

## **APPENDIX RECORDING**

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

**1. INTRODUCTION**

- 1.1 This Appendix sets forth the terms and conditions under which SBC-13STATE will provide recording, message processing and message detail services as described in **Exhibit I** and **Exhibit II**, Exhibits I and II are part of this Appendix by reference.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE, and means the applicable above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Oklahoma, Ohio, Texas and Wisconsin.

**2. DEFINITIONS**

- 2.1 “**Access Usage Record (AUR)**” - a message record which contains the usage measurement reflecting the service feature group, duration and time of day for a message and is subsequently used to bill access to Interexchange Carriers (IXCs).
- 2.2 “**Assembly and Editing**” - the aggregation of recorded customer message details to create individual message records and the verification that all necessary information required ensuring all individual message records meet industry specifications is present.
- 2.3 “**Billing Company**” - the company that bills End Users for the charges incurred in originating and terminating IXC transported calls.
- 2.4 “**Billable Message**” - a message record containing details of a completed IXC transported call which is used to bill an end user.
- 2.5 “**Centralized Message Distribution System (CMDS)**” - the national network of private line facilities used to exchange Exchange Message Records (EMR) formatted billing data between SBC-13STATE and the Billing Company.

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- 2.6 **“Data Transmission”** - the forwarding by SBC-13STATE of IXC transported toll message detail and/or access usage record detail in EMR format over data lines or on magnetic tapes to the appropriate Billing Company.
- 2.7 **“Exchange Message Record (EMR)”** - Industry standard message format as described in accordance with the Telcordia Practice BR010-200-010 developed for the interexchange of telecommunications message information.
- 2.8 **“Interexchange Carrier (IXC)”** - A third party transmission provider that carries long distance voice and non-voice traffic between user locations for a related recurring fee. IXCs provide service interstate and intrastate. In some states IXCs are permitted to operate within a LATA.
- 2.9 **“Interexchange Carrier Transported”** - telecommunications services provided by an IXC or traffic transported by facilities belonging to an IXC.
- 2.10 **“Local Access and Transport Area (LATA)”** - service areas defined in FCC Docket 78-72.
- 2.11 **“Message Processing”** - the creation of individual EMR formatted billable message detail records from individual recordings that reflect specific billing detail for use in billing the End User and/or access usage records from individual recordings that reflect the service feature group, duration and time of day for a message, Carrier Identification Code, among other fields, for use in billing access to the Interexchange Carriers. Message Processing includes performing CMDS online edits required to ensure message detail and access usage records are consistent with CMDS specifications.
- 2.12 **“Originating Local Exchange Carrier Company”** - the company whose local exchange telephone network is used to originate calls thereby providing originating exchange access to IXCs.
- 2.13 **“Provision of Message Detail”** - the sorting of all billable message detail and access usage record detail by Revenue Accounting Office, Operating Company Number or Service Bureau, splitting of data into packs for invoicing, and loading of data into files for data transmission to CLEC for those records created internally or received from other Local Exchange Carrier Companies or Interexchange Carriers through SBC-13STATE’s internal network or national CMDS.
- 2.14 **“Record”** - a logical grouping of information as described in the programs that process information and create the magnetic tapes or data files.
- 2.15 **“Recording”** - the creation and storage on magnetic tape or other medium of the basic billing details of a message in Automatic Message Accounting (AMA) format.

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- 2.16 "Service Switching Point (SSP)" - a signaling point that can launch queries to databases and receive/interpret responses used to provide specific customer services.
- 2.17 "Recording Company" - the company that performs the functions of recording and message processing of Interexchange Carrier (IXC) transported messages and the provision of message detail.
- 2.18 "Switching Control Point (SCP)" - the real time database system that contains routing instructions for 800 calls. In addition to basic routing instructions, the SCP may also provide vertical feature translations, i.e., time of day, day of week routing, out of area screening and/or translation of the dialed 800 number to its assigned working telephone number.
- 2.19 "800 SCP Carrier Access Usage Summary Record (SCP Record)" - a summary record which contains information concerning the quantity and types of queries launched to an SBC-13STATE SCP. In those situations where charges are applicable for the production and delivery of SCP records, such charges will be those specified in Exhibit II pertaining to the production and forwarding of AUR data.
- 2.20 "Terminating Local Exchange Carrier Company" - the company whose local exchange telephone network is used to terminate calls thereby providing terminating exchange access to IXCs.

### 3. RESPONSIBILITIES OF THE PARTIES

- 3.1 SBC-13STATE will record all IXC transported messages for CLEC carried over all Feature Group Switched Access Services that are available to SBC-13STATE provided recording equipment or operators. Unavailable messages (i.e., certain operator messages that are not accessible by SBC-13STATE -provided equipment or operators) will not be recorded. The recording equipment will be provided at locations selected by SBC-13STATE.
- 3.2 SBC-13STATE will perform assembly and editing, message processing and provision of applicable access usage record detail for IXC transported messages if the messages are recorded by SBC-13STATE.
- 3.3 SBC-13STATE will provide access usage records that are generated by SBC-13STATE.
- 3.4 Assembly and editing will be performed on all IXC transported messages recorded by SBC-13STATE, during the billing period established by SBC-13STATE and selected by CLEC.

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- 3.5 Standard EMR record formats for the provision of billable message detail and access usage record detail will be established by SBC-13STATE and provided to CLEC.
- 3.6 Recorded billable message detail and access usage record detail will not be sorted to furnish detail by specific end users, by specific groups of end users, by office, by feature group or by location.
- 3.7 SBC-13STATE will provide message detail to CLEC in data files, via data lines (normally a File Transfer Protocol), utilizing an 800 dial up or the Internet to receive and deliver messages or a network data mover facility, using software and hardware acceptable to both parties.
- 3.8 In **Exhibit II**, CLEC will identify separately the location where the data transmissions should be sent (as applicable) and the number of times each month the information should be provided. SBC-13STATE reserves the right to limit the frequency of transmission to existing SBC-13STATE processing and work schedules, holidays, etc.
- 3.9 SBC-13STATE will determine the number data files required to provide the access usage record detail to CLEC.
- 3.10 Recorded billable message detail and/or access usage record detail previously provided CLEC and lost or destroyed through no fault of SBC-13STATE will not be recovered and made available to CLEC except on an individual case basis at a cost determined by SBC-13STATE.
- 3.11 When SBC-13STATE receives rated billable messages from an IXC or another Local Exchange Carrier (LEC) that are to be billed by CLEC, SBC-13STATE will forward those messages to CLEC.
- 3.12 SBC-13STATE will record the applicable detail necessary to generate access usage records and forward them to CLEC for its use in billing access to the IXC.

#### 4. BASIS OF COMPENSATION

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

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## 5. LIABILITY

- 5.1 Except as otherwise provided herein, neither Party shall be liable to the other for any special, indirect, or consequential damage of any kind whatsoever. A Party shall not be liable for its inability to meet the terms of this Agreement where such inability is caused by failure of the first Party to comply with the obligations stated herein. Each Party is obliged to use its best efforts to mitigate damages.
- 5.2 When SBC-13STATE is notified that, due to error or omission, incomplete data has been provided to the CLEC, SBC-13STATE will make reasonable efforts to locate and/or recover the data and provide it to the CLEC at no additional charge. Such requests to recover the data must be made within thirty (30) calendar days from the date the details initially were made available to the CLEC. If written notification is not received within thirty (30) calendar days, SBC-13STATE shall have no further obligation to recover the data and shall have no further liability to the CLEC.
- 5.3 If, despite timely notification by the CLEC, message detail is lost and unrecoverable as a direct result of SBC-13STATE having lost or damaged tapes or incurred system outages while performing recording, assembly and editing, rating, message processing, and/or transmission of message detail, SBC-13STATE will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, SBC-13STATE's liability to the CLEC shall be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost message detail.
- 5.4 SBC-13STATE will not be liable for any costs incurred by the CLEC when the CLEC is transmitting data files via data lines and a transmission failure results in the non-receipt of data by SBC-13STATE.
- 5.5 The CLEC agrees to defend, indemnify, and hold harmless SBC-13STATE from any and all losses, damages, or other liability, including attorney fees, that it may incur as a result of claims, demands, or other suits brought by any party that arise out of the use of this service by the CLEC, its customers or end users. The CLEC shall defend against all End Users' claims just as if the CLEC had provided such service to its End Users with its own employees.
- 5.6 The CLEC also agrees to release, defend, indemnify and hold harmless SBC-13STATE 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 SBC-13STATE employees and equipment 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.

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- 5.7 The CLEC also agrees to release, defend, indemnify and hold harmless the Recording Company from any claim, demand or suit to perform under this contract should any regulatory body or any State or Federal Court find the existing terms of this contract to either be illegal, unenforceable, against public policy, or improper for the Recording Company.
- 5.8 SBC-13STATE makes no representations or warranties, express or implied, including but not limited to any warranty as to merchantability or fitness for intended or particular purpose with respect to services provided hereunder. Additionally, SBC-13STATE assumes no responsibility with regard to the correctness of the data supplied by CLEC when this data is accessed and used by a third party.

## 6. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

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**EXHIBIT I  
SERVICES**

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

**EXPLANATION OF SERVICE OPTIONS**

**ORIGINATING 1+ DDD RECORDINGS - IXC TRANSPORTED MESSAGE DETAIL  
AND ACCESS USAGE RECORDS**

- Option #1:** This option has been withdrawn.
- Option #2:** The Recording Company performs recording, assembly and editing of the billable message detail and extracts that detail to the IXC for all 1+ IXC transported messages originating from the CLECCLEC end office. The Recording Company creates Access Usage Records for this traffic and forwards those AUR records to the CLEC.
- Option #3:** The Interexchange Carriers do own billable message recording for their 1+ IXC transported messages originating from the CLEC end office. The Recording Company performs recording for Access purposes only, assembles and edits this data, creates AURs and forwards the AUR records to the CLEC.

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

- Option #4:** CLEC Non-Equal Access End Office - The Interexchange Carriers do own billable message recording. The Recording Company performs local and intraLATA operator services for the CLEC. The Recording Company performs recording at the operator switch for all 0+, 0-, Coin Sent Paid, CAMA and International IXC transported messages. The Recording Company assembles and edits this data, creates AURs and forwards the AUR records to the CLEC.
- Option #5:** CLEC Equal Access End Office - The Interexchange Carriers do own billable message recording. The Recording Company performs local and intraLATA operator services for the CLEC. The Recording Company performs recording at the operator switch for 0- only IXC transported messages. The Recording Company assembles and edits this data, creates AURs and forwards the AUR records to the CLEC.
- Option #6:** This option has been withdrawn.
- Option #7:** This option has been withdrawn.

**800 RECORDINGS - IXC TRANSPORTED MESSAGE DETAIL**

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

**800 RECORDINGS - IXC TRANSPORTED MESSAGE DETAIL (Continued)**

- Option #9:** This option has been withdrawn.
- Option 10:** Recording Company performs SCP function for CLEC. The Recording Company performs recording at the SCP, assembles and edits this data, creates SCP records and forwards SCP records to the CLEC.

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

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

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### MESSAGE PROVISIONING

- Option 16:** The Recording Company will forward all IXC transported message detail records or access usage records to the CLEC generated internally within the Recording Company system or received via CMDS from an Interexchange Carrier or another Local Exchange Carrier telephone company. The CLEC forwards rated IXC transported message detail or access usage detail to Recording Company for distribution to the appropriate billing company through 13STATE's internal network or using the CMDS network.

Form SW-1773-I

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**EXHIBIT II**

**INVOICE DESIGNATION**

Effective January 1, 1999

COMPANY NAME:

EXCHANGE COMPANY I.D. NUMBER (OCN):

BILLABLE INVOICE INTERVAL:

Check One:

☐ Daily (Full Status RAO Companies will receive billable messages daily.)

☐ Bill period (A maximum of five dates may be chosen.) A file is created five workdays from each bill period date, and three additional days should be allowed for distribution. Circle a maximum of five bill period dates:

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

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Form SW-1733-III-B

AUR INVOICE INTERVAL:

Check One:

☐ Daily (Full Status RAO Companies will receive AURs daily.)

☐ Bill period (A maximum of five dates may be chosen.) A file is created five workdays from each bill period date, and three additional days should be allowed for distribution. Circle a maximum of five bill period dates:

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

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## APPENDIX RESALE

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## APPENDIX RESALE

### 1. INTRODUCTION

- 1.1 This Appendix set forth terms and conditions for Resale Services provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, and/or Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILEC doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 As used herein, SBC-AMERITECH means the applicable above listed ILEC doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.5 As used herein, SBC-SWBT means the applicable above listed ILEC doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.6 As used herein, SWBT-AR means the applicable above listed ILEC doing business in Arkansas.
- 1.7 As used herein, SWBT-KS means the applicable above listed ILEC doing business in Kansas.
- 1.8 As used herein, SWBT-MO means the applicable above listed ILEC doing business in Missouri.
- 1.9 As used herein, SWBT-OK means the applicable above listed ILEC doing business in Oklahoma.
- 1.10 As used herein, SWBT-TX means the applicable above listed ILEC doing business in Texas.
- 1.11 As used herein, AM-MI means the applicable above listed ILEC doing business in Michigan.

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- 1.12 As used herein, AM-IN means the applicable above listed ILEC doing business in Indiana.
- 1.13 As used herein, AM-IL means the applicable above listed ILEC doing business in Illinois.
- 1.14 As used herein, AM-OH means the applicable above listed ILEC doing business in Ohio.
- 1.15 As used herein, AM-WI means the applicable above listed ILEC doing business in Wisconsin.
- 1.16 As used herein, PACIFIC means the applicable above listed ILEC doing business in California.
- 1.17 As used herein, NEVADA means the applicable above listed ILEC doing business in Nevada.
- 1.18 As used herein, SNET means the applicable above listed ILEC doing business in Connecticut.
- 1.19 The prices at which SBC agrees to provide CLEC with Resale Services are contained in the applicable Appendix Pricing and/or the applicable Commission ordered tariff where stated.

## 2. DESCRIPTION AND CHARGES FOR SERVICES

- 2.1 A list of Telecommunications Services currently available for resale at the wholesale discount rate for each service determined by the appropriate Commission is set forth in Appendix Pricing. Except as otherwise expressed herein, consistent with SBC-13STATE's obligation under Section 251(c)(4)(A) of the Act and any other applicable limitations or restrictions, CLEC may resell other Telecommunications Services offered at retail by SBC-13STATE at the discount set forth in Appendix Pricing.
  - 2.1.1 This section applies only to SWBT-KS:
    - 2.1.1.1 CLEC shall select either (1) a uniform rate structure or (2) a three-tier discount structure based on lines, vertical features and toll. The three-tier discount structure will be made available upon written request from CLEC negotiating an interconnection agreement with SWBT.
- 2.2 SBC-13STATE will offer products and services to CLEC for resale pursuant to relevant decisions of the appropriate Commission.

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- 2.3 Telecommunications Services will be offered by SBC-13STATE to CLEC for resale on terms and conditions that are reasonable and nondiscriminatory.
- 2.4 Grandfathered services are available per appropriate state specific tariff to CLEC for resale at the applicable discount only to the same End User, at the existing End User's location, to which SBC-13STATE provides the service, either at retail or through resale.

### 3. TERMS AND CONDITIONS OF SERVICE

- 3.1 Except as otherwise expressly provided herein, for Telecommunications Services included within this Appendix that are offered by SBC-13STATE to SBC-13STATE's End Users through tariff(s), the rules and regulations associated with SBC-13STATE's retail tariff(s) shall apply when the services are resold by CLEC, with the exception of any tariff resale restrictions; provided, however, any tariff restrictions on further resale by the End User shall continue to apply. Use limitations shall be in parity with services offered by SBC-13STATE to its End Users.
- 3.2 CLEC shall only sell Plexar®, Centrex and Centrex-like services to a single End User or multiple End User(s) in accordance with the terms and conditions set forth in the corresponding SBC-13STATE retail tariff(s) applicable within that state.
- 3.3 Except where otherwise explicitly permitted in SBC-13STATE's corresponding retail tariff(s), CLEC shall not permit the sharing of a service by multiple End User(s) or the aggregation of traffic from multiple End User(s) onto a single service.
  - 3.3.1 This section applies only to SWBT-TX:
    - 3.3.1.1 Within the State of Texas, based upon the Texas Commission's arbitration order, SWBT-TX will permit aggregation for purposes of the resale of volume discount offers. Volume discount offers include such items as intraLATA toll, but do not include such items as packages of vertical features.
- 3.4 CLEC shall only resell services furnished under this Appendix to the same category of End User(s) to whom SBC-13STATE offers such services (for example, residence service shall not be resold to business End Users).
  - 3.4.1 SBC-13STATE - CLEC may only resell special needs services" as identified in associated state specific tariffs to persons who are eligible for each such service. As used herein, the term "special needs services" means services for the physically disabled where the disability is related to vision, speech, hearing or motion. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User has obtained proper certification, continues to be eligible for the

program(s), and complies with all rules and regulations as established by the appropriate Commission and the state specific SBC-13STATE tariffs.

3.4.2 This section applies only to SBC-SWBT: AM-WI, AM-OH and AM-IN:

3.4.2.1 CLEC may only resell SBC-SWBT, AM-WI, AM-OH and AM-IN low income assistance services, e.g. LifeLine and Link-Up services, where available for resale, according to associated retail state specific tariffs to persons who are eligible for each such service. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User meets all associated tariff eligibility requirements, has obtained proper certification, continues to be eligible for the program(s), and complies with all rules and regulations as established by the appropriate Commission and the state specific SBC-SWBT, AM-WI, AM-OH and AM-IN tariffs.

3.4.3 This section applies only to PACIFIC, SNET and SBC-AM-IL:

3.4.3.1 PACIFIC, SNET and SBC-AM-IL LifeLine and Link-Up services are not available for resale.

3.4.3.2 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and recertifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

3.4.4 This section applies only to NEVADA:

3.4.4.1 NEVADA low income assistance services, e.g., LifeLine and Link-Up services are available for resale for a maximum period of 90 days from contract approval date. The CLEC has 90 days from the contract approval date to coordinate with the appropriate federal and state government agencies to establish the CLEC's own low income assistance service(s). At the end of the 90 day period, CLEC is responsible for initiating Local Service Requests (LSR) to the ILEC for converting any existing ILEC Customer Service Records (CSR) from low income designated services to normal residential service. CLEC will be responsible for designating its own billing records and

establishing and administering its low income assistance services internally.

3.4.4.2 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and recertifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

### 3.5 Promotions

3.5.1 Promotions are available for the Telecommunications Services outlined in Appendix Pricing in the "Resale" category and in accordance with state specific Commission requirements.

3.5.2 This section applies only to NEVADA and SWBT-MO:

3.5.2.1 Promotions of eighty-nine (89) days or less are not available to CLEC for resale.

3.5.2.2 Promotions of ninety (90) days or more are available to CLEC for resale at the applicable wholesale discount, state specific.

3.5.3 This section applies only to PACIFIC, SBC-AMERITECH, SNET, and SWBT-AR:

3.5.3.1 Promotions of ninety (90) days or less are not available to CLEC for resale.

3.5.3.2 Promotions of ninety-one (91) days or more are available to CLEC for resale and at the applicable wholesale discount, state specific.

3.5.4 This section applies only to SWBT-KS, SWBT-TX, and SWBT-OK:

3.5.4.1 Promotions on Telecommunications Services are available to CLEC for resale. The applicable, state specific, wholesale discount will be applied to those promotions of ninety-one (91) days or more.

3.6 CLEC shall not use a resold service to avoid the rates, terms and conditions of SBC-13STATE's corresponding retail tariff(s).

- 3.7 CLEC shall not use resold local Telecommunications Services to provide access or interconnection services to itself, interexchange carriers (IXCs), wireless carriers, competitive access providers (CAPs), or other telecommunications providers; provided, however, that CLEC may permit its End Users to use resold local exchange telephone service to access IXCs, wireless carriers, CAPs, or other retail telecommunications providers.
- 3.8 A Federal End User Common Line charge and any other appropriate Commission-approved charges, as set forth in the appropriate SBC-13STATE federal and applicable state tariff(s) will apply to each local exchange line furnished to CLEC under this Appendix for resale.
- 3.9 To the extent allowable by law, CLEC shall be responsible for Primary Interexchange Carrier (both PIC and LPIC) change charges associated with each local exchange line furnished to CLEC for resale. CLEC shall pay all charges for PIC and LPIC changes at the tariffed rate(s).
- 3.10 SBC-13STATE shall provide the services covered by this Appendix subject to availability of existing facilities and on a nondiscriminatory basis with its other customers. CLEC shall resell the services provided herein only in those service areas in which such resale services or any feature or capability thereof are offered to End Users at retail by SBC-13STATE as the incumbent local exchange carrier.
- 3.11 When an End User converts existing service to CLEC resold service of the same type without any additions or changes, charges for such conversion will apply as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "conversion charges," and are applied per billable telephone number.
- 3.11.1 When an End User(s) subscribes to CLEC resold service, recurring charges for the service shall apply at the wholesale discount set forth in Appendix Pricing. The tariff rates for such resold service shall continue to be subject to orders of the appropriate Commission.
- 3.11.2 When CLEC converts an End User(s) existing service and additions or changes are made to the service at the time of the conversion, the normal service order charges and/or non-recurring charges associated with said additions and/or changes will be applied in addition to the conversion charge. CLEC will receive a wholesale discount on all non-recurring service order charges for the services listed in Appendix Pricing under the heading "Resale;" no wholesale discount is available for the non-recurring service order charges for those services listed in Appendix Pricing under the heading "OTHER (Resale)."

- 3.11.3 For the purposes of ordering service furnished under this Appendix, each request for new service (that is, service not currently being provided to the End User on SBC-13STATE's network, without regard to the identity of that End User's non-facilities based local service provider of record) shall be handled as a separate initial request for service and shall be charged per billable telephone number.
- 3.11.4 Where available, the tariff retail additional line rate for Service Order Charges shall apply only to those requests for additional residential service to be provided at the same End User premises to which a residential line is currently provided on SBC-13STATE's network, without regard to the identity of that End User's non-facilities based local service provider of record.
- 3.12 If CLEC is in violation of any provision of this Appendix, SBC-13STATE will notify CLEC of the violation in writing. Such notice shall refer to the specific provision being violated. CLEC will have thirty (30) calendar days to correct the violation and notify SBC-13STATE in writing that the violation has been corrected. SBC-13STATE will bill CLEC a sum equal (i) the charges that would have been billed by SBC-13STATE to CLEC or any Third Party but for the stated violation and (ii) the actual revenues CLEC billed its End User(s) in connection with the stated violation, whichever is greater. Should CLEC dispute the stated violation, CLEC must notify SBC-13STATE in writing of the specific details and reasons for its dispute within fourteen (14) calendar days of receipt of the notice from SBC-13STATE and comply with Sections 8.3 through 8.7 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Resolution of any dispute by CLEC of the stated violation shall be conducted in compliance with the Dispute Resolution provisions set forth in the General Terms and Conditions of the Agreement to which this Appendix is attached.
- 3.12 SBC-13STATE's services are not available at wholesale rates to CLEC for its own use or for the use of any of CLEC's affiliates and/or subsidiaries or the use of CLEC's parent or any affiliate and/or subsidiary of CLEC's parent company, if any.
- 3.14 This section applies only to SWBT-KS, SWBT-TX and SWBT-MO:
- 3.14.1 CLEC may convert current SWBT-KS, SWBT-TX and SWBT-MO End User(s) that have existing term, volume, termination liability or any customer specific pricing contracts (collectively referred to hereinafter as "CSP Contracts") for services offered within the State of Kansas or Texas, and
- 3.14.2 SWBT-KS, SWBT-TX and SWBT-MO and any other reseller of SWBT-KS, SWBT-TX or SWBT-MO local service may convert current CLEC End User(s) that have existing CSP Contracts for services offered within the State of Kansas, Texas or Missouri.

3.14.3 In the event of a conversion under either Section 3.14.1 or 3.14.2, CLEC and SWBT-KS, SWBT-TX or SWBT-MO shall comply with all of the terms and conditions set forth in Sections 3.14.4 and 3.14.5.

3.14.4 Responsibilities of CLEC in connection with Assumption of CSP Contract Conversions.

3.14.4.1 CLEC shall sign an "Assumption of Existing Agreement" assuming the balance of the terms, including volume, term and termination liability remaining on any current retail SWBT-KS, SWBT-TX, or SWBT-MO or resold End User CSP Contract at the time of conversion. CLEC may assume the CSP Contract at the wholesale discount of 5.0% in Kansas and 5.62% in Texas. CLECs may assume tariffed volume and term contracts at the wholesale discount of 8.0% in the State of Kansas and 8.04% in the State of Texas.

3.14.4.2 SWBT-MO tariffed and Individual Case Basis (ICB) contracts may be assumed, but receive no wholesale discount.

3.14.4.3 CLEC shall not charge CLEC's End User termination liability when an existing CSP contract between CLEC and its End User is converted to SWBT-KS, SWBT-TX, or SWBT-MO or any other local service provider reselling SWBT-KS, SWBT-TX, or SWBT-MO local service.

3.14.4.4 If another reseller of SWBT-KS, SWBT-TX, or SWBT-MO local service converts a current CLEC End User(s) that has an existing CSP Contract, it is CLEC's responsibility to address assumption of the CSP contract and termination liability with the other reseller. CLEC agrees that SWBT-KS, SBC-TX, or SWBT-MO has no responsibilities in such a situation, and CLEC further agrees that it will not make any Claim against SWBT-KS, SWBT-TX, or SWBT-MO in connection with any conversion by another reseller of SWBT-KS, SWBT-TX, or SWBT-MO local service of any CLEC End User(s) that has an existing CSP contract.

3.14.5 Responsibilities of SWBT-KS, SWBT-TX, and SWBT-MO in connection with Assumptions of CSP Contract Conversions:

3.14.5.1 SWBT-KS, SWBT-TX, and SWBT-MO will not charge its retail End User termination liability when an existing CSP contract is converted to CLEC for resale.

3.14.5.2 SWBT-KS, SWBT-TX, or SWBT-MO will assume in writing the balance of the terms, including volume, term and termination

liability remaining on a current CSP contract between CLEC and its End User at the time that CLEC's End User is converted to SWBT-KS, SWBT-TX, or SWBT-MO.

3.15 This section applies only to SBC-AMERITECH:

3.15.1 SBC-AMERITECH retail contracts may be assumed unless expressly prohibited by the contract. Contracts for grandfathered and/or sunsetted services may not be assumed.

3.15.2 Subject to the provisions of Section 3.15.1, the following shall apply:

3.15.2.1 AM-IL tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.16%.

3.15.2.2 AM-MI tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.39%.

3.15.2.3 AM-OH, and AM-WI tariffed and Individual Case Basis (ICB) contracts may be assumed, but receive no wholesale discount.

3.15.2.4 AM-IN tariffed and Individual Case Basis (ICB) contracts that are assumed will receive an interim wholesale discount of 3.39%. Final wholesale discount will be applied on a going forward basis awaiting the outcome of the pending cost study.

3.15.2.5 SBC-AMERITECH Non-Standard Service contracts may be assumed, but receive no wholesale discount.

3.15.3 If CLEC elects to terminate a SBC-AMERITECH retail contract which CLEC had previously assumed, CLEC will be assessed the applicable termination charges remaining unless CLEC elects to simultaneously replace the existing contract with a contract of greater term and/or volume at the same discount CLEC receives for the previously assumed but now terminated contract.

#### 4. ANCILLARY SERVICES

4.1 Where available, SBC-13STATE will afford CLEC's End Users the ability to make 911 calls. CLEC shall be responsible for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate Public Safety Answering Point (PSAP) or other governmental authority responsible for collection of such fees

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and surcharges. When requested by SWBT, CLEC shall provide SBC-13STATE with accurate and complete information regarding CLEC's End User(s) in a format and time frame prescribed by SBC-13STATE for purposes of E911 administration.

