

IX. POLES, CONDUITS, RIGHTS-OF-WAY  
 CONTRACTUAL DISPUTE ISSUES MATRIX  
 AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI

|  | ATTENTION | SWBT<br>Reason why language should be included or excluded | ATTENTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|  |           |                                                            | <p>State Commission, at any time.</p> <p>(c) Nothing contained in this section shall preclude either party from filing a complaint or bringing suit in any court, agency, or other tribunal of competent jurisdiction to restrain or enjoin any conduct of the other party which threatens the complaining party with irreparable injury, loss or damage without first giving the notice otherwise required by subsection (b).</p> <p><b>25.04 Remedies for Breach.</b><br/>         Subject to the provisions of this article and the dispute resolution procedures of Article 30, either party may terminate this Appendix 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 Appendix. Except as otherwise specifically provided in Section 30.07, 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.</p> <p><b>ARTICLE 30: DISPUTE RESOLUTION</b></p> <p><b>30.01 Purpose.</b> The provisions of this article are intended to minimize litigation between the parties with respect to disputes arising in connection with this</p> |

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| Dispute Type | Dispute Location | Dispute Resolution Process | Dispute Resolution Process (Including or excluding SWBT)                                                                                                                                                                                                                                                                                                                                                                                                                                | Dispute Resolution Process (Including or excluding SWBT)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|              |                  |                            | <p>30.02 <u>Exclusive Remedy for Monetary Claims under \$25,000.</u> Except for actions seeking injunctive relief related to the purposes of this Appendix or suits to compel compliance with the dispute resolution processes set forth in this article, the parties agree to use the dispute resolution processes set forth in this Appendix as their sole remedy with respect to any monetary claim of \$25,000 or less which arises out of or in connection with this Appendix.</p> | <p>Appendix and shall be construed accordingly. Any dispute between the parties arising under this Appendix may be submitted by either party for resolution under this article.</p> <p>30.03 <u>Prerequisite to Litigation.</u> The provisions of this article shall also apply to all disputes, without regard to the amount in controversy, in which AT&amp;T contests charges billed by SWBT to AT&amp;T under the terms of this Appendix. No suit, except for actions seeking injunctive relief related to the purposes of this Appendix or suits to compel compliance with the dispute resolution processes set forth in this article, shall be filed by either party against the other with respect to such contested charges until the parties have engaged in good faith negotiations as provided in Section 30.04, and, if the parties agree, in mediation</p> |

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|  |  |  | SWBT<br>Reason why dispute is not<br>included in a contract | SWBT<br>Reason why dispute is not<br>included in a contract                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|  |  |  |                                                             | <p>under Section 30.05.</p> <p>30.04 Good Faith Negotiation.<br/>                     Good faith negotiation as provided in this section shall be the first step in the dispute resolution process.</p> <p>(a) With respect to any dispute subject to the provisions of this article, either party may initiate negotiation proceedings by writing a certified or registered letter to the other party setting forth the particulars of the dispute, the terms of the Agreement that are involved, and a suggested resolution of the problem.</p> <p>(b) The recipient of the letter shall respond within 21 days to the proposed solution. The recipient shall either agree to the proposed solution or explain its disagreement.</p> <p>(c) If the correspondence does not resolve the dispute, each party, at the request of either party, will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve the dispute. The location, form, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations.</p> |

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| AT&T<br>Contractual Disputes<br>Matrix - Excluded | AT&T<br>Contractual Disputes<br>Matrix - Included | SWBT<br>Reason why language should be<br>included or excluded | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------|---------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                   |                                                   |                                                               | <p>(d) Discussions and correspondence among the representatives as provided by this section are for purposes of settlement, are exempt from discovery and production, and shall not be admissible in arbitration, judicial, regulatory, or other proceedings in any forum.</p> <p><u>30.05 Mediation.</u> If the parties agree to mediation, the mediation may be conducted as provided in this section or in such other manner as may be mutually agreeable to the parties.</p> <p>(a) If agreed to by the parties, the dispute shall be referred to the nearest office of the American Arbitration Association, or such other mediator as may be selected by agreement of the parties, for mediation, that is, an informal, non-binding conference or conferences between the parties in which a mediator will seek to guide the parties to a resolution of the dispute.</p> <p>(b) If the dispute is referred to the American Arbitration Association, the parties are free to select any mutually acceptable panel member from the list of mediators at the American Arbitration Association. If the parties cannot agree or have no particular choice of a mediator and simply request that the American Arbitration Association assign a mediator to the dispute, then a list and</p> |

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|  |  | SWBT<br>Reason why language was proposed<br>included or excluded | SWBT's position                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--|--|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |                                                                  | <p>resumes of available mediators, numbering one more than there are parties, will be sent to the parties, each of whom may strike one name leaving the remaining name as the mediator. If more than one name remains, the designated mediator shall be selected by the Administrator of the American Arbitration Association from the remaining names.</p> <p>(c) Mediation sessions shall be private.</p> <p>(d) All records, reports or other documents considered by the mediator shall be confidential.</p> <p>(e) The parties agree that the mediator shall not be compelled to divulge confidential materials or to testify about the mediation in arbitration, regulatory, judicial, or other proceedings in any forum.</p> <p>(f) The parties agree to maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitration, judicial, or other proceeding:</p> <p>(1) views expressed or suggestions made by the other party with respect to a possible settlement of the dispute;</p> <p>(2) admissions made by the other party during the mediation proceedings;</p> <p>(3) proposals made or views</p> |

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|  | AT&T Dispute Resolution Process | AT&T Dispute Resolution Process | SWBT Dispute Resolution Process<br>Reason why language should be included or excluded | SWBT Language<br>expressed by the mediator; or                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|  |                                 |                                 |                                                                                       | <p>(4) the fact that the other party had or had not indicated willingness to accept a proposal for settlement made by the mediator.</p> <p>(g) Subsections (e) and (f) of this section shall apply to anything said, done or occurring in the course of the mediation, including any private caucus or discussions between the mediator and any party or counsel before or after the joint mediation session. There shall be no stenographic record of the mediation process, except to memorialize a settlement record.</p> <p>(h) The mediation process shall be considered settlement negotiation for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views, and opinions, oral or written, made during the mediation by any party or a party's agent, employee, or attorney are confidential and, where appropriate, are to be considered work product and privileged. Such conduct, statements, promises, offers, views, and opinions shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties; provided, however, that evidence</p> |

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| Dispute Type | AT&T Language | SWBT Reason why language should be included or excluded | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------|---------------|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              |               |                                                         | <p>otherwise subject to discovery or admissible is not excluded from discovery or admission in evidence simply as a result of its having been used in connection with this settlement process.</p> <p><b>30.06 Arbitration.</b> If negotiations and mediations do not resolve the dispute within 90 days after the initiation of dispute resolution proceedings as provided in subsection (a) of Section 30.04 of this Appendix, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association (or pursuant to the rules of such other provider of arbitration services as may be mutually agreed upon by the parties) if the dispute involves any monetary claim of \$25,000 or less which arises out of or in connection with this Appendix. The parties may voluntarily elect to arbitrate disputes in which the amount in controversy exceeds \$25,000, but they shall not be required by this Appendix to do so.</p> <p>(a) Either party may demand such arbitration in accordance with the procedures set out in the Commercial Arbitration Rules (or pursuant to the rules of such other provider of arbitration services as may be mutually agreed upon by the parties).</p> <p>(b) Discovery shall be controlled</p> |

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| <p>Case No. _____</p> <p>Arbitration No. _____</p> | <p>SWBT<br/>Reason why language should be<br/>included or excluded</p> | <p>SWBT<br/>Language should be<br/>included or excluded</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                    |                                                                        | <p>by the arbitrator and shall be permitted to the extent set out in this subsection.</p> <p>(1) Each party may submit in writing to any other party, and such other party shall so respond, to a maximum of any combination of 35 of the following:<br/>interrogatories, document production requests, and requests for admissions. The interrogatories, document production requests, and requests for admissions shall not have subparts.</p> <p>(2) Additional discovery may be permitted upon mutual agreement of the parties or upon order of the arbitrator on a showing of good cause.</p> <p>(c) The arbitrator shall control the scheduling so as to process the matter expeditiously. The times set forth in this subsection shall apply unless extended upon mutual agreement of the parties or by the arbitrator on a showing of good cause.</p> <p>(1) The arbitration hearing shall commence within 60 days of the demand for arbitration and shall be held, in the absence of agreement by the parties to a different venue, in St. Louis, Missouri.</p> <p>(2) The parties shall submit written briefs five days before the hearing.</p> |



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|  |  | ATTACHED | SHEET<br>Reason why this is not included is included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SHEET<br>Reason why this is not included is included or excluded |
|--|--|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
|  |  |          | <p>(3) The arbitrator shall rule on the dispute by issuing a written opinion within 30 days after the close of hearings.</p> <p>(4) The arbitrator shall have no authority to order punitive or consequential damages.</p> <p>(5) Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.</p> <p><u>30.07 Costs.</u> Except as specifically provided in this section, each party shall bear its own costs of all dispute resolution procedures under this article.</p> <p>(a) A party seeking discovery shall reimburse the responding party for the costs incurred by the responding party in producing documents.</p> <p>(b) The parties shall equally split the fees of the arbitration and the arbitrator.</p> <p><u>30.08 No Abridgment of Rights under the Communications Act of 1934 or the Pole Attachment Act.</u> Nothing contained in this article shall abridge the rights of either party to seek relief from the FCC with respect to any dispute subject to the jurisdiction of the FCC under the Communications Act of 1934 or the Pole Attachment Act, or from the State Commission with respect to any dispute</p> |                                                                  |

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|                                                                                                                                                                                                                              |  |  | Reason why language in SWBT column is included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p>35</p> <p>Should SWBT's proposed language, which differs from AT&amp;T's proposed language, be adopted with respect to the following provisions: Sections 6.03, 6.07, 6.09, 6.10(a), 6.11(b), 8.02, 18.06, and 18.07?</p> |  |  | <p>The text in the SWBT Language column may not accurately reflect in all respects the parties' agreed Missouri language. SWBT believes that this text does, however, accurately reflect the text proposed by SWBT with which AT&amp;T disagrees.</p> <p>Section 6.03 deals with infrequent construction techniques. With respect to stand-off brackets and similar items, it is SWBT's position that they should be installed by SWBT as make-ready work and become part of the pole.</p> <p>Section 6.07 deals with efficient use of conduit. It is SWBT's position that when the parties have a choice between using full ducts or inner ducts, inner ducts should be used.</p> | <p>6.03 <u>Infrequent Construction Techniques and Connectivity Solutions</u>. Unless precluded by documented engineering criteria or written guidelines SWBT applied to itself as of January 1, 1996, and consistent with considerations of safety, reliability, and engineering practice, SWBT will permit AT&amp;T at its own expense to utilize the following techniques to avoid high or unusual expenditures: (a) placement of pole attachments on both the "field" side and "road" side of a pole; (b) placement of extension arms or stand-off brackets on poles; and (c) building conduit branches into SWBT's conduit systems. AT&amp;T acknowledges that use of the above techniques will be rare, will be permitted only on a case-by-case basis, and must be performed in a</p> <p>subject to its jurisdiction, except that the parties may not seek relief from the FCC or the State Commission with respect to any dispute that has already been resolved by mediation under Section 30.05 or by binding arbitration under Section 30.06.</p> <p><b>ARTICLE 31: ACCESS TO AT&amp;T'S POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY</b></p> <p><b>31.01 No Reciprocal Access to AT&amp;T's Facilities.</b> This Appendix does not include provisions for reciprocal access by SWBT to AT&amp;T's poles, ducts, conduits, and rights-of-way.</p> |

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| Contractual Dispute | Contractual Dispute | Contractual Dispute | Reason why/line item is included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT's Proposed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                     |                     |                     | <p>Section 6.09 calls upon AT&amp;T to be responsible for selecting, paying, and assuring adequate supervision of the personnel it brings to SWBT construction sites.</p> <p>Section 6.10(a) calls on AT&amp;T to seek assignments of next available ducts in writing.</p> <p>Sections 8.02(a) and (i) are SWBT's proposed provisions dealing with priority of assignments. The problem arises when one party requests an assignment by mail and SWBT has "received" the assignment (it is in the mail room) but the assignment has not be processed. At the same time, another party is present at the site of the records recording its assignment. The issue to be resolved is: who gets priority?</p> <p>Section 18.06 as proposed by SWBT here has been agreed to by AT&amp;T in Texas.</p> <p>Section 18.07 deals with what happens in the rare event that SWBT is called on to remove facilities and the owner does not take possession of them.</p> <p>SWBT believes that all these provisions are reasonable and should be approved.</p> | <p>manner which does not jeopardize the structural integrity of SWBT's facilities, the safety of personnel working on or in SWBT's poles, ducts, or conduits, and does not render unusable other available space on the pole or in the duct or conduit. Except as otherwise agreed to by the parties in writing, extension arms or stand-off brackets, if utilized, shall be installed as make-ready work in accordance with SWBT's specifications and at AT&amp;T's expense. Once installed, extension arms and stand-off brackets shall become part of the pole and shall be owned by SWBT. Unused capacity on any such extension arms or stand-off brackets shall be deemed "available" (as defined in Section 3.07) for assignment.</p> <p><u>6.07 Efficient Use of Conduit.</u> To ensure efficient use of conduits, SWBT will, when cable diameters permit, install inner ducts in multiples that fully utilize duct space (typically three or four inner ducts in a full four inch duct) as needed for SWBT's own business purposes and to accommodate AT&amp;T and other joint users; provided, however, that SWBT shall not be required to install inner duct in anticipation of potential future requests for access by AT&amp;T and other joint users. In addition, the parties shall, in accordance with SWBT's duct selection standards, install cables in inner duct when cable diameters permit.</p> |

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|  |  | AT&T's Position | SWBT's Position<br>Reason why language should be included or excluded | SWBT's Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|  |  |                 |                                                                       | <p>6.09 General Requirements Relating to Personnel, Equipment, Materials, and Public Safety. Except as otherwise specifically provided in this Appendix, AT&amp;T shall be responsible for selecting the employees and contractors who will perform work on AT&amp;T's behalf on, within, and in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. AT&amp;T, its contractors, subcontractors, and other vendors acting on AT&amp;T's behalf shall also be responsible for selecting the personnel who perform work on AT&amp;T's behalf at such sites, directing the work performed by such personnel, compensating their respective employees, and complying with all applicable laws, rules, regulations, and agency orders relating to withholding taxes, social security taxes, and other employment-related taxes. The provisions of this section are intended to protect the integrity of the networks, facilities and operations of SWBT, AT&amp;T and joint users, to protect the health and safety of persons working on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, to assure the financial responsibility of all persons and entities performing work on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, and to protect the public at large.</p> <p>(a) Contractors, subcontractors, and other vendors, including authorized contractors,</p> |

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| AT&T<br>Language should be included | AT&T<br>Language | SWBT<br>Language should be included or excluded | SWBT<br>Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------|------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     |                  |                                                 | <p>performing work on AT&amp;T's behalf on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way shall meet the same financial responsibility (insurance and bonding) requirements generally applicable to contractors, subcontractors, and vendors performing work on SWBT's behalf on, within, or in the vicinity of such poles, ducts, conduits, or rights-of-way. SWBT shall advise AT&amp;T of SWBT's requirements and any changes in such requirements. AT&amp;T shall be solely responsible for assuring compliance with such requirements by contractors, subcontractors, and other vendors acting on AT&amp;T's behalf and shall be liable to SWBT for any injury, loss, or damage suffered by SWBT as a result of its failure to do so.</p> <p>(b) Only properly trained persons shall work on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. AT&amp;T shall be responsible for determining that all such persons acting on Applicant's AT&amp;T have proper training.</p> <p>6.10 Specific Requirements Relating to Personnel, Equipment, Materials, and Construction Practices Within or in the Vicinity of SWBT's Conduit Systems.</p> <p>(a) Except as may be mutually agreed upon by the parties in writing, AT&amp;T shall not "rod" or clear any duct or inner duct in SWBT's conduit</p> |

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|  |  | Reason why material is included or excluded | SWBT's position                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--|--|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |                                             | <p>system other than a duct or inner duct assigned to AT&amp;T. Following the assignment of a specific duct or inner duct to AT&amp;T, AT&amp;T may request that SWBT rod or clear the duct or inner duct. If the duct or inner duct cannot be cleared, SWBT shall assign to AT&amp;T the next available duct or inner duct. AT&amp;T's request for assignment of the next available duct shall be in writing, may be transmitted to SWBT via fax or other transmission media mutually agreed upon by the parties, and shall be processed within the same intervals applicable to the processing of similar requests by SWBT's own personnel.</p> <p>6.11 <u>Opening of Manholes and Access to Conduit.</u> The following requirements apply to the opening of SWBT's manholes and access to SWBT's conduit system.</p> <p>(a) ...</p> <p>(b) An authorized employee or representative of SWBT may be present as a construction inspector at any time when AT&amp;T or personnel acting on AT&amp;T's behalf enter or perform work within SWBT's manhole. Such inspectors may inspect the performance and quality of the work and monitor the work for compliance with the terms, conditions, and specifications of this Appendix or, in the case of facilities modification, capacity expansion or make-ready work, the plans and</p> |

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|  | AT&T Conduit Space | SWBT Responsibility, including pole space to be included or excluded | SWBT Landmark                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--|--------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |                    |                                                                      | <p>Specifications of the facilities modification, capacity expansion, or make-ready project. When SWBT inspectors are present, AT&amp;T and its contractors shall have sole authority, responsibility, and control over the method or manner by which the work is to be performed. SWBT's inspectors may call violations to AT&amp;T's attention but shall have no authority to direct or advise AT&amp;T or personnel acting on AT&amp;T's behalf concerning the method or manner by which the work is to be performed; provided, however, that nothing contained in this subsection shall relieve AT&amp;T from complying with any requirements of this Appendix.</p> <p><u>8.02 Pole, Duct, and Conduit Space Assignments.</u> Pole, duct, and conduit space selected by AT&amp;T will be assigned to AT&amp;T as provided in this section. Information received by SWBT in connection with this section shall be subject to the provisions of Article 28 of this Appendix (Confidentiality of Information).</p> <p>(a) <u>On receipt of After AT&amp;T's</u> application for a pole attachment or conduit occupancy license has been received by SWBT, the pole, duct, and conduit space selected by AT&amp;T shall be assigned to AT&amp;T for a pre-occupancy period not to exceed 12 months, beginning with the date of such assignment. The assignment (and date <i>and time</i>) of assignment shall be <b>logged and</b> recorded in the</p> |

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| Contractual Dispute | AT&T Request | Reason why response required by SWBT is included or excluded | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                     |              |                                                              | <p>appropriate SWBT records. If such space has been provisionally assigned to AT&amp;T as authorized below in subsection (b), the 12-month pre-occupancy assignment period will begin on the date the provisional assignment is recorded in SWBT's records or the date of SWBT's receipt of AT&amp;T's notice of intent to occupy under subsection (b), whichever date first occurs.</p> <p>(i) Notices and applications including assignment requests will be date- and time-stamped on receipt. Because space will be selected and further assignments made based on entries logged and recorded in the appropriate SWBT records, the date and time of assignment will be the date and time when the assignment is recorded rather than the date and time of receipt of the application or notice requesting such assignment. Although SWBT's clerical personnel will promptly process assignment requests included in applications and notices transmitted to SWBT by mail, courier, fax, or other transmission media, SWBT shall not be liable for any failure by AT&amp;T to obtain the space desired by AT&amp;T due to delay in logging assignment requests. AT&amp;T acknowledges that, to maximize the probability that AT&amp;T will be assigned the space AT&amp;T desires, AT&amp;T should, when possible, submit applications and notices including assignment requests in person to SWBT at the site where</p> |



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| SWBT<br>Reason why language is being<br>included or excluded | the applicable records are<br>maintained and should<br>counter sign the entry reflecting<br>the assignment and time of<br>assignment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                              | <p><u>18.06 Notice of Completion of Removal Activities.</u> AT&amp;T shall give written notice to SWBT stating the date on which the removal of its facilities from SWBT's poles, ducts, conduits, and rights-of-way has been completed. Charges shall continue to accrue with respect to such facilities until AT&amp;T's facilities have been removed, pull mandrels (slugs) have been pulled if required by Section 18.01(b) of this Appendix, AT&amp;T has plugged all previously occupied ducts at the entrances to SWBT's manholes as required by Section 18.01(c) of this Appendix, and the notice required by this section has been given.</p> <p><u>18.07 Notice of SWBT's Intent to Remove Facilities.</u> If AT&amp;T fails to remove its facilities from SWBT's poles, ducts, or conduits in accordance with the provisions of Sections 18.01-18.06 of this Appendix, SWBT may remove such facilities and store them at AT&amp;T's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to AT&amp;T for any injury, loss, or damage resulting from such actions. SWBT shall give AT&amp;T not less than 60 days prior written notice of its intent to remove AT&amp;T's facilities pursuant to this</p> |

IX. POLES, CONDUITS, RIGHTS-OF-WAY  
 CONTRACTUAL DISPLACEMENT ISSUES MATRIX  
 AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI

