:

(i) SBC will provide sufficient call detail records or other information (including the reasons that SBC believes the traffic is misidentified) to permit Level 3 to investigate and identify the traffic SBC has determined is misidentified;

(ii) Level 3 shall correct the classification for such traffic

a. Pay the Delta for traffic previously terminated and billed as Total Compensable Local Traffic; and

b. Pay the appropriate tariffed switched access rates for traffic terminated but not yet billed.

(iii) Level 3 shall pay SBC the applicable tariffed switched access rates for all misclassified traffic;

(iv) the Parties agree that if more than 2% of the total traffic exchanged is misclassified, there is a presumption that the misclassification is intentional, rebuttable by Level 3. Level 3 will pay SBC twice the rate of the switched access applicable to such misclassified traffic terminated by SBC.

7.6 If SBC determines that any traffic terminated to SBC by Level 3 that is not originated by Level 3 or its customer is classified (1) as IP-PSTN Traffic when that traffic is not IP-PSTN Traffic (e.g. it is PSTN-IP-PSTN traffic), or (2) as traffic subject to the Total Compensable Local Traffic rate, when in reality the traffic is subject to terminating party's intrastate or interstate switched access tariff the Parties agree:

(i) SBC will provide sufficient call detail records or other information (including the reasons that SBC believes the traffic is misidentified) to permit Level 3 to investigate and identify the traffic SBC has determined is misidentified;

(ii) Level 3 will provide a written response to SBC within ten (10) business days;

(iii) Level 3 will take such actions as appropriate and lawful to correct the misclassification of all such misclassified traffic;

(iv) Level 3 will pay SBC the applicable switched access rates for all such misclassified traffic; or provide information and affirmative assistance requested by SBC in its effort to recover the appropriate compensation for the misclassified traffic;

(v) to cooperate in the investigation and recovery of the appropriate compensation for the misclassified traffic from the appropriate party.

7.7 Each month, Level 3 agrees to provide, in electronic format, a call detail record for each call that Level 3 delivers to SBC and for each call that SBC delivers to a

Level 3 customer utilizing IP service. Such call detail records shall contain, at a minimum, the following information: Message Date (MM/DD/YY); Originating Number; Terminating Number; Terminating LRN; Connect Time; and Elapsed Time. Additionally Level 3 agrees to provide information sufficient to classify the traffic (Total Compensable Traffic, IP-PSTN, Intrastate Switched Access, Interstate Switched Access, and such other information as necessary to calculate the Delta as set forth in Section 7 of this First Amendment).

7.8 This Section 7.0 shall remain in effect until the effective date of an FCC Order or addressing compensation for IP-PSTN/ PSTN -IP traffic, at which time the Parties agree to allocate the Delta identified in Section 7.3 in a manner consistent with such Forbearance Petition or FCC order and the affected provisions shall be immediately invalidated, modified, or stayed, consistent with the action of the legislative body, court or regulatory agency upon the written request of either Party. In such event, the Parties shall amend this First Amendment within forty-five (45) days to incorporate appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

7.9 Nothing herein shall be deemed to represent a waiver by either Party of any rights with respect to any of the matters addressed in the aforementioned FCC proceedings, including but not limited rights of reconsideration, appeal, and assertions of rights with regard to inter-carrier compensation.

#### 8.0 PSTN-IP-PSTN Traffic

8.1 PSTN-IP-PSTN Traffic is defined as traffic that originates from a party served by a circuit switch, is converted from circuit-switched format to IP format, is transmitted by the IP service provider in IP format, is converted from IP format to circuit switched format and is terminated to a party served by a circuit switch.

8.2 PSTN-IP-PSTN Traffic is subject to the either Total Compensable Local Traffic rate or the appropriate intrastate or interstate switched access rate in accordance with Section 5.

#### 9.0 Additional Terms and Conditions:

9.1 Severability. If any provision of this First Amendment, or part thereof, shall be held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not invalidate the entire First Amendment, unless such construction would be unreasonable. The First Amendment shall be construed as if it did not contain the invalid or unenforceable provision or provisions, and the rights and obligations of each Party shall be construed and enforced accordingly. Provided, however, that in the event such invalid or unenforceable provision or provisions are essential elements of this

First Amendment and substantially impair the rights or obligations of either Party, the Parties shall promptly negotiate a replacement provision or alternative provisions or arrangements..

9.2 Confidentiality - In addition to the confidentiality obligations contained within the Agreement to which this First Amendment applies, the parties recognize that the degree to which information to be shared pursuant to the Amendment is subject to all applicable state and federal laws and regulations, along with whatever contractual obligations, if any, either Party may have relative to customer information. In the event a restriction on the release of such information exists as referenced in the preceding sentence, the Parties agree to cooperate to remove any such barriers.

9.3 Except as specifically modified by this First Amendment with respect to their mutual obligations herein and subject to Section 2.0, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body.

9.4 This First Amendment is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

9.5 The terms contained in this First Amendment constitute the agreement with regard to the superseding, modification, and amendment of the ICAs and incorporation into future interconnection agreement(s) through December 31, 2006, and shall be interpreted solely in accordance with their own terms.

9.6 The headings of certain sections of this First Amendment are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this First Amendment.

9.7 This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

9.8 SBC Telecommunications, Inc. hereby represents and warrants that it is authorized to act as agent for, and to bind in all respects as set forth herein, the individual SBC ILECs. Level 3 hereby represents and warrants that it is authorized to act as agent for, and to bind in all respects as set forth herein, all Affiliates.

9.9 Upon expiration or termination of this Agreement, the obligations of the underlying ICA apply to the Parties, unless otherwise agreed. However, any liabilities or obligations of a Party for acts or omissions prior to the expiration or termination of this

First Amendment and any other provisions of this First Amendment which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, including, but not limited to Section 7.8, will survive cancellation or termination thereof.

10.0 Definition of Affiliate

As used above, the term "Affiliate" shall mean as defined in the Act.

**Level 3 Communications, LLC**

**SBC ILEC's by SBC Operations, Inc., its  
authorized agent**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Kevin Dundon

Name: \_\_\_\_\_

Title: Sr Vice President, Wholesale  
Industry Markets

Title: President - Industry Markets

Date: February 10, 2005

Date: \_\_\_\_\_

AECN/OCN: \_\_\_\_\_

**AMENDMENT  
TO INTERCONNECTION AGREEMENT  
BY AND BETWEEN  
THE OHIO BELL TELEPHONE COMPANY  
AND  
LEVEL 3 COMMUNICATIONS, LLC**

The Interconnection Agreement ("Agreement") by and between The Ohio Bell Telephone Company d/b/a SBC Ohio ("SBC Ohio")<sup>1</sup> and Level 3 Communications, LLC ("CLEC") (collectively, the "Parties") is hereby amended ("Permanent Order Amendment") as follows:

**WHEREAS**, the Public Utilities Commission of Ohio ("PUCO" or "Commission") issued an order ("First Interim Order") in Case No. 02-1280-TP-UNC dated March 11, 2004 to increase monthly recurring rates for 2-Wire analog UNE loops on an interim basis prior to a subsequent final order;

**WHEREAS**, the PUCO affirmed the First Interim Order in an Entry on Rehearing adopted on April 21, 2004, establishing the effective date for the interim rates set by the First Interim Order as April 21, 2004;

**WHEREAS**, consistent with the First Interim Order and Entry on Rehearing, SBC Ohio sent CLEC an amendment ("First Interim Order Amendment") to incorporate new rates into the Agreement for 2-wire analog UNE loops, unbundled 2-wire xDSL loops, 2-wire coin loops, and 2-wire ADSL loops;

**WHEREAS**, on December 21, 2004, the PUCO issued an order ("Second Interim Order") clarifying that the interim loop rates previously ordered by the Commission in the First Interim Order and Entry on Rehearing apply to unbundled 2-wire analog loops only (the "Interim Rates") and that such Interim Rates are applicable from April 21, 2004 through November 2, 2004 (the "Interim Rate Period");

**WHEREAS**, SBC Ohio and CLEC now wish an amendment ("Second Interim Order Amendment") to incorporate the Interim Rates into the Agreement for the Interim Rate Period and to remove the rates included in the First Interim Rate Order Amendment for 2-wire xDSL loops, 2-wire coin loops and 2-wire ADSL loops (the "Other Loop Rates");

**WHEREAS**, on February 9, 2005, the PUCO issued an order ("Permanent Order") approving SBC Ohio's compliance run studies, ordering SBC Ohio to file the appropriate price list outlining pricing for all of the unbundled loops and subloops addressed in Phase 1 of Case No. 02-1280-TP-UNC (the "Permanent Rates"), ordering SBC Ohio and CLECs to amend their interconnection agreements to incorporate the Permanent Rates, and ordering SBC Ohio and CLECs to file such amendments with the Commission by March 15, 2005; and

**WHEREAS**, the Parties are entering into this Permanent Order Amendment to incorporate the Interim Rates and Permanent Rates into the Agreement to replace the corresponding rates in the Agreement for the relevant time periods ordered.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. The Agreement is hereby amended to incorporate the Permanent Rates reflected in Attachment A (which is incorporated herein). The Parties acknowledge and agree that the Permanent Rates become effective between the Parties as of November 3, 2004, in accordance with the Permanent Order.
2. Notwithstanding anything to the contrary, including anything in the Agreement or this Amendment, in no event shall this Amendment result in the retroactive application of any rate or rate structure back to any date earlier than the most recent of the following: (i) the actual date that the Agreement became effective between CLEC and SBC Ohio following the Public Utilities Commission of Ohio's ("PUCO") approval or, if absent such PUCO approval, the date such Agreement is deemed approved by operation of law, or (ii) April 21, 2004.

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<sup>1</sup> The Ohio Bell Telephone Company (previously referred to as "Ohio Bell") is a wholly owned subsidiary of SBC Midwest and now uses the registered trade name "SBC Ohio." SBC Midwest is a wholly owned subsidiary of SBC Communications Inc.



3. The Parties acknowledge that the Interim Rates, as listed in Attachment B, remain effective for the period of April 21, 2004 through November 2, 2004, pursuant to the First Interim Order and Entry on Rehearing. Accordingly, the Agreement is hereby amended to incorporate the Interim Rates reflected in Attachment B (which is incorporated herein) for the Interim Rate Period only. If the Parties have entered into the First Interim Order Amendment and/or the Second Interim Order Amendment, this Permanent Order Amendment shall supercede such amendments upon becoming effective pursuant to Section 6 hereof.
4. SBC Ohio shall perform all billing and/or true-ups necessary to apply the Permanent Rates listed in Attachment A hereto beginning on the Rate Effective Date. All other rates in the Agreement remain unchanged.
5. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions: *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 (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-312 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); 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); provided, however, to the extent Level 3 has entered into a 13-state reciprocal compensation amendment, nothing in this paragraph is intended or should be construed as modifying or superseding the rates, terms and conditions in the Parties' First Amendment Superseding Certain Inter-carrier Compensation, Interconnection and Trunking Provisions ("Superseding Amendment"), in which the Parties waived certain rights they may have under the Intervening/Change in Law provisions(s) in the Agreement with respect to any reciprocal compensation or Total Compensable Local Traffic (as defined in the Superseding Amendment), POIs or trunking requirements that are the subject of the Superseding Amendment for the period from January 1, 2005 through December 31, 2006.
6. This Permanent Order Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to the First Interim Order, Second Interim Order, and/or the Permanent Order, or any issue or subject addressed or implicated therein, or from raising and pursuing its rights and abilities with respect to such orders or any issue or subject addressed or implicated therein, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing.
7. The Parties acknowledge and agree that this Permanent Order Amendment shall be filed with, and is subject to approval by, the PUCO. Based on PUCO practice, this Amendment shall be effective upon filing and will be deemed approved by operation of law on the 31<sup>st</sup> day after filing ("Amendment Effective Date"). However, irrespective of the approval date, the Interim Rates and Permanent Rates shall be applied in accordance with the terms hereof (including footnote 2, when applicable). SBC Ohio may submit revised billing to CLEC, if necessary, to effectuate same.
8. This Permanent Order Amendment is the result of the PUCO's orders referenced herein and solely addresses rates and rate structures. Accordingly, no aspect of this Permanent Order Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Permanent Order Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.
9. This Amendment shall not modify or extend the Effective Date or Term of the Agreement, but rather will be coterminous with the Agreement.
10. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED.

**IN WITNESS WHEREOF**, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_ day of \_\_\_\_\_, 2005, by SBC Ohio, signing by and through its duly authorized representative, and CLEC, signing by and through its duly authorized representative.

**Level 3 Communications, LLC**

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

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: AVP-Local Interconnection Marketing

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FACILITIES-BASED OCN #** \_\_\_\_\_

**ACNA** \_\_\_\_\_

The Parties acknowledge that the Pricing Schedule may contain rates for unbundled network elements that are not available pursuant to the terms and conditions of the ICA. The Parties agree that, to the extent that SBC is not required to provide certain unbundled network elements according to federal law that rates for such elements will not be included in the pricing appendix when it is amended by the Parties as set forth above. Thus, the inclusion of such rates in this pricing schedule does not entitle Level 3 to order the network element(s), product(s) or service(s) that are no longer available pursuant to the terms and conditions of the ICA.

Line	OHIO - Generic Rate Sheets	USOC	Recurring	Non-Recurring
2	<b>NETWORK ELEMENTS</b>			
3	<b>Loops</b>			
4	2-Wire Analog - Metro (Access Area B)	U2HXB	\$9.46	See NRC prices below
5	2-Wire Analog - Suburban (Access Area C)	U2HXC	\$12.52	See NRC prices below
6	2-Wire Analog - Rural (Access Area D)	U2HXD	\$13.65	See NRC prices below
7	2-Wire Ground Start, Analog - Metro (Access Area B)	U2JXB	\$8.61	See NRC prices below
8	2-Wire Ground Start, Analog - Suburban (Access Area C)	U2JXC	\$13.50	See NRC prices below
9	2-Wire Ground Start, Analog - Rural (Access Area D)	U2JXD	\$14.72	See NRC prices below
10	2-Wire Ground Start, DID Business - Metro (Access Area B)	U2WXB	\$8.61	See NRC prices below
11	2-Wire Ground Start, DID Business - Suburban (Access Area C)	U2WXC	\$15.50	See NRC prices below
12	2-Wire Ground Start, DID Business - Rural (Access Area D)	U2WXD	\$14.72	See NRC prices below
13	2-Wire COPTS Coin - Metro (Access Area B)	U2CXB	\$8.67	See NRC prices below
14	2-Wire COPTS Coin - Suburban (Access Area C)	U2CXC	\$13.76	See NRC prices below
15	2-Wire COPTS Coin - Rural (Access Area D)	U2CXD	\$14.99	See NRC prices below
16	2-Wire EKL - Metro (Access Area B)	U2KXB	\$9.46	See NRC prices below
17	2-Wire EKL - Suburban (Access Area C)	U2KXC	\$17.15	See NRC prices below
18	2-Wire EKL - Rural (Access Area D)	U2KXD	\$18.50	See NRC prices below
19	Conditioning for dB Loss			See NRC prices below
20	4-Wire Analog - Metro (Access Area B)	U4HXB	\$17.75	See NRC prices below
21	4-Wire Analog - Suburban (Access Area C)	U4HXC	\$29.31	See NRC prices below
22	4-Wire Analog - Rural (Access Area D)	U4HXD	\$31.81	See NRC prices below
23	2-Wire Digital - Metro (Access Area B)	U2QXB	\$10.48	See NRC prices below
24	2-Wire Digital - Suburban (Access Area C)	U2QXC	\$17.10	See NRC prices below
25	2-Wire Digital - Rural (Access Area D)	U2QXD	\$18.96	See NRC prices below
	DS1 - Metro (Access Area B)	4U1XB	\$31.77	
	DS1 - Suburban (Access Area C)	4U1XC	\$48.79	
	DS1 - Rural (Access Area D)	4U1XD	\$50.38	
	DS3 - Metro (Access Area A)	U4D3A	\$335.08	
	DS3 - Suburban (Access Area B)	U4D3B	\$409.73	
	DS3 - Rural (Access Area C)	U4D3C	\$523.90	
26	<b>DSL Capable Loops</b>			
27	<b>2-Wire xDSL Loop</b>			
28	PSD #1 - 2-Wire xDSL Loop Access Area B - Metro	2SLA1	\$9.46	See NRC prices below
29	PSD #1 - 2-Wire xDSL Loop Access Area C - Suburban	2SLA2	\$12.52	See NRC prices below
30	PSD #1 - 2-Wire xDSL Loop Access Area D - Rural	2SLA3	\$13.65	See NRC prices below
31				
32	PSD #2 - 2-Wire xDSL Loop Access Area B - Metro	2SLC1	\$9.46	See NRC prices below
33	PSD #2 - 2-Wire xDSL Loop Access Area C - Suburban	2SLC2	\$12.52	See NRC prices below
34	PSD #2 - 2-Wire xDSL Loop Access Area D - Rural	2SLC3	\$13.65	See NRC prices below
35				
36	PSD #3 - 2-Wire xDSL Loop Access Area B - Metro	2SLB1	\$9.46	See NRC prices below
37	PSD #3 - 2-Wire xDSL Loop Access Area C - Suburban	2SLB2	\$12.52	See NRC prices below
38	PSD #3 - 2-Wire xDSL Loop Access Area D - Rural	2SLB3	\$13.65	See NRC prices below
39				
40	PSD #4 - 2-Wire xDSL Loop Access Area B - Metro	2SLD1	\$9.46	See NRC prices below
41	PSD #4 - 2-Wire xDSL Loop Access Area C - Suburban	2SLD2	\$12.52	See NRC prices below
42	PSD #4 - 2-Wire xDSL Loop Access Area D - Rural	2SLD3	\$13.65	See NRC prices below
43				
44	PSD #5 - 2-Wire xDSL Loop Access Area B - Metro	UWRA1	\$9.46	See NRC prices below
45	PSD #5 - 2-Wire xDSL Loop Access Area C - Suburban	UWRA2	\$12.52	See NRC prices below
46	PSD #5 - 2-Wire xDSL Loop Access Area D - Rural	UWRA3	\$13.65	See NRC prices below
47				
48	PSD #7 - 2-Wire xDSL Loop Access Area B - Metro	2SLF1	\$9.46	See NRC prices below
49	PSD #7 - 2-Wire xDSL Loop Access Area C - Suburban	2SLF2	\$12.52	See NRC prices below
50	PSD #7 - 2-Wire xDSL Loop Access Area D - Rural	2SLF3	\$13.65	See NRC prices below
51	<b>4-Wire xDSL Loop</b>			
52	PSD #3 - 4-Wire xDSL Loop Access Area B - Metro	4SL11	\$17.75	See NRC prices below
53	PSD #3 - 4-Wire xDSL Loop Access Area C - Suburban	4SL12	\$29.31	See NRC prices below
54	PSD #3 - 4-Wire xDSL Loop Access Area D - Rural	4SL13	\$31.81	See NRC prices below
55	<b>IDSL Capable Loop</b>			
56	IDSL Loop Access Area B - Metro	UY5FB	\$ 6.38	See NRC prices below
57	IDSL Loop Access Area C - Suburban	UY5FC	\$ 9.34	See NRC prices below
58	IDSL Loop Access Area D - Rural	UY5FD	\$ 10.79	See NRC prices below
59				
60	<b>Loop Non-Recurring Charges</b>			
61	Service Ordering - Per Order	SEPUP	N/A	\$ 16.02
62	Service Ordering - Add/Change Per Order	REAH9	N/A	\$ 16.02

Line	OHIO - Generic Rate Sheets	USOC	Recurring	Non-Recurring	
63	Line Connection - Per Loop	SEPUC	N/A	\$ 30.61	N/A
64	Line Connection - Add/Change Per Loop	REA15	NA	\$ 30.61	N/A
65					
66	Service Coordination fee per account, per CO.		\$ 0.48		
67					
68	LST				
69	## Line & Station Transfer(LST) performed on CODSLAM Loop	URCLD	N/A	\$ 172.76	
70	Line & Station Transfer(LST) performed on Sub Loop	URCLB	N/A	\$ 153.03	
71					
72	Loop Qualification Process				
73	** Loop Qualification Process - Mechanized	NR98U	N/A	\$ 0.10	N/A
74	** Loop Qualification Process - Manual	NR8XU	N/A	\$ 22.50	N/A
75					
76	** Interim loop qualification rates ordered by the PUCO in Docket Nos. 96-922-TP-UNC and 00-1368-TP-ATA, on March 13, 2003 and shall be subject to				
77	retroactive true-up upon the establishment of final rate(s) by the PUCO back to the later of: (1) March 13, 2003; (2) the effective date of this Agreement; or				
78	(3) the effective date of the Amendment incorporating this Pricing Schedule into the Agreement.				
79					
80	DSL Conditioning Options				
81	*** DSL Conditioning Options - >12KFT and < 17.5KFT				
82	*** Removal of Repeater Options	NRBXV	N/A	\$ 121.89	N/A
83	*** Removal Bridged Tap Option	NRBXW	N/A	\$ 417.78	N/A
84	*** Removal of Load Coil	NRBXZ	N/A	\$ 437.91	N/A
85	*** DSL Conditioning Options - >17.5KFT in addition to the rates for > 12KFT and < 17.5KFT				
86	*** Removal of Repeater Options	NRBNL	N/A	\$ 152.54	N/A
87	*** Removal Bridged Tap Option	NRBNK	N/A	\$ 362.11	N/A
88	*** Removal of Load Coil	NRBNJ	N/A	\$ 586.49	N/A
89					
90					
91	*** On March 13, 2003, the PUCO established the following interim, non-recurring loop conditioning rates which shall apply to each CLEC in OH who ordered/orders				
92	an xDSL capable loop, the HFPL and for the HFPL, subject to retroactive true-up upon the PUCO's establishment of final rates: For loops 17,500 feet in actual				
93	loop length or less: \$10.28; and for loops greater than 17,500 feet in actual loop length: \$65.18 ("Interim PUCO Rates"). However, due to necessary programming				
94	changes, these Interim PUCO Rates will not be implemented in OH until in or around December 2003. When implemented, the Parties acknowledge and agree that				
95	the Interim PUCO Rates shall automatically apply to this Agreement and shall replace the loop conditioning rates set forth hereinabove effective back to				
96	March 13, 2003 ("Rate Effective Date"); and shall apply on a prospective basis until the				
97	establishment of final rate(s) by the PUCO. Upon the PUCO's establishment of final loop rate(s), the Interim PUCO Rates shall be subject to retroactive true-up				
98	with the PUCO final loop conditioning rate(s) back to the Rate Effective Date.				
99					
100					
101	SUB-LOOPS				
102	## ECS to SAI sub-loop				
103	## 2 Wire Analog - area B	PENDING	\$1.77		See NRC prices below
104	## 2 Wire Analog - Area C	PENDING	\$1.72		See NRC prices below
105	## 2 Wire Analog - area D	PENDING	\$1.88		See NRC prices below
106	## 4 Wire Analog - area B	PENDING	\$3.58		See NRC prices below
107	## 4 Wire Analog - area C	PENDING	\$3.45		See NRC prices below
108	## 4 Wire Analog - area D	PENDING	\$3.37		See NRC prices below
109	## 2 Wire DSL - area B	PENDING	\$1.77		See NRC prices below
110	## 2 Wire DSL - area C	PENDING	\$1.70		See NRC prices below
111	## 2 Wire DSL - area D	PENDING	\$1.60		See NRC prices below
112	## 4 Wire DSL - area B	PENDING	\$3.54		See NRC prices below
113	## 4 Wire DSL - area C	PENDING	\$3.40		See NRC prices below
114	## 4 Wire DSL - area D	PENDING	\$3.30		See NRC prices below
115	## ECS to Terminal sub-loop				
116	## 2 Wire Analog - area B	PENDING	\$3.39		See NRC prices below
117	## 2 Wire Analog - Area C	PENDING	\$4.54		See NRC prices below
118	## 2 Wire Analog - area D	PENDING	\$5.83		See NRC prices below
119	## 4 Wire Analog - area B	PENDING	\$6.78		See NRC prices below
120	## 4 Wire Analog - area C	PENDING	\$9.09		See NRC prices below
121	## 4 Wire Analog - area D	PENDING	\$11.66		See NRC prices below
122	## 2 Wire DSL - area B	PENDING	\$3.39		See NRC prices below
123	## 2 Wire DSL - area C	PENDING	\$4.52		See NRC prices below
124	## 2 Wire DSL - area D	PENDING	\$5.81		See NRC prices below
125	## 4 Wire DSL - area B	PENDING	\$6.77		See NRC prices below
126	## 4 Wire DSL - area C	PENDING	\$9.04		See NRC prices below
127	## 4 Wire DSL - area D	PENDING	\$11.62		See NRC prices below
128	## ECS to NID sub-loop				
129	## 2 Wire Analog - area B	PENDING	\$6.03		See NRC prices below
130	## 2 Wire Analog - Area C	PENDING	\$7.29		See NRC prices below
131	## 2 Wire Analog - area D	PENDING	\$8.60		See NRC prices below
132	## 4 Wire Analog - area B	PENDING	\$9.41		See NRC prices below
133	## 4 Wire Analog - area C	PENDING	\$12.44		See NRC prices below
134	## 4 Wire Analog - area D	PENDING	\$15.12		See NRC prices below
135	## 2 Wire DSL - area B	PENDING	\$6.03		See NRC prices below
136	## 2 Wire DSL - area C	PENDING	\$7.27		See NRC prices below
137	## 2 Wire DSL - area D	PENDING	\$8.58		See NRC prices below
138	## 4 Wire DSL - area B	PENDING	\$9.41		See NRC prices below
139	## 4 Wire DSL - area C	PENDING	\$12.49		See NRC prices below

