

Exhibit No:

Issue: XI. Collocation

Witness: Barnes

Type of Exhibit : Direct Testimony

Sponsoring Party: AT&T Communications of  
the Southwest, Inc.

Case No: TO-98-115

PETITION FOR  
SECOND ARBITRATION

DIRECT TESTIMONY  
OF  
LARRY BARNES

Jefferson City, Missouri  
November 7, 1997

File Date: November 7, 1997

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

**ISSUE 1:**

What conditions, if any, should be placed on SWBT's ability to reserve space for itself?

**AT&T LANGUAGE:**

**Attachment 13: Appendix Collocation**

2.X SWBT will allocate space within its Eligible Structures on a nondiscriminatory, "first-come, first-served" basis among itself, AT&T, and other collocators, provided that there is space and power available for collocation and for reasonable security arrangements and subject to any other limitations provided by law.

**AT&T POSITION:**

AT&T's proposed language would prohibit SWBT from discriminating in its own favor when allocating space between itself and AT&T. The FCC Order makes clear that SWBT must "make space available to requesting carriers on a first come-first served basis." FCC Order, ¶ 585. And while SWBT may retain a limited amount of floor space for a defined future use, it may not do so in a discriminatory manner. FCC Order, ¶ 604.

SWBT claims that AT&T's proposed language should be excluded, because it would somehow interfere with SWBT's right to retain a limited amount of floor space for a defined future use. Yet SWBT concedes that it is not permitted to discriminate in its own favor when reserving such space. See FCC Order ¶ 604. SWBT misinterprets the effect of AT&T's proposed language.

1 AT&T's proposed language does not prohibit SWBT from exercising rights over its own floor  
2 space; AT&T's proposed language instead attempts to implement the FCC's requirement that  
3 SWBT not discriminate in its own favor when doing so.  
4

5 SWBT also contends that the use of the term "Collocated Space" in this section is improper,  
6 because Collocated Space is defined elsewhere as "[s]pace within an Eligible Structure  
7 containing any AT&T collocated equipment." AT&T agrees, and proposes that the phrase  
8 "space within its Eligible Structures" be substituted for "Collocated Space."  
9

10 **ISSUE 2:**

11 Who should determine if space is available for collocation in eligible structures and in what  
12 manner?  
13

14 **AT&T LANGUAGE:**

15 **Attachment 13: Appendix Collocation**

16 **2.X The determination whether there is insufficient space to accommodate physical**  
17 **collocation at a particular Eligible Structure will be made jointly by one engineer from**  
18 **SWBT and one engineer from AT&T. Where SWBT and AT&T cannot reach agreement**  
19 **whether sufficient space is available for physical collocation at a particular Eligible**  
20 **Structure, the determination will be made by a third-party engineer, unless both SWBT**  
21 **and AT&T elect to use the dispute resolution provisions of this Appendix. AT&T and**  
22 **SWBT will equally share the costs of the third-party engineer's services.**

1 **AT&T POSITION:**

2 SWBT's proposal allows SWBT to determine whether space is available for physical collocation  
3 at a particular Eligible Structure and does not allow AT&T or a third party to review SWBT's  
4 determination. In contrast, AT&T's proposed language provides for SWBT and AT&T to make  
5 a joint determination whether space is available at a particular Eligible Structure; if AT&T and  
6 SWBT cannot reach agreement, a third party would resolve the dispute. Absent AT&T's  
7 proposed language, SWBT could refuse any or all of AT&T's applications for Collocated Space  
8 using the pretext of space unavailability, and SWBT's decision would be unreviewable. AT&T's  
9 proposed language protects AT&T's right to collocate in SWBT's Eligible Structures and is not  
10 unreasonable. Accordingly, AT&T's proposed language should be included.

11  
12 **ISSUE 3:**

13 Should the agreement include a definition of "facility" or "facilities?"  
14

15 **AT&T LANGUAGE:**

16 **Attachment 13: Appendix Collocation**

17 **2.X "Facility" or "facilities" refer to any property, equipment, or items owned or**  
18 **controlled by any person or entity.**

19  
20 **AT&T POSITION:**

21 AT&T's proposed definition of facilities is identical to the definition that SWBT has already  
22 agreed to use for Attachment 13: Appendix Poles, Conduits, and Rights-of-Way. AT&T's  
23 proposed definition is offered because the term "facilities" is used in many sections of this  
24 Appendix including, among others, section 2.1, 8.1, 10.2, 10.2.1, 10.3, and 10.4.

1 **ISSUE 4:**

2 How much time should SWBT be permitted to prepare a price quotation?

3  
4 Should SWBT be required to refund the entire engineering design charge upon a determination  
5 that space and power are not available?  
6

7 **AT&T LANGUAGE:**

8 **Attachment 13: Appendix Collocation**

9 3.X Upon receipt of AT&T's application for Collocated Space, SWBT will begin to prepare a  
10 price quotation for the Collocated Space. SWBT will provide AT&T with the price quotation  
11 within thirty-five (35) days of receipt of AT&T's Physical Collocation Application Form and  
12 Engineering Design Charge. When sufficient space is not available for physical collocation at a  
13 particular Eligible Structure as determined under Section 2.X, SWBT will refund the entire  
14 Engineering Design Charge to AT&T within forty-five (45) days of that determination.  
15

16 **AT&T POSITION:**

17 (1) Timing of Price Quotations.

18 AT&T's proposed language would require SWBT to provide a price quotation to AT&T within  
19 thirty-five (35) *calendar* days of receipt of AT&T's physical collocation application form and  
20 engineering design charge. SWBT's proposal would require SWBT to provide a price quotation  
21 to AT&T within thirty-five (35) *business* days. SWBT's proposal is inconsistent with the  
22 Commission's December 11, 1996, Order, which provides that "SWBT shall provide the LSP  
23 with an estimate of the cost of construction and date of completion . . . within thirty-five days  
24 from receipt of the LSP's request." Order at 18. SWBT's proposal, by using business days  
25 instead of calendar days, effectively adds fourteen (14) days to the time period and therefore

1 circumvents the Commission's order. Notably, the Oklahoma Commission resolved this  
2 identical issue in AT&T's favor in June of this year.

3  
4 In response, SWBT contends, for the first time, that the Collocation Appendix should not contain  
5 any time requirement for SWBT to prepare a price quotation in response to a collocation  
6 application. Instead, SWBT contends that the time period set forth in its technical publication is  
7 an adequate substitute for AT&T's proposed language. SWBT's position attempts to circumvent  
8 the Commission's December 11, 1996, Order, which specifically provides for a 35-day response  
9 time. AT&T respectfully submits that the language contained within SWBT's technical  
10 publication imposes no requirement upon SWBT to process collocation applications with any  
11 level of diligence. First, in light of the position taken by SWBT with regard to sections 11.2 and  
12 11.3 of the Collocation Appendix, the technical publication imposes no requirement upon SWBT  
13 at all, because SWBT attempts to reserve the right to modify that technical publication whenever  
14 it chooses. Second, the language in SWBT's technical publication contains an escape clause that  
15 allows SWBT to establish "new quotation intervals" when it "cannot meet the . . . quotation  
16 interval[s]" listed in the technical publication.

17  
18 SWBT also argues that the Collocation Appendix should not contain a time requirement, because  
19 it would somehow give AT&T an "unfair advantage" over its competitors in the local service  
20 market. This argument is meritless, because any other collocater can elect to obtain the terms  
21 and conditions contained within the AT&T/SWBT Interconnection Agreement through the  
22 election of "most favored nation status." AT&T's proposed language only attempts to even the  
23 playing field, so that AT&T can compete effectively with SWBT in the local service market.

1 (2) Engineering Design Change.

2 Although SWBT has conceded that it must refund the engineering design charge upon a  
3 determination that space and power are not available to satisfy an application for Collocated  
4 Space, SWBT has opposed AT&T's language that imposes an *effective* obligation on SWBT.  
5 Unless AT&T's proposed language is included, SWBT could (1) keep the engineering design  
6 charge for an indefinite length of time, or (2) retain some undefined portion of the engineering  
7 design charge, either of which would render the refund requirement ineffective.

8  
9 SWBT claims, for the first time, that it should be allowed to retain \$790 of the Engineering  
10 Design Charge as "a reasonable cost-based standard for calculating how much should be  
11 refunded." This \$790 charge is based upon SWBT's *guess* that the determination that space is  
12 unavailable would require ten hours of time for SWBT employees. SWBT overestimates by far  
13 the amount of time that such a determination would require, which AT&T estimates should be  
14 two to three hours. SWBT should be required to more clearly demonstrate the costs that it would  
15 incur before it be allowed to impose such a fee. Notably, the Oklahoma Commission resolved  
16 this identical issue in AT&T's favor in June of this year.

17  
18 SWBT contends that it should not be required to refund the engineering design charge to AT&T  
19 within forty-five days of a determination that space and power are not available, because SWBT  
20 is willing to refund the charge "as soon as reasonably practicable." A forty-five day time period  
21 is far from unreasonable. Moreover, SWBT's opposition to this time requirement is  
22 disingenuous, in light of the position taken by SWBT regarding section 3.6 of the Collocation  
23 Appendix.

1 **ISSUE 5:**

2 Which specific elements may be billed as part of the monthly charge?  
3

4 **AT&T LANGUAGE:**

5 **Attachment 13: Appendix Collocation**

6 3.X The Monthly Charge will consist of the monthly charges for floor space, power usage,  
7 maintenance, administration, and taxes for equipment charged by SWBT to AT&T for use of the  
8 Collocated Space.  
9

10 **AT&T POSITION:**

11 AT&T's proposed language specifies that the "Monthly Charge" for Collocated Space may  
12 consist only of a defined list of charges. AT&T's proposed language is necessary to define  
13 clearly those elements that SWBT may charge to AT&T as part of the "Monthly Charge."  
14 Otherwise, there would be no limit on what SWBT could charge AT&T on a case-by-case basis.  
15 SWBT has opposed AT&T's language on the ground that the list in this section should not be an  
16 exclusive list; but SWBT has not identified the other charges that should be included. SWBT  
17 instead believes that, should it desire later to add further monthly charges to the list, it should be  
18 permitted to do so. SWBT's proposal accordingly attempts to avoid the development of "pricing  
19 guidelines and standard terms and conditions" that is required by the Commission's December  
20 11, 1996, Order. *See* Order at 36.  
21

22 SWBT argues that its language is necessary, so that "the enumerated cost elements would not  
23 always be the only factors determining the Monthly Charge." This argument, however, ignores  
24 the Commission's mandate that SWBT develop a defined list of enumerated cost elements:



1 Physical collocation has existed for years and it is possible for SWBT to develop  
2 pricing guidelines and standard terms and conditions so that each new office  
3 where physical collocation is requested will not result in a cumbersome and  
4 lengthy process. Such terms, conditions or guidelines can be set forth by tariff or  
5 incorporated in the Interconnection Agreement.

6 Order at 36.  
7

8 SWBT's proposed language for this section renders this section meaningless as a limitation upon  
9 SWBT's ability to impose unreasonable charges upon AT&T, because it permits SWBT to add  
10 further monthly charges to the list in this section, whenever SWBT believes it appropriate.  
11 SWBT complains that, should the list in this section be deemed exclusive, SWBT would be  
12 precluded from recovering other costs that it has not foreseen to date. SWBT's concern could  
13 easily be addressed by the addition of an additional sentence: "Additional monthly charges may  
14 be added to this list upon approval of the State Commission." Language similar to this  
15 additional sentence was added to this section of the Collocation Appendix by the Oklahoma  
16 Commission.

17  
18 **ISSUE 6:**

19 With regard to a specific collocation request:  
20

21 (1) If the Commission is reviewing disputes between the parties over physical collocation  
22 price quotations, must SWBT refrain from issuing such quotations to other LSPs for the same  
23 collocation space or refrain from allowing use of that collocation space by other LSPs?  
24

25 (2) What methodology is appropriate to determine SWBT's Common Charge, Collocated  
26 Space Charge, and Monthly Charge for providing physical collocation facilities to AT&T?

1 AT&T LANGUAGE:

2 Attachment 13: Appendix Collocation

3 3.X SWBT's price quotation will be calculated using a TELRIC-based methodology which is  
4 nondiscriminatory to all collocators. SWBT's price quotation will be sufficient to cover  
5 SWBT's reasonable costs and will be no greater than necessary for SWBT to earn a reasonable  
6 profit. AT&T may ask the State Commission to review any of SWBT's charges for  
7 conformity with the above standards. During the time that a price quotation for a  
8 particular Collocated Space is under State Commission review, SWBT will not issue any  
9 price quotations for that particular Collocated Space or permit another collocator to use  
10 that Collocated Space.

11  
12 AT&T POSITION:

13 (1) Review of SWBT Price Quotations.

14 SWBT contends that its Common Charge, Collocated Space Charge, and Monthly Charge should  
15 be unreviewable by the State Commission. Without Commission review of SWBT's ICB  
16 Charges, there would be no method to ensure that SWBT prices are calculated in a cost-based  
17 and non-discriminatory manner. SWBT claims that Commission review is unnecessary, because  
18 there are "several safeguards in place." None of these purported safeguards, however, is  
19 designed to ensure that SWBT's charges are nondiscriminatory or cost-based and none of the  
20 safeguards precludes SWBT from earning more than a reasonable profit.

21  
22 AT&T's proposed language provides that during the time that a price quotation for a particular  
23 Collocated Space is under Commission review, SWBT would be precluded from issuing any

1 further price quotations with respect to the same Collocated Space. Without such a requirement,  
2 Commission review of price quotations could be derailed by a different collocator's acceptance  
3 of a price quotation for the same Collocated Space. This result would be contrary to the "first  
4 come-first served" basis requirement established by the FCC's Order. AT&T's proposed  
5 language solves that problem.

6  
7 SWBT contends that AT&T's proposed language limiting the use of a Collocated Space while  
8 pricing is under Commission review would unfairly preclude others from using that space while  
9 charges are under Commission review. While AT&T is cognizant of that risk, AT&T believes  
10 that without such a requirement, Commission review of SWBT charges would be ineffective. To  
11 resolve that problem, AT&T would consent to Commission review of charges on an expedited  
12 basis. Notably, the Oklahoma Commission resolved this identical issue in AT&T's favor in June  
13 of this year.

#### 14 15 (2) Pricing Methodology

16 AT&T's proposed language would require SWBT to develop a TELRIC-based methodology and  
17 use that methodology when calculating a price quotation. Such a methodology would ensure that  
18 SWBT's pricing is cost-based and is non-discriminatory to all collocators. Without a defined  
19 cost-based methodology for the calculation of price quotations, it is likely that SWBT price  
20 quotations would overcharge or undercharge for collocation at SWBT's Eligible Structures.  
21 AT&T's language attempts to implement the Commission's requirement that SWBT develop  
22 "pricing guidelines and standard terms and conditions" for physical collocation. Order at 36.

1 In response, SWBT argues that *actual costs* should be used instead of TELRIC-based *average*  
2 *costs*. "Actual costs," however, are inappropriate for certain elements of the price quotation.  
3 Recurring charges, such as the Monthly Charge, are incapable of calculation on an actual cost  
4 basis. Moreover, those nonrecurring costs that are incurred by SWBT internally (e.g., overhead,  
5 reasonable profit, etc.) are also incapable of calculation on an actual cost basis. Those charges at  
6 least should be calculated pursuant to a defined cost-based methodology. Indeed, that conclusion  
7 has already been reached by the Kansas Commission, which required SWBT to use TELRIC-  
8 based methodology for all recurring charges.

9  
10 **ISSUE 7:**

11 Should SWBT permit AT&T to inspect the Collocated Space prior to its acceptance or rejection  
12 of the price quotation?  
13

14 **AT&T LANGUAGE:**

15 **Attachment 13: Appendix Collocation**

16 **3.X Prior to any obligation for AT&T to accept or reject SWBT's price quotation, SWBT**  
17 **will permit AT&T to inspect the Collocated Space to determine its suitability for AT&T's**  
18 **intended uses.** Subject to an appropriate non-disclosure agreement, SWBT will permit AT&T to  
19 inspect supporting documents for the Preparation Charge, including the Common Charge (if  
20 AT&T is the first entity to which SWBT provides physical collocation in an Eligible Structure),  
21 the Collocated Space Charge, and any Custom Work charge.

1 **AT&T POSITION:**

2 AT&T's proposed language would allow AT&T to inspect the Collocated Space to determine its  
3 suitability for AT&T's intended uses before AT&T is required to accept or reject SWBT's price  
4 quotation. Without this language, AT&T would be required, site unseen, to accept or reject  
5 SWBT's price quotation for a Collocated Space. The right of inspection prior to purchase or  
6 lease is almost universally recognized for the sale or lease of commercial or residential property;  
7 SWBT's position contravenes these standard practices. Moreover, should the Collocated Space  
8 be unfit for AT&T's intended uses, that determination should be made before any construction  
9 expenses are incurred. AT&T's proposed language would not impose a significant burden on  
10 SWBT, and any such burden could be compensated through the engineering design charge  
11 required by Section 3.X of this Appendix. Notably, the Oklahoma Commission resolved this  
12 identical issue in AT&T's favor in June of this year.

13  
14 SWBT opposes such an inspection on the ground that it would somehow allow AT&T to obtain  
15 "competitively advantageous information regarding equipment." SWBT's argument is meritless.  
16 First, because AT&T will consent to be escorted by SWBT during the inspection, AT&T will be  
17 precluded from obtaining proprietary information. Second, SWBT overstates the risk that  
18 competitively advantageous information could be obtained during such an inspection. Indeed,  
19 because both AT&T and SWBT purchase telecommunications equipment from the same  
20 vendors, both are already aware of the capabilities of each other's equipment.

21  
22 SWBT claims that an inspection is unnecessary, because "SWBT will provide diagrams of the  
23 Collocated Space." Just as a consumer cannot be expected to make an informed decision to

1 purchase or lease a house or apartment solely from a floor plan, AT&T cannot make an informed  
2 decision whether to use a Collocated Space without an opportunity to inspect the space. Many  
3 relevant features of a Collocated Space cannot be determined from the review of a diagram,  
4 including whether anything is located in rooms near the Collocated Space that would interfere  
5 with the effective operation of AT&T's equipment (such as radio transmission or video  
6 equipment), whether there is a substantial flooding risk that would dissuade AT&T from using  
7 the Collocated Space, or whether anything unusual about the space could increase AT&T's  
8 construction costs.

9  
10 **ISSUE 8:**

11 Can SWBT require an up-front payment of quoted non-recurring charges (i.e., the Collocated  
12 Space Charge, the Custom Work Charge, and the Common Charge) from AT&T as a condition  
13 to reserving and commencing preparation of the collocated Space?  
14

15 **AT&T LANGUAGE:**

16 **Attachment 13: Appendix Collocation**

17 3.X SWBT's price quotation will constitute a firm offer that AT&T may accept in writing  
18 within thirty-five (35) days of AT&T's receipt of the price quotation, subject only to the true-up  
19 procedure specified in Section 5.X below. SWBT will reserve the Collocated Space for AT&T  
20 during this thirty-five day period. If AT&T does not accept the price quotation in writing within  
21 thirty-five (35) days of AT&T's receipt of the price quotation, the price quotation will be  
22 automatically rescinded.

1 AT&T POSITION:

2 SWBT's proposal would require AT&T to tender money to SWBT in order to accept a price  
3 quotation for a particular Collocated Space; in the absence of SWBT's proposal, AT&T could  
4 accept the price quotation in writing and would be contractually bound by its acceptance at that  
5 time. Conditioning AT&T's acceptance on SWBT's actual receipt of money is contrary to  
6 standard telecommunications industry practices, where agreements are made prior to and on the  
7 expectation of payment. SWBT does not require the protection of early payment for its  
8 Collocated Space (AT&T is not a fly-by-night telecommunications provider, and AT&T honors  
9 its contractual obligations). And even were AT&T or some other collocator to breach the  
10 contract prior to payment of the quoted price, SWBT's damages would be small, because this  
11 Appendix makes payment a precondition to the construction of the Collocated Space.

12  
13 SWBT claims that conditioning acceptance on the actual receipt of money is necessary to prevent  
14 AT&T from "warehousing" space. This claim is specious. Under AT&T's proposal, AT&T  
15 would be contractually bound by its written acceptance to pay all charges incurred. The  
16 requirement of prepayment is ministerial and serves only to delay collocation.