| Reason for<br>displacement<br>included or excluded | AT&T facilities<br>included or excluded | AT&T language<br>included or excluded | SWBT<br>Reason why language should be<br>included or excluded | SWBT language<br>included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------|-----------------------------------------|---------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                    |                                         |                                       |                                                               | <p>section. The notice shall state:</p> <p>(a) the date when SWBT plans to commence removal of AT&amp;T's facilities, and that AT&amp;T may remove the facilities at AT&amp;T's sole cost and expense at any time before the date specified;</p> <p>(b) SWBT's plans with respect to disposition of the facilities removed; and</p> <p>(c) that AT&amp;T's failure to remove the facilities or make alternative arrangements with SWBT for removal and disposition of the facilities shall constitute an abandonment of the facilities and of any interest therein.</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| ISSUE                                                                                                                                                                                                                                                                                                                                                                                    | AT&T<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | AT&T language                                                                                                                                                                     | SWBT<br>Reason why language should be included or excluded                                                                                                                                                                                                                       | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 1. Wholesale Discount:<br><br>Should the wholesale discount established in the Arbitration Award change according to AT&T's use of SWBT's OS and DA platforms?                                                                                                                                                                                                                           | No. Essentially, SWBT is not satisfied with the wholesale discount and is attempting to re-arbitrate this decision. SWBT's language proposed in negotiations should be rejected.<br><br>When calculating the wholesale discount, initially SWBT used a formula estimating the percentage of LSPs which would utilize SWBT's OS/DA platforms, and the percentage that will not. Although AT&T is utilizing SWBT on an interim basis -- until customized routing issues are resolved -- AT&T has not changed its plans to provide its own OS/DA platforms to its customers. There is no reason that this discount should be altered because it was a proportionate calculation that look in all appropriate factors. SWBT knew that certain switches would not be capable of customized routing and included these estimates in its calculations. Therefore, SWBT's position should be rejected. | Appendix Service Pricing<br><br>AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.    | Yes. SWBT is not disputing the outcome of the previous round of arbitrations in this forum. In the PSC's Final Arbitration Order on July 31, 1997, the PSC found a discount of 13.91 to be applicable to Operator Services and DA provisioned to AT&T.                           | SWBT does not propose any amendments. This is not an issue.                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2. SWBT's Right to Judge the Lawfulness of Interconnections with AT&T Under the Agreement<br><br><u>SWBT Statement of Issue:</u><br><br>Should the agreement contain language that limits AT&T's use of SWBT resold services and network elements to any "lawful purpose"?<br><br><u>AT&amp;T Statement of Issue:</u><br><br>Should the Agreement contain additional SWBT language which | No. In negotiations SWBT proposed to add the phrase "in any lawful manner" into agreed-to Section 1.X of the Terms and Conditions. Section 1.X assures AT&T's rights to connect the services provided under the Agreement with other services provided by SWBT, or to network components provided by AT&T or another vendor.<br><br>AT&T is concerned that this very broad and general language could be employed by SWBT in a variety of ways to unfairly limit AT&T's rights under the Agreement. SWBT could,                                                                                                                                                                                                                                                                                                                                                                                | <u>Terms and Conditions</u><br><br>AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | Yes. SWBT's proposed language would merely limit AT&T's use of SWBT's resold services and network elements to lawful purposes. The intent is to ensure, for example, that AT&T will not violate valid use restrictions. If a use is valid, SWBT's language will not prohibit it. | SWBT's proposed language is: The Network Elements, Combinations or Resale services provided pursuant to this Agreement may be connected in any lawful manner to other Network Elements, Combinations or Resale services provided by SWBT or to any network components provided by AT&T itself or by any other vendor. Subject to the requirements of this Agreement, AT&T may at any time add, delete, relocate or modify the Resale services, Network Elements or Combinations purchased hereunder. |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                                          | AT&T                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | AT&T language included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT language included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>qualifies AT&amp;T's interconnection rights according to SWBT's assessment of their "lawfulness?"</p>                                                                                      | <p>for example, attempt to use this language to assert tariff limitations which have otherwise been rejected by this Commission. Purported changes in the law and interpretations thereof by SWBT could also be employed as a way to refuse to provide services or to allow connections.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><b>3. Limitation of Liabilities</b><br/> a. Whether SWBT's liability to AT&amp;T under its indemnification obligations associated with intellectual property claims should be limited.</p> | <p>(a) AT&amp;T's bolded and underlined language reference to another contract section (7.X), which appears in the first portion of the first sentence of this Terms and Conditions Section, should be included in this section if Section 7.X itself is included in the Agreement. Limitation of liability provisions typically exclude from the limitation the parties' indemnification obligations to each other. In the section at issue, the parties have agreed to so expressly exclude (by specific contract section references) indemnification Sections 7.X and 7.X of the Agreement, but SWBT has objected to excluding Section 7.X. Section 7.X provides that SWBT will indemnify AT&amp;T against intellectual property claims resulting from AT&amp;T's purchase of UNEs. SWBT objects to Section 7.X, and that dispute is discussed in Issue No. 15. If the Commission agrees that the language contained in Section 7.X should be included in the interconnection Agreement, the reference to that Section in the Limitation of Liability Section also should be included. There is no legitimate justification for</p> | <p><b>Terms and Conditions</b><br/> 7.X The Parties' liability to each other during any Contract Year resulting from any and all causes, other than as specified below in Sections 7.X, 7.X and 7.X, following, and other than for willful or intentional misconduct will not exceed the total of any amounts due and owing to AT&amp;T pursuant to Section 45 (Performance Criteria) and the Attachment referenced in that Section, plus the amounts charged to AT&amp;T by SWBT under this Agreement during the Contract Year in which such cause accrues or arises. For purposes of this Section, the first Contract Year commences on the first day this Agreement becomes effective and each subsequent Contract Year commences on the day following that anniversary date.</p> | <p>AT&amp;T should be responsible for obtaining any license or right to use agreement associated with a network element purchased from SWBT. SWBT should not be required to indemnify AT&amp;T if AT&amp;T combines UNEs in a manner that violates the license agreement. SWBT will provide a copy of the necessary right to use agreements but AT&amp;T must be responsible for negotiating with third party licensor in discussing the method AT&amp;T plans to use to combine the UNE and whether that combination is consistent with the right to use agreements.</p> | <p>SWBT's proposed language is: AT&amp;T is responsible for obtaining any license or right to use agreement associated with a Network Element purchased from SWBT, and further will provide SWBT, prior to using any such Network Element, with either: (1) a copy of the applicable license or right to use agreement (or letter from the licensor attesting as such); or (2) an affidavit signed by AT&amp;T attesting to the acquisition of any known and necessary licenses or right to use agreements. SWBT will provide a list of all known and necessary licenses or right to use agreements applicable to the subject Network Element(s) within seven days of a request for such a list by AT&amp;T. SWBT agrees to use its best efforts to facilitate the obtaining of any necessary license or right to use agreement. In the event such an agreement is not forthcoming for a Network Element ordered by AT&amp;T, the Parties commit to negotiate in good faith for the provision of alternative Elements or services which shall be equivalent to or superior to the Element for which AT&amp;T is unable to obtain such license or agreement.</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                                                                                                               | AT&T<br>(Reasonably language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | SWBT<br>(Reasonably language should be included or excluded)                                                                                                                                                                                                                                                                                                                                       | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <p>3. <b>Limitation of Liabilities</b><br/>b. Should the parties' liability to each other be limited to an amount representing what AT&amp;T is charged by SWBT under the contract for a year, or only the amount AT&amp;T is charged by SWBT in a contract year for a particular service or business practice?</p> | <p>placing a limitation on either parties' liability to the other as to matters for which they are required to indemnify the other party, and this is certainly true in the case of Section 7.X. Accordingly, AT&amp;T's bolded and underlined reference to Section 7.X should be retained if Section 7.X is included in the Agreement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>Terms and Conditions</b><br/>7.X. The Parties' liability to each other during any Contract Year resulting from any and all causes, other than as specified below in Sections 7.X, 7.X and 7.X, following, and other than for willful or intentional misconduct, will not exceed the total of any amounts due and owing to AT&amp;T pursuant to Section 45 (Performance Criteria) and the Attachment referenced in that Section, plus the amounts charged to AT&amp;T by SWBT under this Agreement during the Contract Year in which such cause accrues or arises. For purposes of this Section, the first Contract Year commences on the first day this Agreement becomes effective and each subsequent Contract Year commences on the day following that anniversary date.</p> | <p>Limiting liability to the charges "for the affected service or business practice" during the contract year allows SWBT to keep its rates low and thus insures affordable telephone service for all Missourians. SWBT's proposed language is consistent with liability standards to which SWBT has been held in Missouri. This issue was not arbitrated and is appropriately addressed here.</p> | <p>SWBT's proposed language is: The Parties' liability to each other during any Contract Year resulting from any and all causes, other than as specified below, following, and for willful or intentional misconduct (including gross negligence), will not exceed the total of any amounts due and owing to AT&amp;T pursuant to Section 45 (Performance Criteria) and the Attachment referenced in that Section, plus the amounts charged to AT&amp;T by SWBT under this Agreement for the affected service or business practice during the Contract Year in which such cause accrues or arises. For purposes of this Section, the first Contract Year commences on the first day this Agreement becomes effective and each subsequent Contract Year commences on the day following that anniversary date.</p> |
|                                                                                                                                                                                                                                                                                                                     | <p>The limit should be the amount AT&amp;T is charged by SWBT under the contract for a year. AT&amp;T's bolded and underlined language in the second portion of the first sentence of this section should be included, and SWBT's proposed additional language should be excluded.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                                                                                                                                                                                                                     | <p>SWBT's language, as proposed in negotiations, should be excluded because it would impose an unreasonably low overall limit of liability for SWBT. With SWBT's proposal included, the liability limit would only be what AT&amp;T was charged by SWBT during a contract year for an affected service or business practice, rather than the entire amount that AT&amp;T would be charged by SWBT under the Agreement during a contract year. Including AT&amp;T's bolded and underlined language, but without SWBT's additional language, makes the provision commercially reasonable. The limitation cap -- which would apply to both parties -- will represent only a fraction of SWBT's revenues. Further, under SWBT's proposal it would be difficult.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                            | AT&T<br>(Reason why language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | AT&T Language                                                                                                                                                                                | SWBT<br>(Reason why language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p><b>3. Limitation of Liabilities</b></p> <p><u>SWBT Statement of Issue:</u></p> <p>Should each party bear its own share of liability to a third party (other than an end user of either party) resulting from the negligence or willful misconduct of both parties?</p> <p><u>AT&amp;T Statement of Issue:</u></p> <p>Should the liability of either party for third party end user claims be limited according to the degree of negligence of that party?</p> | <p>Other agreed-on Terms and Conditions provisions regarding third party end user claim liability should not be modified by including SWBT's proposal. The effect of SWBT's proposal would require AT&amp;T to indemnify SWBT against SWBT's own negligence if a suit is brought by an AT&amp;T end user customer. Specifically, this SWBT proposal would not allow AT&amp;T to offset such claims by the amount of SWBT's negligence. Requiring AT&amp;T to bear all risks of loss which are associated with SWBT's negligence is unreasonable and discriminatory. SWBT's proposal should not be adopted.</p> | <p><u>Terms and Conditions</u></p> <p>AT&amp;T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.</p> | <p>Yes. SWBT proposes this language which, except for losses claimed by end-users and except as otherwise provided in the specific appendices to this Agreement, apportions the responsibility of SWBT and AT&amp;T for claimed losses of third parties jointly caused by both parties to this Agreement so that neither party is required to pay more than its fair share of the loss. This provision further requires that the apportionment of the loss be agreed upon by the parties. This provision is entirely reasonable and should be adopted. In the case of claims against SWBT by AT&amp;T's end-users, SWBT's existing tariff limitation of liability should be clearly made applicable to such claims or AT&amp;T should be required to indemnify SWBT against such claims for the reasons set forth at length under the heading Indemnification and Limitation of Liability. This issue and language were not arbitrated and not agreed to in the first arbitration and is appropriately raised here.</p> | <p>SWBT's proposed language is: Except for losses alleged or made by an end user of either Party, or except as otherwise provided in specific appendices, in the case of any loss alleged or made by a third party arising under the negligence or willful misconduct of both Parties, each Party shall bear, and its obligation under this section shall be limited to, that portion (as mutually agreed to by the Parties) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.</p> |
| <p><b>4. Indemnification</b></p> <p><u>SWBT Statement of Issue:</u></p> <p>Should each party indemnify the other party against claims made by the</p>                                                                                                                                                                                                                                                                                                            | <p>No. This issue is similar to the issue discussed above. Again, SWBT in negotiations sought to require AT&amp;T to indemnify SWBT, without any limit of AT&amp;T's liability, against SWBT's own negligence for end user claims. This</p>                                                                                                                                                                                                                                                                                                                                                                    | <p><u>Terms and Conditions</u></p> <p>AT&amp;T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be</p>           | <p>Yes. SWBT's proposed language obligates SWBT to indemnify AT&amp;T against claims made by SWBT's end-users against AT&amp;T and obligates AT&amp;T to indemnify SWBT against claims made by AT&amp;T's end users</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>SWBT's proposed language is: In the case of any loss alleged or made by an end user of either Party, the Party whose end user alleged or made such loss (Indemnifying Party) shall defend and indemnify the other party</p>                                                                                                                                                                                                                                                                                                                                                                         |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                                                                                                                     | Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | AT&T language    | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | SWBT language                                                                                                                                                                                                                                                                                                                                                      |
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| <p>Indemnifying party's end users except in cases of gross negligence or intentional or willful misconduct?</p> <p><u>AT&amp;T Statement of Issue:</u></p> <p>Should AT&amp;T be required to indemnify SWBT for end user claims that are based on SWBT's negligence?</p> | <p>is an unreasonable and discriminatory requirement. The effect is to leave AT&amp;T entirely responsible for any claims that might be made against AT&amp;T, SWBT or both, by AT&amp;T's end users, that are caused by SWBT's negligence in providing the services under this Agreement. SWBT, not AT&amp;T, controls the acts and omissions of its employees, agents, and contractors. Yet, under SWBT's proposal, AT&amp;T would bear the entire responsibility for SWBT's negligence in this respect. The agreed-on Terms and Conditions contract Section 7.X previously referenced by AT&amp;T represents the normal, commercially reasonable type of indemnification provision which should apply here.</p> | <p>rejected.</p> | <p>against SWBT. The obligation to indemnify does not apply where the loss is due to gross negligence or the intentional or willful misconduct of the indemnified party. This provision is vital to SWBT and necessary if it is to continue providing service to its customers at affordable rates. Currently, the General Exchange Tariff limits SWBT's liability in case of service outage to the pro rate part of the months flat-rate charges for the period of days and that portion of the service facilities rendered useless or inoperative. The retail rates charged for SWBT's services are based on this limitation of liability and do not cover the costs of protecting against the risk of virtually immeasurable liability resulting from a serious service outage which would exist absent this tariff protection. This limitation of liability is long standing and reflects the fundamental public policy of keeping telephone rates low and affordable. In an unregulated environment, no sensible company would voluntarily contract to provide telephone service to a customer, at current rates, without obtaining the customer's agreement to such a limitation of liability.</p> | <p>(Indemnified Party) against any and all such claims or loss by its end users regardless of whether the underlying service was provided or unbundled element was provisioned by the Indemnified Party, unless the loss was caused by the gross negligence or intentional or willful misconduct or of breach applicable law of the other (Indemnified) Party.</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | Reason why language should be included or excluded | AT&T language | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Reason why language should be included or excluded | SWBT language |
|------|----------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------|
|      |                                                    |               | <p>SWBT can look to AT&amp;T for indemnification against them. AT&amp;T can manage this problem, and mitigate its indemnification exposure, by including in its tariffs, or contracts with its customers, a limitation of SWBT's liability to the AT&amp;T customer in the case of a service outage. The language proposed by SWBT merely allocates the risk of claims by AT&amp;T customers due to service outages to the party best able to do something about it. Alternatively, the Commission could permit amendment of SWBT's tariffs, if necessary, to extend SWBT's limitation of liability for service outages to claims made by customers of other companies.</p> <p>The same argument applies in the case of AT&amp;T customers served by AT&amp;T's use of SWBT unbundled network elements. The rates for use of these elements do not reflect the risk of claims against SWBT by AT&amp;T customers unless SWBT's liability is limited in accordance with the tariffs applicable to SWBT customers or SWBT receives indemnity from AT&amp;T as provided in SWBT's proposed language.</p> <p>The indemnification obligations in SWBT's proposed provision are mutual and reciprocal. They apply equally to SWBT in the case of claims by SWBT customers against AT&amp;T. The provision is entirely fair, and essential to facilitate the provision of telephone service on a competitive basis at or below the rates to which customers have become accustomed.</p> |                                                    |               |



**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                                                      | AT&T Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | AT&T language                                                                                                                                                                     | SWBT Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| 5. <u>Interference with Other Contracts</u><br><br>Should AT&T be required to attest that this Agreement does not interfere with any other contractual relationships it has with any other party, and that it will indemnify SWBT against any such claims? | No. There is no justification for additional language. SWBT proposed language in negotiations which would require AT&T to attest that the Agreement does not interfere with any contractual arrangement with any other party, and that it will indemnify SWBT if such a claim is brought. SWBT's proposal should be rejected. Under SWBT's proposal, AT&T would be required to indemnify SWBT if the Interconnection Agreement is claimed by a third party to be an interference with some other contract. SWBT might have had with that third party. Under the Agreement, if a third party claims that this Agreement interfered with its contractual relationship against one of the parties, then that party can and should resist that claim by virtue of the Act's provisions, as the Act should override such claims. SWBT, however, would have AT&T act as an insurer against such claims, a proposition which is both unreasonable and contrary to the Act. | <u>Terms and Conditions</u><br><br>AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | This new issue, not previously addressed in arbitration, is appropriately addressed here.<br><br>Yes. SWBT will not know what kinds of contracts AT&T may have with other providers that may have language or provisions in conflict with SWBT and AT&T's contract (e.g., a third party's contractual right to be the exclusive provider of Service to AT&T). SWBT's proposed language protects SWBT from possible litigation from third parties, should such conflicting arrangements have been entered by AT&T exist.<br><br>AT&T will have to indemnify SWBT for liabilities created as a result of contracts AT&T has entered, not as a result of contracts SWBT has entered with third parties. AT&T is in a better position than SWBT to know if such contracts exist and to take steps to insure the third party's rights are not violated. AT&T should not be able to shift this risk to SWBT. | SWBT's proposed language is: Each party represents that the terms of this agreement do not interfere with any other contractual arrangement(s) which each party may have with any third party. Each party to this agreement agrees to indemnify the other party to this agreement for any and all causes of action, claims, demands or suits which may be made or brought by a third party, claiming that this agreement interferes with an existing contractual relationship between a third party and a party to this agreement. |
| 6. <u>Local Exchange Carrier Selection/Slamming</u><br><br>Should the Agreement be amended to include provisions dealing with local exchange switching/slamming issues, prior to the FCC's or this Commission's                                            | No. Section 17 X employs the current federal rules applicable to IXCs for local exchange purposes, until otherwise applicable local exchange rules are implemented. SWBT's language, as proposed in negotiations, following the end of Section 17 X would allow end users'                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <u>Terms and Conditions</u><br><br>AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | Yes. Each party shall abide by the provisions of state regulations.<br><br>Since end users are free to choose their local service provider in the competitive marketplace, only an end user can initiate a challenge to a change in local service provider and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | SWBT's proposed language is: Only an end user can initiate a challenge to a change in its local exchange service provider. In connection with such challenges each Party will follow procedures which conform with federal rules regarding challenges to changes of presubscribed interexchange                                                                                                                                                                                                                                    |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| ISSUE                                                                                                                                                                              | AT&T<br>(Reasonably language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                           | AT&T language                                                                                                                                  | SWBT<br>(Reasonably language should be included or excluded)                                                                                                                                           | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| adoption of rules governing those subjects?                                                                                                                                        | notification to either AT&T or SWBT to allow the party receiving the request to immediately begin providing service. It also would permit SWBT to connect an end user to another LSP based on the LSP's request and assurance that end user authorization has been obtained. SWBT's proposed Section 17 X would oblige neither party to investigate allegations of slamming by the other or a third party, but would allow the parties to agree to make such investigations for a fee. |                                                                                                                                                | can switch their LSP at will. Since SWBT is the order taker, it should have the ability to ask for and obtain a copy of any LSP's end user authorization to investigate allegations of slamming.       | carriers until such time as there are federal or state rules applicable to challenges to changes of Local Exchange Service Providers. Thereafter, the procedures each Party will follow concerning challenges to changes of local exchange service providers will comply with such rule. If an end user notified SWBT or AT&T that the end user requests local exchange service, the Party receiving such request shall be free to immediately provide service to such end user. SWBT shall be free to connect the end user to any local service provider based upon the local service provider's request and assurance that proper end user authorization has been obtained. AT&T shall make authorization available to SWBT upon request and at no charge. |
| 7a. <u>OS/DA Facilities: SWBT's Provision of Directory Assistance and Operator Services</u><br><br>Is a one year minimum term reasonable when AT&T uses SWBT's OS and DA platform? | There is no justification for inclusion of these provisions at this time. As this Commission is aware, the FCC is in the process of formulating rules which will apply to the local exchange carrier selection process. SWBT's proposal is premature because it is not consistent with current rules and could well be inconsistent with the rules that are ultimately established.                                                                                                    | AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | Yes. SWBT is proposing a one-year agreement which is necessary for it to accurately forecast the size of its work force to ensure it meets standards established by the Commission and customer needs. | <u>Attachment 22: DA-Facilities</u><br><br>SWBT's proposed language is: When AT&T desires to customize route Directory Assistance and such routing capability is not currently technically available, AT&T agrees that SWBT will be the sole provider of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                                                                                                    | No. SWBT's language as proposed in negotiations is anti-competitive to the extent that it requires AT&T to commit to using SWBT as the "sole provider" of OS and DA for any set term and under any other circumstances. SWBT has already failed to implement customized routing as contractually                                                                                                                                                                                       |                                                                                                                                                | SWBT should have the flexibility to                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue | AT&T Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | AT&T language | SWBT Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|       | <p>required, and yet SWBT seeks to have AT&amp;T commit to SWBT's OS/DA for AT&amp;T uses. SWBT's proposal simply provides a further advantage from its own delay in implementation of customized routing. The essential issue is whether SWBT may disregard its obligations under the Act and refuse to provide DA and OS services to AT&amp;T, in a facilities based environment, when customized routing is available. First, SWBT's proposal implies that SWBT would only provide DA and OS services to AT&amp;T where customized routing is not technically feasible. Under SWBT's proposal, if it becomes feasible, AT&amp;T would be forced to convert to customized routing.</p> <p>SWBT's proposal would have anti-competitive effects on AT&amp;T and is inconsistent with the Act. SWBT is attempting to price customized routing so high that to utilize it as proposed would be extremely detrimental to AT&amp;T. SWBT's proposal appears to be another way to leverage AT&amp;T into a position that may be very harmful to AT&amp;T. From a broader perspective, this language appears to reflect SWBT's position that the Act's provisions in this respect do not apply to SWBT if it is dealing with AT&amp;T in a facilities-based environment. The Act requires SWBT to carry out defined duties including the duty to provide nondiscriminatory access to operator services and directory assistance services. See §251(b)(3). SWBT's proposals should be rejected.</p> |               | <p>plan to ensure it has enough trained operators and/or not too many operators to handle anticipated call volumes and to ensure it meets the standards established by the Commission and customer needs. In addition, SWBT's language states that "the Parties will mutually agree upon the term of the provision of services by end office." Thus, both parties have the flexibility they need under SWBT's language to provide for services at different places for different periods of time.</p> <p>SWBT's language provides that "[i]f AT&amp;T terminates this Agreement prior to the agreed-upon term of this Agreement, AT&amp;T will pay SWBT, within thirty (30) days of the issuance of a final bill by SWBT, all amounts due for actual services provided under this attachment, plus estimated monthly charges for the remainder of the term." This language is consistent with the language in SWBT's form contracts and in various tariff provisions. It is not unreasonable for a party to expect another to commit to a certain term with respect to the provisioning of services. Without a termination liability provision, there is no means to enforce that commitment and to make appropriate business plans based upon such commitment.</p> <p>For these reasons, SWBT's language is reasonable and should be adopted in full.</p> | <p>such services for each end office, where such services are provided, until customized routing is available. In this event, such services will be provided until the Parties mutually agree on a conversion date for the customized routing of such calls. Where customized routing is available in an end office, and AT&amp;T chooses not to customize route the DA calls, AT&amp;T agrees that SWBT will be the sole provider of DA for one year from the effective date listed in this Attachment.</p> <p><u>Attachment 23: OS-Facilities</u></p> <p>SWBT's proposed language is: As to any end office where SWBT furnishes the Operator Services provided by this Attachment, AT&amp;T agrees that SWBT will be the sole provider of local and intralATA toll Operator Services provided to AT&amp;T in such end offices for the period of time mutually agreed to by the Parties. [1] When AT&amp;T desires to customize route Operator Services and such routing capability is not currently technically available, AT&amp;T agrees that SWBT will be the sole provider of such services for each end office, where such services are provided, until customized routing is available. In this event, such services will be provided until the Parties mutually agree on a conversion date for the customized routing of such calls. Where customized routing is available in an end office, and AT&amp;T chooses not to customize route the OS calls, AT&amp;T agrees that SWBT will be the sole provider of OS for one year from the effective date listed in this Attachment.</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue | AT&T<br>Proposed language should be<br>included or excluded | AT&T<br>Proposed language | SWBT<br>Reasonably language should be<br>included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|       |                                                             |                           |                                                               | <p><b>6. UNE</b></p> <p>SWBT's proposed language is: When AT&amp;T desires to customize route Operator Services and such routing capability is not currently technically available, AT&amp;T agrees that SWBT will be the sole provider of such services for each end office, where such services are provided, until customized routing is available. In this event, such services will be provided until the Parties mutually agree on a conversion date for the customized routing of such calls.</p> <p>Where customized routing is available in an end office, and AT&amp;T chooses not to customize route the OS calls, AT&amp;T agrees that SWBT will be the sole provider of OS for one year from the effective date listed in this Attachment.</p> <p>SWBT's proposed language is:<br/>When AT&amp;T desires to customize route Directory Assistance and such routing capability is not currently technically available, AT&amp;T agrees that SWBT will be the sole provider of such services for each end office, where such services are provided, until customized routing is available. In this event, such services will be provided until the Parties mutually agree on a conversion date for the customized routing of such calls.</p> <p>Where customized routing is available in an end office, and AT&amp;T chooses not to customize route the DA calls, AT&amp;T agrees that SWBT will be the sole provider of DA for one year from</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                               | AT&T Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | AT&T language                                                                                                                                                                                                                                      | SWBT Reason why language should be included or excluded                                                                                                                                                                                          | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| 7b. <u>Terms of the Attachment</u><br><br>Is a one year minimum term reasonable when AT&T uses SWBT's OS and DA platform?                                                                                                           | No. Under SWBT's language as proposed in negotiations, SWBT would first establish a term which differs from that which is otherwise provided for in the Interconnection Agreement. SWBT would then be able to terminate its obligations to provide DA and OS services on 120 days notice following the end of that term. AT&T also would be required to pay early termination penalties to SWBT.<br><br>While AT&T may wish to request SWBT to provide DA and OS services at different places and for different periods of time, SWBT's overall obligations to provide DA and OS services should be governed by the general term of the agreement. Otherwise, SWBT may insist upon a shorter period of time than AT&T desires, and if no agreement is reached on the term, may refuse to provide the service at all, which is inconsistent with its responsibilities under the Act. See §251(b)(3). | AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.                                                                                                     | See 7a.                                                                                                                                                                                                                                          | <u>Attachment 22: DA-Facilities</u><br><br>10.0 <u>Term of Attachment</u><br><br>SWBT's proposed language is: This Attachment will continue in force for a period of ____ year(s) from the effective date of this Agreement and thereafter until terminated by one hundred-twenty (120) days notice in writing from either Party to the other. The Parties will mutually agree upon the term of the provision of services by end office.<br><br>SWBT's proposed language is: If AT&T terminates this Attachment prior to the agreed-upon term of this Attachment, AT&T will pay SWBT, within thirty (30) days of the issuance of a final bill by SWBT, all amounts due for actual services provided under this Attachment, plus estimated monthly charges for the remainder of the term. Estimated charges will be based on an average of the actual monthly amounts billed by SWBT pursuant to this Attachment prior to its termination. |
| 8. <u>Responsibility for Environmental Contamination</u><br><br>Should language in the Agreement imply that AT&T may be responsible to SWBT for the presence or Release of Environmental Hazards, at an affected Work Location that | No. Terms and Conditions Sections 39.X and 39.Y contain mirror-image first sentence statements to the effect that a party is not liable to the other party for costs associated with the presence or release of environmental hazards that the party did not introduce to, or knowingly use, at the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <u>Terms and Conditions</u><br><br>39.X AT&T will in no event be liable to SWBT for any costs whatsoever resulting from the presence or Release of any Environmental Hazard that AT&T did not introduce to, or knowingly use, at the affected Work | Yes. SWBT's proposed language relieves AT&T from liability to SWBT for any costs resulting from the presence or release of any Environmental Hazard which SWBT has introduced to the affected Work Location. However, AT&T wants more than this. | SWBT objects to the inclusion of the words "AT&T did not introduce to, or knowingly use, at." SWBT believes the sentence should read AT&T will in no event be liable to SWBT for any costs whatsoever resulting from the presence or Release of any Environmental Hazard that the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>Reasonably language should be<br>included or excluded | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT<br>Reasonably language should be<br>included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         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| was introduced by a third party?                              | <p><b>Work Location.</b></p> <p>SWBT in negotiations proposed to substitute first sentence language which essentially omits the "knowingly use" aspect. Its absence, in the context of other provisions in these sections, implies that AT&amp;T might be liable to SWBT for the presence or Release of an environmental hazard that AT&amp;T did not introduce, if AT&amp;T or its agents cause or contribute to a release. SWBT's proposal should be rejected and the "knowingly use" language should be retained. The party who controls access to its premises is in the best position to know what hazards may exist. If an environmental hazard was introduced to a Work Location by some third party and the Work Location then was purchased by SWBT, under SWBT's proposal SWBT might argue that AT&amp;T is responsible to SWBT if AT&amp;T or its agents unknowingly released the hazard. In contrast, the language in the Agreement should be focused upon a party's actual introduction or knowing use of a hazard.</p> <p>In the bottom portions of these sections, SWBT would also add language allowing it to avoid entirely any indemnification responsibilities if AT&amp;T caused, or contributed to, any loss or claim in the slightest degree, which would ignore SWBT's own conduct. SWBT's proposal should be excluded.</p> | <p><b>Location.</b> SWBT will indemnify, defend (at AT&amp;T's request) and hold harmless AT&amp;T, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that SWBT, its contractors or agents introduce to the Work locations or (ii) the presence or Release of any Environmental Hazard for which SWBT is responsible under applicable law.</p> <p>39. X. SWBT will in no event be liable to AT&amp;T for any costs whatsoever resulting from the presence or Release of any Environmental Hazard that SWBT did not introduce to, or knowingly use, at the affected Work Location. AT&amp;T will indemnify, defend (at SWBT's request) and hold harmless SWBT, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that AT&amp;T, its contractors or agents introduce to the Work Locations or (ii) the presence or Release of any Environmental Hazard for which AT&amp;T is responsible under applicable law.</p> | <p>AT&amp;T's proposed language I would relieve AT&amp;T from any liability to SWBT in all cases where the Environmental Hazard was either introduced at the Work Location by a third party or not knowingly used by AT&amp;T. SWBT is opposed to inclusion of this language because it does not comport with applicable environmental laws. Under SWBT's proposed language, AT&amp;T merely retains the responsibilities it otherwise has as an operator of a facility or releaser of pollutants under these environmental laws. Likewise, SWBT's proposed language makes clear that SWBT is not required to indemnify AT&amp;T where the activities of AT&amp;T or its agents caused or contributed to the loss for which indemnity is sought. There should be no indemnity in such a case. The paragraph which governs AT&amp;T's indemnity obligations to SWBT concerning the presence of Environmental Hazards at an affected Work Location, or the release of Environmental Hazards therefrom, mirrors SWBT's language and the parties obligations and liabilities thus are reciprocal.</p> <p>Federal environmental law provides that a party is jointly and severally liable with the owner, for the release of an Environmental Hazard if it is an "operator" of the property on which the release has occurred. See e.g., The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Sec. 9601 et seq. Operators of facilities, as well as owners, are subject to notice and</p> | <p>affected Work Location. SWBT will indemnify, defend (at AT&amp;T's request) and hold harmless AT&amp;T, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that SWBT, its contractors or agents introduce to the Work locations or (ii) the presences or Release of any Environmental Hazard for which SWBT is responsible under applicable law. SWBT's obligation to indemnify will not arise if the activities of AT&amp;T or its agents caused or contributed to the loss, damages, claims, demands, suits, liabilities, fines, penalties and expenses.</p> <p>SWBT will in no event be liable to AT&amp;T for any costs whatsoever resulting from the presence or Release of any Environmental Hazard that the affected Work Location. AT&amp;T will indemnify, defend (at SWBT's request) and hold harmless SWBT each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that AT&amp;T, its contractors or agents introduce to the Work locations or (ii) the presences or Release of any Environmental Hazard for which AT&amp;T is responsible under applicable law. AT&amp;T's obligation to indemnify will not arise if the activities of SWBT or its</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | Reason why language should be included or excluded | AT&T language | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reason why language should be included or excluded                                                                     | SWBT language |
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|      |                                                    |               | disclosure requirements concerning the facility's use and release of reportable quantities of hazardous substances. See The Emergency Planning and Community Right to Know Act ("EPCRA"), 42 U.S.C. Sec. 11001 et seq. AT&T, in using SWBT's central offices, manholes, and conduits, and having its equipment in these facilities, is probably an "operator" subject to the duties and liabilities imposed by these laws. These duties and liabilities exist even though another party may have introduced the hazardous substances into the facility. Moreover, a party discharging pollutants from a point source into the navigable waters of the United States (which are defined by statute to include about any body of water in the country) without a permit is liable regardless of who introduced the pollutant onto the property from which it was discharged, and regardless of who owns the property. The Clean Water Act, 33 U.S.C. Sec. 1311 et seq. Under this statute, if AT&T in the course of its operations discharged pollutants from a SWBT manhole into navigable waters AT&T would be liable and it wouldn't matter who introduced the pollutants into the manhole, who owned the manhole, or whether AT&T knowingly used the pollutants. SWBT should not protect AT&T from the consequences of AT&T's violation of environmental laws, nor should AT&T protect SWBT from the consequences of SWBT's violation of these laws. It is enough that SWBT absolves AT&T from liability to SWBT for costs resulting | agents caused or contributed to the loss, damages, claims, demands, suits, liabilities, fines, penalties and expenses. |               |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | AT&T<br>(Reason why language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | SWBT<br>(Reason why language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | SWBT language                                                                                                                                                                                                                                                                                                                                                 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| <p><b>9. Other Limitation of Liability and Indemnification Provisions</b></p> <p><u>SWBT Statement of Issue:</u></p> <p>(1) Should indemnification and limitation of liability provisions affecting DA be included in this Appendix?</p> <p>(2) May SWBT limit its liability to AT&amp;T for losses due to errors in DA provided to AT&amp;T to an amount not to exceed the charge for the DA during the relevant time period?</p> <p>(3) May SWBT require AT&amp;T to indemnify SWBT against third party claims arising from AT&amp;T's end users use of DA?</p> <p>(4) May SWBT require AT&amp;T to indemnify SWBT against invasion of privacy claims relating to the provision of DA to AT&amp;T?</p> <p><u>AT&amp;T Statement of Issue:</u></p> <p>Should SWBT be allowed to avoid any responsibility for AT&amp;T end user claims caused by SWBT's negligence, as well as other third party claims, and related issues?</p> | <p>No. SWBT should not be allowed to amend the Agreement to avoid liability as already provided in the Agreement. In response to SWBT's proposal in negotiations to amend numerous sections of the Agreement regarding this issue, AT&amp;T proposes language to explicitly state that the terms of the General Terms and Conditions, AT&amp;T's <u>bolded and underlined</u> language should be included only in the event the Commission determines that further clarification is needed.</p> <p><u>Prefatory Note:</u></p> <p>In addition to SWBT's attempts to include language in the Terms and Conditions which would impose on AT&amp;T all responsibility for SWBT's own negligence in performing under this Agreement, especially as to claims by AT&amp;T's end users, SWBT has proposed in negotiations additional language, which would have similar effects, in nine other separate appendices or attachments to the Agreement. In each case, AT&amp;T's proposed language, consisting of a single sentence which states that such matters are governed by the Terms and Conditions, is identical or nearly so. However, SWBT employs several variations of its proposed language among these nine attachments/appendices. To facilitate the</p> | <p>AT&amp;T requests that SWBT's proposal be stricken in its entirety in each section listed herein. However, in the event that the Commission desires to clarify that the current indemnification provisions apply to all of the listed Attachments/Sections, AT&amp;T proposes the following language:</p> <p><u>Indemnification and limitation of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.</u></p> <p><u>Appendix DA-Resale</u></p> <p><u>6.X. Indemnification and limitation of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.</u></p> <p><u>Appendix OS-Resale</u></p> <p><u>14.X. Indemnification and limitation of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.</u></p> <p>(language proposed only if Commission desires to amend</p> | <p>from the presence or release of any Environmental Hazard which SWBT has introduced to the affected Work Location and SWBT is similarly absolved by AT&amp;T where AT&amp;T has introduced the Environmental Hazard.</p> <p>SWBT opposes AT&amp;T's proposed language. For purposes of clarity and convenience, liability and indemnification provisions should be, insofar as possible, clearly set out in the specific appendix or attachment governing a specific service or facility. Because the price of DA service offered AT&amp;T does not cover the additional cost associated with the risk of claims by AT&amp;T, AT&amp;T end-users or third parties in case of errors, SWBT prudently seeks to limit its liability to AT&amp;T to an amount not exceeding the charge for DA during the relevant time period. For this reason, SWBT also asks for indemnification from AT&amp;T against claims by AT&amp;T's end-users or third parties and claims based on invasion of privacy or confidentiality. AT&amp;T is in the best position to manage its indemnification exposure by limiting SWBT's liability to AT&amp;T end-users and third parties in AT&amp;T's tariffs or contracts with its customers.</p> <p>Liability and indemnification provisions should be set out in the specific attachment governing a specific service. Because the price of recording offered AT&amp;T does not cover the additional cost associated with the risk of claims by AT&amp;T, AT&amp;T end users or third parties in case of errors, SWBT seeks indemnification</p> | <p><u>Appendix DA-Resale</u></p> <p>SWBT's proposed language is: SWBT will not be liable to AT&amp;T for any losses or damages arising out of errors, interruptions, defects, failures, delays, or malfunctions of DA, including any and all associated equipment and data processing systems unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. Any losses or damages or which SWBT is held liable under this Appendix to AT&amp;T will in no event exceed the amount of the charges made for DA during the period beginning at the time notice of the error, interruption, defect, failure, or malfunction is received by SWBT to the time Service is recorded or the error, interruption, defect, failure, or malfunction is corrected, unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct.</p> <p>AT&amp;T agrees to defend, indemnify, and hold harmless SWBT from any and all losses, damages, or other liability including attorneys fees that SWBT may incur as a result of claims, or demands, wrongful death actions, or other suits brought by any party that arise out of AT&amp;T's end user</p> |