- 4.1.1 Should any CLEC End User assert any Claim that relates to access to 911, the limitations of liability set forth in Appendix 911, which is attached to the General Terms and Conditions of the Agreement to which this Appendix is attached, shall govern all Claims that may be asserted against any Party to this Appendix relating to access to 911, whether such assertion is made by the other Party or any Third Party, and such provisions are incorporated herein for all purposes as though set forth herein.
- 4.2 Subject to SBC-13STATE's practices, as well as the rules and regulations applicable to the provision of White Pages directories, SBC-13STATE will include in appropriate White Pages directories the primary alphabetical listings of all CLEC End Users located within the local directory scope. The rules, regulations and SBC-13STATE practices are subject to change from time to time.
- 4.3 Additional Listing services, as set forth in Appendix Pricing, may be purchased by CLEC for its End Users on a per listing basis.
- 4.4 Liability relating to End User Listings
  - 4.4.1 CLEC hereby releases SBC-13STATE from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided to SBC-13STATE under this Appendix, and/or CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, consequential, punitive or incidental damages.
  - 4.4.2 In addition to any other indemnity obligations in this Appendix or the Agreement to which this Appendix is attached, CLEC shall indemnify, protect, save harmless and defend SBC-13STATE and SBC-13STATE's officers, employees, agents, representatives and assigns 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 CLEC's End User listing information, including any error or omission related to non-published or non-listed End User listing information. CLEC shall so indemnify regardless of whether the demand, claim or suit by the third party is brought jointly against CLEC and SBC-13STATE, and/or against SBC-13STATE alone. However, if such demand, claim or suit specifically alleges that an error or omission appears in CLEC's End User listing information in the White Pages directory, SBC-13STATE may, at its option, assume and undertake its own defense, or assist in the defense of the CLEC, in which event the CLEC shall reimburse SBC-13STATE for

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reasonable attorney's fees and other expenses incurred by SBC-13STATE in handling and defending such demand, claim and/or suit.

- 4.5 Each CLEC subscriber will receive one copy per primary End User listing of SBC-13STATE's White Pages directory in the same manner and at the same time that they are delivered to SBC-13STATE's subscribers.
- 4.5.1 If CLEC's End User already has a current SBC-13STATE local White Pages directory, SBC-13STATE shall not be required to deliver a directory to that End User until new White Pages directories are published for that End User's location.
- 4.6 SBC-8STATE will provide CLEC with 1/8<sup>th</sup> page in each directory (where the CLEC has or plans to have local telephone exchange customers) for the CLEC to include CLEC specific-information (i.e., business office, residence office, repair bureau, etc.) in the White Pages directory on an "index-type" informational page. No advertising will be permitted on such informational page. This page will also include specific information pertaining to other CLECs. At its option, CLEC shall provide SBC-8STATE with its logo and information in the form of a camera-ready copy, sized at 1/8<sup>th</sup> of a page. The content of CLEC's camera-ready copy shall be subject to SBC-8STATE approval. In those directories in which SBC-8STATE includes Spanish Customer Guide Pages, this informational page will also be provided in Spanish at CLEC's request, subject to the guidelines set forth above.
- 4.7 At its request, CLEC may purchase one one-sided "Informational Page" in the informational section of the White Pages directory covering a geographic area where CLEC provides local telecommunications exchange service. Such page shall be no different in style, size, color and format than SBC-8STATE "Informational Page". Sixty (60) calendar days prior to the directory close date, the CLEC shall provide to SBC-8STATE the "Informational Page" in the form of camera-ready copy.
- 4.8 Subject to any blocking that may be ordered by CLEC for its End Users', to the extent Directory Assistance (DA) services are provided to SBC-13STATE End Users, SBC-13STATE shall provide CLEC's End Users access to SBC-13STATE Directory Assistance services. CLEC shall pay SBC-13STATE the charges attributable to Directory Assistance services utilized by CLEC's End Users.
- 4.9 Subject to any blocking that may be ordered by CLEC for its End Users', SBC-13STATE will provide access to Operator Services ("OS") to CLEC's End Users to the same extent it provides OS to its own End Users. CLEC shall pay the charges associated with the utilization of OS by CLEC's End Users. Discounts associated with the utilization of OS are set forth in Appendix Pricing.
- 4.10 SBC-13STATE offers CLEC the opportunity to customize route its End Users' /OS/DA calls where technically feasible.

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#### 4.11 OS/DA Branding

4.11.1 Where technically feasible and/or available, SBC-13STATE will brand Operator Services (OS) and/or Directory Assistance (DA) in CLEC's name as outlined below:

##### 4.11.2 Call Branding

4.11.2.1 SBC-13STATE will brand OS/DA in CLEC's name based upon the information provided by CLEC and as outlined below:

4.11.3 SBC-13STATE – CLEC will provide written specifications of its company name to be used by SBC-13STATE to create CLEC specific branding announcements for its OS/DA calls in accordance with the process outlined in the Operator Services OS/DA Questionnaire (OSQ).

4.11.4 CLEC name used in branding calls may be subject to Commission regulations and should match the name in which CLEC is doing business.

#### 4.12 Branding Load Charges:

4.12.1 SBC-SWBT – An initial non-recurring charge applies per state, per brand, per Operator assistance switch for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement. In addition, a per call charge applies for every OS/DA call handled by SBC-SWBT on behalf of CLEC when multiple brands are required on a single Operator Services trunk. This charge is set forth in Appendix Pricing under the "OTHER (Resale)" category.

4.12.1.1 SBC-AMERITECH – An initial non-recurring charge applies per brand, per Operator Assistance Switch, per trunk group for the establishment of CLEC specific branding. In addition, a per call charge applies for every OS call handled by SBC-AMERITECH on behalf of CLEC when such services are provided. An additional non-recurring charge applies per brand, per Operator assistance switch, per trunk group for each subsequent change to the branding announcement.

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4.12.1.2 SBC-2STATE – An initial non-recurring charge applies per state, per brand, per Operator assistance switch, for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement.

4.12.1.3 SNET – An initial non-recurring charge applies per brand, per load, per Operator assistance switch for the establishment of CLEC specific branding. An additional non-recurring charge applies per brand, per load, per Operator assistance switch for each subsequent change to the branding announcement.

## 5. OS/DA RATE/REFERENCE INFORMATION

- 5.1 When an SBC-12STATE Operator receives a rate request from a CLEC End User, where technically feasible and available, SBC-12STATE will quote the applicable OS/DA rates as provided by the CLEC.
- 5.2 SNET- until technically feasible and/or available, when a SNET Operator receives a rate request from a CLEC end user, SNET will quote the surcharge rate only.
- 5.3 CLEC will furnish OS/DA Rate and Reference Information in accordance with the process outlined in the Operator Services Questionnaire (OSQ). CLEC will furnish to SBC-13STATE a completed OSQ thirty (30) calendar days in advance of the date when the DA Services are to be undertaken.
- 5.4 CLEC will inform SBC-12STATE, via the Operator Services Questionnaire (OSQ) of any changes to be made to such Rate/Reference Information fourteen calendar days prior to the effective Rate/Reference change date. CLEC acknowledges that it is responsible to provide SBC-12STATE updated Rate/Reference Information in advance of when the Rate/Reference Information is to become effective.
- 5.5 An initial non-recurring charge will apply per state, per Operator assistance switch for loading of CLEC's OS Reference/Rater information. An additional non-recurring charge will apply per state, per Operator assistance switch for each subsequent change to either the CLEC's OS Reference or Rater information.
- 5.6 Payphone Services
  - 5.6.1 CLEC may provide certain local Telecommunications Services to payphone service providers ("PSPs") for PSPs' use in providing payphone service. Local Telecommunications Services which PSPs use in providing payphone service that are provided to PSPs by CLEC by means of reselling SBC-13STATE's services offered pursuant to the appropriate payphone section(s)

of SBC-13STATE's state specific tariff(s) applicable in each state covered by this Appendix are referred to in this Appendix as "Payphone Lines." In its Common Carrier Docket No. 96-128, the FCC ordered SBC-13STATE to compensate PSP customers of CLECs that resell SBC-13STATE's services for certain calls originated from pay telephones. (Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC Docket No. 96-128, Report and Order, para. 86 (1996)). This compensation is referred to in this Agreement as "Payphone Compensation."

- 5.6.2 The Parties desire that SBC-13STATE satisfy the obligation to pay Payphone Compensation to PSPs that are customers of CLEC by paying the Payphone Compensation to CLEC, who will then forward the Payphone Compensation directly to the PSPs.
- 5.6.3 SBC-13STATE will pay Payphone Compensation due with respect to Payphone Lines in compliance with the current or any future order of the FCC. SBC-13STATE will pay Payphone Compensation to CLEC only for:
  - 5.6.3.1 IntraLATA subscriber 800 calls for which SBC-13STATE provides the 800 service to the subscriber and carries the call; and
  - 5.6.3.2 IntraLATA calls placed using SBC-13STATE's prepaid calling card platform and carried by SBC-13STATE.
- 5.6.4 SBC-13STATE will not be required to pay any Payphone Compensation for non-sent paid calls.
- 5.6.5 SBC-13STATE will pay CLEC the Payphone Compensation due to CLEC's PSP customer(s) within sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made. However, payment may be made later than sixty (60) calendar days if SBC-13STATE deems it necessary to investigate a call or calls for possible fraud.
- 5.6.6 SBC-13STATE will make payment of any Payphone Compensation due to CLEC under this Appendix by crediting CLEC's bill for the Payphone Line over which the call that gives rise to the Payphone Compensation was placed. SBC-13STATE will not automatically issue a check to CLEC if the credit for Payphone Compensation exceeds the balance due to SBC-13STATE on the bill.
- 5.6.7 Nothing in this Appendix entitles CLEC to receive or obligates SBC-13STATE to provide any call detail or other call record for any call that gives rise to Payphone Compensation.

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- 5.6.8 CLEC represents and warrants that the only SBC-13STATE services that CLEC will make available to PSPs as Payphone Lines are the payphone services that SBC-13STATE offers pursuant to the appropriate payphone section(s) of SBC-13STATE's state specific tariff(s) applicable in each state covered by this Appendix.
- 5.6.9 Except as provided otherwise in this Section 4.9.9, CLEC shall pay the entire amount of the Payphone Compensation due with respect to each Payphone Line to the PSP that is the CLEC's customer for that Payphone Line. CLEC shall make such payment on or before the last business day of the calendar quarter following the calendar quarter during which the call(s) for which Payphone Compensation is due to the PSP were made. If SBC-13STATE pays any Payphone Compensation to CLEC later than sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made, then CLEC shall pay the entire amount of such Payphone Compensation to the PSP that is CLEC's customer for that Payphone Line within ten (10) calendar days after receiving such Payphone Compensation from SBC-13STATE.
- 5.6.10 In addition to any other indemnity obligations in this Appendix or in the Agreement to which this Appendix is attached, CLEC shall indemnify, protect, save harmless and defend SBC-13STATE and SBC-13STATE's officers, employees, agents, representatives and assigns from and against any and all losses, costs, liability, damages and expense (including reasonable attorney's fees) arising out of any demand, claim, suit or judgment by any Third Party, including a PSP, in any way relating to or arising from any of the following:
- 5.6.10.1 CLEC's failure to comply with all the terms and conditions of this Appendix; or
- 5.6.10.2 Use by a PSP customer of CLEC of any service other than a Payphone Line to provide pay telephone service; or
- 5.6.10.3 False representation by CLEC.
- 5.7 Suspension of Service
- 5.7.1 CLEC may offer to resell Customer Initiated Suspension and Restoral Service to its End Users at the associated state specific retail tariff rates, terms and conditions for suspension of service at the request of the End User.
- 5.7.2 SBC-13STATE will offer CLEC local service provider initiated suspension service for CLEC's purposes at the associated SBC-13STATE state specific retail tariff rate for company initiated suspension of service. Service specifics may be obtained in state specific CLEC Handbooks.

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5.7.2.1 CLEC shall be exclusively responsible for placing valid orders for the suspension and the subsequent disconnection or restoral of service to each of its End Users.

5.7.2.2 Should CLEC suspend service for one of its End Users and fail to submit a subsequent disconnection order within the maximum number of calendar days permitted for a company initiated suspension pursuant to the state specific retail tariff, CLEC shall be charged and shall be responsible for all appropriate monthly service charges for the End User's service from the suspension date through the disconnection date.

5.7.2.3 Should CLEC suspend service for one of its End Users and subsequently issue a restoral order, CLEC shall be charged the state specific tariff rate for the restoral plus all appropriate monthly service charges for the End User's service from the suspension date through the restoral date.

## 6. USE OF SBC BRAND

6.1 Except where otherwise required by law, CLEC shall not, without SBC-13STATE's prior written authorization, offer the services covered by this Appendix using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of SBC-13STATE or its Affiliates, nor shall CLEC state or imply that there is any joint business association or similar arrangement with SBC-13STATE in the provision of Telecommunications Services to CLEC's customers.

## 7. RESPONSIBILITIES OF SBC-13STATE

7.1 SBC-13STATE shall allow CLEC to place service orders and receive phone number assignments (for new lines). These activities shall be accomplished by facsimile or electronic interface. SBC-13STATE shall provide interface specifications for electronic access for these functions to CLEC. However, CLEC shall be responsible for modifying and connecting any of its systems with SBC-13STATE-provided interfaces, as outlined in Appendix OSS.

7.2 SBC-13STATE shall implement CLEC service orders within the same time intervals SBC-13STATE uses to implement service orders for similar services for its own End Users.

7.2.1 Methods and procedures for ordering are outlined in the CLEC Handbook, available on-line, as amended by SBC-13STATE in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.

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- 7.3 CLEC will have the ability to report trouble for its End Users to the appropriate SBC-13STATE trouble reporting center(s) twenty-four (24) hours a day, seven (7) days a week. CLEC will be assigned customer contact center(s) when initial service agreements are made. CLEC End Users calling SBC-13STATE will be referred to CLEC at the number provided by CLEC. Nothing herein shall be interpreted to authorize CLEC to repair, maintain, or in any way touch SBC-13STATE's network facilities, including those on End User premises.
- 7.3.1 Methods and procedures for trouble reporting are outlined in the CLEC Handbook, available on-line, as amended by SBC-13STATE in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.
- 7.4 SBC-13STATE will provide CLEC with detailed billing information necessary for CLEC to issue bill(s) to its End User(s). CLEC has the option of receiving a daily usage file ("DUF") in accordance with the terms and conditions set forth in Section 8.8 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Should CLEC elect to subscribe to the DUF, CLEC agrees to pay SBC-13STATE the charges specified in Appendix Pricing under the "OTHER (Resale)" category listed as "Electronic Billing Information Data (daily usage) (per message)."
- 7.5 SBC-13STATE shall make Telecommunications Services that SBC-13STATE provides at retail to subscribers who are not Telecommunications Carriers available for resale consistent with the obligation under Section 251(c)(4)(A) of the Act and other applicable limitations. SBC-13STATE will notify CLEC of any changes in the terms and conditions under which SBC-13STATE offers Telecommunications Services at retail to subscribers who are not Telecommunications Carriers, including but not limited to, the introduction of any new features, functions, services, promotions, grandfathering or the discontinuance of current features or services at the time a tariff filing is transmitted to the appropriate State Commission, or, in situations where a tariff filing is not so transmitted, within sixty (60) calendar days of the expected effective date of such change.
- 7.5.1 SBC-13STATE currently makes such notification as described in Section 17.2 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Notification of any new service available to CLEC for resale shall advise CLEC of the category in which such new service shall be placed, and the same discount already applicable to CLEC in that category shall apply to the new service.
- 7.6 CLEC's End User's activation of Call Trace shall be handled by the SBC-13STATE operations centers responsible for handling such requests. SBC-13STATE shall notify CLEC of requests by its End Users to provide call records to the proper authorities. Subsequent communication and resolution of each case involving one of

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CLEC's End Users (whether that End User is the victim or the suspect) will be coordinated through CLEC.

7.6.1 CLEC acknowledges that for services where reports are provided to law enforcement agencies (for example, Call Trace) only billing number and address information shall be provided. It shall be CLEC's responsibility to provide additional information necessary for any police investigation.

7.6.1.1 In addition to any other indemnity obligations in this Appendix or the Agreement to which this Appendix is attached, CLEC shall indemnify SBC-13STATE against any Claim that insufficient information led to inadequate prosecution.

7.6.2 SBC-13STATE shall handle law enforcement requests consistent with the Law Enforcement Section of the General Terms and Conditions of the Agreement to which this Appendix is attached.

7.7 This section applies only to PACIFIC:

7.7.1 Cooperation on Fraud

7.7.1.1 Traffic Alert Referral Service

7.7.1.1.1 Traffic Alert Referral Service ("TARS") is a service that monitors traffic patterns associated with a CLEC's resold lines. On no less than thirty (30) calendar days written notice, CLEC may order PACIFIC's TARS. In providing TARS to CLEC, PACIFIC notifies the CLEC of traffic abnormalities that indicate the possible occurrence of intraLATA fraud and furnishes to CLEC information on all 1+ alerts. CLEC understands and agrees that PACIFIC will use electronic mail to provide such information and that such information will only be available via electronic mail at the present time. It is the responsibility of CLEC to provide PACIFIC with the correct email address. Information will be provided on a per-alert basis and will be priced on a per-alert basis. PACIFIC grants to CLEC a non-exclusive right to use the information provided by PACIFIC. CLEC will not permit anyone but its duly authorized employees or agents to inspect or use this information. CLEC agrees to pay PACIFIC a recurring usage rate as set forth in Appendix Pricing in the "OTHER (Resale)" category listed as "Traffic Alert Referral Service."

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7.7.1.2 CLEC shall be liable for all fraud associated with any resale service to which it subscribes. PACIFIC takes no responsibility, will not investigate, and will make no adjustments to CLEC's account(s) in cases of fraud or any other related End User dispute.

7.7.1.3 In addition to any other indemnity obligations in this Appendix or in the Agreement to which this Appendix is attached, PACIFIC shall not be liable for any damages to CLEC or to any other person or entity for PACIFIC's actions or the conduct of its employees in providing TARS to CLEC. CLEC shall indemnify, defend, and hold PACIFIC harmless from any and all claims, lawsuits, costs, damages, liabilities, losses, and expenses, including reasonable attorney fees, resulting from or in connection with CLEC's use of PACIFIC's TARS, except when such claims, lawsuits, costs, damages, liabilities, losses, or expenses are proximately caused by the willful misconduct or gross negligence of PACIFIC or its employees.

7.8 This section applies only to PACIFIC:

7.8.1 PACIFIC will make available to CLEC an optional service, Repair Transfer Service ("RTS"). In the event a CLEC's End User dials 611 (811-8081 for Priority Business customers) for repair, PACIFIC will provide a recorded announcement of the CLEC name and number and PACIFIC will automatically transfer the caller to the CLEC designated 800/888 number for repair service. CLEC must provide written notification to PACIFIC at least thirty (30) calendar days prior to the implementation of RTS. Written notification must include the CLEC name and 800/888 numbers for RTS to the CLEC repair bureau and business office. There will be no charges associated with the initial set-up for RTS, however, charges will apply to any subsequent changes to the recorded name announcement and telephone number. Rates for subsequent changes are set forth in the Appendix Pricing in the "OTHER (Resale)" category listed as "Repair Transfer Service." Subsequent charges include: Recorded Name Announcement, 800/888 Telephone Number and Name Announcement & Telephone Number.

## 8. RESPONSIBILITIES OF CLEC

- 8.1 Prior to submitting an order under this Appendix, CLEC shall obtain End User authorization as required by applicable federal and state laws and regulations, and assumes responsibility for applicable charges as specified in Section 258(b) of the Act. SBC-13STATE shall abide by the same applicable laws and regulations.
- 8.2 Only an End User can initiate a challenge to a change in its local service provider. If an End User notifies SBC-13STATE or CLEC that the End User requests local exchange service, the Party receiving such request shall be free to provide service to

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such End User, except in those instances where the End User's account is local PIC protected. It is the responsibility of the End User to provide authorization in a FCC approved format to the current provider of record to remove local service provider protection before any changes in local service provider are processed.

8.2.1 SBC-13STATE shall be free to connect an End User to any competitive local exchange carrier based upon that competitive local exchange carrier's request and that competitive local exchange carrier's assurance that proper End User authorization has been obtained. CLEC shall make any such authorization it has obtained available to SBC-13STATE upon request and at no charge.

8.2.1.1 The following applies to AM-MI only: The Parties will adhere to the requirements adopted by the Commission in its Case No. U-11900 with respect to the selection of primary local exchange carriers and primary interexchange carriers.

- 8.3 When an End User changes or withdraws authorization, each Party shall release customer-specific facilities in accordance with the End User's direction or the direction of the End User's authorized agent. Further, when an End User abandons its premise, SBC-13STATE is free to reclaim the facilities for use by another customer and is free to issue service orders required to reclaim such facilities.
- 8.4 Neither Party shall be obligated by this Appendix to investigate any allegations of unauthorized changes in local exchange service (slamming) on behalf of the other Party or a Third Party. If SBC-13STATE, on behalf of CLEC, agrees to investigate an alleged incidence of slamming, SBC-13STATE shall charge CLEC an investigation fee as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "Slamming Investigation Fee."
- 8.5 Should SBC-13STATE receive an order from CLEC for services under this Appendix, and SBC-13STATE is currently providing the same services to another local service provider for the same End User, CLEC agrees that SBC-13STATE may notify the local service provider from whom the End User is being converted of CLEC's order coincident with or following processing CLEC's order. It shall then be the responsibility of the former local service provider of record and CLEC to resolve any issues related to the End User. This Section 8.5 shall not apply to new or additional lines and services purchased by the End User from multiple CLECs or from SBC-13STATE.
- 8.5.1 If SBC-13STATE receives an order from another local service provider to convert services for an End User for whom CLEC is the current local service provider of record, and if CLEC already subscribes to the Local Disconnect Report ("LDR"), covered in Section 8.5.2, then SBC-13STATE shall notify CLEC of such order coincident with or following processing such order. It shall be the responsibility of CLEC and the other local service provider to

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resolve any issues related to the End User. This Section 8.5.1 shall not apply to new or additional lines and services purchased by an End User from multiple CLECs or from SBC-13STATE.

- 8.5.2 On no less than sixty (60) calendar days advance written notice, CLEC may, at its option, subscribe to the LDR. SBC-13STATE will furnish the following information via the LDR: the Billing Telephone Number ("BTN"), Working Telephone Number "WTN"), and terminal number of all End Users who have disconnected CLEC's service. Information furnished electronically will be provided daily on a per WTN basis and priced on a per WTN basis. CLEC shall pay SBC-13STATE for the LDR per WTN plus any applicable transmission charges for the LDR; current WTN prices are as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "Local Disconnect Report." CLEC agrees that SBC-13STATE may change the per WTN charge, at SBC-13STATE's sole discretion, so long as SBC-13STATE provides CLEC no less than thirty (30) calendar days notice prior to any change in the per WTN charge. SBC-13STATE grants to CLEC a non-exclusive right to use the LDR information provided by SBC-13STATE. CLEC will not permit anyone but its duly authorized employees or agents to inspect or use this information.
- 8.6 CLEC is solely responsible for the payment of all charges for all services furnished under this Appendix, including but not limited to, calls originated or accepted at CLEC's location and its End Users' service locations; provided, however, CLEC shall not be responsible for payment of charges for any retail services furnished by SBC-13STATE directly to End Users and billed by SBC-13STATE directly to End Users.
- 8.6.1 Interexchange carried traffic (for example, sent-paid, information services and alternate operator services messages) received by SBC-13STATE for billing to resold End User accounts will be returned as unbillable and will not be passed to CLEC for billing. An unbillable code will be returned with those messages to the carrier indicating that the messages originated from a resold account and will not be billed by SBC-13STATE.
- 8.7 SBC-13STATE shall not be responsible for the manner in which utilization of resold services or the associated charges are allocated to End Users or others by CLEC. All applicable rates and charges for services provided to CLEC under this Appendix will be billed directly to CLEC and shall be the responsibility of CLEC; provided, however, that CLEC shall not be responsible for payment of charges for any retail services furnished by SBC-13STATE directly to End Users and billed by SBC-13STATE directly to End Users.

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- 8.7.1 Charges billed to CLEC for all services provided under this Appendix shall be paid by CLEC regardless of CLEC's ability or inability to collect from its End Users for such services.
- 8.8 If CLEC does not wish to be responsible for payment of charges for collect, third number billed, toll and information services (for example, 900) calls, it must order the appropriate blocking for lines provided under this Appendix and pay any applicable charges. It is the responsibility of CLEC to order the appropriate toll restriction or blocking on lines resold to End Users. CLEC acknowledges that blocking is not available for certain types of calls, including 800, 888, 411 and Directory Assistance Express Call Completion. Depending on the origination point, for example, calls originating from correctional facilities, some calls may bypass blocking systems. CLEC acknowledges all such limitations and accepts all responsibility for any charges associated with calls for which blocking is not available and any charges associated with calls that bypass blocking systems.
- 8.9 CLEC shall be responsible for modifying and connecting any of its systems with SBC-13STATE-provided interfaces as described in this Appendix and Appendix OSS.
- 8.10 CLEC shall be responsible for providing to its End Users and to SBC-13STATE a telephone number or numbers that CLEC's End Users may use to contact CLEC in the event that the End User desires a repair/service call.
- 8.10.1 In the event that CLEC's End Users contact SBC-13STATE with regard to repair requests, SBC-13STATE shall inform such End Users to call CLEC and may provide CLEC's contact number.
- 8.11 CLEC acknowledges and agrees that, in the event CLEC makes any "CLEC Change" as that term is defined in Section 4.10 of the General Terms and Conditions of the Agreement to which this Appendix is attached, CLEC shall comply with the provisions set forth in Section 4.10 of the General Terms and Conditions of the Agreement to which this Appendix is attached as though set forth herein.
- 8.12 CLEC will provide forecasts to SBC-13STATE every January and July using the SBC-13STATE network information form, or a format mutually agreed to by the Parties. These written forecasts will be based on CLEC's best estimates and will include all resale products CLEC will be ordering within the forecast period.

## 9. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 9.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions

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of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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## APPENDIX NUMBERING

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## APPENDIX NUMBERING

### 1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions under which the Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company, and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin will coordinate with respect to NXX assignments.
- 1.2 As used herein, SBC-13STATE means the above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

### 2. GENERAL TERMS AND CONDITIONS

- 2.1 Nothing in this Agreement shall be construed to limit or otherwise adversely impact in any manner either Party's right to employ or to request and be assigned any North American Numbering Plan (NANP) number resources from the numbering administrator including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines, or to establish, by tariff or otherwise, Exchanges and Rating Points corresponding to such NXX codes. Each Party is responsible for administering the NXX codes it is assigned.
- 2.2 At a minimum, in those Metropolitan Exchange Areas where the CLEC is properly certified by the appropriate regulatory body and intends to provide local exchange service, the CLEC shall obtain a separate NXX code for each SBC-13STATE rate center which is required to ensure compliance with the industry-approved Central Office Code (NXX) Assignment Guidelines (most current version) or other industry approved numbering guidelines and the FCC's Second Report & Order in CC Docket 95-116, released August 18, 1997 (Local Number Portability). This will enable CLEC and SBC-13STATE 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.

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- 2.3 Pursuant to Section 7.3 of the North American Numbering Council Local Number Portability Architecture and Administrative Plan report, which was adopted by the FCC, Second Report and Order, CC Docket 95-116, released August 18, 1997, portability is technically limited to rate center/rate district boundaries of the incumbent LEC due to rating and routing concerns. Therefore, Parties shall assign telephone numbers from its NXX's only to those customers that are physically in the rate center to which the NXX is assigned.
- 2.4 Each Party is responsible to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose fees or charges on the other Party for such required programming and updating activities.
- 2.5 Each Party is responsible to input required data into the Routing Data Base Systems (RDBS) and into the Telcordia Rating Administrative Data Systems (BRADS) or other appropriate system(s) necessary to update the Local Exchange Routing Guide (LERG), unless negotiated otherwise.
- 2.6 Neither Party is responsible for notifying the other Parties' End Users of any changes in dialing arrangements, including those due to NPA exhaust.
- 2.7 NXX Migration
- 2.7.1 Where either Party has activated an entire NXX for a single end user, or activated more than half of an NXX for a single end user with the remaining numbers in that NXX either reserved for future use or otherwise unused, and such End-User chooses to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party provided that the requested rate center is the same rate center that physically serves the customer in a non-foreign exchange arrangement. Such transfer will require development of a transition process to minimize impact on the Network and on the end user(s)' service and will be subject to appropriate industry lead times (currently forty-five (45) days) for movements of NXXs from one switch to another. The Party to whom the NXX is migrated will pay NXX migration charges per NXX to the Party formerly assigned the NXX as described in the Pricing Appendix under "OTHER".
- 2.8 Test Numbers
- 2.8.1 Each Party is responsible for providing to the other, valid test numbers. One number terminating to a VOICE announcement

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identifying the Company and one number terminating to a milliwatt tone providing answer supervision and allowing simultaneous connection from multiple test lines. Both numbers should remain in service indefinitely for regressive testing purposes.