TBD - To be determined  
NRC - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

THE OHIO BELL  
TELEPHONE COMPANY d/b/a SBC OHIO  
August 16, 2004

APPENDIX PRICING/ALL TRAFFIC  
SBC OHIO/LEVEL 3

Line	OHIO	- Generic Rate Sheets	USOC	Recurring	Non-Recurring
140	##	4 Wire DSL - area D	PENDING	\$15.08	See NRC prices below
141	##	SAI to Terminal sub-loop			
142	##	2 Wire Analog - area B	PENDING	\$2.08	See NRC prices below
143	##	2 Wire Analog - Area C	PENDING	\$3.30	See NRC prices below
144	##	2 Wire Analog - area D	PENDING	\$4.63	See NRC prices below
145	##	4 Wire Analog - area B	PENDING	\$4.16	See NRC prices below
146	##	4 Wire Analog - area C	PENDING	\$5.59	See NRC prices below
147	##	4 Wire Analog - area D	PENDING	\$9.27	See NRC prices below
148	##	2 Wire DSL - area B	PENDING	\$2.07	See NRC prices below
149	##	2 Wire DSL - area C	PENDING	\$3.27	See NRC prices below
150	##	2 Wire DSL - area D	PENDING	\$4.61	See NRC prices below
151	##	4 Wire DSL - area B	PENDING	\$4.15	See NRC prices below
152	##	4 Wire DSL - area C	PENDING	\$5.58	See NRC prices below
153	##	4 Wire DSL - area D	PENDING	\$9.23	See NRC prices below
154	##	SAI to NID sub-loop			
155	##	2 Wire Analog - area B	PENDING	\$4.72	See NRC prices below
156	##	2 Wire Analog - Area C	PENDING	\$6.05	See NRC prices below
157	##	2 Wire Analog - area D	PENDING	\$7.41	See NRC prices below
158	##	4 Wire Analog - area B	PENDING	\$6.79	See NRC prices below
159	##	4 Wire Analog - area C	PENDING	\$9.95	See NRC prices below
160	##	4 Wire Analog - area D	PENDING	\$12.73	See NRC prices below
161	##	2 Wire DSL - area B	PENDING	\$4.71	See NRC prices below
162	##	2 Wire DSL - area C	PENDING	\$6.03	See NRC prices below
163	##	2 Wire DSL - area D	PENDING	\$7.39	See NRC prices below
164	##	4 Wire DSL - area B	PENDING	\$6.78	See NRC prices below
165	##	4 Wire DSL - area C	PENDING	\$9.91	See NRC prices below
166	##	4 Wire DSL - area D	PENDING	\$12.69	See NRC prices below
167	##	Terminal to NID sub-loop			
168	##	2 Wire Analog - area B	PENDING	\$2.86	See NRC prices below
169	##	2 Wire Analog - Area C	PENDING	\$2.07	See NRC prices below
170	##	2 Wire Analog - area D	PENDING	\$3.00	See NRC prices below
171	##	4 Wire Analog - area B	PENDING	\$2.76	See NRC prices below
172	##	4 Wire Analog - area C	PENDING	\$3.62	See NRC prices below
173	##	4 Wire Analog - area D	PENDING	\$3.75	See NRC prices below
174	##	2 Wire DSL - area B	PENDING	\$2.86	See NRC prices below
175	##	2 Wire DSL - area C	PENDING	\$2.57	See NRC prices below
176	##	2 Wire DSL - area D	PENDING	\$3.00	See NRC prices below
177	##	4 Wire DSL - area B	PENDING	\$2.78	See NRC prices below
178	##	4 Wire DSL - area C	PENDING	\$3.62	See NRC prices below
179	##	4 Wire DSL - area D	PENDING	\$3.75	See NRC prices below
180	##	NID sub-loop element			
181	##	2 Wire Analog - area B	PENDING	\$ 0.18	See NRC prices below
182	##	2 Wire Analog - Area C	PENDING	\$ 0.18	See NRC prices below
183	##	2 Wire Analog - area D	PENDING	\$ 0.18	See NRC prices below
184	##	4 Wire Analog - area B	PENDING	\$ 0.35	See NRC prices below
185	##	4 Wire Analog - area C	PENDING	\$ 0.33	See NRC prices below
186	##	4 Wire Analog - area D	PENDING	\$ 0.33	See NRC prices below
187	##	2 Wire DSL - area B	PENDING	\$ 0.18	See NRC prices below
188	##	2 Wire DSL - area C	PENDING	\$ 0.18	See NRC prices below
189	##	2 Wire DSL - area D	PENDING	\$ 0.18	See NRC prices below
190	##	4 Wire DSL - area B	PENDING	\$ 0.35	See NRC prices below
191	##	4 Wire DSL - area C	PENDING	\$ 0.33	See NRC prices below
192	##	4 Wire DSL - area D	PENDING	\$ 0.33	See NRC prices below
193	##	2 Wire ISDN Compatible - area B	PENDING	\$ 0.18	See NRC prices below
194	##	2 Wire ISDN Compatible - area C	PENDING	\$ 0.18	See NRC prices below
195	##	2 Wire ISDN Compatible - area D	PENDING	\$ 0.18	See NRC prices below
196	##	Sub-Loop Non-Recurring Charges			
197	##	2-Wire Analog Sub-Loop	PENDING	\$ 217.57	
198	##	4-Wire Analog Sub-Loop	PENDING	\$ 218.54	
199	##	2-Wire xDSL Digital Sub-Loop	PENDING	\$ 250.83	
200	##	4-Wire xDSL Digital Sub-Loop	PENDING	\$ 255.11	
201	##	2-Wire ISDN Digital Sub-Loop	PENDING	\$ 278.37	
202	##	Sub-Loop Service Order Charge			
203	##	Establish, per occasion	PENDING	\$ 15.23	
204	##	Sub-Loop Line Connection Charge			
205	##	per occasion	PENDING	\$ 31.00	
206					
207		Cross Connects			
208		2-Wire	CXCT2	\$ 0.15	NA
209					
210					
211		Routine Modifications			
212		Routine Modifications of Existing Facilities Charge	NA	NA	ICB
213					
214					
215		LNP			
216	****	Local Number Portability	NSR	\$ 0.18	N/A
217		****Pursuant to FCC Tariff #2, Section 4 effective from June 1, 2004 and shall cease billing			

TBD - To be determined  
NRO - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable

Line	OHIO	- Generic Rate Sheets effective October 1, 2004.	USOC	Recurring	Non-Recurring
218					
219					
220		<b>OTHER</b>			
221	##	Directory Assistance			
222		Facility-based DA			
223		Directory Assistance, per call	OPEN	\$ 0.30	NA
224		Category Search, per call	OPEN	\$ 0.35	NA
225		Business Category Search (BCS), per call	OPEN	\$ 1.10	NA
226		Directory Assistance Call Completion (DACC)	OPEN	\$ 0.15	NA
227					
228	##	Branding - Other - Initial/Subsequent Load	OPEN		\$ 1,800.00
229	##	- per call	OPEN	\$ 0.025	
230	##	Branding - Facility Based - Initial/Subsequent Load			
231	##	- Branding, per trunk group	OPEN	NA	\$ 800.00
232	##	Rate Reference - Initial Load	OPEN	NA	\$ 2,200.00
233	##	Rate Reference - Subsequent Load	OPEN	NA	\$ 1,000.00
234	##	DA Listing License			
235	##	Option #1 Full File (all states inclusive) Non-Billable Release (no query charges)			
236	##	- per listing for initial load	OPEN	NA	\$ 0.040
237	##	- per listing for subsequent updates	OPEN	NA	\$ 0.060
238	##	Option #2 Full File (all states inclusive) Billable Release			
239	##	- per listing for initial load	OPEN	NA	\$ 0.020
240	##	- per listing for subsequent updates	OPEN	NA	\$ 0.030
241	##	- per usage/query	OPEN	NA	\$ 0.020
242	##	Option #3 Pick & Choose (by state) Non-billable Release (no query charges)			
243	##	- per listing for initial load	OPEN	NA	\$ 0.050
244	##	- per listing for subsequent updates	OPEN	NA	\$ 0.060
245	##	Option #4 Pick & Choose (by state) Billable Release			
246	##	- per listing for initial load	OPEN	NA	\$ 0.020
247	##	- per listing for subsequent updates	OPEN	NA	\$ 0.030
248	##	- per usage/query	OPEN	NA	\$ 0.020
249					
250	##	Operator Services			
251	##	Fully Automated Call Processing, per occurrence	OPEN	\$ 0.15	NA
252	##	Operator Assisted Call Processing, per work second	OPEN	\$ 0.02	NA
253	##	Branding - Other - Initial/Subsequent Load	OPEN		\$ 1,800.00
254	##	- per call	OPEN	\$ 0.025	
255	##	Branding - Facility Based - Initial/Subsequent Load			
256	##	- per trunk group	OPEN	NA	\$ 800.00
257	##	Operator Services - Rate Reference - Initial Load	OPEN	NA	\$ 2,200.00
258	##	Operator Services - Rate Reference - Subsequent Load	OPEN	NA	\$ 1,000.00
259					
260		Ancillary Message Billing Compensation (Per Message)	OPEN	\$ 0.03	NA
261					
262		Structure Access - Poles & Ducts		Annually	
263		Pole Attachments, per Pole attachment*	OPEN	\$ 2.62	
264		Conduit, per Foot of innerduct	OPEN	\$ 0.74	
265		Innerduct, per ft	OPEN	\$ 0.37	
266		Application fee	OPEN		\$ 200.00
267		*For (1) each one foot of usable space, or fraction thereof, occupied and (2) each			
268		additional one foot of space, or fraction thereof, rendered unusable by the attachment's presence.			
269					
270		Emergency Number Service Access			
271		911 Selective Router Interconnection			
272		-Each DSO installed	USAGE	N/A	\$ 364.69
273		-Analog Channel Interface	EV69X	\$ 28.72	\$ 436.62
274		ANI/ALI/SR and Database Management			
275		- Per 100 records, rounded up to nearest 100	9589X	\$ 107.18	\$ 21.54
276		911 Selective Router Switch Administration			
277		-Per Selective Router	USAGE	\$ 5.55	\$ 2,645.15
278					
279		INTERCARRIER COMPENSATION			
280		Rate for All ISP-Bound and Section 251(b)(5) Traffic as per FCC 01-131, per MC	USAGE	\$ 0.0007	
281					
282					
283	##	Rate elements not included in TELRIC order			
284		Per and only to the extent required by PUCO 7/11/02 order in 96-922-TP-UNC and 00-1368-TP-ATA."			
285	/1/	Does not apply to pre-existing UNE-P Migrations. This Non-Recurring Charge is the only NRC charged for New UNE-P Residential POTS Combinations.			
286		Per and only to the extent required by PUCO 7/11/02 order in 96-922-TP-UNC and 00-1368-TP-ATA application of rates is interim and subject to SBC			
287		Ohio reservation of rights pertaining to and subject to modification as a result of reconsideration, appeal, further PUCO action, or other change of law.			
288		The Parties also acknowledge and agree that the interim rates set forth are subject to true-up or true-down pending PUCO established rates.			
289					
290	RESALE			RESALE DISCOUNTS	RESALE DISCOUNTS
291	BUSINESS			RECURRING	NON- RECURRING
292		LOCAL EXCHANGE SERVICE			
293		Business 1 Party	RESALE	20.29%	20.29%

TBD - To be determined  
NRO - Nonrecurring only  
ICB - individual Case Basis  
NA - Not Applicable

**THE OHIO BELL**  
**TELEPHONE COMPANY db/a SBC OHIO**  
 August 16, 2004

APPENDIX PRICING/ALL TRAFFIC  
 SBC OHIO/LEVEL 3

Line	OHIO	- Generic Rate Sheets	USDC	Recurring	Non-Recurring
294		Business - Measured	RESALE	20.29%	20.29%
295		Customer Operated Pay Telephone (COPT)	RESALE	20.29%	20.29%
296					
297		<b>EXPANDED LOCAL CALLING</b>			
298		Extended Area Service	RESALE	20.29%	20.29%
299					
300		<b>VERTICAL SERVICES</b>			
301		Anonymous Call Rejection	RESALE	20.29%	20.29%
302		Repeat Dialing (Auto Redial)	RESALE	20.29%	20.29%
303		Repeat Dialing-Per Use (Auto Redial - Usage Sensitive)	RESALE	20.29%	20.29%
304		Call Blocker	RESALE	20.29%	20.29%
305		Call Forwarding	RESALE	20.29%	20.29%
306		Call Forwarding - Busy Line	RESALE	20.29%	20.29%
307		Call Forwarding - Busy Line/Don't Answer	RESALE	20.29%	20.29%
308		Call Forwarding - Don't Answer	RESALE	20.29%	20.29%
309		Automatic CallBack (Call Return)	RESALE	20.29%	20.29%
310		Automatic CallBack-Per Use (Call Return - Usage Sensitive)	RESALE	20.29%	20.29%
311		Call Trace	RESALE	20.29%	20.29%
312		Call Waiting	RESALE	20.29%	20.29%
313		Caller ID With Name (Calling Name)	RESALE	20.29%	20.29%
314		Caller ID (Calling Number)	RESALE	20.29%	20.29%
315		MultiRing Service -1 (Personalized Ring -1 Dependent Number)	RESALE	20.29%	20.29%
316		MultiRing Service -2 (Personalized Ring -2 Dependent Numbers)	RESALE	20.29%	20.29%
317		Remote Access to Call Forwarding (Grandfathered)	RESALE	0.00%	0.00%
318		Selective Call Forwarding	RESALE	0.00%	0.00%
319		Multi-Path Call Forwarding (Simultaneous Call Forwarding)	RESALE	20.29%	20.29%
320		Remote Call Forwarding-Per Feature	RESALE	20.29%	20.29%
321		RCF, Interstate, Interexchange	RESALE	20.29%	20.29%
322		RCF, Intrastate	RESALE	20.29%	20.29%
323		RCF, Interstate, International	RESALE	20.29%	20.29%
324		RCF, Intrastate, Interexchange	RESALE	20.29%	20.29%
325		RCF to 800	RESALE	20.29%	20.29%
326		RCF Additional	RESALE	20.29%	20.29%
327		Speed Calling 8	RESALE	20.29%	20.29%
328		Speed Calling 30	RESALE	20.29%	20.29%
329		Three Way Calling	RESALE	20.29%	20.29%
330		Call Screening	RESALE	20.29%	20.29%
331		Busy Line Transfer	RESALE	20.29%	20.29%
332		Alternate Answer	RESALE	20.29%	20.29%
333		Message Waiting - Tone	RESALE	20.29%	20.29%
334		Easy Call	RESALE	20.29%	20.29%
335		Prime Number Service	RESALE	20.29%	20.29%
336		SBC Ohio Privacy Manager	RESALE	20.29%	20.29%
337		Name and Number Delivery Service	RESALE	20.29%	20.29%
338					
339		<b>DID</b>			
340		DID	RESALE	20.29%	20.29%
341					
342		<b>TRUNKS</b>			
343		Trunk	RESALE	20.29%	20.29%
344					
345		<b>AIN</b>			
346		Area Wide Networking	RESALE	20.29%	20.29%
347		Emergency Referral Message Service (Disaster Routing Service)	RESALE	20.29%	20.29%
348		SBC Ohio Switch Alternate Routing (ANSAR)	RESALE	20.29%	20.29%
349		SBC Ohio Customer Location Alternate Routing (ACLAR)	RESALE	20.29%	20.29%
350					
351		<b>OTHER</b>			
352		Grandfathered Services	RESALE	0.00%	0.00%
353		Promotions (Greater than 90 days)	RESALE	20.29%	20.29%
354		TouchTone (Business)	RESALE	20.29%	20.29%
355		TouchTone (Trunk)	RESALE	20.29%	20.29%
356					
357		<b>Data Services</b>			
358		Gigabit Ethernet Metropolitan Area Network (GigaMAN)	RESALE	20.29%	20.29%
359		PBX Trunks	RESALE	20.29%	20.29%
360		Multi-Service Optical Network (MON)	RESALE	20.29%	20.29%
361		OCn-PTP	RESALE	20.29%	20.29%
362		ADTS-E	RESALE	20.29%	20.29%
363		DS0	RESALE	20.29%	20.29%
364		DS1	RESALE	20.29%	20.29%
365		DS3	RESALE	20.29%	20.29%
366					
367		<b>ISDN</b>			
368		ISDN	RESALE	20.29%	20.29%
369					
370		<b>DIRECTORY ASSISTANCE SERVICES</b>	RESALE	20.29%	20.29%
371		Local Operator Assistance Service	RESALE	20.29%	20.29%

TBD - To be determined  
 NR0 - Nonrecurring only  
 ICB - Individual Case Basis  
 NA - Not Applicable

Line	OHIO	- Generic Rate Sheets	USOC	Recurring	Non-Recurring
372		Reverse Directory Assistance	RESALE	\$1.25	NA
373		Business Category Search (BCS), per call	RESALE	20.29%	20.29%
374		TOLL			
375		TOLL	RESALE	20.29%	20.29%
376					
377		OPTIONAL TOLL CALLING PLANS			
378		Optional Toll Calling Plans	RESALE	20.29%	20.29%
379					
380		CENTREX (PLEXAR)			
381		CENTREX ACS	RESALE	20.29%	20.29%
382		CENTREX ACS SBC Ohio CENTREX Network Manager	RESALE	0.00%	0.00%
383					
384		PRIVATE LINE			
385		Analog Private Lines	RESALE	20.29%	20.29%
386		Private Line Channel Services	RESALE	20.29%	20.29%
387					
388		RESIDENCE		RESALE DISCOUNTS	
389		LOCAL EXCHANGE SERVICE		RECURRING	NON- RECURRING
390		Life Line	RESALE	0.00%	0.00%
391		Residence 1 Party	RESALE	20.29%	20.29%
392		Residence Measured	RESALE	20.29%	20.29%
393					
394		EXPANDED LOCAL CALLING			
395		Extended Area Service	RESALE	20.29%	20.29%
396					
397		VERTICAL SERVICES			
398		Anonymous Call Rejection	RESALE	20.29%	20.29%
399		Repeat Dialing (Auto Redial)	RESALE	20.29%	20.29%
400		Repeat Dialing - Per Use (Auto Redial - Usage Sensitive)	RESALE	20.29%	20.29%
401		Call Blocker	RESALE	20.29%	20.29%
402		Call Forwarding	RESALE	20.29%	20.29%
403		Call Forwarding - Busy Line	RESALE	20.29%	20.29%
404		Call Forwarding - Busy Line/Don't Answer	RESALE	20.29%	20.29%
405		Call Forwarding - Don't Answer	RESALE	20.29%	20.29%
406		Automatic Call-Back (Call Return)	RESALE	20.29%	20.29%
407		Automatic Call-Back Per Use (Call Return - Usage Sensitive)	RESALE	20.29%	20.29%
408		Call Trace	RESALE	20.29%	20.29%
409		Call Waiting	RESALE	20.29%	20.29%
410		Caller ID with Name (Calling Name)	RESALE	20.29%	20.29%
411		Caller ID (Calling Number)	RESALE	20.29%	20.29%
412		Multi-Ring Service - 1 (Personalized Ring - 1 dependent number)	RESALE	20.29%	20.29%
413		Multi-Ring Service - 2 (Personalized Ring - 2 dependent numbers - 1st dependent n	RESALE	20.29%	20.29%
414		Remote Access to Call Forwarding (OF)	RESALE	0.00%	0.00%
415		RCF, Interstate, Interexchange	RESALE	20.29%	20.29%
416		RCF, Intrastate	RESALE	20.29%	20.29%
417		RCF, Interstate, International	RESALE	20.29%	20.29%
418		RCF, Intrastate, Interexchange	RESALE	20.29%	20.29%
419		RCF to 800	RESALE	20.29%	20.29%
420		RCF Additional	RESALE	20.29%	20.29%
421		Selective Call Forwarding	RESALE	20.29%	20.29%
422		Speed Calling 8	RESALE	20.29%	20.29%
423		Three Way Calling	RESALE	20.29%	20.29%
424		Call Screening	RESALE	20.29%	20.29%
425		Busy Line Transfer	RESALE	20.29%	20.29%
426		Alternate Answer	RESALE	20.29%	20.29%
427		Message Waiting - Tone	RESALE	20.29%	20.29%
428		Easy Call	RESALE	20.29%	20.29%
429		SBC Ohio Privacy Manager	RESALE	20.29%	20.29%
430		Name and Number Delivery Service	RESALE	20.29%	20.29%
431					
432		ISDN			
433		ISDN	RESALE	20.29%	20.29%
434					
435		DIRECTORY ASSISTANCE SERVICES	RESALE	20.29%	20.29%
436		Local Operator Assistance Service	RESALE	20.29%	20.29%
437		Reverse Directory Assistance	RESALE	\$1.25	NA
438					
439		OTHER			
440					
441		Grandfathered Services	RESALE	0.00%	0.00%
442		Promotions (Greater than 90 Days)	RESALE	20.29%	20.29%
443		TouchTone	RESALE	20.29%	20.29%
444		Home Services Packages	RESALE	20.29%	20.29%
445					
446		TOLL			
447					

TBD - To be determined  
NRO - Nonrecurring only  
ICB - Individual Case Basis  
NA - Not Applicable



THE OHIO BELL  
TELEPHONE COMPANY d/b/a SBC OHIO  
August 18, 2004

APPENDIX PRICING/ALL TRAFFIC  
SBC OHIO/LEVEL 3

Line	OHIO	- Generic Rate Sheets	USOC	Recurring	Non-Recurring
448		Custom and Dedicated 800 Service (Home 800)	RESALE	20.29%	20.29%
449		IntraLATA MTS	RESALE	20.29%	20.29%
450		900/978 Call Blocking (900/978 Call Restriction)	RESALE	20.29%	20.29%
451		978 (978 Information Delivery Service)	RESALE	20.29%	20.29%
452		Access Services (See Access Tariff)	RESALE	0%	0%
453		Additional Directory Listings	RESALE	20.29%	20.29%
454		Carrier Disconnect Service (Company Initiated Suspension Service)	RESALE	20.29%	20.29%
455		Connection Services	RESALE	20.29%	20.29%
456		Premise Services/Line Backer (Maintenance of Service Charges)	RESALE	0%	0%
457		Shared Tenant Service	RESALE	0%	0%
458		Toll Restriction	RESALE	20.29%	20.29%
459		Restoral of Service Charge	RESALE	0%	0%
460					
461		Electronic Billing Information Data (daily usage)	RESALE	\$0.00	
462		per message			
463					
464		Local disconnect Report (LDR)			
465		Per WTN	RESALE	\$0.00	
466					
467		Line Connection Charge			
468		Complex (Residence)	RESALE		20.29%
469		Complex (Business)	RESALE		20.29%
470		Simple (Residence)	RESALE		20.29%
471		Simple (Business)	RESALE		20.29%
472					
473		Service Order/Service Request Charge			
474		Complex (Residence)	RESALE		20.29%
475		Complex (Business)	RESALE		20.29%
476		Simple (Residence)	RESALE		20.29%
477		Simple (Business)	RESALE		20.29%
478					
479		Non-Electronic (Manual) Service Order Charge			
480		Complex (Residence)	RESALE		\$9.02
481		Complex (Business)	RESALE		\$9.02
482		Simple (Residence)	RESALE		\$9.02
483		Simple (Business)	RESALE		\$9.02

**AMENDMENT TO  
INTERCONNECTION AGREEMENT UNDER  
SECTIONS 251 & 252 OF THE TELECOMMUNICATIONS ACT  
BY AND BETWEEN**

**ILLINOIS BELL TELEPHONE COMPANY D/B/A SBC ILLINOIS,  
INDIANA BELL TELEPHONE COMPANY INCORPORATED D/B/A SBC INDIANA,  
MICHIGAN BELL TELEPHONE COMPANY D/B/A SBC MICHIGAN,  
NEVADA BELL TELEPHONE COMPANY D/B/A SBC NEVADA,  
THE OHIO BELL TELEPHONE COMPANY D/B/A SBC OHIO,  
PACIFIC BELL TELEPHONE COMPANY D/B/A SBC CALIFORNIA,  
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY D/B/A SBC CONNECTICUT,  
SOUTHWESTERN BELL TELEPHONE, L.P. D/B/A SBC ARKANSAS, SBC KANSAS, SBC MISSOURI, SBC  
OKLAHOMA AND/OR SBC TEXAS,  
WISCONSIN BELL, INC. D/B/A SBC WISCONSIN  
AND  
LEVEL 3 COMMUNICATIONS, LLC**

This Amendment is intended to and shall amend the section 251-252 Interconnection Agreements between Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas, and Wisconsin Bell, Inc. d/b/a SBC Wisconsin, (collectively ("**SBC-13STATE**") and Level 3 Communications, LLC ("Level 3") (hereinafter separately the "Agreement").