# **X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES** **CONTRACTUAL DISPUTED ISSUES MATRIX** **AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                         | AT&T language                                                                                                                                                                                                                                                                                                                                 | SWBT                                                                                                                                                                                                                                                                                                                                                                                        | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT language |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Commission's review, AT&T has analyzed each and finds that the language employed for four attachments/ appendices is virtually identical, and that the language for three others is also virtually identical. In discussing the issue, AT&T will display the language of only one attachment or appendix involving the variations. The explanation provided below is applicable to all SWBT proposals, in all of the referenced attachments or appendices. | Agreement)<br><u>Attachment 15: 911</u><br><u>7.X Indemnification provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement</u><br>(language proposed only if Commission desires to amend Agreement)                                                            | from AT&T against such claims. AT&T is in the best position to manage its indemnification exposure by limiting SWBT's liability in AT&T's tariffs or contracts with its customers. This language was not arbitrated and is appropriately addressed here for these unique services with indemnity provisions tailored and conforming to traditional indemnity provisions for these services. | customers' use of DA, unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. In defending all such claims, AT&T will assert its contractual or tariff limitation of liability, if any, for the benefit of both SWBT and AT&T.                                                                                                                                                                                                                                                                                                                                                              |               |
| <b>Discussion:</b><br>The contract contains limitation of liability and indemnification provisions in the General Terms and Conditions. AT&T believes that these provisions apply to all portions of the Interconnection Agreement. Accordingly, none of the changes SWBT proposes should be made to the contract.                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <u>Attachment 18: Mutual Exchange Directory of Listing Information</u><br><u>7.X Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement</u><br>(language proposed only if Commission desires to amend Agreement) |                                                                                                                                                                                                                                                                                                                                                                                             | AT&T agrees to release, defend, indemnify, and hold harmless SWBT from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SWBT employees and equipment associated with provision of DA. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used in connection with DA, unless such claims or demands result from SWBT's gross negligence or willful or wanton or intentional misconduct. |               |
| This dispute arises because SWBT seeks to eliminate any responsibility on SWBT's part for its own negligence in providing the services under this Agreement. SWBT would place all of those risks on AT&T. This is not only commercially unreasonable, but unfair and contrary to the Act's requirements that the services be provided to AT&T in a nondiscriminatory fashion. It is unreasonable and, in AT&T's view, unlawful to require AT&T to be responsible for SWBT's negligence. All of the SWBT provisions in question should be excluded from the Agreement, and AT&T's language should be included. |                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <u>Attachment 19: WP-Other</u><br><u>7.X Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement</u><br>(language proposed only if Commission desires to amend Agreement)                                         |                                                                                                                                                                                                                                                                                                                                                                                             | Appendix OS-Resale<br>SWBT will not be liable to AT&T for any losses or damages arising out of errors, interruptions, defects, failures, delays, or malfunctions of OS, including any and all associated equipment and data processing systems unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. Any losses or                                                                                                                                                                                                                                                                        |               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <u>Attachment 22: DA-Facilities</u><br><u>9.X Indemnification and limitation</u>                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |               |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | Reason why language should be included or excluded | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                                    | <p>of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.</p> <p>(language proposed only if Commission desires to amend Agreement)</p> <p><u>Attachment 23: OS-Facilities</u></p> <p><u>9.X Indemnification and limitation of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.</u></p> <p>(language proposed only if Commission desires to amend Agreement)</p> <p><u>Attachment 6: UNE</u></p> <p><u>7.X Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of this Agreement.</u></p> <p>(language proposed only if Commission desires to amend Agreement)</p> <p><u>7.X Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of this Agreement.</u></p> <p>(language proposed only if Commission desires to amend Agreement)</p> |      | <p>damages for which SWBT is held liable under this Appendix to AT&amp;T will in no event exceed the amount of the charges made for OS during the period beginning at the time notice of the error, interruption, defect, failure, or malfunction is received by SWBT to the time Service is recorded or the error, interruption, defect, failure, or malfunction is corrected, unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct.</p> <p>AT&amp;T agrees to defend, indemnify, and hold harmless SWBT from any and all losses, damages, or other liability including attorneys fees that SWBT may incur as a result of claims, demands, wrongful death actions, or other suits brought by any party that arise out of AT&amp;T's end user customers' use of OS, unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. In defending all such claims, AT&amp;T will assert its contractual or tariff limitation of liability, if any, for the benefit of both SWBT and AT&amp;T.</p> <p>AT&amp;T agrees to release, defend, indemnify, and hold harmless SWBT from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SWBT employees and equipment associated with provision of OS. This provision includes but is not limited to suits arising from disclosure of the</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | Reasonably language should be included or excluded | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT | Reasonably language should be included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                                    | <p>9.X. Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the <u>General Terms and Conditions</u> portion of this Agreement. (language proposed only if Commission desires to amend Agreement)</p> <p><u>Attachment 24: Recording-Facilities Based</u></p> <p>6.X. Indemnification provisions covering the matters addressed in this Attachment are contained in the <u>General Terms and Conditions</u> portion of the Agreement. (language proposed only if Commission desires to amend Agreement)</p> |      |                                                    | <p>telephone number, address, or name associated with the telephone called or the telephone used in connection with OS, unless such claims or demands result from SWBT's gross negligence or willful or wanton or intentional misconduct.</p> <p><u>Attachment 15: 911</u></p> <p>AT&amp;T agrees to indemnify, defend and hold harmless SWBT from any Loss arising out of SWBT's provision of 911 services or out of AT&amp;T's end users' use of the 911 service, whether suffered, made, instituted, or asserted by AT&amp;T or its end users, including for any personal injury or death of any person or persons, except for Loss which is the direct result of SWBT's own negligence, gross negligence or willful or intentional misconduct or breach of applicable law.</p> <p><u>Attachment 18: Mutual Exchange Directory of Listing Information</u></p> <p>Each Party hereby releases the other Party from any and all liability for damages due to errors or omissions in the subscriber listing information provided under this Attachment, or by reason of delay in providing the subscriber listing information, unless said losses or damages result from a Party's gross negligence or willful or wanton or intentional misconduct.</p> <p>Each Party shall indemnify, protect, save harmless and defend the other</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>Reason why language should be included/excluded | AT&T<br>Reason why language should be included/excluded | AT&T language | SWBT<br>Reason why language should be included/excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------|---------------------------------------------------------|---------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                         |                                                         |               |                                                         | <p>Party (or the other Party's officers, employees, agents, assigns and representatives) from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a third party in any way related to other Parties supplying subscriber listing information, or any actual error or omission, unless said losses or damages result from the other Party's gross negligence or willful or wanton or intentional misconduct.</p> <p><u>Attachment 19. WP-Other</u></p> <p>AT&amp;T hereby releases SWBT from any and all liability for damages due to errors or omissions in AT&amp;T's subscriber listing information as provided to SWBT under this Attachment and/or AT&amp;T's subscriber listing information as it appears in the White Pages directory, unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct.</p> <p>AT&amp;T will indemnify, protect, save harmless and defend SWBT (or SWBT's officers, employees, agents, assigns and representatives) from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a third party in any way related to any error or omission in AT&amp;T's subscriber listing information as it appears in the White Pages directory, including any error or omission related to non-published or non-listed subscriber listing information, unless</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue | AT&T Reason/Change should be included or excluded | AT&T language | SWBT Reason/Change should be included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------|---------------------------------------------------|---------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                   |               |                                                   | <p>said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct.</p> <p><u>Attachment 22: DA-Facilities</u></p> <p>SWBT will not be liable to AT&amp;T for any losses or damages arising out of errors, interruptions, defects, failures, delays, or malfunctions of DA, including any and all associated equipment and data processing systems unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. Any losses or damages for which SWBT is held liable under this Attachment to AT&amp;T will in no event exceed the amount of the charges made for DA during the period beginning at the time notice of the error, interruption, defect, failure, or malfunction is received by SWBT to the time Service is recorded or the error, interruption, defect, failure, or malfunction is corrected.</p> <p>AT&amp;T agrees to defend, indemnify, and hold harmless SWBT from any and all losses, damages, or other liability including attorneys fees that SWBT may incur as a result of claims, demands, wrongful death actions, or other suits brought by any party that arise out of AT&amp;T's end user customers' use of DA. AT&amp;T will defend against all customer claims just as if AT&amp;T had provided such service to its customer with AT&amp;T's own employees and will assert its contractual or tariff limitation of liability, in any, for the benefit of both</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue | AT&T<br>Reason why language should be<br>included or excluded | AT&T language | SWBT<br>Reason why language should be<br>included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------|---------------------------------------------------------------|---------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                               |               |                                                               | <p>SWBT and AT&amp;T.</p> <p>AT&amp;T agrees to release, defend, indemnify, and hold harmless SWBT from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SWBT employees and equipment associated with provision of DA. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used in connection with DA.</p> <p><u>Attachment 23: OS-Facilities</u></p> <p>SWBT will not be liable to AT&amp;T for any losses or damages arising out of errors, interruptions, defects, failures, delays, or malfunctions of OS, including any and all associated equipment and data processing systems unless said losses or damages result from SWBT's gross negligence or willful or wanton or intentional misconduct. Any losses or damages for which SWBT is held liable under this Attachment to AT&amp;T will in no event exceed the amount of the charges made for OS during the period beginning at the time notice of the error, interruption, defect, failure, or malfunction is received by SWBT to the time Service is recorded or the error, interruption, defect, failure, or malfunction is corrected.</p> <p>AT&amp;T agrees to defend, indemnify,</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| State | AT&T<br>Region/Language/Inclusion<br>Included/Excluded | AT&T Language | SWBT<br>Region/Language/Inclusion<br>Included/Excluded | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------|--------------------------------------------------------|---------------|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                        |               |                                                        | <p>and hold harmless SWBT from any and all losses, damages, or other liability including attorneys fees that SWBT may incur as a result of claims, demands, wrongful death actions, or other suits brought by any party that arise out of AT&amp;T's end user customers' use of OS. AT&amp;T will defend against all customer claims just as if AT&amp;T had provided such service to its customer with AT&amp;T's own employees and will assert its contractual or tariff limitation of liability, in any, for the benefit of both SWBT and AT&amp;T.</p> <p>AT&amp;T agrees to release, defend, indemnify, and hold harmless SWBT from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SWBT employees and equipment associated with provision of OS. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used in connection with OS.</p> <p><b>Attachment 8: UNE</b></p> <p>SWBT will not be liable to AT&amp;T for any losses or damages arising out of errors, interruptions, defects, failures, delays, or malfunctions of the OS services, including any and all associated equipment and data processing systems unless said losses or damages result from</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issues | AT&T Reason why language should be included or excluded | AT&T language | SWBT Reason why language should be included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------|---------------------------------------------------------|---------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|        |                                                         |               |                                                         | <p>SWBT's gross negligence or willful or wanton or intentional misconduct. Any losses or damages for which SWBT is held liable under this Agreement to AT&amp;T will in no event exceed the amount of the charges made for OS services during the period beginning at the time notice of the error, interruption, defect, failure, or malfunction is received by SWBT to the time Service is restored.</p> <p>AT&amp;T agrees to defend, indemnify, and hold harmless SWBT from any and all losses, damages, or other liability including attorneys fees that SWBT may incur as a result of claims, demands, wrongful death actions, or other suits brought by any party that arise out of AT&amp;T's and user customers' use of the OS services. AT&amp;T will defend against all customer claims just as if AT&amp;T had provided such service to its customer with AT&amp;T's own employees and will assert its contractual or tariff limitation of liability, in any, for the benefit of both SWBT and AT&amp;T.</p> <p>AT&amp;T agrees to release, defend, indemnify, and hold harmless SWBT from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SWBT employees and equipment associated with provision of the OS services. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the</p> |