### 3. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

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SBC-13STATE/DELTA PHONES, INC.

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APPENDIX FOR ACCESS

TO SBC COMMUNICATION INC.'S STRUCTURE

(POLES, CONDUITS, AND RIGHTS OF WAYS)

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**APPENDIX FOR ACCESS TO SBC COMMUNICATION INC.'S STRUCTURE  
(POLES, CONDUITS, AND RIGHTS OF WAYS)**

**1. INTRODUCTION**

- 1.1 This Appendix sets forth the terms and conditions for Rights of Way (ROW), Conduits and Poles provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin. SBC will be used throughout this document in lieu of SBC-13STATE.
- 1.4 As used herein, PACIFIC means the ILEC doing business in California.

**2. DEFINITIONS**

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

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- 2.3 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Appendix, the term "conduit system" does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SBC-13STATE structures (such as huts and cabinets) which branch off from or are connected to SBC-13STATE's conduit.
- 2.4 Duct. The term "duct" refers to a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other equipment. As used in this Appendix, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels, but does not include cables and other telecommunications equipment located within such ducts.
- 2.5 Handhole. The term "handhole" refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Appendix, the term "handhole" refers only to handholes which are part of SBC-13STATE's conduit system and does not refer to handholes which provide access to buried cables not housed within SBC-13STATE ducts or conduits. As used in this Appendix, the term "handhole" refers only to handhole structures owned or controlled by SBC-13STATE and does not include cables and other telecommunications equipment located within handhole structures.
- 2.6 Occupancy Permit. The term "occupancy permit" refers to a written instrument confirming that SBC-13STATE has granted the structure access request of Attaching Party or a third party for access to pole, duct, conduit, or right-of-way space.
- 2.7 Maintenance Duct. The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term "maintenance duct" does not include ducts and conduits extending from an SBC-13STATE manhole to customer premises. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.
- 2.8 Make-ready work. The term "make-ready work" refers to all work performed or to be performed to prepare SBC-13STATE's poles, ducts, conduits, rights-of-way, and related facilities for the requested occupancy or attachment of Attaching Party's facilities.
- 2.9 Manhole. The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface, which personnel may enter and use for the purpose of installing, operating, and maintaining

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facilities in ducts or conduits which are parts of SBC-13STATE's conduit system. As used in this Appendix, the term "manhole" does not include cables and other telecommunications equipment located within manhole structures.

- 2.10 Other User. The term "Other User" refers to entities, other than the Attaching Party, with facilities on an SBC-13STATE pole, duct, conduit or right-of-way to which the Attaching Party has obtained access. Other Users may include SBC-13STATE, other attaching parties, municipalities or other governmental entities, and electric utilities (which may own interests in SBC-13STATE's poles, ducts, conduits or rights-of-ways).
- 2.11 Overlashing. The term "Overlashing" refers to the practice of placing an additional cable by lashing such cable with spinning wire over an existing cable and strand.
- 2.12 Pole. The term "pole" refers to poles (and associated anchors) which are owned or controlled by SBC-13STATE and does not include cables and other telecommunications equipment attached to pole structures.
- 2.13 Rights-of-way. The term "rights-of-way" refers to SBC-13STATE owned or controlled legal rights to pass over or through property of another party and used by SBC-13STATE for its telecommunications distribution system. For purposes of this Appendix, "rights-of-way" includes property owned by SBC-13STATE and used by SBC-13STATE for its telecommunications distribution facilities. Rights-of-way does not include:
- 2.13.1 cables and other telecommunications equipment buried or located on such rights-of-way,
- 2.13.2 public rights of way (which are owned by and subject to the control of governmental entities), or
- 2.13.3 any space which is owned and controlled by a third-party property owner and occupied by SBC-13STATE with permission from such owner rather than as a matter of legal right.
- 2.14 Structure. The term "Structure" refers collectively to poles, ducts, conduits and rights-of-way.

### 3. SCOPE OF APPENDIX

- 3.1 This Appendix establishes the rates, terms, conditions, and procedures by which SBC-13STATE shall provide non-discriminatory access to SBC-

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13STATE's Structure. Separate tariffs, appendix, or agreements shall govern Attaching Party's access, if any, to the following facilities which require special security, technical, and construction arrangements outside the scope of this Appendix:

- 3.1.1 SBC-13STATE's central office vaults and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from SBC-13STATE's central offices;
  - 3.1.2 controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;
  - 3.1.3 ducts and conduits located within buildings owned by SBC-13STATE; and
  - 3.1.4 ducts, conduits, equipment rooms, and similar spaces located in space leased by SBC-13STATE from third-party property owners for purposes other than to house cables and other equipment in active service as part of SBC-13STATE's network distribution operations.
- 3.2 No Transfer of Property Rights to Attaching Party. Nothing contained in this Appendix, or any occupancy permit subject to this Appendix, shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other.
- 3.3 No Effect on SBC-13STATE's Right to Abandon, Convey or Transfer Structure. Nothing contained in this Appendix, or any occupancy permit subject to this Appendix, shall in any way affect SBC-13STATE's right to abandon, convey, or transfer to any other person or entity SBC-13STATE'S interest in any of SBC-13STATE'S Structure. SBC-13STATE shall give Attaching Party at least 60 days written notice prior to abandoning, conveying, or transferring any Structure to which Attaching Party has already attached its facilities, or any Structure on which Attaching Party has already been assigned space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.

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**4. EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION**

- 4.1 Effective Date. This Appendix shall be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2002, or, if this Appendix has been entered into as an appendix, attachment, or exhibit to an interconnection Appendix between the parties, the date of approval by the State Commission of the interconnection Appendix, whichever date first occurs.
- 4.2 Initial Term. Unless sooner terminated as herein provided, the initial term of this Appendix shall run from the effective date until the end of the calendar year which includes the effective date. In the event this Appendix is entered into as a part of an Interconnection Appendix, this Appendix shall terminate upon the termination of the Interconnection Appendix of which this is apart.
- 4.3 Automatic Renewal. Unless sooner terminated as herein provided, this Appendix shall be automatically renewed for successive one-year terms beginning on the first day of each calendar year after the effective date, or in the same fashion as the Interconnection Appendix renews, if a part of the Interconnection Appendix.
- 4.4 Elective Termination. Either party may terminate this Appendix by giving the other party at least six months prior written notice as provided in this section. The notice of termination shall state the effective date of termination, which date shall be no earlier than the last to occur of the following dates: the last day of the current term of this Appendix or six months after the date the notice is given.
- 4.5 Elective Termination by SBC-13STATE. Attaching Party shall, within 60 days after the effective date of the elective termination by SBC-13STATE, either initiate negotiations for continued access to SBC-13STATE's poles, ducts, conduits, and rights-of-way or remove its facilities in accordance with the provisions of Section 28 of this Appendix.
- 4.6 Effect of Elective Termination. Elective termination of this Appendix by Attaching Party, as permitted under Section 4 of this Appendix, shall not affect Attaching Party's liabilities and obligations incurred under this Appendix prior to the effective date of termination and shall not entitle Attaching Party to the refund of any advance payment made to SBC-13STATE under this Appendix. Elective termination of this Appendix by SBC-13STATE shall not affect SBC-13STATE's obligations to afford access to SBC-13STATE's poles, ducts, conduits, and rights-of-way owned or controlled by SBC-13STATE as required by the Pole Attachment Act, the Telecommunications Act of 1996, and other applicable laws, regulations, and commission orders.

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## 5. GENERAL PROVISIONS

- 5.1 Entire Appendix. This Appendix, together with the interconnection Appendix, if any, of which this Appendix is a part, and the Guidelines for Access to SBC-13STATE Structure, attached hereto and incorporated herein by reference, sets forth the entire understanding and Appendix of the parties.
- 5.2 Prior Agreements Superseded. This Appendix supersedes all prior Agreements and understandings, whether written or oral, between Attaching Party and SBC-13STATE relating to the placement and maintenance of Attaching Party's facilities on and within SBC-13STATE's poles, ducts, and conduits within this State.
- 5.3 Amendments Shall Be in Writing. Except as otherwise specifically provided to the contrary by other provisions of this Appendix, the terms and conditions of this Appendix shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.
- 5.4 Survival of Obligations. Any liabilities or obligations of either party for acts or omissions prior to the termination of this Appendix, any obligations of either party under provisions of this Appendix relating to confidential and proprietary information, indemnification, limitations of liability, and any other provisions of this Appendix which, by their terms, are contemplated to survive (or be performed after) termination of this Appendix, will survive the termination of this Appendix.
- 5.5 Multiple Counterparts. This Appendix may be executed in multiple counterparts.
- 5.6 Effect on Licenses or Occupancy Permits Issued Under Prior Agreements. All currently effective pole attachment and conduit occupancy permits granted to Attaching Party shall, on the effective date of this Appendix, be subject to the rates, terms, conditions, and procedures set forth in this Appendix.
- 5.7 Force Majeure. Except as otherwise specifically provided in this Appendix, neither party will be liable for any delay or failure in performance of any part of this Appendix caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, disputes, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the party claiming excusable delay or other failure to perform;

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provided, however, that Force Majeure will not include acts of any governmental authority relating to environmental, health, or safety conditions at work locations. If any Force Majeure condition occurs, the party whose performance fails or is delayed because of such Force Majeure condition will give prompt notice to the other party, and, upon cessation of such Force Majeure condition, will give like notice and commence performance hereunder as promptly as reasonably practicable.

- 5.8 Severability. If any article, section, subsection, or other provision or portion of this Appendix is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Appendix as to either party, the invalidity of such provision shall not render this entire Appendix unenforceable and this Appendix shall be administered as if it did not contain the invalid provision.
- 5.9 Choice of Law. Except to the extent that federal law controls any aspect of this Appendix, the validity of this Appendix, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of this State, applied without regard to the provisions of this State's laws relating to conflicts-of-laws.
- 5.10 Changes in the Law. The parties agree to negotiate in good faith changes to this Appendix to conform to changes applicable law pertaining to access to poles, ducts, conduits and rights-of-way, including the Pole Attachment Act.
- 5.11 The parties shall at all times observe and comply with, and the provisions of this Appendix are subject to, all applicable federal, state, and local laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.

## 6. **DISCLAIMER OF WARRANTIES**

- 6.1 **SBC-13STATE** MAKES NO REPRESENTATIONS AND DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, THAT **SBC-13STATE**'S POLES, DUCTS, CONDUITS AND WARRANTIES ARE SUITABLE FOR THE ATTACHING PARTY'S INTENDED USES OR ARE FREE FROM DEFECTS. THE ATTACHING PARTY SHALL IN EVERY INSTANCE BE RESPONSIBLE TO DETERMINE THE ADEQUACY OF **SBC-13STATE**'S POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY FOR THE ATTACHING PARTY'S INTENDED USE.

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**7. DISPUTE RESOLUTION**

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

**8. INDEMNIFICATION**

- 8.1 Definitions. The term "Claims" as used in Section 8 shall mean any suit, claim, demand, loss, damage, liability, fee, fine, penalty, or expense, of every kind and character.
- 8.2 Indemnities Excluded. Except as otherwise specifically provided in this article, neither party (as an "indemnifying party") shall be required to indemnify or defend the other party (as an "indemnified party") against, or hold the indemnified party harmless from, any Claims arising out of:
- 8.2.1 any breach by the indemnified party of any provision of this Appendix or any breach by the indemnified party of the parties' interconnection Appendix, if any;
  - 8.2.2 the violation of any law by any employee of the indemnified party or other person acting on the indemnified party's behalf;
  - 8.2.3 willful or intentional misconduct or gross negligence committed by any employee of the indemnified party or by any other person acting on the indemnified party's behalf; or
  - 8.2.4 any negligent act or acts committed by any employee of the indemnified party or other person acting on the indemnified party's behalf, if such negligent act or acts are the sole producing cause of the injury, loss, or damage giving rise to the Claim for which indemnity is requested.
- 8.3 Workplace Injuries. Except as expressly provided in this Appendix to the contrary, each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any injury, loss, or damage suffered by any person, which arises out of or in connection with the personal injury or death of any employee of the indemnifying party (or other person acting on the indemnifying party's behalf) if such injury or death results, in whole or in part, from any occurrence or condition on, within, or in the vicinity of SBC-13STATE's Structure.

- 8.4 Other Claims Brought Against Either Party by Employees and Other Persons Acting on the Other Party's Behalf. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3 above) made, brought, or sought against the indemnified party by any employee, contractor, or subcontractor of the indemnifying party or by any other person acting on the indemnifying party's behalf.
- 8.5 THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.3-8.4 SHALL ARISE EVEN IF THE INJURY, SICKNESS, DISEASE, OR DEATH WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.
- 8.6 Claims Brought Against Either Party by Vendors, Suppliers and Customers of the Other Party. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3, or other claims subject to Section 8.4) made, brought, or sought against the indemnified party by any vendor, supplier, or customer of the indemnifying party.
- 8.7 Injuries to Third Parties and Third party Property Owners Resulting from the Parties' Conduct. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with the personal injury or death of any third party or physical damage to real or personal property owned by a third party, arising, in whole or in part, out of or in connection with the conduct of employees of the indemnifying party or other persons acting on the indemnifying party's behalf.
- 8.8 Indemnification for Environmental Claims.
- 8.8.1 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the violation or breach, by any employee of the indemnifying party or other person acting on the indemnifying party's behalf, of
- 8.8.1.1 any federal, state, or local environmental statute, rule, regulation, ordinance, or other law or

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- 8.8.1.2 any provision or requirement of this Appendix dealing with hazardous substances or protection of the environment.
- 8.8.2 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the release or discharge, onto any public or private property, of any hazardous substances, regardless of the source of such hazardous substances, by any employee of the indemnifying party, or by any person acting on the indemnifying party's behalf, while present on, within, or in the vicinity of any SBC-13STATE pole, duct, conduit, or right-of-way.
- 8.8.3 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the removal or disposal of any hazardous substances by the indemnifying party or by any person acting on the indemnifying party's behalf, or arising out of or in connection with the subsequent storage, processing or other handling of such hazardous substances by any person or entity after they have been removed by the indemnifying party or persons acting on the indemnifying party's behalf from the site of any SBC-13STATE pole, duct, conduit, or right-of-way.
- 8.8.4 Except as otherwise specifically provided in this section, neither party shall be required to indemnify or defend the other party against, or hold the other party harmless from any Claims for which the other party may be liable under any federal, state, or local environmental statute, rule, regulation, ordinance, or other law.
- 8.9 Miscellaneous Claims. Attaching Party shall indemnify, on request defend, and hold SBC-13STATE harmless from any and all Claims, of every kind and character, made, brought, or sought against SBC-13STATE by any person or entity, arising out of or in connection with the subject matter of this Appendix and based on either:
- 8.9.1 claims for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on SBC-13STATE due to the placement or presence of Attaching Party's facilities on or within SBC-13STATE's poles, ducts, conduits, or rights-of-way; or



- 8.9.2 claims based on the violation by Attaching Party of any third party's intellectual property rights, including but not limited to claims for copyright infringement, patent infringement, or unauthorized use or transmission of television or radio broadcast programs or other program material.
- 8.10 Attaching Party's General Indemnity Obligations to SBC-13STATE. This section applies only in those situations not expressly covered by Sections 8.3-8.10 and does not apply to any Claims resulting from Attaching Party's enforcement of its rights against SBC-13STATE pursuant to this Appendix or other provisions in the parties' interconnection Appendix, if any. Except as otherwise expressly provided in this Appendix to the contrary, and subject to the exclusions set forth in Section 8.2, Attaching Party shall indemnify, on request defend, and hold SBC-13STATE harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with Attaching Party's access to or use of SBC-13STATE's poles, ducts, conduits, or rights-of-way, Attaching Party's performance of any acts authorized under this Appendix, or the presence or activities of Attaching Party's employees or other personnel acting on Attaching Party's behalf on, within, or in the vicinity of SBC-13STATE's poles, ducts, conduits, or rights-of-way.
- 8.11 SBC-13STATE's General Indemnity Obligations to Attaching Party. This section applies only in those situations not expressly covered by Sections 8.3-8.9 and does not apply to any Claims resulting from SBC-13STATE's enforcement of its rights against Attaching Party pursuant to this Appendix or other provisions in the parties' interconnection Agreement, if any. Except as otherwise expressly provided in this Appendix to the contrary, SBC-13STATE shall indemnify, on request defend, and hold Attaching Party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with SBC-13STATE's access to or use of SBC-13STATE's poles, ducts, conduits, or rights-of-way, SBC-13STATE's performance of any acts authorized under this Appendix, or the presence or activities of SBC-13STATE's employees or other personnel acting on SBC-13STATE's behalf on, within, or in the vicinity of SBC-13STATE's poles, ducts, conduits, or rights-of-way.

## 9. LIABILITIES AND LIMITATIONS OF LIABILITY

- 9.1 EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE

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LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION LIMITS EACH PARTY'S LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OR OMISSIONS OF SUCH PARTY BUT DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INTENTIONAL MISCONDUCT.

- 9.2 SBC-13STATE Not Liable to Attaching Party for Acts of Third Parties or Acts of God. By affording Attaching Party access to SBC-13STATE Structure SBC-13STATE does not warrant, guarantee, or insure the uninterrupted use of such facilities by Attaching Party. Except as specifically provided in Section 9.5 of this Appendix, Attaching Party assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Attaching Party's facilities attached to SBC-13STATE's poles or placed in SBC-13STATE's Structure and SBC-13STATE shall not be liable to Attaching Party for any damages to Attaching Party's facilities other than as provided in Section 9.5. In no event shall SBC-13STATE be liable to Attaching Party under this Agreement for any death of person or injury, loss, or damage resulting from the acts or omissions of (1) any Other User or any person acting on behalf of an Other User, (2) any governmental body or governmental employee, (3) any third-party property owner or persons acting on behalf of such property owner, or (4) any permit, invitee, trespasser, or other person present at the site or in the vicinity of any SBC-13STATE pole, duct, conduit, or right-of-way in any capacity other than as a SBC-13STATE employee or person acting on SBC-13STATE's behalf. In no event shall SBC-13STATE be liable to Attaching Party under this Agreement for injuries, losses, or damages resulting from acts of God (including but not limited to storms, floods, fires, and earthquakes), wars, civil disturbances, espionage or other criminal acts committed by persons or entities not acting on SBC-13STATE's behalf, cable cuts by persons other than SBC-13STATE's employees or persons acting on SBC-13STATE's behalf, or other causes beyond SBC-13STATE's control which occur at sites subject to this Appendix.

- 9.3 Damage to Facilities. Each party shall exercise due care to avoid damaging the facilities of the other or of Other Users and hereby assumes

all responsibility for any and all loss from damage caused by the party and persons acting on the party's behalf. A party shall make an immediate report to the other of the occurrence of any damage and hereby agrees to reimburse the other party, and/or Other Users for any property damaged caused by the party or persons acting on the party's behalf.

- 9.4 No Limitations of Liability in Contravention of Federal or State Law. Nothing contained in this article shall be construed as exempting either party from any liability, or limiting such party's liability, in contravention of federal law or in contravention of the laws of this State.

## 10. INSURANCE

- 10.1 At all times in which the Attaching Party has attachments to SBC-13STATE poles, or is occupying SBC-13STATE conduit or right-of-way, Attaching Party shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set for below. Such insurance and coverage shall not only cover the Attaching Party, but it must cover all contractors, subcontractors and/or any other person acting on Attaching Party's behalf, that are providing services under this Appendix.

10.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Appendix and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$1,000,000 for Bodily Injury by disease-each employee.

10.1.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations.

10.1.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired and non-owned vehicles.

- 10.2 Attaching Party agrees to name SBC-13STATE as an Additional Insured on the Commercial General Liability policy and Commercial Automobile Liability Policy.

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- 10.3 SBC-13STATE agrees to accept the Attaching Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
  - 10.3.1 Workers' Compensation and Employers Liability: Attaching Party submit to SBC-13STATE its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Appendix or the employer's state of hire; and
  - 10.3.2 Automobile liability: Attaching Party shall submit to SBC-13STATE a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Appendix; and
  - 10.3.3 General liability: Attaching Party must provide evidence acceptable to SBC-13STATE that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.
- 10.4 All insurance required in accordance with this section must be in effect before SBC-13STATE will issue pole attachment or conduit occupancy permits under this Appendix.
- 10.5 Attaching Party agrees to provide SBC-13STATE with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein.

## 11. ASSIGNMENT OF RIGHTS

- 11.1 Assignment Permitted. Neither party may assign or otherwise transfer its rights or obligations under this Appendix except as provided in this section.
  - 11.1.1 SBC-13STATE may assign its rights, delegate its benefits, and delegate its duties and obligations under this Appendix, without Attaching Party's consent, to any entity controlling, controlled by, or under common control with SBC-13STATE or which acquires or succeeds to ownership of substantially all of SBC-13STATE's assets.
  - 11.1.2 Overlapping of Attaching Party's facilities on SBC-13STATE poles by a third party will be allowed under the following conditions:

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- 11.1.2.1 The Overlapping entity must enter into an Appendix with SBC-13STATE for access to SBC-13STATE Structures and abide by the terms and conditions of such an Occupancy Permit.
- 11.1.2.2 The Overlapping entity must obtain written approval from the Attaching Party and provide a copy to SBC-13STATE prior to submitting a request for access to structure.
- 11.1.2.3 The Overlapping party must submit a written request for access to structure, and indicate on the request that the request is for Overlapping of an existing attachment of the Attaching Party.
- 11.1.2.4 The Overlapping entity is responsible for paying the fees for Overlapping in APPENDIX I and/or APPENDIX PRICING which are separate and in addition to the fees paid by the Attaching Party.
- 11.1.3 Attaching Party may, ancillary to a bona fide loan transaction between Attaching Party and any lender, and without SBC-13STATE's consent, grant security interests or make collateral assignments in substantially all of Attaching Party's assets, including Attaching Party's rights under this Appendix, subject to the express terms of this Appendix. In the event Attaching Party's lender, in the bona fide exercise of its rights as a secured lender, forecloses on its security interest or arranges for a third party to acquire Attaching Party's assets through public or private sale or through an Agreement with Attaching Party, Attaching Party's lender or the third party acquiring Attaching Party's rights under this Appendix shall assume all outstanding obligations of Attaching Party under the agreement and provide proof satisfactory to SBC-13STATE that such lender or third party has complied or will comply with all requirements established under this Appendix. Notwithstanding any provisions of this Appendix to the contrary, such foreclosure by Attaching Party's lender or acquisition of assets by such third party shall not constitute a breach of this Agreement and, upon such foreclosure or acquisition, Attaching Party's lender or such third party shall succeed to all rights and remedies of Attaching Party under this Agreement (other than those rights and remedies, if any, which have not been transferred and, if Attaching Party is a debtor under the Federal Bankruptcy Code, those rights, if any, which remain a part of the debtor's estate notwithstanding an attempted foreclosure or transfer) and to all duties and obligations of

Attaching Party under the Agreement, including liability to SBC-13STATE for any act, omission, default, or obligation that arose or occurred under the Agreement prior to the date on which such lender or third party succeeds to the rights of Attaching Party under the Agreement, as applicable.

- 11.1.4 No assignment or transfer by Attaching Party of rights under this Agreement, occupancy permit subject to this Agreement, or authorizations granted under this Agreement shall be effective until Attaching Party, its successors, and assigns have complied with the provisions of this article, secured SBC-13STATE's prior written consent to the assignment or transfer, if necessary, and given SBC-13STATE notice of the assignment or transfer pursuant to Section 11.3.
- 11.2 Incorporations, Mergers, Acquisitions, and Other Changes in Attaching Party's Legal Identity. When the legal identity or status of Attaching Party changes, whether by incorporation, reincorporation, merger, acquisition, or otherwise, such change shall be treated as an assignment subject to the provisions of this article.
- 11.3 Assignment Shall Not Relieve Attaching Party of Prior Obligations. Except as otherwise expressly agreed by SBC-13STATE in writing, no assignment permitted by SBC-13STATE under this Agreement shall relieve Attaching Party of any obligations arising under or in connection with this Agreement, including but not limited to indemnity obligations under Section 8 of this Agreement or the interconnection agreement, if any.
- 11.4 Satisfaction of Existing Obligations and Assumption of Contingent Liabilities. SBC-13STATE may condition its approval of any requested assignment or transfer on the assignee's or successor's payment or satisfaction of all outstanding obligations of Attaching Party under this Agreement and the assignee's or successor's assumption of any liabilities, or contingent liabilities, of Attaching Party arising out of or in connection with this Agreement.
- 11.5 Sub-Permits Prohibited. Nothing contained in this Agreement shall be construed as granting Attaching Party the right to sublease, sublicense, or otherwise transfer any rights under this Agreement or occupancy permits subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Attaching Party shall not allow third party to attach or place facilities to or in pole or conduit space occupied by or assigned to Attaching Party or to utilize such space.

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

- 12.1 Termination Due to Non-Use of Facilities or Loss of Required Authority. This Appendix and all occupancy permits subject to this Appendix shall terminate if Attaching Party ceases to have authority to do business or ceases to do business in this State, ceases to have authority to provide or ceases to provide cable television services in this State (if Attaching Party is cable television system having access to SBC-13STATE's poles, ducts, conduits or rights-of-way solely to provide cable television service), ceases to have authority to provide or ceases to provide telecommunications services in this State (if Attaching Party is a telecommunications carrier which does not also have authority to provide cable television service in this State), or ceases to make active use of SBC-13STATE's poles, ducts, conduits, and rights-of-way.
- 12.2 Individual occupancy permits subject to this Appendix shall terminate if (a) Attaching Party ceases to utilize the pole attachment or conduit or right of way space subject to such occupancy permit or (b) Attaching Party's permission to use or have access to particular poles, ducts, conduits, or rights-of-way has been revoked, denied, or terminated, or local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access.
- 12.3 Limitation, Termination, or Refusal of Access for Certain Material Breaches. Attaching Party's access to SBC-13STATE's Structure shall not materially interfere with or impair service over any facilities of SBC-13STATE or any Other User, cause material damage to SBC-13STATE's plant or the plant of any Other User, impair the privacy of communications carried over the facilities of SBC-13STATE or any Other User, or create serious hazards to the health or safety of any persons working on, within, or in the vicinity of SBC-13STATE's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, SBC-13STATE may limit, terminate or refuse access if Attaching Party violates this provision.
- 12.4 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Agreement by either party, the aggrieved party may give written notice of such claimed breach.
- 12.5 The complaining party shall not be entitled to pursue any remedies available under this Agreement or relevant law unless such notice is given, and

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12.5.1 the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or

12.5.2 the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure.

12.6 Remedies for Breach. Subject to the provisions of this article, either party may terminate this Agreement in the event of a material breach by the other party or exercise any other legal or equitable right which such party may have to enforce the provisions of this Agreement. In any action based on an alleged breach of this Agreement, the prevailing party shall be entitled to recover all costs and expenses incurred by such party, including but not limited to reasonable attorneys' fees.

### 13. FAILURE TO ENFORCE

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

### 14. CONFIDENTIALITY OF INFORMATION

14.1 Information Provided by Attaching Party to SBC-13STATE. Except as otherwise specifically provided in this Appendix, all company-specific and customer-specific information submitted by Attaching Party to SBC-13STATE in connection with this Appendix (including but not limited to information submitted in connection with Attaching Party's applications for occupancy permit shall be deemed to be "confidential" or "proprietary" information of Attaching Party and shall be subject to the terms set forth in this article. Confidential or proprietary information specifically includes information or knowledge related to Attaching Party's review of records regarding a particular market area, or relating to assignment of space to Attaching Party in a particular market area, and further includes knowledge or information about the timing of Attaching Party's request for or review of records or its inquiry about SBC-13STATE facilities. This article does not limit the use by SBC-13STATE of aggregate information relating to the occupancy and use of SBC-13STATE's Structure by firms other than SBC-13STATE (that is, information submitted by Attaching Party and aggregated by SBC-

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13STATE in a manner that does not directly or indirectly identify Attaching Party).

