



July 10, 2008

G. James Soto  
311 S. Akard  
Room 2030.06  
Dallas, TX 75202

ATTN: Notices Manager  
311 S. Akard, 9th Floor  
Dallas, TX 75202-5398

**RE: Transit Rate Amendment for Ohio**

Dear Mr. Soto:

On April 8, 2008, you received the attached letter from our counsel in Ohio regarding tw telecom's request to execute an amendment to the parties' interconnection agreement to incorporate transit rate elements set forth in the Public Utilities Commission of Ohio (PUCO) an opinion and order on August 22, 2007 in Case No 06-1344-TP-ORD adopting Rule 4901:1-7-13(D), which became effective as of November 30, 2007. We have not heard from you regarding our request to negotiate an amendment.

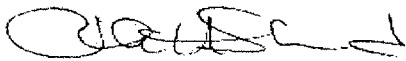
As you know, our interconnection agreement provides for a process to implement successor rates:

2.11.2 Successor Rates. Certain of the rates, prices and charges set forth in the applicable Appendix Pricing have been established by the appropriate Commissions in cost proceedings or dockets initiated under or pursuant to the Act. If during the Term that Commission or the FCC changes a rate, price or charge in an order or docket that applies to any of the Interconnection, Resale Services, Network Elements, functions, facilities, products and services available hereunder, the Parties agree to amend this Agreement to incorporate such new rates, prices and charges, with such rates, prices and charges to be effective as of the date specified in such order or docket (including giving effect to any retroactive application, if so ordered). If either Party refuses to execute an

amendment to this Agreement within sixty (60) calendar days after the date of such order or docket, the other Party may pursue its rights under Section 10.

We are including an amendment that codifies the PUCO's opinion and order regarding transit rates. Please have the appropriate person execute a copy of the amendment and return to Julie Mendenhall's attention. Since it has been nearly a year since the PUCO's order, if we do not hear from you by July 25, 2008, we will pursue our rights under Section 10 of the Interconnection Agreement.

Sincerely,



Pamela H. Sherwood  
Vice President- Regulatory  
[pamela.sherwood@twtelecom.com](mailto:pamela.sherwood@twtelecom.com)

Enc. – April 7 Letter from Tom O'Brien; Transit Rate Amendment and attached pricing appendix

cc: Julie Mendenhall

Tom O'Brien



**Bricker & Eckler**  
ATTORNEYS AT LAW

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Thomas J. O'Brien  
614.227.2335  
tobrien@bricker.com

April 8, 2008

Mr. G. James Soto, Lead Negotiator  
AT&T Industry Markets  
311 S. Akard, Room 2030.06  
Dallas, TX 75202

Dear Mr. Soto,

I write on behalf of my client, Time Warner Telecom, concerning the question of whether the change of law provision in the interconnection agreement between AT&T and Time Warner Telecom may properly be invoked due to the Public Utilities Commission of Ohio's promulgation of Ohio Administrative Code 4901:1, Rule 7-13.

Time Warner Telecom's position on this question is that the appropriate rate that AT&T may charge Time Warner Telecom for transit traffic is a TELRIC-based rate; and, on an interim basis in the absence of an established TELRIC-based rate, AT&T may charge the tariffed switched access rate, subject to true-up. This compensation regime was established by the PUCO in Case No. 06-1344-TP-ORD and became effective only on November 30, 2007.

The rate contained in the currently-effective price list well-predates the PUCO's new rule concerning transiting rates. At the time that Time Warner Telecom negotiated its agreement with AT&T, no alternative rates were available and rates generally are offered by AT&T—either as the result of state or federal regulation, or on a “take it or leave it” basis.

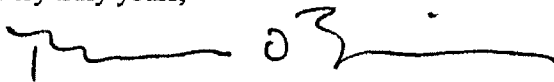
AT&T has, in the past, relied upon changes in regulation to invoke the change of law provisions in its negotiated interconnection agreements with CLECs. The most notable example is with respect to the changes that AT&T insisted upon in response to the FCC's TRRO decision. When relieved of the lawful obligation to provide certain network elements at TELRIC prices, AT&T chose to invoke the change of law provision of its agreements in order to eliminate the affected provisions, despite the fact that the agreements had been negotiated under Section 252(a). Time Warner Telecom is seeking nothing different. The law in Ohio changed as a result of the Commission's rulemaking in Case No. 06-1344-TP-ORD, and Time Warner Telecom now seeks to avail itself of the benefit of that rule pursuant to Section 21.1 of its agreement with AT&T.

Bricker & Eckler  
ATTORNEYS AT LAW

Mr. G. James Soto  
April 8, 2008  
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Please consider this letter as Time Warner Telecom's formal request, pursuant to Section 21.1 of the agreement between AT&T and Time Warner Telecom, to modify said agreement's rate for Transit Service to reflect AT&T's tariffed switched access rate, in accordance with Ohio Admin. Code Section 4901:1-7-13.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tom O'Brien", with a stylized flourish at the end.

Thomas J. O'Brien

jb

cc: Dan McKenzie (via regular U.S. Mail)  
Jon Kelly (via regular U.S. Mail)  
Allen Francis (via regular U.S. Mail)  
Pamela Sherwood (via regular U.S. Mail)  
Julie Mendenhall-Harris (via e-mail)

**AMENDMENT TO  
INTERCONNECTION AGREEMENT  
BETWEEN  
THE OHIO BELL TELEPHONE COMPANY d/b/a AT&T OHIO  
AND  
TIME WARNER TELECOM OF OHIO LLC**

This Amendment amends the Interconnection Agreement by and between The Ohio Bell Telephone Company d/b/a AT&T Ohio ("AT&T") and Time Warner Telecom of Ohio LLC k/n/a **tw telecom of ohio 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 March 29, 2002 (the "Agreement"); and

**WHEREAS**, the Public Utilities Commission of Ohio (PUCO) issued an opinion and order on August 22, 2007 in Case No 06-1344-TP-ORD adopting Rule 4901:1-7-13(D), which became effective as of November 30, 2007;

**WHEREAS**, Rule 4901:1-7-13(D) states that the intermediate telephone company must be compensated at the intermediate telephone company's total element long run incremental cost (TELRIC) based transit traffic compensation rates. Until such time as the commission approves telephone company-specific TELRIC-based transit traffic compensation rates, an intermediate telephone company should be compensated, on an interim basis, at its tariffed switched access rates subject to a true up of these rates.

**WHEREAS**, pursuant to Section 252(a)(1) of the Act, the Parties wish to amend the Agreement in order to give contractual effect to Rule 4901:1-7-13(D) as set forth herein;

**WHEREAS**, the Parties hereby amend the agreement and the amendments thereto.

**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 Transit Traffic Compensation 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.

AMENDMENT – PUCO CASE NO. 06-1344-TP-ORD  
PAGE 3 OF 3  
AT&T OHIO/TIME WARNER TELECOM OF OHIO LLC

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, 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.

**tw telecom of ohio llc**  
By: **tw telecom holdings inc.**,  
its general partner

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: \_\_\_\_\_

RESALE OCN# 8402  
SWITCH BASED OCN # 7436  
ACNA: TIM



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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/6/2009 3:07:53 PM**

**in**

**Case No(s). 08-1215-TP-CSS**

Summary: Exhibit 7 electronically filed by Jon F Kelly on behalf of AT&T Ohio