WHEREAS, **SBC-13STATE** is an incumbent local exchange carrier in portions of the states of Texas, Oklahoma, Kansas, Missouri, Arkansas, Illinois, Indiana, Michigan, Ohio, Wisconsin, California, Nevada, and Connecticut, who maintains E911 Selective Routers connected to various Public Safety Answering Points (PSAPs) in its territory; and

WHEREAS, Level 3 is a competitive local exchange carrier in the afore referenced states; and

WHEREAS, Level 3 acknowledges and agrees that if and when and where Level 3 has not connected 911 trunks or interconnected to **SBC-13States'** E911 Selective Routers or otherwise arranged for the delivery of calls to an appropriate Public Safety Answering Point, Level 3's end user customers will not have the ability to place emergency 911 calls to the PSAPs in **SBC13STATE** territory, and

WHEREAS, Level 3 is willing to forego E911 connectivity in local exchange areas or LATAs where it does not require such connectivity for delivery of services to end user customers, and is willing to indemnify **SBC-13STATE** for liability that arises from a lack of 911 connectivity in those local exchange areas or LATAs as stated in this Amendment.

NOW THEREFORE, the Parties agree as set forth herein.

- I. Level 3 shall not be required by **SBC-13STATE** to establish 911 trunking or interconnection to **SBC-13STATE's** 911 Selective Routers in Local Exchange Areas or LATAs where Level 3 elects not to connect to the Selective Routers, which shall hereinafter be called a "Non-Interconnected Selective Router Local Exchange Area or LATA".

II. Level 3 shall identify such Non-Interconnected Selective Router Local Exchange Area or LATA when completing the SBC-13STATE "Network Information Sheet" ("NIS").

III. Appendix Interconnection Trunking Requirements Section 5.6.1 shall be deemed to have the additional phrase in bold underline below added, as follows:

**5.6 E911 Trunk Group**

5.6.1 A dedicated trunk group for each NPA shall be established to each appropriate E911 switch within the local exchange area or LATA in which LEVEL 3 offers exchange service, **unless LEVEL 3 identifies the NPA as being in a Non-Interconnected Selective Router Local Exchange Area or LATA.**

IV. The following subsection shall be added to Section 14 (Indemnity) of the General Terms and Conditions:

Level 3 shall indemnify, defend and hold SBC 13STATE harmless from and against any Claim or Loss to the extent such Claim or Loss is the result of Level 3's decision to forego E911 trunking or interconnection to **SBC-13STATE's** 911 Selective Routers.

V. All other terms and conditions of the indemnification and limitation of liability sections as negotiated and/or arbitrated and incorporated in the Agreement shall remain in full force and effect as to this Amendment.

VI. This Amendment does not purport to waive either Party's obligations under Applicable Law. Each Party shall be solely responsible for complying with Applicable Law.

VII. In the event of any conflict between the terms and conditions of the Interconnection Agreement and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall supersede and prevail.

VIII. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

IX. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, 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 (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rod 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

X. This Amendment shall be filed with and is subject to approval by the Public Utility Commission and shall become effective ten (10) days following approval by such Commission. The Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the Public Utilities Commission of Ohio ("PUCO"). Based upon PUCO practice, this Amendment shall be effective upon filing and will be deemed approved by operation of law on the 31<sup>st</sup> day after filing.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the below-listed parties, signing by and through their duly authorized representatives.

**Level 3 Communications, LLC**

**Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company and Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas, and Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC Operations, Inc, its authorized agent**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: AVP-Local Interconnection Marketing

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FACILITIES-BASED OCN#** \_\_\_\_\_

**ACNA** \_\_\_\_\_

**AMENDMENT TO  
INTERCONNECTION AGREEMENT  
BETWEEN  
THE OHIO BELL TELEPHONE COMPANY d/b/a AT&T OHIO  
AND  
LEVEL 3 COMMUNICATIONS LLC**

This TRO/TRRO Amendment amends the Interconnection Agreement by and between The Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T") and Level 3 Communications LLC ("CLEC"). AT&T and CLEC are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment applies in AT&T's service territory in the State of Ohio.

**WITNESSETH:**

**WHEREAS**, AT&T and CLEC are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act"), dated February 22, 2005 (the "Agreement"); and

**WHEREAS**, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003;

**WHEREAS**, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia issued a decision affirming in part and vacating in part the TRO, and the affirmed portions of the TRO subsequently have become final and non-appealable;

**WHEREAS**, the FCC released orders on August 9, 2004 and October 18, 2004 in Docket No. 01-338, "TRO Reconsideration Orders" which subsequently became effective;

**WHEREAS**, the FCC released an order on February 4, 2005 in WC Docket No 04-313 and CC Docket No. 01-338, (the "Triennial Review Remand Order" or "TRO Remand"), which became effective as of March 11, 2005;

**WHEREAS**, pursuant to Section 252(a)(1) of the Act, the Parties wish to amend the Agreement in order to give contractual effect to the effective portions of the TRO, TRO Reconsideration Orders, and TRO Remand as set forth herein;

**NOW, THEREFORE**, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. The Parties agree that the Agreement should be amended by the addition of the terms and conditions set forth in the TRO/TRO Remand Attachment attached hereto.
2. Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, *provided, however*, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 2.
3. Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
4. Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.

5. Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly in Section 1 of this Amendment. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement." Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement. Nothing in this Amendment shall affect the general application and effectiveness of the Agreement's "change of law," "intervening law", "successor rates" and/or any similarly purposed provisions. The rights and obligations set forth in this Amendment apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.
6. This Amendment may require that certain sections of the Agreement shall be replaced and/or modified by the provisions set forth in this Amendment. The Parties agree that such replacement and/or modification shall be accomplished without the necessity of physically removing and replacing or modifying such language throughout the Agreement.
7. The Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the Commission and shall become effective upon filing with such Commission (the "Amendment Effective Date").
8. Reservation of Rights. Nothing contained in this Amendment shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's obligations under the Agreement, this Amendment, any AT&T tariff, or Applicable Law. Furthermore, to the extent any terms of this Amendment are imposed by arbitration, a party's act of incorporating those terms into the agreement should not be construed as a waiver of any objections to that language and each party reserves its right to later appeal, challenge, seek reconsideration of, and/or oppose such language.

**IN WITNESS WHEREOF**, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by The Ohio Bell Telephone Company d/b/a AT&T Ohio, signing by and through its duly authorized representative, and CLEC, signing by and through its duly authorized representative.

**Level 3 Communications LLC**

**The Ohio Bell Telephone Company d/b/a AT&T Ohio  
by AT&T Operations, Inc., its authorized agent**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: Executive Director-Regulatory

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FACILITIES-BASED OCN # \_\_\_\_\_**

**ACNA**

## **OHIO TRO/TRRO ATTACHMENT**

- 0.1 Definitions. The following definitions are applicable to this Attachment.
- 0.1.1 **Building.** For purposes of this Attachment relative to the DS1 and DS3 loop caps as defined in the TRRO Rules 51.319(a)(4)(ii) and 51.319(a)(5)(ii), a “building” or a “single building” is a structure under one roof. Two or more physical structures that share a connecting wall or are in close physical proximity shall not be considered a single building solely because of a connecting tunnel or covered walkway, or a shared parking garage or parking area, unless such structures share the same street address, (e.g., two department stores connected by a covered walkway to protect shoppers from weather would be considered two separate buildings). An educational, industrial, governmental or medical premises or campus shall constitute a single building for purposes of the DS1 and DS3 loop caps provided that all of the structures are located on the same continuous property and the DS1 and/or DS3 loops are terminated at a single structure and are subsequently routed throughout the premises or campus, and the property, which is owned and/or leased by the same end-user customer, is not separated by a public roadway.
- 0.1.2 **Fiber-to-the-Curb (FTTC) Loop.** A Fiber-to-the-Curb Loop is defined as a (1) local Loop serving Mass Market Customers consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer’s premises or (2) a local Loop serving customers in a Predominantly Residential MDU consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the MDU’s MPOE. For purposes of the definition of FTTC and FTTH Loops, examples of a “Predominantly Residential” MDU include an apartment building, condominium building, cooperative or planned unit development that allocates more than fifty percent of its rentable square footage to residences. Notwithstanding the above, a loop will only be deemed a FTTC Loop if it connects to a copper distribution plant at a serving area interface from which every other copper distribution Subloop also is not more than 500 feet from the respective customer’s premises.
- 0.1.3 [Intentionally left blank.]
- 0.1.4 **Fiber-to-the-Home Loop.** A Fiber-to-the-Home (FTTH) Loop is defined as a local Loop serving a Customer and consisting entirely of fiber optic cable, whether dark or lit, serving a Mass Market Customer premises or, in the case of Predominantly Residential MDUs, a fiber optic cable, whether dark or lit, that extends to the multiunit premises’ minimum point of entry (MPOE).
- 0.1.5 **Hybrid Loop** is a local Loop and is composed of both fiber optic cable and copper wire or cable between the main distribution frame (or its equivalent) in an AT&T wire center and the demarcation point at the customer premises.
- 0.1.6 **Mass Market Customer** is an end user customer who is either (a) a residential customer or (b) a very small business customer at a premises with a transmission capacity of 23 or fewer DS-0s.
- 0.1.7 [Intentionally left blank.]
- 0.1.8 **Non-Impaired Wire Centers for DS1 and DS3 Unbundled High-Capacity Loops.** In accordance with Rule 51.319(a)(4), Unbundled DS1 Loop Non-Impaired Wire Centers are defined as wire centers serving at least 60,000 business lines and at least four fiber-based collocators. In accordance with Rule 51.319(a)(5) DS3 Loop Non-Impaired Wire Centers are defined as wire centers serving at least 38,000 business lines and at least four fiber-based collocators.
- 0.1.9 **Tier 1 Non-Impaired Wire Centers for DS1, DS3 and Dark Fiber Unbundled Dedicated Transport.** Tier 1 non-impaired wire centers are defined in accordance with Rule 51.319(e)(3)(i), as wire centers serving at least four fiber-based collocators, at least 38,000 business lines, or both.



- 0.1.10 Tier 2 Non-Impaired Wire Centers for DS1, DS3 and Dark Fiber Unbundled Dedicated Transport. Tier 2 non-impaired wire centers are defined in accordance with Rule 51.319(e)(3)(ii) as wire centers that are not Tier 1 wire centers, but contain at least three fiber-based collocators, at least 24,000 business lines, or both.
- 0.1.11 Tier 3 Wire Centers. In accordance with Rule 51.319(e)(3)(iii), Tier 3 wire centers are defined as wire centers that do not meet the criteria for Tier 1 and Tier 2 wire centers.
- 0.1.12 Business Lines. For purposes of determining Tier 1 and Tier 2 Wire Centers, business line tallies shall be calculated in accordance with the TRRO, including Rule 51.5 as follows: A business line is an ILEC-owned switched access line used to serve a business customer, whether by the ILEC itself or by a CLEC that leases the line from the ILEC. The number of business lines in a wire center shall equal the sum of all ILEC business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with ILEC end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines."
- 0.1.13 Embedded Base. Embedded Base used as a term in this Attachment is defined for TRO Affected Elements identified in Section 1.0 as those TRO Affected Elements for which CLEC had generated and AT&T had accepted a valid service order requesting the provisioning of such TRO Affected Element(s) for a customer as of the date of this Attachment. For the TRO Remand Affected Elements identified in Sections 2.0 and 3.0, the Embedded Base is defined as including those customers for which CLEC had generated and AT&T had accepted a valid service order requesting the provisioning of TRO Remand Affected Element(s) prior to March 11, 2005.
- 0.1.14 A "DS1 Loop", in accordance with Rule 51.319(a)(4) is defined as a digital local loop having a total digital signal speed of 1.544 MBps per second. A DS1 Loop includes the electronics necessary to provide the DS1 transmission rate digital UNE Local Loop having a total digital signal speed of 1.544 megabytes per second. A DS1 Loop also includes all electronics, optronics and intermediate devices used to establish the transmission path to the end user customer premises as well as any inside wire owned or controlled by AT&T that is part of that transmission path. DS1 Loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate DSL services, including T1 services.
- 0.1.15 Fiber-Based Collocator. A fiber-based collocator is any carrier, unaffiliated with the ILEC, that maintains a collocation arrangement in an ILEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the ILEC wire center premises; and (3) is owned by a party other than the ILEC or any affiliate of the ILEC, except as set forth in this paragraph. Dark fiber obtained from an ILEC on an indefeasible right of use basis shall be treated as non-ILEC fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this definition, the term affiliate is defined by 47 U.S.C. § 153(1).
- 0.1.16 [Intentionally left blank.]
- 0.1.17 DS3 Loops are digital transmission channels suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). A DS3 Loop includes the electronics necessary to provide the DS3 transmission rate having a total digital signal speed of 44.736 megabytes per second. A DS3 Loop also includes all of the electronics, optronics and intermediate devices used to establish the transmission path to the end user customer premises as well as any inside wire owned or controlled by AT&T that is part of that transmission path.
- 0.1.18 Dedicated Transport is defined as set forth in Rule 51.319(e)(1).

0.1.19 [Intentionally left blank.]

0.1.20 "Commingling" means the connecting, attaching, or otherwise linking of a UNE, or a combination of UNEs, to one or more facilities or services that CLEC has obtained at wholesale from AT&T, pursuant to any method other than unbundling under Section 251(c)(3) of the Act, or the combining of a UNE, or a combination of UNEs, with one or more such wholesale facilities or services. "Commingle" means the act of commingling.

0.1.21 "Commingled Arrangement" means the arrangement created by Commingling.

0.1.22 "Enhanced Extended Link" or "EEL" means a UNE combination consisting of UNE loop(s) and UNE Dedicated Transport, together with any facilities, equipment, or functions necessary to combine those UNEs (including, for example, with or without multiplexing capabilities).

0.1.23 "Rule" refers to the FCC regulations set forth in Title 47 of the U.S. Code of Federal Regulations.

## **1.0 TRO Affected Elements**

1.1 TRO-Affected Elements. AT&T shall not be required to provide the following to CLEC as unbundled network elements under Section 251 in accordance with the FCC's Triennial Review Order, the MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), in CC Docket Nos. 01-338, 96-98 and 98-147 (TRO Affected Elements) as follows:

- (i) [Intentionally left blank]
- (ii) OCn level dedicated transport<sup>1</sup>;
- (iii) DS1 and above Local Circuit Switching (defined as Local Switching for the purpose of serving end user customers using DS1 capacity and above Loops). To avoid any doubt, pursuant to this Attachment, AT&T is no longer required to provide any ULS/UNE-P pursuant to Section 251(c)(3) except as otherwise provided for in this Attachment, e.g., the Embedded Base during the transition periods as set forth in Sections 1.0 and 2.0.
- (iv) OCn loops;
- (v) the feeder portion of the loop as a stand alone UNE under Section 251;
- (vi) packet switching, including routers and DSLAMs;
- (vii) the packetized bandwidth, features, functions, capabilities, electronics and other equipment used to transmit packetized information over Hybrid Loops, including without limitation, xDSL-capable line cards installed in digital loop carrier ("DLC") systems or equipment used to provide passive optical networking ("PON") capabilities, except as provided for in Section 11.2 of this Attachment;
- (viii) Fiber-To-The-Home loops and Fiber-To-The-Curb loops, except as provided for in Section 11.1.2 of this Attachment;
- (ix) SS7 signaling to the extent not provided in conjunction with unbundled local switching;
- (x) any call-related database, other than the 911 and E911 databases, to the extent not provided in conjunction with unbundled local switching; and
- (xi) line sharing, except as grandfathered as provided in the TRO.

1.2 Cessation TRO Affected Elements - New Orders. AT&T is not required to provide the TRO Affected Element(s) on an unbundled basis, either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality, to CLEC under the Agreement. Accordingly, upon the Amendment Effective Date, CLEC will cease new orders for TRO Affected Element(s).

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<sup>1</sup> Nothing herein is meant to indicate any agreement as to whether AT&T is required to provide DS-0-level dedicated transport to CLECs as an unbundled network element under Section 251, or otherwise, and the parties expressly reserve their rights regarding the same. The absence of DS-0-level dedicated transport in Section 1.1 of this Amendment shall have no bearing on this issue in any other jurisdiction.

- 1.3 In addition to those Transition Periods set forth in other sections of this Attachment, and without limiting the same, AT&T and CLEC will abide by the following transitional procedures with respect to the TRO Affected Elements:
- 1.3.1 With respect to TRO Affected Elements and/or the combination of TRO Affected Elements as defined in Section 1.1 of this Attachment, AT&T will notify CLEC in writing as to any TRO Affected Element previously made available to CLEC that is or has become a TRO Affected Element, as defined in Section 1.1 of this Attachment herein ("Identified Facility"). For purposes of the Agreement and this Attachment, such Identified Facilities shall be considered TRO Affected Elements.
- 1.3.2 For any TRO Affected Element that AT&T provides notice, AT&T shall continue to provide the Embedded Base of any such TRO Affected Element without change to CLEC on a transitional basis. At any time after CLEC receives notice from AT&T pursuant to Section 1.3.1 above, but no later than the end of 90 days from the date CLEC received notice, CLEC shall, using the applicable service ordering process and interface, either request disconnection; submit a request for analogous access service; or identify and request another alternative service arrangement.
- 1.3.3 CLEC agrees to pay all non-recurring charges applicable to the transition of its Embedded Base provided the order activities necessary to facilitate such transition involve physical work (does not include the re-use of facilities in the same configuration) and involve other than a "record order" transaction including those services ordered from a Tariff. The rates, terms and conditions associated with such transactions are set forth in the Pricing Schedule and/or Tariff applicable to the service being transitioned to. To the extent that physical work is not involved in the transition and a service order is generated, the applicable service order charge will be the only applicable charge. For example, if the CLEC transitions to a special access service, only applicable order charges from the access tariff will apply. AT&T will complete CLEC transition orders in accordance with the OSS guidelines in place in support of the analogous service that the CLEC is requesting the ULS/UNE-P be transitioned to with any disruption to the end user's service reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, AT&T shall accomplish such conversions in a manner to minimize a disruption detectable to the end user. Where necessary or appropriate, AT&T and CLEC shall coordinate such conversions.
- 1.4 Notwithstanding anything to the contrary in the Agreement, including any amendments to the Agreement, at the end of the ninety day transitional period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under subparagraph 1.1.3.2(i), above, and if CLEC and AT&T have failed to reach agreement, under subparagraph 1.1.3.2(ii), above, as to a substitute service arrangement or element, then AT&T will convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service or arrangement, if available, at rates applicable to such analogous service or arrangement.
- 1.5 [Intentionally Left Blank.]
- 2.0 TRO Remand Affected Unbundled Local Circuit Switching and UNE-P Elements**
- To avoid any doubt, pursuant to this Attachment, AT&T is no longer required to provide any ULS/UNE-P pursuant to Section 251(c)(3) except as otherwise provided for in this Attachment, e.g., the Embedded Base during the transition periods as set forth in Sections 1.0 and 2.0.
- 2.1 AT&T shall not be required to provide Unbundled Local Circuit Switching and UNE-P (ULS/UNE-P) Elements under Section 251(c)(3) where the ULS/UNE-P is requested or provisioned for the purpose of serving DS-0 capacity loops, except as follows:

- 2.1.1 AT&T shall continue to provide access to ULS and UNE-P to CLEC for CLEC to serve its Embedded Base of customers in accordance with Rule 51.319(d)(2)(iii) as may be modified by effective orders issued by the Public Utilities Commission of Ohio, such as those decided or issued in Case No. 05-298-TP-UNC and Case No. 05-299-TP-UNC. The price for such ULS and UNE-P shall be the higher of (A) the rate at which CLEC obtained such ULS and UNE-P on June 15, 2004 plus one dollar, or (B) the rate the applicable state commission established, if any, between June 16, 2004, and March 11, 2005, for such ULS and UNE-P, plus one dollar. If the state commission established a rate for ULS or UNE-P between June 16, 2004 and March 11, 2005 that increased some rate elements and decreased other rate elements, AT&T must either accept or reject all of the recently established rates of the elements that comprise a combination when establishing the transitional rate for ULS or UNE-P. CLEC shall be fully liable to AT&T to pay such pricing under the Agreement effective as of March 11, 2005, including applicable terms and conditions setting forth penalties for failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement, provided that bills rendered prior to the effective date of this Attachment that include such rate increases shall not be subject to late payments charges, as to such increases, if CLEC pays such increased amount within thirty (30) days after the effective date of this Attachment. The Parties acknowledge that if CLEC does not have an Embedded Base ULS/UNE-customers served through the Agreement then the terms and conditions of this Section 2.0 as to the continued provision of the Embedded Base of ULS/UNE-P shall not apply and CLEC reserves its rights as to whether the requirements of this Section 2.0 as to the continued provision of the Embedded Base of ULS or UNE-P are in accordance with Applicable Law.
- 2.1.1.1 CLEC shall be entitled to initiate feature add and/or change orders, record orders, and disconnect orders for Embedded Base customers. CLEC shall also be entitled to initiate orders for the conversion of UNE-P to a UNE line splitting arrangement to serve the same end user and UNE line splitting arrangement to UNE-P for the same end-user.
- 2.1.1.2 Feature adds and/or change orders as referenced in Section 2.1.1.1 include features that AT&T has available and activated in the Local Circuit Switch.
- 2.1.1.3 In accordance with Rule 51.319(d)(4)(i), AT&T shall provide a CLEC with nondiscriminatory access to signaling, call-related databases and shared transport facilities on an unbundled basis, in accordance with section 251 (c)(3) of the Act in accordance with and only to the extent permitted by the terms and conditions set forth in the Agreement.
- 2.1.2 AT&T shall continue to provide access to ULS/UNE-P for CLEC to serve its Embedded Base of customers under this Section 2.1.2, in accordance with and only to the extent permitted by the terms and conditions set forth in this Attachment, for a transitional period of time, ending upon the earlier of:
- (a) CLEC's disconnection or other discontinuance [except Suspend/Restore] of use of one or more of the ULS or UNE-P;
  - (b) CLEC's transition of a ULS Element(s) or UNE-P to an alternative arrangement; or
  - (c) March 11, 2006.
- 2.1.3 In accordance with Rule 51.319(d)(2)(ii), CLECs shall migrate the Embedded Base of end-user customers off of the unbundled local circuit switching element to an alternative arrangement by March 11, 2006. CLEC and AT&T agree to utilize this transition period as set forth by the FCC in Paragraph 227 of the TRRO to perform the tasks necessary to complete an orderly transition including the CLECs submission of the necessary orders to convert their Embedded Base of ULS/UNE-P customers to an alternative service.

- 2.1.3.1 To the extent CLEC intends to convert its Embedded Base of ULS/UNE-P arrangements to an alternative AT&T service arrangement, CLEC shall generate the orders necessary to convert its Embedded Base of ULS/UNE-P arrangements to an alternative AT&T service arrangement in accordance with the ULS/UNE-P Transition Plan established by the FCC in the TRRO unless otherwise agreed to by the Parties.
- 2.1.3.2 AT&T will complete CLEC transition orders in support of the analogous service that the CLEC is requesting the ULS/UNE-P be transitioned to with any disruption to the end user's service reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, AT&T shall accomplish such conversions in a manner to minimize any disruption detectable to the end user. Where necessary or appropriate, AT&T and CLEC shall coordinate such conversions
- 2.1.3.3 CLEC agrees to pay all non-recurring charges applicable to the transition of its Embedded Base provided the order activities necessary to facilitate such transition involve physical work (physical work does not include the re-use of facilities in the same configuration) and involve other than a "record order" transaction. The rates, terms and conditions associated with such transactions are set forth in the Pricing Schedule applicable to the service being transitioned to. To the extent that physical work is not involved in the transition and the applicable service order charges and/or applicable non-recurring tariff order charges, if any, as governed by this Agreement and/or Tariff from which the service being transitioned to is ordered, will be the only applicable charge.
- 2.1.3.4 To the extent there are CLEC Embedded Base ULS/ UNE-P arrangements in place at the conclusion of the twelve (12) month transition period, AT&T, without further notice or liability, will re-price such arrangements to market-based rates. However, if CLEC has met all of its due dates as agreed to by the Parties, including dates renegotiated between the Parties, and AT&T does not complete all of the tasks necessary to complete a requested conversion or migration, then until such time as such ULS or UNE-P remains in place it should be priced at the rates in the Pricing Schedule attached to the Agreement plus \$1.00.
- 2.1.4 Notwithstanding the foregoing provisions of Section 2.1 and unless the CLEC specifically requests or has contractually agreed otherwise, to the extent an Embedded Base ULS/UNE-P customer is migrated to a functionally equivalent alternative service arrangement prior to March 11, 2006, the ULS/UNE-P Transition Rate shall continue to apply until March 10, 2006, provided that the alternative arrangement is purchased by CLEC from AT&T.
- 2.2 The provisions of this Section 2.0, apply and are operative with respect to AT&T's unbundling obligations under Section 251 regardless of whether CLEC is requesting ULS/UNE-P under the Agreement or under a state tariff, if applicable, and regardless of whether the state tariff is referenced in the Agreement or not.
- 3.0 **TRO Remand Affected Unbundled High-Capacity Loops and Transport**
- 3.1 AT&T is not required to provision the following new high-capacity loops and dedicated transport as unbundled elements under Section 251, either alone or in a Section 251 combination, except as follows:
  - 3.1.1 **Dark Fiber Unbundled Loops.** In accordance with Rule 51.319(a)(6)(i), AT&T is not required to provide requesting telecommunications carrier with access to a dark fiber loop on an unbundled basis.