- 14.2 Access Limited to Persons with a Need to Know. Confidential or proprietary information provided by Attaching Party to SBC-13STATE in connection with this Agreement shall not be disclosed to, shared with, or accessed by any person or persons other than those who have a need to know such information for the limited purposes set forth in Sections 14.3-14.6.
- 14.3 Permitted Uses of Attaching Party's Confidential Information. Notwithstanding the provisions of Sections 14.1 and 14.2 above, SBC-13STATE and persons acting on SBC-13STATE's behalf may utilize Attaching Party's confidential or proprietary information for the following purposes:
- 14.3.1 posting information, as necessary, to SBC-13STATE's outside plant records;
  - 14.3.2 placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing SBC-13STATE's Structure and any SBC-13STATE facilities located on, within, or in the vicinity of such Structure;
  - 14.3.3 performing SBC-13STATE's obligations under this Agreement and similar agreements with third parties;
  - 14.3.4 determining which of SBC-13STATE's Structure are (or may in the future be) available for SBC-13STATE's own use, and making planning, engineering, construction, and budgeting decisions relating to SBC-13STATE's Structure;
  - 14.3.5 preparing cost studies;
  - 14.3.6 responding to regulatory requests for information;
  - 14.3.7 maintaining SBC-13STATE's financial accounting records; and
  - 14.3.8 complying with other legal requirements relating to Structure.
- 14.4 Defense of Claims. In the event of a dispute between SBC-13STATE and any person or entity, including Attaching Party, concerning SBC-13STATE's performance of this Agreement, satisfaction of obligations under similar agreements with third parties, compliance with the Pole

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Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, SBC-13STATE may utilize confidential or proprietary information submitted by Attaching Party in connection with this Appendix as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court orders, or reasonable discovery requests; provided, however, that SBC-13STATE shall not disclose Attaching Party's proprietary or confidential information without first, at SBC-13STATE's option:

- 14.4.1 obtaining an agreed protective order or nondisclosure Agreement that preserves the confidential and proprietary nature of Attaching Party's information;
  - 14.4.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure Agreement can be obtained; or
  - 14.4.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.
- 14.5 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding SBC-13STATE from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that SBC-13STATE shall not disclose Attaching Party's proprietary or confidential information without first, at SBC-13STATE's option:
- 14.5.1 obtaining an agreed protective order or nondisclosure Agreement that preserves the confidential and proprietary nature of Attaching Party's information;
  - 14.5.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure Agreement can be obtained; or
  - 14.5.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

**15. ACCESS TO RIGHTS-OF-WAY**

- 15.1 To the extent SBC-13STATE has the authority to do so, SBC-13STATE grants Attaching Party a right to use any right-of-way for SBC-13STATE poles, ducts, or conduits to which Attaching Party may attach its facilities for the purposes of constructing, operating and maintaining such Attaching Party's facilities on SBC-13STATE's poles, ducts or conduits. Notwithstanding the foregoing, Attaching Party shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the SBC-13STATE pole, duct or conduit to which Attaching Party seeks to attach its facilities. Attaching Party shall furnish proof of any such easement, right of way, license, permit, permission, certification, or franchise within thirty (30) days of request by SBC-13STATE. SBC-13STATE does not warrant the validity or apportionability of any rights it may hold to place facilities on private property.
- 15.2 Private Rights-of-Way Not Owned or Controlled by Either Party. Neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third-parties which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. Each party shall make its own, independent legal assessment of its right to enter upon or use the property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.
- 15.3 Access to Rights-of-Way Generally. At locations where SBC-13STATE has access to third-party property pursuant to non-exclusive rights-of-way, SBC-13STATE shall not interfere with Attaching Party's negotiations with third-party property owners for similar access or with Attaching Party's access to such property pursuant to easements or other rights-of-ways obtained by Attaching Party from the property owner. At locations where SBC-13STATE has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, SBC-13STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Attaching Party on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits SBC-13STATE to provide such access, and provided further that SBC-13STATE's charges for such access shall include Attaching Party's pro rata portion of the charges, if any, paid by SBC-13STATE to obtain the right-of-way, plus any other documented legal, administrative, and engineering costs incurred by SBC-

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13STATE in obtaining the right-of-way and processing Attaching Party's request for access.

## 16. SPECIFICATIONS

16.1 Compliance with Requirements, Specifications, and Standards. Attaching Party's facilities attached to SBC-13STATE's poles or occupying space in SBC-13STATE's ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Appendix and the Administrative Guide.

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

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

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

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

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

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

16.2.5 the SBC-13STATE Structure Access Guidelines

16.3 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of SBC-13STATE's manholes and access to SBC-13STATE's conduit system.

16.3.1 Attaching Party will notify SBC-13STATE not less than 5 business days in advance before entering SBC-13STATE's conduit system to perform non-emergency work operations. Such

operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.

16.3.2 An authorized employee or representative of SBC-13STATE may be present any time when Attaching Party or personnel acting on Attaching Party's behalf enter or perform work within SBC-13STATE's conduit system. Attaching Party shall reimburse SBC-13STATE for costs associated with the presence of SBC-13STATE's authorized employee or representative.

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

## 17. ACCESS TO RECORDS

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

17.2 Maps, records or information are and remain the proprietary property of SBC-13STATE, are provided to the Attaching Party solely for the pursue of enabling the Attaching Party to obtain access to SBC-13STATE's Structure, and may not be resold, reproduced or disseminated by the Attaching Party.

17.3 SBC-13STATE will provide information currently available on the SBC-13STATE's maps and/or records regarding:

17.3.1 the location of Structure and street addresses for manholes and poles as shown on SBC-13STATE's maps;

17.3.2 the footage between manholes or lateral ducts lengths, as shown on SBC-13STATE's maps;

17.3.3 the footage between poles, if shown on SBC-13STATE's maps;

17.3.4 the total capacity of the Structure

17.3.5 the existing utilization of the Structure.

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- 17.4 SBC-13STATE will not acquire additional information or provide information in formats other than that in which it currently exists and is maintained by SBC-13STATE.
- 17.5 SBC-13STATE will expunge any confidential or proprietary information from its maps and records prior to providing access to the same to the Attaching Party.

## 18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS

- 18.1 Occupancy Permits Required. Attaching Party shall apply in writing for and receive an occupancy permit before attaching facilities to specified SBC-13STATE poles or placing facilities within specified SBC-13STATE ducts, conduits, or rights-of-way.
- 18.2 Structure Access Request Form. To apply for an occupancy permit under this Appendix, Attaching Party shall submit to SBC-13STATE the appropriate SBC-13STATE request forms. Attaching Party shall promptly withdraw or amend its request if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific SBC-13STATE Structure.
- 18.3 Make-Ready Survey. A Make-Ready survey must be completed by SBC-13STATE or the Attaching Party before an occupancy permit is issued. The primary purposes of the make ready survey will be to enable SBC-13STATE to
- 18.3.1 confirm or determine the modifications, capacity expansion, and make-ready work, if any, necessary to accommodate Attaching Party's attachment of facilities to SBC-13STATE structures;
- 18.3.2 plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare SBC-13STATE's poles, ducts, conduits, rights-of-way, and associated facilities for Attaching Party's proposed attachments or occupancy; and
- 18.3.3 estimate the costs associated with such facilities modification, capacity expansion, or make-ready work.

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

- 19.1 Selection of Space. SBC-13STATE will select or approve the Attaching Party's selection of the space Applicant will occupy on SBC-13STATE's poles or in SBC-13STATE's conduit systems. Maintenance ducts shall

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not be considered available for Attaching Party's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, ducts and attachment space on poles reserved for municipal use shall not be considered available for the Attaching Party's use. All other ducts, inner ducts, space on poles or space in rights-of-ways which are not assigned or occupied shall be deemed available for use by SBC-13STATE, Attaching Party, and other parties entitled to access underapplicable law.

19.2 Pole, Duct, and Conduit Space Assignments.

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

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

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

19.2.4 **PACIFIC:** Space assignment is 9 months in California.

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

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

20.1 Response Within 45 Days. Within 45 days of Attaching Party's submission of a request for access to SBC-13STATE Structure, SBC-13STATE shall provide a written response to the application. The response shall state whether the request is being granted or denied, and if the request is denied, provide the reasons why the request is being denied.

If denial of access is proposed, SBC-13STATE will meet with the Attaching Party and explore in good faith reasonable alternatives to accommodate the proposed attachment. The Attaching Party must request such meeting within ten (10) business days of receipt of a notice of denial. SBC-13STATE will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.

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

20.2.1 what modifications, capacity expansions, or make-ready work, if any, will be required to prepare SBC-13STATE's Structure, and

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

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

20.3.1 submit payment for the estimate authorizing SBC-13STATE or its contractor to complete the make-ready work; or

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

20.4 Make-ready work performed by Attaching Party, or by an authorized contractor selected by Attaching Party, shall be performed in accordance with SBC-13STATE's specifications and in accordance with the same standards and practices which would be followed if such work were being performed by SBC-13STATE or SBC-13STATE's contractors. Neither Attaching Party nor authorized contractors selected by Attaching Party shall conduct such work in any manner which degrades the integrity of SBC-13STATE's Structures or interferes with any existing use of SBC-13STATE's facilities or the facilities of any Other User.

20.5 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. Attaching Party shall make arrangements with the Other Users with facilities attached to SBC-13STATE's poles or occupying space in SBC-13STATE's conduit system regarding reimbursement for any expenses incurred by the Other Users in transferring or rearranging the Other Users' facilities to accommodate the attachment or placement of Attaching Party's facilities to or in SBC-13STATE's poles, ducts, conduits and rights of ways.



- 20.6 Reimbursement for the Creation or Use of Additional Capacity. If any additional capacity is created as a result of make-ready work performed to accommodate Attaching Party's facilities, Attaching Party shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any fees subsequently paid to SBC-13STATE for the use of such additional capacity. If SBC-13STATE utilizes additional space or capacity created at Attaching Party's expense, SBC-13STATE will reimburse Attaching Party on a pro-rata basis for SBC-13STATE's share, if any, of Attaching Party's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. SBC-13STATE will notify the Attaching Party if any entity, including SBC-13STATE, attaches facilities to additional capacity on SBC-13STATE's Structure created at the Attaching Party's expense. SBC-13STATE shall not be required to collect or remit any such amounts to Attaching Party, to resolve or adjudicate disputes over reimbursement between Attaching Party and Other Users.
- 20.7 If Attaching Party utilizes space or capacity on any SBC-13STATE Structure created at SBC-13STATE's expense after February of 1996, the Attaching Party will reimburse Attaching Party on a pro-rata basis for the Attaching Party's share, if any, of SBC-13STATE's capacity creation costs.
- 20.8 Occupancy Permit and Attachment. After all required make-ready work is completed, SBC-13STATE will issue an occupancy permit confirming that Attaching Party may attach specified facilities to SBC-13STATE's Structure.
- 20.9 The Attaching Party must occupy the assigned space within a period not to exceed twelve (12) months from the issuance of the occupancy permit. If the Attaching Party does not occupy the assigned space within the twelve (12) month period, the Occupancy Permit will lapse and the space will be considered available for use by SBC-13STATE or Other User.
- \*PACIFIC only: Space assignment shall not exceed nine (9) months in California.
- 20.10 The Attaching Party's obligation to pay semiannual pole attachment or conduit occupancy fees will commence on the date the Occupancy Permit is provided by SBC-13STATE to the Attaching Party.

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## 21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES

- 21.1 Responsibility for Attaching and Placing Facilities. The Attaching Party shall be responsible for the actual attachment of its facilities to SBC-13STATE's poles and the placement of such facilities in SBC-13STATE's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.
- 21.2 Construction Schedule. After the issuance of an occupancy permit, Attaching Party shall provide SBC-13STATE with a construction schedule and thereafter keep SBC-13STATE informed of anticipated changes in the construction schedule.

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

- 22.1 Routine Maintenance of Attaching Party's Facilities. Each occupancy permit subject to this Agreement authorizes Attaching Party to engage in routine maintenance of facilities located on or within SBC-13STATE's poles, ducts, and conduits. Routine maintenance does not include the replacement or modification of Attaching Party's facilities in any manner which results in Attaching Party's facilities differing substantially in size, weight, or physical characteristics from the facilities described in Attaching Party's occupancy permit.
- 22.2 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities. Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by SBC-13STATE. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify SBC-13STATE of such use and must either vacate the maintenance duct within 30 days or, with SBC-13STATE's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.

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

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

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

- 24.1 Required Rearrangement of Attaching Party's Facilities. Attaching Party agrees that Attaching Party will cooperate with SBC-13STATE and other users in making rearrangements to SBC-13STATE Structure as may be necessary, and that costs incurred by Attaching Party in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with then applicable law.
- 24.2 Whenever feasible, SBC-13STATE shall give Attaching Party not less than 30 days prior written notice of the need for Attaching Party to rearrange its facilities pursuant to this section. The notice shall state the date by which such rearrangements are to be completed. Attaching Party shall complete such rearrangements within the time prescribed in the notice. If Attaching Party does not rearrange facilities within noted time, SBC-13STATE will rearrange at Attaching Party's expense.

**25. EMERGENCY REPAIRS AND POLE REPLACEMENTS**

- 25.1 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.

- 25.1.1 Nothing contained in this Appendix shall be construed as requiring either party to perform any repair or service restoration work of

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any kind with respect to the other party's facilities or the facilities of joint users.

- 25.1.2 Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that an entity using the maintenance duct for emergency repair activities will notify SBC-13STATE within 12 hours of the current business day (or first business day following a non-business day) that such entity is entering the SBC-13STATE conduit system and using the maintenance duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance ducts will be used to restore the highest priority services, as defined in Section 2.7, first. Existing spare ducts may be used for restoration purposes providing the spare ducts are restored after restoration work is complete. Any spare ducts not returned will be included be assigned to the user of the duct and an occupancy permit issued.
- 25.1.3 The Attaching Party shall either vacate the maintenance duct within 30 days or, with SBC-13STATE's consent, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner-duct, a suitable replacement inner-duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance ducts. Entities not vacating the maintenance duct must provide an immediate maintenance duct at the entity's cost.
- 25.2 Designation of Emergency Repair Coordinators and Other Information. For each SBC-13STATE construction district, Attaching Party shall provide SBC-13STATE with the emergency contact number of Attaching Party's designated point of contact for coordinating the handling of emergency repairs of Attaching Party's facilities and shall thereafter notify SBC-13STATE of changes to such information.
- 25.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, SBC-13STATE, Attaching Party, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.

- 25.3.1 Emergency service restoration work requirements shall take precedence over other work operations.
- 25.3.2 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- 25.3.3 SBC-13STATE shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by SBC-13STATE on a nondiscriminatory basis in accordance with the principles set forth in this section.
- 25.4 Emergency Pole Replacements.
- 25.4.1 When emergency pole replacements are required, SBC-13STATE shall promptly make a good faith effort to contact Attaching Party to notify Attaching Party of the emergency and to determine whether Attaching Party will respond to the emergency in a timely manner.
- 25.4.2 If notified by SBC-13STATE that an emergency exists which will require the replacement of a pole, Attaching Party shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an SBC-13STATE replacement pole, the transfer shall be in accordance with SBC-13STATE's placement instructions.
- 25.4.3 If Attaching Party is unable to respond to the emergency situation immediately, Attaching Party shall so advise SBC-13STATE and thereby authorize SBC-13STATE (or any Other User sharing the pole with SBC-13STATE) to perform such emergency-

necessitated transfers (and associated facilities rearrangements) on Attaching Party's behalf.

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

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

25.5.2 Attaching Party shall reimburse SBC-13STATE for the costs incurred by SBC-13STATE for work performed by SBC-13STATE on Attaching Party's behalf in accordance with the provisions of this article.

## 26. INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES

26.1 Post-Construction Inspections. SBC-13STATE will, at the Attaching Party's expense, conduct a post-construction inspection of the Attaching Party's attachment of facilities to SBC-13STATE's Structures for the purpose of determining the conformance of the attachments to the occupancy permit. SBC-13STATE will provide the Attaching Party advance written notice of proposed date and time of the post-construction inspection. The Attaching Party may accompany SBC-13STATE on the post-construction inspection.

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

26.3 If Attaching Party's facilities are in compliance with this Appendix, there will be no charges incurred by the Attaching Party for the periodic or spot inspection. If Attaching Party's facilities are not in compliance with this Appendix, SBC-13STATE may charge Attaching Party for the inspection. The costs of Periodic Inspections will be paid by those Attaching Parties with 2% or greater of their attachments in violation. The amount paid by

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the Attaching Party shall be the percentage that their violations bear to the total violations of all Attaching Parties found during the inspection.

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

## 27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

- 27.1 Facilities to Be Marked. Attaching Party shall tag or otherwise mark all of Attaching Party's facilities placed on or in SBC-13STATE's Structure in a manner sufficient to identify the facilities as those belonging to the Attaching Party.
- 27.2 Removal of Untagged Facilities. SBC-13STATE may, without notice to any person or entity, remove from SBC-13STATE's poles or any part of SBC-13STATE's conduit system the Attaching Party's facilities, if SBC-13STATE determines that such facilities are not the subject of a current occupancy permit and are not otherwise lawfully present on SBC-13STATE's poles or in SBC-13STATE's conduit system.
- 27.3 Notice to Attaching Party. If any of Attaching Party's facilities for which no occupancy permit is presently in effect are found attached to SBC-13STATE's poles or anchors or within any part of SBC-13STATE's conduit system, SBC-13STATE, without prejudice to other rights or remedies available to SBC-13STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Agreement, shall send a written notice to Attaching Party advising Attaching Party that no occupancy permit is presently in effect with respect to the facilities and that Attaching Party must, within 30 days, respond to the notice as provided in Section 27.6 of this Appendix.
- 27.4 Attaching Party's Response. Within 60 days after receiving a notice under Section 27.5 of this Appendix, Attaching Party shall acknowledge receipt of the notice and submit to SBC-13STATE, in writing, an application for a new or amended occupancy permit with respect to such facilities.

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- 27.5 Approval of Request and Retroactive Charges. If SBC-13STATE approves Attaching Party's application for a new or amended occupancy permit, Attaching Party shall be liable to SBC-13STATE for all fees and charges associated with the unauthorized attachments as specified in Section 27.10 of this Appendix. The issuance of a new or amended occupancy permit as provided by this article shall not operate retroactively or constitute a waiver by SBC-13STATE of any of its rights or privileges under this Appendix or otherwise.
- 27.6 Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from SBC-13STATE's poles, conduit system or rights of way or until a new or amended occupancy permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if Attaching Party and its predecessors had continuously complied with all applicable SBC-13STATE licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. In addition, the Attaching Party shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date Attaching Party is notified by SBC-13STATE of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Attaching Party shall rearrange or remove its unauthorized facilities at SBC-13STATE's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to SBC-13STATE or another Other User, and shall pay SBC-13STATE for all costs incurred by SBC-13STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Attaching Party's unauthorized facilities.
- 27.7 Removal of Unauthorized Attachments. If Attaching Party does not obtain a new or amended occupancy permit with respect to unauthorized facilities within the specified period of time, SBC-13STATE shall by written notice advise Attaching Party to remove its unauthorized facilities not less than 60 days from the date of notice and Attaching Party shall remove the facilities within the time specified in the notice. If the facilities have not been removed within the time specified in the notice, SBC-13STATE may, at SBC-13STATE's option, remove Attaching Party's facilities at Attaching Party's expense.
- 27.8 No Ratification of Unpermitted Attachments or Unauthorized Use of SBC-13STATE's Facilities. No act or failure to act by SBC-13STATE with regard to any unauthorized attachment or occupancy or unauthorized use of SBC-13STATE's Structure shall be deemed to constitute a ratification

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by SBC-13STATE of the unauthorized attachment or occupancy or use, nor shall the payment by Attaching Party of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Attaching Party from liability for any trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

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

- 28.1 When Applicant no longer intends to occupy space on a SBC-13STATE pole or in a SBC-13STATE duct or conduit, Applicant will provide written notification to SBC-13STATE that it wishes to terminate the occupancy permit with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Applicant's facilities, the occupancy permit shall terminate and the space shall be available for reassignment.
- 28.1.1 Attaching Party shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from SBC-13STATE's Structure.
- 28.1.2 Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to SBC-13STATE's manholes.
- 28.1.3 Applicant shall be solely responsible for the removal of its own facilities from SBC-13STATE's Structure.
- 28.2 At SBC-13STATE's request, Attaching Party shall remove from SBC-13STATE's Structure any of Attaching Party's facilities which are no longer in active use. Upon request, the Attaching Party will provide proof satisfactory to SBC-13STATE that an Attaching Party's facility is in active service. Attaching Party shall not abandon any of its facilities by leaving such facilities on or in SBC-13STATE's Structure.
- 28.3 Removal Following Termination of Occupancy permit. Attaching Party shall remove its facilities from SBC-13STATE's poles, ducts, conduits, or rights-of-way within 60 days after termination of the occupancy permit.
- 28.4 Removal Following Replacement of Facilities. Attaching Party shall remove facilities no longer in service from SBC-13STATE's Structures within 60 days after the date Attaching Party replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit.

- 28.5 Removal to Avoid Forfeiture. If the presence of Attaching Party's facilities on or in SBC-13STATE's Structure would cause a forfeiture of the rights of SBC-13STATE to occupy the property where such Structure is located, SBC-13STATE will promptly notify Attaching Party in writing and Attaching Party shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. SBC-13STATE will give Attaching Party not less than 60 days from the date of notice to remove Attaching Party's facilities unless prior removal is required to prevent the forfeiture of SBC-13STATE's rights. At Attaching Party's request, the parties will engage in good faith negotiations with each other, with Other Users, and with third-party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Attaching Party's facilities.
- 28.6 Removal of Facilities by SBC-13STATE; Notice of Intent to Remove. If Attaching Party fails to remove its facilities from SBC-13STATE's Structure in accordance with the provisions of Sections 28.1-28.6 of this Appendix, SBC-13STATE may remove such facilities and store them at Attaching Party's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Attaching Party for any injury, loss, or damage resulting from such actions. SBC-13STATE shall give Attaching Party not less than 60 days prior written notice of its intent to remove Attaching Party's facilities pursuant to this section.
- 28.7 Removal of Facilities by SBC-13STATE. If SBC-13STATE removes any of Attaching Party's facilities pursuant to this article, Attaching Party shall reimburse SBC-13STATE for SBC-13STATE's costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

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

- 29.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees outlined in this Appendix will be set forth in APPENDIX PRICING as part of the Interconnection Agreement. All rates, charges and fees shall be subject to all applicable federal and state laws, rules, regulations, and commission orders.
- 29.2 Changes to Rates, Charges and Fees. Subject to applicable federal and state laws, rules, regulations and orders, SBC-13STATE shall have the right to change the rates, charges and fees outlined in this Appendix. SBC-13STATE will provide the Attaching Party 60 days written notice,

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advising the Attaching Party of the specific changes being made and the effective date of the change. If the changes outlined in the notice are not acceptable to the Attaching Party, Attaching Party may either (1) seek renegotiation of this Appendix, (2) terminate this Appendix, or (3) seek relief through the dispute resolution process in the General Terms and Conditions of this Agreement.

### 30. PERFORMANCE AND PAYMENT BONDS

30.1 Bond May Be Required. SBC-13STATE may require Attaching Party, authorized contractors, and other persons acting on Attaching Party's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of the Attaching Party's obligations arising out of or in connection with this Appendix.

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

30.2 Payment and Performance Bonds in Favor of Contractors and Subcontractors. Attaching Party shall be responsible for paying all employees, contractors, subcontractors, mechanics, materialmen and other persons or entities performing work or providing materials in connection with Attaching Party's performance under this Appendix. In the event any lien, claim or demand is made on SBC-13STATE by any such employee, contractor, subcontractor, mechanic, materialman, or other person or entity providing such materials or performing such work, SBC-13STATE may require, in addition to any security provided under Section 30.1 of this Appendix, that Attaching Party execute payment or performance bonds, or provide such other security, as SBC-13STATE may deem reasonable or necessary to protect SBC-13STATE from any such lien, claim or demand.

### 31. NOTICES

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

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

If to Attaching Party:

Name: Rhonda Walters

Firm: Delta Phones, Inc.

Address: 245 Illinois Street

City/State/Zip: Delhi, LA 71232

If to SBC:

Name: Contract Administration

Title: Notices Manager

Firm: SBC Communications, Inc.

Address: 311 S. Akard, 9<sup>th</sup> Floor

City/State/Zip: Dallas, TX 75202-5398

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

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

- 32.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this

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

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## APPENDIX UNE

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**APPENDIX UNE  
(UNBUNDLED NETWORK ELEMENTS)**

**1. INTRODUCTION**

- 1.1 This Appendix UNE sets forth the terms and conditions pursuant to which the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) agrees to furnish CLEC with access to unbundled network elements (UNEs) for the provision by CLEC of a Telecommunications Service. ((Act, Section 251(c)(2)(B); 47 CFR § 51.305(a)(2)(vi)). For information regarding deposit, billing, payment, non-payment, disconnect, and dispute resolution, see the General Terms and Conditions of this Agreement.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company, and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 The prices at which SBC-13STATE agrees to provide CLEC with UNEs are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.
- 1.5 Other than as expressly set forth in this Agreement, SBC-13STATE has no obligation to provide access to any UNE or network element, or to provide terms and conditions associated with any UNE, or to combine UNEs, or to combine a UNE with a network element possessed by CLEC.
- 1.6 SBC-12STATE - As used herein, SBC-12STATE means the applicable above listed ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.7 SBC-8STATE - As used herein, SBC-8STATE means an applicable above listed ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.

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- 1.8 SBC-7STATE - As used herein, SBC-7STATE means the applicable above listed ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.9 SBC-SWBT - As used herein, SBC-SWBT means the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.10 SBC-AMERITECH - As used herein, SBC-AMERITECH means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.11 SBC-MOKA - As used herein, SBC-MOKA means the applicable above listed ILEC doing business in Arkansas, Kansas, Missouri, and Oklahoma.
- 1.12 PACIFIC -As used herein, PACIFIC means the applicable above listed ILEC doing business in California.
- 1.13 NEVADA -As used herein, NEVADA means the applicable above listed ILEC doing business in Nevada.
- 1.14 SNET -As used herein, SNET means the applicable above listed ILEC doing business in Connecticut.

## 2. TERMS AND CONDITIONS

- 2.1 SBC-13STATE and CLEC may agree to connect CLEC's facilities with SBC-13STATE's network at any technically feasible point for access to UNEs for the provision by CLEC of a Telecommunications Service. (Act, Section 251(c)(2)(B); 47 CFR § 51.305(a)(2)(vi)).
- 2.2 SBC-13STATE will provide CLEC nondiscriminatory access to UNEs (Act, Section 251(c)(3), Act, and Section 271(c)(2)(B)(ii); 47 CFR § 51.307(a)):
  - 2.2.1 At any technically feasible point (Act, Section 251(c)(3); 47 CFR § 51.307(a));
  - 2.2.2 At the rates, terms, and conditions which are just, reasonable, and nondiscriminatory (Act, Section 251(c)(3); 47 CFR § 51.307(a));
  - 2.2.3 In a manner that allows CLEC to provide a Telecommunications Service that may be offered by means of that UNE (Act, Section 251(c)(3); 47 CFR § 51.307 (c);

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- 2.2.4 In a manner that allows access to the facility or functionality of a requested UNE to be provided separately from access to other elements, and for a separate charge (47 CFR § 51.307(d));
- 2.2.5 With technical information regarding SBC-13STATE's network facilities to enable CLEC to achieve access to UNEs (47 CFR § 51.307(e));
- 2.2.6 Without limitations, restrictions, or requirements on requests that would impair CLEC's ability to provide a Telecommunications Service in a manner it intends (47 CFR § 51.309(a));
- 2.2.7 In a manner that allows CLEC purchasing access to UNEs to use such UNE to provide exchange access service to itself in order to provide interexchange services to subscribers (47 CFR § 51.309(b));
- 2.2.8 Where applicable, terms and conditions of access to UNEs shall be no less favorable than terms and conditions under which SBC-13STATE provides such elements to itself (47 CFR § 51.313(b)).
- 2.2.9 Only to the extent it has been determined that these elements are required by the "necessary" and "impair" standards of the Act (Act, Section 251(d)(2)).
- 2.2.10 Except upon request of CLEC, SBC-13STATE shall not separate CLEC-requested UNEs that are currently combined. (47 CFR § 51.315(b)) SBC-13STATE is not prohibited from or otherwise limited in separating any UNEs not requested by CLEC or a Telecommunications Carrier, including without limitation in order to provide a UNE(s) or other SBC-13STATE offering(s).
- 2.3 As provided for herein, SBC-13STATE will permit CLEC exclusive use of an unbundled network facility for a period of time, and when CLEC is purchasing access to a feature, function, or capability of a facility, SBC-13STATE will provide use of that feature, function, or capability for a period of time (47 CFR § 51.309(c)).
- 2.4 SBC-13STATE will maintain, repair, or replace UNEs (47 CFR § 51.309(c)) as provided for in this Agreement.
- 2.5 Where technically feasible, the quality of the UNE and access to such UNE shall be at least equal to what SBC-13STATE provides itself or any subsidiary, affiliate, or other party (47 CFR § 51.311(a), (b)).
- 2.6 Each Party shall be solely responsible for the services it provides to its End Users and to other Telecommunications Carriers.