**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| ISSUE | AT&T<br>Reason why language should be included or excluded | AT&T language | SWBT<br>Reason why language should be included or excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------|------------------------------------------------------------|---------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                            |               |                                                            | <p>SWBT will furnish Calling Name information only as accurate and current as the information has been provided to SWBT for inclusion in its CNAME database. Therefore, SWBT, in addition to the limitations of liability set forth, is not liable for inaccuracies in the Calling Name information name records provided to AT&amp;T or to its Query-originating carrier customers, except such inaccuracies caused by SWBT's willful or wanton misconduct or gross negligence.</p> <p>The Parties acknowledge that each Calling Name database limits the Calling Name information length to fifteen (15) characters. As a result, the Calling Name information provided in a response to a Query may not reflect a subscriber's full name. Name records of residential local telephone subscribers will generally be stored in the form of last name followed by first name (separated by a comma or space) to a maximum of fifteen (15) characters. Name records of business local telephone subscribers will generally be stored in the form of the first fifteen (15) characters of the listed business name that in some cases may include abbreviations. The Parties also acknowledge that certain local telephone service subscribers of Name Record Administering Companies may require their name information to be restricted, altered, or rendered unavailable. Therefore, SWBT is not liable for any and all</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | AT&T<br>Reasonably/Engineers' choice or<br>Inadvertently excluded | AT&T language | SWBT<br>Reasonably/Engineers' choice or<br>Inadvertently excluded | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------|-------------------------------------------------------------------|---------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                                                   |               |                                                                   | <p>liability, claims, damages or actions including attorney's fees, resulting directly or indirectly from the content of any Name Record contained in a Calling Name database and provided to AT&amp;T or its Query-originating carrier customers, except for such content related claims, damages or actions resulting from SWBT's willful or wanton misconduct or gross negligence.</p> <p>The Parties acknowledge that certain federal and/or state regulations require that local exchange telephone companies make available to their subscribers the ability to block the delivery of their telephone number and/or name information to the terminating telephone when the subscriber originates a telephone call. This blocking can either be on a call-by-call basis or on an every call basis. Similarly, a party utilizing blocking services can unblock on a call-by-call or every call basis. AT&amp;T will abide by information received in SS7 protocol during call set-up that the calling telephone service subscriber wishes to block or unblock the delivery of telephone number and/or name information to a CNDS subscriber. AT&amp;T agrees not to attempt to obtain the caller's name information by originating a query to SWBT's Calling Name database where the subscriber had attempted to block such information, nor will AT&amp;T block information a subscriber has attempted to unblock. Therefore, SWBT, in addition to the limitations of liability set forth in this Section, is not</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue | AT&T<br>Reason why language should be included or excluded | AT&T Language | SWBT<br>Reason why language should be included or excluded | SWBT Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------|------------------------------------------------------------|---------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                            |               |                                                            | <p>liable for any failure by AT&amp;T or its query-originating carrier customers to abide by the caller's desire to block or unblock delivery of Calling Name information, and AT&amp;T agrees to hold SWBT harmless from, and defend and indemnify SWBT for, any and all liability, claims, damages or actions including attorney's fees, resulting directly or indirectly from AT&amp;T or its query-originating carrier customers' failure to block or unblock delivery of the Calling Name information when appropriate indication is provided, except for such privacy related claims, damages or actions caused by SWBT's willful or wanton misconduct or gross negligence.</p> <p><u>Attachment 24: Recording-Facilities Based</u></p> <p>AT&amp;T agrees to defend, indemnify, and hold harmless SWBT 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 AT&amp;T, its customers or end users, provided such service to its end users with its own employees.</p> <p>AT&amp;T also agrees to release, defend, indemnify and hold harmless SWBT 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 SWBT employees and equipment</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBt INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                      | AT&T<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | SWBT<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 10. Per Transaction Charge:<br><br>Is \$.003 the appropriate fee assessment for transmitting carrier data per order between AT&T and SWBT? | Yes. Three tenths of one cent accurately reflects the cost per transaction for transmitting a carrier change notification.<br><br>The Parties previously agreed on the \$.003 cents charge for the change notification transmission in another state in Attachment 5: Provision of Customer Usage Data-Resale. In negotiations, SWBT proposed to dramatically increase the charge. SWBT has provided no cost justification for the proposed increase in price for this service.<br><br>AT&T's alternative counter language proposed in Attachment 10 is identical to that which was agreed upon in another state in Resale. AT&T finds no justification for why the transmission would be any different in Resale than for UNE because it is system generated to provide a change notification for carrier changes by WTN and is not dependent on whether it is a UNE or Resale customer. | AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.<br><br><u>AT&amp;T Language:</u><br><br><u>Attachment 5: Provision of Customer Usage Data-Resale</u><br><br>7.X When any AT&T local service customer changes their local service provider to another LSP or SWBT, AT&T will be notified as described in the LSP notification change process, contained in Local Account Maintenance Methods and Procedures, dated July 29, 1996, or as otherwise agreed to by the parties. AT&T will pay to SWBT a per transaction charge of <u>three tenths of one cent (\$.003)</u> for SWBT's transmission of the change notification.<br><br>(However, in the event that the Commission determines that the \$.003 charge language should be clarified, AT&T proposes the following amendment to Section 7.X):<br><br><u>Attachment 10: Provision of Customer Usage Data-UNE</u> | No. Both of AT&T's statements are false. AT&T's position on this issue is based upon a misunderstanding that arose during the Texas negotiations. In Texas, the language concerning the \$.003 charge was included in the Texas Agreement in error. There is no \$.003 cent transmission charge associated with the LDR report. The \$.003 transmission charge is associated with other information being provided to AT&T by Southwestern Bell under the Agreement and was never intended to apply to the LDR report. Significantly, AT&T has not disputed the fact that this service is not subject to the Act. Thus, the service is not required to be cost-based. The rate proposed by SWBT is appropriate (as explained below) and may be offered on a permanent basis at this time.<br><br>Southwestern Bell has developed the Local Disconnect Report ("LDR"), which provides notification to the LSP when the LSP's customer changes his/her local service provider to another LSP or SWBT. This is a Customer Account Record Exchange ("CARE") based report and carries a rate of \$.10 per Working Telephone Number ("WTN") provided to the LSP. The \$.10 rate mirrors the rate associated with other CARE-based | associated with provision of this service. 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.<br><br><u>Attachment 5: Provision of Customer Usage Data</u><br><br>When any AT&T local service customer changes their local service provider to another LSP or SWBT, AT&T will be notified as described in the LSP notification change process, contained in Local Account Maintenance Methods and Procedures, dated July 29, 1996, or as otherwise agreed to by the parties. AT&T will pay to SWBT a per transaction charge of <u>three tenths of one cent (\$.003)</u> for each WTN transmitted for SWBT's transmission of the change notification.<br><br><u>Attachment 10: Provision of Customer Usage Data-UNE</u><br><br>When AT&T purchases certain Network Elements from SWBT, SWBT will provide AT&T with Local Account Maintenance. When SWBT is acting as the switch provider for AT&T, where AT&T is employing UNES to provide local service, SWBT will notify AT&T whenever the local service customer disconnects switch port (e.g., WTN) service from local service customer discounts switch |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWB INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                  | Reason why language should be included or excluded                                                                                                                                                                                                                                                                       | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT                                                                                                                                                                                                                                                                                                                    | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                          | <p>7.X. When AT&amp;T purchases certain Network Elements from SWBT, SWBT will provide AT&amp;T with Local Account Maintenance. When SWBT is acting as the switch provider for AT&amp;T, where AT&amp;T is employing UNES to provide local service, SWBT will notify AT&amp;T whenever the local service customer disconnects switch port (e.g., WTN) service from local service customer discounts switch port (e.g., WTN) service from AT&amp;T to another local service provider. SWBT will provide this notification via a mutually agreeable 4 digit Local Use Transaction Code Status Indicator (TCSI) that will indicate the retail customer is terminating local service with AT&amp;T. SWBT will transmit the notification, via the Network Data Mover Network using the CONNECT: Direct protocol, within five (5) days of SWBT reprovisioning the switch. The TCSI, sent by SWBT, will be in the 960 byte industry standard CARE record format. <i>AT&amp;T will pay to SWBT a per transaction charge of three tenths of one cent (\$0.003) for SWBT's transmission of the change notification.</i></p> |                                                                                                                                                                                                                                                                                                                         | <p>reports provided to IXCs, such as the "Subscriber Respondent Report" used to provide disconnect and new connect information to IXCs who are the IXCs for our end user customers provided by Southwestern Bell.</p> <p>AT&amp;T has proposed a rate of \$ .003 transmission charge "for Southwestern Bell's transmission of the change notification." However, AT&amp;T's proposed rate is improper since it is not consistent with the \$ .10 rate associated with CARE-based reports. In addition, there is no stand-alone transmission charge for the LDR as is indicated by AT&amp;T's proposed rate. Rather, Southwestern Bell's rate takes into account its costs associated with development, time, processing and transmission and should be adopted.</p> | <p>port (e.g., WTN) service from AT&amp;T to another local service provider. SWBT will provide this notification via a mutually agreeable 4 digit Local Use Transaction Code Status Indicator (TCSI) that will indicate the retail customer is terminating local service with AT&amp;T. SWBT will transmit the notification, via the Network Data Mover Network using the CONNECT: Direct protocol, within five (5) days of SWBT reprovisioning the switch. The TCSI, sent by SWBT, will be in the 960 byte industry standard CARE record format. <i>AT&amp;T will pay to SWBT a per transaction charge of ten cents (\$0.10) for each working telephone number (WTN) transmitted.</i></p> |
| 11. Should SWBT be allowed to amend the Agreement to make liquidated damages the sole remedy available for breach of the agreement or breach of Performance Criteria? | No. The Terms and Conditions portion of the Agreement contains liability, indemnification, and legal remedies available to both parties for matters arising under the Agreement. SWBT proposed in negotiations to amend the Agreement (by adding Section 7.X to Attachment 17) to severely limit AT&T's ability to avail | AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Yes. AT&T has agreed to this language previously and thus can hardly claim that the provision lacks justification. Also, AT&T's claim that SWBT is unfairly attempting to limit AT&T's judicial and regulatory remedies rings false, because this is exactly what AT&T is attempting to do through its proposed dispute | The Liquidated Damages shall be the sole and exclusive remedy of a Party for other Party's breach of the Performance Criteria or a Specified Performance Breach as described in this Attachment and shall be in lieu of any other damages or credit a Party might otherwise seek for such breach of the Performance Criteria or a                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                   | Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | AT&T language                                                                                                                                  | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Reason why language should be included/excluded                                                                                                                                                                                                                | SWBT language |
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|                                                                                                                                                                        | itself of all regulatory and/or judicial remedies available under the Agreement and as a matter of law by attempting to limit its liability to liquidated damages. Moreover, SWBT's proposal also would limit any regulatory or judicial forum from enforcing its jurisdictional authority over breaches in performance criteria. There is no justification for limiting AT&T's remedies to liquidated damages.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                | resolution language in Section 9.0.<br><br>The specific performance criteria in this section provide particular liquidated damages different from the damages in the general provision of the agreement. The offered language clarifies these damages as the sole remedy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Specified Performance Breach through any claim or suit brought under any contract or tariff.                                                                                                                                                                   |               |
| 12. Should the contract allow AT&T only three days following receipt of a SWBT audit file to complete an audit of its LIDB accounts against AT&T's own billing system? | No. The Agreement provides that AT&T will audit its LIDB accounts against AT&T's billing system and correct any discrepancies. AT&T will correct all discrepancies using the LVAS interface(s) AT&T has requested under this Agreement. See Attachment 6, Section 9.X. AT&T proposes no change to that section, and presents no issue for arbitration concerning this section.<br><br>In negotiations, SWBT has proposed to insert a requirement that AT&T complete this audit within three (3) days following AT&T's receipt of the audit file. If SWBT presents this issue for arbitration, its position should be rejected. AT&T has no experience with this audit and cannot be expected to commit itself contractually to such a short proposed time frame. SWBT's position lacks sense. The approved contract, in language drafted by SWBT, provides that SWBT will provide this billing system audit file to AT&T only twice a year (unless AT&T requests files more frequently). | AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | Yes. Telecommunications companies across the nation and in Canada rely on the information in SWBT's LIDB to be accurately and timely administered. AT&T should not be give the right to maintain inaccurate data in SWBT's database and cause SWBT's LIDB Service to appear broken or unreliable. While AT&T represents its 30-day request as reasonable, 30 days is not a reasonable time frame when companies are relying on this information for fraud protection. AT&T's offer is unacceptable to the industry as a whole.<br><br>AT&T is also disingenuous in its request. Thirty days is not reasonable, as AT&T well knows. At least one other LSP is attempting to force SWBT to accept retail liability for calls validated against inaccurate data (and for which SWBT will receive less than a penny under TELRIC). AT&T itself is attempting to impose performance standards on SWBT that address data accuracy. AT&T's request for an entire month to correct | SWBT's proposed language is:<br><br>AT&T will audit its LIDB accounts against AT&T's billing system and correct any discrepancies within three days. AT&T will correct all discrepancies using the LVAS interface(s) AT&T has requested under this Attachment. |               |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| ESB-1                                                                                                                                                                                                                                             | AT&T<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                 | AT&T language                                                                                                                                                                                                                                                                   | SWBT<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | SWBT language                                                                         |
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|                                                                                                                                                                                                                                                   | Attachment 6, Section 9.X. If SWBT is satisfied to have this audit performed only twice a year, it cannot reasonably insist on completion of the audit within a 3-day time frame. For the great majority of the year, many more than three days will have passed since the preceding audit; there can be no compelling reason for SWBT's proposed 3-day audit requirement. |                                                                                                                                                                                                                                                                                 | Inaccurate or missing data in LIDB should be rejected as harmful to all users of the database.<br><br>AT&T has experience with auditing call-related databases. AT&T has years of experience administering its own calling card validation database and is well aware of the fraud risk inaccurate data imposes.<br><br>AT&T wrongly characterizes SWBT's offer of a minimum of 2 scheduled audits per year as indication that SWBT's requirement lacks sense. On the contrary, SWBT initially offered AT&T up to 14 days to correct its data. AT&T argued for a reasonable time frame and finally defined reasonable as 30 days. SWBT countered then with three days and would agree to compromising back to the original 14 day offer. SWBT structured its audit offer around considerations for all LSPs, both large and small. SWBT recognizes that 2 audits per year for a company of AT&T's expected size will not be sufficient and that more frequent audits may be needed or desired. To accommodate that possibility, SWBT offered a means for additional audits that would not require renegotiation. |                                                                                       |
| 13. <u>Special Request Process</u><br><br>Whether, if an unbundled Network Element or combination is not available in every area of Missouri, the same would be supplied to AT&T via the "Special Request" process described in Attachment 6: UNE | In negotiations SWBT has proposed language in Section 1.X of the Terms and Conditions portion of the Agreement to the effect that the services and UNEs involved in this Agreement may not be available in all parts of the state, due to technical reasons. AT&T's additional language would ensure that, in such                                                         | <u>Terms and Conditions</u><br><br>1.X Unless otherwise provided in the Agreement, SWBT will perform all of its obligations concerning its offering of Resale services and unbundled Network Elements under this Agreement throughout the entire service area where SWBT is the | The wording "unless otherwise provided in the Agreement" allows AT&T to use other sections of the agreement, if agreed upon, to request services or elements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT objects to the inclusion of the clause AT&T language at the end of the sentence. |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                        | AT&T<br>(Reasonably language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | SWBT<br>(Reasonably language should be included or excluded)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                              | <p>circumstances, AT&amp;T would be able to utilize the "Special Request" process, set out in Attachment 6: UNE, which allows AT&amp;T to ask SWBT to provide such UNES or Combinations. AT&amp;T's additional language is reasonable and necessary; its absence, in the context of SWBT's proposal, suggests that the unavailability of UNES and combinations in a particular area may relieve SWBT of any obligation to consider supplying the same in that area, which is not the case. AT&amp;T's language is necessary to enable AT&amp;T to provide service to customers in all areas of Missouri.</p> <p>Any SWBT amendment to this effect should be excluded unless AT&amp;T's bolded and underlined language also is included.</p> | <p>Incumbent local exchange carrier, provided, that SWBT's obligations to provide Ancillary Functions or to meet other requirements of the Act covered by this Agreement are not necessarily limited to such service areas.<br/> <u>provided, that if an unbundled Network Element or Combination is not available in an area, AT&amp;T's request for same will be subject to the provisions of Sections 2.X through 2.X of Attachment 6: Unbundled Network Elements.</u></p>                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>14. Intervening Law</b></p> <p>The language addresses circumstances under which the Agreement may be modified as a result of agency, court or legislative actions.</p> | <p>SWBT's proposal as discussed in negotiations would allow the entire Agreement to be terminated if the Parties could not successfully negotiate modifications following agency, court or legislative actions, which is both unreasonable and inconsistent with the Act. Such an event, moreover, would severely harm AT&amp;T's customers, not to mention taxing the Commission's resources in terms of responding to the outcry from consumers. SWBT's proposal also likely leads to additional arbitrations and additional Commission time re-deciding issues that are not explicitly ruled on by the courts. SWBT's proposal also would inappropriately forbid either party from exercising</p>                                        | <p><b>Terms and Conditions</b></p> <p><u>3.X. This Agreement is entered into as a result of both private negotiation between the Parties and arbitration by the State Commission, acting pursuant to FTA96. If the actions of Missouri or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction invalidate, modify, or slay the enforcement of laws or regulations that were the basis for a provision of the contract required by the Arbitration Award approved by the State Commission, the affected provision will be invalidated, modified, or stayed as</u></p> | <p>SWBT's proposal makes clear that the entire Interconnection Agreement is an integrated package that reflects a balancing of interests critical to the Parties. If a Court or regulatory body determines that a modification of the Agreement is required, that modification may effect other sections of the Agreement which were the basis of other agreed upon sections. If the parties cannot arrive at an agreement following the required change after diligent effort, then the Agreement should be deemed terminated. Changing a term of the Agreement after regulatory or Court dictates may require the parties to negotiate numerous related terms and conditions. If agreement cannot be</p> | <p>In the event a court or regulatory agency of competent jurisdiction should determine that modifications of this Agreement are required to bring the services being provided hereunder into compliance with the Act, the affected Party shall promptly give the other Party written notice of the modifications deemed required. Upon delivery of such notice, the Parties shall expend diligent efforts to arrive at an agreement respecting such modifications required, and if the Parties are unable to arrive at such agreement, either Party may terminate this Agreement, without penalty, effective the day the affected Party is ordered to implement the modifications deemed required, or</p> |



**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                       | AT&T<br>Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | SWBT<br>Reason why language should be included or excluded                                                      | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                             | <p>constitutional or statutory rights it might otherwise have, in addition to those set out in the Agreement, to seek changes in the Agreement. In contrast, AT&amp;T's proposal would not terminate the Agreement but would invoke dispute resolution processes to be used if an impasse is reached. AT&amp;T's proposed language also deals expressly with the effect of the Eighth Circuit Stay, and correctly states that this Commission's decision is not based upon the FCC's pricing provisions stayed by the Eighth Circuit. AT&amp;T notes that Section 3.X of Terms and Conditions, an agreed-to paragraph, also generally covers issues raised by SWBT's proposal.</p> <p>AT&amp;T's language should be included and SWBT's proposal to this effect should be excluded.</p> | <p>required by action of the legislative body, court, or regulatory agency. In such event, the Parties will expend diligent efforts to arrive at an agreement respecting the modifications to the Agreement required. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions will be resolved pursuant to the dispute resolution process provided for in this Agreement. The invalidation, stay, or modification of the pricing provisions of the FCC's First Report and Order in CC Docket No. 96-98 (August 8, 1996) and the FCC's Order on Reconsideration (September 27, 1996) will not be considered an invalidation, stay, or modification requiring changes to provisions of the Agreement required by the Arbitration Award. In that the FCC's pricing provisions are not the basis for the costing and pricing provisions of the Arbitration Award.</p> | <p>reached, the Agreement should be terminated.</p>                                                             | <p>conclude on the day either Party notifies and gives notice to the other Party that the Parties will not be able to arrive at any agreement respecting such modifications, whichever date shall occur earlier.</p> <p>(Such agreement shall be an integrated package that reflects a balancing of interests critical to the Parties.) It will be submitted to the Missouri Public Service Commission (MPSC) as a negotiated agreement under § 252(a)(1), and the Parties will specifically request that the MPSC refrain from taking any action to change, suspend or otherwise delay implementation of such agreement. So long as such agreement remains in effect, the Parties will not advocate before any legislative, regulatory, or other public forum that any terms of such specific agreement be modified or eliminated, except pursuant to procedures specifically sanctioned by the terms of such agreement. Notwithstanding this mutual commitment, however, the Parties enter into such agreement without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory, or other public forum addressing any matters, including matters related to the types of arrangements prescribed by such agreement.</p> |
| <p>15. Intellectual Property Rights Associated with UNE</p> | <p>Under AT&amp;T's proposed language SWBT would allow AT&amp;T to purchase unbundled Network Elements, and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p><u>Terms and Conditions</u><br/>7.X SWBT will, at AT&amp;T's request,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>(a) AT&amp;T's bolded and underlined language reference to another contract section (7.X), which appears</p> | <p>SWBT's proposed language is: AT&amp;T is responsible for obtaining any license or right to use agreement</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                                                                                                                                                                                                                                                                           | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  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| Reason why language should be included or excluded                                                                                                                                                                                                                                                                                             | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>Whether SWBT should indemnify AT&amp;T against intellectual property claims resulting from AT&amp;T's purchase of UNEs, or whether instead AT&amp;T must certify to SWBT that it has obtained intellectual property rights associated with UNEs from SWBT's suppliers of UNE facilities and software before AT&amp;T can purchase UNEs.</p> | <p>would indemnify AT&amp;T from third party intellectual property claims from vendors which supply those elements to SWBT. AT&amp;T has the right to expect SWBT to deal with such intellectual property issues. End users of telephone service are not expected to seek intellectual property rights from SWBT's vendors before they can use SWBT's services. They rightly expect that SWBT will indemnify them if an intellectual property claim is made against them simply because they purchase SWBT's service. AT&amp;T is entitled to expect SWBT to meet the same type of obligations when AT&amp;T purchases UNE. So also should SWBT meet its obligations for the provision of services and UNEs by indemnifying AT&amp;T from such claims. Thus, AT&amp;T's language should be included.</p> <p>In contrast, under SWBT's proposal, in order for AT&amp;T to purchase UNE, SWBT asserts that AT&amp;T must obtain intellectual property rights from SWBT's vendors. The FCC's First Report and Order thoroughly examined proprietary information issues associated with UNEs (See First Report &amp; Order, Paragraphs, 388, 393, 419, 425, 446, 481, 490, 497, 498, 521, 539), and required LECs such as SWBT to furnish UNEs to LSPs such as AT&amp;T under the Act, not subject to the condition SWBT would impose. SWBT's proposal, which gives vendors effective veto powers over the federal law's grant of access to UNE, is directly contrary to the Act.</p> | <p><u>Indemnify AT&amp;T, its officers, directors, employees, agents, affiliates and subsidiaries, against any damages arising out of, resulting from, relating to, or based on any claim for actual or alleged infringement or other violation of breach of any Intellectual Property Rights, to the extent that such claim arises out of, results from, relates to, or is based upon, AT&amp;T's use, or the use by an AT&amp;T customer, of the Network Elements, Combinations, Ancillary Functions and Resale Services, or other services, elements, functions, or combinations provided under this Agreement. For purposes of this Section the term "AT&amp;T customer" means any entity or person who receives, uses, sells, resells or distributes any product or service furnished by AT&amp;T, whether directly or indirectly (through a reseller, distributor, authorized agent or dealer). The term "Intellectual Property Rights" means rights in any patent, copyright, trademark, service mark, trade name, trade dress, trade secret or any other intellectual property right, now existing or later created.</u></p> | <p>In the first portion of the first sentence of this Terms and Conditions Section, should be included in this section if Section 7.X itself is included in the Agreement. Limitation of liability provisions typically exclude from the limitation the parties' indemnification obligations to each other. In the section at issue, the parties have agreed to so expressly exclude (by specific contract section references) indemnification Sections 7.X and 7.X of the Agreement, but SWBT has objected to excluding Section 7.X. Section 7.X provides that SWBT will indemnify AT&amp;T against intellectual property claims resulting from AT&amp;T's purchase of UNEs. SWBT objects to Section 7.X. If the Commission agrees that the language contained in Section 7.X should be included in the Interconnection Agreement, the reference to that Section in the Limitation of Liability Section also should be included. There is no legitimate justification for placing a limitation on either parties' liability to the other as to matters for which they are required to indemnify the other party, and this is certainly true in the case of Section 7.X. Accordingly, AT&amp;T's bolded and underlined reference to Section 7.X should be retained if Section 7.X is included in the Agreement.</p> | <p>associated with a Network Element purchased from SWBT, and further will provide SWBT, prior to using any such Network Elements, with either: (1) a copy of the applicable license or right to use agreement (or letter from the licensor attesting as such); or (2) an affidavit signed by AT&amp;T attesting to the acquisition of any known and necessary licenses or right to use agreements. SWBT will provide a list of all known and necessary licenses or right to use agreements applicable to the subject Network Element(s) within seven days of a request for such a list by AT&amp;T. SWBT agrees to use its best efforts to facilitate the obtaining of any necessary license or right to use agreement. In the event such an agreement is not forthcoming for a Network Element ordered by AT&amp;T, the Parties commit to negotiate in good faith for the provision of alternative Elements or services which shall be equivalent to or superior to the Element for which AT&amp;T is unable to obtain such license or agreement.</p> |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBt INTERCONNECTION AGREEMENT - MISSOURI**

| ISAP                                                                                                                                                                                                                                                                            | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Reason why language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | SWBT language                          |
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|                                                                                                                                                                                                                                                                                 | AT&T's bolded and underlined language should be included; SWBT's proposal to this effect should be excluded.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                        |
| <p><b>16. <u>Dispute Resolution Procedures</u></b></p> <p>Whether mandatory arbitration provisions should apply to issues involving matters not specifically addressed elsewhere in the Agreement which require renegotiation, modifications or additions to the Agreement.</p> | <p>Section 9.X would require binding arbitration for disputes involving additions to this Agreement, and matters requiring renegotiation and modifications to the Agreement. The last sentence in Section 9.X would ensure that these types of disputes may be placed before an arbitrator within 60 days. This language should be included. At the time the FTA was adopted, few if any expected that multiple arbitrations might be necessary in order to achieve workable Interconnection Agreements. The reality is that such a need exists. AT&amp;T is mindful of the Commission's limited resources and its receptiveness to requests for additional arbitration. At the same time, AT&amp;T needs to be able to have prompt rulings made on significant issues, particularly those involving needed additions to the Interconnection Agreement. For this reason, AT&amp;T has proposed the language contained in Section 9.X, and to make those provisions effective has proposed removing the bolded language in Section 9.X (otherwise, such matters would be dealt with under DPR 2 procedures). Thus, the deletion of language in Section 9.X is necessary to ensure that the matters involved in Section 9.X are required to go to binding arbitration.</p> | <p><b><u>Terms and Conditions</u></b></p> <p><b>9.X. Dispute Resolution Procedure (DPR) 1 - Resolution Procedure (DPR) 2 - Except as otherwise specifically set forth in the Agreement, for all other disputes involving matters which represent more than one (1) percent of the amounts charged to AT&amp;T by SWBT under this Agreement during the Contract Year in which the dispute arises, whether measured by the disputing Party in terms of actual amounts owed or owing, or as amounts representing its business or other risks or obligations relating to the matter in dispute, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanisms; provided that upon mutual agreement of the Parties, the dispute may be submitted to binding arbitration under Section 9.6. During the first Contract Year the Parties will annualize the initial months up to one year.</b></p> <p><b>9.X. Dispute Resolution Procedure (DPR) 3 - Except as otherwise specifically set forth in this Agreement, for all disputes involving matters not specifically addressed elsewhere in this Agreement which require</b></p> | <p>The language proposed by SWBT is designed to ensure that dispute resolution provisions do not deprive the parties of remedies they would otherwise have pursuant to law, equity, or agency mechanisms in case of disputes over matters not specifically addressed in the Agreement or that otherwise require further negotiation or modification of the Agreement. Certainly the parties can mutually agree to utilize the dispute resolution procedures of the Agreement in any case, and can reasonably be expected to do so in cases without lasting potential impacts. There is no justification for imposing mandatory, binding arbitration. The dispute resolution procedures in the Agreement should be restricted to their proper scope – disposing of relatively minor billing disputes and minor contract interpretation.</p> | <p>SWBT opposes AT&amp;T language.</p> |