- 3.1.2 DS1 Loops. In accordance with Rule 51.319(a)(4)(i), AT&T shall provide CLEC, upon CLEC's request, with nondiscriminatory access to DS1 Loops on an unbundled basis to any building not served by (a) a Wire Center with at least 60,000 business lines and (b) at least four fiber-based collocators. Once the wire center meets the requirements of Section 4.0 and the Wire Center exceeds both of these thresholds, no future DS1 Loop unbundling will be required of AT&T in that Wire Center, except as otherwise set forth in this Attachment.
- 3.1.2.1 In accordance with Rule 51.319(a)(4)(ii), AT&T is not obligated to provision to CLEC more than ten unbundled DS1 Loops to any single Building in which DS1 Loops are available as unbundled Loops.
- 3.1.3 DS3 Loops. In accordance with Rule 51.319(e)(2), AT&T shall provide CLEC, upon CLEC's request, with nondiscriminatory access to DS3 Loops on an unbundled basis to any building not served by (a) a Wire Center with at least 38,000 business lines and (b) at least four fiber-based collocators. Once the wire center meets the requirements of Section 4.0 and the Wire Center exceeds both of these thresholds, no future DS3 Loop unbundling will be required of AT&T in that Wire Center, except as otherwise set forth in this Attachment.
- 3.1.3.1 In accordance with Rule 51.319(e)(2), AT&T is not obligated to provision to CLEC more than one unbundled DS3 Loop to any single Building in which DS3 Loops are available as unbundled Loops.
- 3.1.4 DS1 Unbundled Dedicated Transport. In accordance with Rule 51.319(e)(2) AT&T shall provide CLEC, upon CLEC's request, with nondiscriminatory access to DS1 Unbundled Dedicated Transport. Once the wire center meets the requirements of Section 4 and the wire centers on both ends of the transport route between wire centers are determined to be Tier 1 wire centers as defined in Section 0.1.9 of this Attachment, no future DS1 Unbundled Dedicated Transport will be required of AT&T on such routes, except as otherwise set forth in this Attachment.
- 3.1.4.1 In accordance with Rule 51.319(3), AT&T is not obligated to provision to a CLEC more than ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.
- 3.1.5 DS3 Unbundled Dedicated Transport. In accordance with Rule 51.319(e)(2), AT&T shall provide CLEC, upon CLEC's request, with nondiscriminatory access to DS3 Unbundled Dedicated Transport. Once the wire center meets the requirements of Section 4.0 and the wire centers on both ends of the transport route between wire centers are determined to be either Tier 1 or Tier 2 wire centers as defined in Sections 0.1.9 and 0.1.10 of this Attachment, no future DS3 Unbundled Dedicated Transport will be required of AT&T on such routes, except as otherwise set forth in this Attachment.
- 3.1.5.1 In accordance with Rule 51.319(e)(2), AT&T is not obligated to provision to a CLEC more than twelve unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.
- 3.1.6 Dark Fiber Unbundled Dedicated Transport. In accordance with Rule 51.319(e)(2) AT&T shall provide CLEC, upon CLEC's request, with nondiscriminatory access to Dark Fiber Unbundled Dedicated Transport. Once the wire center meets the requirements of Section 4.0 and the wire centers on both ends of the transport route between wire centers are determined to be either Tier 1 or Tier 2 wire centers as defined in Sections 0.1.9 and 0.1.10 of this Attachment, no future Dark Fiber Unbundled Dedicated Transport will be required of AT&T on such routes, except as otherwise set forth in this Attachment.

3.2 Transition of TRO Remand Affected Unbundled High Capacity Loops and Transport. For those DS1 and DS3 loops and DS1 and DS3 dedicated transport facilities that AT&T is no longer required to unbundle under Section 251 under the terms of this Attachment as of March 11, 2005, AT&T shall continue to provide CLEC's Embedded Base of such arrangements ordered by CLEC before March 11, 2005 for a 12-month period beginning on March 11, 2005 and ending on March 11, 2006. For those Dark Fiber Loops, and Dark Fiber Dedicated Transport facilities that AT&T is no longer required to unbundle under Section 251 under the terms of this Attachment as of March 11, 2005, AT&T shall continue to provide such arrangements for an 18-month period beginning on March 11, 2005 and ending on September 11, 2006.

3.2.1 During the transition periods defined in Section 3.2 the rates for the High-Capacity Loop and Transport Embedded Base arrangements, in accordance with Rule 51.319(a), shall be the higher of (A) the rate CLEC paid for the Affected Element(s) as of June 15, 2004 plus 15% or (B) the rate the state commission established, if any, between June 16, 2004 and March 11, 2005 for the Affected Element(s), plus 15% effective as of March 11, 2005. CLEC shall be fully liable to AT&T to pay such pricing under the Agreement, including applicable terms and conditions setting forth penalties for failure to comply with payment terms, notwithstanding anything to the contrary in the Agreement.

3.2.2 Where AT&T is no longer required to provide the Unbundled Loops and Transport as defined in Section 3.1 of this Attachment, CLEC shall generate the orders necessary to disconnect or convert the Embedded Base of High-Capacity DS1 and DS3 Loop and Transport arrangements to analogous services where available in accordance with the Unbundled Loop and Transport Transition Plan established by the FCC in the TRRO unless otherwise agreed to by the Parties.

With respect to Dark Fiber Loops and Transport, CLEC shall generate the orders necessary to disconnect such arrangements and return the facilities to AT&T by the end of the transition period.

3.2.2.1 AT&T will complete CLEC transition orders in accordance with the OSS guidelines in place in support of the analogous service that the CLEC is requesting the Loop or Transport arrangement be transitioned to with any disruption to the end user's service reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, AT&T shall accomplish such conversions in a manner to minimize any disruption detectable to the end user. Where necessary or appropriate, AT&T and CLEC shall coordinate such conversions.

3.2.2.2 CLEC agrees to pay all non-recurring charges applicable to the transition of its Embedded Base provided the order activities necessary to facilitate such transition involve physical work and involve other than a "record order" transaction. The rates, terms and conditions associated with such transactions are set forth in the Pricing Schedule applicable to the service being transitioned to. To the extent that physical work is not involved in the transition the applicable service order charges and/or applicable non-recurring tariff order charges, if any, as governed by this Agreement and/or Tariff from which the service being transitioned to is ordered, will be the only applicable charge. AT&T will not impose any untariffed termination charges, or any disconnect fees, re-connect fees or charges associated with establishing a service for the first time, where the service is already established and will remain in place, in connection with any conversion of its Embedded Base.

3.2.2.3 [Intentionally left blank.]

3.2.2.4 If CLEC has not submitted an LSR or ASR, as applicable, to AT&T requesting conversion of the Affected DS1 and DS3 Loop/Transport Elements to another wholesale service, then

on March 11, 2006, AT&T, at its option, shall convert such loop(s)/transport to an analogous special access arrangement at month-to-month pricing. Nothing in this Section prohibits the parties from agreeing upon another service arrangement within the requisite transition timeframe (e.g., via a separate agreement at market-based rates). If CLEC has not submitted an LSR or ASR, as applicable, to AT&T requesting that the Affected Dark Fiber Loop and Transport arrangements be disconnected and returned to AT&T, AT&T shall disconnect such arrangements that remain in place as of September 11, 2006.

#### **4.0 Non-Impaired Wire Center Criteria and Related Processes**

- 4.1 AT&T has designated and posted to CLEC Online the wire centers where it contends the thresholds for DS1 and DS3 Unbundled High-Capacity Loops as defined in Section 0.1.8 and for Tier 1 and Tier 2 Non-Impaired Wire Centers as defined in Sections 0.1.9 and 0.1.10 have been met. AT&T's designations shall be treated as controlling (even if CLEC believes the list is inaccurate) for purposes of transition and ordering unless CLEC provides a self-certification as outlined below. Until CLEC provides a self-certification for High-Capacity Loops and/or Transport for such wire center designations, CLEC will not submit High Capacity Loop and/or Transport orders based on the wire center designation, and if no self-certification is provided will transition its affected High-Capacity Loops and/or Transport in accordance with the applicable transition period. If CLEC does not provide a self-certification, CLEC will transition DS1 and DS3 Loop and Transport arrangements affected by AT&T's wire center designation as of the March 11, 2005 by disconnecting or transitioning to an alternate facility or arrangement, if available, by March 11, 2006 and CLEC will transition any affected Dark Fiber Transport arrangements affected by AT&T's wire center designations as March 11, 2005 by disconnecting or transitioning to an alternate facility or arrangement, if available, by September 11, 2006. AT&T will update the CLEC Online posted list and will advise CLECs of such posting via Accessible Letter, which term for the purposes of this Section 4.0 shall be deemed to mean an Accessible Letter issued after the effective date of this Amendment, as set forth in this Section 4.0.

If the Public Utilities Commission of Ohio has not previously determined, in any proceeding, that a wire center is properly designated as a wire center meeting the thresholds set forth in Sections 0.1.8, 0.1.9 or 0.1.10, then, prior to submitting an order for an unbundled a DS1/DS3 High-Capacity Loop, DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport arrangement, CLEC shall perform a reasonably diligent inquiry to determine that, to the best of CLEC's knowledge, whether the wire center meets the non-impairment thresholds as set forth in Sections 0.1.8, 0.1.9 or 0.1.10 of this Amendment. If, based on its reasonably diligent inquiry, the CLEC disputes the AT&T wire center non-impairment designation, the CLEC will provide a self-certification to AT&T identifying the wire center(s) that it is self-certifying for. In performing its inquiry, CLEC shall not be required to consider any lists of non-impaired Wire Centers compiled by AT&T as creating a presumption that a Wire Center is not impaired. CLEC can send a letter to AT&T claiming Self Certification or CLEC may elect to self-certify using a written or electronic notification sent to AT&T. In the event that the CLEC issues a self-certification to AT&T where AT&T has deemed that the non-impairment threshold has been met in a specific wire center for High-Capacity Loops and/or Transport, CLEC can continue to submit and AT&T must continue to accept and provision orders for the affected High Capacity Loops and/or Transport provided the CLEC is entitled to order such pursuant to the terms and conditions of the underlying Agreement, for as long as such self-certification remains in effect and valid pursuant to the dispute resolution provisions of Section 4.0. If CLEC makes such a self-certification, and CLEC is otherwise entitled to the ordered element under the Agreement, AT&T shall provision the requested facilities in accordance with CLEC's order and within AT&T's standard ordering interval applicable to such facilities. If AT&T in error rejects CLEC orders, where CLEC has provided self certification in accordance with this Section 4.0, AT&T will modify its systems to accept such orders within 5 business hours of CLEC notification to its account manager. CLEC may not submit a self-certification for a wire center after the transition period for the DS1/DS3 Loops and/or DS1/DS3 Dedicated Transport and/or Dark Fiber Dedicated Transport impacted by the designation of the wire center has passed.



- 4.1.1 The parties recognize that wire centers that AT&T had not designated as meeting the FCC's non-impairment thresholds as of March 11, 2005, may meet those thresholds in the future. In the event that a wire center that was not designated by AT&T as meeting one or more of the FCC's non-impairment thresholds as of March 11, 2005 meets one or more of these thresholds at a later date, AT&T may add the wire center to its list of designated wire centers and the Parties will use the following process:
- 4.1.1.1 AT&T may update the wire center list as changes occur.
  - 4.1.1.2 To designate a wire center that had previously not met one or more of the FCC's impairment thresholds but subsequently does so, AT&T will provide notification to CLEC via Accessible Letter and by a posting on CLEC Online.
  - 4.1.1.3 AT&T will continue to accept CLEC orders for impacted DS1/DS3 High Capacity Loops, DS1/DS3 Dedicated Transport and/or Dark Fiber Dedicated Transport without requiring CLEC self-certification for 30 calendar days after the date the Accessible Letter is issued.
  - 4.1.1.4 In the event the CLEC disagrees with AT&T's determination and desires not to have the applicable established DS1/DS3 High Capacity Loops, DS1/DS3 Dedicated Transport and/or Dark Fiber Dedicated Transport transitioned or disconnected as set forth in Section 4.1.1.5 below, CLEC has 60 calendar days from the issuance of the Accessible Letter to provide a self-certification to AT&T.
  - 4.1.1.5 If the CLEC does not use the self-certification process described in Section 4.0 to self-certify against AT&T's wire center designation within 60 calendar days of the issuance of the Accessible Letter, the parties must comply with the Applicable Transitional Period as follows: transition applicable to DS1/ DS3 High Capacity Loops is within 12 months, transition applicable to DS1/DS3 Dedicated Transport is within 12 months, and disconnection applicable to Dark Fiber Dedicated Transport is within 18 months. All Transitional Periods apply from the date of the Accessible Letter providing the wire center designation of non-impairment. For the Applicable Transitional Period, no additional notification will be required. CLEC may not obtain new DS1/DS3 High Capacity Loops, DS1/DS3 Dedicated Transport and/or Dark Fiber Dedicated Transport in wire centers and/or routes where such circuits have been declassified during the applicable transition period.
  - 4.1.1.6 If the CLEC does provide self-certification pursuant to Section 4.1.1.4 to dispute AT&T's designation determination, AT&T may dispute CLEC's self-certification as described in Sections 4.1.3 and 4.1.4 and AT&T will accept and provision the applicable loop and transport orders for the CLEC providing the self certification during a dispute resolution process.
  - 4.1.1.7 During the applicable transition period, the rates paid will be the rates in effect at the time of the non-impairment designations plus 15%.
- 4.1.2 If the Ohio Commission has previously determined, in any proceeding, even if CLEC was not a party to that proceeding where appropriate notice has been provided to the CLEC and where CLEC has the opportunity to participate, that a wire center is properly designated as a wire center meeting the thresholds set forth in Sections 0.1.8, 0.1.9 or 0.1.10, then CLEC shall not request DS1/DS3 High-Capacity Loops, DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport arrangements declassified by the non-impairment status of the wire center in such wire center. If a CLEC withdraws its self-certification after a dispute has been filed with the Ohio Commission, but before the Ohio Commission has made a determination regarding the wire center designation, the

wire center designation(s) that were the subject of the dispute will be treated as though the Ohio Commission approved AT&T's designations.

- 4.1.3 AT&T may dispute the self-certification and associated CLEC orders for facilities pursuant to the following procedures: AT&T shall notify the CLEC of its intent to dispute the CLEC's self-certification within 30 days of the CLEC's self-certification or within 30 days of the effective date of this amendment, whichever is later. AT&T will file the dispute for resolution with the state Commission within 60 days of the CLEC's self-certification or within 60 days of the effective date of this Attachment, whichever is later. AT&T shall include with the filing of its direct case testimony and exhibits which may reasonably be supplemented. To the extent to which this filing contains confidential information, AT&T may file that information under seal. AT&T shall offer to enter into a protective agreement under which AT&T would provide such confidential information to CLEC. AT&T shall have no obligation to provide such confidential information to any Party in the absence of an executed protective agreement. AT&T will notify CLECs of the filing of such a dispute via Accessible Letter, which Accessible Letter will include the case number and directions for accessing the docket on the Public Utilities Commission of Ohio's website. If the self-certification dispute is filed with the state Commission for resolution, the Parties will not oppose requests for intervention by other CLECs if such request is related to the disputed wire center designation(s). The Public Utilities Commission of Ohio's procedural rules shall govern the self-certification dispute that is filed. The parties agree to urge the Public Utilities Commission of Ohio to adopt a case schedule resulting in the prompt resolution of the dispute. AT&T's failure to file a timely challenge, i.e., 60 calendar days after the self certification or within 60 days of the effective date of this Attachment, whichever is later, to any CLEC's self certification for a given wire center shall be deemed a waiver by AT&T of its rights to challenge any subsequent self certification for the affected wire center except as provided below. AT&T shall promptly notify CLECs via Accessible Letter of any time where AT&T has waived its ability to challenge a self-certification as to any wire center for carrier. AT&T may challenge future CLEC self-certifications pertaining to the wire center if the underlying facts pertaining to the designation of non-impairment have changed, in which case the Parties will follow the provisions for updating the wire center list outlined in Section 4.1.1. During the pendency of any dispute resolution proceeding, AT&T shall continue to provide the High-Capacity Loop or Transport facility in question to CLEC at the rates in the Pricing Appendix to the Agreement. If the CLEC withdraws its self-certification, or if the state Commission determines through arbitration or otherwise that CLEC was not entitled to the provisioned DS1/DS3 Loops or DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport under Section 251, the rates paid by CLEC for the affected loop or transport shall be subject to true-up as follows:

- 4.1.3.1 For the affected loop/transport element(s) installed prior to March 11, 2005, if the applicable transition period is within the initial TRRO transition period described in Section 3.2.1 of this Attachment, CLEC will provide true-up based on the FCC transitional rate i.e., the rate that is the higher of (A) the rate CLEC paid for the Affected Element(s) as of June 15, 2004 plus 15% or (B) the rate the state commission established, if any, between June 16, 2004 and March 11, 2005 for the Affected Element(s), plus 15%. The true-up will be calculated using a beginning date that is equal to the latter of March 11, 2005, or, for wire centers designated by AT&T after March 11, 2005, thirty days after AT&T's notice of non-impairment. The transitional rate as set forth in Section 3.2.1 of this Attachment will continue to apply until the facility has been transitioned or through the end of the applicable transition period described in Section 3.2 of this Attachment, whichever is earlier. For all other affected loop/transport elements, CLEC will provide true-up to an equivalent special access rate as of the latter of the date billing began for the provisioned element or thirty days after AT&T ILEC's notice of non-impairment. If no equivalent special access rate exists, true-up will be determined using the transitional rate described in Section 3.2.1 of this Amendment.

- 4.1.4 In the event of a dispute following CLEC's Self-Certification, upon request by the Commission or CLEC, AT&T will make available, subject to the appropriate state or federal protective order, and other reasonable safeguards, all documentation and all data upon which AT&T intends to rely, which will include the detailed business line information for the AT&T wire center or centers that are the subject of the dispute.
- 4.2 [Intentionally left blank.]
- 4.3 The provisions of Section 3.2.2 shall apply to the transition of DS1/DS3 High-Capacity Loops, DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport arrangements impacted by wire center designation(s). As outlined in Section 3.2.2, requested transitions of DS1/DS3 High Capacity loops, DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport arrangements shall be performed in a manner that reasonably minimizes the disruption or degradation to CLEC's customer's service, and all applicable charges shall apply. Cross-connects provided by AT&T in conjunction with such Loops and/or Transport shall be billed at applicable wholesale rates (i.e. if conversion is to an access product, they will be charged at applicable access rates). Cross-connects that are not associated with such transitioned DS1/DS3 High-Capacity Loops, DS1/DS3 Dedicated Transport or Dark Fiber Dedicated Transport arrangements shall not be re-priced.
- 4.4 AT&T will process CLEC orders for DS1/DS3 High Capacity Loops, DS1/DS3 Dedicated Transport, or Dark Fiber Transport conversion or disconnection consistent with the end of the applicable transitional period identified in Section 4.1.1.5. AT&T will not convert or disconnect these services prior to the end of the applicable transitional period unless specifically requested by the CLEC; however, CLEC is responsible for ensuring that it submits timely orders in order to complete the transition by the end of applicable transitional period in an orderly manner.
- 4.5 A building that is served by both an impaired wire center and a non impaired wire center and that is not located in the serving area for the non-impaired wire center will continue to have Affected Elements available from the impaired wire center and support incremental moves, adds, and changes otherwise permitted by the Agreement, as amended.
- 4.6 Notwithstanding anything to the contrary in the Agreement, including any amendments to this Agreement, at the end of the Applicable Transitional Period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under Section 3.2.2 above, and if CLEC and AT&T OHIO have failed to reach agreement under Section 3.2.2.4 above as to a substitute service arrangement or element, then AT&T may, at its sole option, disconnect dark fiber element(s), whether previously provided alone or in combination with or as part of any other arrangement, or convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service, if available at rates applicable to such analogous service or arrangement.
- 4.7 [Intentionally left blank.]
- 4.8 [Intentionally left blank.]
- 4.9 [Intentionally left blank.]
- 4.10 When more than 60 days from the issuance of an AT&T designation of a wire center has elapsed, and if there has been no prior Commission determination of non-impairment as to the applicable wire center(s), CLEC can thereafter still self-certify, provided that it does so self-certify within 12 months (for DS1 or DS3 loops and transport) or 18 months (for dark fiber loops and transport) after the issuance of the Accessible Letter. AT&T may dispute CLEC's self-certification as described in Section 4.1.3 through 4.1.4.1 and AT&T will accept and provision the applicable loop and transport orders for the CLEC providing the self certification during a dispute resolution process.

## **5.0 Commingling and Commingled Arrangements**

5.1 AT&T shall permit CLEC to Commingle a UNE or a combination of UNEs with facilities or services obtained at wholesale from AT&T. For the Commingled Arrangements listed in this Section 5.1, and any Commingled Arrangements voluntarily made available by AT&T in the future for any of the 13 AT&T ILEC states (i.e., the availability and subsequent posting to CLEC On-line was not as a result of a State Commission Order), AT&T will make such Commingled Arrangements available in Ohio except where the Commingled Arrangement includes a special access service that is not being provided to any customer in Ohio. Where AT&T in any of its 13 ILEC States voluntarily provides a particular Commingled Arrangement to any CLEC in response to a BFR request (i.e., not as a result of a dispute resolution involving the BFR requesting such Commingled Arrangement), AT&T will make such Commingled Arrangement available in Ohio under this Agreement, except where the Commingled Arrangement includes a special access service that is not being provided to any customer in Ohio. The types of Commingled Arrangements which AT&T is required to provide as of the date on which this Agreement is effective will be posted on CLEC Online, and updated from when new commingling arrangements are made available. The following AT&T Commingled Arrangements have been posted to CLEC-Online as available and fully tested on an end-to-end basis, i.e., from ordering through provisioning and billing:

- i. UNE DS-0 Loop connected to a channelized Special Access DS1 Interoffice Facility, via a special access 1/0 mux
- ii. UNE DS1 Loop connected to a channelized Special Access DS3 Interoffice Facility, via a special access 3/1 mux#
- iii. UNE DS3 Loop connected to a non-concatenated Special Access Higher Capacity Interoffice Facility (e.g., SONET Service)#
- iv. UNE DS1 Dedicated Transport connected to a channelized Special Access DS3 Loop#
- v. UNE DS3 Dedicated Transport connected to a non-concatenated Special Access Higher Capacity Loop (i.e., SONET Service)#
- vi. Special Access Loop connected to channelized UNE DS1 Dedicated Transport, via a 1/0 UNE mux
- vii. Special Access DS1 loop connected to channelized UNE DS3 Dedicated Transport, via a 3/1 UNE mux#
- viii. UNE loop to special access multiplexer
- ix. UNE DS1 Loop connected to a non-channelized Special Access DS1 Interoffice Facility or UNE DS1 Interoffice Transport connected to a Special Access DS1 Loop#
- x. UNE DS3 Loop connected to a non-channelized Special Access DS3 Interoffice Facility or a UNE DS3 Interoffice Transport Facility connected to a DS3 Special Access Loop#
- xi. UNE DS3 Dedicated Transport connected to a non-channelized Special Access DS3 Loop#
- xii. Special Access DS1 channel termination connected to non-channelized UNE DS1 Dedicated Transport#
- xiii. While not a commingling arrangement, AT&T will support the connection of high-capacity loops to a special access multiplexer.

# Indicates that FCC's eligibility criteria of Rule 51.318(b) applies, including the collocation requirement.

5.1.1 To the extent that AT&T requires the CLEC to submit orders for the commingling arrangements included in 5.1 (i) through (xii) manually, the mechanized service order charge shall be applicable.

5.1.2 For any commingling arrangement the CLEC desires that is not included in Section 5.1 of this Attachment, or subsequently established by AT&T, CLEC shall request any such desired commingling arrangement and AT&T shall respond pursuant to the Bona Fide Request Process (BFR) as outlined in the underlying Agreement. Through the BFR process, once the Parties agree that the development will be undertaken to make a new commingling arrangement available AT&T

will work with the CLEC to process orders for new commingling arrangements on a manual basis pending the completion of systems development.