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- 2.7 UNEs provided to CLEC under the provisions of this Appendix shall remain the property of SBC-13STATE.
- 2.8 SBC-13STATE will not connect to or combine UNEs with any non-251(c)(3) or other SBC-13STATE offering with the exception of tariffed Collocation services.
- 2.9 Provisioning/Maintenance of Unbundled Network Elements
- 2.9.1 Access to UNEs is provided under this Agreement over such routes, technologies, and facilities as SBC-13STATE may elect at its own discretion. SBC-13STATE will provide access to UNEs where technically feasible. Where facilities and equipment are not available, SBC-13STATE shall not be required to provide UNEs. However, CLEC may request and, to the extent required by law, SBC-13STATE may agree to provide UNEs, through the Bona Fide Request (BFR) process.
- 2.9.2 Subject to the terms herein, SBC-13STATE is responsible only for the installation, operation and maintenance of the UNEs it provides. SBC-13STATE is not otherwise responsible for the Telecommunications Services provided by CLEC through the use of those UNEs.
- 2.9.3 Where UNEs provided to CLEC are dedicated to a single End User, if such UNEs are for any reason disconnected they shall be made available to SBC-13STATE for future provisioning needs, unless such UNE is disconnected in error. The CLEC agrees to relinquish control of any such UNE concurrent with the disconnection of a CLEC's End User's service.
- 2.9.4 CLEC shall make available at mutually agreeable times the UNEs provided pursuant to this Appendix in order to permit SBC-13STATE to test and make adjustments appropriate for maintaining the UNEs in satisfactory operating condition. No credit will be allowed for any interruptions involved during such testing and adjustments.
- 2.9.5 CLEC's use of any SBC-13STATE UNE, or of its own equipment or facilities in conjunction with any SBC-13STATE network element, will not materially interfere with or impair service over any facilities of SBC-13STATE, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any communications carried over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, SBC-13STATE may discontinue or refuse service if CLEC violates this provision, provided that such termination of service will be limited to CLEC's use of the UNE(s) causing the violation.

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- 2.9.6 When a SBC-13STATE provided tariffed or resold service is replaced by CLEC's facility based service using any SBC-13STATE provided UNE(s), CLEC shall issue appropriate service requests, to both disconnect the existing service and connect new service to CLEC's End User. These requests will be processed by SBC-13STATE, and CLEC will be charged the applicable UNE service order charge(s), in addition to the recurring and nonrecurring charges for each individual UNE and cross connect ordered. Similarly, when an End User is served by one CLEC using SBC-13STATE provided UNEs is converted to a different CLEC's service which also uses any SBC-13STATE provided UNE, the requesting CLEC shall issue appropriate service requests to both disconnect the existing service and connect new service to the requesting CLEC's End User. These requests will be processed by SBC-13STATE and the CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual UNE and cross connect ordered.
- 2.9.7 CLEC shall connect equipment and facilities that are compatible with the SBC-13STATE network elements and shall use UNEs in accordance with the applicable regulatory standards and requirements referenced in this Agreement.
- 2.9.8 UNEs may not be connected to or combined with SBC-13STATE access services or other SBC-13STATE tariffed service offerings with the exception of tariffed Collocation services where available. CLEC shall not combine or use UNEs in a manner that will impair the ability of other Telecommunications Carriers to obtain access to Unbundled Network Elements or to Interconnect with SBC-13STATE's network.
- 2.10 Performance of UNEs
- 2.10.1 Each UNE will be provided in accordance with SBC-13STATE Technical Publications or other written descriptions, if any, as changed from time to time by SBC-13STATE at its sole discretion.
- 2.10.2 Nothing in this Appendix will limit either Party's ability to modify its network through the incorporation of new equipment, new software or otherwise. Each Party will provide the other Party written notice of any upgrades in its network which will materially impact the other Party's service consistent with the timelines established by the FCC in the Second Report and Order, CC Docket 96-98.
- 2.10.3 SBC-13STATE may elect to conduct Central Office switch conversions for the improvement of its network. During such conversions, CLEC orders for UNEs from that switch shall be suspended for a period of three days prior

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and one day after the conversion date, consistent with the suspension SBC-13STATE places on itself for orders from its End Users.

- 2.10.4 CLEC will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required because of changes in facilities, operations, or procedure of SBC-13STATE, minimum network protection criteria, or operating or maintenance characteristics of the facilities.

2.11 New Combinations Involving UNEs

- 2.11.1 Subject to the provisions hereof and upon CLEC request, SBC-13STATE shall meet its combining obligations involving UNEs as and to the extent required by FCC rules and orders, and *Verizon Comm. Inc. v. FCC*, 535 U.S. \_\_\_\_\_, No. 00-511, 2002 WL 970643 (May 13, 2002) ("*Verizon Comm. Inc.*") and, to the extent not inconsistent therewith, the rules and orders of relevant State Commission and any other Applicable Law.
- 2.11.2 In the event that SBC-13STATE denies a request to perform the functions necessary to combine UNEs or to perform the functions necessary to combine UNEs with elements possessed by CLEC, SBC-13STATE shall provide written notice to CLEC of such denial and the basis thereof. Any dispute over such denial shall be addressed using the dispute resolution procedures applicable to this Agreement. If such dispute cannot be resolved to the mutual satisfaction of the parties, SBC-13STATE shall initiate a proceeding before the State commission for the State in which the combination is sought, to prove that such denial meets one or more applicable standards for denial, including without limitation those under the FCC rules and orders, *Verizon Comm. Inc.*, and the Agreement, including Section 2.11.1 of this Appendix.
- 2.11.3 In accordance with and subject to the provisions of this Section 2.11, including Section 2.11.3.2 and 2.11.5, the new UNE combinations set forth in the Schedule(s) – UNE Combinations attached and incorporated into this Appendix UNE shall be made available to CLEC as specified in the specific Schedule for a particular State.
- 2.11.3.1 A "Pre-existing Combination" shall not be considered a new combination involving UNEs under this Section. A "Pre-existing Combination" means a combination of UNEs where no physical work is required by SBC-13STATE at an SBC-13STATE premises, an outside plant location, or a customer premises, in order to establish physical connections between the UNEs that constitute the UNE combination. A Pre-existing Combination

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includes all orders within the definition of "Contiguous Interconnection of Network Elements."

2.11.3.1.1 "Contiguous Interconnection of Network Elements" means the situation when CLEC orders all the SBC-13STATE UNEs required either

- (1) to convert to a combinations of UNEs an SBC-13STATE End User customer, another carrier's pre-existing End User customer served exclusively using UNEs, or CLEC's or another carrier's resale End User customer; or
- (2) if the Pre-Existing Combination includes a local loop UNE with unbundled local switching, to activate that Pre-Existing Combination for CLEC (a) without any change in features or functionality that was being provided at the time of the order, and/or (b) the only change needed to route the operator service and directory assistance ("OS/DA") calls from the End User customer to be served by that Pre-Existing Combination to CLEC's OS/DA platform via customized routing, and/or (c) with only changes needed in order to change a local switching feature resident and activated in the serving switch and available to the switch port class used to provide service, e.g., call waiting for residential local service, and/or (d) at the time of the order and when the order is worked by SBC-13STATE, the End User customer in question is not served by a line sharing arrangement as defined herein (or, if not so defined, by applicable FCC orders) or the technical equivalent, e.g., the loop facility is being used to provide both a voice service and also an xDSL service. (Section 2.11.3.1.1(2)(b) only applies to orders involving customized routing after customized routing has been established to CLEC's OS/DA platform from the relevant SBC-13STATE local switch, including CLEC's payment of all applicable charges to establish that routing.)

2.11.3.1.2 Reconfigurations under Section 19 of this Appendix UNE shall not be considered a new combination involving UNEs under this Section.

2.11.3.2 The parties acknowledge that the United States Supreme Court in *Verizon Comm. Inc.* relied on the distinction between an incumbent local exchange carrier such as SBC-13STATE being required to perform the functions necessary to combine UNEs and to combine UNEs with elements possessed by a requesting telecommunications carrier, as compared to an incumbent LEC being required to complete the actual combination. As of the Effective Date, there has been no further ruling or other guidance provided on that distinction and what functions constitute only those that are necessary to such combining. In light of that uncertainty, SBC-13STATE is willing to perform the actions necessary to also complete the actual physical combination for those new UNE combinations set forth in the Schedule(s) – UNE Combinations to this Appendix UNE, subject to the following:

2.11.3.2.1 Section 2.11, including any acts taken pursuant thereto, shall not in any way prohibit, limit or otherwise affect, or act as a waiver by, SBC-13STATE from pursuing any of its rights, remedies or arguments, including but not limited to those with respect to *Verizon Comm. Inc.*, the remand thereof, or any FCC or Commission or court proceeding, including its right to seek legal review or a stay of any decision regarding combinations involving UNEs. Such rights, remedies, and arguments are expressly reserved by SBC-13STATE. Without affecting the foregoing, this Agreement does not in any way prohibit, limit, or otherwise affect SBC-13STATE from taking any position with respect to combinations including UNEs or any issue or subject addressed or related thereto.

2.11.3.2.2 Upon the effective date of any regulatory, judicial, or legislative action setting forth, eliminating, or otherwise delineating or clarifying the extent of an incumbent LEC's UNE combining obligations, SBC-13STATE shall be immediately relieved of any obligation to perform any non-included combining functions or other actions under this Agreement or otherwise, and CLEC shall thereafter

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be solely responsible for any such non-included functions or other actions. This Section 2.11.3.2.2 shall apply in accordance with its terms, regardless of the provision found at "GENERAL TERMS AND CONDITIONS," Paragraph 21, "Intervening Law" or any similarly purposed or other provision of the Agreement and, concomitantly, the first sentence of this Section 2.11.3.2.2 shall not affect the applicability of any such provisions in situations not covered by that first sentence.

2.11.3.2.3 Without affecting the application of Section 2.11.3.2.2 (which shall apply in accordance with its provisions), upon notice by SBC-13STATE, the parties shall engage in good faith negotiations to amend the Agreement to set forth and delineate those functions or other actions that go beyond the ILEC obligation to perform the functions necessary to combine UNEs and combine UNEs with elements possessed by a requesting telecommunications carrier, and to eliminate any SBC-13STATE obligation to perform such functions or other actions. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the parties regarding those functions and other actions that go beyond those functions necessary to combine UNEs and combine UNEs with elements possessed by a requesting telecommunications carrier, shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.

2.11.3.3 For a new UNE combination listed on a Schedule – UNE Combinations does not imply or otherwise indicate the availability of related support system capabilities, including without limitation, whether electronic ordering is available for any particular included new UNE combination in one or more States. Where electronic ordering is not available, manual ordering shall be used.

2.11.3.4 For a new UNE combination listed on a Schedule – UNE Combinations, CLEC shall issue appropriate service requests. These requests will be processed by SBC-13STATE, and CLEC

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will be charged the applicable UNE service order charge(s), in addition to the recurring and nonrecurring charges for each individual UNE and cross connect ordered.

- 2.11.3.5 Upon notice by SBC-13STATE, the parties shall engage in good faith negotiations to amend the Agreement to include a fee(s) for any work performed by SBC-13STATE in providing the new UNE combinations set forth in Schedule(s) – UNE Combinations, which work is not covered by the charges applicable per Section 2.11.3.4. For any such work that is required to be done by SBC13-STATE under Section 2.11.1, any such fee(s) shall be a reasonable cost-based fee, and shall be calculated using the Time and Material charges as reflected in State-specific pricing. For any such work that is not so required to be done by SBC13-STATE, any such fee(s) shall be at a market-based rate. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the parties concerning any such fee(s) shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.
- 2.11.4 In accordance with and subject to the provisions of this Section 2.11, any request not included in Section 2.11.3 in which CLEC wants SBC-13STATE to perform the functions necessary to combine UNEs or to perform the functions necessary to combine UNEs with elements possessed by CLEC (as well as requests where CLEC also wants SBC-13STATE to complete the actual combination), shall be made by CLEC in accordance with the bona fide request (BFR) process set forth in this Agreement.
- 2.11.4.1 In any such BFR, CLEC must designate among other things the UNE(s) sought to be combined and the needed location(s), the order in which the UNEs and any CLEC elements are to be connected, and how each connection (e.g., cross-connected) is to be made between an SBC-13STATE UNE and the network element(s) possessed by CLEC.
- 2.11.4.2 In addition to any other applicable charges, CLEC shall be charged a reasonable cost-based fee for any combining work that is required to be done by SBC-13STATE under Section 2.11.1. Such fee shall be calculated using the Time and Material charges as reflected in the State-specific Appendix Pricing. SBC-13STATE's Preliminary Analysis to the BFR shall include an estimate of such fee for the specified combining. With respect to a BFR in which CLEC requests SBC-13STATE to perform work

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not required by Section 2.11.1, CLEC shall be charged a market-based rate for any such work.

2.11.5 Without affecting the other provisions hereof, the UNE combining obligations referenced in this Section 2.11 apply only in situations where each of the following is met:

2.11.5.1 it is technically feasible, including that network reliability and security would not be impaired;

2.11.5.2 SBC-13STATE's ability to retain responsibility for the management, control, and performance of its network would not be impaired;

2.11.5.3 SBC-13STATE would not be placed at a disadvantage in operating its own network;

2.11.5.4 it would not impair the ability of other Telecommunications Carriers to obtain access to UNEs or to Interconnect with SBC-13STATE's network; and

2.11.5.5 CLEC is

2.11.5.5.1 unable to make the combination itself; or

2.11.5.5.2 a new entrant and is unaware that it needs to combine certain UNEs to provide a telecommunications service, but such obligation under this Section 2.11.5.5 ceases if SBC-13STATE informs CLEC of such need to combine.

2.11.6 For purposes of Section 2.11.5.5 and without limiting other instances in which CLEC may be able to make a combination itself, CLEC is deemed able to make a combination itself when the UNE(s) sought to be combined are available to CLEC, including without limitation:

2.11.6.1 at an SBC-13STATE premises where CLEC is physically collocated or has an on-site adjacent collocation arrangement;

2.11.6.2 for PACIFIC only, within an Adjacent Location arrangement (as described in Section 4 of this Appendix).

2.11.7 Section 2.11.5.5 shall only begin to apply thirty (30) days after notice by SBC-13STATE to CLEC. Thereafter, SBC-13STATE may invoke Section 2.11.5.5 with respect to any request for a combination involving UNEs.

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2.11.8 Nothing in this Agreement shall impose any obligation on SBC-13STATE to provide UNEs, combinations of UNEs, or combinations of UNE(s) and CLEC's own elements beyond those obligations imposed by the Act, including the rules and orders of the FCC and *Verizon Comm. Inc.* and, to the extent not inconsistent therewith, the rules and orders of the relevant State Commission and any other Applicable Law. The preceding includes without limitation the following:

- 2.11.8.1 The UNE combination known as an "enhanced extended loop" or "EEL" (a combination of a UNE loop and UNE dedicated transport, with appropriate Cross-Connects, and when needed, multiplexing) shall only be provided to CLEC to the extent that the EEL is used to provide a significant amount of local exchange service to a particular End User customer (this limitation is the same as the requirements set forth in the FCC's Supplemental Order Clarification in CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000));
- 2.11.8.2 SBC-13STATE will not connect to or combine UNEs with any non-251(c)(3) or other SBC-13STATE offerings with the exception of tariffed Collocation services;
- 2.11.8.3 SBC-13STATE need not provide combinations involving network elements that do not constitute required UNEs, or where UNEs are not requested for permissible purposes.

### 3. ACCESS TO UNE CONNECTION METHODS

3.1 This Section describes the connection methods under which SBC-13STATE agrees to provide CLECs with access on an unbundled basis to loops, switch ports, and dedicated transport and the conditions under which SBC-13STATE makes these methods available. These methods provide CLEC access to multiple SBC-13STATE UNEs which the CLEC may then combine. The methods listed below provide CLEC with access to UNEs without compromising the security, integrity, and reliability of the public switched network, as well as to minimize potential service disruptions.

3.1.1 Subject to availability of space and equipment, CLEC may use the methods listed below to access and combine UNE loops, switch ports, and dedicated transport within a requested SBC-13STATE Central Office.

#### 3.1.1.1 (Method 1)

SBC-13STATE will extend SBC-13STATE UNEs requiring cross connection to the CLEC's Physical Collocation Point of Termination

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(POT) when the CLEC is Physically Collocated, in a caged or shared cage arrangement, within the same Central Office where the UNEs which are to be combined are located.

3.1.1.2 (Method 2)

SBC-13STATE will extend SBC-13STATE UNEs that require cross connection to the CLEC's UNE frame located in the common room space, other than the Collocation common area, within the same Central Office where the UNEs which are to be combined are located.

3.1.1.3 (Method 3)

SBC-13STATE will extend SBC-13STATE UNEs to the CLEC's UNE frame that is located outside the SBC-13STATE Central Office where the UNEs are to be combined in a closure such as a cabinet provided by SBC-13STATE on SBC-13STATE property.

3.2 The following terms and conditions apply to all methods when SBC-13STATE provides access pursuant to Sections 3.1.1.1 through 3.1.1.3:

- 3.2.1 Within ten (10) business days of receipt of a written request for access to UNEs involving three (3) or fewer Central Offices, SBC-13STATE will provide a written reply notifying the requesting CLEC of the method(s) of access available in the requested Central Offices. For requests impacting four (4) or more Central Offices the Parties will agree to an implementation schedule for access to UNEs.
- 3.2.2 Access to UNEs via Method 1 is only available to Physically Collocated CLECs. Access to UNEs via Method 2 and Method 3 is available to both Collocated and Non-Collocated CLECs. Method 2 and Method 3 are subject to availability of SBC-13STATE Central Office space and equipment.
- 3.2.3 The CLEC may cancel the request at any time, but will pay SBC-13STATE's reasonable and demonstrable costs for modifying SBC-13STATE's Central Office up to the date of cancellation.
- 3.2.4 CLECs may elect to access SBC-13STATE's UNEs through Physical Collocation arrangements.
- 3.2.5 CLEC shall be responsible for initial testing and trouble sectionalization of facilities containing CLEC installed cross connects.
- 3.2.6 CLEC shall refer trouble sectionalized in the SBC-13STATE UNE to SBC-13STATE.

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- 3.2.7 Prior to SBC-13STATE providing access to UNEs under this Appendix, CLEC and SBC-13STATE shall provide each other with a point of contact for overall coordination.
- 3.2.8 CLEC shall provide all tools and materials required to place and remove the cross connects necessary to combine and disconnect UNEs when CLEC combines or disconnects UNEs.
- 3.2.9 All tools, procedures, and equipment used by CLEC to connect to SBC-13STATE's network shall comply with technical standards set out in SBC Local Exchange Carrier Technical Document TP76299MP, to reduce the risk of damage to the network and customer disruption.
- 3.2.10 CLEC shall be responsible for CLEC's personnel observing SBC-13STATE's site rules and regulations, including but not limited to safety regulations and security requirements, and for working in harmony with others while present at the site. If SBC-13STATE for any reasonable and lawful reason requests CLEC to discontinue furnishing any person provided by CLEC for performing work on SBC-13STATE's premises, CLEC shall immediately comply with such request. Such person shall leave SBC-13STATE's premises promptly, and CLEC shall not furnish such person again to perform work on SBC-13STATE's premises without SBC-13STATE's consent.
- 3.2.11 CLEC shall provide positive written acknowledgment that the requirements stated in Section 3.2.10 have been satisfied for each employee requiring access to SBC-13STATE premises and/or facilities. SBC-13STATE identification cards will be issued for any CLEC employees who are designated by CLEC as meeting the necessary requirements for access. Entry to SBC-13STATE premises will be granted only to CLEC employees with such identification.
- 3.2.12 CLEC shall designate each UNE being ordered from SBC-13STATE. CLEC shall provide an interface to receive assignment information from SBC-13STATE regarding location of the extended UNEs. This interface may be manual or mechanized.
- 3.2.13 SBC-13STATE will provide CLEC with contact numbers as necessary to resolve assignment conflicts encountered. All contact with SBC-13STATE shall be referred to such contact numbers.
- 3.2.14 The CLEC shall provide its own administrative Telecommunication Service at each facility and all materials needed by CLEC at the work site. The use of cellular telephones is not permitted in SBC-13STATE equipment areas.

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3.2.15 Certain construction and preparation activities may be required to modify a building or prepare the premises for access to UNEs.

3.2.15.1 Where applicable, costs for modifying a building or preparing the premises for access to SBC-13STATE UNEs will be made on an individual case basis (ICB).

3.2.15.2 SBC-13STATE will provide Access to UNEs (floor space, floor space conditioning, cage common systems materials, and safety and security charges) in increments of one (1) square foot. For this reason, SBC-13STATE will ensure that the first CLEC obtaining Access to UNEs in an SBC-13STATE premises will not be responsible for the entire cost of site preparation and security.

3.2.15.3 SBC-13STATE will contract for and perform the construction and preparation activities using same or consistent practices that are used by SBC-13STATE for other construction and preparation work performed in the building.

#### 4.\* ADJACENT LOCATION

4.1\* This Section describes the Adjacent Location Method for accessing UNEs. This Section also provides the conditions in which PACIFIC offers the Adjacent Location Method.

4.2\* The Adjacent Location Method allows a CLEC to access loops, switch ports, and dedicated transport for a CLEC location adjacent to a PACIFIC Central Office as identified by PACIFIC. Under this method PACIFIC UNEs will be extended to the adjacent location, via copper cabling provided by the CLEC, which the CLEC can then utilize to provide Telecommunications Service.

4.3\* This method requires the CLEC to provide copper cable, greater than 600 pairs, to the last manhole outside the PACIFIC Central Office. The CLEC shall provide enough slack for PACIFIC to pull the cable into the Central Office and terminate the cable on the Central Office Intermediate Distribution Frame (IDF).

4.4\* The CLEC will obtain all necessary rights of way, easements, and other third party permissions.

4.5\* The following terms and conditions apply when PACIFIC provides the adjacent location:

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\* Section 4 is available only in the state of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

- 4.5.1 The CLEC is responsible for Spectrum Interference and is aware that not all pairs may be ADSL or POTS capable.
- 4.6\* The installation interval applies on an individual application basis. The CLEC is responsible for paying all up front charges (nonrecurring and case preparation costs) before work will begin. This assumes that all necessary permits will be issued in a timely manner.
- 4.7\* The CLEC will provide the excess cable length necessary to reach the PACIFIC IDF in the PACIFIC Central Office where CLEC requests connection.
- 4.8\* The CLEC will be responsible for testing and sectionalization of facilities from the customer's location to the entrance manhole.
- 4.9\* <sup>1</sup>The CLEC should refer any sectionalized trouble determined to be in PACIFIC's facilities to PACIFIC.
- 4.10\* The CLEC's employees, agents and contractors will be permitted to have access to the CLEC's cable where it is delivered to PACIFIC (outside the entrance manhole). The CLEC is only able to enter the entrance manhole to splice under a duct lease agreement. If the CLEC leases ducts to get to the Central Office then CLEC has the right to splice the manholes on the route, including the entrance manhole.
- 4.11\* In order for PACIFIC to identify the entrance manhole for the CLEC, the CLEC must specify the direction from which the cable originates. PACIFIC will verify that a vacant sleeve or riser duct exists at the entrance manhole. If none exists, construction of one will be required. If a vacant access sleeve or riser duct does not exist, and one must be constructed, the CLEC will pay for the construction on an Outside Plant Custom Work Order.
- 4.12\* The CLEC will retain all assignment control. PACIFIC will maintain TIRKS records for cable appearance information on the horizontal and vertical appearance on the PACIFIC frame.
- 4.13\* The CLEC will pay Time and Materials charges when PACIFIC dispatches personnel and failure is in the CLEC's facility.
- 4.14\* PACIFIC will not assume responsibility for the quality of service provided over this special interconnection arrangement. Service quality is the responsibility of the CLEC. PACIFIC limits each CLEC to two building entrances. Two entrances allow for CLEC growth or a diverse path.

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<sup>1</sup> \* Section 4 is available only in the state of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1

- 4.15\* Prior to PACIFIC providing the Adjacent Location Method in this Appendix, the CLEC and PACIFIC shall provide each other with a single point of contact for overall coordination.
- 4.16\* The Adjacent Location Method of Accessing UNEs only allows for copper cable termination.

## 5. BONA FIDE REQUEST

- 5.1 This Bona Fide Request process described in Item I of this Section 5 applies to each Bona Fide Request submitted in the SBC-SWBT, SBC-AMERITECH and NEVADA Territory. The Bona Fide Request process described in Item II of this Section 5 shall apply to each Bona Fide Request submitted in the SNET Territory and the Bona Fide Request Process described in Item III of this Section shall apply to each Bona Fide Request submitted in the PACIFIC Territory. If CLEC submits the same Request in more than one Territory that requires such Request to be processed under more than one Item in this Section 5 (e.g., in Territories that have different processes), separate BFRs shall be required. For purposes of this Appendix, a "Business Day means Monday through Friday, excluding Holidays observed by SBC-13STATE."

### 5.2 ITEM I

#### SBC-SWBT, SBC-AMERITECH, NEVADA Bona Fide Request Process

- 5.2.1 A Bona Fide Request ("BFR") is the process by which CLEC may request SBC-SWBT, SBC-AMERITECH, NEVADA to (i) provide CLEC access to an additional or new, undefined UNE, that is required to be provided by SBC-SWBT, SBC-AMERITECH, NEVADA under the Act but is not available under this Agreement or defined in a generic appendix at the time of CLEC's request, or (ii) perform combining pursuant to Section 2.11.4 (each of (i) and (ii) referred to as a "Request").
- 5.2.2 The BFR process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) paragraph 259 and n. 603 and subsequent rulings.
- 5.2.3 All BFRs must be submitted with a BFR Application Form in accordance with the specifications and processes set forth in the respective sections of the CLEC Handbook. Included with the Application CLEC shall provide a technical description of each requested UNE or combination, drawings when applicable, the location(s) where needed, the date required, and the projected quantity to be ordered with a 3 year forecast.