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CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                                                                                                                                       | AT&T<br>Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | SWBT<br>Reason why language should be included/excluded                                                  | SWBT language                         |
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|                                                                                                                                                                                                                                                             | SWBT's proposal to this effect should be excluded from Section 9.X, and the bolded and underlined language contained in Section 9.X should be included.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | renegotiation or modifications of or additions to this Agreement, the Parties agree that the dispute will be submitted to binding arbitration under Section 9.X of this Agreement. The Parties agree that the sixty (60) day informal resolution period provided in Section 9.X will be deemed to have commenced at the time the demand for arbitration is made.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                          |                                       |
| <b>17. Term of Agreement</b><br><br>Whether the Agreement for Missouri should expire after only two years, with no renewal options, rather than three years, with two one year renewal options, as SWBT agreed to for Texas, Kansas, Arkansas and Oklahoma. | In the states of Texas, Oklahoma, Kansas, and Arkansas, SWBT agreed that the initial term of the Interconnection Agreement would be three years, and thereafter, would continue for two one-year renewal periods unless one of the parties opted not to renew. In Missouri alone, however, SWBT would have the Agreement completely expire in only two years, with no renewal options. SWBT's position rests only upon its claim that its Missouri cost studies were constructed for a two year agreement, and did not contain inflation factors for a longer period. SWBT's position is entirely unreasonable and untenable. During negotiations with SWBT which preceded the filing of the Arbitration, SWBT was well aware that AT&T wanted the Interconnection Agreement to last much longer than two years. In the Interconnection Agreements submitted for all other SWBT states except Missouri, SWBT has agreed to a three year initial term | <b>Terms and Conditions</b><br><br><u>4.X. This Agreement will become effective as of the Effective Date stated above, and will expire after a three (3) year initial term plus two one year extensions, unless written Notice of Non Renewal and Request for Negotiation (Non Renewal Notice) is provided by either Party in accordance with the provisions of this Section. Any such Non Renewal Notice must be provided not later than 180 days before the day this Agreement would otherwise renew for an additional year. The noticing Party will delineate the items desired to be negotiated. Not later than 30 days from receipt of said notice, the receiving Party will notify the sending Party of additional items desired to be negotiated, if any. Not later than 135 days from the receipt of the Non Renewal Notice, both parties will commence negotiations.</u> | SWBT believes this issue is resolved. SWBT has agreed to a three year term with two one year extensions. | SWBT believes this issue is resolved. |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES**  
**CONTRACTUAL DISPUTED ISSUES MATRIX**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T                                                                                       | Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | SWBT                                                                                                                                               | Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT language |
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| 18. Is SWBT required to customize route all AT&T local calls to multiple SWBT end offices? | <p>with two one year option periods and AT&amp;T understood that this term was to apply in all SWBT states. This commission has now adopted permanent prices in this proceeding. In so doing, the commission certainly did not decide that the length of the Interconnection Agreement was to be only two years. Rather, the commission adopted prices, which it held to be fair and reasonable. It is patently unreasonable for SWBT to take the position that AT&amp;T and its customers should be penalized by having the entire agreement expire after only two years merely because SWBT claims it did not inflate its cost studies enough.</p> <p>AT&amp;T's bolded and underlined language should be included, and SWBT's proposal to this effect should be excluded.</p> <p>AT&amp;T agrees with routing all operator services calls to a single destination for operator services. AT&amp;T believes that the Missouri Interconnection Agreement language in this section provides for such capability.</p> <p>AT&amp;T does not agree with SWBT's proposed amendment to the contract language discussed in negotiations because it would place a limitation on AT&amp;T's use of direct dialed local calls. In SWBT's proposal, SWBT seeks to limit AT&amp;T's use of dedicated transport due to an alleged "technical feasibility" issue, but AT&amp;T does not agree that such an issue exists. As AT&amp;T local service volumes increase</p> | <p>4.X The same terms, conditions, and prices will continue in effect, on a month-to-month basis as were in effect at the end of the <u>latest term</u>, or <u>renewal</u>, so long as negotiations are continuing without impasse and then until resolution pursuant to this Section. The Parties agree to resolve any impasse by submission of the disputed matters to the State Commission for arbitration. Should the State Commission decline jurisdiction, the Parties will resort to a commercial provider of arbitration services.</p> <p>AT&amp;T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected.</p> <p>AT&amp;T further proposes the language that follows:</p> <p>Attachment 6:<br/>5.x: Subject to the above, SWBT will provide Customized Routing with unbundled local Switching or Resale only according to the following conditions: Customized Routing will only be permitted on a class of call basis (i.e., all Directory Assistance Calls and for all Operator Services</p> | <p>No. The FCC Order requires SWBT to route all classes of calls (Operator Services, Directory Assistance, and Local) to a single destination.</p> | <p>When AT&amp;T requests Customized Routing, either through Unbundled Local Switching or Resale, SWBT will route local operator and directory assistance calls to a dedicated facility for transport to AT&amp;T's Operator Services and Directory Assistance platforms. In addition, at AT&amp;T's request, for the Unbundled Local Switching element, SWBT will route local calls to AT&amp;T designated facilities rather than to SWBT's common network. Only one destination for Operator Services calls, one destination for Directory Assistance calls, and one destination for local calls, is permissible from each end office. The destination for</p> |               |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issues                                                                                                                       | Reason why language should be included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Reason why language should be included/excluded                | SWBT language                                                                            |
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|                                                                                                                              | <p>and traffic patterns are established between end offices, AT&amp;T may choose to establish dedicated transport between end offices to more efficiently route calls.</p> <p>Furthermore, AT&amp;T does not agree with SWBT's proposal because it would require that all local calls must be routed in the same way, in such a way that an LSP could not have some calls go to the tandem switch for processing and others directly to the end office. Under SWBT's proposal, all local calls would be forced to default to the tandem switch (an inefficient manner of handling calls), which is an inefficiency that SWBT does not have in its own network. SWBT's proposal should be rejected in favor of efficient networks.</p> | <p>Calls for all local calls for Unbundled Local Switching only) must be routed to the same dedicated facility), provided that, for local calls over unbundled switching, AT&amp;T may establish dedicated transport between SWBT end offices to route local traffic to those end offices. For each end office, ("terminating end office") to which AT&amp;T establishes such dedicated transport from a SWBT end office ("originating end office"), SWBT will selectively route local calls for the NXX code served by the terminating end office onto AT&amp;T's dedicated transport to that end office. Local calls for all NXX codes other than those served by terminating end offices to which selective routing has been established will be transported and terminated over SWBT's common transport network. AT&amp;T may request additional types of customized routing for local calls through the special request process.</p> |                                                                | <p>each class of call need not be the same as the destination for the other classes.</p> |
| <p>19. Once either party reaches an interconnection agreement with a CMRS provider, will SWBT continue to revenue share?</p> | <p>SWBT's proposal in negotiations to amend already-agreed to language should be rejected. As can be seen in the column marked "AT&amp;T's language" on this issue, AT&amp;T and SWBT reached an agreement on this issue after the existing Interconnection Agreement was approved. For reasons known only to SWBT, it now</p>                                                                                                                                                                                                                                                                                                                                                                                                        | <p><u>Attachment 12: Compensation</u><br/><u>8.0 Compensation for Terminating Cellular Traffic</u><br/><br/>8.1 Appendix Cellular sets forth the terms and conditions under which the Parties will distribute revenue from their joint provision of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>SWBT has not and is not requesting additional language.</p> | <p>This is not an issue.</p>                                                             |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | Reasonably language should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | SWBT | SWBT - 7/10/84 |
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|      | <p>wants to renege on the agreement in an effort to place more time requirements on AT&amp;T. Under the mutually-agreed to language, the parties are obligated to enter into interconnection agreements with third party wireless carriers in lieu of a revenue sharing mechanism when either party enters an agreement with a wireless provider. AT&amp;T has no problem with this agreement.</p> <p>SWBT's revisions, however, take out language from various sections which would allow either party to have a reasonable time to negotiate with the wireless provider for termination of traffic after the other party has reached such an agreement.</p> <p>Omission of this language places both parties in an awkward situation in which there are no standards for negotiation with a wireless carrier. AT&amp;T believes that the current mutually-agreed to language should be approved.</p> | <p><i>Wireless Interconnection Service for mobile to landline traffic terminating through the Parties' respective wireline switching networks within a LATA. If one Party enters into an interconnection agreement with a Commercial Mobile Radio Service (CMRS) provider, Appendix Cellular shall no longer be applicable between the Parties with respect to such CMRS providers, and the other Party shall be obligated within a reasonable length of time to enter into an agreement with such CMRS provider for the termination of wireless to landline traffic.</i></p> <p>8.2 AT&amp;T will pay the Local Transit Traffic rate to SWBT for calls that originate on AT&amp;T's network and are sent to SWBT for termination to a CMRS provider as long as such Traffic can be identified as wireless traffic. SWBT will pay the Local Transit Traffic rate to AT&amp;T for such calls that originate on SWBT's network and are sent through AT&amp;T for termination on a CMRS Provider's network. Each Party shall be responsible for interconnection agreements with CMRS provider's network. The Parties agree to cooperate with each other regarding third party compensation issues. In the event that the originating party does send traffic through the transiting party's network to a</p> |      |                |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
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| AT&T<br>Reason why language should be<br>included/excluded         | AT&T language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT<br>Reason why language should be<br>included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| 20. Should AT&T obtain a separate NXX code for each SWBT exchange? | No. The Arbitrators should reject SWBT's attempt to amend the Missouri Interconnection Agreement as proposed in negotiations in this respect for two reasons: (1) SWBT's proposal would require AT&T to obtain NXX codes for each SWBT rate center at a time when NXX codes are at a premium; and (2) SWBT's proposal would require AT&T to obtain a separate NXX code for each SWBT rate center. AT&T believes that SWBT's requirement is unnecessary. SWBT's claims that the separate NXX code for each SWBT rate center is needed is related to a perceived problem with its current billing record. SWBT is wrong.<br><br>With respect to the first rationale, | 8.3 When traffic is originated by either Party to a CMRS Provider, and the traffic cannot be specifically identified as wireless traffic for purposes of compensation between SWBT and AT&T, the traffic will be rated either as Local or Access and the appropriate compensation rates shall be paid by the originating Party to the transiting Party.<br><br>AT&T proposes that any amendments to the proposed interconnection agreement that SWBT may offer to this effect in this proceeding be rejected. | Yes. This will enable AT&T and SWBT to identify the jurisdictional nature of the traffic.<br><br>At a minimum, in those Metropolitan Exchange Areas where LSP intends to provide local exchange service, LSP shall obtain a separate NXX code for each SWBT exchange or group of exchanges that share a common mandatory calling scope as defined in SWBT tariffs. This will enable LSP and SWBT to identify the jurisdictional nature of traffic for intercompany compensation until such time as both Parties have implemented billing and routing capabilities to determine traffic jurisdiction on a basis other than NXX codes. | SWBT's proposed language is: When AT&T is a facility based provider and services end users via an AT&T switch, AT&T must assign telephone numbers to its end users from an AT&T assigned NXX.<br><br>At a minimum, in those Metropolitan Exchange Areas where LSP intends to provide local exchange service, LSP shall obtain a separate NXX code for each SWBT exchange or group of exchanges that share a common mandatory calling scope as defined in SWBT tariffs. This will enable LSP and SWBT to identify the jurisdictional nature of traffic for intercompany compensation until such time as both Parties have implemented billing and routing capabilities to determine traffic |



**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| Issue                                                                                                                                            | Reason why language should be included/proposed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | AT&T language                                                                                                                                                          | Reason why language should be included/proposed                                   | SWBT language                                                         |
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|                                                                                                                                                  | <p>SWBT should not be allowed to impose a requirement that will require AT&amp;T to try to obtain additional NXX codes. To date, AT&amp;T has been able to obtain only 15 NPA-NXX codes in Texas, where it is already providing service. To invoke SWBT's proposal, AT&amp;T would require over 60 NXX codes in that state. SWBT's proposal would accelerate NXX-code exhaust unnecessarily.</p> <p>As to AT&amp;T's second reason, the billing record that SWBT uses is known as a "92-99" record. Rather than insert a brand new NPA-NXX (which is the billing result of requiring the LSP to obtain a new NXX code for each SWBT rate center), SWBT can use existing fields in SWBT's billing records. Use of the "Originating LEC NECA Code Field" and "Traffic Type Field," SWBT can identify the LSP to bill and whether to bill the call as local or access. The added benefit of AT&amp;T's suggestion is that it also prepares SWBT's billing platform for long-term local number portability and forms of interim number portability (e.g., Flex DID).</p> |                                                                                                                                                                        |                                                                                   | <p>jurisdiction on a basis other than NXX codes.</p>                  |
| 21. How should the results of this further Arbitration proceeding be incorporated into an existing, approved Missouri Interconnection Agreement? | AT&T proposes that the results of this arbitration proceeding be incorporated into an existing, approved Missouri Interconnection Agreement in a manner that does not affect the current force and effect of the existing contract. AT&T proposes that                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p><b>Terms and Conditions</b></p> <p>SWBT and AT&amp;T have already entered into an Interconnection agreement in Missouri which has been approved by the Missouri</p> | There is no approved interconnection agreement in Missouri between AT&T and SWBT. | Since there is no approved agreement, SWBT has not proposed language. |

**X. CONTRACT TERMS AND CONDITIONS AND OTHER ISSUES  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWB INTERCONNECTION AGREEMENT - MISSOURI**

| ISSUE                                                                                                                                                           | AT&T<br>Reason why language should be<br>included/excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | AT&T Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | SWBT<br>Reason why language should be<br>included/excluded                                                                                                                                                                                                                                                                                                                               | SWBT Language                                                                                                                                                                    |
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| 22. Shouldn't AT&T be required to provide telephone exchange service to business and residential customers within a specified period after approval of the PSC? | language be added to the General Terms and Conditions of any existing Interconnection Agreement that: (1) indicates that the results of this further arbitration will be an amendment to the Agreement; (2) the current Interconnection Agreement will remain in full force and effect, except as specifically amended; and (3) the Agreement and the amendments to the agreement will be incorporated into a single document for convenience of the parties.<br><br>AT&T opposes SWBT's language as proposed in negotiations because it is unnecessarily ambiguous and could be misconstrued. AT&T's proposed language accomplishes the apparent intent of SWBT's, but is more specific. | Public Utility Commission and on file with the Missouri Commission since [date] ("Agreement"). This document is an amendment to the Agreement, and except as otherwise provided herein, the Agreement remains in full force and effect. For the convenience of the parties, the parties have separately prepared a document that includes the operative terms of the Agreement and this amendment ("Conforming Agreement"), and the parties agree that the Conforming Agreement accurately reflects all the terms of the Agreement, as amended. | AT&T has consistently stated to this PSC that it wishes to provide services within Missouri. AT&T should be required to provide services to both residential and business customers within a set period of time after PSC approval. AT&T should not be allowed to fail to file tariffs for the provision of service in a timely fashion and after approval, immediately provide service. | Upon approval by the Missouri Public Service Commission, AT&T agrees to being providing telephone exchange services to business customers and residential customers within days. |

# **XI. COLOCATION** **CONTRACTUAL DISPUTED ISSUES MATRIX** **AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

|                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                   |
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| <p>1. SWBT Statement of Issue:</p> <p>Can SWBT reserve a limited amount of its own floor space that is not subject to collocation?</p> <p>AT&amp;T Statement of Issue:</p> <p>May SWBT discriminate in its own favor when allocating Collocated Space?</p> | <p>AT&amp;T's proposed language would prohibit SWBT from discriminating in its own favor when allocating Collocated Space between itself and AT&amp;T. The FCC Order makes clear that SWBT must "make space available to requesting carriers on a first come-first served basis." FCC Order, ¶ 585. And while SWBT may retain a limited amount of floor space for a defined future use, it may not do so in a discriminatory manner. FCC Order, ¶ 604. AT&amp;T's proposed language should therefore be included.</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>2.X SWBT will allocate Collocated Space on a nondiscriminatory, "first-come, first-served" basis among itself, AT&amp;T, and other collocators, provided that there is space and power available for collocation and for reasonable security arrangements and subject to any other limitations provided by law.</p> | <p>The Act does not make SWBT facilities private property or otherwise facilitate them. There are two (2) categories of space in a SWBT Eligible Structure. The first category is SWBT's space as the incumbent LEC. The second category is collocation space, which is the space in which AT&amp;T may obtain its Collocated Space. In this Appendix, "Collocated Space" is defined as "[s]pace within an Eligible Structure containing any AT&amp;T collocated equipment."</p> <p>AT&amp;T's proposal that SWBT should allocate Collocated Space to itself and to other collocators does not make sense. Collocated Space, by definition, only contains AT&amp;T equipment. Why would AT&amp;T want to give SWBT the right under this Appendix to allocate space, containing only AT&amp;T equipment, to itself or to other collocators?</p> <p>All space in an Eligible Structure is not statutorily required to be made available for collocation. SWBT is not a collocator; it is an incumbent LEC. Therefore, AT&amp;T's Collocated Space, or any other space in the Eligible Structure used for collocation, is not also "allocated" to SWBT. Rather, SWBT, in partitioning the Eligible Structure, has the right to "retain a limited amount of floor space for its own specific future uses" and this space is separate from any space used for collocation. 47 C.F.R. §51.323(f)(4)(1997). See, also, Interconnection Order at ¶¶586 and 604.</p> | <p>SWBT objects to the insertion of the word "itself" in AT&amp;T's language.</p> |
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# **XI. COLLOCATION CONTRACTUAL DISPUTED ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

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| 2. Should SWBT possess unfettered discretion to determine that space is not available at its Eligible Structures?                           | SWBT's proposal allows SWBT to determine whether space is available for physical collocation at a particular Eligible Structure and does not allow AT&T or a third party to review SWBT's determination. In contrast, AT&T's proposed language provides for SWBT and AT&T to make a joint determination whether space is available at a particular Eligible Structure; if AT&T and SWBT cannot reach agreement, a third party would resolve the dispute. Absent AT&T's proposed language, SWBT could refuse any or all of AT&T's applications for Collocated Space using the pretext of space unavailability, and SWBT's decision would be unreviewable. AT&T's proposed language protects AT&T's right to collocate in SWBT's Eligible Structures and is not unreasonable. Accordingly, AT&T's proposed language should be included. | Attachment 13: Appendix Collocation<br><br>2.X The determination whether there is insufficient space to accommodate physical collocation at a particular Eligible Structure will be made jointly by one engineer from SWBT and one engineer from AT&T. Where SWBT and AT&T cannot reach agreement whether sufficient space is available for physical collocation at a particular Eligible Structure, the determination will be made by a third-party engineer, unless both SWBT and AT&T elect to use the dispute resolution provisions of this Appendix. AT&T and SWBT will equally share the costs of the third-party engineer's services. | Thus, AT&T's proposed language must be rejected.<br><br>Under 47 C.F.R. §51.323(f)(4)(1997), SWBT is permitted to "retain a limited amount of floor space for its own specific future uses" provided such space would be available on non-discriminatory terms. See, also Interconnection Order at ¶586.<br><br>To ensure that SWBT can exercise these rights over floor space, it must preserve the right to reserve space for itself. The Agreement must permit SWBT to reserve space for specific future uses, on a case-by-case basis, where space constraints make such restrictions necessary. At a minimum, SWBT must be able to reserve adequate space for switch turn-around (e.g., space for a new central office switch to replace the one being used).<br><br>Thus, SWBT requests adoption of its proposed language, which ensures that its Commission and FCC-mandated rights to space in the Eligible Structure are protected. | SWBT objects to the inclusion of AT&T's language. The language should read that: Subject to Section 2.X above, SWBT will determine whether sufficient space and power are available for physical collocation. |
| 3. SWBT Statement of Issue:<br><br>Should the Agreement include a definition of "Facility" or "Facilities?"<br><br>AT&T Statement of Issue: | AT&T's proposed definition of facilities is identical to the definition that SWBT has already agreed to use for Attachment 13: Appendix Poles, Conduits, and Rights-of-Way. AT&T's proposed definition is offered because the term "facilities" is used in many sections of this Appendix, among                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Attachment 13: Appendix Collocation<br><br>2.X "Facility" or "facilities" refer to any property, equipment, or items owned or controlled by any person or entity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Inclusion of a definition for "Facility" or "facilities" would add nothing to the Agreement and would create confusion. The term "facility" is, in effect, defined by Section 251(c)(6) of the Act, which generally requires that SWBT and other incumbent LECs permit the collocation of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | SWBT objects to the inclusion of AT&T's language.                                                                                                                                                             |

# **XI. COLLOCATION CONTRACTUAL DISPUTES ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| What is an appropriate definition of "Facilities"?                                                                                                                                                                       | which are AT&T's proposed language for Section 12.X.                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                              |
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| <p>4. SWBT Statement of Issue:</p> <p>(1) Is SWBT required to negotiate a specific response time with AT&amp;T for price quotations concerning its proposed individual collocated space or for refunds of the unused</p> | <p>AT&amp;T's proposed language would require SWBT to provide a price quotation to AT&amp;T within thirty-five (35) calendar days of receipt of AT&amp;T's physical collocation application form and engineering design change. SWBT's proposal would require SWBT to provide a price</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>3.X Upon receipt of AT&amp;T's application for Collocated Space, SWBT will begin to prepare a price quotation for the Collocated Space. SWBT will provide AT&amp;T with the</p> | <p>equipment "used" for interconnection or access to unbundled network elements ("UNEs"). Interconnection Order at ¶579. Under these circumstances, including a definition for "facility" or "facilities" would be superfluous.</p> <p>AT&amp;T's proposed definition includes any property, equipment or item owned or controlled by "any person." AT&amp;T and SWBT are the only parties involved. Referring to "any person" injects ambiguity into the Agreement because the proposed definition could be read to include parties other than AT&amp;T and SWBT.</p> <p>Creating a defined term for "facility" or "facilities" also could result in AT&amp;T obtaining treatment related to collocation beyond that which it is entitled to under this Commission's rules or under the Act. Specifying such a definition in its Agreement could provide certain interconnection or UNE access opportunities for AT&amp;T that other LSPs without such a provision in their interconnection agreement would not receive. SWBT is prohibited under Section 251(c)(6) of the Act from according AT&amp;T such "special" treatment.</p> <p>Thus, AT&amp;T's proposal to define "facility or facilities" must be defined.</p> | <p>SWBT objects to AT&amp;T's language which only allows SWBT 45 days and requires an "entire" discount.</p> |

# XI. COLLOCATION CONTRACTUAL DISPUTATION ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI

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| <p>Engineering Design Charge ("EDC"), when SWBT already has established standard related time periods?</p> <p>(2) If SWBT determines that its premises are not suitable for AT&amp;T's proposed physical collocation, can it be forced to refund or credit to AT&amp;T the entire EDC made for the space evaluation or can it retain the portion of the EDC that would compensate SWBT for work performed?</p> <p>AT&amp;T Statement of Issue:</p> <p>How much time should SWBT be permitted to prepare a price quotation?</p> <p>Should SWBT be required to refund the engineering design charge upon a determination that space and power are not available?</p> | <p>quotation to AT&amp;T within thirty-five (35) business days. SWBT's proposal is inconsistent with the Commission's order, which provides that "SWBT shall provide the LSP with an estimate of the cost of construction and date of completion . . . within thirty-five days from receipt of the LSP's request." SWBT's proposal, by using business days instead of calendar days, effectively adds fourteen (14) days to the time period and therefore circumvents the Commission's order.</p> <p>Although SWBT has conceded that it must refund the engineering design charge upon a determination that space and power are not available to satisfy an application for Collocated Space, SWBT has opposed AT&amp;T's language that imposes an effective obligation on SWBT. Unless AT&amp;T's proposed language is included, SWBT could (1) keep the engineering design charge for an indefinite length of time, or (2) retain some undefined portion of the engineering design charge, either of which would render the refund requirement ineffective. AT&amp;T's language should therefore be included.</p> | <p>price quotation within thirty-five (35) days of receipt of AT&amp;T's Physical Collocation Application Form and Engineering Design Charge. When sufficient space is not available for physical collocation at a particular Eligible Structure as determined under Section 2.X, SWBT will refund the entire Engineering Design Charge to AT&amp;T within forty-five (45) days of that determination.</p> | <p>its own specific response time for when SWBT must remit an EDC refund if the space is not usable and for when SWBT must issue a price quotation if the space is usable. SWBT objects to fulfilling this request because it would contravene its obligations under the Act to provide collocation on a non-discriminatory basis.</p> <p>AT&amp;T seeks to gain an unfair advantage over its competitors in the local services market through this Agreement, and its request for "customized" price quotation response and refund periods is symptomatic of this approach. Reference to the "Technical Publication" should be maintained in the Agreement to allow for a common document to be used by all potential collocators. Contracting with AT&amp;T for response times regarding prices</p> <p>Permitting individually-tailored response obligations also would impose unjustified and unauthorized burdens on SWBT. Negotiating price quotation and refund period response time intervals with individual collocators would be unreasonable and inconsistent with this Commission's rules and with the Act. Further, unlimited multiple applications by unlimited collocators would create a workload exceeding the capacity of the SWBT personnel dedicated to providing physical collocation.</p> <p>SWBT will charge AT&amp;T an EDC to evaluate the proposed Collocated Space. SWBT is willing to refund or</p> |  |
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# **XI. COLLOCATION CONTRACTUAL DISPUTES ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>Contractual Disputes<br>Issues Matrix                                                                                                                                                                              | AT&T<br>Contractual Disputes<br>Issues Matrix                                                                                                                                                                                                                                                                                                                                    | AT&T<br>Contractual Disputes<br>Issues Matrix                                                                                                                                                                                                                         | AT&T<br>Contractual Disputes<br>Issues Matrix                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | AT&T<br>Contractual Disputes<br>Issues Matrix                                                                                                                                                                                                                   |
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|                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                       | <p>credit to AT&amp;T the unspent portion of the EDC if it is determined that space does not exist in an Eligible Structure. AT&amp;T wants the "entire" EDC refunded. SWBT should be allowed to retain that portion of the EDC used to determine whether space and power are available. This evaluation typically involves at least six (6) hours of evaluation and assessment by real estate floor space planners and four (4) hours of central office floor space planning, as well as input from point of contact managers and ICSC. To assume that zero man-hours will be expended to make this determination is not reasonable. A flat fee of \$790 would be a reasonable cost-based standard for calculating how much should be refunded. SWBT will refund the unused portion of the EDC to AT&amp;T as soon as reasonably practicable.</p> <p>Thus, SWBT requests rejection of AT&amp;T's proposed language regarding specifically-negotiated response periods for EDC refunds and price quotations, and it requests rejection of AT&amp;T's proposed language requiring a refund of the entire EDC.</p> |                                                                                                                                                                                                                                                                 |
| <p>5. SWBT Statement of Issue:<br/><br/>Should the Monthly Charge consist only of the monthly rent charged by SWBT to AT&amp;T without allowance for other expenses incurred in connection with the Collocation Space?</p> | <p>AT&amp;T's proposed language specifies that the "Monthly Charge" for Collocated Space may consist only of a defined list of charges. AT&amp;T's proposed language is necessary to define clearly those elements that SWBT may charge to AT&amp;T as part of the "Monthly Charge." Otherwise, there would be no limit on what SWBT could charge AT&amp;T on a case-by-case</p> | <p><u>Attachment 13: Appendix Collocation</u><br/><br/>3.X The Monthly Charge will consist of the monthly charges for floor space, power usage, maintenance, administration, and taxes for equipment charged by SWBT to AT&amp;T for use of the Collocated Space.</p> | <p>The reason that costs vary by location is that SWBT's facilities differ at various sites. The components of the monthly charge may not be the same for each location. For example, in some collocation sites, SWBT might agree to supply DC electrical power from a dedicated power plant in excess of the standard arrangement of 50</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>SWBT's language is that : The Monthly Charge will consist of, but not be limited to, the monthly charges for floor space, power usage, maintenance, administration, and taxes for equipment charged by SWBT to AT&amp;T for use of the Collocated Space.</p> |