17  
18 The remainder of SWBT's proposal would not require SWBT to reserve the Collocated Space for  
19 AT&T during the thirty-five day period for which the price quotation is valid. Under SWBT's  
20 proposal, the price quotation would constitute an offer with no legal effect whatsoever, that  
21 SWBT could rescind at will, notwithstanding AT&T's prior payment of consideration for that  
22 offer (a rather substantial "engineering design charge"). This is unreasonable, considering that  
23 SWBT is not prepared to refund AT&T's engineering design charge after it has issued the price

1 quotation. Moreover, in other cases involving SWBT, the Commission has previously imposed  
2 the requirement that a SWBT "ICB price quote . . . be considered a firm offer for a reasonable  
3 period of time." *In re: SWBT's tariff designed to introduce broadband educational*  
4 *videoconferencing service*, No. TT-95-275. AT&T's language should therefore be included.

5  
6 **ISSUE 9:**

7 May AT&T subcontract the preparation of Collocated Space?  
8

9 **AT&T LANGUAGE:**

10 **Attachment 13: Appendix Collocation**

11 **3.X AT&T may better SWBT's quoted Common Charge, quoted Collocated Space**  
12 **Charge, or quoted Completion Interval by subcontracting the preparation of the**  
13 **Collocated Space or the modification of the Eligible Structure with contractors approved**  
14 **by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses**  
15 **in approving contractors for its own purposes, which approval will not be unreasonably**  
16 **withheld. AT&T will be responsible for the cost of its own contractors; SWBT will adjust**  
17 **the Preparation Charge to account for AT&T's provision of its own contractors.**

18  
19 **AT&T POSITION:**

20 AT&T's proposed language would allow AT&T to subcontract the preparation of the Collocation  
21 Space as allowed by Section 51.323(j) of the FCC's regulations, which provides that "[a]n  
22 incumbent LEC shall permit a collocating telecommunications carrier to subcontract the  
23 construction of physical collocation arrangements with contractors approved by the incumbent



1 LEC." AT&T is also permitted by paragraph 598 of the FCC Order to "subcontract the  
2 construction of the physical collocation arrangements" using its own contractors.

3  
4 SWBT's opposition to AT&T's proposed language is based upon an overly narrow interpretation  
5 of the phrase "physical collocation arrangements," which SWBT construes to exclude the  
6 construction of the collocation cage itself and any work occurring outside of the collocation cage.  
7 SWBT's interpretation would exclude AT&T's subcontractors from participating in the lion's  
8 share of the construction work for which AT&T is required to pay, rendering AT&T's right to  
9 use its own subcontractors ineffective as a method of controlling AT&T's costs. SWBT also  
10 claims that the use of AT&T's subcontractors would create a security risk. Any such risk is  
11 negligible, due to SWBT's right of approval for AT&T's subcontractors.

12  
13 Furthermore, SWBT's arguments do not explain its opposition to all of AT&T's proposed  
14 language. If the Commission were to affirm SWBT's position that AT&T not be permitted to  
15 use its own subcontractors to perform modifications to the Eligible Structure, the Commission  
16 should not exclude all of AT&T's proposed language. In that case, the Commission should  
17 adopt AT&T's language with the exception of the phrase "or the modification of the Eligible  
18 Structure."

19  
20 **ISSUE 10:**

21 Should SWBT be required to refund a pro-rata share of the common charge more than twelve  
22 months after the initial collocater has collocated in an Eligible Structure?

1 AT&T LANGUAGE:

2 Attachment 13: Appendix Collocation

3 4.X Each time additional collocator(s) use(s) physical collocation in the same Eligible  
4 Structure, each previous collocator will receive a prorated refund of its previously paid Initial  
5 Common Charge or Common Charge.

6  
7 AT&T POSITION:

8 SWBT's proposal would require SWBT to pay a prorated refund to previous collocators only for  
9 the first twelve months after the first collocator's payment of an initial Monthly Charge. This  
10 arrangement is unreasonable for a number of reasons. First, SWBT's proposal discriminates  
11 against initial collocators and in favor of subsequent collocators, because while a subsequent  
12 collocator will pay to SWBT a common charge that reflects its pro-rata share of SWBT's costs,  
13 the initial collocator will, in many circumstances, pay more than that amount. By discriminating  
14 against initial collocators this language also encourages telecommunications providers to put off  
15 collocation efforts until another provider has already collocated in an Eligible Structure, and  
16 therefore encourages a wait-and-see attitude that is anti-competitive.

17  
18 Second, although SWBT's proposed language limits SWBT's obligation to pay prorated refunds  
19 after twelve months, SWBT's proposed language *does not similarly limit a* subsequent  
20 collocator's obligation to pay a common charge to SWBT ("The next three subsequent  
21 collocators that share such common elements . . . will pay a "Common Charge" equal to the  
22 Initial Common Charge multiplied by a fraction . . ."). Accordingly, SWBT may be reimbursed  
23 an amount greater than the common charges that it has incurred. This fact is illustrated by an

1 example: Assume that the "initial common charge" is \$100,000. During month 0, Collocator #1  
2 pays a common charge of \$100,000 to SWBT. During month 8, Collocator #2 pays \$50,000 to  
3 SWBT, and SWBT refunds \$50,000 to Collocator #1. During month 13, Collocator #3 pays  
4 \$33,333.33 to SWBT, which SWBT keeps, as permitted. During month 24, Collocator #4 pays  
5 \$25,000 to SWBT, which SWBT keeps, as permitted. Under this example, SWBT has been  
6 reimbursed for 153% of the common charges that it has incurred.

7  
8 In support of the proposed twelve month limitation, SWBT argues that the exclusion of SWBT's  
9 proposed language would require SWBT to pay refunds to "all subsequent collocators,"  
10 including "collocators 5 and beyond." This argument is meritless, because the table in section  
11 4.3.1 of the Collocation Appendix provides that collocator(s) "5<sup>th</sup> and beyond" pay no common  
12 charges and receive no refunds.

13  
14 SWBT claims, because its interconnection agreements with other collocators contain a similar  
15 twelve month limitation, the exclusion of SWBT's proposed language would prejudice SWBT  
16 with respect to these other collocators. SWBT argues that these other collocators "are not  
17 required . . . to pay for common costs if they are not collocated in an office within 12 months of  
18 the first collocator." SWBT's argument misreads the language of this section, which does not  
19 contain such a limit ("The next three subsequent collocators that share such common elements . .  
20 . will pay a "Common Charge" equal to the Initial Common Charge multiplied by a fraction . .  
21 ."). Moreover, even if SWBT were somehow correct, the problem is addressed by the ability of  
22 other collocators to elect "most favored nation status" and "piggy back on the AT&T  
23 agreement."

1 **ISSUE 11:**

2 How should SWBT's compensation be calculated and documented when SWBT begins preparing  
3 Collocated Space at AT&T's request prior to receiving regulatory approval if such approval is  
4 not obtained and the collocation installation is abandoned?  
5

6 **AT&T LANGUAGE:**

7 **Attachment 13: Appendix Collocation**

8 4.X At the written election of AT&T, and upon payment of the sums described above in  
9 Sections 4.X and 4.X, SWBT will begin preparing the Collocated Space for AT&T prior to  
10 receiving the regulatory approval required by Section 3.X above. Payment to SWBT of the  
11 remaining charges under these sections shall be due upon completion. If the Commission fails to  
12 give unqualified approval to the Parties' collocation arrangement as required by Section 3.X, and  
13 the Parties do not otherwise agree to continue the collocation arrangement for the Collocated  
14 Space, AT&T will pay to SWBT, within a reasonable time after the Commission's decision, an  
15 amount equal to SWBT's reasonable non-recoverable costs less net salvage and less the amount  
16 already paid to SWBT. Non-recoverable charges include, the non-recoverable cost of equipment  
17 and material ordered, provided, or used; trued-up Subcontractor Charges, the non-recoverable  
18 cost of installation and removal, including the costs of equipment and material ordered, provided,  
19 or used; labor, transportation and any associated costs. If the amounts already paid to SWBT  
20 plus the net salvage exceed SWBT's reasonable non-recoverable costs, SWBT will refund to  
21 AT&T the excess amount within a reasonable time after the Commission's decision. **SWBT will**  
22 **provide AT&T with a detailed invoice itemizing its non-recoverable costs.**

1 **AT&T POSITION:**

2 In the event that the preparation of the Collocated Space has commenced and that the  
3 Commission fails to approve the Parties' collocation arrangement, this section provides for  
4 payments between AT&T and SWBT in an attempt to return the parties, as closely as possible, to  
5 their pre-contract positions. To accomplish that objective, the section in part requires AT&T to  
6 reimburse SWBT for SWBT's non-recoverable costs. Also, like any other ratepayer, AT&T  
7 should not have to pay for unreasonable costs incurred by a public utility. AT&T's proposed  
8 language would limit AT&T's reimbursement obligation to those non-recoverable costs which  
9 are reasonable. Such a limitation is appropriate. AT&T, like any other purchaser of construction  
10 services, should not be required to pay unreasonable construction costs; otherwise, SWBT would  
11 have no incentive to complete the preparation of the Collocated Space efficiently and  
12 economically. AT&T's proposed language would also require SWBT to provide AT&T with a  
13 detailed invoice itemizing the non-recoverable costs that SWBT has incurred. The invoice is  
14 necessary so that AT&T may determine the nature and amount of SWBT's non-recoverable costs  
15 and so that AT&T may determine whether those costs are reasonable. AT&T's language should  
16 therefore be included.

17  
18 SWBT's proposal provides that "estimated" net salvage be deducted from the non-recoverable  
19 costs that AT&T must pay to SWBT. AT&T opposes this language, because there is no reason  
20 for an estimated rather than an actual value to be used; the actual value would better accomplish  
21 the objective of placing the parties in their pre-contract positions. The remainder of SWBT's  
22 proposal notes that the permissible non-recoverable charges listed in this section are not  
23 exclusive. This language is unreasonable, because it renders the list ineffective as a limitation on

1 SWBT's ability to bill non-recoverable charges to AT&T. This Appendix is intended to define  
2 the Parties' relationship with respect to collocation at SWBT's Eligible Structures. By  
3 qualifying provisions in the Appendix with terms such as "including but not limited to," SWBT  
4 attempts to remove all clarity from the Parties' arrangement to its future benefit. SWBT's  
5 proposal is therefore unreasonable.

6  
7 **ISSUE 12:**

8 May AT&T review and approve the working drawings and specifications for the preparation of  
9 the Collocated Space and the modification of the Eligible Structure?  
10

11 **AT&T LANGUAGE:**

12 **Attachment 13: Appendix Collocation**

13 4.X SWBT will contract for or perform the preparation of the working drawings and  
14 specifications for the modification of the Eligible Structure and the preparation of the Collocated  
15 Space. Prior to SWBT commencing any construction or preparation activities, SWBT will  
16 provide copies of the working drawings and specifications to AT&T, and AT&T must  
17 approve these working drawings and specifications within seven days of receipt. Upon  
18 AT&T's request, SWBT will modify the working drawings and specifications in accord  
19 with AT&T's requested alterations. SWBT will provide copies of the modified working  
20 drawings and specifications to AT&T and AT&T must approve these modified working  
21 drawings and specifications within seven days of receipt. The Completion Interval will be  
22 abated between SWBT's provision of the working drawings and specifications to AT&T  
23 and AT&T's approval of those working drawings and specifications.

1 **AT&T POSITION:**

2 AT&T's proposed language would require SWBT to provide AT&T with copies of the working  
3 drawings and specifications for the preparation of the Collocated Space and the modification of  
4 the Eligible Structure. AT&T's proposed language would also allow AT&T to propose  
5 alterations to those working drawings and specifications. AT&T's proposed language is  
6 reasonable. AT&T's review and approval of the working drawings and specifications would  
7 insure, prior to the commencement of construction activities, that the Collocated Space will be  
8 prepared in compliance with AT&T's collocation request. Without such review, the Collocated  
9 Space could be improperly constructed, unreasonably increasing AT&T's costs.

10  
11 Moreover, the review and approval of working drawings and specifications is a standard practice  
12 in the construction industry. Like any purchaser of construction services, AT&T requests the  
13 right to inspect and modify the working drawings and specifications from which the construction  
14 services will be performed. Such a procedure would allow AT&T to prevent construction errors  
15 before they happen, which would reduce the risk of cost overruns and would limit the amount of  
16 time for (and disruption caused by) construction activities that occur within SWBT's Eligible  
17 Structures. AT&T does not seek the review of drawings for all modifications to SWBT's  
18 Eligible Structure, and instead seeks only the right to review drawings and specifications that are  
19 sufficient to allow AT&T to verify that the Collocated Space is constructed in accord with  
20 AT&T's collocation request. SWBT's opposition to AT&T's proposed language is  
21 unreasonable. SWBT does not require "exclusive control" over design and construction of the  
22 Collocated Space that AT&T will occupy and for which AT&T will pay for the construction.

1 Instead, SWBT can share control over design and construction with AT&T, the ultimate user of  
2 the Collocated Space.

3  
4 None of the various objections that SWBT raises to AT&T's proposal merits the rejection of  
5 AT&T's language. Indeed, after considering these same objections, the Oklahoma Commission  
6 adopted AT&T's position in June of this year.

7  
8 **ISSUE 13:**

9 Is AT&T entitled to have approval rights over contractor bids for modifying the Eligible  
10 Structure and preparing the Collocated Space?  
11

12 **AT&T LANGUAGE:**

13 **Attachment 13: Appendix Collocation**

14 **4.X After AT&T approves the working drawings and specifications, SWBT will solicit bids**  
15 **for the modification of the Eligible Structure and the preparation of the Collocated Space.**  
16 **SWBT will notify AT&T of its receipt of such bids and will provide copies of those bids to**  
17 **AT&T. SWBT and AT&T will jointly evaluate those bids, and SWBT will not accept any**  
18 **bids without AT&T's assent.**

19  
20 **AT&T POSITION:**

21 AT&T's proposed language would require SWBT to notify AT&T of the receipt of bids for the  
22 preparation of the Collocated Space and would require SWBT to provide copies of those bids for  
23 AT&T's review. AT&T's proposed language would then require SWBT and AT&T jointly to  
24 evaluate those bids. AT&T's proposed language is reasonable and should be included.



1 Considering that AT&T (and not SWBT) will pay the eventual cost of the services bid, AT&T  
2 should be permitted to participate in the bid selection process. Moreover, since AT&T may  
3 subcontract the preparation of the Collocated Space using its own subcontractors, AT&T's  
4 review of those bids is essential to render effective AT&T's right to use its own subcontractors.

5  
6 SWBT opposes AT&T's proposed language, claiming that AT&T's language would have  
7 anticompetitive effects. SWBT's argument is meritless. AT&T's participation in the bid  
8 selection process is designed to enhance competition by empowering AT&T to reduce its own  
9 costs, which costs would eventually be passed on to AT&T's end user customers. AT&T's  
10 review of SWBT's bids is also essential to render effective AT&T's right to subcontract the  
11 preparation of the Collocated Space by using AT&T's own subcontractors.

12  
13 SWBT also asserts that SWBT is prohibited from disclosing the content of its bids to AT&T by  
14 nondisclosure agreements between it and its subcontractors. AT&T would be willing to sign  
15 similar nondisclosure agreements, should SWBT's subcontractors require it.

16  
17 Finally, SWBT argues that "chaos would result" from AT&T's participation in the bid selection  
18 process, because all other collocators would also possess rights to participate in the bid selection  
19 process. That other collocators would possess the right to participate in a bid selection process  
20 for their own collocation arrangements is not inappropriate and would certainly not create  
21 "chaos." Notably, the Oklahoma Commission rejected this and other arguments when resolving  
22 this identical issue in AT&T's favor.

1 ISSUE 14:

2 See Issue 9.

4 AT&T LANGUAGE:

5 Attachment 13: Appendix Collocation

6 4.X AT&T may better SWBT's bids by subcontracting the preparation of the Collocated

7 Space or the modification of the Eligible Structure with contractors approved by SWBT.

8 SWBT's approval of contractors will be based on the same criteria that it uses in approving

9 contractors for its own purposes, which approval will not be unreasonably withheld.

10 AT&T will be responsible for the cost of its own contractors; SWBT will adjust the

11 Preparation Charge to account for AT&T's provision of its own contractors.

13 AT&T POSITION:

14 AT&T's proposed language would allow AT&T to subcontract the preparation of the Collocation

15 Space as allowed by Section 51.323(j) of the FCC's regulations, which provides that "[a]n

16 incumbent LEC shall permit a collocating telecommunications carrier to subcontract the

17 construction of physical collocation arrangements with contractors approved by the incumbent

18 LEC." AT&T is also permitted by paragraph 598 of the FCC Order to "subcontract the

19 construction of the physical collocation arrangements" using its own contractors.

21 SWBT's opposition to AT&T's proposed language is based upon an overly narrow interpretation

22 of the phrase "physical collocation arrangements," which SWBT construes to exclude the

23 construction of the collocation cage itself and any work occurring outside of the collocation cage.

24 SWBT's interpretation would exclude AT&T's subcontractors from participating in the lion's

1 share of the construction work for which AT&T is required to pay, rendering AT&T's right to  
2 use its own subcontractors ineffective as a method of controlling AT&T's costs. SWBT also  
3 claims that the use of AT&T's subcontractors would create a security risk. Any such risk is  
4 negligible, due to SWBT's right of approval for AT&T's subcontractors.

5  
6 Furthermore, SWBT's arguments do not explain its opposition to this entire section. If the  
7 Commission affirms SWBT's position that AT&T not be permitted to use its own subcontractors  
8 to perform modifications to the Eligible Structure, the Commission should not exclude all of  
9 AT&T's proposed language. In that case, the Commission should adopt AT&T's language but  
10 delete "or the modification of the Eligible Structure."

11  
12 **ISSUE 15:**

13 See Issue 9.  
14

15 **AT&T LANGUAGE:**

16 **Attachment 13: Appendix Collocation**

17 **4.X Except for construction and preparation activities performed by AT&T's own**  
18 **contractors, SWBT or SWBT's subcontractors** will perform the construction and preparation  
19 activities underlying the Preparation Charge, including the Common Charge, the Collocated  
20 Space Charge, and the Subcontractor Charges, and any Custom Work charges, using same or  
21 consistent practices that are used by SWBT for other construction and preparation work  
22 performed in the Eligible Structure.

1 **AT&T POSITION:**

2 AT&T's proposed language makes clear that AT&T may subcontract the construction and  
3 preparation of the Collocated Space as allowed by Sec. 57.323(j) of the FCC's regulations. If  
4 AT&T's proposed language for Section 3.X is included, this proposed language should also be  
5 included.

6  
7 **ISSUE 16:**

8 Should SWBT be required to provide as-built drawings to AT&T?  
9

10 **AT&T LANGUAGE:**

11 **Attachment 13: Appendix Collocation**

12 **4.X SWBT will provide to AT&T ordinary construction documentation submitted to and**  
13 **received from contractors or its internal engineering or installation work force, including**  
14 **but not limited to as-built drawings, for any work related to construction of the Collocated**  
15 **Space.**

16  
17 **AT&T POSITION:**

18 AT&T's proposed language would require SWBT to provide AT&T with construction  
19 documentation and as-built drawings for all work done related to the construction of the  
20 Collocated Space. This requirement imposes no real burden on SWBT, as SWBT will have  
21 created this documentation during its construction of the Collocated Space. It is a standard  
22 construction industry practice for a contractor to provide as built drawings and other construction  
23 documentation as part of the contractor's services. AT&T requires this documentation so that it

1 may verify that the construction of the Collocated Space was properly accomplished, and so that  
2 it can reference those drawings should the information contained in them later be required.

3  
4 SWBT claims that AT&T should not be permitted to review "ordinary construction  
5 documentation . . . for any work related to the construction of the Collocated Space," because  
6 such documentation may contain "competitive" information. SWBT's claim that this  
7 documentation would reveal competitive information is absurd, because this documentation  
8 relates to the construction of AT&T's Collocated Space and therefore will not contain  
9 information regarding SWBT's equipment or facilities. To the extent that the documentation  
10 contains any proprietary information, SWBT could certainly redact that information from the  
11 documentation provided to AT&T. Notably, when faced with this identical issue, the Oklahoma  
12 Commission adopted AT&T's proposed language on June of this year.