- 5.2 Upon request and to the extent provided by applicable law and the provisions of the Amended Agreement, AT&T shall permit CLEC to connect a Section 251 UNE or a combination of Section 251 UNEs with facilities or services obtained at wholesale from AT&T (including access services) and/or with compatible network components or services provided by CLEC or third parties, including, without limitation, those Commingled Combinations consistent with Section 5.0 of this Attachment.
- 5.3 [Intentionally left blank.]
- 5.4 For example, without limitation of this provision, AT&T will, upon request, connect loops leased or owned by CLEC to a third-party's collocation arrangement upon being presented with documentation that the CLEC has authorization from the third party to connect loops. In addition, AT&T will, upon request, connect an EEL leased by CLEC to a third-party's collocation upon presentation of documentation of authorization. In addition, AT&T will, upon request and documentation of authorization, connect third-party loops and EELs to CLEC collocation sites. An EEL provided hereunder may terminate to a third party's collocation arrangement that meets the requirements of Section 6.3.4 upon presentation of documentation of authorization by that third party. Subject to the other provisions hereof, Section 251 UNE loops may be accessed via cross-connection to a third party's Section 251(c)(6)'s collocation arrangement upon presentation of documentation of authorization by that third party.
- 5.5 Upon request, and to the extent required by applicable law and the applicable provisions of this Attachment, AT&T shall perform the functions necessary to Commingle a Section 251 UNE or a combination of Section 251 UNEs with one or more facilities or services that CLEC has obtained at wholesale from AT&T (as well as requests where CLEC also wants AT&T to complete the actual Commingling), except that AT&T shall have no obligation to perform the functions necessary to Commingle (or to complete the actual Commingling) if (i) it is not technically feasible; or (ii) it would undermine the ability of other Telecommunications Carriers to obtain access to UNEs or to Interconnect with AT&T's network. Subject to the terms and conditions of the Agreement and this Attachment, CLEC may connect, combine, or otherwise attach UNEs and combinations of UNEs to wholesale services obtained from AT&T, and AT&T shall not deny access to Section 251 UNEs and combinations of Section 251 UNEs on the grounds that such facilities or services are somehow connected, combined or otherwise attached to wholesale services obtained from AT&T.
- 5.6 AT&T shall only charge CLEC the recurring and non-recurring charges in commingling service order processes where physical work is required to create the commingled arrangement as set forth in the Pricing Schedule attached to this Agreement applicable to the Section 251 UNE(s), facilities or services that CLEC has obtained at wholesale from AT&T. Where there is no physical work and a record order type is necessary to create the commingled arrangement, only such record order charge shall apply. Notwithstanding any other provision of the Agreement or any AT&T tariff, the recurring and non-recurring charges applicable to each portion of a Commingled facility or service shall not exceed the rate for the portion if it were purchased separately unless otherwise agreed to by the Parties pursuant to the BFR process.
- 5.7 When CLEC purchases Commingled Arrangements from AT&T, AT&T shall charge CLEC element-by-element and service-by-service rates. AT&T shall not be required to, and shall not, provide "ratcheting" as a result of Commingling or a Commingled Arrangement, as that term is used in the FCC's Triennial Review Order. As a general matter, "Ratcheting" is a pricing mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate.
- 5.8 [Intentionally left blank.]

- 5.9 AT&T agrees that CLEC may request to Commingle the following elements to the extent that AT&T is required to provide them pursuant to Section 271 of the Act ("271 Elements") or Applicable Law: (i) Local Loop transmission from the central office to the End Users' premises (unbundled from local switching or other services), and (ii) Local transport from the trunk side of a wireline Local Exchange Carrier switch (unbundled from switching or other services).
- 5.10 Unless expressly prohibited by the terms of this Attachment, AT&T shall permit CLEC to connect an unbundled Network Element or a Combination of unbundled Network Elements with wholesale (i) services obtained from AT&T, (ii) services obtained from third parties or (iii) facilities provided by CLEC. For purposes of example only, CLEC may Commingle unbundled Network Elements or Combinations of unbundled Network Elements with other services and facilities including, but not limited to, switched and special access services, or services purchased under resale arrangements with AT&T.
- 6.0 **EELs**
- 6.1 AT&T agrees to make available to CLEC Enhanced Extended Links (EELs) on the terms and conditions set forth below. AT&T shall not impose any additional conditions or limitations upon obtaining access to EELs or to any other UNE combinations, other than those set out in this Agreement. Except as provided below in this Section 6.0 and subject to this Section 6.1, AT&T shall provide access to Section 251 UNEs and combinations of Section 251 UNEs without regard to whether CLEC seeks access to the UNEs to establish a new circuit or to convert an existing circuit from a service to UNEs provided the rates, terms and conditions under which such Section 251 UNEs are to be provided are included within the CLEC's underlying Agreement.
- 6.2 An EEL that consists of a combination of voice grade to DS-0 level UNE local loops combined with a UNE DS1 or DS3 Dedicated Transport (a "Low-Capacity EEL") shall not be required to satisfy the Eligibility Requirements set out in this Sections 6.2 and 6.3. If an EEL is made up of a combination that includes one or more of the following described combinations (the "High-Cap EELs"), each circuit to be provided to each customer is required to terminate in a collocation arrangement that meets the requirements of Section 6.3.4 below (e.g., the end of the UNE dedicated transport that is opposite the end connected to the UNE loop must be accessed by CLEC at such a collocation arrangement via a cross-connect unless the EEL is commingled with a wholesale service in which case the wholesale service must terminate at the collocation). A High-Cap EEL is either:
- (A) an unbundled DS1 loop in combination, or commingled, with a dedicated DS1 transport or dedicated DS3 or higher transport facility or service, or to an unbundled DS3 loop in combination, or commingled, with a dedicated DS3 or higher transport facility or service; or
  - (B) an unbundled dedicated DS1 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or higher channel termination service.
- 6.3 AT&T shall make Low Capacity EELs available to CLEC without restriction, except as otherwise provided in the Agreement or this Attachment. AT&T shall provide access to the High-Cap EELS (Sections 6.2(A) and 6.2(B)) only when CLEC satisfies the following service eligibility criteria:
- 6.3.1. CLEC (directly and not via an affiliate) has received state certification (or equivalent regulatory approval, as applicable) from the Commission to provide local voice service in the area being served. By issuing an order for an EEL, CLEC certifies that it has the necessary processes and procedures in place to certify that such it will meet the EELs Mandatory Eligibility Criteria for each such order it submits. AT&T hereby acknowledges that CLEC has received sufficient state certifications to satisfy these criteria.

6.3.1.1 At CLEC's option, CLEC may also or alternatively provide self certification via email or letter to AT&T. Provided that AT&T has received such self certification from CLEC, AT&T shall not deny CLEC access to High-Capacity EELs. Anything to the contrary in this Section notwithstanding, CLEC shall not be required to provide certification to obtain access to lower capacity EELs, other Combinations or individual unbundled Network Elements.

6.3.1.1.1 This alternative method of certification-by-order applies only to certifications of eligibility criteria set forth in this Section 6, and not to self-certifications relative to routes, buildings and wire centers.

6.3.2 The following criteria must be satisfied for each High-Cap EEL, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL in accordance with Rule 51.318(b)(2):

- (i) Each circuit to be provided to each customer will be assigned a local number prior to the provision of service over that circuit. Each DS1 circuit to be provided to each end user customer will have at least one DS-0 assigned a local telephone number (NPA-NXX-XXXX).
- (ii) Each DS1-equivalent circuit on a DS3 EEL must have its own Local telephone number assignment, so that each DS3 must have at least 28 Local voice telephone numbers assigned to it;
- (iii) Each DS1 equivalent circuit to be provided to each customer will have designed 911 or E911 capability prior to the provision of service over that circuit.
- (iv) Each DS1 circuit to be provided to each customer will terminate in a collocation arrangement meeting the requirements of Section 6.3.4, of this Attachment;
- (v) Each DS1 circuit to be provided to each end user customer will be served by an interconnection trunk that meets the requirements of Section 6.3.5 of this Attachment;
- (vi) For each 24 DS1 EELs or other facilities having equivalent capacity, CLEC will have at least one active DS1 local service interconnection trunk that meets the requirements of Section 6.3.5 of this Attachment; and
- (vii) Each DS1 circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.

6.3.3 The criteria set forth in this Section 6.0 shall apply in any arrangement that includes more than one of the UNEs, facilities, or services set forth in Section 6.2, including, without limitation, to any arrangement where one or more UNEs, facilities, or services not set forth in Section 6.2 is also included or otherwise used in that arrangement (whether as part of a UNE combination, Commingled Arrangement, or a Special Access to UNE Conversion), and irrespective of the placement or sequence of them.

6.3.4 Pursuant to the collocation terms and conditions in the underlying Agreement, a collocation arrangement meets the requirements of Section 6.0 of this Attachment if it is:

- (A) Established pursuant to Section 251(c)(6) of the Act and located at AT&T's premises within the same LATA as the customer's premises, when AT&T is not the collocater; or
- (B) Established pursuant to any collocation type defined in any AT&T Tariff to the extent applicable, or any applicable CLEC interconnection agreement.
- (C) Located at a third party's premises within the same LATA as the customer's premises, when the incumbent LEC is the collocater.

- 6.3.5 Pursuant to the network interconnection terms and conditions in the underlying Agreement, an interconnection trunk meets the requirements of Sections 6.3.2(v) and 6.3.2(vii) of this Attachment if CLEC will transmit the calling party's Local Telephone Number in connection with calls exchanged over the trunk.
- 6.3.6 [Intentionally left blank.]
- 6.3.7 Before (1) converting a High-Cap wholesale service to a High-Cap EEL, (2) ordering a new High-Cap EEL Arrangement, or (3) ordering a High-Cap EEL that is comprised of commingled wholesale services and UNEs, CLEC must certify to all of the requirements set out in Section 6.3 for each circuit. To the extent the service eligibility criteria for High Capacity EELs apply, CLEC shall be permitted to self-certify its compliance with the eligibility criteria by providing AT&T written notification. Upon CLEC's self-certification of compliance, in accordance with this Attachment, AT&T shall provide the requested EEL and shall not exercise self help to deny the provisioning of the requested EEL.
- 6.3.8 AT&T may audit CLEC's compliance with service eligibility criteria by obtaining and paying for an independent auditor to audit, on no more frequently than an annual basis, CLEC's compliance in Ohio with the conditions set out in Section 6. Such an audit will be initiated only to the extent reasonably necessary to determine CLEC's compliance with the service eligibility criteria. For purposes of calculating and applying an "annual basis", "annual basis" shall mean a consecutive 12-month period, beginning upon AT&T's written notice that an audit will be performed for Ohio, subject to Section 6.3.8.4 of this Section.
- 6.3.8.1 To invoke its limited right to audit, AT&T will send a Notice of Audit to CLEC, identifying examples of particular circuits for which AT&T alleges non-compliance and the cause upon which AT&T rests its audit. The Notice of Audit shall also include all supporting documentation upon which AT&T establishes the cause that forms the basis of its belief that CLEC is non-compliant. Such Notice of Audit will be delivered to CLEC with supporting documentation no less than thirty (30) calendar days prior to the date upon which AT&T seek to commence an audit.
- 6.3.8.2 Unless otherwise agreed by the Parties (including at the time of the audit), the independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an "examination engagement" and issue an opinion that includes the auditor's determination regarding CLEC's compliance with the qualifying service eligibility criteria. The independent auditor's report will conclude whether CLEC complied in all material respects with this Section 6.
- 6.3.8.3 Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment.
- 6.3.8.4 AT&T shall provide CLEC with a copy of the report within 2 business days from the date of receipt. If the auditor's report concludes that CLEC failed to comply in all material respects with the eligibility criteria, CLEC must true-up any difference in payments paid to AT&T and the rates and charges CLEC would have owed AT&T beginning from the date that the noncompliant circuit was established as a UNE/UNE combination (unless there is clear evidence in the auditor's report that the noncompliance occurred after the date the circuit was established, in which case true-up shall apply from such date of noncompliance), in whole or in part (notwithstanding any other provision hereof), but no earlier than the date on which this Attachment is effective. CLEC shall submit orders to



AT&T to either convert all noncompliant circuits to the equivalent or substantially similar wholesale service or disconnect noncompliant circuits. Conversion and/or disconnect orders shall be submitted within 30 days of the date on which CLEC receives a copy of the auditor's report and CLEC shall begin paying the trued-up and correct rates and charges for each converted circuit beginning with the next billing cycle following AT&T's acceptance of such order, unless CLEC disputes the auditor's finding and initiates a proceeding at the Ohio Commission for resolution of the dispute, in which case no changes shall be made until the Commission rules on the dispute. However CLEC shall pay the disputed amount into an escrow account, pending resolution. With respect to any noncompliant circuit for which CLEC fails to submit a conversion or disconnect order or dispute the auditor's finding within such 30-day time period, AT&T may initiate and effect such a conversion on its own without any further consent by CLEC. If converted, CLEC must convert the UNE or UNE combination, or Commingled Arrangement, to an equivalent or substantially similar wholesale service, or group of wholesale services. Reasonable steps will be taken to avoid disruption to CLEC's customer's service or degradation in service quality in the case of conversion. Following conversion, CLEC shall make the correct payments on a going-forward basis in addition to paying trued-up and correct rates and charges, as provided by this section. In no event shall rates set under Section 252(d)(1) apply for the use of any UNE for any period in which CLEC does not meet the Service Eligibility Requirements conditions set forth in this Section 6 for that UNE, arrangement, or circuit, as the case may be. Furthermore, if CLEC disputes the auditor's finding and initiates a proceeding at the Ohio Commission and if the Commission upholds the auditor's finding, the disputed amounts held in escrow shall be paid to AT&T and AT&T shall retain any disputed amounts already paid by CLEC.

- 6.3.8.5 CLEC will take action to correct the noncompliance and, if the number of circuits found to be non-compliant is 10% or greater than the number of circuits investigated, CLEC will reimburse AT&T for 100% of the cost of the independent auditor; if the number of circuits found to be non-compliant is less than 10%, CLEC will reimburse AT&T in an amount that is in direct proportion to the number of circuits found to be non-compliant. CLEC will maintain the appropriate documentation to support its self-certifications. The CLEC reimbursement in this Section 6.3.8.5 is only applicable where there is an auditor finding of noncompliance and no party challenges this finding with the Commission, or if there is an auditor finding of noncompliance followed by a party filing a challenge to this with the Commission followed by the Commission affirming the auditor finding of noncompliance.
- 6.3.8.6 To the extent the auditor's report concludes that CLEC complied in all material respects with the Service Eligibility Requirements, AT&T must reimburse CLEC for all of its reasonable costs associated with the audit.
- 6.3.8.7 CLEC will maintain the appropriate documentation to support its self certifications of compliance with the Eligibility Criteria pursuant to the document retention terms and conditions of the underlying Agreement. To the extent the underlying Agreement does not include document retention terms and conditions, CLEC will maintain the appropriate documentation to support its self certifications for as long as the Agreement is operative, plus a period of two years. AT&T can seek such an audit for any particular circuit for the period which is the shorter of (i) the period subsequent to the last day of the period covered by the Audit which was last performed (or if no audit has been performed, the date the circuit was established) and (ii) the twenty-four (24) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the date the circuit was established.

6.3.8.8 Any disputes between the Parties related to this audit process will be resolved in accordance with the Dispute Resolution process set forth in the General Terms and Conditions of this Agreement.

6.3.8.9 In the event the underlying Agreement does not contain a backbilling statute of limitations, backbilling pursuant to Section 6 is limited to two years prior to the date of the invoice containing the backbilling following the results of the audit.

**6.4 Provisioning for EELs**

6.4.1 With respect to an EEL, CLEC will be responsible for all Channel Facility Assignment (CFA). The CFA are the assignments CLEC provides to AT&T from CLEC's collocation arrangement.

6.4.2 AT&T will perform all maintenance functions on EELs during a mutually agreeable timeframe to test and make adjustments appropriate for maintaining the UNEs in satisfactory operating condition. No credit will be allowed for normal service disruptions involved during such testing and adjustments. Standard credit practices will apply to any service disruptions not directly associated with the testing and adjustment process.

6.4.3 EELs may utilize multiplexing capabilities. The high capacity EEL (DS1 unbundled loop combined with a DS1 or DS3 UDT; or DS3 unbundled loop combined with DS3 UDT) may be obtained by CLEC if available and if CLEC meets all services eligibility requirements set forth in this Section 6.0.

**6.5 [Intentionally left blank.]**

6.6 Other than the service eligibility criteria set forth in this Section, AT&T shall not impose limitations, restrictions, or requirements on requests for the use of UNEs for the service a telecommunications carrier seeks to offer

**7.0 Availability of HFPL for Purposes of Line Sharing**

7.1 AT&T shall make available to CLEC (or its proper successor or assign pursuant to the terms of the Agreement) line sharing over the HFPL in accordance with Rules 51.319(a)(1)(i)-(iv) and (b)(1).

7.2 Grandfathered and New End-Users: AT&T will continue to provide access to the HFPL, where: (i) prior to October 2, 2003, CLEC began providing DSL service to a particular end-user customer and has not ceased providing DSL service to that customer ("Grandfathered End-Users"); and/or (ii) CLEC began providing xDSL service to a particular end-user customer between October 2, 2003, and December 3, 2004 ("New End-Users"). Such access to the HFPL shall be provided at the same monthly recurring rate that AT&T charged prior to October 2, 2003 as set forth in Appendix Pricing of this Agreement, and shall continue for Grandfathered End-Users until CLEC's xDSL-base service to the end-user customer is disconnected for whatever reason, and as to New End-Users the earlier of: (1) CLEC's xDSL-base of service to the customer is disconnected for whatever reason; or (2) October 2, 2006. Beginning October 2, 2006, AT&T shall have no obligation to continue to provide the HFPL for CLEC to provide xDSL-based service to any New End-Users that CLEC began providing xDSL-based service to over the HFPL on or after October 2, 2003 and before December 3, 2004. Rather, effective October 2, 2006, CLEC must provide xDSL-based service to any such new end-user customer(s) via a line splitting arrangement, over a stand-alone xDSL Loop purchased from AT&T, or through an alternate arrangement, if any, that the Parties may negotiate. Any references to the HFPL being made available as an unbundled network element or "UNE" are hereby deleted from the underlying Agreement.

## 8.0 Routine Network Modifications

### 8.1 Routine Network Modifications – UNE Local Loops

8.1.1 AT&T shall make all routine network modifications to UNE Local Loop facilities used by CLEC where the requested UNE Local Loop facility has already been constructed. AT&T shall perform all routine network modifications to UNE Local Loop facilities in a nondiscriminatory fashion, without regard to whether the UNE Local Loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

8.1.2 A routine network modification is an activity that AT&T regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that AT&T ordinarily attaches to activate such loops for its own customers. Routine network modifications may entail activities such as accessing manholes, *splicing into existing cable*, deploying bucket trucks to reach aerial cable, and installing equipment casings.

8.1.3 Routine network modifications do not include the construction of an altogether new loop; installing new aerial or buried cable; securing permits or rights-of-way; or constructing and/or placing new manholes, or conduits or installing new terminals. AT&T is not obligated to perform such activities.

8.1.4 [Intentionally left blank.]

8.1.5 [Intentionally left blank.]

8.1.6 AT&T shall be entitled to recover the costs of routine network modifications, to the extent such costs are not otherwise recovered through the recurring or non-recurring charges in AT&T's current UNE rates.

8.1.6.1 AT&T has established the following interim prices to be charged to CLEC for the routine network modifications (RNM) identified below:

- i. Repeaters (per repeater)
  - a. Initial installation--\$588.24
  - b. Subsequent channels with trip--\$498.28
  - c. Subsequent channels without trip--\$414.32
- ii. Dark Fiber Transport Splicing (per splice)
  - a. Initial--\$726.65
  - b. Additional splices, same enclosure--\$185.50
  - c. Additional splices, different enclosure, same path--\$521.66

8.1.6.2 Any costs for other RNMs which AT&T asserts are not otherwise recovered through AT&T's recurring or non-recurring charges associated with AT&T's current UNE rates shall be addressed in the following manner: The first time an RNM function is performed by AT&T on behalf of a CLEC, AT&T should perform all functions and take all steps necessary to provide access to the requested UNE, *including RNM, in a timely manner*, and should charge that CLEC and all subsequent CLECs requesting that function an interim price for such service.

8.1.6.3 The interim prices set forth or provided for in this Section 8.1.6 shall apply until AT&T and CLEC agree to other rates or until the State Commission determines different rates. The interim prices set forth or provided for herein shall be subject to true-up, back to the effective date of this Amendment, upon the effectiveness of the Ohio Commission's final order in a proceeding to

determine appropriate rates for RNMs. AT&T or CLEC may seek Ohio Commission review of any interim prices charged pursuant to this subsection 8.1.6.

## **8.2 Routine Network Modifications–UNE Dedicated Transport and Dark Fiber**

**8.2.1** AT&T shall make all routine network modifications to UNE Dedicated Transport including Dark Fiber facilities used by CLEC where the requested UNE Dedicated Transport including Dark Fiber facilities have already been constructed. AT&T shall perform all routine network modifications to UNE Dedicated Transport including Dark Fiber facilities in a nondiscriminatory fashion, without regard to whether the UNE Dedicated Transport including Dark Fiber facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

**8.2.2** A routine network modification is an activity that AT&T regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable, adding an equipment case, adding a doubler or repeater, adding a smart jack, installing a repeater shelf, adding a line card and deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier.

**8.2.3** Routine network modifications do not include the construction of new UNE Dedicated Transport including Dark Fiber; installing new aerial or buried cable; securing permits or rights-of-way; constructing and/or placing new manholes, or conduits or installing new terminals. AT&T is not obligated to perform the above stated activities for a CLEC. However, when a CLEC purchases Dark Fiber, AT&T shall not be obligated to provide the optronics for the purpose of lighting the Dark Fiber.

## **9.0 Batch Hot Cut Process**

The “Batch Hot Cut Process Offerings” are new hot cut processes developed after multi-state collaboration between AT&T and interested CLECs. The Batch Hot Cut Process Offerings are available to CLECs in addition to any hot cut processes available pursuant to CLEC’s underlying interconnection agreement. The Batch Hot Cut Process Offerings are designed to provide additional hot cut options for conversions of voice service provisioned by AT&T Ohio as resale, UNE-P, or Local Wholesale Complete™ to CLEC-provided analog, circuit switching. Detailed information and documentation regarding each of the Batch Hot Cut Process Offerings (including order guidelines, supported ordering scenarios, volume limitations (where applicable), and available due date intervals/cut times) is contained on AT&T’s CLEC Online website (or successor website). Any future enhancements or modifications to AT&T’s Batch Hot Cut Process Offerings will be made in accordance with AT&T’s Change Management Process. AT&T will ensure that its Batch Hot Cut Process Offerings comply with all applicable Public Utilities Commission of Ohio batch cut rulings.

### **9.1 General:**

**9.1.1** Enhanced Daily Process: The “Enhanced Daily Process” option is designed to support hot cuts associated with new customer acquisitions. AT&T places no limitations on the number of Enhanced Daily Process orders CLEC may place per day.

**9.1.2** Defined Batch Hot Cut Process: The “Defined Batch Hot Cut Process” is designed to support hot cuts associated with the conversion of CLEC’s embedded base customers from service provisioned using AT&T-provided switching to service provisioned using CLEC-provided switching. CLEC may request up to one hundred hot cuts per day per central office using the Defined Batch

Hot Cut Process. The maximum number of Defined Batch Hot Cut Process requests that AT&T must accept for a single day in a single central office for all CLECs combined is two hundred lines.

9.1.3 **Bulk Project Offering:** The "Bulk Project Offering" is designed to support large volumes of hot cuts associated with the conversion of CLEC's embedded base customers from service provisioned using AT&T-provided switching to service provisioned using CLEC-provided switching.

9.2 **Pricing For Batch Hot Cut Process Offerings.** The per line rates applicable for each available Batch Hot Cut Process Offering option are set forth on the attached Batch Hot Cut Process Offerings Pricing Schedule, which is incorporated herein by this reference. The rates contained in the Batch Hot Cut Process Offering Pricing Schedule only apply to Batch Hot Cut Process Offering hot cut requests. To the extent that the rate application and/or rate structure for the Batch Hot Cut Process Offerings conflicts with provisions contained in CLEC's underlying interconnection agreement, the rate structure and/or rate application contained in the Batch Hot Cut Process Offering Pricing Schedule prevails for Batch Hot Cut Process Offering requests only. This Attachment does not modify the rate structure or rates applicable for any hot cuts requested using other hot cut processes supported by CLEC's underlying interconnection Agreement.

## **10.0 Conversions**

### **10.1 Conversion of Wholesale Services to UNEs**

10.1.1 Upon request, AT&T shall convert a wholesale service, or group of wholesale services, to the equivalent UNE, or combination of UNEs, that is available to CLEC under terms and conditions set forth in this Attachment, so long as the CLEC and the wholesale service, or group of wholesale services, and the UNEs, or combination of UNEs, that would result from the conversion meet the eligibility criteria that may be applicable. (By way of example only, the statutory conditions would constitute one such eligibility criterion.)

10.1.2 Where processes for the conversion requested pursuant to this Attachment are not already in place, AT&T will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines. Unless otherwise agreed to in writing by the Parties, such conversion shall be completed in a manner so that the correct charge is reflected on the next billing cycle after CLEC's request. AT&T agrees that CLEC may request the conversion of such special access circuits on a "project" basis. For other types of conversions, until such time as the Parties have agreed upon processes for such conversions, AT&T agrees to process CLEC's conversion requests on a case-by-case basis and without delay.