# **XI. COLLOCATION CONTRACTUAL DISPUTATION ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

|                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |
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| <p><b>AT&amp;T Statement of Issue:</b></p> <p><b>Which specific elements may be billed as part of the Monthly Charge?</b></p> | <p>basis. SWBT has opposed AT&amp;T's language on the ground that the list in this section should not be an exclusive list; but SWBT has not identified the other charges that should be included. SWBT instead believes that, should it desire later to add further monthly charges to the list, it should be permitted to do so. SWBT's proposal accordingly attempts to avoid the development of "pricing guidelines and standard terms and conditions" that is required by the Commission, Order at 36. AT&amp;T's proposed language should therefore be adopted.</p> | <p>amps. Facilities in which AT&amp;T places remote switching modules will require dedicated power plants because of the size of the electrical load. At another location, excess power might not be required. Also, services and accommodations not foreseen by the parties during the negotiation of this Agreement could be agreed to by SWBT, such as extra security arrangements, parking, escorts and trash removal. For these reasons, the Monthly Charge must not be limited to certain components or in some cases SWBT will not recover its costs in providing collocation. Thus, SWBT's proposed language must be adopted.</p> <p>The parties have agreed on what cost elements generally are to be included in the Monthly Charge. SWBT proposes language that would allow changes in the Monthly Charge attributable to foreseeable and unforeseeable costs in connection with the collocated facilities. AT&amp;T opposes this language.</p> <p>SWBT's proposed language ensures that the enumerated cost elements would not always be the only factors determining the Monthly Charge. Its proposed language was accepted by AT&amp;T for its Kansas interconnection agreement with SWBT. Moreover, the cost elements for the Monthly Charge necessarily will be limited by the requirements imposed under Part 69 of the FCC's rules, which govern the collocation costs SWBT can charge. See 47 C.F.R. §51.509(g)(1997); <u>Interconnection Order</u> at ¶ 565. Thus, SWBT's proposed language must be</p> |  |
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# **XI. COLLOCATION CONTRACTUAL DISPUTES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| <p>Section 1: Introduction<br/>Purpose of the Matrix</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Section 2: Definitions<br/>Key Terms</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>Section 3: Dispute Resolution<br/>Process</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Section 4: Dispute Resolution<br/>Process</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Section 5: Dispute Resolution<br/>Process</p>                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <p>6. SWBT Statement of Issue:</p> <p>(1) If the Commission is reviewing disputes between the parties over physical collocation price quotations, can SWBT be forced to refrain from issuing such quotations to other LSPs for collocated space or to refrain from allowing use of the collocated space by these LSPs?</p> <p>(2) What methodology is appropriate to determine SWBT's Common Charge, Collocated Space Charge, and Monthly Charge for providing AT&amp;T physical collocation facilities?</p> <p>AT&amp;T Statement of Issue:</p> <p>What methodology should SWBT use when calculating the price quotation?</p> <p>What is the legal effect of a price quotation during Commission review?</p> | <p>AT&amp;T's proposed language would require SWBT to develop a TELRIC-based methodology and use that methodology when calculating a price quotation. Such a methodology would ensure that SWBT's pricing is cost-based and is non-discriminatory to all collocators. Without a defined cost-based methodology for the calculation of price quotations, it is likely that SWBT price quotations would overcharge or undercharge for collocation at SWBT's Eligible Structures. AT&amp;T's language attempts to implement the Commission's requirement that SWBT develop "pricing guidelines and standard terms and conditions" for physical collocation. Order at 36.</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>3.X SWBT's price quotation will be calculated using a TELRIC-based methodology which is nondiscriminatory to all collocators. SWBT's price quotation will be sufficient to cover SWBT's reasonable costs and will be no greater than necessary for SWBT to earn a reasonable profit. AT&amp;T may ask the State Commission to review any of SWBT's charges for conformity with the above standards. During the time that a price quotation for a particular Collocated Space is under State Commission review, SWBT will not issue any price quotations for that particular Collocated Space or permit another collocator to use that Collocated Space.</p> | <p>Treatment of Collocated Space pending Commission review of disputes – AT&amp;T wants the right to have the Commission resolve disputes over price quotations and it wants the status quo maintained (i.e., SWBT could not issue any price quotations for that particular Collocated Space or permit another collocator to use that Collocated Space) pending such resolution. SWBT opposes AT&amp;T's request.</p> <p>SWBT believes that AT&amp;T seeks to delay the process through which LSPs obtain space by subjecting collocation pricing to Commission review.</p> <p>If the commission does hear disputes concerning price quotations, SWBT MUST not be required, for the duration of this hearing, to reserve collocation space for AT&amp;T which it has not yet agreed to use. This would prevent other LSPs, which are willing to collocate, from ordering space for interconnection or access to UNEs. Otherwise, AT&amp;T would be permitted to "warehouse" space, which is prohibited under 47 C.F.R. §51.323(i)(6)(1997). See, also, <u>Interconnection Order</u> at ¶ 586 ("[b]ecause collocation space on incumbent LEC premises may be limited, inefficient use of space by one competitive entrant could deprive another entrant of the opportunity to collocate facilities").</p> <p>SWBT also objects to AT&amp;T's</p> | <p>SWBT objects to the inclusion of AT&amp;T's last two sentences which are underlined.</p> |

**XI. COLLOCATION  
CONTRACTUAL DISPUTE ISSUES MATRIX  
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| Regional Issues Identified | AT&T Issues | SWBT Issues                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                            |             | <p>proposal that the Commission become involved in price quotation dispute resolution. In determining whether it should take on such responsibilities, the Commission should be mindful of several safeguards that are in place to protect AT&amp;T and other LSPs concerning the price quotation process. First, the PSC state that SWBT is permitted to make its price quotations on an individualized basis for each LSP in consideration of the fact that different requirements for preparing collocated space are applicable to the individual service providers. See also, 47 C.F.R. §69.121 (1997). This "customized" price quotation process increases the likelihood that the proposal would be consistent with the needs identified by AT&amp;T or any other LSP. Second, there is a "true up" provision in this Appendix which will ensure that AT&amp;T receives a refund based upon the sum of actual subcontractor bills if the SWBT quotation was too high. Third, SWBT has offered AT&amp;T the option of obtaining a firm price from the contractor, but this proposal has been rejected.</p> <p>AT&amp;T now wants the Commission to insert an extra step into the approval process. This step unnecessarily would inconvenience SWBT and also would be used by AT&amp;T to keep its competitors from the marketplace. Given AT&amp;T's history with SWBT of submitting multiple applications for a single metropolitan area alone time, AT&amp;T could submit applications for every SWBT metropolitan area and then delay other entrants by contesting price quotations before</p> |

**XI. COLLOCATION  
CONTRACTUAL DISPUTE ISSUES MATRIX  
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| AT&T<br>Contractual Dispute<br>Issues Matrix | AT&T<br>Contractual Dispute<br>Issues Matrix | AT&T<br>Contractual Dispute<br>Issues Matrix | AT&T<br>Contractual Dispute<br>Issues Matrix                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | AT&T<br>Contractual Dispute<br>Issues Matrix |
|----------------------------------------------|----------------------------------------------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
|                                              |                                              |                                              | <p>AT&amp;T's proposed dispute resolution process could indirectly cause unjust or unreasonable treatment of other potential collocators, which is prohibited under Section 251(c)(6) of the Act.</p> <p>AT&amp;T claims that its proposed language, which would preclude SWBT from issuing further price quotations for a particular Collocated Space when it is under Commission review, is required under the "first-come, first-served" requirement established in Section 251(c)(6) of the Act. AT&amp;T is wrong. This requirement does not allow any one collocator to warehouse space to the competitive disadvantage of others. See, 47 C.F.R. § 51.232(f)(6)(1997); <u>Interconnection Order</u> at ¶ 586. The "first-come, first-served" requirement only obligates SWBT to provide space for the collocator which first pays for the space and is ready, willing and able to collocate there, not one which engages the commission in price deliberations in order to keep its competitors from the space.</p> <p>Appropriate pricing methodology – AT&amp;T wants SWBT's price quotations for Collocated Space to be calculated using a TELRIC-based methodology. SWBT disagrees.</p> <p>The PSC ruled that SWBT may price its physical collocation arrangements on a case-by-case basis. Under his ruling, the cost of physical collocation is to include the cost to implement the requested arrangement plus an allocation of shared costs based on</p> |                                              |

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| AT&T<br>RATIONALLY DERIVED<br>Included in the<br>Included in the | AT&T<br>RATIONALLY DERIVED<br>Included in the<br>Included in the | AT&T<br>RATIONALLY DERIVED<br>Included in the<br>Included in the | SWBT<br>RATIONALLY DERIVED<br>Included in the<br>Included in the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | SWBT<br>RATIONALLY DERIVED<br>Included in the<br>Included in the |
|------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
|                                                                  |                                                                  |                                                                  | <p>Thus, AT&amp;T's proposed language limiting SWBT's ability to provide the Collocated Space to other collocators pending a Commission hearing, and its language regarding the pricing methodology to be used, must be rejected.</p> <p>Appropriate pricing methodology -- AT&amp;T contends that, to ensure that the pricing of collocation space is cost-based, SWBT should use the pricing of collocation space is cost-based, SWBT should use the TELRIC-based methodology.</p> <p>SWBT agrees that collocation pricing should be cost-based. However, SWBT believes this Commission intends for the parties to use actual costs, and not the averaged costs which the TELRIC methodology derives.</p> <p>Under actual cost methodology, SWBT will make its price quotation for collocation in a facility and AT&amp;T will pay half the cost in advance. Before AT&amp;T takes possession of the facilities, a true-up will be made based on actual cost of the space preparation. If actual cost is less than the price quotation owed by AT&amp;T, then the remaining half of the price quotation will be reduced correspondingly. If actual cost is more than the price quotation, then the amount owed by AT&amp;T will be increased correspondingly. Actual cost-based pricing ensures that SWBT will recover all its costs.</p> <p>Under the TELRIC methodology, SWBT would recover (1) Per unit</p> |                                                                  |

**XI. COLLOCATION  
CONTRACTUAL DISPUTATION ISSUES MATRIX  
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| AT&T<br>Should be included or excluded                                                                                                                                                                                                                                                                                          | SWBT<br>Should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | AT&T<br>Should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT<br>Should be included or excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | SWBT's intent                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><b>Attachment 13: Appendix Collocation</b></p> <p>3. X. Prior to any obligation for AT&amp;T to accept or reject SWBT's price quotation, SWBT will permit AT&amp;T to inspect the Collocated Space to determine its suitability for AT&amp;T's intended uses. Subject to an appropriate non-disclosure agreement, SWBT will permit AT&amp;T to inspect supporting documents for the Preparation Charge, including the Common Charge (if AT&amp;T is the first entity to which SWBT provides physical collocation in an Eligible Structure), the Collocated Space Charge, and any Custom Work charge.</p> | <p>costs, or costs attributable to a specific network element, plus (2) an allocation of forward-looking common costs associated with that element. <u>Interconnection Order at ¶ 682.</u> Per-unit costs are derived from total costs using "reasonably accurate" fill factors (i.e., estimates of the proportion of a facility that will be "filled" with network usage). Because TELRIC involves theoretical, forwarding looking costs and does not represent the actual cost which SWBT will incur, it is more appropriate to use actual cost. AT&amp;T's argument that only the TELRIC methodology would ensure the non-discriminatory treatment of all collocators is false. Cost-based pricing can equally be nondiscriminatory.</p> <p>For the foregoing reasons, AT&amp;T's proposed language must be rejected.</p> |                                                                                                     |
| <p>7. SWBT Statement of Issue:</p> <p>Should SWBT permit AT&amp;T to inspect the Collocated Space prior to its acceptance or rejection of the price quotation?</p> <p>AT&amp;T Statement of Issue:</p> <p>May AT&amp;T inspect the Collocated Space before AT&amp;T is required to accept or reject SWBT's price quotation?</p> | <p>AT&amp;T's proposed language would allow AT&amp;T to inspect the Collocated Space to determine its suitability for AT&amp;T's intended uses before AT&amp;T is required to accept or reject SWBT's price quotation. Without this language, AT&amp;T would be required, site unseen, to accept or reject SWBT's price quotation for a Collocated Space. The right of inspection prior to purchase or lease is almost universally recognized for the sale or lease of commercial or residential property. SWBT's position contravenes these standard practices. Moreover, should the Collocated Space be unit for AT&amp;T's intended uses, that determination should be made before any construction</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>AT&amp;T wants language included that gives it the right to inspect the Collocated Space for the purpose of determining its availability before responding to SWBT's price quotation. SWBT opposes granting AT&amp;T this right.</p> <p>SWBT owns or leases the "Eligible Structure." It is responsible for reasonable security arrangements that separate a collocator's space from its own facilities and from that of other collocators. See 47 C.F.R. § 51.323(i)(1997). <u>Interconnection Order at ¶ 598.</u></p> <p>AT&amp;T is requesting inspection access to Collocated Space that it</p>                                                                                                                                                                                                                       | <p>SWBT's objects to the inclusion of AT&amp;T's first sentence which is underlined and bolded.</p> |

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CONTRACTUAL DISPUTATION ISSUES MATRIX  
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| <p>Collocation<br/>Issues</p> | <p>AT&amp;T's<br/>Proposed Language</p>                                                                                                                                                                                                                                                       | <p>SWBT's<br/>Proposed Language</p> | <p>SWBT's<br/>Proposed Language</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>SWBT's<br/>Proposed Language</p> |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
|                               | <p>expenses are incurred. AT&amp;T's proposed language would not impose a significant burden on SWBT, and any such burden could be compensated through the engineering design charge required by Section 3.X of this Appendix. AT&amp;T's proposed language should therefore be included.</p> |                                     | <p>may or may not ultimately accept. No security measures, such as a collocation cage, have been constructed at this potential space. Thus, there are no measures in place to insulate AT&amp;T from obtaining competitively advantageous information regarding equipment and regarding other aspects concerning SWBT or other collocators. Furthermore, as the parties have agreed in this Appendix, the cage around the collocated Space is a permeable boundary that will not prevent "other collocators" from observing or even damaging . . . equipment and facilities."</p> <p>AT&amp;T will not be prejudiced by its inability to inspect potential Collocated Space. SWBT will provide diagrams of the Collocated Space contemplated by AT&amp;T's use at the time a price quotation is requested.</p> <p>AT&amp;T's argument, that it must inspect the Collocated Space for its intended use, is not appropriate. This Agreement is not a standard commercial lease or contract for sale. Rather, it is a statutorily mandated sharing of facilities among competitors. To argue that the relationship between an incumbent LEC and its collocators is akin to that of a landlord and tenant or a buyer and seller of commercial property completely overlooks the nature of the relationship between competitors. SWBT is not in the business of selling or leasing space for profit. The relationship between a service provider and its customer is based upon a totally different set of</p> |                                     |

# **XI. COLLOCATION CONTRACTUAL DISPUTES AND ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

|  |  |  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
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|  |  |  |  | <p>AT&amp;T does not need to inspect potential Collocated Space to determine fitness for its intended uses. Consistent with AT&amp;T's documented requirements, SWBT will provide diagrams of the Collocated Space and information about its technical capabilities when a price quotation is requested. AT&amp;T's claim, that construction costs would be saved by giving it the requested inspection rights, is unavailing. The information that SWBT provides will be appropriate for determining fitness of the space for interconnection and access to UNEs. AT&amp;T can make that determination from a layout drawing of the collocation space.</p> <p>To look at a raw space prior to the build-out process, which only would apply if AT&amp;T is the first collocator, would yield no additional information relevant to the appropriateness of the space. The assumption has to be that, when the space is built out for collocation, it will be suitable for AT&amp;T and that SWBT has the expertise and knowledge to determine what work needs to be done to prepare the space for telephone equipment. SWBT is in the business of building space to house telephone equipment. Thus, to allow AT&amp;T to add unnecessary costs and increased time intervals to the collocation process is not in the best interest of "all" collocators.</p> <p>Furthermore, physical inspection is not necessary. Its perceived</p> |  |
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**XI. COLLOCATION  
CONTRACTUAL DISPUTES ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T | SWBT | AT&T | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | SWBT |
|------|------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
|      |      |      | <p>desirability to AT&amp;T is outweighed by security concerns.</p> <p>If AT&amp;T is permitted to inspect the Collocated Space, it should be restricted from access to non-collocation space and from information about use of the Eligible Structure. SWBT's EDC does not include the cost of providing employees for tours of every potential collocation space. Therefore, any such inspection would be provided on an hourly basis, including the cost of providing the employee, scheduling time, and travel time and expenses. Also, the inspection would not permit AT&amp;T to select another location within the Eligible Structure because it would not be allowed to inspect the entire premises.</p> <p>AT&amp;T continues to claim that none of the requirements that it proposes imposing on the collocation process would have a significant burden on SWBT, and that all this added expense and time can be covered by the EDC. AT&amp;T's position in the negotiating sessions has been that the EDC already is extremely high and should be reduced. AT&amp;T also fails to address the issue that, when applied to all collocators, these additional requirements have a significant impact on SWBT and thus become a "major burden" when applied to all. Most other collocators want to reduce the cost, not increase it. Therefore, if ordered to offer such an inspection, SWBT's costs for such an activity will be added to the EDC as an LSP option, which would ensure that other collocators are not</p> |      |



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CONTRACTUAL DISPUTATION ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>NOT QUOTED, ENGLISH, BIDDING<br>PRACTICE, COLLOCATED                                                                                                                                                                                                                                           | AT&T<br>NOT QUOTED, ENGLISH, BIDDING<br>PRACTICE, COLLOCATED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | AT&T<br>NOT QUOTED, ENGLISH, BIDDING<br>PRACTICE, COLLOCATED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | SWBT<br>NOT QUOTED, ENGLISH, BIDDING<br>PRACTICE, COLLOCATED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | SWBT<br>NOT QUOTED, ENGLISH, BIDDING<br>PRACTICE, COLLOCATED                                                                                                                                                                                                                                                                                                                                                                                           |
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| <p><b>8. SWBT Statement of Issue:</b></p> <p>Can SWBT require an up-front payment of quoted non-recurring charges (i.e., the Collocated Space Charge, the Custom Work Charge, and the Common Charge) from AT&amp;T as a condition to reserving and commencing preparation of the collocated Space?</p> | <p>SWBT's proposal would require AT&amp;T to tender money to SWBT in order to accept a price quotation for a particular Collocated Space, in the absence of SWBT's proposal, AT&amp;T could accept the price quotation in writing and would be contractually bound by its acceptance at that time. Conditioning AT&amp;T's acceptance on SWBT's actual receipt of money is contrary to standard telecommunications industry practices, where agreements are made prior to and on the expectation of payment. SWBT does not require the protection of early payment for its Collocated Space (AT&amp;T is not a fly-by-night telecommunications provider, and AT&amp;T honors its contractual obligations). And even were AT&amp;T or some other collocator to breach the contract prior to payment of the quoted price, SWBT's damages would be small, because this Appendix makes payment a precondition to the construction of the Collocated Space.</p> | <p><b>Attachment 13: Appendix Collocation</b></p> <p>3. X SWBT's price quotation will constitute a firm offer that AT&amp;T may accept in writing within thirty-five (35) days of AT&amp;T's receipt of the price quotation, subject only to the true-up procedure specified in Section 5.X below. SWBT will reserve the Collocated Space for AT&amp;T during this forty-five day period. If AT&amp;T does not accept the price quotation in writing within thirty-five (35) days of AT&amp;T's receipt of the price quotation, the price quotation will be automatically rescinded.</p> | <p>The parties have agreed that SWBT's price quotation will constitute a "firm offer," which AT&amp;T must accept within a specified time or the offer will be rescinded. However, AT&amp;T wants SWBT to reserve the proposed Collocated Space during the period when the offer remains outstanding. SWBT considers AT&amp;T's acceptance to be valid only if it makes an up-front payment of certain non-recurring charges. Due to "warehousing" considerations that would limit the ability of other LSPs willing to make an up-front payment to collocate, the Commission must understand that to do otherwise would harm competing LSPs, not SWBT. Thus, SWBT does not want to reserve the space until such payment is made.</p> | <p>SWBT proposes that AT&amp;T should have 35 "business" days to accept or reject the price quotation. AT&amp;T wants a 35 calendar day response period. To provide both parties adequate time and to conform to standard industry practice, this response period should be 35 business days.</p>                                                                                                                                                      |
| <p><b>AT&amp;T Statement of Issue:</b></p> <p>What is the legal effect of SWBT's price quotation?</p>                                                                                                                                                                                                  | <p>The remainder of SWBT's proposal would not require SWBT to reserve the Collocated Space for AT&amp;T during the thirty-five day period for which the price quotation is valid. Under SWBT's proposal, the price quotation would constitute an offer with no legal effect whatsoever, that SWBT could</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>In addition, SWBT should not be contractually required to commence work and incur costs or liabilities without receiving an up-front payment from AT&amp;T. SWBT's request for such up-front payment is a standard industry practice. Other incumbent LECs require up to 100% of the applicable non-recurring charge prior to service commencement. In fact, SWBT's historic and continuous practice has been to request up to 85% of all non-</p>                                                                                                                                                                                                                                                                                 | <p>Thus, SWBT's language, requiring AT&amp;T to make an up-front payment of non-recurring charges as a condition to reserving and commencing preparation of the Collocated Space, must be adopted. In addition, the language providing AT&amp;T with 35 business days for responding to SWBT's price quotation must be adopted and must be inserted in the next-to-last sentence for conformity with SWBT's proposed change in the first sentence.</p> |

# **XI. COLLOCATION CONTRACTUAL DISPUTED ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| <p>AT&amp;T<br/>Request for Service<br/>Not to be included</p> | <p>AT&amp;T<br/>Request for Service<br/>Not to be included</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>AT&amp;T<br/>Request for Service<br/>Not to be included</p> | <p>SWBT<br/>Request for Service<br/>Not to be included</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>SWBT<br/>Request for Service<br/>Not to be included</p> |
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|                                                                | <p>rescind at will, notwithstanding AT&amp;T's prior payment of consideration for that offer (a rather substantial "engineering design charge"). This is unreasonable, considering that SWBT is not prepared to refund AT&amp;T's engineering design charge after it has issued the price quotation. Moreover, in other cases involving SWBT, the Commission has previously imposed the requirement that a SWBT "CB price quote . . . be considered a firm offer for a reasonable period of time." <i>In re: SWBT's tariff designed to introduce broadband educational videoconferencing service</i>, No. TT-95-275. AT&amp;T's language should therefore be included.</p> |                                                                | <p>recurring costs up-front for custom work orders from any requesting SWBT customer. There is no requirement or other provision in this Commission's rules or in the Act which compels SWBT to deviate from standard industry practice in this regard.</p> <p>AT&amp;T's refusal to make an up-front payment and its request that the potential Collocated Space be reserved until it decides whether to accept the offer also could be used to the competitive disadvantage of other potential collocators. Such "warehousing" is impermissible. 47 C.F.R. § 51.323(f)(6)(1997).</p> <p><u>Interconnection Order at ¶ 586.</u></p> <p>Given the fact that SWBT does not allow other lessees to have work performed without making a down payment on non-recurring charges, approving AT&amp;T's proposed language also would be prohibited under the non-discriminatory requirements in Section 251(c)(6) of the Act.</p> <p>AT&amp;T wants the right to submit SWBT's price quotations to the Commission for review. This is another impermissible warehousing scheme whereby AT&amp;T seeks to put a hold on space without paying for it. 47 C.F.R. § 51.323(f)(6)(1997).</p> <p><u>Interconnection Order at ¶ 586.</u></p> <p>AT&amp;T would preclude other LSPs from requesting space in SWBT facilities for an indefinite period of time. This anticompetitive "tactic" (which is prohibited under Section 251(c)(6) of the Act) would force SWBT and other collocators into a "holding pattern" while AT&amp;T</p> |                                                            |

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CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>Contractual Disputed Issues<br>AT&T-SWBT Interconnection Agreement | AT&T<br>Contractual Disputed Issues<br>AT&T-SWBT Interconnection Agreement | SWBT<br>Contractual Disputed Issues<br>AT&T-SWBT Interconnection Agreement | SWBT<br>Contractual Disputed Issues<br>AT&T-SWBT Interconnection Agreement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | SWBT<br>Contractual Disputed Issues<br>AT&T-SWBT Interconnection Agreement |
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|                                                                            |                                                                            |                                                                            | <p>"decides" it really wants the space. Without financial commitment, AT&amp;T has the incentive to delay its decision and draw out the process as long as possible.</p> <p>AT&amp;T's argument, that standard commercial practices should govern, overlooks the nature of its relationship with SWBT and misrepresents what constitutes a "standard telecommunications practice." SWBT and AT&amp;T are competitors, not parties to an ordinary commercial agreement making an arms length bargain. Contrary to AT&amp;T's argument that agreements for facilities are made prior to payment, since 1993, LSPs generally have provided prepayment when ordering collocation space from LECs.</p> <p>AT&amp;T asserts that will honor its contractual obligation. AT&amp;T overlooks the fact that its Agreement will be a public record that can be accessed by other LSPs. Under the non-discrimination requirements of Sections 251(c)(2)(D) and (c)(6), and the most favored nations provision of Section 251(f) of the Act, SWBT can be required to make the same allowances of other LSPs as it does of AT&amp;T, and therefore could incur risks of non-payment by other LSPs due to this Agreement.</p> <p>For these reasons, AT&amp;T's arguments, that SWBT is adequately protected if no payment is required because resulting damages would be minimal and because written acceptance establishes a binding contract, are without merit. Thus,</p> |                                                                            |