13  
14 **ISSUE 17:**

15 Is AT&T entitled to inspect, during space preparation, the facilities where its Collocated Space is  
16 collocated, and is AT&T entitled to require SWBT to modify the collocation space or make  
17 changes to the eligible structure?  
18

19 **AT&T LANGUAGE:**

20 **Attachment 13: Appendix Collocation**

21 **4.X SWBT will permit AT&T to inspect the ongoing preparation of the Collocated Space**  
22 **or modification of the Eligible Structure at regular intervals. At a minimum, SWBT will**  
23 **permit AT&T to inspect the Collocated Space and Eligible Structure when construction is**  
24 **approximately 25% completed, when construction is approximately 50% completed, and**  
25 **when construction is approximately 75% completed. Should AT&T's inspections reveal**

1 that SWBT or SWBT's subcontractors have deviated from the approved working drawings  
2 and specifications in the construction of the Collocated Space or modification of the  
3 Eligible Structure, SWBT will correct those deviations as soon as reasonably practicable.  
4

5 AT&T POSITION:

6 AT&T's proposed language would allow AT&T to perform regular inspections of the  
7 preparation of the Collocated Space during the construction process to insure that the  
8 construction is properly performed. AT&T's proposed language would then require SWBT to  
9 correct any construction errors as soon as reasonably practicable. AT&T's proposed language is  
10 reasonable. The conduct of periodic inspections of a construction site to insure compliance with  
11 drawings and specifications is a standard construction industry practice. Such inspections are  
12 conducted to identify construction errors earlier rather than later to reduce the cost of correcting  
13 those errors. Accordingly, AT&T's need to perform these periodic inspections is not, as SWBT  
14 contends, obviated by the post-construction inspection authorized by section 5.2 of the  
15 Collocation Appendix. Moreover, AT&T's proposed language would not impose a significant  
16 burden on SWBT; because the inspections would occur during the construction process, SWBT  
17 employees should be present to accompany AT&T on these inspections.  
18

19 In SWBT's argument in opposition to AT&T's proposed language, SWBT, for the first time,  
20 assents to a single inspection by AT&T of construction in progress. AT&T believes that, while  
21 one inspection would be useful, it would not be sufficient to enable AT&T fully to monitor  
22 construction progress. On this issue, the Oklahoma Commission in June of this year accepted

1 AT&T's position and required SWBT to permit inspections when construction is approximately  
2 25%, 50%, and 75% completed.

3  
4 Even if the Commission adopted SWBT's position that a single inspection is sufficient, AT&T's  
5 language should not be deleted in its entirety. In that case, AT&T's language should be adopted,  
6 with the exception of the phrases "when construction is approximately 25% completed" and  
7 "when construction is approximately 75% completed."

8  
9 **ISSUE 18:**

10 Must SWBT notify AT&T that preparation of Collocated Space is 50% completed?  
11

12 **AT&T LANGUAGE:**

13 **Attachment 13: Appendix Collocation**

14 **4.X SWBT will notify AT&T when construction of the Collocated Space is 50% completed.**

15 **SWBT will confirm its Completion Interval, if possible; otherwise SWBT will notify AT&T**  
16 **of all jeopardies that could delay the preparation of the Collocated Space.**

17  
18 **AT&T POSITION:**

19 AT&T's proposed language requires SWBT to notify AT&T when the preparation of the  
20 Collocated Space is 50% completed. The provision of this information would not impose a  
21 substantial burden on SWBT. The information is necessary so that AT&T will be notified of the  
22 timeliness of SWBT's preparation activities and can make appropriate arrangements should  
23 SWBT be behind or ahead of schedule, including notifying end-user customers of any delay in  
24 provision of their service. Notably, when presented with this identical issue, the Oklahoma

1 Commission adopted AT&T's position in June of this year. AT&T's proposed language should  
2 therefore be included.

3  
4 **ISSUE 19:**

5 Can AT&T hire subcontractors to expedite completion of its requested work within the "cage"  
6 portion of the Collocated Space?  
7

8 **AT&T LANGUAGE:**

9 **Attachment 13: Appendix Collocation**

10 **4.X** SWBT will exercise due diligence to prepare the Collocated Space in a reasonable time  
11 period, not to exceed three months from AT&T's acceptance of SWBT's price quotation, unless  
12 otherwise mutually agreed to in writing by AT&T and SWBT. In the event that SWBT is not  
13 able to prepare the Collocated Space within the quoted Completion Interval, SWBT will provide  
14 AT&T with a revised Completion Interval within seven (7) working days after SWBT ascertains  
15 that the original Completion Interval cannot be met. If the revised Completion Interval is  
16 objectionable to AT&T, and the parties cannot resolve AT&T's objection, the issue may be  
17 presented to the State Commission for review. **Alternatively, if the revised Completion**  
18 **Interval is objectionable to AT&T, AT&T may individually subcontract the further**  
19 **preparation of the Collocated Space or further modification of the Eligible Structure with**  
20 **contractors approved by SWBT. SWBT's approval of contractors will be based on the**  
21 **same criteria that it uses in approving contractors for its own purposes, which approval**  
22 **will not be unreasonably withheld. AT&T will be responsible for the cost of its own**  
23 **contractors; SWBT will, however, reduce the Preparation Charge by AT&T's cost of**  
24 **providing its own contractors.**



1 **AT&T POSITION:**

2 AT&T's proposed language allows AT&T to subcontract the preparation of the Collocated Space  
3 if SWBT is unable to complete the preparation of the Collocated Space within the specified  
4 Completion Interval. The proposed language provides an effective remedy for AT&T when  
5 SWBT performs the preparation of the Collocated Space inefficiently. This is a reasonable  
6 business practice which is often included in construction contracts to remedy a failure to  
7 complete construction on time. The proposed language is also consistent with Section 51.323(j)  
8 of the FCC's regulations and is therefore reasonable. Notably, when presented with this identical  
9 issue, the Oklahoma Commission adopted AT&T's position in June of this year. AT&T's  
10 proposed language should therefore be included.

11  
12 **ISSUE 20:**

13 Can SWBT be made liable for liquidated damages if the Collocated Space is not completed  
14 within the Completion Interval?  
15

16 **AT&T LANGUAGE:**

17 **Attachment 13: Appendix Collocation**

18 **4.13 If SWBT is not able to prepare the Collocated Space within the quoted Completion**  
19 **Interval, SWBT will be liable to AT&T for liquidated damages in the amount of \$1,000.00**  
20 **for each day between the expiration of the quoted Completion Interval and the completion**  
21 **of the Collocated Space.**

1 **AT&T POSITION:**

2 AT&T's proposed language provides for liquidated damages of \$1,000.00 per day should SWBT  
3 not complete the preparation of the Collocated Space within the quoted Completion Interval.  
4 Liquidated damages for such a delay is appropriate, considering the difficulties of proof of loss  
5 and the absence of a feasible remedy to compensate AT&T for such a delay including damages  
6 to goodwill. Liquidated damages clauses are common in construction contracts for those  
7 reasons, and this specific clause is not unreasonable. Notably, when presented with this identical  
8 issue, the Oklahoma Commission adopted AT&T's position in June of this year. AT&T's  
9 proposed language should therefore be included.

10

11 **ISSUE 21:**

12 Issue resolved by SWBT agreement to AT&T's language.  
13

14 **AT&T LANGUAGE:**

15 **Attachment 13: Appendix Collocation**

16 4.X SWBT will notify AT&T within five (5) days after preparation is complete that preparation  
17 of the Collocated Space has been completed.

18

19 **AT&T POSITION:**

20 SWBT has agreed to the inclusion of AT&T's language.

21

22 **ISSUE 22:**

23 As related to a collocation space within an eligible structure:

24

25 (1) Is AT&T entitled to occupy the Collocated Space before paying all applicable charges?

1 (2) Is AT&T entitled to inspect and require modifications to the eligible structure in order to  
2 correct errors in construction at SWBT's expense upon completion of work?

3  
4 (3) Is AT&T entitled to inspect and require modification of AT&T's collocation space to  
5 correct errors in construction at SWBT's expense upon completion of work?  
6

7 AT&T LANGUAGE:

8 Attachment 13: Appendix Collocation

9 5.X On or after the Commencement Date, AT&T will be permitted to access the  
10 Collocated Space and Eligible Structure for the limited purpose of inspecting them. At  
11 AT&T's request and at SWBT's expense, SWBT will correct all errors in SWBT's  
12 preparation of the Collocated Space or in its modification of the Eligible Structure as soon  
13 as reasonably practicable. After AT&T has approved both SWBT's preparation of the  
14 Collocated Space and modification of the Eligible Structure, AT&T may occupy the  
15 Collocated Space.

16  
17 AT&T POSITION:

18 (1) Occupation of Collocated Space

19 SWBT's proposal would prohibit AT&T from occupying the Collocated Space until after AT&T  
20 has paid to SWBT the remaining portions of the Preparation Charge. In contrast, AT&T's  
21 proposed language, taken in concert with the language in Section 5.X, would permit AT&T to  
22 occupy the Collocated Space immediately after AT&T had approved SWBT's preparation of the  
23 Collocated Space. Under AT&T's proposed language, SWBT would bill the unpaid portions of  
24 the Preparation Charge at that time, and AT&T would pay that bill in accord with the payment  
25 provisions of this Appendix.

1 SWBT opposes AT&T's proposed language, due to the alleged risk that AT&T may not pay  
2 those charges. SWBT's argument ignores standard telecommunications industry practices,  
3 where actions are taken prior to and on the expectation of payment. Moreover, to the extent that  
4 there is any risk of nonpayment (a risk that is quite minimal, in light of the financial health and  
5 stability of AT&T), SWBT would be protected by section 17.1 of the Collocation Appendix and  
6 by the interest provisions of the Interconnection Agreement regarding late charges. SWBT's  
7 argument would require the Collocated Space to remain vacant while SWBT prepares and  
8 forwards a bill to AT&T and while AT&T processes payment of that bill. In light of SWBT's  
9 oft-invoked fear that AT&T may attempt to "warehouse" Collocated Space, SWBT's argument  
10 appears disingenuous.

11  
12 (2) Inspection and Modification

13 AT&T's proposed language would allow AT&T to inspect the Collocated Space and Eligible  
14 Structure and would require SWBT to correct SWBT's errors in both the preparation of the  
15 Collocated Space and modification of the Eligible Structure. Both the inspection and error-  
16 correction requirements are common in construction contracts and are reasonable in this section.

17  
18 SWBT argues that AT&T's proposed language requiring SWBT to "correct all errors in SWBT's  
19 preparation of the Collocated Space" is unnecessary, due to part 4.B. of SWBT's technical  
20 publication. However, in light of the position taken by SWBT with regard to sections 11.2 and  
21 11.3 of the Collocation Appendix, the technical publication imposes no error correction  
22 requirement upon SWBT, because SWBT attempts to reserve the right to modify that technical  
23 publication whenever it chooses to. If SWBT is truly willing to correct all errors in SWBT's

1 preparation of the Collocated Space, then SWBT should bind itself to do so in its Interconnection  
2 Agreement with AT&T.

3  
4 **ISSUE 23:**

5 See Issue 22.  
6

7 **AT&T LANGUAGE:**

8 **Attachment 13: Appendix Collocation**

9 **5.X After AT&T has approved both SWBT's preparation of the Collocated Space and**  
10 **modification of the Eligible Structure, SWBT will bill AT&T the unpaid portions of the**  
11 **Common Charge, Collocated Space Charge, and Custom Work Charge, as specified in**  
12 **Sections 4.X and 4.X above.**

13  
14 **AT&T POSITION:**

15 (1) Occupation of Collocated Space

16 SWBT's proposal would prohibit AT&T from occupying the Collocated Space until after AT&T  
17 had paid to SWBT the remaining portions of the Preparation Charge. In contrast, AT&T's  
18 proposed language, taken in concert with the language in Section 5.X, would permit AT&T to  
19 occupy the Collocated Space immediately after AT&T had approved SWBT's preparation of the  
20 Collocated Space. Under AT&T's proposed language, SWBT would bill the unpaid portions of  
21 the Preparation Charge at that time, and AT&T would pay that bill in accord with the payment  
22 provisions of this Appendix.

1 SWBT opposes AT&T's proposed language, due to the alleged risk that AT&T may not pay  
2 those charges. SWBT's argument ignores standard telecommunications industry practices,  
3 where actions are taken prior to and on the expectation of payment. Moreover, to the extent that  
4 there is any risk of nonpayment (a risk that is quite minimal, in light of the financial health and  
5 stability of AT&T), SWBT would be protected by section 17.1 of the Collocation Appendix and  
6 by the interest provisions of the Interconnection Agreement regarding late charges. SWBT's  
7 argument would require the Collocated Space to remain vacant while SWBT prepares and  
8 forwards a bill to AT&T and while AT&T processes payment of that bill. In light of SWBT's  
9 oft-invoked fear that AT&T may attempt to "warehouse" Collocated Space, SWBT's argument  
10 appears disingenuous.

#### 11 12 (2) Inspection and Modification

13 AT&T's proposed language would allow AT&T to inspect the Collocated Space and Eligible  
14 Structure and would require SWBT to correct SWBT's errors in both the preparation of the  
15 Collocated Space and modification of the Eligible Structure. Both the inspection and error-  
16 correction requirements are common in construction contracts and are reasonable in this section.

17  
18 SWBT argues that AT&T's proposed language requiring SWBT to "correct all errors in SWBT's  
19 preparation of the Collocated Space" is unnecessary, due to part 4.B. of SWBT's technical  
20 publication. However, in light of the position taken by SWBT with regard to sections 11.2 and  
21 11.3 of the Collocation Appendix, the technical publication imposes no error correction  
22 requirement upon SWBT, because SWBT attempts to reserve the right to modify that technical  
23 publication whenever it chooses to. If SWBT is truly willing to correct all errors in SWBT's

1 preparation of the Collocated Space, then SWBT should bind itself to do so in its Interconnection  
2 Agreement with AT&T.

3

4 **ISSUE 24a:**

5 Will and how soon should SWBT provide AT&T information about cable termination for point  
6 of termination bay(s) after its approval of the Collocated Space preparation?

7

8 **AT&T LANGUAGE:**

9 **Attachment 13: Appendix Collocation**

10 **5.X SWBT will provide telephone equipment detailed drawings depicting the exact**  
11 **location, type, and cable termination requirements (i.e., connector type, number and type**  
12 **of pairs, and naming convention) for SWBT Point of Termination Bay(s) to AT&T within**  
13 **seven (7) days of AT&T's approval of both SWBT's preparation of the Collocated Space**  
14 **and modification of the Eligible Structure.**

15

16 **AT&T POSITION:**

17 AT&T's proposed language would require SWBT to provide AT&T with detailed drawings of  
18 the SWBT Point of Termination Bays in AT&T's Collocated Space. This requirement imposes  
19 no real burden on SWBT, because SWBT will have created these drawings during its preparation  
20 of the Collocated Space. AT&T requires these drawings so that it can navigate the Point of  
21 Termination frame that is installed in the Collocated Space, and so that AT&T can efficiently  
22 accomplish the interconnection of AT&T's facilities with SWBT's network. A requirement to  
provide final, as-built drawings is common in other construction contracts. Notably, when

1 presented with this identical issue, the Oklahoma Commission adopted AT&T's proposal in June  
2 of this year. AT&T's proposed language is not unreasonable and should therefore be adopted.

3  
4 **ISSUE 24b:**

5 (1) Will and how soon must SWBT provide information depicting the exact path of AT&T's  
6 outside plant ingress and egress into its Collocated Space within what timeframe?

7  
8 (2) Must SWBT make environmental warranties relating to the ingress and egress into the  
9 Collocated Space?  
10

11 **AT&T LANGUAGE:**

12 **Attachment 13: Appendix Collocation**

13 **5.X SWBT will provide detailed telephone equipment drawings depicting the exact path,**  
14 **with dimensions, for AT&T outside plant cable ingress and egress into AT&T Collocated**  
15 **Space within seven (7) days of AT&T's approval of both SWBT's preparation of the**  
16 **Collocated Space and modification of the Eligible Structure. Such path and any areas**  
17 **around it in which AT&T must work to perform installation will be free of friable asbestos,**  
18 **lead paint (unless encapsulated), radon, and other health or safety hazards.**

19  
20 **AT&T POSITION:**

21 (1) Provision of Drawings

22 AT&T's proposed language would require SWBT to provide AT&T with detailed drawings of  
23 AT&T's outside plant cable ingress and egress into the Collocated Space. This requirement  
24 imposes no real burden on SWBT, because SWBT will have created these drawings during its  
25 preparation of the Collocated Space. AT&T requires these drawings so that it can have a record  
26 of the AT&T cable ingress and egress and so that AT&T can verify that AT&T's cable uses



1 diverse routes into the SWBT Eligible Structure. A requirement to provide final, as-built  
2 drawings is common in other construction contracts. Notably, when presented with this identical  
3 issue, the Oklahoma Commission adopted AT&T's position in June of this year. AT&T's  
4 proposed language is not unreasonable and should therefore be included.

5  
6 (2) Environmental Warranties.

7 AT&T's proposed language is necessary to ensure that AT&T employees will not be exposed to  
8 health and safety hazards when they work in SWBT's Eligible Structures. SWBT's assertion  
9 that "AT&T personnel will not be subjected to environmental hazards from areas outside its  
10 cage" is incorrect, because whether AT&T personnel will be permitted to pull AT&T cable  
11 through the cable vault is currently an open issue. See Issue 41. And regardless, AT&T's  
12 language is necessary to ensure the health and safety of its personnel when they work inside of  
13 AT&T's Collocated Space.

14  
15 **ISSUE 24c:**

16 Will SWBT provide AT&T information about Power Cabling Connectivity and if so within what  
17 timeframe?  
18

19 **AT&T LANGUAGE:**

20 **Attachment 13: Appendix Collocation**

21 **5.X SWBT will provide detailed power cabling connectivity information including the**  
22 **sizes and number of power feeders to AT&T within fourteen (14) days of AT&T's approval**  
23 **of both SWBT's preparation of the Collocated Space and modification of the Eligible**  
24 **Structure.**

1 **AT&T POSITION:**

2 AT&T's proposed language would require SWBT to provide AT&T with detailed power  
3 connectivity information. This requirement imposes no real burden on SWBT, because SWBT  
4 will have created these drawings during its preparation of the Collocated Space. AT&T requires  
5 these drawings so that it may verify the use of properly-sized power cable connectivity and so  
6 that AT&T may verify that SWBT's power cabling complies with the requirements of this  
7 Appendix. A requirement to provide final, as-built drawings is common in other construction  
8 contracts. Notably, when presented with this identical issue, the Oklahoma Commission adopted  
9 AT&T's position in June of this year. AT&T's proposed language is not unreasonable and  
10 should therefore be included.

11  
12 **ISSUE 25:**

13 (1) How long does AT&T have after collocation space is made available and SWBT has  
14 made interconnection available does AT&T have to interconnect to SWBT's network?

15  
16 (2) Can AT&T sublease its Collocated Space to another LSP?

17  
18 (3) If the collocation arrangement is terminated because AT&T fails to place operational  
19 telecommunications equipment in the Collocated Space and connect it with SWBT's network, is  
20 AT&T liable for the unpaid balance of the charges?  
21

22 **AT&T LANGUAGE:**

23 **Attachment 13: Appendix Collocation**

24 **5.X Unless there are unusual circumstances, AT&T must place telecommunications**  
25 **equipment in the Collocated Space within sixty (60) days after AT&T is permitted to**  
26 **occupy the Collocated Space under Sections 5.X and 5.X above, provided, however, that**  
27 **this sixty (60) day period will not begin until regulatory approval is obtained under Section**

1 3.X above. AT&T may comply with this requirement by permitting another local service  
2 provider to collocate equipment or facilities in the Collocated Space, pursuant to Section  
3 15.X below. If AT&T fails to comply with this requirement, SWBT may offer the  
4 Collocated Space to another collocator provided, however, that SWBT may extend an  
5 additional ninety (90) days to AT&T upon a demonstration by AT&T that it exercised its  
6 best effort to comply with this requirement and that circumstances beyond AT&T's  
7 reasonable control that prevented AT&T from complying with this requirement.

8  
9 AT&T POSITION:

10 (1) Connection of Equipment to SWBT's Network.

11 AT&T's proposed language would allow SWBT to extend an additional ninety days to AT&T to  
12 occupy the space should circumstances beyond the reasonable control of AT&T have prevented  
13 AT&T from complying with the equipment placement requirements of this section. AT&T's  
14 proposed language imposes no obligation on SWBT to extend additional time to AT&T, but unlike  
15 SWBT's proposal, AT&T's proposed language leaves the option open. AT&T's proposed language  
16 is reasonable, and it should therefore be adopted.