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- 5.2.4 CLEC is responsible for all costs incurred by SBC-SWBT, SBC-AMERITECH, NEVADA to review, analyze and process a BFR. When submitting a BFR Application Form, CLEC has two options to compensate SBC-SWBT, SBC-AMERITECH, NEVADA for its costs incurred to complete the Preliminary Analysis of the BFR:
- 5.2.4.1 Include with its BFR Application Form a \$2,000 deposit to cover SBC-SWBT, SBC-AMERITECH, NEVADA's preliminary evaluation costs, in which case SBC-SWBT, SBC-AMERITECH, NEVADA may not charge CLEC in excess of \$2,000 to complete the Preliminary Analysis; or
- 5.2.4.2 Not make the \$2,000 deposit, in which case CLEC shall be responsible for all preliminary evaluation costs incurred by SBC-SWBT, SBC-AMERITECH, NEVADA to complete the preliminary Analysis (regardless of whether such costs are greater or less than \$2,000).
- 5.2.5 If CLEC submits a \$ 2,000 deposit with its BFR, and SBC-SWBT, SBC-AMERITECH, NEVADA is not able to process the Request or determines that the Request does not qualify for BFR treatment, then SBC-SWBT, SBC-AMERITECH, NEVADA will return the \$2,000 deposit to CLEC. Similarly, if the costs incurred to complete the Preliminary Analysis are less than \$2,000, the balance of the deposit will, at the option of CLEC, either be refunded or credited toward additional developmental costs authorized by CLEC.
- 5.2.6 Upon written notice, CLEC may cancel a BFR at any time, but will pay SBC-SWBT, SBC-AMERITECH, NEVADA its reasonable and demonstrable costs of processing and/or implementing the BFR up to and including the date SBC-SWBT, SBC-AMERITECH, NEVADA received notice of cancellation. If cancellation occurs prior to completion of the preliminary evaluation, and a \$2,000 deposit has been made by CLEC, and the reasonable and demonstrable costs are less than \$2,000, the remaining balance of the deposit will be, at the option of the CLEC, either returned to CLEC or credited toward additional developmental costs authorized by CLEC.
- 5.2.7 SBC-SWBT, SBC-AMERITECH, NEVADA will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt SBC-SWBT, SBC-AMERITECH, NEVADA will acknowledge receipt of the BFR and in such acknowledgement advise CLEC of the need for any further information needed to process the Request. CLEC acknowledges that the time intervals set forth in this Appendix begins once SBC-SWBT, SBC-AMERITECH, NEVADA has received a complete and accurate BFR Application Form and, if applicable, \$2,000 deposit.

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- 5.2.8 Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR, SBC-SWBT, SBC-AMERITECH, NEVADA will provide to CLEC a preliminary analysis of such Request (the "Preliminary Analysis"). The Preliminary Analysis will (i) indicate that SBC-SWBT, SBC-AMERITECH, NEVADA will offer the Request to CLEC or (ii) advise CLEC that SBC-SWBT, SBC-AMERITECH, NEVADA will not offer the Request. If SBC-SWBT, SBC-AMERITECH, NEVADA indicates it will not offer the Request, SBC-SWBT, SBC-AMERITECH, NEVADA will provide a detailed explanation for the denial. Possible explanations may be, but are not limited to: i) access to the Request is not technically feasible, ii) that the Request is not required to be provided by SBC-SWBT, SBC-AMERITECH, NEVADA under the Act and/or, iii) that the BFR is not the correct process for the request.
- 5.2.9 If the Preliminary Analysis indicates that SBC-SWBT, SBC-AMERITECH, NEVADA will offer the Request, CLEC may, at its discretion, provide written authorization for SBC-SWBT, SBC-AMERITECH, NEVADA to develop the Request and prepare a "BFR Quote". The BFR Quote shall, as applicable, include (i) the first date of availability, (ii) installation intervals, (iii) applicable rates (recurring, nonrecurring and other), (iv) BFR development and processing costs and (v) terms and conditions by which the Request shall be made available. CLEC's written authorization to develop the BFR Quote must be received by SBC-SWBT, SBC-AMERITECH, NEVADA within thirty (30) calendar days of CLEC's receipt of the Preliminary Analysis. If no authorization to proceed is received within such thirty (30) calendar day period, the BFR will be deemed canceled and CLEC will pay to SBC-SWBT, SBC-AMERITECH, NEVADA all demonstrable costs as set forth above. Any request by CLEC for SBC-SWBT, SBC-AMERITECH, NEVADA to proceed with a Request received after the thirty (30) calendar day window will require CLEC to submit a new BFR.
- 5.2.10 As soon as feasible, but not more than ninety (90) calendar days after its receipt of authorization to develop the BFR Quote, SBC-SWBT, SBC-AMERITECH, NEVADA shall provide to CLEC a BFR Quote.
- 5.2.11 Within thirty (30) calendar days of its receipt of the BFR Quote, CLEC must either (i) confirm its order pursuant to the BFR Quote (ii) cancel its BFR and reimburse SBC-SWBT, SBC-AMERITECH, NEVADA for its costs incurred up to the date of cancellation, or (iii) if it believes the BFR Quote is inconsistent with the requirements of the Act and/or this Appendix, exercise its rights under Section 10 of the GTC. If SBC-SWBT, SBC-AMERITECH, NEVADA does not receive notice of any of the foregoing within such thirty (30) calendar day period, the BFR shall be deemed canceled. CLEC shall be responsible to reimburse SBC-SWBT, SBC-

AMERITECH, NEVADA for its costs incurred up to the date of cancellation (whether affirmatively canceled or deemed canceled by CLEC).

- 5.2.12 Unless CLEC agrees otherwise, all rates and costs quoted or invoiced herein shall be consistent with the pricing principles of the Act.
- 5.2.13 If a Party believes that the other Party is not requesting, negotiating or processing a BFR in good faith and/or as required by the Act, or if a Party disputes a determination, or price or cost quote, such Party may seek relief pursuant to the Dispute Resolution Process set forward in the General Terms and Conditions section of this agreement.

5.3\* **Item II**

**SNET Bona Fide Request Process**

- 5.3.1 The Bona Fide Request provisions set forth in Item I of Section 5 shall apply to BFRs submitted to SNET, with the following exceptions:
- 5.3.2 Section 5.2.1 is amended to add the following: A CLEC may submit a BFR to request new UNEs or Combinations of UNEs provided the request is not covered by one of the following conditions:
- 5.3.2.1 The UNEs or combinations requested have not previously been identified or defined by the Department of Public Utility Control (DPUC), the Federal Communications Commission, the CLEC's approved interconnection agreement, or in the listings of combinations in Docket No. 98-02-01, DPUC Investigation into Rebundling of Telephone Company Network Elements, August 17, 1998.
- 5.3.2.2 The UNEs or combinations requested are not currently deployed by an incumbent local exchange carrier in another jurisdiction or deemed acceptable for deployment by another state commission or an industry standards body.
- 5.3.2.3 The UNEs or combinations requested are not included in a Telco tariffed offering as an existing capability or functional equivalent.

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\* Section 5.3 is available only in the State of Connecticut. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

- 5.3.2.4 If the request is covered by one of the conditions listed above, SNET will make these items generally available.
- 5.3.3 Section 5.2.4 and 5.2.5 are amended as follows: No charges apply for SNET to prepare the Preliminary Analysis.
- 5.3.4 Section 5.2.6 is amended as follows: Cancellation charges will not apply if the written notice of cancellation is received by SNET after SNET submits its Preliminary Analysis to CLEC but before CLEC's request for the BFR Quote. Cancellation charges will apply after CLEC submits its request for SNET to provide a BFR Quote, but before the BFR Quote is provided to CLEC. CLEC shall be liable for reimbursement of all actual costs in connection with developing the BFR Quote incurred up to the time SNET receives the written notice of cancellation from CLEC. However, if SNET receives notification from CLEC for cancellation of the BFR after receipt by CLEC of the BFR Quote, the cancellation charges shall not exceed the lesser of the actual costs incurred by SNET or the estimate in the BFR Quote plus twenty percent (20%).
- 5.3.5 Section 5.2.7 is amended as follows: SNET will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt, SNET will acknowledge receipt of the BFR and in such acknowledgement advise CLEC of the need for any further information needed to process the Request. CLEC acknowledges that the time intervals set forth in this Appendix begin once SNET has received a complete and accurate BFR Application Form.
- 5.3.6 SNET will apply standard tariffed Processing Fees (BFR development costs) according to the Connecticut Access Service Tariff 4.11.
- 5.3.7 For SNET, under the Dispute Resolution Process (DRP), either Party may petition the Department for relief pursuant to its own processes and the Uniform Administrative Procedures Act regarding the issues raised during the BFR process. Upon request, a designated member of the Department staff may confer with both Parties orally or in person concerning the substance of the Parties' dispute, and may make such recommendations as he or she shall deem appropriate for consideration by both Parties to resolve expeditiously the issues in dispute. Any such participation by Department staff in such mediation shall not be construed in any subsequent proceeding as establishing precedent or any Formal position of Department on the matter in dispute.

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5.4\* **Item III**  
**Pacific Bona Fide Request Process**

- 5.4.1 The Bona Fide Request provisions set forth in Item I of Section 5 shall apply to BFRs submitted to PACIFIC, with the following exceptions:
- 5.4.2 Section 5.2.1 is amended as follows: A Bona Fide Request (“BFR”) is the process by which CLEC may request PACIFIC to provide CLEC access to an additional or new, undefined UNE, or a combination of UNEs,
- 5.4.3 interconnection arrangement, or other (a “Request”), that is required to be provided by PACIFIC under the Act but is not available under this Agreement or defined in a generic appendix at the time of CLEC’s request.
- 5.4.4 Section 5.2.3 is amended as follows: All BFRs must be submitted with a BFR/Interconnection or Network Element Application Form in accordance with the specifications and processes set forth in the sections of the Handbook.
- 5.4.5 Section 5.2.8 is amended as follows: Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR, PACIFIC will provide to CLEC a Preliminary Analysis of such Request. The Preliminary Analysis will confirm that PACIFIC will offer the request. The Preliminary Analysis provided by PACIFIC will include cost categories (material, labor and other) and high level costs for the request. PACIFIC will attempt to provide a “yes” response earlier than thirty (30) calendar days if possible. CLEC acknowledges that an earlier “yes” response will not include high level costs. The costs will be sent by the 30<sup>th</sup> calendar day. When wholesale construction is required, costs will be provided within an additional twenty-four (24) calendar days (i.e., by the 54<sup>th</sup> calendar day).
- 5.4.6 If the BFR is denied, PACIFIC will notify CLEC within fifteen (15) calendar days. The reason for denial will accompany the notification. Reasons for denial may include, but are not limited to: 1) not technically feasible, 2) the BFR is not the appropriate process for the Request and there is a referral to the appropriate process, and/or 3) the Request does not qualify as a new UNE, combination of UNEs, or interconnection arrangement required by law.

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\* Section 5.4 is available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

\* Section 5.4 is available only in the State of Connecticut. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

- 5.4.7 If PACIFIC refers CLEC to an alternate process details the details of the provision of the alternate process will accompany the notification. The details may include an application form for the alternate process and other documentation required for CLEC to submit the application for the alternate process.

## 6. NETWORK INTERFACE DEVICE

- 6.1 The Network Interface Device (NID) UNE is defined as any means of interconnection of End User customer premises wiring to SBC-13STATE's distribution loop facilities, such as a cross connect device used for that purpose. Fundamentally, the NID establishes the final (and official) network demarcation point between the loop and the End User's inside wire. Maintenance and control of the End User's inside wiring (on the End User's side of the NID) is under the control of the End User. Conflicts between telephone service providers for access to the End User's inside wire must be resolved by the End User. Pursuant to applicable FCC rules, SBC-13STATE offers nondiscriminatory access to the NID on an unbundled basis to any requesting telecommunications carrier for the provision of a telecommunications service. CLEC access to the NID is offered as specified below (SBC-12STATE) or by tariff (SNET).
- 6.2 SBC-12STATE will permit CLEC to connect its local loop facilities to End Users' premises wiring through SBC-12STATE's NID, or at any other technically feasible point.
- 6.3 CLEC may connect to the End User's premises wiring through the SBC-12STATE NID, as is, or at any other technically feasible point. Any repairs, upgrade and rearrangements to the NID required by CLEC will be performed by SBC-12STATE based on Time and Material charges. SBC-12STATE, at the request of CLEC, will disconnect the SBC-12STATE local loop from the NID, at charges reflected in the state specific Appendix Pricing.
- 6.4 With respect to multiple dwelling units or multiple-unit business premises, CLEC will connect directly with the End User's premises wire, or may connect with the End User's premises wire via SBC-12STATE's NID where necessary.
- 6.5 The SBC-12STATE NIDs that CLEC uses under this Appendix will be existing NIDs installed by SBC-12STATE to serve its End Users.
- 6.6 CLEC shall not attach to or disconnect SBC-12STATE's ground. CLEC shall not cut or disconnect SBC-12STATE's loop from the NID and/or its protector. CLEC shall not cut any other leads in the NID.

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## 7. LOCAL LOOP

7.1 Pursuant to applicable FCC rules, a local loop UNE is a dedicated transmission facility between a distribution frame (or its equivalent) in an SBC-13STATE Central Office and the loop demarcation point at an End User premises. Where applicable, the local loop includes all wire within multiple dwelling and tenant buildings and campuses that provides access to End User premises wiring, provided such wire is owned and controlled by SBC-13STATE. The local loop UNE includes all features, functions and capabilities of the transmission facility, including attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and line conditioning. The local loop UNE includes, but is not limited to DS1, DS3, fiber, and other high capacity loops to the extent required by applicable law, and where such loops are deployed in SBC-13STATE wire centers. CLEC agrees to operate each loop type within the technical descriptions and parameters accepted within the industry.

7.2 The following types of local loop UNEs will be provided at the rates, terms, and conditions set out in this Appendix (SBC-12STATE) or by tariff (SNET) and in the state specific Appendix Pricing (SBC-12STATE) or by tariff (SNET):

### 7.2.1 2-Wire Analog Loop

7.2.1.1 A 2-Wire analog loop is a transmission facility which supports analog voice frequency, voice band services with loop start signaling within the frequency spectrum of approximately 300 Hz and 3000 Hz.

7.2.1.2 If CLEC requests one or more unbundled loops serviced by Integrated Digital Loop Carrier (IDLC) SBC-12STATE will, where available, move the requested unbundled loop(s) to a spare, existing Physical or a universal digital loop carrier unbundled loop at no additional charge to CLEC. If, however, no spare unbundled loop is available, SBC-12STATE will within two (2) business days, excluding weekends and holidays, of CLEC's request, notify CLEC of the lack of available facilities.

### 7.2.2 4-Wire Analog Loop

7.2.2.1 A 4-Wire analog loop is a transmission facility that provides a non-signaling voice band frequency spectrum of approximately 300 Hz to 3000 Hz. The 4-Wire analog loop provides separate transmit and receive paths.

7.2.3 2-Wire Digital Loop

7.2.3.1 A 2-Wire 160 Kbps digital loop is a transmission facility which supports Basic Rate ISDN (BRI) digital exchange services. The 2-Wire digital loop 160 Kbps supports usable bandwidth up to 160 Kbps.

7.2.4 4-Wire Digital Loop

7.2.4.1 A 4-Wire 1.544 Mbps digital loop is a transmission facility that will support DS1 service including Primary Rate ISDN (PRI). The 4-wire digital loop 1.544 Mbps supports usable bandwidth up to 1.544 Mbps.

7.2.5 DS3 Digital Loop

7.2.5.1 The DS3 loop provides a digital, 45 Mbps transmission facility from the SBC-13STATE Central Office to the end user premises.

7.2.6 OC3 Loop

7.2.6.1 The OC3 155.520 Mbps loop provides an optical transmission facility from the SBC-SWBT and/or PACIFIC central office to the end user premises. OC3 concatenated service is also available.

7.2.7 OC12 Loop

7.2.7.1 The OC12 622.080 Mbps loop provides an optical transmission facility from the SBC-SWBT and/or PACIFIC central office to the end user premise. OC12 concatenated service is also available.

7.2.8 OC48 Loop

7.2.8.1 The OC48 2488.320 Mbps loop provides an optical transmission facility from the SBC-SWBT and/or PACIFIC central office to the end user premise. OC48 concatenated service is also available.

7.3 Unbundled DS1, DS3, and/or optical loops may not be employed in combination with transport facilities to replace special access services or facilities, except consistently with the certification and other requirements of the Supplemental Order released and adopted by the FCC on November 24, 1999 in Docket No. 96-98 ("In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996"), including but not limited to the requirement that significant local exchange traffic, in addition to exchange access service, be provided to a particular customer over the facilities in compliance with the Supplemental

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Order, and with SBC-13STATE's processes implementing the Supplemental Order.

## 8. SUB-LOOP ELEMENTS

8.1 SBC-12STATE will provide sub-loop elements as unbundled network elements as set forth in this Appendix. Other than as specifically set out elsewhere in this agreement, SNET does not offer Subloop elements under this Agreement. Rather, Subloop elements are available as described in Section 18 of the Connecticut Service Tariff.

8.1.1 A sub-loop unbundled network element is defined as any portion of the loop from SBC-12STATE's central office Main Distribution Frame (MDF) to the point at the customer premise that can be accessed at a terminal in SBC-12STATE's outside plant. An accessible terminal is a point on the loop where technicians can access the wire or fiber within the cable without removing a splice closure to reach the wire within.

8.2 Definitions pertaining to the Sub-Loop:

8.2.1 "Dead Count" refers to those binding posts which have cable spliced to them but which cable is not currently terminated to any terminal to provide service.

8.2.2 "Demarcation Point" is defined as the point on the loop where the ILEC's control of the wire ceases and the subscriber's control (or on the case of some multiunit premises, the landlord's control) of the wire begins.

8.2.3 "Digital Subloop" May be deployed on non-loaded copper cable pairs, channels of a digital loop carrier system, channels of a fiber optic transport system or other technologies suitable for the purpose of providing 160 Kbps and 1.544 Mbps subloop transport.

8.2.4 "Distribution Cable" is defined as the cable from the SAI/FDI to the terminals from which an end user can be connected to the ILEC's network. "Feeder cable" is defined as that cable from the MDF to a point where it is cross connected in a SAI/FDI for neighborhood distribution.

8.2.5 "MDF-to-SAI/FDI" is that portion of the loop from the MDF to the SAI/FDI.

8.2.6 "MDF-to-Term" is that portion of the loop from the MDF to an accessible terminal.

8.2.7 "Network Terminating Wire (NTW)" is the service wire that connects the ILEC's distribution cable to the NID at the demarcation point.

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- 8.2.8 "SAI/FDI-to-Term" is that portion of the loop from the SAI/FDI to an accessible terminal.
- 8.2.9 "SAI/FDI-to-NID" is that portion of the loop from the SAI/FDI to the Network Interface Device (NID), which is located an end user's premise.
- 8.2.10 "SPOI" is defined as a Single Point of Interconnection. When there is a single Demarcation Point in a Multi-Tenant Environment, the SPOI is the Demarcation Point and the SPOI will allow ILECs and CLECs to interconnect to wiring owned or controlled by the property owner of their agent. When there is multiple Demarcation Points in a Multi-Tenant Environment, the SPOI will allow ILECs and CLECs to interconnect to wiring that is part of the regulated network and is owned and controlled by the ILEC.
- 8.2.11 "SAI/FDI" is defined as the point in the ILEC's network where feeder cable is cross connected to the distribution cable. "SAI" is Serving Area Interface. "FDI" is Feeder Distribution Interface. The terms are interchangeable.
- 8.2.12 "Term-to-NID" is that portion of the loop from an accessible terminal to the NID, which is located at an end user's premise. Term-to-NID includes use of the Network Terminating Wire (NTW).
- 8.3 SBC-12STATE will offer the following subloop types:
- 8.3.1 2-Wire Analog Subloop provides a 2-wire (one twisted pair cable or equivalent) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
- 8.3.2 4-Wire Analog Subloop provides a 4-wire (two twisted pair cables or equivalent, with separate transmit and receive paths) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
- 8.3.3 4-Wire DS1 Subloop provides a transmission path capable of supporting a 1.544 Mbps service that utilizes AMI or B8ZS line code modulation.
- 8.3.4 DS3 Subloop provides DS3 service from the central office MDF to an Interconnection Panel at the RT. The loop facility used to transport the DS3 signal will be a fiber optical facility.
- 8.3.5 2-Wire / 4-Wire Analog DSL Capable Subloop that supports an analog signal based DSL technology (such as ADSL). It will have twisted copper cable that may be loaded, have more than 2,500 feet of bridged tap, and may contain repeaters.

- 8.3.6 2-Wire / 4-Wire Digital DSL Capable Subloop that supports a digital signal based DSL technology (such as HDSL or IDSL). It will have twisted copper cable that may be loaded, have more than 2,500 feet of bridged tap, and may contain repeaters.
- 8.3.7 ISDN Subloop is a 2-Wire digital offering which provides a transmission path capable of supporting a 160 Kbps, Basic Rate ISDN (BRI) service that utilizes 2B1Q line code modulation with end user capacity up to 144 Kbps.
- 8.4 Left Blank Intentionally.
- 8.5 Subloops are provided "as is" unless CLEC requests loop conditioning on xDSL Subloops for the purpose of offering advanced services. xDSL subloop conditioning will be provided at the rates, terms, and conditions set out in the state specific Appendix Pricing.
- 8.6 A subloop unbundled network element is an existing spare portion of the loop that can be accessed via cross-connects at accessible terminals. An accessible terminal is a point on the loop where technicians can access the copper or fiber within the cable without removing a splice case to reach the copper or fiber within.
- 8.7 Twisted-pair Copper Subloops:
- 8.7.1 Access to terminals for twisted-pair copper subloops is defined to include:
- any technically feasible point near the customer premises accessible by a cross-connect (such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the customer premises),
  - the Feeder Distribution Interface (FDI) or Serving Area Interface (SAI), where the "feeder" leading back to the central office and the "distribution" plant branching out to the subscribers meet,
    - the Main Distributing Frame (MDF),
    - the Terminal (underground or aerial).
- 8.8 CLEC may request access to the following twisted-pair copper subloop segments:
- | <u>FROM:</u>                                               | <u>TO:</u>                                              |
|------------------------------------------------------------|---------------------------------------------------------|
| 1. Main Distributing Frame                                 | Serving Area Interface or Feeder Distribution Interface |
| 2. Main Distributing Frame                                 | Terminal                                                |
| 3. Serving Area Interface or Feeder Distribution Interface | Terminal                                                |
| 4. Serving Area Interface or Feeder Distribution Interface | Network Interface Device                                |
| 5. Terminal                                                | Network Interface Device                                |

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- |                                      |             |
|--------------------------------------|-------------|
| 6. NID                               | Stand Alone |
| 7. *SPOI (Single Point of Interface) | Stand Alone |

\* Provided using the BFR Process. In addition, if a CLEC requests an Interconnection Point which has not been identified, the CLEC will need to submit a BFR.

8.9 High Capacity Subloops:

8.9.1 Access to terminals for high capacity subloops is defined to include:

- any technically feasible point near the customer premises accessible by a cross-connect (such as the pole or pedestal or the minimum point of entry (MPOE) to the customer premises),
- the Remote Terminal (RT), only when cross-connect access is available at that RT
- the Terminal (underground or aerial).

8.9.2 CLEC may request access to the high-capacity subloop segment between the Central Office Point of Termination (POT) and the Remote Terminal Point of Termination (POT).

8.10 Unbundled DS1 and DS3 subloops may not be utilized in combination with transport facilities to replace special access services or facilities, except consistently with the certification and other requirements of the Supplemental Order released and adopted by the FCC on November 24, 1999 in Docket No. 96-98 ("In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996"), including but not limited to the requirement that significant local exchange traffic in addition to exchange access service, be provided to a particular customer over the facilities in compliance with the Supplemental Order, and with processes implementing the Supplemental Order.

8.11 Provisioning:

8.11.1 Connecting Facility Arrangement (CFA) assignments must be in-place prior to ordering and assigning specific subloop circuit(s).

8.11.2 Spare subloop(s) will be assigned to CLEC only when an LSR/ASR is processed. LSR/ASRs will be processed on a "first come first serve" basis.

8.12 Maintenance:

8.12.1 The Parties acknowledge that by separating switching, feeder plant and distribution plant, the ability to perform mechanized testing and monitoring

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of the subloop from the SBC-12STATE switch/testing equipment will be lost.

8.12.2 CLEC shall isolate trouble to the SBC-12STATE Subloop portion of the CLEC's service before reporting trouble to SBC-12STATE.

8.12.3 SBC-12STATE shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC dispatches SBC-12STATE on a trouble report and the fault is determined to be in the CLEC's portion of the loop. Such charges may be found in the individual state pricing appendices or tariffs.

8.12.4 Once all subloop access arrangements have been completed and balance of payment due SBC-12STATE is received, the CLEC may place a LSR for subloops at this location. Prices at which SBC-12STATE agrees to provide CLEC with Unbundled Network Elements (UNE) are contained in the state specific Appendix Pricing.

8.12.5 In the event of Catastrophic Damage to the RT, SAI/FDI, Terminal, or NID where CLEC has a SAA, SBC-13 STATE repair forces will restore service in a non-discriminatory manner which will allow the greatest number of all customers to be restored in the least amount of time. Should the CLEC cabling require replacement, SBC-13STATE will provide prompt notification to CLEC for CLEC to provide the replacement cable to be terminated as necessary.

8.13 Subloop Access Arrangements:

8.13.1 Prior to ordering subloop facilities, CLEC will establish Collocation using the Collocation process as set forth in the Collocation Appendix, or will establish a Subloop Access Arrangement utilizing the Special Construction Arrangement (SCA); either of which are necessary to interconnect to the SBC-12STATE subloop network.

8.13.2 The space available for collocating or obtaining various Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC will initiate an SCA by submitting a Sub-loop Access Arrangement Application.

8.13.3 Upon receipt of a complete and correct application, SBC-12STATE will provide to CLEC within 30 days a written estimate for the actual construction, labor, materials, and related provisioning costs incurred to fulfill the SCA on a Time and Materials basis. When CLEC submits a request to provide a written estimate for sub-loop(s) access, appropriate rates for the engineering and other associated costs performed will be charged.

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- 8.13.4 The assignment of subloop facilities will incorporate reasonable practices used to administer outside plant loop facilities. For example, where SAI/FDI interfaces are currently administered in 25 pair cable complements, this will continue to be the practice in assigning and administering subloop facilities.
- 8.13.5 Subloop inquiries do not serve to reserve subloop(s).
- 8.13.6 Several options exist for Collocation or Subloop Access Arrangements at technically feasible points. Sound engineering judgment will be utilized to ensure network security and integrity. Each situation will be analyzed on a case-by-case basis.
- 8.13.7 CLEC will be responsible for obtaining rights of way from owners of property where SBC-12STATE has placed the equipment necessary for the SAA prior to submitting the request for SCA.
- 8.13.8 Prior to submitting the Sub-loop Access Arrangement Application for SCA, the CLEC should have the "Collocation" and "Poles, Conduit, and Row" appendices in the Agreement to provide the guidelines for both CLEC and ILEC to successfully implement subloops, should collocation, access to poles/conduits or rights of way be required.
- 8.13.9 Except as set forth below in this Section 8.13.9, construction of the Subloop Access Arrangement shall be completed within 90 days of CLEC submitting to SBC-12STATE written approval and payment of not less than 50% of the total estimated construction costs and related provisioning costs after an estimate has been accepted by the carrier and before construction begins, with the balance payable upon completion. SBC-12STATE will not begin any construction under the SCA until the CLEC has provided proof that it has obtained necessary rights of way as defined in Section 8.13.7. In the event CLEC disputes the estimate for an SAA in accordance with the dispute resolution procedures set forth in the General Terms and Conditions, Section 10, of this Agreement, SBC-12STATE will proceed with construction of the SAA upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the SAA. Such payments may be subject to any "true-up", if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 8.13.10 Upon completion of the construction activity, the CLEC will be allowed to test the installation with a SBC-12STATE technician. If the CLEC desires test access to the SAA, the CLEC should place its own test point in its cable prior to cable entry into SBC-12STATE's interconnection point.