10.1.2.1 For UNE conversion orders for which AT&T has either a) not developed a process or b) developed a process that falls out for manual handling, AT&T will charge CLEC the Electronic Service Order (Flow Thru) Record charge for processing CLEC's orders until such process has been developed and CLEC agrees to immediately use the electronic process. Then AT&T may charge service order charges and/or record change charges, as applicable.

10.1.2.2 Except as agreed to by the Parties or otherwise provided hereunder, AT&T shall not impose any untariffed termination charges, or any disconnection fees, re-connection fees, or charges associated with converting an existing wholesale service or group of wholesale services to UNEs or combinations of UNEs. AT&T may charge applicable service order charges or record change charges.

10.1.3 AT&T will complete CLEC conversion orders in accordance with the OSS guidelines in place in support of the conversion that the CLEC is requesting with any disruption to the end user's service

reduced to a minimum or, where technically feasible given current systems and processes, no disruption should occur. Where disruption is unavoidable due to technical considerations, AT&T shall accomplish such conversions in a manner to minimize any disruption detectable to the end user. Where necessary or appropriate, AT&T and CLEC shall coordinate such conversions.

10.1.3.1 CLEC agrees to pay all non-recurring charges applicable to the conversion provided the order activities necessary to facilitate such conversion involves physical work (physical work does not include the re-use of facilities in the same configuration) and involve other than a "record order" transaction. The rates, terms and conditions associated with such transactions are set forth in the Pricing Schedule applicable to the service being transitioned to. To the extent that physical work is not involved in the conversion the applicable service order charges and/or applicable non-recurring tariff order charges, if any, as governed by this Agreement and/or Tariff from which the service being transitioned to is ordered, will be the only applicable charge. AT&T will not impose any untariffed termination charges, or any disconnect fees, re-connect fees or charges associated with establishing a service for the first time, where the service is already established and will remain in place.

10.1.4 AT&T shall perform any conversion from a wholesale service or group of wholesale services to a unbundled Network Element or Combination of unbundled Network Elements, in such a way so that no service interruption as a result of the conversion will be discernable to the end user customers.

10.1.5 Except as provided in 10.1.2, in requesting a conversion of an AT&T service, CLEC must follow the standard guidelines and ordering requirements that are applicable to converting the particular AT&T service sought to be converted.

## **11.0 FTTH Loops, FTTC Loops, Hybrid Loops and Retirement of Copper Loops**

11.1 The following terms shall apply to FTTH and FTTC Loops.

11.1.1 New Builds. AT&T shall not be required to provide nondiscriminatory access to a FTTH or FTTC Loop on an unbundled basis where AT&T has deployed such a Loop to premises that previously were not served by any AT&T Loop.

11.1.2 Overbuilds. AT&T shall not be required to provide nondiscriminatory access to a FTTH or FTTC Loop on an unbundled basis when AT&T has deployed such a Loop parallel to, or in replacement of, an existing copper Loop facility, except that:

- (a) AT&T shall maintain the existing copper Loop connected to the particular customer premises after deploying the FTTH/FTTC Loop and provide nondiscriminatory access to that copper Loop on an unbundled basis unless AT&T retires the copper Loop pursuant to the terms of Section 11.1.3.
- (b) If AT&T maintains the existing copper Loop pursuant to this Section 11.1.2, AT&T need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals. Prior to receiving a request for access by CLEC, upon receipt of a request for access pursuant to this section, AT&T shall restore the copper loop to serviceable condition and will maintain the copper loop when such loop is being purchased by CLEC on an unbundled basis under the provisions of this Attachment.
- (c) For each copper loop retired pursuant to Section 11.1.3 below, AT&T shall offer to provide nondiscriminatory access to a 64 kilobits per second transmission paths capable of voice grade service over the FTTH/FTTC Loop on an unbundled basis on the same rates and terms applicable under the Agreement to a DS-0 Local Loop to the same premises were such a loop

available. CLEC is entitled to request any number of 64kbps paths up to the number of copper loops or subloops previously serving the customer premises that were retired.

11.1.3 Prior to retiring any copper loop or copper subloop that has been replaced with a FTTH/FTTC loop, AT&T must comply with the network disclosure requirements set forth in Section 251 (c) (5) of the Act and in Rules 51.325 through 51.335 and any applicable state requirements and must provide CLECs using such copper loops with a copy of such Short Term notice via an accessible letter AT&T will perform, upon CLEC request, a line station transfer ("LST") where an alternative copper or non-packetized hybrid (TDM) loop is available. In order to request an LST, CLEC must have the rates, terms and conditions for an LST in the underlying Agreement. CLEC will be billed and shall pay for such an LST at the rates set forth in the pricing Appendix. If no such rates, terms and conditions exist in the underlying Agreement, CLEC can request an LST pursuant to the rates, terms and conditions in AT&T's Generic Interconnection Agreement.

11.1.4 AT&T shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades CLEC's access to, or ability to tap the full capabilities of, a local loop or subloop. As such, AT&T's modification of loop plant (e.g., removing copper feeder facilities and stranding CLEC's access to distribution subloop) shall not limit or restrict CLEC's ability to access all of the loop features, functions and capabilities, including DSL capabilities, nor increase the price of any loop used by, or to be used by, CLEC. Furthermore, AT&T will comply with Rules 51.325 through 51.335, and any applicable state requirements.

## 11.2 Hybrid Loops Generally.

11.2.1 Broadband Services. When CLEC seeks access to a Hybrid Loop for the provision of broadband services AT&T shall provide CLEC with nondiscriminatory access to the time division multiplexing (TDM) features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (subject to CLEC's self-certification in accordance with Section 4 of this Attachment), regardless of the type of DLC systems (e.g., NGDLC, UDLC, IDLC) on an unbundled basis, to establish a complete transmission path between the AT&T central office and an end user customer premise. This access shall include access to all features, functions, and capabilities of the Hybrid Loop to the extent that such are not used to transmit packetized information. In instances where both TDM and packetized functionality exist on the Hybrid Loop, AT&T is required to only make the TDM functionality available on an unbundled basis.

11.2.2 Narrowband Services. When CLEC seeks access to a Hybrid Loop for the provision to its customer of narrowband services, AT&T shall either (a) provide nondiscriminatory access to a spare home-run copper Loop serving that customer on an unbundled basis, or (b) provide nondiscriminatory access, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS-0 capacity), using time division multiplexing technology at a rate no higher than the DS-0 loop rate in the Pricing Appendix.

11.2.3 Rates. The non-recurring and recurring rates for Hybrid Loops provided pursuant to Sections 11.2.1 and 11.2.2 shall be no higher than for a copper or fiber loop of comparable capacity as set forth in the Pricing Appendix. AT&T may not impose special construction or other non-standard charges to provision such Hybrid Loops except as provided under this Agreement.

11.2.4 Feeder. AT&T shall not be required to provide access to the Feeder portion of a Loop on an unbundled, standalone basis.

**12.0 Use of Unbundled Network Elements**

12.1 Except as provided in Section 6.0 of this Attachment, AT&T shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service CLEC seeks to offer.

12.2 CLEC may not access an unbundled network element for the exclusive provision of mobile wireless services or interexchange services.

12.3 A CLEC that accesses and uses an unbundled network element consistent with paragraph 12.2 may provide any telecommunications services over the same unbundled network elements.

13.0 [Intentionally left blank.]

**14.0 Entrance Facilities and Interconnection Facilities.**

14.1 Dedicated Transport facilities that do not connect a pair of incumbent LEC wire centers, including but not limited to, the transmission facilities that connect CLEC's networks with AT&T's networks, are Entrance Facilities that will no longer be Unbundled Network Elements provided pursuant to 47 U.S.C. § 251(c)(3) under the Agreement. Effective immediately, CLEC shall not place orders for new Entrance Facilities as UNEs. As to existing Entrance Facility UNEs, CLEC must within 90 days of the Effective Date of this Attachment either request disconnection; submit a request for analogous access service; or identify and request another alternative service arrangement.

14.2 Notwithstanding Section 14.1, AT&T is required to provide access to facilities that CLEC requests to interconnect with AT&T's network for the transmission and routing of telephone exchange service and exchange access service, in accordance with the requirements of Section 251(c)(2) of the Act ("Interconnection Facilities").



### **BATCH HOT CUT PROCESS OFFERING—PRICING SCHEDULE**

[illegible]

**AMENDMENT  
TO  
INTERCONNECTION AGREEMENT  
UNDER SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

between one or more of

**Illinois Bell Telephone Company d/b/a AT&T Illinois,  
Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana  
Michigan Bell Telephone Company d/b/a AT&T Michigan,  
Nevada Bell Telephone Company d/b/a AT&T Nevada,  
The Ohio Bell Telephone Company d/b/a AT&T Ohio,  
Pacific Bell Telephone Company d/b/a AT&T California,  
The Southern New England Telephone Company d/b/a AT&T Connecticut  
Southwestern Bell Telephone, L.P., d/b/a AT&T Oklahoma, AT&T Missouri, AT&T Kansas,  
AT&T Arkansas and AT&T Texas,  
Wisconsin Bell, Inc. d/b/a AT&T Wisconsin**

and

**Level 3 Communications, LLC**

The Interconnection Agreement by and between Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company d/b/a AT&T Connecticut, Southwestern Bell Telephone, L.P., d/b/a AT&T Oklahoma, AT&T Missouri, AT&T Kansas, AT&T Arkansas and AT&T Texas, and Wisconsin Bell, Inc. d/b/a AT&T Wisconsin<sup>1</sup> ("AT&T-13STATE") and Level 3 Communications, LLC ("CLEC") ("Agreement") is hereby amended as follows:

- I. Appendix for Access to AT&T-13STATE Structures (Poles, Conduits, and Rights of Way) which is attached hereto and incorporated herein by this reference shall be added to the Agreement.
- II. 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 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) including, without limitation, the

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<sup>1</sup> The AT&T-13STATE ILECs previously operated under d/b/a's that had "AT&T" instead of "AT&T" in the d/b/a names set forth hereinabove.

FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); the FCC's Report and Order and Notice of Proposed Rulemaking (FCC 05-150), CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242 and 05-271 (rel. Sept. 23, 2005) ("Title I Order"); 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) ("ISP Compensation Order"), 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 Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"); provided, however, to the extent CLEC has entered into a 13-state Amendment Superseding Certain Compensation, Interconnection and Trunking Provisions ("First Amendment"), nothing in this paragraph is intended nor should be construed as modifying or superseding the rates, terms and conditions in the Parties' First Amendment, in which the Parties waived certain rights they may have under the Intervening/Change in Law provisions(s) in the Agreement with respect to any reciprocal compensation or Total Compensable Local Traffic (as defined in the First Amendment), POIs or trunking requirements that are the subject of the First Amendment for the period from January 1, 2005 through December 31, 2006. Notwithstanding anything to the contrary in this Agreement (including this and any other amendments to the Agreement), **AT&T-13STATE** shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and CLEC's own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders. 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). Notwithstanding anything to the contrary in the Agreement and this Amendment and except to the extent that **AT&T-13STATE** has adopted the FCC ISP terminating compensation plan ("FCC Plan") in an **AT&T-13STATE** state in which this Agreement is effective, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to **AT&T-13STATE's** right to exercise its option at any time to adopt on a date specified by **AT&T-13STATE** the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. 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 the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with 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. 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.

- III. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT AS AMENDED SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- IV. This Amendment shall be filed with and is subject to approval by each of the states respective state commission and shall become effective following approval by such state commission. In Arkansas, this amendment shall be filed with the Arkansas Public Service Commission and shall become effective upon filing. In Ohio, based on the Public Utilities Commission of Ohio, the Amendment is effective upon filing and is deemed approved by operation of law on the 31<sup>st</sup> day after filing. Prior to such state commission approval or filing,
- V. CLEC and **AT&T-13STATE** hereby enter into an interim arrangement, effective upon signature by both parties, for early implementation prior to the approval of the Amendment by the applicable state commission. This interim arrangement will be governed by the terms of the Amendment until the applicable state commission approves the Amendment.
- VI. If the applicable state commission refuses to approve the Amendment, CLEC and AT&T-13STATE agree that, within ten (10) business days of receipt of written notice of such state commission refusal, the Parties shall either (i) meet to negotiate a new amendment or (ii) sign a revised amendment that complies with any modifications required by the applicable state commission. If CLEC does neither (i) nor (ii) within the prescribed ten (10) business day interval, and such failure is not due in whole or in part to any action or inaction on the part of **AT&T-13STATE**, or if CLEC terminates the Agreement before approval, CLEC (a) shall promptly reimburse **AT&T-13STATE** for any and all actual and demonstrable costs incurred by **AT&T-13STATE** to engage in such early implementation activities (regardless of whether **AT&T-13STATE** is entitled to independently recover for such services under the Amendment, Agreement or under applicable tariffs), and (b) approve the disconnection of any products, services and facilities ordered by CLEC and contemplated under the terms of the Amendment. Notwithstanding the foregoing, CLEC does not waive and hereby expressly reserves all of its rights and remedies with respect to any such products, services and facilities. If **AT&T-13STATE** fails to do either (i) or (ii) above, then **AT&T-13STATE** shall not be entitled to disconnect or otherwise terminate any affected products, services or facilities. Upon Commission approval, this Section VI expires.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by AT&T-13STATE, signing by and through its duly authorized representative, and CLEC, signing by and through its duly authorized representative.

**Level 3 Communications, LLC**

**Illinois Bell Telephone Company d/b/a AT&T Illinois; Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana; Michigan Bell Telephone Company d/b/a AT&T Michigan; Nevada Bell Telephone Company d/b/a AT&T Nevada; The Ohio Bell Telephone Company d/b/a AT&T Ohio; Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company d/b/a AT&T Connecticut; Southwestern Bell Telephone, L.P., d/b/a AT&T Oklahoma, AT&T Missouri, AT&T Kansas, AT&T Arkansas and AT&T Texas; Wisconsin Bell, Inc. d/b/a AT&T Wisconsin by AT&T Operations, Inc., its authorized agent**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: Executive Director-Regulatory

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FACILITIES-BASED OCN # \_\_\_\_\_**

**ACNA \_\_\_\_\_**

**APPENDIX FOR ACCESS**  
**TO AT&T INC.'S STRUCTURE**  
**(POLES, CONDUITS, AND RIGHTS OF WAYS)**

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## APPENDIX FOR ACCESS TO AT&T COMMUNICATION INC.'S STRUCTURE (POLES, CONDUITS, AND RIGHTS OF WAYS)

### 1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Rights of Way (ROW), Conduits and Poles provided by the applicable AT&T Inc. (AT&T) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.1.1 **AT&T Inc. (AT&T)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin.
- 1.1.2 **AT&T-2STATE** - As used herein, **AT&T-2STATE** means **AT&T CALIFORNIA** and **AT&T NEVADA**, the applicable AT&T-owned ILEC(s) doing business in California and Nevada.
- 1.1.3 **AT&T-13STATE** - As used herein, **AT&T-13STATE** means **AT&T SOUTHWEST REGION 5-STATE**, **AT&T MIDWEST REGION 5-STATE**, **AT&T-2STATE** and **AT&T SNET** the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.1.4 **AT&T MIDWEST REGION 5-STATE** - As used herein, **AT&T MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, The Ohio Bell Telephone Company d/b/a AT&T Ohio, and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin, the applicable AT&T-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.1.5 **AT&T SNET** - As used herein, **AT&T SNET** means The Southern New England Telephone Company, the applicable above listed ILEC doing business in Connecticut.
- 1.1.6 **AT&T SOUTHWEST REGION 5-STATE** - As used herein, **AT&T SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.1.7 **STATE** - "State" as used herein shall mean the state in which this Appendix is filed.

### 2. DEFINITIONS

- 2.1 **Definitions in general.** As used in this Appendix, the terms defined in this article shall have the meanings set forth below in Sections 2.1 to 2.14 except as the context otherwise requires.
- 2.2 **Conduit.** The term "conduit" refers to tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. As used in this Appendix, the term "conduit" refers only to conduit structures (including ducts, manholes and hand holes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other **AT&T-13STATE** structures (such as huts and cabinets) which branch off from or are connected to **AT&T-13STATE**'s conduit.
- 2.3 **Conduit system.** The term "conduit system" refers to any combination of ducts, conduits, manholes, and hand holes joined to form an integrated whole. As used in this Appendix, the term "conduit system" does not include (a) cables and other telecommunications equipment located within conduit structures or (b)



central office vaults, controlled environment vaults, or other **AT&T-13STATE** structures (such as huts and cabinets) which branch off from or are connected to **AT&T-13STATE**'s conduit.

- 2.4 **Duct.** The term "duct" refers to a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other equipment. As used in this Appendix, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels, but does not include cables and other telecommunications equipment located within such ducts.
- 2.5 **Hand hole.** The term "hand hole" refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Appendix, the term "hand hole" refers only to hand holes which are part of **AT&T-13STATE**'s conduit system and does not refer to hand holes which provide access to buried cables not housed within **AT&T-13STATE** ducts or conduits. As used in this Appendix, the term "hand hole" refers only to hand hole structures owned or controlled by **AT&T-13STATE** and does not include cables and other telecommunications equipment located within hand hole structures.
- 2.6 **Occupancy Permit.** The term "occupancy permit" refers to a written instrument confirming that **AT&T-13STATE** has granted the structure access request of Attaching Party or a third party for access to pole, duct, conduit, or right-of-way space.
- 2.7 **Maintenance Duct.** The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term "maintenance duct" does not include ducts and conduits extending from an **AT&T-13STATE** manhole to customer premises. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.
- 2.8 **Make-ready work.** The term "make-ready work" refers to all work performed or to be performed to prepare **AT&T-13STATE**'s poles, ducts, conduits, rights-of-way, and related facilities for the requested occupancy or attachment of Attaching Party's facilities.
- 2.9 **Manhole.** The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in ducts or conduits which are parts of **AT&T-13STATE**'s conduit system. As used in this Appendix, the term "manhole" does not include cables and other telecommunications equipment located within manhole structures.
- 2.10 **Other User.** The term "Other User" refers to entities, other than the Attaching Party, with facilities on an **AT&T-13STATE** pole, duct, conduit or right-of-way to which the Attaching Party has obtained access. Other Users may include **AT&T-13STATE**, other attaching parties, municipalities or other governmental entities, and electric utilities (which may own interests in **AT&T-13STATE**'s poles, ducts, conduits or rights-of-ways).
- 2.11 **Over lashing.** The term "Over lashing" refers to the practice of placing an additional cable by lashing such cable with spinning wire over an existing cable and strand.
- 2.12 **Pole.** The term "pole" refers to poles (and associated anchors) which are owned or controlled by **AT&T-13STATE** and does not include cables and other telecommunications equipment attached to pole structures.
- 2.13 **Rights-of-way.** The term "rights-of-way" refers to **AT&T-13STATE** owned or controlled legal rights to pass over or through property of another party and used by **AT&T-13STATE** for its telecommunications distribution system. For purposes of this Appendix, "rights-of-way" includes property owned by **AT&T-13STATE** and used by **AT&T-13STATE** for its telecommunications distribution facilities. Rights-of-way does not include:
- 2.13.1 cables and other telecommunications equipment buried or located on such rights-of-way,
- 2.13.2 public rights of way (which are owned by and subject to the control of governmental entities), or

2.13.3 any space which is owned and controlled by a third-party property owner and occupied by **AT&T-13STATE** with permission from such owner rather than as a matter of legal right.

2.14 **Structure**. The term "Structure" refers collectively to poles, ducts, conduits and rights-of-way.

### 3. SCOPE OF APPENDIX

3.1 This Appendix establishes the rates, terms, conditions, and procedures by which **AT&T-13STATE** shall provide non-discriminatory access to **AT&T-13STATE**'s Structure. Separate tariffs, appendixes, including Appendix Collocation of this Agreement, or agreements shall govern Attaching Party's access, if any, to the following facilities which require special security, technical, and construction arrangements outside the scope of this Appendix:

3.1.1 **AT&T-13STATE**'s central office vaults and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from **AT&T-13STATE**'s central offices;

3.1.2 controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;

3.1.3 ducts and conduits located within buildings owned by **AT&T-13STATE**; and

3.1.4 ducts, conduits, equipment rooms, and similar spaces located in space leased by **AT&T-13STATE** from third-party property owners for purposes other than to house cables and other equipment in active service as part of **AT&T-13STATE**'s network distribution operations.

3.2 **No Transfer of Property Rights to Attaching Party**. Nothing contained in this Appendix, or any occupancy permit subject to this Appendix, shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other.

3.3 **No Effect on AT&T-13STATE's Right to Abandon, Convey or Transfer Structure**. Nothing contained in this Appendix, or any occupancy permit subject to this Appendix, shall in any way affect **AT&T-13STATE**'s right to abandon, convey, or transfer to any other person or entity **AT&T-13STATE**'s interest in any of **AT&T-13STATE**'s Structure. **AT&T-13STATE** shall give Attaching Party at least 60 days written notice prior to abandoning, conveying, or transferring any Structure to which Attaching Party has already attached its facilities, or any Structure on which Attaching Party has already been assigned space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.

### 4. INTENTIONALLY LEFT BLANK

### 5. GENERAL PROVISIONS

5.1 **Entire Appendix**. This Appendix, together with the Interconnection Agreement, if any, of which this Appendix is a part, and the Guidelines for Access to **AT&T-13STATE** Structure, attached hereto and incorporated herein by reference, sets forth the entire understanding and agreement of the parties.

5.2 **Prior Agreements Superseded**. This Appendix supersedes all prior Agreements and understandings, whether written or oral, between Attaching Party and **AT&T-13STATE** relating to the placement and maintenance of Attaching Party's facilities on and within **AT&T-13STATE**'s poles, ducts, and conduits within this State.

5.3 **Amendments Shall Be in Writing**. Except as otherwise specifically provided to the contrary by other provisions of this Appendix, the terms and conditions of this Appendix shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.

5.4 **Survival of Obligations**. Any liabilities or obligations of either party for acts or omissions prior to the termination of this Appendix, any obligations of either party under provisions of this Appendix relating to confidential and proprietary information, indemnification, limitations of liability, and any other provisions of

this Appendix which, by their terms, are contemplated to survive (or be performed after) termination of this Appendix, will survive the termination of this Appendix.

- 5.5 **Multiple Counterparts.** This Appendix may be executed in multiple counterparts.
- 5.6 **Effect on Licenses or Occupancy Permits Issued Under Prior Agreements.** All currently effective pole attachment and conduit occupancy permits granted to Attaching Party shall, on the effective date of this Appendix, be subject to the rates, terms, conditions, and procedures set forth in this Appendix.
- 5.7 **Force Majeure.** Except as otherwise specifically provided in this Appendix, neither party will be liable for any delay or failure in performance of any part of this Appendix caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, disputes, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the party claiming excusable delay or other failure to perform; provided, however, that Force Majeure will not include acts of any governmental authority relating to environmental, health, or safety conditions at work locations. If any Force Majeure condition occurs, the party whose performance fails or is delayed because of such Force Majeure condition will give prompt notice to the other party, and, upon cessation of such Force Majeure condition, will give like notice and commence performance hereunder as promptly as reasonably practicable. Each Party agrees to treat the other in parity with the manner in which it treats itself with regard to a Force Majeure Event.
- 5.8 **Severability.** If any article, section, subsection, or other provision or portion of this Appendix is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Appendix as to either party, the invalidity of such provision shall not render this entire Appendix unenforceable and this Appendix shall be administered as if it did not contain the invalid provision.
- 5.9 **Choice of Law.** Except to the extent that federal law controls any aspect of this Appendix, the validity of this Appendix, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of this State, applied without regard to the provisions of this State's laws relating to conflicts-of-laws.
- 5.10 **Changes in the Law.** The parties agree to negotiate in good faith changes to this Appendix to conform to changes applicable law pertaining to access to poles, ducts, conduits and rights-of-way, including the Pole Attachment Act.
- 5.11 The parties shall at all times observe and comply with, and the provisions of this Appendix are subject to, all applicable federal, state, and local laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.

## 6. DISCLAIMER OF WARRANTIES

- 6.1 **AT&T-13STATE MAKES NO REPRESENTATIONS AND DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, THAT AT&T-13STATE'S POLES, DUCTS, CONDUITS AND WARRANTIES ARE SUITABLE FOR THE ATTACHING PARTY'S INTENDED USES OR ARE FREE FROM DEFECTS. THE ATTACHING PARTY SHALL IN EVERY INSTANCE BE RESPONSIBLE TO DETERMINE THROUGH REASONABLE INSPECTION THE ADEQUACY OF AT&T-13STATE'S POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY FOR THE ATTACHING PARTY'S INTENDED USE.**

## 7. DISPUTE RESOLUTION

- 7.1 In the event that this Appendix is a part of an Interconnection Agreement between the parties, the dispute resolution provisions of the Interconnection Agreement shall apply to disputes under this Appendix.