17  
18 SWBT's proposed language is offered in an attempt to achieve the goals of precluding the  
19 "inefficient use" of Collocated Space and of requiring the collocation of equipment that is "used  
20 and useful." While AT&T concurs with these goals, AT&T disagrees that SWBT's language is  
21 necessary to achieve these goals. AT&T has already agreed to comply with the requirement that its  
22 equipment be "operational" within sixty days after AT&T is permitted to occupy the Collocated  
23 Space, a requirement for which compliance is solely within AT&T's control. This requirement is

1 sufficient to achieve SWBT's goals. Whether AT&T's equipment is connected to SWBT's  
2 network within sixty days after AT&T is permitted to occupy the Collocated Space is within the  
3 control of SWBT instead of AT&T. It would be inequitable to allow SWBT to terminate a  
4 collocation arrangement based upon a connection delay that is SWBT's own fault.

5  
6 (2) Sublease of Collocated Space.

7 AT&T's proposed language would allow AT&T to comply with the equipment placement  
8 requirements of this section by permitting another local service provider to collocate equipment or  
9 facilities in AT&T's Collocated Space. Without this language, the sublease and assignment  
10 provisions of Section 17.X of this Appendix would be nullified by this section. If AT&T's  
11 proposed language for Section 17.1 is included, this AT&T's proposed language for this section  
12 should also be included.

13  
14 (3) AT&T's Liability for Unpaid Charges.

15 SWBT's proposed language would require AT&T to pay the unpaid balance of the charges if a  
16 collocation arrangement is terminated under section 5.7 of the Collocation Appendix. Although  
17 AT&T does not oppose a remedy which makes SWBT whole, this remedy does not accomplish that  
18 objective. This liquidated damages clause is inappropriate, because SWBT's damages are not  
19 difficult to prove and because, in many circumstances, the clause would overcompensate SWBT for  
20 its damages. Should SWBT mitigate its damages by finding another local service provider to  
21 occupy the Collocated Space, the other local service provider should be required to pay the unpaid  
22 portion of the construction charges (which amounts to 50% of the Preparation Charge and 15% of  
23 any Custom Work Charge) instead of AT&T.

1 **ISSUE 26:**

2 Under what circumstances may SWBT raise the monthly charge for a Collocated Space?  
3

4 **AT&T LANGUAGE:**

5 **Attachment 13: Appendix Collocation**

6 5.X Beginning on the first date of occupancy of the Collocated Space, AT&T will pay the  
7 Monthly Charge to SWBT for each month that AT&T occupies the Collocated Space. **The**  
8 **Monthly Charge will not be increased during the first six months of AT&T's use of the**  
9 **Collocated Space. Thereafter, SWBT may increase the Monthly Charge upon thirty (30)**  
10 **day's notice to AT&T to compensate it for an increase in SWBT's actual costs associated**  
11 **with the Collocated Space; otherwise SWBT will not increase the Monthly Charge.**

12  
13 **AT&T POSITION:**

14 SWBT's proposal would allow it to increase the "Monthly Charge" to AT&T upon thirty (30)  
15 days' notice at any time and for any reason. This language is unreasonable, because it permits  
16 SWBT to quote one Monthly Charge prior to the preparation of the Collocated Space and then  
17 levy a higher Monthly Charge after AT&T has paid for the construction of the Collocated Space.  
18 This bait-and-switch approach is unfair and should not be permitted. Moreover, AT&T's  
19 alternative language is not unreasonable. AT&T's language would prohibit SWBT from raising  
20 the monthly charge for the first six months of AT&T's use of the Collocated Space. For the  
21 remainder of AT&T's occupancy of the Collocated Space, SWBT would be permitted to increase  
22 the Monthly Charge on thirty (30) days' notice in order to compensate SWBT for an increase in  
23 SWBT's actual costs associated with the Collocated Space. AT&T's language would therefore  
24 protect SWBT should an increase in SWBT's actual costs render the provision of the Collocated

1 Space uneconomical. SWBT's proposal should be excluded and AT&T's language should be  
2 included. If AT&T's definition of the "monthly charge" in Section 3.X is adopted, the charge  
3 would consist of only certain specific fees, none of which are subject to large or frequent  
4 fluctuations in cost. Notably, when presented with this identical issue, the Oklahoma  
5 Commission adopted AT&T's position in June of this year.

6

7 **ISSUE 27:**

8 How should compensation between the parties be calculated and documented when AT&T  
9 cancels a request for Collocated Space or fails to occupy a Collocated Space in the time  
10 specified?  
11

12 **AT&T LANGUAGE:**

13 **Attachment 13: Appendix Collocation**

14 5.X In the event that AT&T cancels a request for Collocated Space or fails to occupy a  
15 Collocated Space in the time provided under Section 5.X above, then in addition to any other  
16 remedies that SWBT might have, AT&T will owe to SWBT its reasonable non-recoverable  
17 costs less net salvage and less the amounts already paid to SWBT. Non-recoverable costs  
18 include the non-recoverable cost of equipment and material ordered, provided or used; tried-up  
19 Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs  
20 of equipment and material ordered, provided or used; labor; transportation and any other  
21 associated costs. If the amounts already paid to SWBT plus the net salvage exceed SWBT's  
22 reasonable nonrecoverable costs, SWBT will refund to AT&T the excess amount within thirty  
(30) days of the cancellation of the request. SWBT will provide AT&T with a detailed invoice  
24 itemizing its non-recoverable costs.

1 **AT&T POSITION:**

2 In the event that AT&T cancels a collocation request or fails timely to occupy the Collocated  
3 Space, this section provides for payments between AT&T and SWBT in an attempt to return the  
4 parties, as closely as possible, to their pre-contract positions. To accomplish that objective, the  
5 section in part requires AT&T to reimburse SWBT for SWBT's non-recoverable costs. AT&T's  
6 proposed language would limit AT&T's reimbursement obligation to those non-recoverable  
7 costs which are reasonable. Such a limitation is appropriate. Also, like any other ratepayer,  
8 AT&T should not have to pay for unreasonable costs incurred by a public utility. AT&T, like  
9 any other purchaser of construction services, should not be required to pay unreasonable  
10 construction costs; otherwise, SWBT would have no incentive to complete the preparation of the  
11 Collocated Space efficiently and economically. AT&T's proposed language would also require  
12 SWBT to provide AT&T with a detailed invoice itemizing the non-recoverable costs that SWBT  
13 has incurred. This detailed invoice is necessary so that AT&T may determine the nature and  
14 amount of SWBT's non-recoverable costs and so that AT&T may determine whether those costs  
15 are reasonable. AT&T's proposed language should therefore be included.

16  
17 AT&T's proposed language provides that AT&T's liability to SWBT be reduced by the amounts  
18 already paid to SWBT. This language is necessary to return the parties, as closely as possible, to  
19 their pre-contract positions. Without AT&T's language, this section would constitute an invalid  
20 penalty clause, among other reasons, because (1) the situation addressed by the clause is not one  
21 in which damages are impossible to pre-estimate with certainty; (2) the penalty paid under the  
22 clause is not proportionate to the damages sustained by SWBT but instead is proportionate to the  
23 amount already paid by AT&T to SWBT; and (3) the clause is intended by SWBT to impose a

1 penalty on AT&T instead and is not intended as a means to calculate damages. AT&T's  
2 proposed language should therefore be included.

3  
4 SWBT's proposal provides that "estimated" net salvage be deducted from the non-recoverable  
5 costs that AT&T must pay to SWBT. AT&T opposes this language, because there is no reason  
6 for an "estimated" rather than an actual value to be used; the actual value would better  
7 accomplish the objective of placing the parties in their pre-contract positions. SWBT's proposal  
8 is therefore unreasonable. Notably, when presented with this identical issue, the Oklahoma  
9 Commission adopted AT&T's position in June of this year.

10  
11 **ISSUE 28:**

12 What terms and conditions should govern billing and payment of Collocation Charges?  
13

14 **AT&T LANGUAGE:**

15 **Attachment 13: Appendix Collocation**

16 6.X Billing of collocation charges specified in this Appendix shall occur on or about the 25th  
17 day of each month, with payment due forty-five (45) days from the bill date. SWBT may  
18 change its billing date practices upon thirty (30) days notice to AT&T.

19  
20 **AT&T POSITION:**

21 AT&T's proposed language would require AT&T to pay SWBT's collocation charges within  
22 forty-five (45) days of the billing date. In contrast, SWBT's proposal would require AT&T to  
23 pay those charges within thirty (30) days of the billing date. The terms and conditions portion of  
24 the Interconnection Agreement contains provisions, agreed to by both parties, that govern billing



1 and payment, requiring AT&T to pay SWBT's bills within thirty (30) days of AT&T's receipt of  
2 those bills. Here, considering that SWBT's collocation charges are calculated on a case-by-case  
3 basis rather than established in the Interconnection Agreement, AT&T needs fifteen (15) more  
4 days to review those charges carefully to determine whether those charges are reasonable.  
5 AT&T's proposed departure from the payment terms in the terms and conditions portion of this  
6 Interconnection Agreement is justified; AT&T's proposed language should therefore be  
7 included. Notably, when presented with this identical issue, the Oklahoma Commission adopted  
8 AT&T's position in June of this year.

9  
10 AT&T's other proposed language clarifies that this section applies only to the billing and  
11 payment of collocation charges and does not apply to charges specified in other portions of the  
12 Agreement. This language is not unreasonable and should therefore be included.

13  
14 **ISSUE 29:**

15 What amount of interest should AT&T pay SWBT on unpaid collocation charges?  
16

17 **AT&T LANGUAGE:**

18 [AT&T opposes the inclusion of SWBT's proposal]  
19

20 **AT&T POSITION:**

21 SWBT's argument regarding this section is somewhat confusing and fails to address the reason  
22 for AT&T's opposition to this section. AT&T does not oppose the inclusion of this section  
23 because, as SWBT contends, AT&T seeks an interest-free loan from SWBT. Instead, AT&T  
24 opposes the inclusion of this section, because this section applies a different interest rate to the

late payment of a collocation charge than is applied by the general interest rate provision of the terms and conditions portion of the Interconnection Agreement. That general interest rate provision was agreed to by both parties and is reasonable. There is no rational reason why a different interest rate should be applied to the late payment of collocation charges than is applied to the late payment of all other charges. Notably, when presented with this identical issue, the Oklahoma Commission adopted AT&T's position in June of this year.

**ISSUE 30:**

What terms and conditions should govern the relocation of Collocated Space at SWBT's request?

**AT&T LANGUAGE:**

**Attachment 13: Appendix Collocation**

7.X Notwithstanding Section 2.X above, in the event that SWBT determines it necessary for the Collocated Space to be moved within an Eligible Structure or to another Eligible Structure, AT&T is required to do so. In such an event, AT&T shall be responsible for the preparation of the new Collocated Space at the new location if such relocation arises from circumstances beyond the reasonable control of SWBT, including condemnation or government order or regulation that makes the continued occupancy of the Eligible Structure uneconomical. Otherwise SWBT shall be responsible for any such preparation and will bear all SWBT and AT&T costs associated with the preparation and relocation. If Collocated Space is relocated under this Section 7.X, SWBT and AT&T will cooperate to insure that AT&T will not experience out of service conditions beyond reasonable cut-over intervals while collocated equipment is relocated, reconnected, and tested.

1 **AT&T POSITION:**

2 This section allows SWBT to relocate AT&T's Collocated Space *at AT&T's expense* if SWBT  
3 determines that AT&T's continued occupancy of the Collocated Space is uneconomical for  
4 SWBT. Under SWBT's proposal, SWBT's determination that continued occupancy is  
5 uneconomical is "in SWBT's sole judgment" and is therefore *unreviewable*. In light of the  
6 potential for SWBT to impose astronomical costs upon AT&T by continually relocating AT&T's  
7 Collocated Spaces, it is unreasonable to vest the "uneconomical" determination solely in  
8 SWBT's hands. SWBT's proposal should therefore be excluded.

9  
10 AT&T's proposed language would require SWBT to bear all relocation costs if SWBT's  
11 relocation decision is not justified by any of the factors listed in this section. By continually  
12 relocating AT&T's collocated spaces, SWBT could interfere with AT&T's service to end user  
13 customers and prevent AT&T from providing quality service to customers. AT&T's proposed  
14 language is reasonable, and it should therefore be included. Notably, when presented with this  
15 identical issue, the Oklahoma Commission adopted AT&T's position in June of this year.

16  
17 **ISSUE 31:**

18 Issue Resolved: AT&T Agrees to Use SWBT's Language.  
19

20 **ISSUE 32:**

- 21 (1) Can AT&T use any media, other than dielectric fiber optic cable, as a transmission  
22 medium to the Collocated Space?  
23  
24 (2) How many points of entry to an Eligible Structure must SWBT provide?

1 AT&T LANGUAGE:

2 Attachment 13: Appendix Collocation

3 8.X AT&T may use single mode dielectric fiber optic cable, or other technically-appropriate  
4 media as a transmission medium to the Collocated Space or Eligible Structure. AT&T may use  
5 copper cable or coaxial cable only where AT&T can demonstrate that interconnection of copper  
6 or coaxial cable will not impair SWBT's ability to serve its own customers or other collocators.  
7 AT&T may use microwave transmission facilities as a transmission medium to the Eligible  
8 Structure where Collocated Space is located, except where microwave transmission facilities are  
9 not practical for technical reasons or because of space limitations. SWBT will provide at least  
10 two separate points of entry to the Eligible Structure wherever there are at least two entry points  
11 for SWBT's cable facilities and at which space is available for new facilities in at least two of  
12 those entry points. Where such space is not immediately available, if SWBT makes  
13 additional entry points available for SWBT's use, SWBT will size such separate points of  
14 entry to accommodate AT&T's use of such entry points. In each instance, where SWBT  
15 performs such work in order to accommodate its own needs and those specified by AT&T's  
16 written request, AT&T and SWBT will share the costs of sizing the entry points incurred  
17 by SWBT by prorating those costs using the number of cables to be placed in the entry  
18 point by each of the two parties in the first twelve (12) months thereafter.

19  
20 AT&T POSITION:

21 (1) Transmission Media.

22 AT&T's proposed language would allow AT&T to use technically appropriate media as a  
23 transmission medium to the Collocated Space. In a competitive marketplace, AT&T should be

1 able to use a variety of different transmission media both to address its needs and to meet the  
2 needs or desires of its end-user customers. Changes in technology or the needs of a group of  
3 customers may require the use of media other than fiber optic cable, copper cable, coaxial cable,  
4 or microwave transmission facilities. AT&T's proposed language that references other  
5 "technically-appropriate media" is necessary and reasonable; should a new high-technology  
6 transmission medium (such as superconducting wire, for example) become technically feasible  
7 for collocation, AT&T should be permitted to use it.

8  
9 Regarding copper and coaxial cable, SWBT now attempts to renege on language to which the  
10 parties agreed during negotiations. During the negotiation of this Collocation Appendix, the  
11 parties agreed that AT&T would be permitted to use copper or coaxial cable "where AT&T can  
12 demonstrate that interconnection of copper or coaxial cable would not impair SWBT's ability to  
13 serve its own customers or other collocators." SWBT now takes the position that AT&T should  
14 be allowed to use only dielectric fiber optic cable as a transmission medium to the Collocated  
15 Space, and now opposes the use of copper and coaxial cable under any circumstances. SWBT's  
16 attempt to renege on language to which the parties previously agreed demonstrates bad faith and  
17 should not be countenanced. Moreover, SWBT's concerns regarding the use of copper and  
18 coaxial cable are unfounded. AT&T's proposed language prohibits the use of copper or coaxial  
19 cable if the use would impair SWBT's ability to serve its own customers or other collocators.  
20 AT&T does not intend to use copper or coaxial cable with any frequency, but does not believe it  
21 is appropriate to forbid copper and coaxial cable in all circumstances.

1 (2) Entry Points.

2 The need to ensure reliability through redundancy or the need to provide a different calling scope  
3 than SWBT may require the use of two or more points of entry in order to better serve end user  
4 customers. AT&T's proposed language therefore requires SWBT to size newly constructed  
5 points of entry to the Eligible Structure to accommodate AT&T's use of those entrance points.  
6 This language is consistent with Section 51.323(f)(3) of the FCC Regulations and is not  
7 unreasonable. Consequently, AT&T's proposed language should be adopted, and SWBT's  
8 proposal should be rejected.

9  
10 AT&T has not had an opportunity to consider fully SWBT's proposed additional language in this  
11 section, *which was not placed on the table by SWBT during the parties' negotiations*, regarding  
12 the management of entry points to SWBT's Eligible Structures, and AT&T cannot accept that  
13 proposal at present. SWBT's proposed language is deficient in part because it does not clearly  
14 state that SWBT would bear the costs of AT&T's consolidation of entrance facilities, should  
15 SWBT require such consolidation. Moreover, SWBT's proposed language is also deficient,  
16 because it does not allow AT&T to reject a consolidation request where consolidation is not  
17 technically feasible or where space for consolidation is unavailable. AT&T believes that its  
18 proposed language should be implemented for this section of the Collocation Appendix. SWBT  
19 had ample time to make its proposal during the parties' many collocation negotiations, and yet it  
20 failed to do so.

21

22 **ISSUE 33a:**  
23 **Issue Resolved: AT&T's Proposed Language Deleted.**

1 **ISSUE 33b:**

2 Issue resolved: AT&T agrees to strike the last sentence of its proposed language and SWBT  
3 agrees to accept the remainder of proposed language.  
4

5 **AT&T LANGUAGE:**

6 **Attachment 13: Appendix Collocation**

7 **9.X Other than reasonable security restrictions, SWBT will place no restriction on access**  
8 **to the AT&T Collocated Space by AT&T's employees and designated agents. Such space**  
9 **will be available to AT&T employees and designated agents twenty-four (24) hours per day**  
10 **each day of the week. In no case will any security restrictions at the Eligible Structure be**  
11 **more restrictive than those SWBT places on its own personnel.**  
12

13 **AT&T POSITION:**

14 AT&T agrees to strike the last sentence of its proposed language and SWBT agrees to accept the  
15 remainder of AT&T's proposed language.  
16

17 **ISSUE 33c:**

18 (1) Deleted  
19

20 (2) Must SWBT agree to collocate equipment that is "used or useful" (rather than  
21 "necessary") in SWBT's Eligible Structure?  
22

23 (3) Is SWBT required to collocate AT&T's enhanced or information services equipment?  
24 Also see Issue 46.  
25

26 (4) Must SWBT agree to provide AT&T with remote switching module equipment on a  
27 virtual collocation basis?  
28

29 (5) Can SWBT limit the use or functionality of AT&T's collocated equipment to the  
30 provision of telecommunications services?

1 **AT&T LANGUAGE:**

2 **Attachment 13: Appendix Collocation**

3 9.X Subject to the other provisions hereof, AT&T may collocate the amount and type of  
4 telecommunications equipment necessary in its Collocated Space for access to SWBT's  
5 unbundled network elements and for interconnection to SWBT and, subject to Section 10.X  
6 hereof, other collocators. All AT&T equipment placed in the Collocated Space will conform to  
7 the equipment standards set forth in Section 11.X, **be used and useful** and be operated in a  
8 manner not inconsistent with SWBT's network. Where space permits and for the purposes set  
9 forth in this Section 9.3, SWBT shall allow AT&T to locate remote switching module equipment  
10 (RSMs) **or similar equipment (e.g., Lucent EXM, Nortel RSC-C)** in the Collocated Space.  
11 Except as provided herein, SWBT will place no restriction or limitation on AT&T as to the use  
12 or functionality of that equipment. No power-generating or external power-storage equipment,  
13 but in no event lead acid batteries, shall be placed in the Collocated Space. The point of  
14 termination (POT) bay will be located inside the caged area, equipped and cabled as requested by  
15 AT&T to minimize cable additions on an ongoing basis.

16  
17 **AT&T POSITION:**

18 AT&T's proposed language requires that AT&T's collocated equipment be "used and useful," as  
19 is required by Section 579 of the FCC Order. SWBT's opposition to this language, on the  
20 ground that AT&T's collocated equipment be indispensable, has already been rejected by the  
21 FCC. The remainder of AT&T's proposed language would allow AT&T to collocate equipment  
22 that is similar to remote switching module equipment (RSM), such as the Lucent EXM or Nortel  
23 RSC-C. Such similar equipment performs the same function as an RSM, but may not share the



1 name "RSM." SWBT's opposition to AT&T's proposed language emphasizes nomenclature  
2 instead of functionality. AT&T's proposed language should therefore be included.