**XI. COLLOCATION  
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| AT&T<br>NO. 501-100-10000-100000<br>INTERCONNECTION AGREEMENT | AT&T<br>NO. 501-100-10000-100000<br>INTERCONNECTION AGREEMENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT<br>NO. 501-100-10000-100000<br>INTERCONNECTION AGREEMENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | SWBT<br>NO. 501-100-10000-100000<br>INTERCONNECTION AGREEMENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | SWBT<br>NO. 501-100-10000-100000<br>INTERCONNECTION AGREEMENT |
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| 9. May AT&T subcontract the preparation of Collocated Space?  | AT&T's proposed language would allow AT&T to subcontract the preparation of the Collocation Space as allowed by Section 51.323(j) of the FCC's regulations, which provides that "[a]n incumbent LEC shall permit a collocating telecommunications carrier to subcontract the construction of physical collocation arrangements with contractors approved by the incumbent LEC." AT&T's proposed language goes no further than is allowed by the regulations, and SWBT's opposition to this language is therefore unreasonable. | Attachment 13: Appendix Collocation<br><br>3.X AT&T may better SWBT's quoted Common Charge, quoted Collocated Space Charge, or quoted Completion Interval by subcontracting the preparation of the Collocated Space or the modification of the Eligible Structure with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. AT&T will be responsible for the cost of its own contractors; SWBT will adjust the Preparation Charge to account for AT&T's provision of its own contractors. | SWBT's proposed language must be adopted.<br><br>While AT&T clearly is permitted to use its subcontractors to prepare the collocated Space, it has absolutely no right to invade the remainder of the "Eligible Structure." See, Interconnection Order at ¶ 595 (AT&T is not permitted to locate facilities or otherwise access the Eligible Structure "anywhere outside of the actual physical collocation space").<br><br>The FCC permits AT&T to "subcontract the construction of the physical collocation arrangements with contractors approved by (SWBT) within AT&T's "cage." Interconnection Order at ¶ 598. See, also 47 C.F.R. § 51.323(j)(1997). SWBT is not required to, and will not contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&T.<br><br>Several valid reasons exist for limiting AT&T to its own "cage." It is not reasonable for AT&T, any other collocater, or their subcontractors, to perform construction activities work in SWBT's central office or other Eligible Structures. Build-out of collocation space includes space on many common infrastructure systems, such as mechanical, electrical and security, that are located elsewhere and serve other areas within the Eligible Structure. The potential for damage or interference with the operation of the | SWBT objects to the inclusion of AT&T's language.             |

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| Section 101, Article 10, Chapter 100, RSMo<br>Indefinite duration | Section 102, Article 10, Chapter 100, RSMo<br>Indefinite duration | Section 103, Article 10, Chapter 100, RSMo<br>Indefinite duration | Section 104, Article 10, Chapter 100, RSMo<br>Indefinite duration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Section 105, Article 10, Chapter 100, RSMo<br>Indefinite duration |
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|                                                                   |                                                                   |                                                                   | <p>building facilities, which support SWBT's network and support other collocators, is material. Furthermore, this construction activity would require that access be granted to AT&amp;T and its subcontractors to areas within the Eligible Structure where adequate security could not be maintained. SWBT is permitted to take such measures to protect other collocators and its own operations. 47 C.F.R. § 51.323(f)(1997); <u>Interconnection Order</u> at ¶ 598.</p> <p>SWBT is not required to, and will not, contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&amp;T. Nor does AT&amp;T cite any specific precedent to support its position. Also, as a practical matter, AT&amp;T must be limited to its own "cage" because SWBT cannot manage construction of multiple subcontractors selected by multiple collocators for the entire Eligible Structure. All other contracting for work done in the Eligible Space outside each collocator's cage is SWBT's sole responsibility.</p> <p>Furthermore, SWBT cannot accept the risk of AT&amp;T or any other collocator and its subcontractors performing construction activities on critical infrastructure systems within the central office. Construction activities within a central office are extremely high risk by their nature. To assume that SWBT could allow this activity to take place within its buildings and not have direct control and contractual safeguards is</p> |                                                                   |

# **XI. COLLOCATION CONTRACTUAL DISPUTES ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

|                                                                                                                                                                                                                                                                                                                                                                                                           | AT&T<br>Position/Proposal for Resolution<br>Included or Excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT<br>Position/Proposal for Resolution<br>Included or Excluded                                                                                                                                                                                                                   | SWBT<br>Position/Proposal for Resolution<br>Included or Excluded                                                                                                                                                                                                                                                                                                                                                                                                                | SWBT<br>Position/Proposal for Resolution<br>Included or Excluded                                                                                                                                                                                                                                                                                                                                                                                     |
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| <p>10.<br/>SWBT Statement of Issue:<br/><br/>Can SWBT limit the number of collocators responsible for reimbursing common costs incurred to prepare Eligible Structures for collocation?</p> <p>AT&amp;T Statement of Issue:<br/><br/>Should SWBT be required to refund a pro-rata share of the common charge over twelve months after the initial collocator has collocated in an Eligible Structure?</p> | <p>SWBT's proposal would require SWBT to pay a prorated refund to previous collocators only for the first twelve months after the first collocator's payment of an initial Monthly Charge. This arrangement is unreasonable for a number of reasons. First, SWBT's proposal does not eliminate the obligation of the second, third, or fourth collocators to pay a "Common Charge" to SWBT. Accordingly, under SWBT's proposal, SWBT could be reimbursed twice or three times for the "common charges" that it has incurred. Second, SWBT's proposal discriminates against initial collocators and in favor of subsequent collocators, because while a subsequent collocator will pay to SWBT a common charge that reflects its pro-rata share of SWBT's costs, the initial collocator will, in many circumstances, pay more than that amount. By discriminating against initial collocators this language also encourages telecommunications</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>4.X Each time additional collocator(s) use(s) physical collocation in the same Eligible Structure, each previous collocator will receive a prorated refund of its previously paid Initial Common Charge or Common Charge.</p> | <p>AT&amp;T never discusses what contractual relationship it is proposing under this arrangement. Who are the contractors under contract and who is paying the bills and managing the contract? The reason AT&amp;T never purposes such an arrangement is simple – AT&amp;T cannot begin to format a contractual arrangement that may of the parties could accept.</p> <p>Thus, AT&amp;T's proposal language must be rejected and SWBT's proposed language must be adopted.</p> | <p>SWBT opposes the inclusion of AT&amp;T's language. The language should read: Each time additional collocator(s) use(s) physical collocation in the same Eligible Structure, within twelve (12) months of the first billing date of the initial monthly charge for the physical collocator, in that Eligible Structure, each previous collocator will receive a prorated refund of its previously paid Initial Common Charge of Common Charge.</p> |

# **XI. COLLOCATION** **CONTRACTUAL DISPUTED ISSUES MATRIX** **AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| <p>AT&amp;T's Position</p>                                                                                                                                                                                                                       | <p>SWBT's Position</p> | <p>AT&amp;T's Position</p> | <p>SWBT's Position</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>SWBT's Position</p> |
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| <p>providers to put off collocation efforts until another provider has already collocated in an Eligible Structure, and therefore encourages a wait-and-see attitude that is anti-competitive. SWBT's proposal should therefore be excluded.</p> |                        |                            | <p>opposes this limitation. Instead, AT&amp;T wants all subsequent collocators to contribute to these costs so its ultimate share would be reduced even further. SWBT wants the limit on the number of collocators entitled to a refund because it already has negotiated similar provisions with other LSPs and because calculating its refund liability for the additional collocators would unduly increase its administrative costs.</p> <p>Under the Act, SWBT is entitled to impose the limit on collocators eligible for a refund. The interconnection requirements under the Act contemplate the multiple collocators would share the same space. Under Section 251(c)(6) of the Act, SWBT must make such space available to all collocators on a first-come, first-served basis. 47 C.F.R. § 51.323(f)(6)(1997); Interconnection Order at ¶ 586; 47 C.F.R. § 51.323(f)(1)(1997). Moreover, under these same statutory requirements, SWBT MUST make the space available on a non-discriminatory basis and on just and reasonable terms and conditions.</p> <p>Within this framework, SWBT has established its procedures for determining collocator liability for shared space preparation costs. SWBT's 12-month refund provision is already established in effective negotiated collocation agreements affecting numerous parties. These collocators are not required, based upon their negotiated agreements, to pay for common costs if they are not collocated in an office within 12</p> |                        |

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| Section 251(b)(1) - General<br>Requirements for Interconnection | Section 251(b)(2) - Specific<br>Requirements for Interconnection | Section 251(b)(3) - General<br>Requirements for Interconnection                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Section 251(b)(4) - Specific<br>Requirements for Interconnection |
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|                                                                 |                                                                  | <p>SWBT's obligation to track applications and calculate cost refunds is limited to the specified 12-month time frame. It receives no benefit from this provision and, in fact, incurs costs to track applications, refund common costs and appropriately credit the account of each collocator.</p> <p>Under Section 251(1) of the Act, SWBT is required to make available any interconnection, service or network element provided under an approved agreement to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement. Under this "most favored nation status" obligation, collocators could piggy-back on the AT&amp;T agreement and compel SWBT to refund space preparation charges for an unlimited number of collocators.</p> <p>SWBT's plan does not discriminate against initial collocators. Instead, the plan mimics what happens in a competitive market. It is true that, if multiple collocators do not place equipment in a space, then the initial collocator will bear all the cost.</p> |                                                                  |



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|                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Likewise, the lower the collocators, the higher the cost the first collocator may bear. This would be the same, however, if the entrant did not collocate but instead built its own facilities, as SWBT had to construct its facilities. The additional premium for being the first collocator is the cost of being first to gain market share.</p> <p>SWBT must make the space available on a non-discriminatory basis and on just and reasonable terms and conditions. The proposed plan is reasonable because it reimburses initial collocators for their costs in being first to market. Since this plan is already in effect, it must be retained in his Agreement to ensure that the treatment of collocators is non-discriminatory and to ensure that SWBT does not have to re-calculate these non-recurring charges for the collocators. Further, SWBT's refund process is standard in the telecommunications industry.</p> <p>Thus, SWBT's proposed language must be adopted.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>11. SWBT's Statement of Issue:<br/><br/>Must SWBT bear the loss of non-recoverable charges incurred when it begins preparing Collocated Space at AT&amp;T's request prior to receiving regulatory approval if such approval is not obtained and the collocation installation is abandoned?<br/><br/>AT&amp;T Statement of Issue:</p> | <p>In the event that the preparation of the Collocated Space has commenced and that the Commission fails to approve the Parties' collocation arrangement, this section provides for payments between AT&amp;T and SWBT in an attempt to return the parties, as closely as possible, to their pre-contract positions. To accomplish that objective, the section in part requires AT&amp;T to reimburse SWBT for SWBT's non-recoverable costs. Also, like any other ratepayer, AT&amp;T should not</p> | <p><u>Attachment 13: Appendix Collocation</u><br/><br/>4.X At the written election of AT&amp;T, and upon payment of the sums described above in Sections 4.X and 4.X, SWBT will begin preparing the Collocated Space for AT&amp;T prior to receiving the regulatory approval required by Section 3.X above. Payment to SWBT of the remaining charges under these sections shall be due upon completion. If the</p> | <p>The parties have agreed that, upon written request by AT&amp;T and upon payment of certain up-front space preparation charges, SWBT would commence preparing the Collocated Space, even if requisite Commission approval had not been granted. The parties also have agreed that, if such approval is not obtained, AT&amp;T would refund SWBT's non-recoverable costs. AT&amp;T now wants to include language that would limit such reimbursement to SWBT's</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>At the written election of AT&amp;T, SWBT will begin preparing the Collocated Space for AT&amp;T prior to receiving the regulatory approval. Payment to SWBT of the remaining charges under these sections shall be due upon completion. If the Commission fails to give unqualified approval to the Parties' collocation arrangement and the Parties do not otherwise agree to continue the collocation arrangement for the Collocated Space, AT&amp;T will pay to</p> |

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| How should the parties be compensated should regulatory approval of a Collocated Space be refused after preparation of the space has begun? | Should the Parties be required to pay for unreasonable costs incurred by a public utility. AT&T's proposed language would limit AT&T's reimbursement obligation to those non-recoverable costs which are reasonable. Such a limitation is appropriate. AT&T, like any other purchaser of construction services, should not be required to pay unreasonable construction costs; otherwise, SWBT would have no incentive to complete the preparation of the Collocated Space efficiently and economically. AT&T's proposed language would also require SWBT to provide AT&T with a detailed invoice itemizing the non-recoverable costs that SWBT has incurred. The invoice is necessary so that AT&T may determine the nature and amount of SWBT's non-recoverable costs and so that AT&T may determine whether those costs are reasonable. AT&T's language should therefore be included. | Commission fails to give unqualified approval to the Parties' collocation arrangement as required by Section 3.X, and the Parties do not otherwise agree to continue the collocation arrangement for the Collocated Space. AT&T will pay to SWBT, within a reasonable time after the Commission's decision, an amount equal to SWBT's reasonable non-recoverable costs less net salvage and less the amount already paid to SWBT. Non-recoverable charges include, the non-recoverable cost of equipment and material ordered, provided, or used; tuned-up Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided, or used; labor, transportation and any associated costs. If the amounts already paid to SWBT plus the net salvage exceed SWBT's reasonable non-recoverable costs, SWBT will refund to AT&T the excess amount within a reasonable time after the Commission's decision. SWBT will provide AT&T with a detailed invoice itemizing its non-recoverable costs. | Reasonable, non-recoverable costs. AT&T further seeks to limit the costs to specified categories of expense. Finally, AT&T wants SWBT to provide itemized invoices for its non-recoverable costs.<br><br>Space preparation prior to Commission approval only would commence upon AT&T's written request. Thus, AT&T must assume the risk if this approval if not obtained. Moreover, the restrictions on its obligation to reimburse SWBT's non-recoverable cost are unacceptable.<br><br>The FCC's <u>Interconnection Order</u> (¶ 602) recognize that every collocation situation is unique. Each site preparation and installation may entail expenses that cannot now be fully anticipated by the parties until the construction is completed. Subjecting each expense items incurred by SWBT to review for "reasonableness" after the fact would create an administrative quagmire that will thwart a smooth and orderly transition to fair competition.<br><br>Under current vendor practices, invoices presented to SWBT do not itemize each elements and the associated costs. Providing such data to AT&T would require a major change in the documentation SWBT requires of its vendors which, in turn, could justifiably charge more for the same products and services due to the additional administrative burden. That cost eventually will fall upon the consumer. | SWBT, within a reasonable time after the Commission's decision, an amount equal to SWBT's non-recoverable costs less net salvage and less the amount already paid to SWBT. Non-recoverable charges include, the non-recoverable cost of equipment and material ordered, provided, or used; tuned-up Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided, or used; labor, transportation and any associated costs. If the amounts already paid to SWBT plus the net salvage exceed SWBT's non-recoverable costs, SWBT will refund to AT&T the excess amount within a reasonable time after the Commission's decision. |
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# **XI. COLLOCATION** **CONTRACTUAL DISPUTED ISSUES MATRIX** **AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

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|                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>relationship with respect to collocation at SWBT's Eligible Structures. By qualifying provisions in the Appendix with terms such as "including but not limited to," SWBT attempts to remove all clarity from the Parties' arrangement to its future benefit. SWBT's proposal is therefore unreasonable.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>"estimated" but AT&amp;T does not agree. AT&amp;T's position is another example of its delay tactics and its desire for SWBT to act as its lender. By permitting SWBT to estimate net salvage value, it would be able to calculate the funds AT&amp;T owes sooner because sale of the salvaged equipment would not be necessary.</p> <p>Thus, AT&amp;T's proposed language, limiting refundable non-recoverable costs to "reasonable" costs and requiring SWBT to provide an itemized invoice for such costs, must be stricken. SWBT's language, defining what elements make up "non-recoverable costs" and making the net salvage an "estimated" amount, must be adopted.</p>                                                                                      |                                                              |
| <p>12. SV/BT's Statement of Issue:</p> <p>Is AT&amp;T entitled to have approval rights over working drawings and specifications for modification of the Eligible Structure and preparation of the Collocated Space?</p> <p>AT&amp;T Statement of Issue:</p> <p>May AT&amp;T review and approve the working drawings and specifications for the preparation of the Collocated Space and the modification of the Eligible Structure?</p> | <p>AT&amp;T's proposed language would require SWBT to provide AT&amp;T with copies of the working drawings and specifications for the preparation of the Collocated Space and the modification of the Eligible Structure. AT&amp;T's proposed language would also allow AT&amp;T to propose alterations to those working drawings and specifications. AT&amp;T's proposed language is reasonable. AT&amp;T's review and approval of the working drawings and specifications would insure, prior to the commencement of construction activities, that the Collocated Space will be prepared in compliance with AT&amp;T's collocation request. Without such review, the Collocated Space could be improperly constructed, unreasonably increasing AT&amp;T's costs. Moreover, the review and approval of working drawings and specifications is a standard practice in</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>4. X SWBT will contract for or perform the preparation of the working drawings and specifications for the modification of the Eligible Structure and the preparation of the Collocated Space. Prior to SWBT commencing any construction or preparation activities, SWBT will provide copies of the working drawings and specifications to AT&amp;T, and AT&amp;T must approve these working drawings and specifications within seven days of receipt. Upon AT&amp;T's request, SWBT will modify the working drawings and specifications in accord with AT&amp;T's requested alterations. SWBT will provide copies of the modified working drawings and specifications to</p> | <p>SWBT is responsible for the provision of working drawings and specifications for the Eligible Structure modification and Collocated Space preparation. AT&amp;T wants to add language giving it prior approval rights over all such plans. SWBT opposes this language because it would give AT&amp;T control over how the entire Eligible Structure is configured, which is not countenanced by the Act or by the FCC.</p> <p>AT&amp;T is entitled to exclusive space for its physical collocation (i.e., the "Collocated Space") and it is entitled to have specified areas in the remaining portions of the Eligible Structure available for its interconnection facilities. However, AT&amp;T does not have any rights over the modification of space in the</p> | <p>SWBT objects to the inclusion of AT&amp;T's language.</p> |

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| <p>AT&amp;T's Proposed Requirements<br/>Including the Proposed</p>                                                    | <p>AT&amp;T's Proposed</p>                                                                                                                                                                                                                                                                                                                                         | <p>Eligible Structure except for its own<br/>Collocated Space. Otherwise, AT&amp;T<br/>could compromise operations by<br/>SWBT and the other competitive<br/>collocators. See Interconnection<br/>Order at ¶¶595, 598; 47 C.F.R. §<br/>51.323(i)(1997). Thus, AT&amp;T cannot<br/>compel SWBT to give it approval<br/>rights over Eligible Structure<br/>modification.</p> | <p>SWBT's Proposed</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <p>the construction industry.<br/>Accordingly, AT&amp;T's proposed<br/>language should therefore be<br/>included.</p> | <p><u>AT&amp;T and AT&amp;T must approve<br/>these modified working drawings<br/>and specifications within seven<br/>days of receipt. The Completion<br/>Interval will be abated between<br/>SWBT's provision of the working<br/>drawings and specifications to<br/>AT&amp;T and AT&amp;T's approval of<br/>those working drawings and<br/>specifications.</u></p> | <p>Nor can AT&amp;T require final approval<br/>rights over preparation of its<br/>Collocated Space. While AT&amp;T does<br/>have certain rights regarding its<br/>Collocated Space, these rights are<br/>limited and do not invest it with the<br/>authority to require that SWBT obtain<br/>its approval.</p>                                                             | <p>SWBT will prepare the collocated<br/>Space to meet the requirements<br/>specified by AT&amp;T. However, SWBT<br/>must account for other collocators'<br/>needs and its own needs in<br/>preparing the Collocated Space,<br/>which militate against AT&amp;T having<br/>final approval. See 47 C.F.R. §<br/>51.323(f)(4)(1997). For example,<br/>SWBT must ensure that reasonable<br/><i>security arrangements are made to</i><br/><i>protect each collector's designated</i><br/><i>space and to protect its own space.</i><br/>47 C.F.R. § 51.323(i)(1997).<br/>Further, there may be occasions<br/>when the exact location of specified<br/>items are not possible due to<br/>conflicts with other building elements<br/>or when overall coordination issues<br/>may dictate locating elements<br/>differently than proposed. Because<br/>SWBT is legally obligated to<br/>coordinate collocator arrangements<br/>and because it must protect the<br/>security of these collocators and its</p> |

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| <p>AT&amp;T<br/>Missouri<br/>Interconnection<br/>Agreement</p> | <p>SWBT<br/>Missouri<br/>Interconnection<br/>Agreement</p> | <p>AT&amp;T-SWBT<br/>Interconnection<br/>Agreement</p> | <p>SWBT<br/>Missouri<br/>Interconnection<br/>Agreement</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>SWBT<br/>Missouri<br/>Interconnection<br/>Agreement</p> |
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|                                                                |                                                            |                                                        | <p>own network, SWBT must have exclusive control over design and construction, not only in the Eligible Structure, but in each Collocated Space as well. Thus, SWBT MUST have final approval over all working plans and specifications for the entire Eligible Structure, including AT&amp;T's Collocated Space.</p> <p>Granting AT&amp;T final approval rights also could adversely affect SWBT's ability to provide collocation on non-discriminatory, just and reasonable terms, as required under Section 251(c)(6) of the Act. If AT&amp;T has final approval rights, it would have the opportunity to repeatedly delay the construction process and create unnecessary administrative burdens. Such delay could result in AT&amp;T impermissibly "warehousing" unused space. See 47 C.F.R. §51.323(f)(6)(1997). In addition, given the interrelationship between each collocator's space, such delays could handicap competitive collocators' efforts at inhabiting their own space.</p> <p>Finally, AT&amp;T likely will not be the only collocator in a given Eligible Structure. Thus, if SWBT gives AT&amp;T its requested "approval" rights, it would have to give other collocators the same rights under Section 252(l) of the Act. Granting all collocators approval rights would be an administrative nightmare, would delay construction, and would increase costs.</p> <p>AT&amp;T observes the reviewing working drawings and specifications for approval is standard in the</p> |                                                            |

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| Contractual Disputes | Disputes | Disputes | Disputes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                      |          |          | <p>construction industry. While that may be true, AT&amp;T is misrepresenting the relationship between an incumbent LEC and a new entrant with respect to physical collocation. The Agreement is not a construction contract.</p> <p>AT&amp;T claims that its relationship with SWBT with respect to physical collocation is similar to the relationship of an purchasing design services from an architectural firm. Under this relationship, the purchaser of the design service reviews the product purchased and approves all revisions made. However, SWBT is not providing architectural design services to AT&amp;T as its client. Instead, SWBT is providing collocation and interconnection in its own facilities pursuant to statutory mandate.</p> <p>Furthermore, if AT&amp;T's language is approved, certain attendant costs would be incurred. AT&amp;T again fails to address which party bears those costs and how the resulting time delays would impact SWBT and other collocators.</p> <p>Granting AT&amp;T final approval rights would contravene SWBT's ability to provide collocation on non-discriminatory, just and reasonable terms; it would permit AT&amp;T to impermissibly warehouse space by delaying approval; and it would create an administrative nightmare if other collocators demanded similar "approval" rights. SWBT also</p> |

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| STAGE                                                                                                                                                                                         | STAGE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | STAGE                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | STAGE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | STAGE                                                        |
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| <p>13.<br/>SWBT's Statement of Issue:<br/><br/>Is AT&amp;T entitled to have approval rights over contractor bids for modifying the Eligible Structure and preparing the Collocated Space?</p> | <p>AT&amp;T's proposed language would require SWBT to notify AT&amp;T of the receipt of bids for the preparation of the Collocated Space and would require SWBT to provide copies of those bids for AT&amp;T's review. AT&amp;T's proposed language would then require SWBT and AT&amp;T jointly to evaluate those bids. AT&amp;T's proposed language is reasonable and should be included. Considering that AT&amp;T (and not SWBT) will pay the eventual cost of the services bid, AT&amp;T should be permitted to participate in the bid selection process. Moreover, since AT&amp;T may subcontract the preparation of the Collocated Space using its own subcontractors, AT&amp;T's review of those bids is essential to render effective AT&amp;T's right to use its own subcontractors.</p> | <p><u>Attachment 13: Appendix Collocation</u><br/><br/><u>4.X After AT&amp;T approves the working drawings and specifications, SWBT will solicit bids for the modification of the Eligible Structure and the preparation of the Collocated Space. SWBT will notify AT&amp;T of its receipt of such bids and will provide copies of those bids to AT&amp;T. SWBT and AT&amp;T will jointly evaluate those bids, and SWBT will not accept any bids without AT&amp;T's assent.</u></p> | <p>Not only does AT&amp;T want final approval rights over working plans and specifications for the Eligible Structure and Collocated Space, it also wants SWBT to abdicate its responsibility for evaluating and selecting contractor bids for these facilities. AT&amp;T's proposal unjustifiably usurps SWBT's role as the coordinator over physical collocation in the eligible Structure and in each collocator's Collocated Space, and it undermines SWBT's responsibilities as the owner or lessor of the Eligible Structure. Its proposal also would be yet another opportunity for AT&amp;T to engage in anticompetitive tactics by delaying construction and by increasing common charges for all collocators, including the new market entrants which are less capable of absorbing these costs than AT&amp;T.</p> <p>Moreover, SWBT's vendors often require nondisclosure agreements with respect to bids, quotations and Requests for Proposals related to the preparation and construction of network facilities. If AT&amp;T's proposed language is accepted, SWBT could be forced to breach these confidentiality agreements.</p> | <p>SWBT objects to the inclusion of AT&amp;T's language.</p> |