## 8. INDEMNIFICATION

- 8.1 **Definitions.** The term "Claims" as used in Section 8 shall mean any suit, claim, demand, loss, damage, liability, fee, fine, penalty, or expense, of every kind and character.
- 8.2 **Indemnities Excluded.** Except as otherwise specifically provided in this article, neither party (as an "indemnifying party") shall be required to indemnify or defend the other party (as an "indemnified party") against, or hold the indemnified party harmless from, any Claims arising out of:
- 8.2.1 any breach by the indemnified party of any provision of this Appendix or any breach by the indemnified party of the parties' interconnection Appendix, if any;
  - 8.2.2 the violation of any law by any employee of the indemnified party or other person acting on the indemnified party's behalf;
  - 8.2.3 willful or intentional misconduct or gross negligence committed by any employee of the indemnified party or by any other person acting on the indemnified party's behalf; or
  - 8.2.4 any negligent act or acts committed by any employee or agent of the indemnified party, if such negligent act or acts are the sole producing cause of the injury, loss, or damage giving rise to the Claim for which indemnity is requested.
- 8.3 **Workplace Injuries.** Except as expressly provided in this Appendix to the contrary, each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any injury, loss, or damage suffered by any person, which arises out of or in connection with the personal injury or death of any employee of the indemnifying party (or other person acting on the indemnifying party's behalf) if such injury or death results, in whole or in part, from any occurrence or condition on, within, or in the vicinity of **AT&T-13STATE's** Structure.
- 8.4 **Other Claims Brought Against Either Party by Employees and Other Persons Acting on the Other Party's Behalf.** Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3 above) made, brought, or sought against the indemnified party by any employee, contractor, or subcontractor of the indemnifying party or by any other person acting on the indemnifying party's behalf.
- 8.5 THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.3-8.4 SHALL ARISE EVEN IF THE INJURY, SICKNESS, DISEASE, OR DEATH WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.
- 8.6 **Claims Brought Against Either Party by Vendors, Suppliers and Customers of the Other Party.** Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3, or other claims subject to Section 8.4) made, brought, or sought against the indemnified party by any vendor, supplier, or customer of the indemnifying party.
- 8.7 **Injuries to Third Parties and Third party Property Owners Resulting from the Parties' Conduct.** Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with the personal injury or death of any third party or physical damage to real or personal property owned by a third party, arising, in whole or in part, out of or in connection with the conduct of employees or agents of the indemnifying party.
- 8.8 **Indemnification for Environmental Claims.**
- 8.8.1 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the violation or breach, by any employee or agent of the indemnifying party or, of
    - 8.8.1.1 any federal, state, or local environmental statute, rule, regulation, ordinance, or other law or
    - 8.8.1.2 any provision or requirement of this Appendix dealing with hazardous substances or protection of the environment.

- 8.8.2 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the release or discharge by any employee or agent of the indemnifying party, onto any public or private property, of any hazardous substances regardless of the source of such hazardous substances, while present on, within, or in the vicinity of any **AT&T-13STATE** pole, duct, conduit, or right-of-way.
- 8.8.3 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the removal or disposal of any hazardous substances by an employee or agent of the indemnifying party, or arising out of or in connection with the subsequent storage, processing or other handling of such hazardous substances by any person or entity after they have been removed by an employee or agent of the indemnifying party from the site of any **AT&T-13STATE** pole, duct, conduit, or right-of-way.
- 8.8.4 Except as otherwise specifically provided in this section, neither party shall be required to indemnify or defend the other party against, or hold the other party harmless from any Claims for which the other party may be liable under any federal, state, or local environmental statute, rule, regulation, ordinance, or other law.
- 8.9 Miscellaneous Claims. Attaching Party shall indemnify, on request defend, and hold **AT&T-13STATE** harmless from any and all Claims, of every kind and character, made, brought, or sought against **AT&T-13STATE** by any person or entity, arising out of or in connection with the subject matter of this Appendix and based on either:
- 8.9.1 Claims for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on **AT&T-13STATE** due to the placement or presence of Attaching Party's facilities on or within **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way; or
- 8.9.2 Claims based on the violation by Attaching Party of any third party's intellectual property rights, including but not limited to claims for copyright infringement, patent infringement, or unauthorized use or transmission of television or radio broadcast programs or other program material.
- 8.10 Attaching Party's General Indemnity Obligations to **AT&T-13STATE**. This section applies only in those situations not expressly covered by Sections 8.3-8.10 and does not apply to any Claims resulting from Attaching Party's enforcement of its rights against **AT&T-13STATE** pursuant to this Appendix or other provisions in the parties' interconnection Appendix, if any. Except as otherwise expressly provided in this Appendix to the contrary, and subject to the exclusions set forth in Section 8.2, Attaching Party shall indemnify, on request defend, and hold **AT&T-13STATE** harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with Attaching Party's access to or use of **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way, Attaching Party's performance of any acts authorized or required under this Appendix, or the presence or activities of Attaching Party's employees or agents on, within, or in the vicinity of **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way.
- 8.11 **AT&T-13STATE**'s General Indemnity Obligations to Attaching Party. This section applies only in those situations not expressly covered by Sections 8.3-8.9 and does not apply to any Claims resulting from **AT&T-13STATE**'s enforcement of its rights against Attaching Party pursuant to this Appendix or other provisions in the parties' interconnection Agreement, if any. Except as otherwise expressly provided in this Appendix to the contrary, **AT&T-13STATE** shall indemnify, on request defend, and hold Attaching Party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with **AT&T-13STATE**'s access to or use of **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way, **AT&T-13STATE**'s performance of any acts authorized or required under this Appendix, or the presence or activities of **AT&T-13STATE**'s employees or agents on, within, or in the vicinity of **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way.

## 9. LIABILITIES AND LIMITATIONS OF LIABILITY

- 9.1 **EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION LIMITS EACH PARTY'S LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OR OMISSIONS OF SUCH PARTY BUT DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INTENTIONAL MISCONDUCT.
- 9.2 **AT&T-13STATE Not Liable to Attaching Party for Acts of Third Parties or Acts of God.** By affording Attaching Party access to **AT&T-13STATE** Structure **AT&T-13STATE** does not warrant, guarantee, or insure the uninterrupted use of such facilities by Attaching Party. Except as specifically provided in Section 9.3 of this Appendix, Attaching Party assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Attaching Party's facilities attached to **AT&T-13STATE**'s poles or placed in **AT&T-13STATE**'s Structure and **AT&T-13STATE** shall not be liable to Attaching Party for any damages to Attaching Party's facilities other than as provided in Section 9.3. In no event shall **AT&T-13STATE** be liable to Attaching Party under this Agreement for any death of person or injury, loss, or damage resulting from the acts or omissions of (1) any Other User or agent of such Other User, (2) any governmental body or governmental employee, (3) any third-party property owner or persons acting on behalf of such property owner, or (4) any permit, invitee, trespasser, or other person present at the site or in the vicinity of any **AT&T-13STATE** pole, duct, conduit, or right-of-way in any capacity other than as a **AT&T-13STATE** employee or person acting on **AT&T-13STATE**'s behalf. In no event shall **AT&T-13STATE** be liable to Attaching Party under this Agreement for injuries, losses, or damages resulting from acts of God (including but not limited to storms, floods, fires, and earthquakes), wars, civil disturbances, espionage or other criminal acts committed by persons or entities not acting on **AT&T-13STATE**'s behalf, cable cuts by persons other than **AT&T-13STATE**'s employees or persons acting on **AT&T-13STATE**'s behalf, or other causes beyond **AT&T-13STATE**'s control which occur at sites subject to this Appendix.
- 9.3 **Damage to Facilities.** Each party shall exercise due care to avoid damaging the facilities of the other or of Other Users and hereby assumes all responsibility for any and all loss from damage caused by the party and agents of such party. A party shall make an immediate report to the other of the occurrence of any damage and hereby agrees to reimburse the other party, and/or Other Users for any property damaged caused by the party or persons acting on the party's behalf.
- 9.4 **No Limitations of Liability in Contravention of Federal or State Law.** Nothing contained in this article shall be construed as exempting either party from any liability, or limiting such party's liability, in contravention of federal law or in contravention of the laws of this State.

## 10. INSURANCE

- 10.1 At all times in which the Attaching Party has attachments to **AT&T-13STATE** poles, or is occupying **AT&T-13STATE** conduit or right-of-way, Attaching Party shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set for below. Such insurance and coverage shall cover the Attaching Party. The attaching party shall require all of its contractors, subcontractors and/or any other person acting on Attaching Party's behalf to name AT&T as an additional insured on such persons' policies.
- 10.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Appendix and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$1,000,000 for Bodily Injury by disease-each employee.

- 10.1.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations.
- 10.1.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired and non-owned vehicles.
- 10.2 Attaching Party agrees to name **AT&T-13STATE** as an Additional Insured on the Commercial General Liability policy and Commercial Automobile Liability Policy.
- 10.3 **AT&T-13STATE** agrees to accept the Attaching Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
- 10.3.1 Workers' Compensation and Employers Liability: Attaching Party submit to **AT&T-13STATE** its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Appendix or the employer's state of hire; and
- 10.3.2 Automobile liability: Attaching Party shall submit to **AT&T-13STATE** a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Appendix; and
- 10.3.3 General liability: Attaching Party must provide evidence acceptable to **AT&T-13STATE** that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.
- 10.4 All insurance required in accordance with this section must be in effect before **AT&T-13STATE** will issue pole attachment or conduit occupancy permits under this Appendix.
- 10.5 Attaching Party agrees to provide **AT&T-13STATE** with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein. Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 30 days written notice to the certificate holder named. Failure to mail such notice shall impose no obligation or liability upon the company or its agents or representatives.

## 11. ASSIGNMENT OF RIGHTS

- 11.1 Assignment Permitted. Neither party may assign or otherwise transfer its rights or obligations under this Appendix except as provided in this section.
- 11.1.1 **AT&T-13STATE** may assign its rights, delegate its benefits, and delegate its duties and obligations under this Appendix, without Attaching Party's consent, to any entity controlling, controlled by, or under common control with **AT&T-13STATE** or which acquires or succeeds to ownership of substantially all of **AT&T-13STATE**'s assets.
- 11.1.2 Overlapping of Attaching Party's facilities on **AT&T-13STATE** poles by a third party will be allowed under the following conditions:
- 11.1.2.1 The Overlapping entity must enter into an Appendix with **AT&T-13STATE** for access to **AT&T-13STATE** Structures and abide by the terms and conditions of such an Occupancy Permit.
- 11.1.2.2 The Overlapping entity must obtain written approval from the Attaching Party and provide a copy to **AT&T-13STATE** prior to submitting a request for access to structure.
- 11.1.2.3 The Overlapping party must submit a written request for access to structure, and indicate on the request that the request is for Overlapping of an existing attachment of the Attaching Party.

11.1.2.4 The Overlapping entity is responsible for paying the fees for Overlapping in APPENDIX I and/or APPENDIX PRICING which are separate and in addition to the fees paid by the Attaching Party.

11.1.3 Attaching Party may, ancillary to a bona fide loan transaction between Attaching Party and any lender, and without **AT&T-13STATE**'s consent, grant security interests or make collateral assignments in substantially all of Attaching Party's assets, including Attaching Party's rights under this Appendix, subject to the express terms of this Appendix. In the event Attaching Party's lender, in the bona fide exercise of its rights as a secured lender, forecloses on its security interest or arranges for a third party to acquire Attaching Party's assets through public or private sale or through an Agreement with Attaching Party, Attaching Party's lender or the third party acquiring Attaching Party's rights under this Appendix shall assume all outstanding obligations of Attaching Party under the agreement and provide proof satisfactory to **AT&T-13STATE** that such lender or third party has complied or will comply with all requirements established under this Appendix. Notwithstanding any provisions of this Appendix to the contrary, such foreclosure by Attaching Party's lender or acquisition of assets by such third party shall not constitute a breach of this Agreement and, upon such foreclosure or acquisition, Attaching Party's lender or such third party shall succeed to all rights and remedies of Attaching Party under this Agreement (other than those rights and remedies, if any, which have not been transferred and, if Attaching Party is a debtor under the Federal Bankruptcy Code, those rights, if any, which remain a part of the debtor's estate notwithstanding an attempted foreclosure or transfer) and to all duties and obligations of Attaching Party under the Agreement, including liability to **AT&T-13STATE** for any act, omission, default, or obligation that arose or occurred under the Agreement prior to the date on which such lender or third party succeeds to the rights of Attaching Party under the Agreement, as applicable.

11.1.4 No assignment or transfer by Attaching Party of rights under this Agreement, occupancy permit subject to this Agreement, or authorizations granted under this Agreement shall be effective until Attaching Party, its successors, and assigns have complied with the provisions of this article, secured **AT&T-13STATE**'s prior written consent to the assignment or transfer, if necessary, and given **AT&T-13STATE** notice of the assignment or transfer pursuant to Section 11.3.

11.2 Incorporations, Mergers, Acquisitions, and Other Changes in Attaching Party's Legal Identity. Attaching Party may assign or otherwise transfer this Appendix to any Affiliate of Attaching Party, or to any entity into which Attaching Party may be merged or consolidated or which purchases all or substantially all of the assets of Attaching Party provided, however, the Affiliate or entity to whom Attaching Party is assigning its rights is entitled to attach to **AT&T-13STATE**'s poles and conduit as a communications carrier or cable provider or otherwise under the law. Any assignee or transferee shall continue to be subject to all of the terms and conditions of this Appendix. "Affiliate", for purposes of this Appendix, shall mean, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person ("control," "controlled by" and "under common control with" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise). "Person" shall mean any natural person, corporation, partnership, limited liability company, business trust, joint venture, association, company or governmental authority.

11.2 Assignment Shall Not Relieve Attaching Party of Prior Obligations. Except as otherwise expressly agreed by **AT&T-13STATE** in writing, no assignment permitted by **AT&T-13STATE** under this Agreement shall relieve Attaching Party of any obligations arising under or in connection with this Agreement, including but not limited to indemnity obligations under Section 8 of this Agreement or the interconnection agreement, if any.

11.3 Satisfaction of Existing Obligations and Assumption of Contingent Liabilities. **AT&T-13STATE** may condition its approval of any requested assignment or transfer on the assignee's or successor's payment or satisfaction of all outstanding obligations of Attaching Party under this Agreement and the assignee's or



successor's assumption of any liabilities, or contingent liabilities, of Attaching Party arising out of or in connection with this Agreement.

- 11.4 Sub-Permits Prohibited. Nothing contained in this Agreement shall be construed as granting Attaching Party the right to sublease, sublicense, or otherwise transfer any rights under this Agreement or occupancy permits subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Attaching Party shall not allow third party to attach or place facilities to or in pole or conduit space occupied by or assigned to Attaching Party or to utilize such space. Nothing in the foregoing should be read to prohibit Attaching Party from using contractors or other authorized agents to perform attachment or placement work on its behalf.

## 12. TERMINATION OF APPENDIX OR OCCUPANCY PERMITS; REMEDIES FOR BREACHES

- 12.1 Termination Due to Non-Use of Facilities or Loss of Required Authority. This Appendix and all occupancy permits subject to this Appendix shall terminate if Attaching Party ceases to have authority to do business or ceases to do business in this State, ceases to have authority to provide or ceases to provide cable television services in this State (if Attaching Party is cable television system having access to AT&T-13STATE's poles, ducts, conduits or rights-of-way solely to provide cable television service), ceases to have authority to provide or ceases to provide telecommunications services in this State (if Attaching Party is a telecommunications carrier which does not also have authority to provide cable television service in this State), or ceases to make use of AT&T-13STATE's poles, ducts, conduits, and rights-of-way.
- 12.2 Individual occupancy permits subject to this Appendix shall terminate if (a) Attaching Party ceases to utilize the pole attachment or conduit or right of way space subject to such occupancy permit or (b) Attaching Party's permission to use or have access to particular poles, ducts, conduits, or rights-of-way has been revoked, denied, or terminated, or local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access.
- 12.3 Limitation, Termination, or Refusal of Access for Certain Material Breaches. Attaching Party's access to AT&T-13STATE's Structure shall not materially interfere with or materially impair service over any facilities of AT&T-13STATE or any Other User, cause material damage to AT&T-13STATE's plant or the plant of any Other User, impair the privacy of communications carried over the facilities of AT&T-13STATE or any Other User, or create serious hazards to the health or safety of any persons working on, within, or in the vicinity of AT&T-13STATE's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, AT&T-13STATE may limit, terminate or refuse access if Attaching Party violates this provision.
- 12.4 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Appendix by either party, the aggrieved party may give written notice of such claimed breach.
- 12.5 The complaining party shall not be entitled to pursue any remedies available under this Appendix or relevant law unless such notice is given, and
- 12.5.1 the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or
- 12.5.2 the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure.
- 12.6 Remedies for Breach. Subject to the provisions of this article, either party may terminate this Appendix upon sixty (60) days notice to the other Party and, where required, to the appropriate state commission in the event of a material breach by the other party or exercise any other legal or equitable right which such party may have to enforce the provisions of this Agreement. In any action based on an alleged breach of this Appendix, the prevailing party shall be entitled to recover all costs and expenses incurred by such party, including but not limited to reasonable attorneys' fees.

## 13. FAILURE TO ENFORCE

- 13.1 No Waiver. The failure by either party to take action to enforce compliance with any of the terms or conditions of this Agreement, to give notice of any breach, or to terminate this Agreement or any occupancy permit or authorization subject to this Agreement shall not constitute a waiver or relinquishment of any term or condition of this Agreement, a waiver or relinquishment of the right to give notice of breach, or waiver or relinquishment of any right to terminate this Agreement.

#### 14. CONFIDENTIALITY OF INFORMATION

- 14.1 Information Provided by Attaching Party to AT&T-13STATE. Except as otherwise specifically provided in this Appendix, all company-specific and customer-specific information submitted by Attaching Party to AT&T-13STATE in connection with this Appendix (including but not limited to information submitted in connection with Attaching Party's applications for occupancy permit shall be deemed to be "confidential" or "proprietary" information of Attaching Party and shall be subject to the terms set forth in this article. Confidential or proprietary information specifically includes information or knowledge related to Attaching Party's review of records regarding a particular market area, or relating to assignment of space to Attaching Party in a particular market area, and further includes knowledge or information about the timing of Attaching Party's request for or review of records or its inquiry about AT&T-13STATE facilities. This article does not limit the use by AT&T-13STATE of aggregate information relating to the occupancy and use of AT&T-13STATE's Structure by firms other than AT&T-13STATE (that is, information submitted by Attaching Party and aggregated by AT&T-13STATE in a manner that does not directly or indirectly identify Attaching Party).
- 14.2 Access Limited to Persons with a Need to Know. Confidential or proprietary information provided by Attaching Party to AT&T-13STATE in connection with this Agreement shall not be disclosed to, shared with, or accessed by any person or persons other than those who have a need to know such information for the limited purposes set forth in Sections 14.3-14.6.
- 14.3 Permitted Uses of Attaching Party's Confidential Information. Notwithstanding the provisions of Sections 14.1 and 14.2 above, AT&T-13STATE and persons acting on AT&T-13STATE's behalf may utilize Attaching Party's confidential or proprietary information for the following purposes:
- 14.3.1 posting information, as necessary, to AT&T-13STATE's outside plant records;
  - 14.3.2 placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing AT&T-13STATE's Structure and any AT&T-13STATE facilities located on, within, or in the vicinity of such Structure;
  - 14.3.3 performing AT&T-13STATE's obligations under this Agreement and similar agreements with third parties;
  - 14.3.4 determining which of AT&T-13STATE's Structure are (or may in the future be) available for AT&T-13STATE's own use, and making planning, engineering, construction, and budgeting decisions relating to AT&T-13STATE's Structure;
  - 14.3.5 preparing cost studies;
  - 14.3.6 responding to regulatory requests for information;
  - 14.3.7 maintaining AT&T-13STATE's financial accounting records; and
  - 14.3.8 complying with other legal requirements relating to Structure.
- 14.4 Defense of Claims. In the event of a dispute between AT&T-13STATE and any person or entity, including Attaching Party, concerning AT&T-13STATE's performance of this Agreement, satisfaction of obligations under similar agreements with third parties, compliance with the Pole Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, AT&T-13STATE may utilize confidential or proprietary information submitted by Attaching Party in connection with this Appendix as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court

orders, or reasonable discovery requests; provided, however, that **AT&T-13STATE** shall not disclose Attaching Party's proprietary or confidential information without first, at **AT&T-13STATE**'s option:

14.4.1 obtaining an agreed protective order or nondisclosure Agreement that preserves the confidential and proprietary nature of Attaching Party's information;

14.4.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure Agreement can be obtained; or

14.4.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

14.5 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding **AT&T-13STATE** from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that **AT&T-13STATE** shall not disclose Attaching Party's proprietary or confidential information without first, at **AT&T-13STATE**'s option:

14.5.1 obtaining an agreed protective order or nondisclosure Agreement that preserves the confidential and proprietary nature of Attaching Party's information;

14.5.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure Agreement can be obtained; or

14.5.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

## 15. ACCESS TO RIGHTS-OF-WAY

15.1 To the extent **AT&T-13STATE** has the authority to do so, **AT&T-13STATE** grants Attaching Party a right to use any right-of-way for **AT&T-13STATE** poles, ducts, or conduits to which Attaching Party may attach its facilities for the purposes of constructing, operating and maintaining such Attaching Party's facilities on **AT&T-13STATE**'s poles, ducts or conduits. Notwithstanding the foregoing, Attaching Party shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the **AT&T-13STATE** pole, duct or conduit to which Attaching Party seeks to attach its facilities. Attaching Party shall furnish proof of any such easement, right of way, license, permit, permission, certification, or franchise within thirty (30) days of request by **AT&T-13STATE**. **AT&T-13STATE** does not warrant the validity or apportionability of any rights it may hold to place facilities on private property.

15.2 Private Rights-of-Way Not Owned or Controlled by Either Party. Neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third-parties which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. Each party shall make its own, independent legal assessment of its right to enter upon or use the property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.

15.3 Access to Rights-of-Way Generally. At locations where **AT&T-13STATE** has access to third-party property pursuant to non-exclusive rights-of-way, **AT&T-13STATE** shall not interfere with Attaching Party's negotiations with third-party property owners for similar access or with Attaching Party's access to such property pursuant to easements or other rights-of-ways obtained by Attaching Party from the property owner. At locations where **AT&T-13STATE** has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, **AT&T-13STATE** shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Attaching Party on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits **AT&T-13STATE** to provide such access, and provided further that **AT&T-13STATE**'s charges for such access shall include Attaching Party's pro rata portion of the charges, if any, paid by **AT&T-13STATE** to obtain the

right-of-way, plus any other documented legal, administrative, and engineering costs incurred by **AT&T-13STATE** in obtaining the right-of-way and processing Attaching Party's request for access.

## 16. SPECIFICATIONS

- 16.1 **Compliance with Requirements, Specifications, and Standards.** Attaching Party's facilities attached to **AT&T-13STATE**'s poles or occupying space in **AT&T-13STATE**'s ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Appendix and the Administrative Guide, provided that such Guide and any updates are first provided to the Attaching Party.

16.1.1 **AT&T CALIFORNIA ONLY-** In addition to the terms and conditions included in this Appendix, **AT&T CALIFORNIA** shall comply with any requirements set forth in California Public Utility Commission Decision 98-10-058.

- 16.2 **Published Standards.** Attaching Party's facilities shall be placed, constructed, maintained, repaired, and removed in accordance with current (as of the date when such work is performed) editions of the following publications:

16.2.1 the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";

16.2.2 the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");

16.2.3 the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");

16.2.4 California Public Utility Commission's General Orders 95 and 128 for attachments to Pacific Bell Telephone Company poles, ducts, conduits and rights of way; and,

16.2.5 the **AT&T-13STATE** Structure Access Guidelines, provided that such Guidelines and any updates are first provided to Attaching Party.

- 16.3 **Opening of Manholes and Access to Conduit.** The following requirements apply to the opening of **AT&T-13STATE**'s manholes and access to **AT&T-13STATE**'s conduit system.

16.3.1 Attaching Party will notify **AT&T-13STATE** not less than 5 business days in advance before entering **AT&T-13STATE**'s conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.

16.3.2 An authorized employee or representative of **AT&T-13STATE** may be present any time when Attaching Party or personnel acting on Attaching Party's behalf enter or perform work within **AT&T-13STATE**'s conduit system provided that Attaching Party shall not be required to await the arrival of **AT&T-13STATE**'s employee or representative prior to initiating the desired work at the particular site. Attaching Party shall reimburse **AT&T-13STATE** for costs associated with the presence of **AT&T-13STATE**'s authorized employee or representative.

16.3.3 Each party must obtain any necessary authorization from appropriate authorities to open manholes.

## 17. ACCESS TO RECORDS

- 17.1 **AT&T-13STATE** will, upon request and at the expense of the Attaching Party, provide Attaching Party access to and copies of redacted maps, records and additional information relating to the location, capacity and utilization of **AT&T-13STATE**'s Structure. Upon request, **AT&T-13STATE** will meet with the Attaching Party to clarify matters relating to maps, records or additional information. **AT&T-13STATE** does not warrant the accuracy or completeness of information on any maps or records.