3  
4 In addition to "equipment for enhanced services," SWBT's proposal would prohibit AT&T from  
5 placing "equipment for information services" in the Collocated Space. While Section 581 of the  
6 FCC Order clearly prohibits "collocation of equipment necessary to provide enhanced services,"  
7 it makes no mention of information services, and it is therefore inappropriate to exclude such  
8 equipment. Moreover, SWBT's proposal does not clearly define which services are or are not  
9 "information services." Such ambiguity could allow SWBT to exclude services that otherwise  
10 would be permitted by the FCC. The remainder of SWBT's proposal would prohibit AT&T from  
11 collocating RSMs on a virtual collocation basis. Such language exceeds the scope of the  
12 Commission Order and should therefore be excluded. Notably, when these identical issues were  
13 presented to the Oklahoma Commission, it adopted AT&T's position in June of this year.

14  
15 **ISSUE 33d:**

16 Must SWBT provide AT&T personnel and designated agents access to bathrooms and drinking  
17 water within the Eligible Structure?  
18

19 **AT&T LANGUAGE:**

20 **Attachment 13: Appendix Collocation**

21 **9.X Where security will permit (mechanical or via escort), and where available, SWBT**  
22 **will provide access to eyewash stations, shower stations, bathrooms, and drinking water**  
23 **within the Eligible Structure on a twenty-four (24) hour per day, seven (7) day per week**  
24 **basis for employees and designated agents of AT&T. Whenever technically feasible, SWBT**

1 will design Collocated Space to allow for such access on a twenty-four (24) hour per day,  
2 seven (7) day per week basis.

3  
4 AT&T POSITION:

5 AT&T's proposed language in this section would require SWBT to provide access to eyewash  
6 stations, shower stations, bathrooms, or drinking water on a twenty-four hour per day, seven day  
7 per week basis. Such requirements are necessary for the safety and comfort of AT&T's  
8 employees and are not unreasonable.

9  
10 While SWBT claims that it is "willing to accommodate AT&T[']s" need for access to  
11 bathrooms, drinking water, eyewash stations, and shower stations, SWBT is unwilling to agree to  
12 AT&T's proposed language that *requires* it to meet those needs. SWBT's refusal to meet the  
13 reasonable needs of AT&T's employees impermissibly discriminates against AT&T, because  
14 SWBT provides such services to its own employees at the Eligible Structures.

15  
16 ISSUE 33e:

17 Must SWBT complete an Environmental, Health & Safety Questionnaire for each Eligible  
18 Structure in which AT&T applies for Collocated Space?

19  
20 AT&T LANGUAGE:

21 Attachment 13: Appendix Collocation

22 9.X SWBT will complete an Environmental, Health, & Safety Questionnaire for each  
23 Eligible Structure in which AT&T applies for Collocated Space. AT&T may provide this

1 questionnaire with its collocation application, in which case SWBT will complete that  
2 questionnaire and return it to AT&T within fourteen (14) days.

3  
4 **AT&T POSITION:**

5 AT&T's proposed language in this section would require SWBT to complete an environmental,  
6 health, and safety questionnaire for each Eligible Structure in which AT&T applies for  
7 Collocated Space. AT&T requires this questionnaire, so that it may insure the safety of its  
8 workers in SWBT's structures, and so that AT&T may make an informed decision whether to  
9 collocate in those structures. AT&T also requires this information for insurance purposes. The  
10 completion of the requested questionnaire would impose no great burden upon SWBT, and  
11 SWBT would be compensated for any such burden through the engineering design charge paid  
12 by AT&T pursuant to Section 3.X of this Appendix. Notably, SWBT's objections to answering  
13 the questionnaire were rejected by the Oklahoma Commission in June of this year. Accordingly,  
14 AT&T's proposed language should be included.

15  
16 **ISSUE 34:**

17 What are the consequences if AT&T's list of collocated equipment be inaccurate?  
18

19 **AT&T LANGUAGE:**

20 **Attachment 13: Appendix Collocation**

21 10.X AT&T will list all of its equipment and facilities that will be placed within the Collocated  
22 Space, with the associated power requirements, floor loading, and heat release of each piece on  
23 the "Physical Collocation Application Form." AT&T warrants that this list is complete and  
24 accurate. AT&T shall not place or leave any equipment or facilities within the Collocated Space

1 beyond those listed on the Physical Collocation Application Form without the express written  
2 consent of SWBT, as specified in Section 10.X below.

3  
4 **AT&T POSITION:**

5 While AT&T intends to comply with the requirement that AT&T submit an accurate list of the  
6 equipment that will be placed in the Collocated Space, AT&T opposes SWBT's proposed  
7 language that would classify *any* inaccuracy in the list as a "material breach" of the Collocation  
8 Appendix, with harsh consequences.

9  
10 SWBT's proposal would render *any* mistake or inaccuracy in *any* list of collocated equipment a  
11 material breach of this Appendix, consequently triggering the series of harsh events that SWBT  
12 has proposed in case of material breach by AT&T (including repossession of *all* AT&T  
13 Collocated Spaces and the rejection of *all* AT&T applications for Collocated Spaces.) "Any"  
14 mistake would include instances in which AT&T *overstated* the power requirement, floor  
15 loading or heat release of equipment. Such an error should not be classified as a material breach  
16 when SWBT would not be harmed by such error. Given the substantial hardships imposed on  
17 AT&T and its end user customers upon the establishment of a material breach, the items  
18 considered to be a material breach of this Appendix should be very limited in number. AT&T  
19 submits that *any* mistake or inaccuracy in *any* list of collocated equipment would be minimal  
20 enough in comparison to the overall breadth of this Appendix that it should not be classified as a  
21 material breach. Accordingly, AT&T's proposed language should be included, and SWBT's  
22 proposal should be excluded.

1 **ISSUE 35:**

2 When must SWBT consent to AT&T's collocation of subsequent equipment?  
3

4 **AT&T LANGUAGE:**

5 **Attachment 13: Appendix Collocation**

6 10.X In the event that, subsequent to the submission of the Physical Collocation Application  
7 Form, AT&T desires to place in the Collocated Space any equipment or facilities not listed on  
8 the Physical Collocation Application Form, AT&T shall furnish to SWBT a written list and  
9 description of the equipment or facilities substantially in the same form. SWBT may provide  
10 such written consent or may condition any such consent on necessary and additional charges  
11 arising from the subsequent request, including any engineering design charges and any additional  
12 requirements such as power and environmental requirements for such listed and described  
13 equipment and/or facilities. SWBT will not unreasonably withhold consent under this Section  
14 10.X.  
15

16 **AT&T POSITION:**

17 This section requires AT&T to seek SWBT's consent before AT&T may place new equipment in  
18 a Collocated Space, after AT&T's submission of the physical collocation design form to SWBT.  
19

20 This section then allows SWBT to condition its consent on AT&T's payment of additional  
21 charges. AT&T's proposed language would require that such charges be "necessary," requiring  
22 that they compensate SWBT for additional costs that SWBT has incurred. SWBT's proposal  
23 would permit SWBT to impose any charge on AT&T whether or not such charges would be

1 required. AT&T's language is more reasonable than SWBT's proposal, and it should therefore  
2 be included.

3  
4 **ISSUE 36:**

5 Should the events detailed in paragraph 10x be considered a material breach of contract for a  
6 particular collocation arrangement?  
7

8 **AT&T LANGUAGE:**

9 **Attachment 13: Appendix Collocation**

10 10.X Notwithstanding any other provision hereof, the characteristics and methods of operation  
11 of any equipment or facilities placed in Collocated Space shall not interfere with or impair  
12 service over any facilities of SWBT or the facilities of any other person or entity located in the  
13 Eligible Structure; create hazards for or cause damage to those facilities or to the Eligible  
14 Structure; impair the privacy of any communications carried in, from, or through the Eligible  
15 Structure; or create hazards or cause physical harm to any individual or the public.  
16

17 **AT&T POSITION:**

18 SWBT's proposal would render *any* impairment from *any* equipment or facilities a material  
19 breach of this Appendix, consequently triggering the series of harsh events that SWBT has  
20 proposed in case of material breach by AT&T (including repossession of *all* AT&T Collocated  
21 Spaces and the rejection of *all* AT&T applications for Collocated Spaces.) Given the substantial  
22 hardships imposed on AT&T and its end user customers upon the establishment of a material  
23 breach, the items considered to be a material breach of this Appendix should be very limited in  
24 number. AT&T submits that *any* impairment from *any* equipment or facilities is minimal

1 enough in comparison to the overall breadth of this Appendix that it should not be classified as a  
2 material breach. Accordingly, SWBT's proposal should be excluded.

3  
4 **ISSUE 37:**

5 Does SWBT's obligation to permit a collocator to connect its network with that of another  
6 collocator in an Eligible Structure extend to virtual collocation?  
7

8 **AT&T LANGUAGE:**

9 **Attachment 13: Appendix Collocation**

10 Upon AT&T's written request and as soon as practicable, SWBT will provide the connection  
11 between collocation arrangements on a time and materials basis whenever AT&T and another  
12 collocator cannot for technical reasons provide the connection for themselves by passing the  
13 facility through the cage wall(s). SWBT will provide nothing more than the labor and physical  
14 structure(s) necessary for the collocator(s) to pull facilities provided by one collocator from its  
15 cage to the cage of another collocator. If the collocators are not located on the same floor and  
16 cannot physically pull the cable themselves through the SWBT provided structure(s), SWBT will  
17 perform the cable pull on an time and materials basis. At no time will the collocators be allowed  
18 access to any portion of the central office other than the collocation area. SWBT will not make  
19 the physical connection within the collocator's cage, SWBT will not accept any liability for the  
20 cable or the connections, and SWBT will not maintain any records concerning these connections.

21  
22 **AT&T POSITION:**

23 SWBT's proposed language would limit collocation between interconnectors to two *physical*  
24 collocators at the same Eligible Structure. This proposed language simply conflicts with the

1 plain language of the FCC Order, which permits the interconnection of "collocated equipment . .  
2 . within the same LEC premises." FCC Order paragraph 594. If the FCC intended to limit this  
3 interconnection to "*physically* collocated equipment," it could have provided so unambiguously.  
4 SWBT's convoluted reading of the FCC Order cannot be squared with the plain language of  
5 paragraph 594. SWBT's proposed language should therefore be excluded.

6  
7 **ISSUE 38:**

8 Must SWBT permit AT&T to subcontract the interconnection of its network to that of another  
9 collocator within the Eligible Structure?  
10

11 **AT&T LANGUAGE:**

12 **Attachment 13: Appendix Collocation**

13 **10.X Alternatively, AT&T may subcontract the interconnection of AT&T's network to**  
14 **that of another collocator with contractors approved by SWBT. SWBT's approval of**  
15 **contractors will be based on the same criteria that it uses in approving contractors for its**  
16 **own purposes, which approval will not be unreasonably withheld. AT&T will be**  
17 **responsible for the cost of its own contractors.**

18  
19 **AT&T POSITION:**

20 AT&T's proposed language would permit AT&T to subcontract its interconnection with another  
21 collocator using contractors approved by SWBT. This language is consistent with the FCC  
22 regulation permitting AT&T to subcontract the construction of physical collocation  
23 arrangements. AT&T's proposed language is not unreasonable, and provides an effective



1 remedy to AT&T should SWBT unreasonably delay compliance with an interconnection request  
2 by AT&T.

3  
4 SWBT's opposition to this language is unreasonable. SWBT claims that paragraph 595 of the  
5 FCC Order prohibits AT&T's subcontractors from performing work in areas of the Eligible  
6 Structure outside of the Collocated Space. Yet SWBT misapplies that provision of the FCC  
7 Order, which provides only that AT&T may not locate equipment in areas of the Eligible  
8 Structure outside of the Collocated Space. That paragraph of the FCC Order says nothing about  
9 interconnection work done by SWBT-approved subcontractors. Accordingly, AT&T's proposed  
10 language should therefore be included.

11  
12 **ISSUE 39:**

13 What is the appropriate method for AT&T to object the contents of SWBT's technical  
14 publications.  
15

16 **AT&T LANGUAGE:**

17 **Attachment 13: Appendix Collocation**

18 **11.X Within one-hundred and eighty (180) days of the effective date of the Interconnection**  
19 **Agreement, AT&T may object in writing to any of the provisions in SWBT's**  
20 **"Interconnector's Technical Publication for Physical Collocation," "Technical Publication**  
21 **76300, Installation Guide," or SWBT's Emergency Operating Procedures, providing**  
22 **therewith an explanation for each such objection. At AT&T's discretion, AT&T may**  
23 **pursue such objections informally with SWBT, may pursue them with the State**  
24 **Commission, or may invoke the applicable dispute resolution provisions of this Appendix.**

1 **AT&T POSITION:**

2 Section 11.X of this Appendix requires AT&T to comply with many "technical publications" that  
3 have been authored by SWBT without any input from AT&T. There are a number of provisions  
4 within this technical publication to which AT&T objects; for all of these objected-to provisions to  
5 be specifically addressed by language in this Collocation Appendix would require this Collocation  
6 Appendix to be at least three times its current size. To require AT&T to comply with those  
7 provisions without allowing AT&T an opportunity to object to them would allow SWBT  
8 unilaterally to define the legal contours of SWBT's collocation relationship with AT&T. AT&T's  
9 proposed language would allow AT&T to object to the provisions in SWBT's current technical  
10 publications within one hundred and eighty (180) days of the effective date of this Interconnection  
11 Agreement and provides for a method of resolving those objections expeditiously. AT&T's  
12 language is more than reasonable and should therefore be included.

13  
14 **ISSUE 40:**

15 See Issue 39.  
16

17 **AT&T LANGUAGE:**

18 **Attachment 13: Appendix Collocation**

19 11.X Any revision to SWBT's Technical Publication for Physical Collocation, its Technical  
20 Publication 76300, or its Emergency Operating Procedures shall become effective and thereafter  
21 applicable under this Appendix thirty (30) days after such revision is released by SWBT, except  
22 for those specific revisions to which AT&T objects within thirty (30) days of receipt,  
23 providing therewith an explanation for each such objection. At AT&T's discretion, AT&T  
24 may pursue such objections informally with SWBT, may pursue them with the State

1 Commission, or may invoke the applicable dispute resolution provisions of this Agreement.

2 Notwithstanding the foregoing, any revision made to address situations potentially harmful to  
3 SWBT's network, the Eligible Structure, or the Collocated Space, or to comply with statutory  
4 and/or regulatory requirements shall become effective immediately. SWBT will immediately  
5 notify AT&T of any such revisions, and AT&T may object to those revisions in the manner  
6 and with the effect specified in this section 11.X.

7  
8 AT&T POSITION:

9 AT&T's proposed language would allow AT&T to object to future revisions to SWBT's technical  
10 publications and would allow AT&T to pursue such objections informally with SWBT, with the  
11 Commission, or under the dispute resolution provisions of the Interconnection Agreement.  
12 Because SWBT's technical publications will control all aspects of AT&T's relationship with  
13 SWBT with respect to collocation that are not addressed by this Appendix, AT&T has a  
14 considerable interest in the content of those technical publications. For SWBT alone to possess the  
15 right to amend those technical publications, without possibility of objection by AT&T is  
16 unreasonable, and would grant SWBT the unfettered discretion to alter the Parties' relationship at  
17 will. These changes could affect AT&T's provision of service to its end-user customers. AT&T's  
18 proposed language is reasonable, because it provides for oversight over these technical  
19 publications. AT&T's proposed language should therefore be adopted.

20  
21 ISSUE 41:

22 May AT&T or AT&T's subcontractors extend AT&T's cable through the cable vault to the  
23 Collocated Space?

1 AT&T LANGUAGE:

2 Attachment 13: Appendix Collocation

3 12.X AT&T is responsible for bringing the transmission media permitted by Section 8.X to the  
4 points of entry to the Eligible Structure designated by SWBT, and for leaving sufficient cable  
5 length in order for SWBT to fully extend the AT&T-provided cable through the cable vault to the  
6 Collocated Space. Otherwise, AT&T or AT&T's own contractors may elect to extend the  
7 AT&T-provided cable through the cable vault to its Collocated Space. SWBT will permit  
8 AT&T or AT&T's own contractors to install and remove AT&T's facilities in SWBT  
9 owned or controlled central office entrance conduits, ducts, or rights of way. For purposes  
10 of this section, AT&T's contractors must receive SWBT approval. SWBT's approval of  
11 contractors will be based on the same criteria that SWBT uses in approving contractors for  
12 its own purposes, which approval will not be unreasonably withheld.

13  
14 AT&T POSITION:

15 AT&T's proposed language would permit AT&T or AT&T's proposed contractors to install and  
16 remove AT&T's facilities in SWBT's central office entrance conduits, ducts, or rights of way.  
17 SWBT's proposal would require that SWBT perform such work. SWBT's proposal is  
18 unreasonable, because the Pole Attachment Act and the FCC Order grant AT&T access to  
19 any conduits under the ownership and control of SWBT, whether those conduits are within public  
20 or private property, see 47 U.S.C. § 224(f)(1); FCC Order ¶¶ 1178-1181, inclusive of SWBT's  
21 central office entrance conduits, ducts, and rights of way.

1 The remainder of AT&T's language would empower AT&T or AT&T's proposed contractors to  
2 extend AT&T-provided cable beyond the central office entrance conduits, and through the cable  
3 vault to the Collocated Space. Again, SWBT's proposal would require such work to be  
4 accomplished by SWBT. AT&T's proposed language is reasonable. The central office vault is the  
5 structure in which all central office conduits terminate. It makes no economic sense to AT&T (or  
6 AT&T's end-user customers) for AT&T to extend the cable miles through outside conduits,  
7 through the central office manhole, and through the central office conduit, only to require SWBT  
8 employees to pull the cable (at AT&T's cost) a relatively short distance through the cable vault to  
9 the Collocated Space. SWBT's security concerns regarding AT&T's access to the cable vault  
10 could be narrowly addressed by a security requirement governing AT&T's access to the cable vault  
11 instead of by denying AT&T access to the cable vault under all circumstances. Moreover, AT&T's  
12 proposed language would require SWBT's approval for all contractors that AT&T would use in  
13 the central vault, allaying SWBT's security concerns. AT&T's language should therefore be  
14 adopted.

15  
16 **ISSUE 42:**

17 See Issue 41.  
18

19 **AT&T LANGUAGE:**

20 **Attachment 13: Appendix Collocation**

21 **12.X At AT&T's option and** upon reasonable notice to SWBT, SWBT will fully extend the  
22 AT&T-provided cable through the cable vault to the Collocated Space on the same day that  
23 AT&T brings the AT&T-provided cable to the points of entry to the Eligible Structure  
24 designated by SWBT. While performing this operation, SWBT will be liable for any damage to

1 the AT&T-provided cable that results from the placing operation. As used in this section, "same  
2 day" means same business day, provided that AT&T makes cables available at the points of entry  
3 to the Eligible Structure designated by SWBT by noon; otherwise, "same day" means the same  
4 time that the cable is made available on the next business day.

5  
6 **AT&T POSITION:**

7 This language clarifies that the language in this section does not override AT&T's proposed  
8 language for Section 12.X. If AT&T's proposed language for Section 12.X is adopted, AT&T's  
9 proposed language for this section should also be adopted.

10  
11 **ISSUE 43:**

12 What are the parties' responsibilities regarding removal of equipment from the Collocated  
13 Space?  
14

15 **AT&T LANGUAGE:**

16  
17 **Attachment 13: Appendix Collocation**

18  
19 12.X AT&T is responsible for removing any equipment, property or other items that it brings  
20 into the Collocated Space or any other part of the Eligible Structure. If AT&T fails to remove  
21 any equipment, property, or other items from the Collocated Space within thirty (30) days after  
22 discontinuance of use, SWBT may perform the removal and shall charge AT&T on a time and  
23 materials basis applicable to custom work.

1    **AT&T POSITION:**

2    SWBT's proposal would require AT&T to indemnify SWBT and hold it harmless for all claims  
3    associated with SWBT's removal of AT&T's facilities from the Collocated Space. SWBT's  
4    proposal is unreasonable. AT&T's agreement to pay for SWBT's removal costs on a time and  
5    materials basis is sufficient to protect SWBT from AT&T's failure to remove AT&T's facilities  
6    from the Collocated Space. SWBT's indemnification proposal goes too far, requiring AT&T to  
7    pay the cost for any negligent acts or omissions or other misconduct of SWBT when SWBT is  
8    conducting the removal. Requiring SWBT to assume the risk of its own misconduct would  
9    encourage SWBT to act in a reasonable and prudent manner.