- 8.13.11 A non-binding CLEC forecast shall be required as a part of the request for SAA, identifying the subloops required for line-shared and non line-shared arrangements to each subtending SAI. This will allow SBC-12STATE to properly engineer access to each SAI and to ensure SBC-12STATE does not provide more available terminations than the CLEC expects to use.
  - 8.13.12 In order to maximize the availability of terminations for all CLECs, the CLEC shall provide CFA for their subloop pairs utilizing the same 25-pair binder group. The CLEC would begin utilizing the second 25-pair binder group once the first 25-pair binder group reached its capacity.
  - 8.13.13 Unused CLEC terminations (in normal splicing increments such as 25-pair at a SAI/FDI) which remain unused for a period of one year after the completion of construction shall be subject to removal at CLEC expense.
  - 8.13.14 In the event a CLEC elects to discontinue use of an existing SAA, or abandons such arrangement, CLEC shall pay SBC-12STATE for removal of their facilities from the SAA.
- 8.14 Subloop Access Arrangement (SAA) Access Points:
- 8.14.1 SAI/FDI or Terminal
    - 8.14.1.1 CLEC cable to be terminated in a SBC-12STATE SAI/FDI, or Terminal, shall consist of 22 or 24-gauge copper twisted pair cable bonded and grounded to the power company Multi Grounded Neutral (MGN). Cable may be filled if buried or buried to aerial riser cable. CLEC's Aerial cables should be aircore.
    - 8.14.1.2 The CLEC may elect to place their cable to within 3 feet of the SAA site and coil up an amount of cable, defined by the engineer in the design phase, that SBC-12STATE will terminate on available binding posts in the SAI/FDI or Terminal.
    - 8.14.1.3 The CLEC may "stub" up a cable at a prearranged meet point, defined during the engineering site visit, and SBC-12STATE will stub out a cable from the SAI/FDI or Terminal, which SBC-12STATE will splice to the CLEC cable at the meet point.
    - 8.14.1.4 Dead counts will be offered as long as they have not been placed for expansion purposes planned within the 12-month period beginning on the date of the inquiry LSR.
    - 8.14.1.5 Exhausted termination points in a SAI/FDI - When a SAI/FDI's termination points are all terminated to assignable cable pairs,

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SBC-12STATE may choose to increase capacity of the SAI/FDI by the method of it's choice, for which the CLEC will be charged a portion of the expense to be determined with the engineer, for the purpose of allowing the CLEC to terminate it's cable at the SAI/FDI.

8.14.1.6 Exhausted Termination Points in a Terminal- When a terminal's termination points are all terminated to assignable cable pairs, SBC-13STATE may choose to increase the capacity of the Terminal or to construct an adjacent termination facility to accommodate the CLEC facilities for which the CLEC will be charged.

8.15 Relocation of Existing ILEC/CLEC Facilities involved in a SAA at a RT, SAI/FDI, Terminal or NID:

8.15.1 SBC-12STATE shall notify CLEC of pending relocation as soon as SBC-12STATE receives such notice.

8.15.2 CLEC shall notify SBC-12STATE of it's intentions to remain, or not, in the SAA by way of a new Subloop Access Arrangement Application for a new SCA.

8.15.3 SBC-12STATE shall then provide the CLEC an estimate to terminate their facilities as part of the relocation of the site including the applicable SAA. This process may require a site visit with the CLEC and SBC-12STATE engineer.

8.15.4 CLEC shall notify SBC-12STATE of acceptance or rejection of the new SCA within 10 business days of it's receipt of SBC-12STATE's estimate.

8.15.5 Upon acceptance of the SBC-12STATE estimate, CLEC shall pay at least 50% of the relocation costs at the same time as they notify SBC-12STATE of their acceptance of estimate costs.

8.15.6 Should CLEC decide not to continue the SAA, CLEC will notify SBC-12STATE as to the date that SBC-12STATE may remove CLEC's facilities from that SAA. CLEC will pay SBC-12STATE for all costs associated with the removal of the CLEC's SAA.

8.15.7 In the event that CLEC does not respond to SBC-12STATE in time to have their facilities relocated, SBC-12STATE shall move CLEC facilities and submit a bill for payment to the CLEC for the costs associated with the relocation. Should CLEC elect not pay this bill, then CLEC facilities will be removed from the site upon 30 days notice to the CLEC.

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8.16 RT (for DS3 Subloop):

- 8.16.1 The CLEC may elect to place their cable (fiber or coax) to within 3 feet of the RT and coil up an amount of cable, defined by the engineer in the design phase, that SBC-12STATE will terminate on a fiber/coax interconnection block to be constructed in the RT.
- 8.16.2 The CLEC may "stub" up a cable (fiber or coax) at a prearranged meet point, defined during the engineering site visit, and SBC-12STATE will stub out a cable from the RT, which SBC-12STATE will splice to the CLEC cable at the meet point.

9. **ENGINEERING CONTROLLED SPLICE (ECS)**

- 9.1 Although under no obligation to do so at non-Pronto sites, as a voluntary offering, SBC-13STATE will also make available an Engineering Controlled Splice (ECS), which will be owned by SBC-13STATE, for CLECs to gain access to subloops at or near remote terminals. This voluntary service is in addition to FCC UNE Remand requirements.
- 9.2 The ECS shall be made available for Subloop Access Arrangements (SAA) utilizing the Special Construction Arrangement (SCA).
- 9.2.1 CLEC requesting such a SCA shall pay all of the actual construction, labor, materials and related provisioning costs incurred to fulfill its SCA on a Time and Materials basis, provided that SBC-13STATE will construct any Subloop Access Arrangement requested by a telecommunications carrier in a cost-effective and efficient manner. If SBC-13STATE elects to incur additional costs for its own operating efficiencies and that are not necessary to satisfy an SCA in a cost-effective and efficient manner, the requesting telecommunications carrier will not be liable for such extra costs.
- 9.2.2 CLEC shall be liable only for costs associated with cable pairs that it orders to be presented at an engineering controlled splice (regardless of whether the requesting carrier actually utilizes all such pairs), even if SBC-13STATE places more pairs at the splice.
- 9.2.3 SBC-13STATE will either use existing copper or construct new copper facilities between the SAI(s) and the ECS, located in or at the remote terminal site. Although SBC-13STATE will construct the engineering controlled splice, the ECS maybe owned by SBC-13STATE or the CLEC (depending on the specific arrangement) at the option of SBC-13STATE.
- 9.2.4 If more than one requesting telecommunications carrier obtains space in expanded remote terminals or adjacent structures and obtains an SAA with

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the new copper interface point at the ECS, the initial telecommunications carrier which incurred the costs of construction of the engineering controlled splice and/or additional copper/fiber shall be reimbursed those costs in equal proportion to the space or lines used by the requesting carriers.

- 9.2.5 SBC-13STATE may require a separate SCA for each remote terminal site.
- 9.2.6 Except as set forth below in this Section 9.2.6, written acceptance and at least 50% of payment for the SCA must be submitted at least 90 days before access to the copper subloop is to be provisioned by SBC-13STATE. If an augment of cabling is required between the ECS and the SAI, the interval for completion of the SCA will be determined on an individual case basis. SBC-12STATE will not begin any construction of the ECS until the CLEC has provided proof that it has obtained the necessary rights of way as defined in Section 9.3. In the event CLEC disputes the estimate for the ECS in accordance with the dispute resolution procedures set forth in the General Terms and Conditions, Section 10, of this Agreement, SBC-13STATE will proceed with construction of the ECS upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the ECS. Such payments may be subject to any "true-up", if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 9.3 CLECs will have two (2) options for implementing the ECS: a "Dedicated Facility Option" (DFO) and a "Cross-connected Facility Option" (CFO).
- 9.3.1 Dedicated Facility Option (DFO)
- 9.3.1.1 CLEC may request SBC-13STATE splice the existing cabling between the ECS and the SAI to the CLEC's SAA facility. This facility will be "dedicated" to the CLEC for subsequent subloop orders.
- 9.3.1.2 CLEC must designate the quantity of subloops they desire to access via this spliced, dedicated facility, specified by subtending SAI. This designation must differentiate cabling desired for access to the HFPL subloop from the cabling desired for access to non-line shared subloops.
- 9.3.1.3 CLECs will compensate SBC-13STATE for each of the dedicated subloop facilities, based on recurring subloop charges, for the quantity of subloops dedicated to the CLEC between the ECS and the SAI.

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9.3.2 Cross-connected Facility Option (CFO)

9.3.2.1 CLEC may request SBC-13STATE build an ECS cross-connect junction on which to terminate CLEC's SAA facility.

9.3.2.2 The SCA associated with this option will include the charges associated with constructing the cross-connect device, including the termination of SBC-13STATE cabling between the ECS and the RT and/or SAI, and the inventorying of that SBC-13STATE cabling.

9.3.2.3 CLEC must designate the quantity of subloops they desire to access via this cross-connectable, dedicated facility, specified by subtending SAI. This designation must differentiate cabling desired for access to the HFPL subloop from the cabling desired for access to non-line shared subloops.

9.3.2.4 CLECs will compensate SBC-13STATE for the charges incurred by SBC-13STATE derived from the CLEC's request for the SCA.

10. PACKET SWITCHING

10.1 SBC-13STATE will provide CLEC unbundled packet switching if all of the following conditions are satisfied:

10.1.1 SBC-13STATE has deployed digital loop carrier systems, including but not limited to, integrated digital loop carrier or universal digital loop carrier systems; or has deployed any other system in which fiber optic facilities replace copper facilities in the distribution section (e.g., end office to remote terminal, pedestal or environmentally controlled vault);

10.1.2 There are no spare copper loops capable of supporting the xDSL services the requesting carrier seeks to offer;

10.1.3 SBC-13STATE has not permitted a requesting carrier to deploy DSLAM at the remote terminal, pedestal or environmentally controlled vault or other interconnection point, nor has the requesting carrier obtained a virtual collocation arrangement at these sub-loop interconnection points as defined by 47 CFR §51.319(b); and

10.1.4 SBC-13STATE has deployed packet switching capability for its own use.

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## 11. LOCAL SWITCHING

11.1 The Unbundled Local Switching (ULS) capability, to be provided on an unbundled basis pursuant to this Agreement, is defined as set forth in FCC Rule 51.319. Pursuant to that Rule, ULS includes:

11.1.1 line-side facilities, which include the connection between a Loop termination at the Main Distribution Frame and a switch line card;

11.1.2 trunk-side facilities, which include the connection between trunk termination at a trunk-side cross- connect panel and a switch trunk card; and

11.1.3 all features, functions, and capabilities of the switch available from the specific port type (line side or trunk side port), which include:

11.1.3.1 the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to ILEC customers, such as a telephone number, white page listing, and dial tone;

11.1.3.2 access to OS/DA and 9-1-1; and

11.1.3.3 all other features that the switch provides, including custom calling, CLASS features and Centrex.

### 11.2 Specific Terms and Conditions for Unbundled Local Switching (ULS)

11.2.1 Unbundled Local Switching uses routing instructions resident in the SBC-12STATE switch to direct all CLEC traffic.

11.2.2 Vertical features, CLASS features, and other features resident in the SBC-12STATE switch providing the ULS port are available under ULS. Refer to state specific Appendix Pricing for SBC-12STATE and Section 18 of the Connecticut Service Tariff for SNET.

11.2.3 SBC-12STATE will allow CLEC to designate the features and functions that are available on a particular ULS port to the extent such features and functions are activated in that switch or as may be requested by the Bona Fide Request process. When CLEC purchases ULS in SBC-12STATE, CLEC will be required to designate the features and functions that are to be activated on each ULS port.

11.2.4 ULS as provided by SBC-12STATE includes standard Central Office treatments (e.g., busy tones, vacant codes, fast busy, etc.), supervision and announcements.

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- 11.2.5 SBC-12STATE will control congestion points such as those caused by radio station call-ins and network routing abnormalities using appropriate network capabilities. CLEC agrees to respond to SBC-12STATE's notifications regarding network congestion.
- 11.2.6 SBC-12STATE will perform testing through ULS for CLECs in the same manner and frequency that it performs for its own customers for an equivalent service.
- 11.2.7 SBC-12STATE will repair and restore any SBC-12STATE equipment that may adversely impact ULS.
- 11.2.8 SBC-12STATE will provide usage detail for each ULS port via on a daily basis. Refer to state specific Appendix pricing.
- 11.2.9 SBC-12STATE will provide CLEC the functionality of blocking calls (e.g., 900 calls, international calls (IDDD), and toll calls) by line or trunk to the extent that SBC-12STATE provides such blocking capabilities to its End Users and to the extent required by federal and/or State law.
- 11.2.10 At SBC-13STATE's discretion and upon not less than ninety (90) days' written notice to CLEC, SBC-13STATE may elect to discontinue providing ULS or to provide ULS at market prices to CLECs serving end-users with four or more voice grade lines within any territory (each an "exception Territory") with respect to which SBC-13STATE can demonstrate that, as of the date on which CLEC receives notice (the "Exception Notice Date"), SBC-13STATE has satisfied each of the following conditions.
- a) A territory shall constitute an "Exception Territory" if it constitutes the service area of SBC-13STATE offices that both are assigned to density zone 1 and are located within one of the Top 50 Metropolitan Statistical Areas ("MSAs"). The Parties shall determine density zone assignments by reference to the NECA Tariff No. 4, in effect on January 1, 1999. The Top 50 MSAs are those listed in Appendix B of the FCC Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket 96-98 ("UNE Remand Order"); and
  - b) In the Exception Territory where SBC-13STATE elects to offer the Enhanced Extended Loop (EEL) in accordance with the UNE Remand Order, the EEL would be available to the CLEC in the Exception Territory at prices which are set in accordance with the pricing standards of Section 252 of the Act. Such prices would be specified in Appendix Pricing. SBC-13STATE may only exercise its

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rights to discontinue or market-price ULS under this Section for CLEC End Users involving four or more lines.

11.2.10.1 In determining whether SBC-13STATE may exercise its rights under this Section in any particular case, the CLEC shall be obligated to disclose customer account detail similar to customer service records that SBC-13STATE provides to the CLEC through pre-ordering process.

11.2.10.2 Nothing in this Section shall preclude CLEC from using its own facilities, resold services, or any other facilities, services or serving arrangements to provide additional services to an End User customer account with respect to which SBC-13STATE may exercise its rights under this Section.

### 11.3 Customized Routing

11.3.1 Subject to switch limitations, Custom Routing is available upon CLEC request to handle Operator Services, Directory Assistance, and/or other traffic as required by state jurisdiction. CLEC will pay the customized routing charges reflected in Appendix Pricing.

### 11.4 Unbundled Local Switching Usage Sensitive Rate Element

11.4.1 Usage rates will apply to ULS on a per minute basis. See the Appendix Pricing for the state specific ULS rates (SBC-12STATE) and Section 18 of the Connecticut Service Tariff for SNET.

### 11.5 Switch Ports

11.5.1 In SBC-12STATE, a Switch Port is a termination point in the end office switch. The charges for Switch Ports are reflected in state specific Appendix Pricing.

#### 11.5.1.1 Line Switch Ports – SBC-12STATE

11.5.1.1.1 The Analog Line Port is a line side switch connection available in either a loop or ground start signaling configuration used primarily for switched voice communications.

11.5.1.1.2 The Analog Line Port can be provisioned with Centrex-like features and capabilities. When a CLEC wants to provide the Centrex-like port, a system establishment

charge is applicable to translate the common block and system features in the switch.

11.5.1.1.3 The Analog Line Port can be provisioned with two-way, one-way-out, and one-way-in, directionality for PBX business applications.

11.5.1.1.4 ISDN Basic Rate Interface (BRI) Port is a 2-wire line side switch connection which provides two 64 kbps "B" (bearer) channels for circuit switched voice and/or data and on 16 kbps "D" (delta) channel for signaling.

11.5.1.2 Trunk Side Switch Ports – SBC-12STATE

11.5.1.2.1 The Analog DID Trunk Port is a 2-wire trunk side switch port that supports Direct Inward Dialing (DID) capability for PBX business applications.

11.5.1.2.2 ISDN Primary Rate Interface (PRI) Trunk Side Port is a trunk side switch connection that provides twenty-three 64 kbps "B" channels for digital voice and data and one 64 kbps "D" channel.

11.5.1.2.3 DS1 Trunk Port is a trunk side DS1 interface intended for digital PBX business applications. Also this ULS Trunk Port is used to terminate dedicated facilities associated with completing ULS Custom Routing calls in SBC-AMERITECH.

11.5.2 Switch Ports are available for SNET pursuant to the Connecticut Access Service Tariff.

11.6 Tandem Switching

11.6.1 Tandem Switching is defined as:

11.6.1.1 trunk-connect facilities, including but not limited to the connection between trunk termination at a cross-connect panel and a switch trunk card,

11.6.1.2 the basic switching function of connecting trunks to trunks;  
and

11.6.1.3 all technically feasible functions that are centralized in Tandem Office Switches (as distinguished from separate end-office

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switches), including but not limited to call recording, the routing of calls to operator services, and signaling conversion features.

- 11.6.2 The charges for Tandem Switching are reflected in Appendix Pricing (SBC-12STATE) and Section 18 of the Connecticut Service Tariff for SNET.

## 12. SHARED TRANSPORT

- 12.1 The Unbundled Shared Transport capability is defined as set forth in FCC Rule 51.319.

- 12.1.1 SBC-12STATE provides access to unbundled shared transport only when purchased in conjunction with a ULS port that CLEC subscribes to for the purpose of delivering traffic from/to a CLEC End User as set forth below.

12.1.1.1 Unbundled Local Switching is provided under Section 11 of this Appendix UNE.

12.1.1.2 "ULS-ST" refers to Unbundled Local Switching with Unbundled Shared Transport in SBC-AMERITECH. ULS-ST is provided on a per ULS port basis.

12.1.1.3 Unbundled Network Element – Local Switching with Shared Transport is available for SNET pursuant to the Connecticut Access Service Tariff.

- 12.1.2 SBC-AMERITECH provides to CLECs subscribing to ULS the function of shared transport (as defined in the Third Order on Reconsideration and Further Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 12 FCC Rcd 12460 (1997)), as described in Paragraph 56 of Attachment 1 in the August 27, 1999 *ex parte* to the FCC in *In the Matter of the SBC/Ameritech Merger*, CC Docket No. 98-141 ("FCC Conditions").

- 12.1.3 ULS-ST permits the CLEC to access the interoffice network of SBC-AMERITECH for the origination from and completion to the associated ULS port of End User local traffic to and from SBC-AMERITECH switches or third-party switches. ULS-ST also permits access to that network, using Common Transport and Tandem Switching, for the origination from and completion to the associated ULS port of End User toll traffic where a PIC'd/LPIC'd Interexchange Carrier for that ULS port is not directly connected to the SBC-AMERITECH switch providing that ULS port. SBC-AMERITECH will not require use of dedicated transport or customized routing to complete calls when using ULS-ST.



- 12.1.4 All CLEC's local traffic between SBC-AMERITECH switches will use Shared Transport and all local CLEC's traffic to non-SBC-12STATE switches will use the transit function of Shared Transport (with this transit function being referred to as "Shared Transport-Transit"). All interexchange traffic will be routed to the interLATA (PIC) or intraLATA toll (LPIC) Interexchange Carrier, as appropriate, selected for that ULS port.
- 12.1.5 The Unbundled Shared Transport rate is a blend of Shared Transport and Shared Transport-Transit. SBC-12STATE reserves the right to seek separate rates for Shared Transport and Shared Transport-Transit in future negotiations to amend or replace this Agreement.
- 12.1.6 SBC-12STATE's ability to provide ULS-ST is limited to existing switch and transmission facilities capacities of the SBC-12STATE network.
- 12.1.7 In providing ULS-ST, SBC-12STATE will use the existing SBC-12STATE routing tables contained in SBC-12STATE switches, as SBC-12STATE may change those tables from time to time including after CLEC purchases ULS-ST.
- 12.1.8 SBC-12STATE will provide SS7 signaling on interswitch calls originating from an ULS port. CLEC will be charged for the use of the SBC-12STATE signaling on a per- call basis.
- 12.2 Custom Routing of OS/DA with ULS-ST
  - 12.2.1 CLEC can only mix ULS-ST and custom routing within a SBC-AMERITECH end office switch where CLEC chooses to custom route all of its OS and/or all of its DA (OS/DA) traffic for its End Users served by SBC-AMERITECH's ULS-ST ports in that SBC-AMERITECH end office switch. If this custom routing for OS/DA is chosen in a given SBC-AMERITECH end office switch, then all End Users served via ULS-ST ports in that switch will have their OS/DA traffic routed over the same custom route designated by CLEC.
  - 12.2.2 CLEC must provide SBC-AMERITECH routing instructions necessary to establish such custom routing of OS/DA traffic in those end offices where CLEC has End Users served via ULS-ST ports. CLEC will be charged by SBC-AMERITECH for the establishment of each custom route for OS or DA traffic in an end office switch.
  - 12.2.3 SBC-AMERITECH will direct all custom routed local OS and/or local DA calls using the Advanced Intelligence Network programming developed to be compatible with ULS-ST to a specific trunk group associated with an ULS Trunk Port or over an existing dedicated trunk group designated by CLEC.

12.2.4 CLEC will request custom OS/DA routing for use with ULS-ST other than described in this Section via the Bona Fide Request process.

12.3 ULS-ST Usage-Sensitive Rating

12.3.1 SBC-12STATE will charge CLEC ULS usage rates for intraswitch and interswitch traffic originating from an ULS port and for interswitch traffic terminating to an ULS port.

12.3.2 SBC-12STATE will charge CLEC using SBC-12STATE's Shared Transport a usage-sensitive Blended Transport rate in addition to the originating ULS usage-sensitive rate for local interswitch calls. The Blended Transport rate is based upon a blend of direct and tandem-routed local traffic to/from either an SBC-12STATE end office or to/from a non-SBC-12STATE end office.

12.3.3 The charges for Shared Transport are reflected in Appendix Pricing (SBC-12STATE) and Section 18 of the Connecticut Service Tariff for SNET.

12.4 Reciprocal Compensation associated with ULS-ST

12.4.1 For the traffic to which reciprocal compensation applies and subject to the other provisions in this Agreement regarding reciprocal compensation:

12.4.2 As to ULS-ST only, SBC-AMERITECH will charge CLEC using SBC-AMERITECH's ULS-ST a Reciprocal Compensation rate specific to ULS-ST for interswitch local traffic originated from a ULS-ST port and terminated to a SBC-AMERITECH end office.

12.4.3 As to ULS-ST only, CLEC will reciprocally charge SBC-AMERITECH for interswitch local traffic originated from a SBC-AMERITECH end office and terminated to an ULS-ST port at the same rate as ULS usage rate associated with ULS-ST a Reciprocal Compensation rate.

12.4.4 CLEC will be solely responsible for establishing compensation arrangements with all telecommunications carriers to which ULS-ST traffic is delivered or from which ULS-ST traffic is received, including all ULS-ST traffic carried by Shared Transport-Transit.

12.5 IntraLATA and InterLATA Toll Rate Application

12.5.1 When ULS-ST is used to make or receive interLATA (including PIC) or intraLATA (including LPIC) toll traffic and that traffic is routed through SBC-AMERITECH tandem switch(es) and transmission facilities, SBC-AMERITECH will charge usage-sensitive Common Transport and Tandem

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Switching Rates in addition to other applicable ULS-ST charges. However, when that traffic is routed to and/or from an Interexchange Carrier directly connected at the SBC-AMERITECH end office providing that ULS port, the Common Transport and Tandem Switching rates will not apply to such traffic.

12.5.2 The ULS-ST usage-sensitive charges (per minute of use) described in this Section are set forth in the Appendix Pricing.

12.6 Application of Usage Sensitive Charges for ULS-ST

12.6.1 ULS may include two usage sensitive components: originating ULS usage (ULS-O) and terminating ULS usage (ULS-T).

12.6.2 Intra Switch Calls - (calls originating and terminating in the same switch i.e., the same 11 digit Common Language Location Identifier (CLLI) end office):

12.6.2.1 CLEC will be charged ULS-O usage charges of use for a call originating from an CLEC ULS line port or trunk port that terminates to a SBC-AMERITECH end user line, Resale line, or any unbundled line port or trunk port which is connected to the same end office switch.

12.6.2.2 CLEC will be charged ULS-O usage charges for a Centrex-like ULS intercom call in which CLEC's End User dials from one Centrex-like station to another Centrex-like station in the same common block defined system.

12.6.2.3 SBC-AMERITECH will not bill ULS-T usage charges for Intraswitch calls that terminate to a CLEC ULS port.

12.6.3 Interswitch Calls - calls not originating and terminating in the same switch, i.e., not the same 11-digit Common Language Location Identifier (CLLI) end office:

12.6.3.1 Local Calls

12.6.3.1.1 General Principles

12.6.3.1.1.1 When a call originates from a CLEC ULS-ST port, CLEC will be charged ULS-O usage and SS7 signaling charges. If the call routes over SBC-AMERITECH's shared transport network, CLEC will pay charges for

Blended Transport usage in addition to  
ULS-O usage charges.

12.6.3.1.1.2 The Parties agree that, for local calls originated over ULS-ST, SBC-AMERITECH will not be required to record and will not bill actual tandem switching usage. Rather, CLEC will be charged the rate shown on Appendix Pricing UNE - Schedule of unbundled shared transport Prices labeled "ULS-ST Blended Transport," for each minute of use, whether or not the call actually traverses the tandem switch.

12.6.3.1.1.3 When a call terminates to a CLEC ULS-ST port, CLEC will pay ULS-T usage charges.

12.6.3.1.1.4 Illustrative Call Flows demonstrating the rate applications for ULS-ST are set forth in *Exhibit A*.

#### 12.6.3.2 IntraLATA and InterLATA Toll Calls

##### 12.6.3.2.1 General Principles

12.6.3.2.1.1 "1+" intraLATA calls from CLEC ULS-ST ports will be routed to the originating End User's IntraLATA Primary Interexchange Carrier (LPIC) choice. When a "1+" interLATA call is initiated from an ULS-ST port, it will be routed to the End User's interLATA (PIC) choice.

12.6.3.2.1.2 When an intraLATA or interLATA toll call originates from a CLEC ULS-ST port, SBC-AMERITECH will not charge originating access charges to CLEC or the IXC except that SBC-AMERITECH may bill the IXC for the access transport (FGD), in accordance with its access tariff, in cases where the IXC has chosen SBC-AMERITECH as

its transport provider.

- 12.6.3.2.1.3 When an intraLATA or interLATA toll call terminates to a CLEC ULS-ST port, SBC-AMERITECH will not charge terminating access to CLEC or the IXC except that SBC-AMERITECH may bill the IXC for the access transport (FGD), in accordance with its access tariff, in cases where the IXC has chosen SBC-AMERITECH as its transport provider.

- 12.6.3.2.1.4 Illustrative Call Flows demonstrating the rate applications for ULS-ST are set forth in *Exhibit A*.

### 12.6.3.3 Toll Free Calls

- 12.6.3.3.1 When CLEC uses an ULS-ST port to initiate an intraLATA 800-type call, SBC-AMERITECH will perform the appropriate database query and will route the call to terminating SBC-AMERITECH "Success 800" subscriber. CLEC will be charged the 800 database query, ULS-O usage, and SS7 signaling charges.

- 12.6.3.3.2 When CLEC uses an ULS-ST port to initiate an 800-type call where the terminating port is not an SBC-AMERITECH "Success 800" subscriber, SBC-AMERITECH will perform the appropriate database query and route the call to the indicated IXC. CLEC will pay the 800 database query, ULS-O usage, and SS7 signaling charges. If 800-type call is routed using SBC-AMERITECH tandem, then SBC-AMERITECH will also charge ULS-ST Common Transport and ULS-ST Tandem Switching usage charges. SBC-AMERITECH will not charge originating access charges to CLEC or the IXC except that SBC-AMERITECH may bill the IXC for the access transport (FGD), in accordance with its access tariff, in cases where the IXC has chosen SBC-AMERITECH as its transport provider.