- 17.2 Maps, records or information are and remain the proprietary property of AT&T-13STATE, are provided to the Attaching Party solely for the pursue of enabling the Attaching Party to obtain access to AT&T-13STATE's Structure, and may not be resold, reproduced or disseminated by the Attaching Party.
- 17.3 AT&T-13STATE will provide information currently available on the AT&T-13STATE's maps and/or records regarding:
- 17.3.1 the location of Structure and street addresses for manholes and poles as shown on AT&T-13STATE's maps;
  - 17.3.2 the footage between manholes or lateral ducts lengths, as shown on AT&T-13STATE's maps;
  - 17.3.3 the footage between poles, if shown on AT&T-13STATE's maps;
  - 17.3.4 the total capacity of the Structure;
  - 17.3.5 the existing utilization of the Structure.
- 17.4 AT&T-13STATE will not acquire additional information or provide information in formats other than that in which it currently exists and is maintained by AT&T-13STATE.
- 17.5 AT&T-13STATE will expunge any confidential or proprietary information from its maps and records prior to providing access to the same to the Attaching Party.

## 18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS

- 18.1 Occupancy Permits Required. Attaching Party shall apply in writing for and receive an occupancy permit before attaching facilities to specified AT&T-13STATE poles or placing facilities within specified AT&T-13STATE ducts, conduits, or rights-of-way.
- 18.2 Structure Access Request Form. To apply for an occupancy permit under this Appendix, Attaching Party shall submit to AT&T-13STATE the appropriate AT&T-13STATE request forms. Attaching Party shall promptly withdraw or amend its request if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific AT&T-13STATE Structure.
- 18.3 Make-Ready Survey. A Make-Ready survey must be completed by AT&T-13STATE or the Attaching Party before an occupancy permit is issued. The parties will exert best efforts to ensure that the Make-Ready Survey is completed as promptly as possible, and in a time frame that is no longer than each Party would use for its own operations. The primary purposes of the make ready survey will be to enable AT&T-13STATE to
- 18.3.1 confirm or determine the modifications, capacity expansion, and make-ready work, if any, necessary to accommodate Attaching Party's attachment of facilities to AT&T-13STATE structures;
  - 18.3.2 plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare AT&T-13STATE's poles, ducts, conduits, rights-of-way, and associated facilities for Attaching Party's proposed attachments or occupancy; and
  - 18.3.3 estimate the costs associated with such facilities modification, capacity expansion, or make-ready work.

## 19. POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

- 19.1 Selection of Space. AT&T-13STATE will select or approve the Attaching Party's selection of the space Applicant will occupy on AT&T-13STATE's poles or in AT&T-13STATE's conduit systems. Maintenance ducts shall not be considered available for Attaching Party's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, ducts and attachment space on poles reserved for municipal use shall not be considered available for the Attaching Party's use. All other ducts, inner ducts, space on poles or space in rights-of-ways which are not assigned or occupied shall be deemed

available for use by **AT&T-13STATE**, Attaching Party, and other parties entitled to access under applicable law.

## 19.2 Pole, Duct, and Conduit Space Assignments:

19.2.1 After Attaching Party's application for a pole attachment or conduit occupancy permit has been approved by **AT&T-13STATE**, the pole, duct, and conduit space selected and/or approved by **AT&T-13STATE** in such application will be assigned to Attaching Party for a pre-occupancy period not to exceed twelve (12) months.

19.2.2 **AT&T CALIFORNIA**: The pole, duct, and conduit space selected and/or approved by **AT&T-13STATE** in such application will be assigned to Attaching Party for a pre-occupancy period not to exceed nine (9) months in **AT&T CALIFORNIA** only as detailed by the California Public Utility Commission.

19.2.3 **AT&T-13STATE** may assign space to itself by making appropriate entries in the same records used to log assignments to Attaching Party and third parties. If **AT&T-13STATE** assigns pole, duct, or conduit space to itself, such assignment will automatically lapse 12 months after the date the assignment has been entered into the appropriate **AT&T-13STATE** record if **AT&T-13STATE** has not occupied such assigned space within such 12 month period.

19.2.4 **AT&T CALIFORNIA**: Space assignment is 9 months in California.

19.2.5 Notices and applications including assignment requests will be date-and time-stamped on receipt.

## 20. ISSUANCE OF OCCUPANCY PERMITS (INCLUDING MAKE-READY WORK)

20.1 **Response Within 45 Days**. Within 45 days of Attaching Party's submission of a request for access to **AT&T-13STATE** Structure, **AT&T-13STATE** shall provide a written response to the application. The response shall state whether the request is being granted or denied, and if the request is denied, provide the reasons why the request is being denied. If denial of access is proposed, **AT&T-13STATE** will meet with the Attaching Party and explore in good faith reasonable alternatives to accommodate the proposed attachment. The Attaching Party must request such meeting within ten (10) business days of receipt of a notice of denial. **AT&T-13STATE** will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.

20.2 If access is granted the response will further advise Attaching Party in writing of:

20.2.1 what modifications, capacity expansions, or make-ready work, if any, will be required to prepare **AT&T-13STATE**'s Structure, and

20.2.2 an estimate of charges for such modifications, capacity expansions, or make-ready work.

20.3 **Make-ready Work**. If it is determined that make ready work will be necessary to accommodate Attaching Party's facilities, Attaching Party shall have 45 days (the "acceptance period") to either

20.3.1 submit payment for the estimate authorizing **AT&T-13STATE** or its contractor to complete the make-ready work; or

20.3.2 advise **AT&T-13STATE** of its willingness to perform the proposed make-ready work itself if permissible in the application area.

20.4 Make-ready work performed by Attaching Party, or by an authorized contractor selected by Attaching Party, shall be performed in accordance with **AT&T-13STATE**'s specifications and in accordance with the same standards and practices which would be followed if such work were being performed by **AT&T-13STATE** or **AT&T-13STATE**'s contractors. Neither Attaching Party nor authorized contractors selected by Attaching Party shall conduct such work in any manner which degrades the integrity of **AT&T-13STATE**'s Structures or interferes with any existing use of **AT&T-13STATE**'s facilities or the facilities of any Other User.

20.5 **Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities**. Attaching Party shall make arrangements with the Other Users with facilities attached to **AT&T-13STATE**'s poles or

occupying space in **AT&T-13STATE**'s conduit system regarding reimbursement for any reasonable and demonstrable expenses incurred by the Other Users in transferring or rearranging the Other Users' facilities to accommodate the attachment or placement of Attaching Party's facilities to or in **AT&T-13STATE**'s poles, ducts, conduits and rights of ways.

- 20.6 **Reimbursement for the Creation or Use of Additional Capacity.** If any additional capacity is created as a result of make-ready work performed to accommodate Attaching Party's facilities, Attaching Party shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any fees subsequently paid to **AT&T-13STATE** for the use of such additional capacity. If **AT&T-13STATE** utilizes additional space or capacity created at Attaching Party's expense, **AT&T-13STATE** will reimburse Attaching Party on a pro-rata basis for **AT&T-13STATE**'s share, if any, of Attaching Party's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. **AT&T-13STATE** will notify the Attaching Party if any entity, including **AT&T-13STATE**, attaches facilities to additional capacity on **AT&T-13STATE**'s Structure created at the Attaching Party's expense. **AT&T-13STATE** shall not be required to collect or remit any such amounts to Attaching Party, to resolve or adjudicate disputes over reimbursement between Attaching Party and Other Users.
- 20.7 If Attaching Party utilizes space or capacity on any **AT&T-13STATE** Structure created at **AT&T-13STATE**'s expense after February of 1996, the Attaching Party will reimburse Attaching Party on a pro-rata basis for the Attaching Party's share, if any, of **AT&T-13STATE**'s capacity creation costs.
- 20.8 **Occupancy Permit and Attachment.** After all required make-ready work is completed, **AT&T-13STATE** will issue an occupancy permit confirming that Attaching Party may attach specified facilities to **AT&T-13STATE**'s Structure.
- 20.9 The Attaching Party must occupy the assigned space within a period not to exceed twelve (12) months from the issuance of the occupancy permit. If the Attaching Party does not occupy the assigned space within the twelve (12) month period, the Occupancy Permit will lapse and the space will be considered available for use by **AT&T-13STATE** or Other User.

\***AT&T CALIFORNIA** only: Space assignment shall not exceed nine (9) months in California.

20.10 The Attaching Party's obligation to pay semiannual pole attachment or conduit occupancy fees will commence on the date the Occupancy Permit is provided by **AT&T-13STATE** to the Attaching Party.

## **21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES**

- 21.1 **Responsibility for Attaching and Placing Facilities.** The Attaching Party shall be responsible for the actual attachment of its facilities to **AT&T-13STATE**'s poles and the placement of such facilities in **AT&T-13STATE**'s ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.
- 21.2 **Construction Schedule.** After the issuance of an occupancy permit, Attaching Party shall provide **AT&T-13STATE** with a construction schedule and thereafter keep **AT&T-13STATE** informed of anticipated changes in the construction schedule.

## **22. USE AND ROUTINE MAINTENANCE OF ATTACHING PARTY'S FACILITIES**

- 22.1 **Routine Maintenance of Attaching Party's Facilities.** Each occupancy permit subject to this Agreement authorizes Attaching Party to engage in routine maintenance of facilities located on or within **AT&T-13STATE**'s poles, ducts, and conduits. Routine maintenance does not include the replacement or modification of Attaching Party's facilities in any manner which results in Attaching Party's facilities differing substantially in size, weight, or physical characteristics from the facilities described in Attaching Party's occupancy permit.

- 22.2 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities. Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by **AT&T-13STATE**. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify **AT&T-13STATE** of such use and must either vacate the maintenance duct within 30 days or, with **AT&T-13STATE**'s consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.

### 23. MODIFICATION OF ATTACHING PARTY'S FACILITIES

- 23.1 Notification of Planned Modifications. Attaching Party shall notify **AT&T-13STATE** in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities already attached to a **AT&T-13STATE** Structure. The notice shall contain sufficient information to enable **AT&T-13STATE** to determine whether the proposed addition, relocation, replacement, or modification is within the scope of Attaching Party's present occupancy permit or requires a new or amended occupancy permit.
- 23.2 Replacement of Facilities and Overlashing Additional Cables. Attaching Party may replace existing facilities with new facilities occupying the same **AT&T-13STATE** Structure, and may overlash additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

### 24. REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES

- 24.1 Required Rearrangement of Attaching Party's Facilities. Attaching Party agrees that Attaching Party will cooperate with **AT&T-13STATE** and Other Users in making rearrangements to **AT&T-13STATE** Structure as may be necessary, and that costs incurred by Attaching Party in making such rearrangements shall, in the absence of a specific agreement to the contrary, be reimbursed by Other Users if such rearrangement is made for Other User's purposes.
- 24.2 Whenever feasible, **AT&T-13STATE** shall give Attaching Party not less than 30 days prior written notice of the need for Attaching Party to rearrange its facilities pursuant to this section. The notice shall state the date by which such rearrangements are to be completed. Attaching Party shall complete such rearrangements within the time prescribed in the notice. If Attaching Party does not rearrange facilities within noted time, **AT&T-13STATE** will rearrange at Attaching Party's expense.

### 25. EMERGENCY REPAIRS AND POLE REPLACEMENTS

- 25.1 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.
- 25.1.1 Nothing contained in this Appendix shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- 25.1.2 Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that an entity using the maintenance duct for emergency repair activities will notify **AT&T-13STATE** within 12 hours of the current business day (or first business day following a non-business day) that such entity is entering the **AT&T-13STATE** conduit system and using the maintenance



duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance ducts will be used to restore the highest priority services, as defined in Section 2.7, first. Existing spare ducts may be used for restoration purposes providing the spare ducts are restored after restoration work is complete. Any spare ducts not returned will be included be assigned to the user of the duct and an occupancy permit issued.

- 25.1.3 The Attaching Party shall either vacate the maintenance duct within 30 days or, with **AT&T-13STATE**'s consent, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner-duct, a suitable replacement inner-duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance ducts. Entities not vacating the maintenance duct must provide an immediate maintenance duct at the entity's cost.
- 25.2 Designation of Emergency Repair Coordinators and Other Information. For each **AT&T-13STATE** construction district, Attaching Party shall provide **AT&T-13STATE** with the emergency contact number of Attaching Party's designated point of contact for coordinating the handling of emergency repairs of Attaching Party's facilities and shall thereafter notify **AT&T-13STATE** of changes to such information.
- 25.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, **AT&T-13STATE**, Attaching Party, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.
- 25.3.1 Emergency service restoration work requirements shall take precedence over other work operations.
- 25.3.2 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- 25.3.3 **AT&T-13STATE** shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by **AT&T-13STATE** on a nondiscriminatory basis in accordance with the principles set forth in this section.
- 25.4 Emergency Pole Replacements.
- 25.4.1 When emergency pole replacements are required, **AT&T-13STATE** shall promptly make a good faith effort to contact Attaching Party to notify Attaching Party of the emergency and to determine whether Attaching Party will respond to the emergency in a timely manner.
- 25.4.2 If notified by **AT&T-13STATE** that an emergency exists which will require the replacement of a pole, Attaching Party shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an **AT&T-13STATE** replacement pole, the transfer shall be in accordance with **AT&T-13STATE**'s placement instructions.
- 25.4.3 If Attaching Party is unable to respond to the emergency situation immediately, Attaching Party shall so advise **AT&T-13STATE** and thereby authorize **AT&T-13STATE** (or any Other User sharing the pole with **AT&T-13STATE**) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on Attaching Party's behalf.

25.5 Expenses Associated with Emergency Repairs. Each party shall bear all reasonable expenses arising out of or in connection with emergency repairs of its own facilities and transfers or rearrangements of such facilities associated with emergency pole replacements made in accordance with the provisions of this article.

25.5.1 Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.

25.5.2 Attaching Party shall reimburse AT&T-13STATE for the costs incurred by AT&T-13STATE for work performed by AT&T-13STATE on Attaching Party's behalf in accordance with the provisions of this article.

## 26. INSPECTION BY AT&T OF ATTACHING PARTY'S FACILITIES

26.1 Post-Construction Inspections. AT&T-13STATE will, at the Attaching Party's expense, conduct a post-construction inspection of the Attaching Party's attachment of facilities to AT&T-13STATE's Structures for the purpose of determining the conformance of the attachments to the occupancy permit. AT&T-13STATE will provide the Attaching Party advance written notice of proposed date and time of the post-construction inspection. The Attaching Party may accompany AT&T-13STATE on the post-construction inspection.

26.2 Right to Make Periodic or Spot Inspections. AT&T-13STATE shall have the right, but not the obligation, to make periodic or spot inspections of all facilities attached to AT&T-13STATE's Structure. These inspections will not be made more often than once every 2 years unless in AT&T-13STATE's judgement such inspections are required for reasons involving safety or because of an alleged violation of the terms of this Agreement.

26.3 If Attaching Party's facilities are in compliance with this Appendix, there will be no charges incurred by the Attaching Party for the periodic or spot inspection. If Attaching Party's facilities are not in compliance with this Appendix, AT&T-13STATE may charge Attaching Party for the inspection. The costs of Periodic Inspections will be paid by those Attaching Parties with 2% or greater of their attachments in violation. The amount paid by the Attaching Party shall be the percentage that their violations bear to the total violations of all Attaching Parties found during the inspection.

26.4 If the inspection reflects that Attaching Party's facilities are not in compliance with the terms of this Appendix, Attaching Party shall bring its facilities into compliance within 30 days after being notified of such noncompliance. If any make ready or modification work to AT&T-13STATE's Structures is required to bring Attaching Party's facilities into compliance, the Attaching Party shall provide notice to AT&T-13STATE and the make ready work or modification will be treated in the same fashion as make ready work or modifications for a new request for attachment.

## 27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

27.1 Facilities to Be Marked. Attaching Party shall tag or otherwise mark all of Attaching Party's facilities placed on or in AT&T-13STATE's Structure in a manner sufficient to identify the facilities as those belonging to the Attaching Party.

27.2 Removal of Untagged Facilities. AT&T-13STATE may, without notice to any person or entity, remove from AT&T-13STATE's poles or any part of AT&T-13STATE's conduit system the Attaching Party's facilities, if AT&T-13STATE determines that such facilities are not the subject of a current occupancy permit and are not otherwise lawfully present on AT&T-13STATE's poles or in AT&T-13STATE's conduit system.

27.3 Notice to Attaching Party. If any of Attaching Party's facilities for which no occupancy permit is presently in effect are found attached to AT&T-13STATE's poles or anchors or within any part of AT&T-13STATE's conduit system, AT&T-13STATE, without prejudice to other rights or remedies available to AT&T-13STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Agreement, shall send a written notice to Attaching Party advising Attaching Party that no occupancy permit

is presently in effect with respect to the facilities and that Attaching Party must, within 30 days, respond to the notice as provided in Section 27.6 of this Appendix.

- 27.4 **Attaching Party's Response.** Within 60 days after receiving a notice under Section 27.5 of this Appendix, Attaching Party shall acknowledge receipt of the notice and submit to **AT&T-13STATE**, in writing, an application for a new or amended occupancy permit with respect to such facilities.
- 27.5 **Approval of Request and Retroactive Charges.** If **AT&T-13STATE** approves Attaching Party's application for a new or amended occupancy permit, Attaching Party shall be liable to **AT&T-13STATE** for all fees and charges associated with the unauthorized attachments as specified in Section 27.10 of this Appendix. The issuance of a new or amended occupancy permit as provided by this article shall not operate retroactively or constitute a waiver by **AT&T-13STATE** of any of its rights or privileges under this Appendix or otherwise.
- 27.6 Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from **AT&T-13STATE**'s poles, conduit system or rights of way or until a new or amended occupancy permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if Attaching Party and its predecessors had continuously complied with all applicable **AT&T-13STATE** licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. In addition, the Attaching Party shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date Attaching Party is notified by **AT&T-13STATE** of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Attaching Party shall rearrange or remove its unauthorized facilities at **AT&T-13STATE**'s request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to **AT&T-13STATE** or another Other User, and shall pay **AT&T-13STATE** for all costs incurred by **AT&T-13STATE** in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Attaching Party's unauthorized facilities.
- 27.7 **Removal of Unauthorized Attachments.** If Attaching Party does not obtain a new or amended occupancy permit with respect to unauthorized facilities within the specified period of time, **AT&T-13STATE** shall by written notice advise Attaching Party to remove its unauthorized facilities not less than 60 days from the date of notice and Attaching Party shall remove the facilities within the time specified in the notice. If the facilities have not been removed within the time specified in the notice, **AT&T-13STATE** may, at **AT&T-13STATE**'s option, remove Attaching Party's facilities at Attaching Party's expense.
- 27.8 **No Ratification of Unpermitted Attachments or Unauthorized Use of AT&T-13STATE's Facilities.** No act or failure to act by **AT&T-13STATE** with regard to any unauthorized attachment or occupancy or unauthorized use of **AT&T-13STATE**'s Structure shall be deemed to constitute a ratification by **AT&T-13STATE** of the unauthorized attachment or occupancy or use, nor shall the payment by Attaching Party of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Attaching Party from liability for any trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

## **28. REMOVAL OF ATTACHING PARTY'S FACILITIES**

- 28.1 When Applicant no longer intends to occupy space on a **AT&T-13STATE** pole or in a **AT&T-13STATE** duct or conduit, Applicant will provide written notification to **AT&T-13STATE** that it wishes to terminate the occupancy permit with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Applicant's facilities, the occupancy permit shall terminate and the space shall be available for reassignment.
- 28.1.1 Attaching Party shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from **AT&T-13STATE**'s Structure.

- 28.1.2 Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to **AT&T-13STATE**'s manholes.
- 28.1.3 Applicant shall be solely responsible for the removal of its own facilities from **AT&T-13STATE**'s Structure.
- 28.2 At **AT&T-13STATE**'s request, Attaching Party shall remove from **AT&T-13STATE**'s Structure any of Attaching Party's facilities which are no longer in active use. Upon request, the Attaching Party will provide proof satisfactory to **AT&T-13STATE** that an Attaching Party's facility is in active service. Attaching Party shall not abandon any of its facilities by leaving such facilities on or in **AT&T-13STATE**'s Structure.
- 28.3 Removal Following Termination of Occupancy permit. Attaching Party shall remove its facilities from **AT&T-13STATE**'s poles, ducts, conduits, or rights-of-way within 60 days after termination of the occupancy permit.
- 28.4 Removal Following Replacement of Facilities. Attaching Party shall remove facilities no longer in service from **AT&T-13STATE**'s Structures within 60 days after the date Attaching Party replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit.
- 28.5 Removal to Avoid Forfeiture. If the presence of Attaching Party's facilities on or in **AT&T-13STATE**'s Structure would cause a forfeiture of the rights of **AT&T-13STATE** to occupy the property where such Structure is located, **AT&T-13STATE** will promptly notify Attaching Party in writing and Attaching Party shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. **AT&T-13STATE** will give Attaching Party not less than 60 days from the date of notice to remove Attaching Party's facilities unless prior removal is required to prevent the forfeiture of **AT&T-13STATE**'s rights. At Attaching Party's request, the parties will engage in good faith negotiations with each other, with Other Users, and with third-party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Attaching Party's facilities.
- 28.6 Removal of Facilities by **AT&T-13STATE**; Notice of Intent to Remove. If Attaching Party fails to remove its facilities from **AT&T-13STATE**'s Structure in accordance with the provisions of Sections 28.1-28.6 of this Appendix, **AT&T-13STATE** may remove such facilities and store them at Attaching Party's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Attaching Party for any injury, loss, or damage resulting from such actions so long as **AT&T-13STATE** exercises reasonable care to protect and account for the Attaching Party's facilities. **AT&T-13STATE** shall give Attaching Party not less than 60 days prior written notice of its intent to remove Attaching Party's facilities pursuant to this section.
- 28.7 Removal of Facilities by **AT&T-13STATE**. If **AT&T-13STATE** removes any of Attaching Party's facilities pursuant to this article, Attaching Party shall reimburse **AT&T-13STATE** for **AT&T-13STATE**'s reasonable, actual costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

## **29. RATES, FEES, CHARGES, AND BILLING**

- 29.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees outlined in this Appendix will be set forth in APPENDIX PRICING as part of the Interconnection Agreement. All rates, charges and fees shall be subject to all applicable federal and state laws, rules, regulations, and commission orders.
- 29.2 Changes to Rates, Charges and Fees. Subject to applicable federal and state laws, rules, regulations and orders, **AT&T-13STATE** shall have the right to change the rates, charges and fees outlined in this Appendix. **AT&T-13STATE** will provide the Attaching Party 60 days written notice, advising the Attaching Party of the specific changes being made and the effective date of the change. If the changes outlined in the notice are not acceptable to the Attaching Party, Attaching Party may either (1) seek renegotiation of this Appendix, (2) terminate this Appendix, or (3) seek relief through the dispute resolution process in the General Terms and Conditions of this Agreement.

**30. PERFORMANCE AND PAYMENT BONDS**

30.1 Bond May Be Required. **AT&T-13STATE** may require Attaching Party, authorized contractors, and other persons acting on Attaching Party's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of the Attaching Party's obligations arising out of or in connection with this Appendix.

30.1.1 If a bond or similar form of assurance is required of Attaching Party, an authorized contractor, or other person acting on Attaching Party's behalf, Attaching Party shall promptly submit to **AT&T-13STATE** adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be cancelled, changed or materially altered without first providing **AT&T-13STATE** 60 days written notice.

30.2 Payment and Performance Bonds in Favor of Contractors and Subcontractors. Attaching Party shall be responsible for paying all employees, contractors, subcontractors, mechanics, materialmen and other persons or entities performing work or providing materials in connection with Attaching Party's performance under this Appendix. In the event any lien, claim or demand is made on **AT&T-13STATE** by any such employee, contractor, subcontractor, mechanic, materialman, or other person or entity providing such materials or performing such work, **AT&T-13STATE** may require, in addition to any security provided under Section 30.1 of this Appendix, that Attaching Party execute payment or performance bonds, or provide such other security, as **AT&T-13STATE** may deem reasonable or necessary to protect **AT&T-13STATE** from any such lien, claim or demand.

**31. NOTICES**

31.1 Notices to Attaching Party. All written notices required to be given to a party shall be delivered or mailed to the party's duly authorized agent or attorney, as designated in this section.

31.1.1 Such notice may be delivered to the party's duly authorized agent or attorney in person or by agent or courier receipted delivery.

31.1.2 Such notice may be mailed to the party's duly authorized agent or attorney by registered or certified mail, return receipt requested. When notice is given by mail, such notice shall be complete upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and control of the United States Postal Service and shall be deemed to have been given three days after the date of deposit.

31.1.3 Notices to a party shall be sent to the authorized agent or attorney designated below:

NOTICE CONTACT	ATTACHING PARTY	AT&T-13STATE CONTACT
NAME/TITLE	Richard Thayer Director-Interconnection Services	Contract Administration ATTN: Notices Manager
STREET ADDRESS	1025 Eldorado Blvd.	311 S. Akard, 9 <sup>th</sup> Floor Four AT&T Plaza
CITY/STATE/ZIP CODE	Broomfield, CO 80021	Dallas, TX 75202-5398
FACSIMILE NUMBER	720-888-5134	214-464-2006

- 31.2 Changes in Notice Requirements. Either party may, from time to time, change notice addressees and addresses by giving written notice of such change to the other party. Such notice shall state, at a minimum, the name, title, firm, and full address of the new addressee.

## **32. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS**

- 32.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Appendix which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no permit; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire Agreement.