10  
11   SWBT's proposed language is not necessary, as SWBT contends, for "assurance that SWBT  
12   will be paid" for the removal of equipment left in the Collocated Space. AT&T has agreed to  
13   language that constitutes that assurance; that language provides that "SWBT may perform the  
14   removal and shall charge AT&T on a time and materials basis applicable to custom work."  
15   SWBT's proposed language goes too far, requiring AT&T to pay the cost for any negligent acts  
16   or omissions or other misconduct of SWBT when SWBT is conducting the removal. Such  
17   language would not, as SWBT contends, encourage SWBT "to operate efficiently," but would  
18   instead encourage carelessness. Indeed, requiring SWBT to assume the risk of its own  
19   misconduct would encourage SWBT to act in a reasonable, prudent, and "efficient" manner.  
20   SWBT's proposed language should therefore be excluded.

21  
22   **ISSUE 44:**

23   Issue Resolved: AT&T and SWBT agree to delete the entire section from the Collocation  
24   Appendix.

1 AT&T LANGUAGE:

2 Attachment 13: Appendix Collocation

3 AT&T and SWBT agree to delete the entire section from the Collocation Appendix.

5 AT&T POSITION:

6 AT&T and SWBT agree to delete the entire section from the Collocation Appendix.

8 ISSUE 45:

9 What terms and conditions should apply to SWBT's provision of power to AT&T's equipment?

11 AT&T LANGUAGE:

12 Attachment 13: Appendix Collocation

13 13.X SWBT power equipment supporting AT&T's equipment will: (1) comply with applicable  
14 industry standards (e.g., Bellcore NEBS and IEEE) or manufacturer's equipment power  
15 requirement specifications for equipment installation, cabling practices, and physical equipment  
16 layout; (2) provide, upon AT&T's request, the capability for real time access to  
17 performance monitoring and alarm data that impacts (or potentially may impact) AT&T  
18 traffic, including, without limitation, power alarms and alarms for fire, temperature,  
19 humidity and other relevant environmental parameters; (3) provide feeder capacity and  
20 quantity to support the ultimate equipment layout for AT&T equipment in accordance with  
21 AT&T's collocation request; and (4) provide Lock Out-Tag Out and other electrical safety  
22 procedures and devices in conformance with the most stringent of OSHA or industry  
23 guidelines.



1 **AT&T POSITION:**

2 AT&T's proposed language in this section governs SWBT's provision of power to the  
3 Collocated Space, generally requiring SWBT to comply with industry standards and provide  
4 power at parity with that provided by SWBT to itself or to other third parties. First, AT&T's  
5 language would require SWBT to provide, upon AT&T's request, access to power and  
6 environmental alarm data, so that AT&T would immediately be informed should power  
7 problems affect AT&T's network. SWBT provides such data to itself, and parity therefore  
8 requires SWBT to share such data with AT&T. Second, AT&T's language would require SWBT  
9 to comply with Lock Out-Tag Out and other electrical safety procedures that are standard  
10 throughout the telecommunications industry. Such procedures are necessary to protect  
11 employees of both AT&T and SWBT from electrical injuries. AT&T's proposed language  
12 should therefore be included.

13  
14 **ISSUE 46:**

15 Can AT&T unilaterally permit the joint occupancy, subletting or assignment of its Collocated  
16 Space?  
17

18 **AT&T LANGUAGE:**

19 **Attachment 13: Appendix Collocation**

20 **15.X AT&T may permit any third party jointly to occupy AT&T's Collocated Space**  
21 **without the prior written consent of SWBT. AT&T may allow another local service**  
22 **provider to use all or part of AT&T's Collocated Space, gratuitously or for consideration;**  
23 **in such instance, AT&T will retain its obligation to pay a monthly charge to SWBT for the**  
24 **Collocated Space. AT&T may assign or otherwise transfer its rights under this Appendix.**

1 AT&T may interconnect with other collocators at the same Eligible Structure, in accord with  
2 Section 10.X above.

3  
4 **AT&T POSITION:**

5 AT&T's proposed language would permit AT&T to assign or sublease unused portions of the  
6 Collocated Space to another interconnector. AT&T's proposed language would also allow  
7 AT&T to occupy a Collocated Space in a joint venture with another telecommunications  
8 provider. If AT&T determines that it would be economical to offer local telephone services  
9 through a joint venture with another telecommunications provider and requires Collocated Space  
10 to provide those services, AT&T should be permitted to do so. AT&T should also be allowed to  
11 sublease or assign the Collocated Space to a competing provider of local telephone services.  
12 Such provisions allow for the efficient use of collocated space and avoid unnecessary duplication  
13 of facilities by carriers. AT&T is under an obligation to refrain from "warehousing" Collocated  
14 Space. If AT&T is allowed to sublease or assign its Collocated Space, AT&T will better be able  
15 to comply with that obligation. SWBT has no legitimate objection to either of the above  
16 arrangements, because AT&T's proposed language provides that AT&T "will retain its  
17 obligation to pay a monthly charge to SWBT for the Collocated Space."

18  
19 SWBT contends that AT&T should not be permitted to occupy the Collocated Space in a joint  
20 venture with another collocator. SWBT also contends that AT&T should not be permitted to  
21 sublease or assign the Collocated Space to another collocator. SWBT's position regarding these  
22 matters is overly restrictive. AT&T is under an obligation to refrain from "warehousing"  
23 Collocated Space. If AT&T is allowed to sublease or assign its Collocated Space, AT&T will be

1 better able to comply with that obligation to use the Collocated Space more efficiently.  
2 Moreover, so long as AT&T bears the risks associated with a third party's presence in the  
3 Collocated Space, SWBT has no legitimate objection to a sublease or assignment.  
4

5 Should, for some reason, the Commission determine that AT&T must obtain SWBT's consent  
6 prior to assigning, subleasing, or jointly occupying the Collocated Space, SWBT should be  
7 prohibited from unreasonably withholding that consent. AT&T therefore submits that if the  
8 Commission were to accept SWBT's proposed language, the Commission should also include  
9 the phrase "which consent shall not be unreasonably withheld."  
10

11 **ISSUE 47:**

12 What obligations does SWBT have to AT&T where a casualty loss renders the Collocated Space  
13 untenable?  
14

15 **AT&T LANGUAGE:**

16 **Attachment 13: Appendix Collocation**

17 16.X If the Collocated Space is damaged by fire or other casualty, and the Collocated Space is  
18 rendered untenable in whole or in part and such damage or destruction can be repaired, SWBT  
19 will repair the Collocated Space at its expense as soon as reasonably possible (as hereafter  
20 limited) and the Monthly Charge shall be abated while AT&T is deprived of use of the  
21 Collocated Space. Upon AT&T's written request, SWBT will provide to AT&T a  
22 comparable suitable collocation arrangement at another mutually agreeable location at  
23 SWBT's expense.

1 **AT&T POSITION:**

2 In case of a casualty loss that renders the Collocated Space untenable, AT&T's proposed  
3 language would require SWBT to repair the space as soon as possible and at SWBT's expense.  
4 In contrast, SWBT's proposal would give SWBT the option to repair (or not repair) the  
5 Collocated Space. SWBT's proposal is unreasonable, because it would empower SWBT to use a  
6 casualty loss as an excuse for removing AT&T from a Collocated Space and requiring AT&T to  
7 collocate in another space at AT&T's expense. Such a move could cause a disruption of service  
8 to AT&T's end user customers and require AT&T to redesign or restructure its local network  
9 facilities. AT&T's proposed language is more reasonable, especially considering that SWBT's  
10 property insurance carrier would likely reimburse SWBT for its economic losses related to the  
11 damage to the Collocated Space. AT&T's proposed language is more reasonable than SWBT's  
12 proposal; the AT&T language should therefore be adopted.

13  
14 **ISSUE 48:**

- 15 1. In the event of casualty loss, is SWBT obligated to repair, restore, rebuild or replace, at its  
16 expense, AT&T's improvements, equipment and fixtures in the Collocated Space?  
17  
18 2. What is SWBT's repair obligation when SWBT's intentional or negligent act causes damage  
19 to AT&T's Collocated Space?  
20

21 **AT&T LANGUAGE:**

22 **Attachment 13: Appendix Collocation**

23 16.X Any obligation on the part of SWBT to repair the Collocated Space shall be limited  
24 to repairing, restoring, and rebuilding the Collocated Space as prepared by SWBT for AT&T.  
25 **The limitation contained in this section will not apply to any damage resulting from**  
26 **intentional misconduct or a negligent act or omission by SWBT, its employees, or agents.**

1 **AT&T POSITION:**

2 SWBT's proposal would extend the limitation on SWBT's repair obligation to apply to damage  
3 done as a result of SWBT misconduct. SWBT's proposal is unreasonable, because it acts as a  
4 mini-limitation-of-liability provision that conflicts with the general limitation of liability  
5 provisions in the terms and conditions portion of this Appendix. To protect SWBT from liability  
6 for its misconduct would encourage SWBT misconduct. AT&T's proposed language should  
7 therefore be implemented.

8  
9 **ISSUE 49:**

10 **When and under what conditions may SWBT repossess a Collocated Space?**  
11

12 **AT&T LANGUAGE:**

13 **Attachment 13: Appendix Collocation**

14 17.X If AT&T materially breaches any of its obligations under this Appendix with respect to a  
15 particular Collocated Space, and the breach shall continue for sixty (60) days after AT&T's  
16 receipt of written notice of breach, SWBT may, immediately or at any time thereafter, without  
17 notice or demand, enter and repossess that particular Collocated Space, expel AT&T and any  
18 person or entity claiming under AT&T, remove AT&T's property, forcibly if necessary, and  
19 terminate the collocation arrangement with respect to that particular Collocated Space, without  
20 prejudice to any other remedies SWBT might have. **SWBT must notify AT&T by facsimile**  
21 **that it has repossessed a Collocated Space within twenty-four (24) hours of its repossession**  
22 **of that Collocated Space.** Thereafter, until the breach is cured or otherwise resolved by the  
23 parties, SWBT may also refuse additional applications for collocation and/or refuse to complete

1 any pending orders for additional space by AT&T in the Eligible Structure where that Collocated  
2 Space is located.

3

4 **AT&T POSITION:**

5 SWBT's proposal would allow it to repossess a Collocated Space if AT&T breaches *any* of its  
6 obligations under this Appendix with respect to that Collocated Space. That remedy is quite  
7 harsh, and AT&T's proposed language is necessary to temper that remedy. First, AT&T's  
8 proposed language would require the breach to continue for sixty days before SWBT would be  
9 entitled to repossess a Collocate Space; for some equipment-related breaches, AT&T could  
10 require up to sixty days to correct them. Second, AT&T's proposed language would require  
11 SWBT to notify AT&T within twenty-four hours of the repossession of a Collocated Space. To  
12 temper the repossession remedy, AT&T's proposed language should be adopted.

13

14 **ISSUE 50:**

15 **Must SWBT notify AT&T that it has repossessed a Collocated Space?**

16

17 **AT&T LANGUAGE:**

18 **Attachment 13: Appendix Collocation**

19 **17.X SWBT must notify AT&T by facsimile that it has repossessed a Collocated Space**  
20 **within twenty-four (24) hours of its repossession of that Collocated Space.**

1 **AT&T POSITION:**

2 AT&T's proposed language would require SWBT to notify AT&T within twenty-four hours of  
3 the repossession of a Collocated Space. This requirement is reasonable and imposes no great  
4 burden on SWBT. AT&T's proposed language should therefore be implemented.

5  
6 **ISSUE 51:**

7 Can SWBT be required to lease additional Collocated Space to AT&T in Eligible Structures if it  
8 is in material breach of the Agreement?  
9

10 **AT&T LANGUAGE:**

11 [AT&T opposes the inclusion of this section]  
12

13 **AT&T POSITION:**

14 SWBT's proposal would allow it to reject *all* of AT&T's collocation requests, if AT&T owes  
15 *any* past due charges under this Appendix. This remedy is extreme, to say the least, particularly  
16 in view of AT&T's undeniable financial ability to pay. SWBT's other remedies for late  
17 payments by AT&T, such as interest charges and, if late payment continues, repossession of the  
18 Collocated Space, will be sufficient to protect SWBT's interests, without need for this further  
19 remedy. Because SWBT's proposal is unreasonable, it should be excluded.  
20

21 **ISSUE 52:**

22 Which limitation of liability provisions should apply to this Appendix concerning acts or  
23 omissions by "Others"?

1 **AT&T LANGUAGE:**

2 **Attachment 13: Appendix Collocation**

3 19.X Except with respect to Section 19.2 below, limitation of liability provisions covering the  
4 matters addressed in this Appendix are contained in the General Terms and Conditions portion of  
5 this Agreement.

6  
7 19.X AT&T acknowledges and understands that SWBT may provide space in or access to its  
8 Eligible Structures to other persons or entities ("Others"), which may include competitors of  
9 AT&T; that such space may be close to the Collocated Space, possibly including space adjacent  
10 to the Collocated Space and/or with access to the outside of the Collocated Space; and that the  
11 cage around the Collocated Space is a permeable boundary that will not prevent the Others from  
12 observing or even damaging AT&T's equipment and facilities.

13  
14 **AT&T POSITION:**

15 Under SWBT's proposal, SWBT would "have absolutely no liability with respect to any act or  
16 omission by any Other." Among other things, this provision would excuse SWBT from liability  
17 if SWBT's negligent or grossly negligent provision of security services allowed an "Other" to  
18 damage AT&T or if SWBT's negligent retention or supervision of a contract caused damage to  
19 AT&T. AT&T believes that it is unreasonable to excuse SWBT from liability under those  
20 circumstances. Moreover, the limitation of liability sections in the terms and conditions portion  
21 of the Interconnection Agreement should provide sufficient protection to SWBT without the need  
22 for this additional language. Accordingly, SWBT's proposal should be excluded.



1 **ISSUE 53:**  
2 See Issue 6.1 and 40.  
3

4 **AT&T LANGUAGE:**

5 **Attachment 13: Appendix Collocation**

6 21.X All disputes arising under this Appendix will be resolved in accord with the dispute  
7 resolution procedures set forth in the General Terms and Conditions portion of this Agreement,  
8 with the exception that disputes relating to SWBT's price quotation or Completion Interval  
9 may be brought to the Commission for resolution, as set forth in this Appendix, and that  
10 disputes relating to the content of SWBT's technical publications will be resolved in accord  
11 with Section 11.2 above.  
12

13 **AT&T POSITION:**

14 AT&T's proposed language exempts certain disputes from the dispute resolution provisions in  
15 the terms and conditions portion of the Interconnection Agreement, specifically those disputes  
16 arising out of Individual Case Basis pricing of services under this Appendix and disputes over  
17 amendments to SWBT's technical publications. AT&T's proposed language would allow for  
18 those specific disputes to be resolved more quickly than they otherwise would be under the  
19 standard dispute resolution provisions. AT&T's proposed language is reasonable and it should  
20 therefore be adopted.

1 **ISSUE 54a:**

2 (1) Resolved with SWBT accepting AT&T's position on 22x.

3  
4 (2) Should AT&T indemnify SWBT for damage to vehicles of AT&T's contractors, invitees,  
5 licensees or agents?  
6

7 **AT&T LANGUAGE:**

8 **Attachment 13: Appendix Collocation**

9 22.X AT&T hereby waives its rights of recovery against SWBT for damage to AT&T's  
10 vehicles while on the grounds of the Eligible Structure and AT&T will hold SWBT harmless  
11 with respect to any such damage or damage to vehicles of AT&T's employees.  
12

13 **AT&T POSITION:**

14 SWBT's proposal would require AT&T to waive "any" rights of recovery. This language is  
15 unreasonable because AT&T is legally capable of waiving "its" own rights of recovery and may  
16 not waive the rights of any others. AT&T should also not be required to indemnify SWBT for  
17 damage to vehicles of AT&T's employees; if an AT&T employee has a claim against SWBT, it  
18 is reasonable for SWBT and not AT&T to pay such a claim. SWBT's proposal should therefore  
19 be excluded.  
20

21 **ISSUE 54B:**

22 Deleted

1 **ISSUE 54c**

2 Resolved by SWBT accepting AT&T's proposed language.  
3

4 **AT&T LANGUAGE:**

5 **Attachment 13: Appendix Collocation**

6 22.X AT&T releases SWBT from and waives its right of recovery, claim, action or cause of  
7 action against SWBT, its agents, directors, officers, employees, independent contractors, and  
8 other representatives for any loss or damage that may occur to equipment or any other personal  
9 property belonging to AT&T or located on or in the space at the instance of AT&T by reason of  
10 fire or water or the elements or any other risks would customarily be included in a standard all  
11 risk property insurance policy covering such property, regardless of cause or origin, including  
12 negligence of SWBT, its agents, directors, officers, employees, independent contractors, and  
13 other representatives.  
14

15 **AT&T POSITION:**

16 SWBT's proposal would require AT&T to waive "any and all" right of recovery. This proposal  
17 is unreasonable, because AT&T is legally capable only of waiving "its" own right of recovery.  
18 AT&T's proposed language should instead be implemented.  
19

20 **ISSUE 54d:**

21 Must AT&T acknowledge in this Appendix that it is not entitled to lost profits and revenues in  
22 the event of a service interruption?  
23

24 **AT&T LANGUAGE:**

25 [AT&T opposed the inclusion of this section]

1 **AT&T POSITION:**

2 SWBT's proposal recites that AT&T may elect to purchase business interruption insurance. To  
3 the extent that this proposal imposes no obligation on AT&T to purchase such insurance, this  
4 proposal is unnecessary and should therefore be rejected. The remainder of SWBT's proposal  
5 recites that AT&T "knows" that SWBT has no liability for loss of profit or revenues. AT&T,  
6 however, is unwilling to concede that SWBT has no liability for loss of profit or revenues should  
7 AT&T's service be interrupted, especially where AT&T's service interruption is caused by  
8 SWBT's misconduct. SWBT's proposal is therefore unreasonable and should be excluded.

9

10 **ISSUE 54e:**

11 Must AT&T accept the recommendations made by SWBT's property insurance manager when  
12 SWBT has not provided AT&T with copies of all applicable surveys, recommendations and  
13 compliance requirements?  
14

15 **AT&T LANGUAGE:**

16 **Attachment 13: Appendix Collocation**

17 22.X AT&T must also conform to the recommendation(s) made by SWBT's Property Insurance  
18 Company which AT&T has already agreed to or to such recommendations as it shall hereafter  
19 agree to. With respect to recommendations for which SWBT seeks AT&T's agreement,  
20 SWBT will provide AT&T copies of any applicable surveys, recommendations and  
21 compliance requirements by its Property Insurer for AT&T's review.

22

23 **AT&T POSITION:**

24 With regard to this section, SWBT takes the rather absurd position that AT&T be required to  
25 "conform to the recommendations made by SWBT's Property Insurance Company" without first

1 providing to AT&T a copy of those recommendations. Without the inclusion of AT&T's  
2 proposed language, AT&T could not reasonably be expected to comply with that requirement.  
3 AT&T's proposed language should therefore be included.  
4

5 **ISSUE 55:**

6 Should Appendix 13 be modified to include SWBT's proposed contract language in 22x that  
7 SWBT, by agreeing to this appendix, is not waiving any rights.  
8

9 **AT&T LANGUAGE:**

10 [AT&T opposes the inclusion of this section]  
11

12 **AT&T POSITION:**

13 SWBT's proposal misstates the purpose of the Appendix. AT&T properly intends to use the  
14 Collocated Space to connect with SWBT's network and with the networks of other collocators,  
15 subject to the conditions set forth in the Commission's Order. The remainder of SWBT's  
16 proposal is unnecessary, in light of the terms and conditions portion and unbundled network  
17 elements portion of the Interconnection Agreement. SWBT's proposal should therefore be  
18 excluded.  
19

20 **ISSUE 56:**

21 What is the effect of subsequently approved conflicting tariff provisions on the agreements set  
22 forth in this Appendix?