### 13. INTEROFFICE TRANSPORT

- 13.1 The Interoffice Transport (IOT) Unbundled Network Element is defined as SBC-12STATE interoffice transmission facilities dedicated to a particular CLEC that provide telecommunications between Wire Centers owned by SBC-12STATE, or requesting CLEC, or between switches owned by SBC-12STATE or CLEC. IOT will be provided only where such facilities exist at the time of CLEC request. Other than as specifically set out elsewhere in this agreement, SNET does not offer Interoffice Transport (IOT) under this agreement. Rather, IOT is available as described in Section 18 of the Connecticut Tariff FCC No. 39.
- 13.2 SBC-12STATE will be responsible for the engineering, provisioning, maintenance of the underlying equipment and facilities that are used to provide Interoffice Transport.
- 13.3 Unbundled Dedicated Transport
- 13.3.1 Unbundled Dedicated Transport (UDT) is an interoffice transmission path dedicated to a particular CLEC that provides telecommunications (when facilities exist and are technically feasible) between two Wire Centers or switches owned by SBC-12STATE or between a Wire Center or switch owned by SBC-12STATE and a CLEC owned or provided switch.
- 13.3.2 SBC-12STATE will provide Dedicated Transport as a point to point circuit dedicated to the CLEC at the following speeds: DS1 (1.544 Mbps), DS3 (44.736 Mbps), OC3 (155.52 Mbps) including OC3 concatenated (OC3-c), OC12 (622.08 Mbps) including OC12 concatenated (OC12-c), and OC48 (2488.32 Mbps) including OC48 concatenated (OC48-c). SBC-12STATE will provide higher speeds to CLEC as they are deployed in the SBC-12STATE network. SBC-12STATE provides OCN Dedicated Transport and Entrance Facilities as point to point bit rates, when and where facilities exist.
- 13.3.3 UDT includes the following elements:
- 13.3.3.1 Interoffice Transport – a circuit between two SBC12-STATE Wire Centers.
- 13.3.3.2 Entrance Facility – a circuit from SBC-12STATE serving Wire Center to the CLEC's location.
- 13.3.3.3 Multiplexing – an option ordered in conjunction with dedicated transport which converts a circuit from higher to lower bandwidth, or from digital to voice grade. Multiplexing is only available when ordered at the same time as UDT entrance facility and/or interoffice transport.

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13.3.3.4 Other Optional features are outlined in Appendix Pricing.

13.4 Diversity

13.4.1 When requested by CLEC and only where such interoffice facilities exist at the time of CLEC request, Physical diversity shall be provided for Unbundled Dedicated Transport. Physical diversity means that two circuits are provisioned in such a way that no single failure of facilities or equipment will cause a failure on both circuits.

13.4.2 SBC-12STATE shall provide the Physical separation between intra-office and inter-office transmission paths when technically and economically feasible. Physical diversity requested by the CLEC shall be subject to additional charges. When additional costs are incurred by SBC-12STATE for CLEC specific diversity. SBC-12STATE will advise CLEC of the applicable additional charges. SBC-12STATE will not process the request for diversity until CLEC accepts such charges. Any applicable performance measures will be abated from the time diversity is requested until CLEC accepts the additional charges.

13.5 Digital Cross-Connect System (DCS)

13.5.1 SBC-12STATE will offer Digital Cross-Connect System (DCS) as part of the unbundled dedicated transport element with the same functionality that is offered to interexchange carriers. DCS requested by CLEC shall be subject to additional charges as outlined in pricing schedule appendix.

13.6 Network Reconfiguration Service (NRS)

13.6.1 SBC-12STATE will offer reconfiguration service as part of the UDT element with the same functionality that is offered to interexchange carriers. Reconfiguration service requested by the CLEC shall be subject to additional charges as outlined in pricing schedule appendix.

13.7 PACIFIC

13.7.1 Cross Boundary UDT Meet Point Facilities Arrangements

13.7.1.1 Cross Boundary UDT Facilities are arrangements that involve shared ownership of the Unbundled Dedicated Local Interconnection Facilities between PACIFIC and another neighboring Incumbent Local Exchange Carrier (ILEC) PACIFIC will be a willing participant in the CLEC's efforts to midspan join an UDT Facility ordered from PACIFIC with one of the same ordered by the same CLEC from the neighboring ILEC. It is the

responsibility of the CLEC to negotiate with each ILEC individually, and to order each piece of the Meet Point transmission facility from each individual ILEC separately in order to provide UDT from each ILEC's respective Central Office to the meet point. UDT Cross Boundary Meet Point Transmission Facilities are available at DS1 and DS3 transmission speeds and only where facilities exist and are available at the time of CLEC's order.

13.7.1.2 Rates: Charges applicable to Cross Boundary UDT Meet Point Facility arrangements are as follows:

13.7.1.2.1 Non Recurring Charges: 100% of PACIFIC existing UDT Non Recurring Charges, i.e. service order charge, install (connect) charges, disconnect charges, etc. for its side of the facilities and without any compensation to the other ILEC. Each of these charges are found in Appendix Pricing.

13.7.1.2.2 Monthly Charges: PACIFIC will charge full (100%) existing UDT monthly charges for the first (or Fixed) mile, plus 100% of the monthly charges for the additional miles in its territory. Each of these charges is found in Appendix Pricing. The additional miles are calculated by the total facility mileage multiplied by the percentage of the facilities that fall within PACIFIC territory, as determined by the NECA 4 tariff. There will not be any compensation to the other ILEC.

13.7.1.2.3 PACIFIC's current intervals for the ordering and provisioning of the UDT will also be applicable to the ordering and provisioning of Cross Boundary UDT Meet Point Facilities. However, for end to end connectivity, the longer of the two ILEC's ordering and provisioning intervals will apply.

14. **DARK FIBER**

- 14.1 In SBC-12STATE Dark fiber is deployed, unlit fiber optic cable that connects two points within the incumbent LEC's network. Dark fiber is fiber that has not been activated through connection to the electronics that "light it", and thereby render it capable of carrying communications services. Other than as specifically set out elsewhere in this agreement, SNET does not offer Dark Fiber under this agreement. Rather, Dark Fiber is available to CLECs as described in Section 18.2.1E of the Connecticut Service Tariff.



- 14.1.1 Dark Fiber is fiber that is spliced in all segments from end to end and would provide continuity or "light" end to end. CLEC may only subscribe to dark fiber that is considered "spare," as defined in Sections 14.4.1 and 14.5.1, below.

#### 14.2 Interoffice Dark Fiber

- 14.2.1 SBC-12STATE will provide dark fiber in the dedicated interoffice transport segment of the network as an unbundled network element. Interoffice dark fiber is between two different SBC-12STATE Central Offices (CO's) and terminates on a fiber distribution frame, or equivalent, in the CO. SBC-12STATE will offer its dark fiber to CLEC when CLEC has collocation space in each SBC-12STATE CO where the requested dark fiber(s) terminate.

#### 14.3 Loop Dark Fiber

- 14.3.1 SBC-12STATE will provide loop dark fiber as an unbundled network element. Loop dark fiber is a segment between a serving SBC-12STATE central office and an end user customer premise.

#### 14.4 Sub-Loop Dark Fiber

- 14.4.1 SBC-12STATE will provide sub-loop dark fiber as an unbundled network element. Sub-loop dark fiber is a segment between:
  - 14.4.1.1 The serving SBC-12STATE central office and a remote terminal/CEV/Hut; or
  - 14.4.1.2 a remote terminal/CEV/Hut and an end user customer premise.
- 14.4.2 Dark Fiber sub-loop segments are explicitly governed by Section 8 of this Appendix and are limited to remote terminal/CEV/Hut outlined below.
- 14.4.3 Upon receipt of a complete and correct Sub-loop Access Application, SBC-12STATE shall provide to CLEC within 30 days a written estimate for the actual construction, labor, materials, and related provisioning costs to be incurred to fulfill the SCA on a Time and Materials basis. CLEC agrees to pay SBC-12STATE appropriate rates for the engineering and other associated costs performed when CLEC submits a request to provide a written estimate for sub-loop(s).
- 14.4.4 At SBC-12STATE Central Offices' the dark fiber terminates on a fiber distribution frame, or equivalent, in the Central Office. CLEC access is provided pursuant Method One (Section 3.1.1.1, above) which allows for

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approved collocation access. The only method of access for Dark fiber is collocation.

#### 14.5 Spare Fiber Inventory Availability and Condition

14.5.1 All available spare dark fiber will be provided as is. No conditioning will be offered. Spare dark fiber is fiber that is spliced in all segments, point to point but not assigned, and spare dark fiber does not include maintenance spares, fibers set aside and documented for SBC-12STATE's forecasted growth, defective fibers, or fibers subscribed to by other carriers. CLEC will not obtain any more than 25% of the spare dark fiber contained in the requested segment, during any two-year period.

#### 14.6 Determining Spare Fibers:

14.6.1 SBC-12STATE will inventory dark fibers. Spare fibers do not include the following:

14.6.1.1 Maintenance spares. Maintenance spares shall be kept in inventory like a working fiber. Spare maintenance fibers are assigned as follows:

- Cables with 24 fibers and less: two maintenance spare fibers
- Cables with 36 and 48 fibers: four maintenance spare fibers
- Cables with 72 and 96 fibers: eight maintenance spare fibers
- Cables with 144 fibers: twelve maintenance spare fibers
- Cables with 216 fibers: 18 maintenance spares
- Cables with 288 fibers: 24 maintenance spares
  
- Cables with 432 fibers: 36 maintenance spares
- Cables with 864 fibers: 72 maintenance spares.

14.6.1.2 Defective fibers

14.6.1.3 SBC-12STATE growth fibers. Fibers documented as reserved by SBC-12STATE for utilization for growth within the 12 month-period following the carrier's request.

14.6.2 The appropriate SBC-12STATE engineering organization will maintain records on each fiber optic cable for which CLECs request dark fiber.

14.6.3 Defective fibers, if any, will be deducted from the total number of spare fibers that would otherwise be available to CLEC for use under this Agreement.

14.7 Quantities and Time Frames for ordering Dark Fiber:

14.7.1 The minimum number of fiber strands that CLEC can order is one, and fiber strands must be ordered on a strand-by-strand basis. The maximum number of fiber strands that CLEC can order is no greater than 25% of the spare facilities in the segment requested. Should spare fiber fall below 8 strands in a given location, SBC-12STATE will provide the remaining spares one strand at a time and no more than a quantity of 2 strands. (See definition of spare facilities set forth in Sections 14.4.1 and 14.5.1 above.)

14.7.2 If CLEC wishes to request dark fiber, it must submit a dark fiber facility inquiry, providing CLEC's specific point to point (A to Z) dark fiber requirements. When CLEC submits a dark fiber facility inquiry, appropriate rates for the inquiry will be charged as outlined in state specific Appendix Pricing.

14.7.2.1 If spare dark fiber is available, as determined under this Agreement, SBC-12STATE will notify CLEC and CLEC may place an Access Service Request (ASR) for the dark fiber.

14.7.3 Dark fiber will be assigned to CLEC only when an ASR is processed. ASRs will be processed on a first-come-first-served basis. Inquiry facility checks do not serve to reserve dark fiber. When CLEC submits the ASR, the ASR will be processed and the dark fiber facilities will be assigned. The charges which will be established as set forth in paragraph 14.6.2 will be applied.

14.8 Right of Revocation of Access to Dark Fiber

14.8.1 Should CLEC not utilize the fiber strand(s) subscribed to within the 12-month period following the date SBC-12STATE provided the fiber(s), SBC-12STATE may revoke CLEC's access to the dark fiber and recover those fiber facilities and return them to SBC-12STATE inventory.

14.8.2 SBC-12STATE may reclaim from the CLEC's the right to use dark fiber, whether or not the dark fiber is being utilized by CLEC, upon twelve (12) months' written notice to the CLEC. SBC-12STATE will provide an alternative facility for the CLEC with the same bandwidth the CLEC was using prior to reclaiming the facility. SBC-12STATE must also demonstrate to the CLEC that the dark fiber will be needed to meet SBC-12STATE's bandwidth requirements within the 12 months following the revocation.

14.9 Access Methods specific to Dark Fiber

14.9.1 The demarcation point for dark fiber at central offices, remote terminals and customer premises will be in an SBC-12STATE approved splitter shelf. This arrangement allows for non-intrusive testing.

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14.9.2 At CO's dark fiber terminates on a fiber distribution frame, or equivalent in the CO. CLEC access is provided pursuant to Method One (Section 3.1.1.1, above) which is the only method of access for dark fiber.

14.9.3 At remote terminals, CEVs and Huts, CLEC access to the dark fiber will be provided via the network demarcation point at the end user customer premises and via a fiber distribution frame at the remote terminal/CEV/Hut.

14.9.3.1 CLECs may collocate, providing collocation application and associated criteria are met, when seeking to interconnection and desire to place non-passive electronics in a remote terminal/CEV/Hut provided **SBC-12STATE** has existing and available space in these locations.

14.9.3.2 CLECs have two (2) options for obtaining dark fiber subloop access. Prior to ordering subloop facilities, CLEC must establish Collocation using the Collocation process as set forth in Collocation Appendix, or must establish a Subloop Access Arrangement utilizing the Special Construction Arrangement (SCA), either or which are necessary to interconnect to the **SBC-12STATE** subloop network.

14.9.3.3 The space available for collocating or obtaining various Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC shall initiate an SCA by submitting a Sub-loop Access Arrangement Application.

14.9.3.4 At remote terminals, CEVs and Huts, CLEC access to the dark fiber will be provided via the network demarcation point at the End User premises and via a fiber distribution frame at the remote terminal/CEV/Hut. CLEC may elect to place his cable, defined by the engineer in the design phase, that **SBC-12STATE** will terminate on available demarcation points or terminal.

#### 14.10 Installation and Maintenance for Dark Fiber

14.10.1 **SBC-12STATE** will install demarcations and place the fiber jumpers from the fiber optic terminals to the demarcation point. CLEC will run its fiber jumpers from the demarcation point (1x2, 90-10 optical splitter) to the CLEC equipment.

### 15. OPERATOR SERVICES AND DIRECTORY ASSISTANCE

15.1 **SBC-13STATE** will provide access to operator service and directory assistance databases where technically feasible. (47 CFR § 51.319(g)). Operator Services and

Directory Assistance (OS/DA) are available as described in Appendix DA, and Appendix OS.

## 16. SIGNALING NETWORKS AND CALL-RELATED DATABASES

- 16.1 Signaling Networks and Call-Related Databases are Network Elements that include Signaling Link Transport, Signaling Transfer Points, and Service Control Points and Call-Related Databases. Access to SBC-13STATE's signaling network and call related databases on an unbundled basis will be provided as described in the following Appendices: SS7, LIDB AS, LIDB Service, 800, and AIN (refer to General Terms and Conditions, Section 46.7.2).

## 17. OPERATIONS SUPPORT SYSTEMS FUNCTIONS

- 17.1 Operations Support Systems Functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by SBC-13STATE's databases and information. SBC-13STATE will provide CLEC access to its Operations Support Systems Functions as outlined in Appendix OSS.

## 18. CROSS CONNECTS

- 18.1 The cross connect is the media between the SBC-7STATE UNE and a CLEC designated point of access as described in various sections of this Appendix, or the media between a SBC-7STATE UNE and a Collocation area for the purpose of permitting the CLEC to connect the SBC-7STATE UNE to other UNEs or to the CLECs own facilities. Where SBC-7STATE has otherwise committed to connect one UNE to another UNE on behalf of CLEC, or to leave connected one UNE to another UNE on behalf of CLEC the cross connect is the media between one SBC-7STATE UNE and another SBC-7STATE UNE. Nothing in this section is a commitment to connect or leave connected any two or more UNEs.
- 18.2 SBC-7STATE will provide cross connects at the rates, terms, and conditions set forth in Appendix Pricing. Pricing for Sections 18.3, 18.4 and 18.5 for SBC-AMERITECH and SNET are provided as set forth in Appendix Pricing. For all other cross-connect pricing for SNET refer to the applicable state tariff.
- 18.3 The applicable Loop cross connects to point of access for the purpose of CLEC combining a SBC-13STATE Loop with another SBC-13STATE UNE are as follows:
- 18.3.1 2-Wire Analog Loop to UNE Connection Methods point of access
- 18.3.2 4 -Wire Analog Loop to UNE Connection Methods point of access

- 18.3.3 2 -Wire Digital Loop to UNE Connection Methods point of access
- 18.3.4 4 -Wire Digital Loop to UNE Connection Methods point of access
- 18.4 The applicable Unbundled Dedicated Transport cross connects to the UNE Connection Methods point of access for the purpose of CLEC combining. Unbundled Dedicated Transport to another SBC-13STATE UNE are as follows:
  - 18.4.1 DS-1 to UNE Connection Methods point of access
- 18.5 The applicable Switch Port cross connects to the UNE Connection Methods point of access for the purpose of CLEC combining Switch Ports to another SBC-13STATE UNE are as follows:
  - 18.5.1 Analog Line Port to UNE Connection Methods point of access
  - 18.5.2 ISDN Basic Rate Interface (BRI) Line Port to UNE Connection Methods point of access
  - 18.5.3 ISDN Primary Rate Interface (PRI) Trunk Port to UNE Connection Methods point of access
  - 18.5.4 Analog DID Trunk Port to UNE Connection Methods point of access
  - 18.5.5 DS-1 Trunk Port to UNE Connection Methods point of access
- 18.6 The applicable Loop cross connects for the purpose of CLEC connecting a SBC-SWBT and NEVADA Loop UNE to a CLEC's Collocated facilities are as follows:
  - 18.6.1 2-Wire Analog Loop to Collocation
  - 18.6.2 2-Wire Analog Loop to Collocation (without testing)
  - 18.6.3 4-Wire Analog Loop to Collocation
  - 18.6.4 4-Wire Analog Loop to Collocation (without testing)
  - 18.6.5 2-Wire Digital Loop to Collocation
  - 18.6.6 2-Wire Digital Loop to Collocation (without testing)
  - 18.6.7 4-Wire Digital Loop to Collocation
  - 18.6.8 4-Wire Digital loop to Collocation (without testing)

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- 18.6.9 DSL Shielded Cross Connect to Collocation
- 18.6.10 2-Wire DSL non-shielded cross connect to Collocation
- 18.6.11 4-Wire DSL non-shielded cross connect to Collocation
- 18.7 The applicable dedicated transport cross connects for the purpose of CLEC connecting an SBC-SWBT and NEVADA dedicated transport UNE to a CLEC's Collocated facilities are as follows:
  - 18.7.1 DS-1 to Collocation
  - 18.7.2 DS-3 Collocation
  - 18.7.3 OC-3 to Collocation
  - 18.7.4 OC-12 to Collocation
  - 18.7.5 OC-48 to Collocation
- 18.8 The applicable Port cross connects for the purpose of CLEC connecting an SBC-SWBT and Port UNE to a CLEC's Collocated facilities are as follows:
  - 18.8.1 Analog Line Port to Collocation
  - 18.8.2 ISDN Basic Rate Interface (BRI) Line Port to Collocation
  - 18.8.3 Primary Rate Interface (PRI) Trunk Port to Collocation
  - 18.8.4 Analog DID Trunk Port to Collocation
  - 18.8.5 DS- Trunk Port to Collocation
- 18.9\* The applicable cross connects for the purpose of a CLEC connecting a PACIFIC Loop, UDT or Port UNE to a CLEC's Collocated facility are as follows:
  - 18.9.1 Voice Grade/ISDN EISCC
  - 18.9.2 DS-0 EISCC
  - 18.9.3 DS-1 EISCC

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\* Sections 18.9 through 18.13 are available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1

18.9.4 DS-3 EISCC

18.9.5 DSL Shielded Cross Connect to Collocation

18.10 The applicable cross connects for SBC-AMERITECH Loop, UDT or Port UNEs are as follows:

18.10.1 2-wire

18.10.2 4-wire

18.10.3 DS-1

18.10.4 DS-3

18.10.5 OC-3

18.10.6 OC-12

18.10.7 OC-48

18.10.8 LT1

18.10.9 LT3

18.11\* The applicable Loop cross connects to the Adjacent Location Method of Accessing UNEs for the purpose of a CLEC combining a PACIFIC Loop with a CLEC's own facilities for are as follows:

18.11.1 2 -Wire Analog Loop to Adjacent Location Method point of access

18.11.2 4 -Wire Analog Loop to Adjacent Location Method point of access

18.11.3 2 -Wire Digital Loop to Adjacent Location Method point of access

18.11.4 4 -Wire Digital Loop to Adjacent Location Method point of access

18.11.5 DSL shielded Cross Connect to Adjacent Location point of access

18.12\* The applicable Unbundled Dedicated transport cross connects to the Adjacent Location Method of accessing UNEs for the purpose of a CLEC combining a PACIFIC Unbundled Dedicated Transport with a CLEC's own facilities as follows:

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\* Sections 18.9 through 18.13 are available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1



18.12.1 DS-1 to the Adjacent Location Method point of access

18.13\* The applicable Switch Port cross connects to the Adjacent Location Method of Accessing UNEs for the purpose of a CLEC combining a PACIFIC Port with a CLEC's own facilities point of access are as follows:

18.13.1 -Analog Line Port to Adjacent Location Method to point of access

18.13.2 -ISDN BRI Port to Adjacent Location Method to point of access

18.13.3 -ISDN PRI Trunk Port to Adjacent Location Method point of access

18.14 Cross Connects, required for the UNE platform, from UNE Loops to UNE Ports for the purpose of combining a SWBT, NEVADA and PACIFIC 2 -Wire Loop \*with a SWBT, NEVADA and PACIFIC Port are as follows:

18.14.1 -Wire Analog Loop to Analog line Port

18.14.2 -Wire Digital Loop to ISDN BRI Port

18.15 Maintenance of Elements

18.15.1 If trouble occurs with unbundled network elements provided by SBC-13STATE, CLEC will first determine whether the trouble is in CLEC's own equipment and/or facilities or those of the End User. If CLEC determines the trouble is in SBC-13STATE's equipment and/or facilities, CLEC will issue a trouble report to SBC-13STATE.

18.15.2 CLEC shall pay Time and Material charges (maintenance of service charges/additional labor charges) when CLEC reports a suspected failure of a Unbundled Network Element and SBC-13STATE dispatches personnel to the End User's premises or an SBC-13STATE Central Office and trouble was not caused by SBC-13STATE's facilities or equipment. Time and Material charges will include all technicians dispatched, including technicians dispatched to other locations for purposes of testing.

18.15.3 CLEC shall pay Time and Material charges when SBC-13STATE dispatches personnel and the trouble is in equipment or communications systems provided an entity by other than SBC-13STATE or in detariffed CPE provided by SBC-13STATE, unless covered under a separate maintenance agreement.

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\* Sections 18.9 and 18.11 through 18.13 are available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1

- 18.15.4 CLEC shall pay Maintenance of Service charges when the trouble clearance did not otherwise require dispatch, but dispatch was requested for repair verification or cooperative testing, and the circuit did not exceed maintenance limits.
- 18.15.5 If CLEC issues a trouble report allowing SBC-13STATE access to the End User's premises and SBC-13STATE personnel are dispatched but denied access to the premises, then Time and Material charges will apply for the period of time that SBC-13STATE personnel are dispatched. Subsequently, if SBC-13STATE personnel are allowed access to the premises, these charges will still apply.
- 18.15.6 Time and Material charges apply on a first and additional basis for each half-hour or fraction thereof. If more than one technician is dispatched in conjunction with the same trouble report, the total time for all technicians dispatched will be aggregated prior to the distribution of time between the "First Half Hour or Fraction Thereof" and "Each Additional Half Hour or Fraction Thereof" rate categories. Basic Time is work-related efforts of SBC-13STATE performed during normally scheduled working hours on a normally scheduled workday. Overtime is work-related efforts of SBC-13STATE performed on a normally scheduled workday, but outside of normally scheduled working hours. Premium Time is work related efforts of SBC-13STATE performed other than on a normally scheduled workday.
- 18.15.7 If CLEC requests or approves a SBC-13STATE technician to perform services in excess of or not otherwise contemplated by the nonrecurring charges herein, CLEC will pay Time and Material charges for any additional work to perform such services, including requests for installation or conversion outside of normally scheduled working hours.

## 19. RECONFIGURATION

- 19.1 SBC-13STATE will reconfigure existing qualifying special access services to combinations of unbundled loop and transport upon terms and conditions consistent with the Supplemental Order Clarification released by the FCC on June 2, 2000 *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, in CC Docket No. 96-98 (FCC 00-183) and with SBC-13STATE's processes to implement that Order, as set forth on the CLEC website.

## 20. RESERVATION OF RIGHTS

- 20.1 SBC-13STATE's provision of UNEs identified in this Agreement is subject to the provisions of the Federal Act, including but not limited to, Section 251(d). The Parties acknowledge and agree that on May 24, 2002, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *United States Telecom Association, et. al v. FCC*, No. 00-101, in which the Court granted the

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petitions for review of the Federal Communications Commission's ("FCC") Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (FCC 99-238) ("the UNE Remand Order") and the FCC's Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (FCC 99-355) (rel. December 9, 1999) ("the Line Sharing Order"), specifically vacated the Line Sharing Order, and remanded both these orders to the FCC for further consideration in accordance with the decision. In addition, on November 24, 1999, the FCC issued its Supplemental Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, (FCC 99-370) and on June 2, 2000, its Supplemental Order Clarification, (FCC 00-183), in CC Docket 96-98 (collectively the "Orders"). By entering into this Agreement which makes available certain UNEs, or any Amendment to this Agreement, neither Party waives any of its rights with respect to such Orders, including but not limited each Party's right to dispute whether any UNEs identified in the Agreement must be provided under Section 251(c)(3) and Section 251(d) of the Act, and under this Agreement. In the event that the FCC, a state regulatory agency or a court of competent jurisdiction, in any proceeding finds, rules and/or otherwise orders ("order") that any of the UNEs and/or UNE combinations provided for under this Agreement do not meet the necessary and impair standards set forth in Section 251(d)(2) of the Act, the affected provision will be immediately invalidated, modified or stayed as required to effectuate the subject order upon written request of either Party. In such event, the Parties shall have sixty (60) days from the effective date of the order to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications required to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the effective date of the order, any disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement.

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

- 21.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law

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enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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**EXHIBIT A**

**ILLUSTRATIVE CALL FLOWS  
(USAGE-SENSITIVE ULS-ST RATE ELEMENTS)**

The following call flows provide examples of application of usage sensitive UNE charges and reciprocal compensation. The call flows below depict the charges between SBC-AMERITECH and CLEC A. Charges to or from CLEC B (e.g., reciprocal compensation) to or from SBC-AMERITECH or CLEC A are pursuant to the charging arrangement(s) between the originating and terminating carriers.

Local Calls:

1. CLEC A (UNE) ULS-ST port originating and SBC-AMERITECH port terminating:  
 CLEC A is charged:  
     ULS - O Usage  
     Blended Transport Usage  
     SS7 Signalling  
     ULS-ST Reciprocal Compensation (equal to ULS-T rate)
2. SBC-AMERITECH port originating and CLEC A (UNE) ULS-ST port terminating  
 CLEC A is charged:  
     ULS - T Usage  
  
SBC-AMERITECH is charged:  
     ULS-ST Reciprocal Compensation (equal to ULS-T rate)
3. CLEC A (UNE) port originating and CLEC B (UNE) terminating  
 CLEC A is charged:  
     ULS - O Usage  
     Blended Transport Usage  
     SS7 Signaling
4. CLEC A (UNE) port originating and CLEC A (UNE) port terminating  
 CLEC A is charged:  
     ULS - O Usage  
     Blended Transport Usage  
     SS7 Signaling  
     ULS - T Usage

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5. CLEC B (UNE) port originating and CLEC A (UNE) port terminating  
CLEC A is charged:  
ULS – T Usage
6. CLEC (Resale services) Originating and CLEC A (UNE) port terminating  
CLEC A is charged:  
ULS – T Usage
7. CLEC A (UNE) port originating and CLEC (Resale services) terminating  
CLEC A is charged:  
ULS – O Usage  
Blended Transport Usage  
SS7 Signaling  
ULS-ST Reciprocal Compensation (equal to ULS-T rate)
8. CLEC A (UNE) port originating to CLEC (Facilities Based Network (FBN) terminating  
CLEC A is charged:  
ULS – O Usage  
Blended Transport Usage  
SS7 Signaling
9. CLEC (FBN) Originating to CLEC A (UNE) Terminating  
CLEC A is charged:  
ULS – T Usage

IntraLATA and InterLATA Toll Calls:

10. CLEC A (UNE) port originating to IXC  
If call is routed to IXC POP via direct-route (IXC FGD Trunking)—  
CLEC A is charged:  
ULS – O Usage  
SS7 Signaling  
  
If call is routed to IXC POP via SBC-AMERITECH Tandem—  
CLEC A is charged:  
  
ULS – O Usage  
SS7 Signaling

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ULS-ST Common Transport Usage  
ULS-ST Tandem Usage

11. IXC to CLEC A (UNE) port terminating

If call is routed from IXC POP via direct-route (IXC FGD Trunking)—

CLEC A is charged:

ULS - T Usage

If call is routed from IXC POP via SBC-AMERITECH Tandem—

CLEC A is charged:

ULS - T Usage

ULS-ST Common Transport Usage

ULS-ST Tandem Usage

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