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| SWBT's Statement of Issue:                                                                                                                                                        | AT&T's proposed language would allow AT&T to subcontract the preparation of the Collocated Space as allowed by Section 51.323(l) of the FCC's regulations, which provides that "an incumbent LEC shall permit a collocating telecommunications carrier | Attachment 13: Appendix Collocation                                                                                           | AT&T states that it will pay the eventual cost of the services bid and thus deserves approval rights. AT&T's argument is misleading. In the Eligible Space, AT&T likely will not be the only collocator which pays the Common Costs of space preparation. All other collocators would be no less deserving of approval rights under the "most favored nations" requirement imposed under Section 252(l) of the Act. In addition, since there likely would be multiple collocators in a given Eligible Structure, it is appropriate that a single party -- SWBT -- exclusively manage the bid process. Otherwise chaos would result. | SWBT objects to the inclusion of AT&T's language. |
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| 14. SWBT's Statement of Issue:<br><br>In connection with the preparation of its Collocated Space, is AT&T entitled to modify the Eligible Structure using its own subcontractors? | AT&T's proposed language would allow AT&T to subcontract the preparation of the Collocated Space as allowed by Section 51.323(l) of the FCC's regulations, which provides that "an incumbent LEC shall permit a collocating telecommunications carrier | 4 X AT&T may better SWBT's bids by subcontracting the preparation of the Collocated Space or the modification of the Eligible | AT&T claims that it must have approval rights over contractor bids because it may subcontract preparation of the Collocated Space. This claims unjustified because the plans SWBT provides AT&T are sufficient to guide any subcontractor work. AT&T submits no reason why information in SWBT's contractor bids would provide any additional useful planning data for its subcontractors.<br><br>Fore the foregoing reasons, AT&T's proposed language must be rejected.                                                                                                                                                            | SWBT objects to the inclusion of AT&T's language. |



# **XI. COLLOCATION CONTRACTUAL DISPUTED ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T Statement of Issue:<br>May AT&T subcontract the preparation of the Collocated Space | to subcontract the construction of physical collocation arrangements with contractors approved by the incumbent LEC." AT&T's proposed language goes no further than is allowed by the regulations, and SWBT's opposition to this language is therefore unreasonable. | Structure with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. AT&T will be responsible for the cost of its own contractors; SWBT will adjust the Preparation Charge to account for AT&T's provision of its own contractors. | Facilities or otherwise access the Eligible Structure "anywhere outside of the actual physical collocation space".<br><br>The FCC permits AT&T to "subcontract the construction of the physical collocation arrangements with contractors approved by [SWBT] within AT&T's "cage." Interconnection Order at ¶ 598. See, also 47 C.F.R. § 51.323(j)(1997). SWBT is not required to, and will not contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&T.                                                                                                                                                                                                                                                                                                                                                             |  |
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|                                                                                          |                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                            | Several valid reasons exist for limiting AT&T to its own "cage." It is not reasonable for AT&T, any other collocator, or their subcontractors, to perform construction activities work in SWBT's central office or other Eligible Structures. Build-out of collocation space includes space on many common infrastructure systems, such as mechanical, electrical and security, that are located elsewhere and serve other areas within the Eligible Structure. The potential for damage or interference with the operation of the building facilities, which support SWBT's network and support other collocators, is material. Furthermore, this construction activity would require that access be granted to AT&T and its subcontractors to areas within the Eligible Structure where adequate security could not be maintained. SWBT is permitted to take such measures to protect other collocators and its own operations. |  |

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| AT&T                                                                   | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| For the purpose of this matrix, the following definitions shall apply: | For the purpose of this matrix, the following definitions shall apply:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Interconnection Order                                                  | Interconnection Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                        | <p>47 C.F.R. § 51.323(f)(1997); Interconnection Order at ¶ 598.</p> <p>SWBT is not required to, and will not, contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&amp;T. Nor does AT&amp;T cite any specific precedent to support its position. Also, as a practical matter, AT&amp;T must be limited to its own "cage" because SWBT cannot manage construction of multiple subcontractors selected by multiple collocators for the entire Eligible Structure. All other contracting for work done in the Eligible Space outside each collocator's cage is SWBT's sole responsibility.</p> <p>Furthermore, SWBT cannot accept the risk of AT&amp;T or any other collocator and its subcontractors performing construction activities on critical infrastructure systems within the central office. Construction activities within a central office are extremely high risk by their nature. To assume that SWBT could allow this activity to take place within its buildings and not have direct control and contractual safeguards is patently unreasonable.</p> <p>AT&amp;T never discusses what contractual relationship it is proposing under this arrangement. Who are the contractors under contract and who is paying the bills and managing the contract? The reason AT&amp;T never purports such an arrangement is simple – AT&amp;T cannot begin to format a contractual</p> |

# **XI. COLLOCATION CONTRACTUAL DISPUTED ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>AT&T Language should be<br>Included or Excluded       | AT&T Language should be<br>Included or Excluded                                                                                                                                                                                                                                         | AT&T Language should be<br>Included or Excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | SWBT<br>SWBT Language should be<br>Included or Excluded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | SWBT<br>SWBT Language should be<br>Included or Excluded                                                                           |
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| 15. May AT&T subcontract the preparation of Collocated Space? | AT&T's proposed language makes clear that AT&T may subcontract the construction and preparation of the Collocated Space as allowed by Sec. 57.323(j) of the FCC's regulations. If AT&T's proposed language for Section 3.X is included, this proposed language should also be included. | Attachment 13: Appendix Collocation<br><br><u>4.X. Except for construction and preparation activities performed by AT&amp;T's own contractors, SWBT or SWBT's subcontractors will perform the construction and preparation activities underlying the Preparation Charge, including the Common Charge, the Collocated Space Charge, and the Subcontractor Charges, and any Custom Work Charges, using same or consistent practices that are used by SWBT for other construction and preparation work performed in the Eligible Structure.</u> | While AT&T clearly is permitted to use its subcontractors to prepare the collocated Space, it has absolutely no right to invade the remainder of the "Eligible Structure." See, Interconnection Order at ¶ 595 (AT&T is not permitted to locate facilities or otherwise access the Eligible Structure "anywhere outside of the actual physical collocation space").<br><br>The FCC permits AT&T to "subcontract the construction of the physical collocation arrangements with contractors approved by [SWBT] within AT&T's "cage." Interconnection Order at ¶ 598. See, also 47 C.F.R. § 51.323(j)(1997). SWBT is not required to, and will not contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&T.<br><br>Several valid reasons exist for limiting AT&T to its own "cage." It is not reasonable for AT&T, any other collocator, or their subcontractors, to perform construction activities work in SWBT's central office or other Eligible Structures. Build-out of collocation space includes space on many common infrastructure systems, such as mechanical, electrical and security, that are | SWBT objects to the inclusion of AT&T's language. SWBT will contract for and perform the construction and preparation activities. |

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| AT&T<br>Missouri<br>Interconnection Order | AT&T<br>Missouri<br>Interconnection Order | AT&T<br>Missouri<br>Interconnection Order | AT&T<br>Missouri<br>Interconnection Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | AT&T<br>Missouri<br>Interconnection Order |
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|                                           |                                           |                                           | <p>located elsewhere and serve other areas within the Eligible Structure. The potential for damage or interference with the operation of the building facilities, which support SWBT's network and support other collocators, is material. Furthermore, this construction activity would require that access be granted to AT&amp;T and its subcontractors to areas within the Eligible Structure where adequate security could not be maintained. SWBT is permitted to take such measures to protect other collocators and its own operations. 47 C.F.R. § 51.323(f)(1997); Interconnection Order at ¶ 598.</p> <p>SWBT is not required to, and will not, contractually extend this to modification of its own buildings and facilities. Neither the Act, nor the FCC's rules, compel SWBT to provide this opportunity to AT&amp;T. Nor does AT&amp;T cite any specific precedent to support its position. Also, as a practical matter, AT&amp;T must be limited to its own "cage" because SWBT cannot manage construction of multiple subcontractors selected by multiple collocators for the entire Eligible Structure. All other contracting for work done in the Eligible Space outside each collocator's cage is SWBT's sole responsibility.</p> <p>Furthermore, SWBT cannot accept the risk of AT&amp;T or any other collocator and its subcontractors performing construction activities on critical infrastructure systems within the central office. Construction activities within a central office are extremely high risk by their nature.</p> |                                           |

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| <p>16.<br/>SWBT Statement of Issue:<br/><br/>Can AT&amp;T require the provision of Collocated Space construction documentation that may include proprietary information regarding other collocators or SWBT?</p> | <p>AT&amp;T's proposed language would require SWBT to provide AT&amp;T with construction documentation and as-built drawings for all work done related to the construction of the Collocated Space. This requirement imposes no real burden on SWBT, as SWBT will have created this documentation during its construction of the Collocated Space. It is a standard construction industry practice for a contractor to provide as built drawings and other construction documentation as part of the contractor's services. AT&amp;T requires this documentation so that it may verify that the construction of the Collocated Space was properly accomplished, and so that it can reference those drawings should the information contained in them later be required. AT&amp;T's proposed language is reasonable and should therefore be</p> | <p><u>Attachment 3: Appendix Collocation</u><br/><br/><u>4.X SWBT will provide to AT&amp;T ordinary construction documentation submitted to and received from contractors or its internal engineering or installation work force, including but not limited to as-built drawings, for any work related to construction of the Collocated Space.</u></p> | <p>To assume that SWBT could allow this activity to take place within its buildings and not have direct control and contractual safeguards is patently unreasonable.</p> <p>AT&amp;T never discusses what contractual relationship it is proposing under this arrangement. Who are the contractors under contract and who is paying the bills and managing the contract? The reason AT&amp;T never purposes such an arrangement is simple - AT&amp;T cannot begin to format a contractual arrangement that nay of the parties could accept.</p> <p>Thus, AT&amp;T's proposal language must be rejected and SWBT's proposed language must be adopted.</p> | <p>SWBT opposes the inclusion of AT&amp;T language.</p> |
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|  | Included. |  | statutory criteria for interconnection and access to UNEs, which collocation is intended to implement, clearly are intended to protect against such access to, or misappropriation, of proprietary data. See, 47 U.S.C. § 251(d)(2)(a); Interconnection Order at ¶ 419.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
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|  |           |  | <p>Again, AT&amp;T misrepresents the collocation relationship as one found in the construction industry. Typically, preparation of as-built drawings are a part of the architectural services for which an owner contracts in a standard owner-architect agreement. However, not all owner-architect agreements include as-built drawings as a part of the consultant's scope of work. If the agreement provides for this service, the owner pays for this work. SWBT is not providing architectural design services to AT&amp;T as a client. SWBT is not in this line of business.</p> <p>SWBT's current formulation of the EDC does not take into account many of the "insignificant burdens" that AT&amp;T would require. The combined cost of AT&amp;T's new "insignificant burdens" that AT&amp;T would require. The combined cost of AT&amp;T's new "insignificant burdens" multiplied by every collocation site and every collocator (pursuant to the "most favored nations" requirement), will skyrocket related costs. This will keep smaller potential competitors out of the market. It also will reduce SWBT's ability to "maintain operating efficiency." See, <u>Interconnection Order</u> at ¶ 11.</p> |  |

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| <p>17. SWBT Statement of Issue:</p> <p>Is AT&amp;T entitled to inspect, during space preparation, the facilities where its Collocated Space is located, and is AT&amp;T entitled to force SWBT to modify those facilities outside its cage?</p> <p>AT&amp;T Statement of Issue:</p> <p>Must SWBT allow AT&amp;T to perform periodic inspections of the construction of the Collocated Space?</p> | <p>AT&amp;T's proposed language would allow AT&amp;T to perform regular inspections of the preparation of the Collocated Space during the construction process to insure that the construction is properly performed. AT&amp;T's proposed language would then require SWBT to correct any construction errors as soon as reasonably practicable. AT&amp;T's proposed language is reasonable. The conduct of periodic inspections of a construction site to insure compliance with drawings and specifications is a standard construction industry practice. Such inspections are conducted to identify construction errors earlier rather than later to reduce the cost of correcting those errors. AT&amp;T's proposed language would not impose a significant burden on SWBT, because the inspections would occur during the construction process. SWBT employees should be present to accompany AT&amp;T on these inspections. AT&amp;T's proposed language is not unreasonable and should therefore be included.</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p><u>4.X SWBT will permit AT&amp;T to inspect the ongoing preparation of the Collocated Space or modification of the Eligible Structure at regular intervals. At a minimum, SWBT will permit AT&amp;T to inspect the Collocated Space and Eligible Structure when construction is approximately 25% completed, when construction is approximately 50% completed, and when construction is approximately 75% completed. Should AT&amp;T's inspections reveal that SWBT or SWBT's subcontractors have deviated from the approved working drawings and specifications in the construction of the Collocated Space or modification of the Eligible Structure, SWBT will correct those deviations as soon as reasonably practicable.</u></p> | <p>AT&amp;T claims that SWBT's denial of this documentation will prevent it from verifying if construction of the Collocated Space was done properly. AT&amp;T is wrong. It has ample opportunity to verify proper construction by the inspection rights granted herein and in the Technical Publication.</p> <p>Thus, T&amp;T's requested language must be rejected.</p> | <p>SWBT objects to the inclusion of AT&amp;T's language.</p> |
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**XI. COLLECTION**  
**CONTRACTUAL DISPUTES ISSUES MATRIX**  
**AT&T-SWB INTERCONNECTION AGREEMENT - MISSOURI**

| 18. Must SWBT notify AT&T that | AT&T's proposed language requires | Attachment 13: Appendix | SWBT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SWBT opposes the inclusion of |
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|                                |                                   |                         | <p>the architect provides this inspection services to the owner under their contractual agreement. However, AT&amp;T does not define what roles each party is playing in this "standard" practice reference.</p> <p>SWBT will allow AT&amp;T to inspect the collocation arrangement once after fifty percent (50%) of the agreed Completion Interval has passed. The cost for SWBT's employees to provide that inspection must be paid by AT&amp;T on an hourly basis, including overhead cost and travel expense. SWBT does not have personnel dedicated to scheduling and providing such inspection tours.</p> <p>AT&amp;T claims that the purpose of periodic inspections is to identify deviations from approved plans. In-progress inspections of construction projects that are 50% complete will not yield this type of information. By simply performing a "walk-through" inspection, it is difficult to determine whether work is in error or is just incomplete. SWBT's project manager is responsible for determining if work is done in compliance with the contract documents.</p> <p>Not all LSPs will want to incur this additional cost for conducting an inspection. Accordingly, SWBT will offer this inspection as an option at the LSPs' cost.</p> <p>Thus, AT&amp;T proposal must be denied.</p> |                               |



**XI. COLLOCATION  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

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| <p>preparation of Collocated Space is 50% completed?</p>                                                                                                                                                                                                                                                                                                                                   | <p>SWBT to notify AT&amp;T when the preparation of the Collocated Space is 50% completed. The provision of this information would not impose a substantial burden on SWBT. The information is necessary so that AT&amp;T will be notified of the timeliness of SWBT's preparation activities and can make appropriate arrangements should SWBT be behind or ahead of schedule, including notifying end-user customers of any delay in provision of their service. AT&amp;T's proposed language should therefore be included.</p>                                                                                                                                                                     | <p><u>Collocation</u></p> <p><u>4.X SWBT will notify AT&amp;T when construction of the Collocated Space is 50% completed. SWBT will confirm its Completion Interval, if possible; otherwise SWBT will notify AT&amp;T of all jeopardies that could delay the preparation of the Collocated Space.</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>inspect the collocation arrangement once after 50% of the agreed completion intervals has passed. SWBT's personnel involved with the inspection must be paid by AT&amp;T. No further notification is necessary.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>AT&amp;T's language.</p>                               |
| <p>19.<br/>SWBT Statement of Issue:<br/><br/>SWBT's Statement of Issue:<br/><br/>Can AT&amp;T hire subcontractors to expedite completion of its requested work within the "cage" portion of the Collocated Space?<br/><br/>AT&amp;T Statement of Issue:<br/><br/>May AT&amp;T subcontract the preparation of Collocated Space or pursue other remedies if SWBT performs inefficiently?</p> | <p>AT&amp;T's proposed language allows AT&amp;T to subcontract the preparation of the Collocated Space if SWBT is unable to complete the preparation of the Collocated Space within the specified Completion Interval. The proposed language provides an effective remedy for AT&amp;T when SWBT performs the preparation of the Collocated Space inefficiently. This is a reasonable business practice which is often included in construction contracts to remedy a failure to complete construction on time. The proposed language is also consistent with Section 51.323(j) of the FCC's regulations and is therefore reasonable. AT&amp;T's proposed language should therefore be included.</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p><u>4.X SWBT will exercise due diligence to prepare the Collocated Space in a reasonable time period, not to exceed three months from AT&amp;T's acceptance of SWBT's price quotation, unless otherwise mutually agreed to in writing by AT&amp;T and SWBT. In the event that SWBT is not able to prepare the Collocated Space within the quoted Completion Interval, SWBT will provide AT&amp;T with a revised Completion Interval within seven (7) working days after SWBT ascertains that the original Completion Interval cannot be met. If the revised Completion Interval is objectionable to AT&amp;T, and the parties cannot resolve AT&amp;T's objection, the issue may be presented to the State Commission for review. Alternatively, if the revised Completion Interval is objectionable to AT&amp;T, AT&amp;T may individually subcontract the further preparation of the Collocated Space or further modification of the Eligible</u></p> | <p>The parties have agreed on procedures for SWBT completing the Collocated Space within a specified time frame (the "Completion Interval") and for extending the duration of this Completion Interval. AT&amp;T wants to add language permitting use of its own subcontractors to complete Collocated Space preparation if the timing is unacceptable. AT&amp;T would agree to pay for such work, but it would have the Preparation Charge reduced accordingly.</p> <p>Consistent with Section 51.323(j) of the FCC's rules, SWBT will permit AT&amp;T to use subcontractors for work only in the "cage," as agreed to prior to commencement of construction. However, AT&amp;T has absolutely no right to engage subcontractors for work in areas other than within its own "cage." Moreover, AT&amp;T is protected against a reasonable delay because the parties have agreed to language that provides for Commission review if the Completion Interval is unacceptable to either party. Thus, its proposed</p> | <p>SWBT opposes the inclusion of AT&amp;T's language.</p> |

# **XI. COLLOCATION** **CONTRACTUAL DISPUTED ISSUES MATRIX** **AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

| AT&T<br>Position and Proposed Resolution<br>Including Proposed Language                                                                                                                                                                                                                              | AT&T<br>Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | SWBT<br>Position and Proposed Resolution<br>Including Proposed Language                                                                                                                                                                                                                                                                                                | SWBT<br>Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                                                                                                                                                                                                                                                                                      | <p><u>Structure with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. AT&amp;T will be responsible for the cost of its own contractors; SWBT will, however, reduce the Preparation Charge by AT&amp;T's cost of providing its own contractors.</u></p>                                                                                                                                                                                         | <p>modification is unavailing and must be denied.</p>                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>20.<br/>SWBT Statement of Issue:<br/><br/>Can SWBT be made liable for liquidated damages if the Collocated Space is not completed within the Completion Interval.<br/><br/>AT&amp;T Statement of Issue:<br/><br/>Must SWBT pay liquidated damages for delayed completion of Collocated Space?</p> | <p>AT&amp;T's proposed language provides for liquidated damages of \$1,000.00 per day should SWBT not complete the preparation of the Collocated Space within the quoted Completion Interval. Liquidated damages for such a delay is appropriate, considering the difficulties of proof of loss and the absence of a feasible remedy to compensate AT&amp;T for such a delay including damages to goodwill. Liquidated damages clauses are common in construction contracts for those reasons, and this specific clause is not unreasonable. AT&amp;T's proposed language should therefore be included.</p> | <p><u>Attachment 13: Appendix Collocation</u><br/><br/><u>4.13 If SWBT is not able to prepare the Collocated Space within the quoted Completion Interval, SWBT will be liable to AT&amp;T for liquidated damages in the amount of \$1,000.00 for each day between the expiration of the quoted Completion Interval and the completion of the Collocated Space.</u></p> | <p>AT&amp;T wants SWBT to be liable in the amount of \$1,000.00 for each day it needs, beyond expiration of the Completion Interval, to complete Collocated Space preparation. This demand is unjustified. It is contemplated neither by the Act nor by standard industry practice.</p> <p>The common practice in the construction of telephone plant is to excuse the party responsible for construction from performance, in the event of circumstances outside its control, with a <i>force majeure</i> clause. This Agreement must account for the fact that construction required for collocation may, on occasion, be delayed due to numerous reasons, such as a late equipment shipment, natural disasters, accidents that occur during construction, or acts of God. Delays even could be caused by the collocator failing to meet its obligations (such as any obligation that it may have to provide its own point of termination frame or cable to SWBT).</p> <p>Adding a liquidated damages</p> |
|                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                        | <p>SWBT opposes the inclusion of AT&amp;T's language.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

**XI. COLLOCATION  
CONTRACTUAL DISPUTED ISSUES MATRIX  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

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|                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                        | <p>clause raises the issue of which party caused the delay – SWBT or AT&amp;T – and how long it lasted. The parties would have to undergo dispute resolution about liability for causing the delay and the amount of the liquidated damages for each delay in the preparation of Collocated Space. This would add another costly administrative burden into the collocation process that would thwart the objective of transition into a competitive environment by ultimately increasing consumer prices. Moreover, SWBT's charges to collocators necessarily would be adjusted upwards to take into account the risk of potential liquidated damages being incurred during the construction process in spite of SWBT's efforts to meet the Completion Interval.</p> |                                                  |
| <p>21. When may SWBT fail to notify AT&amp;T of the completion of the Collocated Space?</p> | <p>SWBT's proposal would excuse SWBT's failure to notify AT&amp;T of the completion of a collocated space within five (5) days under "unusual circumstances." SWBT's proposal is unreasonable. The simple notification required by this section is neither complex, difficult, nor time consuming. Five (5) days' time is certainly sufficient to account for any "unusual circumstances" that could delay notification to AT&amp;T. SWBT's proposal should therefore be excluded.</p> | <p><u>Attachment 13: Appendix Collocation</u></p> <p>4.X SWBT will notify AT&amp;T within five (5) days after preparation is complete that preparation of the Collocated Space has been completed.</p> | <p>SWBT does not believe that \$1,000 a day is reasonable because SWBT should not be held responsible for problems with vendors or outside third parties outside the control of SWBT.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>SWBT will agree with AT&amp;T's language.</p> |

# **XI. COLLOCATION CONTRACTUAL DISPUTED ISSUES MATRIX AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

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| <p>22. SWBT Statement of Issue:<br/><br/>Is AT&amp;T entitled to inspect and/or occupy:<br/><br/>(1) the Collocated Space before paying the Common Charge, Collocated Space Charge and the Custom Work Charge; and<br/><br/>(2) the Eligible Structure for any reason at any time?</p> | <p>AT&amp;T's proposed language would allow AT&amp;T to inspect the Collocated Space and Eligible Structure and would require SWBT to correct SWBT's errors in both the preparation of the Collocated Space and modification of the Eligible Structure. Both the inspection and error-correction requirements are common in construction contracts and are reasonable in this section. AT&amp;T's proposed language should therefore be included.</p> | <p><u>Attachment 13: Appendix Collocation</u><br/><br/><u>5.X. On or after the Commencement Date, AT&amp;T will be permitted to access the Collocated Space and Eligible Structure for the limited purpose of inspecting them. At AT&amp;T's request and at SWBT's expense, SWBT will correct all errors in SWBT's preparation of the Collocated Space or in its modification of the Eligible Structure as soon as reasonably practicable. After AT&amp;T has approved both SWBT's preparation of the Collocated Space and modification of the Eligible Structure, AT&amp;T may occupy the Collocated Space.</u></p> | <p>AT&amp;T wants the right to inspect and/or occupy both the Collocated Space and Eligible Structure after the Commencement Date but before full payment of all applicable non-recurring charges.<br/><br/>SWBT will not allow AT&amp;T to inspect or occupy the Collocated Space until after it has paid the quoted non-recurring charges. Even today, SWBT still is attempting to collect unpaid non-recurring charges dating back to 1993 and 1994 from various collocators. Thus, it is unreasonable to expect SWBT to place its capital dollars at risk in this manner.</p>                                                                     | <p>SWBT opposes the inclusion of AT&amp;T's language. SWBT's language should read: "SWBT will not permit AT&amp;T to access the collocated space for any purpose other than inspection until AT&amp;T has paid to SWBT the unpaid portions of the Common Charge, Collocated Space Charge and Custom Work Charge."</p> |
| <p>AT&amp;T Statement of Issue:<br/><br/>Must SWBT correct errors in the preparation of the Collocated Space?</p>                                                                                                                                                                      | <p>SWBT's proposal would prohibit AT&amp;T from accessing the Collocated Space for any purpose other than inspection prior to AT&amp;T's payment of the unpaid portions of the Preparation Charge. This proposal is unreasonable for the reasons stated in the section of this Matrix addressed to Section 5.X of this Appendix.</p>                                                                                                                  | <p><u>5.X. On or after the Commencement Date, AT&amp;T will be permitted to access the Collocated Space and Eligible Structure for the limited purpose of inspecting them. At AT&amp;T's request and at SWBT's expense, SWBT will correct all errors in SWBT's preparation of the Collocated Space or in its modification of the Eligible Structure as soon as reasonably practicable. After AT&amp;T has approved both SWBT's preparation of the Collocated Space and modification of the Eligible Structure, AT&amp;T may occupy the Collocated Space.</u></p>                                                     | <p>Furthermore, AT&amp;T has absolutely no access right to the Eligible Structure. Adequate safeguards exist for AT&amp;T should there be any deviation from the agreed-upon specifications for AT&amp;T's Collocated Space. Any variations to requirements shown on the approved layout will be coordinated and approved with AT&amp;T at the time conflicts are determined. Corrections will be made if variations exist that AT&amp;T has not approved and SWBT will be responsible for appropriate costs to make such changes. AT&amp;T has no right of prior approval over Collocated Space preparation and Eligible Structure modification.</p> | <p>Safeguards exist for AT&amp;T should there be any deviation from the agreed-upon specifications for the Collocated Space. AT&amp;T's proposal regarding inspection rights is not necessary. AT&amp;T will have adequate opportunity to conduct thorough</p>                                                        |