1 **AT&T LANGUAGE:**

2 **Attachment 13: Appendix Collocation**

3 23.X This Appendix may not be modified by the Parties except by a subsequent written  
4 document executed by the Parties.  
5

6 **AT&T POSITION:**

7 SWBT's proposed language provides that this Collocation Appendix does not affect "current,  
8 pending, or future tariffs." While AT&T does not contend that the Collocation Appendix should  
9 supersede any current tariffs (such as the FCC's Expanded Interconnection requirements), AT&T  
10 opposes any language that would allow SWBT effectively to amend the Collocation Appendix  
11 by filing a future tariff with contradictory provisions. Such language would defeat the entire  
12 purpose of the negotiation of a *bilateral* Interconnection Agreement and would instead allow  
13 SWBT to *unilaterally* alter the rights and obligations of the parties under this Appendix.  
14

15 **ISSUE 57:**

16 Issue Resolved.  
17

18 **AT&T LANGUAGE:**

19 **Attachment 13: Appendix Collocation**

20 AT&T agrees with SWBT's proposed language.

1 AT&T POSITION:

2 AT&T agrees with SWBT's proposed language.

3

4

5

6

7 Sponsoring Witness for all of Section XI: Larry Barnes

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the ) Case No. TO-98-115  
Telecommunications Act of 1996 to Establish an )  
Interconnection Agreement with Southwestern Bell )  
Telephone Company )

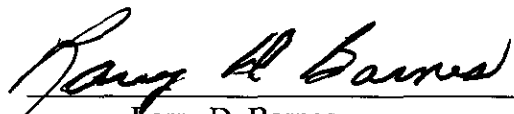
**AFFIDAVIT OF LARRY D. BARNES**

STATE OF TEXAS )

COUNTY OF TRAVIS )

Larry D. Barnes, of lawful age, being first duly sworn deposes and states:

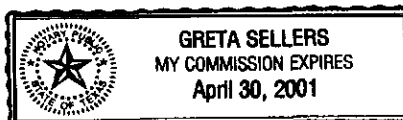
1. My name is Larry D. Barnes. I am a manager for AT&T.
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.
3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
Larry D. Barnes

Subscribed and sworn to this 6th day of November, 1997.

  
Notary Public

My commission expires: April 30, 2001





BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the ) Case No. TO-98-115  
Telecommunications Act of 1996 to Establish an )  
Interconnection Agreement with Southwestern Bell )  
Telephone Company )

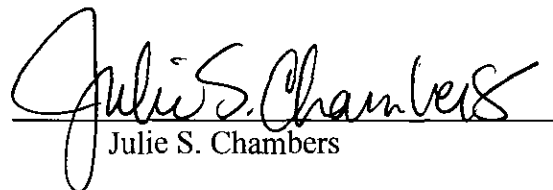
**AFFIDAVIT OF JULIE S. CHAMBERS**

STATE OF TEXAS )

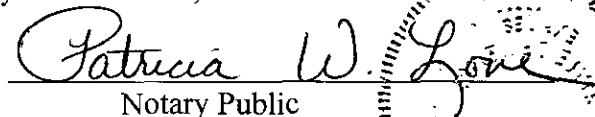
COUNTY OF DALLAS )

Julie S. Chambers, of lawful age, being first duly sworn deposes and states:

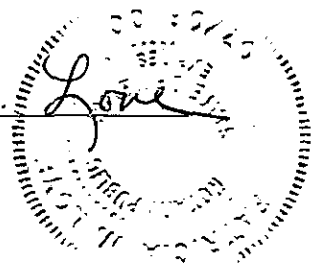
1. My name is Julie S. Chambers. I am a Staff Manager for AT&T.
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.
3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
Julie S. Chambers

Subscribed and sworn to this 6 day of November, 1997.

  
Notary Public

My commission expires: 7-8-2000



BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the	)	
Southwest, Inc.'s Petition for Second Compulsory	)	
Arbitration Pursuant to Section 252(b) of the	)	Case No. TO-98-115
Telecommunications Act of 1996 to Establish an	)	
Interconnection Agreement with Southwestern Bell	)	
Telephone Company	)	

**AFFIDAVIT OF NANCY M. DALTON**

STATE OF TEXAS            )

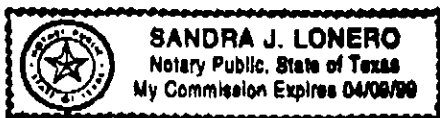
COUNTY OF TRAVIS        )

Nancy M. Dalton, of lawful age, being first duly sworn deposes and states:

1. My name is Nancy M. Dalton. I am a division manager for AT&T.
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.
3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
 \_\_\_\_\_  
 Nancy M. Dalton

Subscribed and sworn to this 7<sup>th</sup> day of November, 1997.



  
 \_\_\_\_\_  
 Notary Public

My commission expires: 4/9/99

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the ) Case No. TO-98-115  
Telecommunications Act of 1996 to Establish an )  
Interconnection Agreement with Southwestern Bell )  
Telephone Company )

AFFIDAVIT OF ROBERT P. FLAPPAN

STATE OF KANSAS )

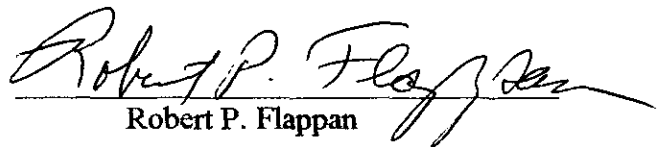
COUNTY OF JOHNSON )

Robert P. Flappan, of lawful age, being first duly sworn deposes and states:

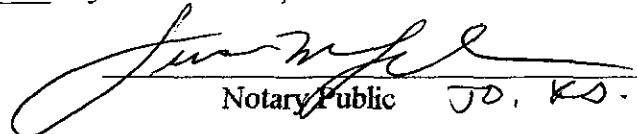
1. My name is Robert P. Flappan. I am a District Manager in the GA organization for AT&T.

2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.

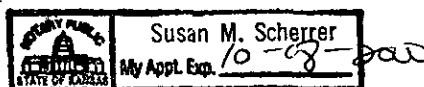
3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
Robert P. Flappan

Subscribed and sworn to this 6<sup>th</sup> day of November, 1997.

  
Notary Public JO. KS.

My commission expires: 10-18-2000



BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the ) Case No. TO-98-115  
Telecommunications Act of 1996 to Establish an )  
Interconnection Agreement with Southwestern Bell )  
Telephone Company )

AFFIDAVIT OF PHILLIP L. GADDY

STATE OF TEXAS )

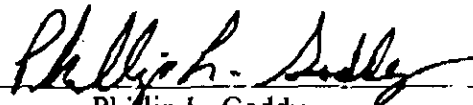
COUNTY OF DALLAS )

Phillip L. Gaddy, of lawful age, being first duly sworn deposes and states:

1. My name is Phillip L. Gaddy. I am a Director in the Government Affairs organization of AT&T.

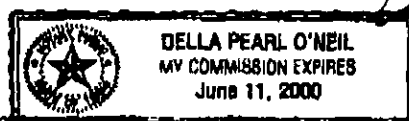
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.

3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
Phillip L. Gaddy

Subscribed and sworn to this 7 day of November, 1997.

  
Notary Public



My commission expires

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the	)	
Southwest, Inc.'s Petition for Second Compulsory	)	
Arbitration Pursuant to Section 252(b) of the	)	Case No. TO-98-115
Telecommunications Act of 1996 to Establish an	)	
Interconnection Agreement with Southwestern Bell	)	
Telephone Company	)	

**AFFIDAVIT OF VISHAL S. MINTER**

STATE OF TEXAS            )

COUNTY OF DALLAS        )

Vishal S. Minter, of lawful age, being first duly sworn deposes and states:

1. My name is Vishal S. Minter. I am a manager for AT&T.
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.
3. I hereby swear and affirm that the information provided in addressing the above-referenced issues is true and correct to the best of my knowledge and belief.

  
 \_\_\_\_\_  
 Vishal S. Minter

Subscribed and sworn to this 7 day of November, 1997.

  
 \_\_\_\_\_  
 Notary Public

My commission expires: 7-8-2000

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the ) Case No. TO-98-115  
Telecommunications Act of 1996 to Establish an )  
Interconnection Agreement with Southwestern Bell )  
Telephone Company )

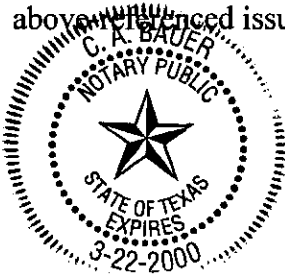
**AFFIDAVIT OF STEVEN E. TURNER**

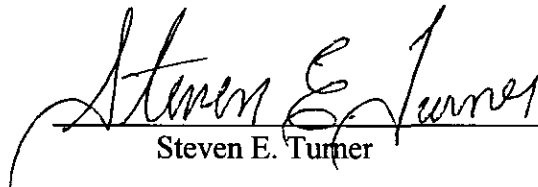
STATE OF TEXAS )

COUNTY OF TRAVIS )


Steven E. Turner, of lawful age, being first duly sworn deposes and states:

1. My name is Steven E. Turner. I am a consultant for AT&T.
2. I hereby adopt as my direct testimony the rationale set forth in the foregoing documents as reflected in the table included as Schedule B.
3. I hereby swear and affirm that the information provided in addressing the above referenced issues is true and correct to the best of my knowledge and belief.



  
Steven E. Turner

Subscribed and sworn to this 5<sup>th</sup> day of November, 1997.

  
Notary Public

My commission expires: 3/22/2000

**I. INTRALATA TOLL/ACCESS  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b><u>ISSUE 1: RECEIPT OF TOLL REVENUE</u></b></p> <p>Is AT&amp;T entitled to intraLATA dialing parity before SWBT is authorized to provide in region interLATA services, or, when AT&amp;T purchases UNE local switching, should AT&amp;T be recognized as the intraLATA toll provider and therefore receive access and toll revenue, prior to implementation of dual PIC?</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>
<p><b><u>ISSUE 2: INTRALATA TOLL - OS/DA</u></b></p> <p>Should AT&amp;T be able to complete intraLATA toll calls (and collect the related revenues) that SWBT routes to AT&amp;T's OS/DA platforms?</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>
<p><b><u>ISSUE 3: TANDEM SWITCHING AND TRANSPORT</u></b></p> <p>When AT&amp;T originates and terminates toll calls through a SWBT unbundled local switch, should the IXC determine which carrier assesses access charges for transporting the call between the IXC's point of presence (POP) and the originating or terminating UNE switch?</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>
<p><b><u>ISSUE 4: BILLING FOR TOLL-FREE CALLS</u></b></p> <p>For toll-free calls originated by AT&amp;T local customers on a UNE switch, should (1) AT&amp;T pay applicable UNE charges (in which case AT&amp;T has the prerogative to bill the 800 provider) or (2) AT&amp;T pay nothing (in which case SWBT has the prerogative to continue to bill the 800 provider).</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>
<p><b><u>ISSUE 5: ABILITY TO BILL ACCESS:</u></b></p> <p>What customer usage data will SWBT provide to AT&amp;T for intraLATA and interLATA calls originated or terminated over unbundled local switching?</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>
<p><b><u>ISSUE 6: LOST DATA</u></b></p> <p>Should the contract require SWBT to estimate volumes of lost usage data associated with AT&amp;T's use of UNEs and if so should SWBT receive compensation, if any?</p>	<p>Steve Turner</p> <p>and</p> <p>Nancy Dalton</p>

**II. CUSTOMIZED ROUTING/OS/DA  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 1: CUSTOMIZED ROUTING</b>  Issue resolved.	Julie Chambers
<b>ISSUE 2: RATE QUOTATIONS</b>  Issue resolved.	Julie Chambers
<b>ISSUE 3: TRANSLATION OF 1-1411 TO 900-XXX-XXXX</b>  Should SWBT be required to provide customized routing of directory assistance calls by performing digit translation of 1-411 to 900-XXX-XXXX and providing Feature Group D signaling to an AT&T directory assistance platform. If so, what rates and charges should apply, if any?	Julie Chambers



**III. OPERATIONAL ISSUES  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 1: UNE ORDERING AND PROVISIONING</b>  Does the October 2, 1997 Order preclude AT&T from obtaining access to EASE as an interim solution for UNE ordering and if not, should SWBT be required to provide such access and under what terms and conditions?	Sean Minter
<b>ISSUE 2: UNE ORDERING AND PROVISIONING</b>  What data should AT&T provide to SWBT on a conversion as specified order?	Sean Minter
<b>ISSUE 3: UNE ORDERING AND PROVISIONING</b>  Should UNE ordering and provisioning be based upon industry guidelines developed by Standards Bodies in which both parties are participants?	Sean Minter
<b>ISSUE 4: INTERIM NUMBER PORTABILITY - LIDB DATA</b>  How will AT&T's customer record information be input and/or maintained in the LIDB database for customers using INP? How will SWBT's costs, if any, be recovered? (Similar to Issue Ref IV-6)	Sean Minter
<b>ISSUE 5: BILLING</b>  This issue has been resolved in recent negotiations.	Sean Minter
<b>ISSUE 6: UNE PROVISIONING AND ORDERING</b>  Should SWBT and AT&T jointly develop process metrics requirements for new processes and electronic interfaces that are implemented between AT&T and SWBT?	Sean Minter
<b>ISSUE 7: UNE PROVISIONING AND ORDERING</b>  This issue is merged with Issue No. IV-2.	Sean Minter
<b>ISSUE 8a: UNE PROVISIONING AND ORDERING</b>  Should SWBT develop the capability to perform pre-testing and to provide test results to AT&T by January of 1998?	Sean Minter
<b>ISSUE 8b:</b>  Should all billing and usage data provided for under the Interconnection Agreement, (e.g., mutual compensation, resale, UNE) be delivered to AT&T in a single transmission in CABS-like format?	Sean Minter
<b>ISSUE 9:</b>  This issue merged with Issue III-3.	Sean Minter

**IV. UNE PARITY  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness:
<b><u>ISSUE 1: PARITY: OVERVIEW</u></b>  How does the parity standard in the contract and Act apply to UNEs? Is parity required for individual elements and/or combinations or platform of elements?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 2: ORDERING, PROVISIONING, AND MAINTENANCE: ACCESS TO INFORMATION</u></b>  How does the parity standard determined under Issue IV.-1 apply to: <ul style="list-style-type: none"> <li>a. Pre-order access to dispatch and due date requirements</li> <li>b. 855 EDI availability</li> <li>c. Provisioning intervals</li> <li>d. Maintenance scheduling</li> </ul>	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 3: ORDERING AND PROVISIONING: NETWORK ELEMENTS THAT ARE INTERCONNECTED AND FUNCTIONAL</u></b> <ul style="list-style-type: none"> <li>a. May SWBT disconnect elements that are ordered in combination when those elements are interconnected and functional at the time of the order?</li> <li>b. If so what service interruption is permitted when SWBT makes the reconnection for AT&amp;T or makes the facilities available to AT&amp;T for reconnection?</li> </ul>	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 4: ORDERING AND PROVISIONING: NO SERVICE DISRUPTION IDLC</u></b>  May SWBT disconnect to rearrange loop facilities on working service served by IDLC technology when AT&T orders the loop and switch port in combination?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 5: ORDERING AND PROVISIONING: PARITY OF PROVISIONING INTERVALS</u></b>  Combined with Issue IV-2	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 6: ORDERING AND PROVISIONING: PROVISIONING OF DATABASES</u></b>  How will AT&T's customer record information be input and/or maintained in the LIDB database? How will SWBT's costs, if any, be recovered?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 7: MAINTENANCE: AUTOMATED TESTING</u></b>  How does the parity standard determined in issue IV-1 above apply to automated loop testing through the switch port?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 8: COMBINATIONS OF ELEMENT, SERVICES AND FACILITIES</u></b>  May AT&T connect and/or combine unbundled network elements (UNEs) with access services and/or tariffed services?	Steve Turner  and  Nancy Dalton

**IV. UNE PARITY  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b><u>ISSUE 9: MAINTENANCE: FORWARD-LOOKING TESTING SYSTEMS</u></b>  Should AT&T be informed when SWBT introduces new test systems? Should they be allowed access to such systems?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 10: MAINTENANCE: AUTOMATED TESTING THROUGH EBI?</u></b>  To what extent should AT&T have the capability to interactively initiate and receive test results?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 11: PERFORMANCE DATA</u></b>  What performance measurements should be provided for UNEs?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 12: PERFORMANCE MEASUREMENTS: PROVISIONING INTERVALS</u></b>  What provisioning intervals should be provided for UNEs?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 13: PERFORMANCE MEASUREMENTS: NETWORK OUTAGES</u></b>  What performance measurements for network outages should be provided for UNEs?	Sean Minter  and  Nancy Dalton
<b><u>ISSUE 14a: OPTICAL MULTIPLEXING AND DCS CAPABILITY</u></b>  What access to optical multiplexing and DCS capability should be provided to AT&T and on what terms?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE: 14b. INPUT/OUTPUT PORT</u></b>  What access to Input/Output ports is available to AT&T and under what terms and conditions?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 14c: SWITCH CAPABILITY</u></b>  What information should SWBT provide to AT&T concerning the features, functions and capabilities of each end office?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 14d: EXPEDITED SPECIAL REQUEST PROCESS</u></b>  Should the special request process be modified to include AT&T's proposed 10 day price quote procedure?	Steve Turner  and  Nancy Dalton

**IV. UNE PARITY  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b><u>ISSUE 15: BLOCKING/SCREENING REQUIREMENTS</u></b>  What access should AT&T have for blocking/screening and upon what terms and conditions?	Steve Turner  and  Nancy Dalton
<b><u>ISSUE 16: COMBINING ELEMENTS</u></b>  When AT&T orders combinations of elements that are not interconnected in the SWBT network at the time of the order, should the contract provide for SWBT to combine those elements, based on SWBT's determination not to permit AT&T and other LSP technicians access to SWBT network facilities that is equal to the access available to SWBT technicians?	Steve Turner  and  Nancy Dalton

**V. PRICING**  
**CONTRACTUAL DISPUTED ISSUES**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b>ISSUE 1a:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing an EAS Port Additive Charge when AT&amp;T requests a telephone number with a NXX which has an expanded area calling scope and if not, what is the appropriate charge, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1b:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing multiplexing charges, in addition to the dedicated transport charges approved by the Commission and if not, what is the appropriate rate, if any?</p>	<p>Robert Flappan</p>
<p><b>ISSUE 1c:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from accessing Digital Cross Connect Systems (DCS) charges, when AT&amp;T controls the DCS, and if not, what are the appropriate rates, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1d:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing charges for the LIDB Services Management System and the Fraud Monitoring System and a Service Order Charge (when AT&amp;T has a new switch or orders a new type of access to LIDB for query origination) when these are used for AT&amp;T, in addition to LIDB and CNAM query/query transport charges approved by the Commission, and if not, what is the appropriate rate, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1e:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing, non-recurring charges, in addition to the CLEC Simple Conversion Charge approved by the Commission, when AT&amp;T converts a SWBT customer to AT&amp;T service, using all the network elements required to provide the service and if not, what are the appropriate rates, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1f:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing service order charges, in addition to the \$5.00 service order charge established by the Commission, in connection with AT&amp;T orders for unbundled network elements and if not, what are the appropriate rates, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1g:</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing rates or charges for call blocking and screening, in addition to the local switching rates and charges approved by the Commission and if not, what are the appropriate rates, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1h:</b></p> <p>May SWBT assess rating charges, in addition to the operator services and directory assistance charges established by the Commission, when SWBT provides rate quotation service to AT&amp;T, either in a UNE or resale environment and if so, what are the appropriate rates, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>

**V. PRICING**  
**CONTRACTUAL DISPUTED ISSUES**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b>ISSUE 1i:</b></p> <p>Do the permanent rates and charges established by the Commission include appropriate compensation for access to operations support systems for preordering, ordering, provisioning, maintenance, repair and billing of UNEs and resale services? If not, what are the appropriate rates and charges, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 1j:</b></p> <p>Since the Commission's July 31, 1997 Order expressly addressed a rate for DS3 Dedicated Transport Cross-Connects, may SWBT assess dedicated transport cross-connect charges, other than the DS3 transport cross-connect charge established by the Commission and if so, what rates and charges should apply, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 2: Carrier Change Charge</b></p> <p>Does the Commission's October 2, 1997 Order, preclude SWBT from assessing a non-recurring or service order charges, other than the \$5.00 Local Service Customer Change Charge established by the Commission, to modify a customer's service (i.e., add or subtract vertical features) at the time of conversion to resale service and if so, what should the rates and charges be, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 3a:</b></p> <p>What should be the rates for White Pages-Resale and White Pages - Other?</p> <p>What should be the rates for Directory Listings?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 3b:</b></p> <p>What should be the E911 rates charge by SWBT to AT&amp;T?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 4: NXX MIGRATION</b></p> <p>Is NXX Migration a form of interim number portability and if not what is the appropriate rate, if any?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 5:</b></p> <p><u>SWBT Statement of Issue:</u>  Should the temporary ULS rate structure be eliminated prior to SWBT's and the industry's ability to measure and bill the long term structure?</p> <p><u>AT&amp;T Statement of Issue:</u>  Should SWBT's temporary ULS rate structure, under which AT&amp;T will pay for unbundled switching and common transport based on a surrogate formula rather than actual usage due to SWBT's inability to measure terminating usage, be subject to a certain end date and reasonable audit provisions?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>

**V. PRICING**  
**CONTRACTUAL DISPUTED ISSUES**  
**AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue	AT&T Witness
<p><b>ISSUE 6:</b></p> <p><u>SWBT Statement on Issue:</u> See Item 5, above.</p> <p><u>AT&amp;T Statement on Issue:</u> Should a blended transport rate apply to AT&amp;T's usage of common transport and tandem switching, based on average tandem usage within the SWBT network, rather than requiring the parties to track and verify usage of tandem switching for AT&amp;T local customer traffic?</p> <p><b>(Working on Stipulation)</b></p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 7:</b></p> <p>What additional elements need to be priced?</p> <ul style="list-style-type: none"> <li>a. Optical Transport (including multiplexing)</li> <li>b. 4-wire PRI loop to multiplexer cross-connect</li> <li>c. dedicated transport entrance facility when this element is actually utilized</li> <li>d. SS7 LIBFs-cross connects</li> <li>e. call branding for directory assistance and operator services</li> </ul>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 8:</b></p> <p>Does the Commission's October 2, 1997 Order address the pricing for the following items and if not what should the prices be?</p> <ul style="list-style-type: none"> <li>a. loop cross connect without testing to DCS</li> <li>b. loop cross connect with testing to DCS</li> <li>c. subloop cross connect</li> <li>d. nonrecurring charge for unbundled switch port-vertical features</li> <li>e. access to directory assistance database</li> <li>f. dark fiber cross connect</li> <li>g. dark fiber record research</li> </ul>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 9a:</b></p> <p>If SWBT is the hosting company for AT&amp;T what rates apply?</p> <ul style="list-style-type: none"> <li>a. What is the applicable rate, if any, for billing, collecting, and remitting (BCR)?</li> <li>b. What is the appropriate rate, if any, for recording, assembling and editing, rating, message processing, provision of message detail, and source information for record?</li> <li>c. What is the applicable rate, if any, for incollect message credit, incollect message transmission and message detail record?</li> </ul>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>
<p><b>ISSUE 10:</b></p> <p>Should the ICB pricing for customized routing of OS/DA calls be set in this proceeding, if so, what are the prices?</p>	<p>Robert Flappan</p> <p>and</p> <p>Phillip Gaddy</p>

**VI. NETWORK EFFICIENCY  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 1:</b>  Issue removed.	Removed
<b>ISSUE 2: FLEXIBILITY IN ESTABLISHING TRUNK GROUPS</b>  Should AT&T be allowed to combine all forms of traffic on a single trunk group over its interconnection facility with SWBT.	Steve Turner



**VII. COMPENSATION  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 1: MUTUAL COMPENSATION</b>  When in a UNE environment, must AT&T pay the mutual compensation charge or the UNE rate for common transport.	Steve Turner
<b>ISSUE 2: ACCESS TRAFFIC</b>  (i) Whether both interstate and intrastate traffic should be compensated at the applicable access rates;  (ii) Whether Optional Calling Area traffic should be included in this category.	Steve Turner
<b>ISSUE 3: COMPENSATION</b>  Whether the provisions of this Attachment apply in administering compensation in both an Unbundled Network Environment (UNE) environment, as well as in a Facilities-based environment.	Steve Turner
<b>ISSUE 4: COMPENSATION</b>  What mutual compensation provisions should apply when AT&T's end office performs similar functions to SWBT's tandem?	Steve Turner
<b>ISSUE 5: WIRELESS TARIFFS</b>  Issue resolved.	Steve Turner

**VIII. PERFORMANCE CRITERIA  
CONTRACTUAL DISPUTED ISSUES  
AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness:
<b>ISSUE 1: PERFORMANCE CRITERIA</b>  What performance measurement should be subjected to the liquidated damages provision of Attachment 17 and what damages should apply?	Sean Minter
<b>ISSUE 2: PERFORMANCE DATA</b>  What performance measurements should be provided to AT&T for UNEs?	Sean Minter
<b>ISSUE 3: PERFORMANCE MEASUREMENTS: PROVISIONING INTERVALS</b>  What provisioning intervals and what measurements for ordering, provisioning, and maintenance should be provided to AT&T for UNEs?	Sean Minter

**IX. POLES, CONDUITS, AND RIGHTS-OF-WAY  
CONTRACTUAL DISPUTED ISSUES  
AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b>ISSUE 1:</b></p> <p>Issue removed.</p>	Removed
<p><b>ISSUE 2.A.</b></p> <p>Issue resolved.</p>	Resolved
<p><b>ISSUE 2b:</b></p> <p>When AT&amp;T and authorized contractors selected by AT&amp;T perform facilities modifications, capacity expansion, and make-ready work on SWBT's facilities, should the work be done in accordance with SWBT's plans, specifications, standards, and practices and should AT&amp;T be responsible for damage resulting from their activities?</p>	Larry Barnes
<p><b>ISSUE 3:</b></p> <p>Should the definitions of conduit, duct, pole, and rights-of-way be defined to refer to all conduits, ducts, poles, and rights-of-way subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. 251(b)(4) and 271(c)(2)(B)(iii)?</p>	Larry Barnes
<p><b>ISSUE 4:</b></p> <p>Should access to central office vaults be provided under the terms of Appendix Poles, as AT&amp;T proposes, or should such access be provided as part of the collocation arrangements through which AT&amp;T's access to space in SWBT's central offices will be governed?</p>	Larry Barnes
<p><b>ISSUE 5:</b></p> <p>Should the term Cost/Cost-based be defined as agreed to by the parties in Texas, and should the section captioned Charges for Work Performed by SWBT employees and agreed to by the parties in Texas be incorporated in the Missouri Poles Appendix?</p>	Larry Barnes
<p><b>ISSUE 6:</b></p> <p>Issue resolved.</p>	Resolved
<p><b>ISSUE 7:</b></p> <p>What should the Poles Appendix provide concerning the rights of the parties and third-party transferees (such as electric utilities) in those cases in which SWBT transfers its interest in property to which AT&amp;T has attached facilities?</p>	Larry Barnes
<p><b>ISSUE 8:</b></p> <p>Which party's language, if any, concerning no right to interfere should apply?</p>	Larry Barnes
<p><b>ISSUE 9:</b></p> <p>Should SWBT be required, upon notice from AT&amp;T, to suspend activities on, within, or in the vicinity of its poles, ducts, or conduits that create an unreasonable risk of injury to persons or property (including unreasonable risks of service interruptions to AT&amp;T's customers)?</p>	Larry Barnes
<p><b>ISSUE 10:</b></p> <p>Issue resolved.</p>	Resolved

**IX. POLES, CONDUITS, AND RIGHTS-OF-WAY  
CONTRACTUAL DISPUTED ISSUES  
AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 11:</b>  Issue resolved.	Resolved
<b>ISSUE 12:</b>  Should either party relieve itself from liability for introducing hazardous substances to or discharging hazardous substances from SWBT's sites? Should SWBT's definition of the term hazardous substances be approved and should that defined term replace the term environmental contaminants proposed by AT&T?	Larry Barnes
<b>ISSUE 13a:</b>  Issue resolved.	Resolved
<b>ISSUE 13b:</b>  Issue resolved.	Resolved
<b>ISSUE 13c:</b>  When AT&T avails itself of the immediate occupancy provisions of the Poles Appendix, should the field inspection portion of the precense survey be replaced with a post-installation inspection of the facilities installed?	Larry Barnes
<b>ISSUE 13d:</b>  What provisions relating to inspections and charges for inspections should be included in the Poles Appendix?	Larry Barnes
<b>ISSUE 14:</b>  Issue resolved.	Resolved
<b>ISSUE 15a:</b>  Does the December, 1996 Arbitration Order regarding 50%/50% payment apply when SWBT incurs substantial out-of-pocket costs in connection with facilities modification, capacity expansion, or make-ready work authorized by AT&T, and, if not, is it appropriate that SWBT have the option of billing AT&T's for such costs as they are incurred instead of waiting until 50% completion and 100% completion?	Larry Barnes
<b>ISSUE 15b:</b>  What role should each party play in enforcing reimbursement rights from third parties and who benefits from modifications for which AT&T has paid?	Larry Barnes
<b>ISSUE 16:</b>  Should the Poles, Conduits, and Rights-of-Way Appendix, which is part of the Interconnection Agreement between SWBT and AT&T, contain provisions regarding indemnification, limitation of liability, consequential damages, notice, dispute resolution, assignment, and general legal provisions?	Larry Barnes
<b>ISSUE 17:</b>  Should Poles Appendix include a provision which would allow AT&T to have a contractual right to	Larry Barnes

**IX. POLES, CONDUITS, AND RIGHTS-OF-WAY  
CONTRACTUAL DISPUTED ISSUES  
AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
inspect SWBT's facilities after SWBT's completion of structural facilities work?	
<b>ISSUE 18:</b>  Issue resolved.	Resolved
<b>ISSUE 19:</b>  Should the Appendix contain provisions regarding fees for attachments made in the past by AT&T or its predecessors, as part of a complicated and expensive procedure to identify possible unauthorized attachments?	Larry Barnes
<b>ISSUE 20:</b>  Should SWBT be called on to remove facilities no longer in service prior to a request for access by AT&T or another party entitled to access?	Larry Barnes
<b>ISSUE 21:</b>  Should SWBT's rates be subject to annual cost-based adjustments in accordance with the Pole Attachment Act and rules, regulations, and orders thereunder, or should they be fixed for the term of the parties' agreement, a term which remains unspecified? Should a half-duct rate apply to inner ducts, as stipulated by the parties in Texas, where AT&T specifically stipulated to a half-duct rate for inner duct? Were either of these issues specifically addressed by the Arbitrator?	Larry Barnes
<b>ISSUE 22:</b>  Should the Appendix include additional terms regarding payment of invoices?	Larry Barnes
<b>ISSUE 23:</b>  Under what conditions, if any, should SWBT be permitted to modify the rates, fees, and charges contained in the Poles Appendix?	Larry Barnes
<b>ISSUE 24:</b>  This issue is a subset of Issue 16 and will be merged as 16a.	Larry Barnes
<b>ISSUE 25:</b>  This issue is a subset of Issue 16 and will be merged as 16b.	Larry Barnes
<b>ISSUE 26:</b>  Issue resolved.	Resolved
<b>ISSUE 27:</b>  Should the Poles Appendix contain termination provisions which are different from or supplement the termination provisions contained in the general terms and conditions in section in the interconnection agreement?	Larry Barnes
<b>ISSUE 28:</b>  This issue is a subset of Issue 16 and will be merged as 16c.	Larry Barnes

**IX. POLES, CONDUITS, AND RIGHTS-OF-WAY  
CONTRACTUAL DISPUTED ISSUES  
AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b>ISSUE 29:</b></p> <p>Should the Poles Appendix include general legal provisions which are uniformly applicable to AT&amp;T and other parties who have or seek access to SWBT's poles, ducts, conduits, and rights-of-way? Should the Poles Appendix replace earlier agreements between SWBT and AT&amp;T concerning access to poles, ducts, conduits, and rights-of-way? Should licenses issued to AT&amp;T under prior agreements be made subject to the rates, terms, conditions, and procedures set forth in the Poles Appendix and, if so, should references in the Poles Appendix to licenses hereunder be changed to licenses subject to this Appendix? Should SWBT's proposed Changes in the Law section be approved?</p>	Larry Barnes
<p><b>ISSUE 30:</b></p> <p>Should the provisions of Section 14.02(b) proposed by SWBT, and dealing with emergency rearrangements of facilities at SWBT's request, be approved?</p>	Larry Barnes
<p><b>ISSUE 31:</b></p> <p>a. Should Section 2.06 (Additional Negotiations), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>b. Should Section 2.07 (Relationship to Interconnection Agreement), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?:</p> <p>c. Should Section 4.06 (Required Franchises, Permits, Certificates and Licenses), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>d. Should Section 4.07 (Disclaimer of Warranties), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>e. Should Section 5.06 (Access to Building Entrance Facilities, Building Distribution Facilities and Equipment Rooms), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>f. Should Section 6.16 (Differences in Specifications), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>g. Should Section 18.05 (Removal to Avoid Forfeiture), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p> <p>h. Should Section 20.02 (Payment and Performance Bonds in Favor of Contractors and Subcontractors), proposed by SWBT, and opposed by AT&amp;T, be added to the Poles Appendix?</p>	Larry Barnes
<p><b>ISSUE 31:</b></p> <p>Should section 5.03 be amended to include language stating how compensation for the use of rights-of-way will be handled?</p>	Larry Barnes
<p><b>ISSUE 32:</b></p> <p>Should Section 6.08(c) apply to connections with SWBT's conduit system ducts or only to connections with manholes?</p>	Larry Barnes
<p><b>ISSUE 33:</b></p> <p>Should the Poles Appendix include language allowing SWBT to charge AT&amp;T FCC-permitted rates if AT&amp;T occupies space both as a telecommunications carrier and as a cable operator?</p>	Larry Barnes

**IX. POLES, CONDUITS, AND RIGHTS-OF-WAY  
CONTRACTUAL DISPUTED ISSUES  
AT&T - SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<p><b>ISSUE 34:</b></p> <p>a. Should SWBT's proposed Articles 24 (Assignment) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>b. Should SWBT's proposed Articles 25 (Termination and Remedies for Breach) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>c. Should SWBT's proposed Articles 30 (Dispute Resolution) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>d. Should SWBT's proposed Articles 31 (No Reciprocal Use of AT&amp;T's Facilities) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p>	<p>Larry Barnes</p>
<p><b>ISSUE 35:</b></p> <p>a. Should the additional language SWBT proposed for Section 6.03 (Infrequent Constructions Techniques and Connectivity Solutions) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>b. Should the additional language SWBT proposed for Section 6.07 (Efficient Use of Conduit) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>c. Should the additional language SWBT proposed for Section 6.09 (General Requirements Relating to Personnel, Equipment, Materials, and Public Safety) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>d. Should the additional language SWBT proposed for Section 6.10 (Specific Requirements Relating to Personnel, Equipment, Materials, and Construction Practices within or in the Vicinity of SWBT's Conduit Systems) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>e. Should the additional language SWBT proposed for Section 6.11 (Opening of Manholes and Access to Conduits) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>f. Should the additional language SWBT proposed for Section 8.02 (Pole, Duct and Conduit Space Assignments) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>g. Should the additional language SWBT proposed for Section 18.06 (Notice of Completion of Removal Activities) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p> <p>h. Should the additional language SWBT proposed for Section 18.07 (Notice of SWBT's Intent to Remove Facilities) proposed by SWBT and opposed by AT&amp;T be included in the Poles Appendix?</p>	<p>Larry Barnes</p>

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

Issue:	AT&T Witness
<b><u>ISSUE 1: WHOLESALE DISCOUNT</u></b>  Issue resolved.	Resolved
<b><u>ISSUE 2:</u></b>  Should Section 1.X of the agreement contain the phrase in any lawful manner?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 3a: LIMITATION OF LIABILITIES</u></b>  Whether SWBT's liability to AT&T under its indemnification obligations associated with intellectual property claims should be limited.	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 3b: LIMITATION OF LIABILITIES</u></b>  Should the parties' liability to each other be limited to an amount representing what AT&T is charged by SWBT under the contract for a year, or only the amount AT&T is charged by SWBT in a contract year for a particular service or business practice?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 3c: LIMITATION OF LIABILITIES</u></b>  Should the liability of either party for third party claims, other than end user claims, be limited according to the degree of negligence of that party?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 4: INDEMNIFICATION</u></b>  Should each party indemnify the other party against claims made by the indemnifying party's end users, including claims arising out of the indemnified party's negligence, but excluding cases of gross negligence or intentional or willful misconduct?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 5: INTERFERENCE WITH OTHER CONTRACTS</u></b>  Should AT&T be required to attest that this Agreement does not interfere with any other contractual relationships it has with any other party, and that it will indemnify SWBT against any such claims?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 6: LOCAL EXCHANGE CARRIER SELECTION/"SLAMMING"</u></b>  Should the Agreement be amended to include SWBT's proposed additional provisions dealing with local exchange switching/slamming issues?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 7a: OS/DA FACILITIES; SWBT'S PROVISION OF DIRECTORY ASSISTANCE AND OPERATOR SERVICES</u></b>  Is a one year minimum term reasonable when AT&T uses SWBT's OS and DA platform and should SWBT be sole provider of OS/DA when AT&T uses SWBT's OS/DA platform?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 7b: TERMS OF THE ATTACHMENT</u></b>  See 7a.	Julie Chambers  and Phillip Gaddy



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

<b>Issue:</b>	<b>AT&amp;T Witness</b>
<b><u>ISSUE 8: RESPONSIBILITY FOR ENVIRONMENTAL CONTAMINATION</u></b>  What should the Agreement provide regarding responsibility for the presence or release of environmental hazardous, at an affected work location that was introduced by a third party?	Larry Barnes  and  Phillip Gaddy
<b><u>ISSUE 9: OTHER LIMITATION OF LIABILITY AND INDEMNIFICATION PROVISIONS</u></b>  Should SWBT's proposed additional provisions concerning indemnification and limitations of liability be included in the following: Appendix DA Resale, Appendix OS Resale, Attachment 15: 911, Attachment 18: Mutual Exchange of Directory Information, Attachment 19: White Pages-Other, Attachment 22: DA Facilities, Attachment 23: Operator Services Facilities, Attachment 6: UNE, Attachment 24: Recording-Facilities Based?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 10: PER TRANSACTION CHARGE</u></b>  Is \$.003 the appropriate fee assessment for transmitting carrier data per order between AT&T and SWBT?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 11:</u></b>  Should liquidated damages be the sole remedy available for breach of performance criteria?	Resolved
<b><u>ISSUE 12:</u></b>  Issue resolved.	Resolved
<b><u>ISSUE 13: SPECIAL REQUEST PROCESS</u></b>  Whether, if an unbundled Network Element or combination is not available in every area of Missouri, the same would be supplied to AT&T via the "Special Request" process described in Attachment 6: UNE.	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 14: INTERVENING LAW</u></b>  What should the Agreement provide concerning intervening law?	Julie Chambers  and  Phillip Gaddy
<b><u>ISSUE 15: INTELLECTUAL PROPERTY RIGHTS ASSOCIATED WITH UNE</u></b>  Whether SWBT should indemnify AT&T against intellectual property claims resulting from AT&T's purchase of UNEs, or whether instead AT&T must certify to SWBT that it has obtained intellectual property rights associated with UNEs from SWBT's suppliers of UNE facilities and software before AT&T can purchase UNEs.	Julie Chambers  and  Phillip Gaddy

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

Issue:	AT&T Witness
<b>ISSUE 16: DISPUTE RESOLUTION PROCEDURES</b>  Whether mandatory arbitration provisions should apply to all issues involving matters not specifically addressed elsewhere in the Agreement which require renegotiation, modifications of or additions to the Agreement.	Julie Chambers  and  Phillip Gaddy
<b>ISSUE 17: TERM OF AGREEMENT</b>  Issue resolved.	Resolved
<b>ISSUE 18:</b>  Is SWBT required to customize route AT&T local calls to multiple SWBT end offices?	Steve Turner  and  Phillip Gaddy
<b>ISSUE 19:</b>  Once either party reaches an interconnection agreement with a CMRS provider, will SWBT continue to revenue share?	Resolved
<b>ISSUE 20:</b>  Where AT&T operates its own switch, should AT&T obtain a separate NXX code for each SWBT exchange?	Steve Turner  and  Phillip Gaddy
<b>ISSUE 21:</b>  Issue removed.	Removed
<b>ISSUE 22:</b>  Should this agreement require AT&T to provide telephone exchange service to business and residential customers within a specified period after approval of the PSC?	Julie Chambers  and  Phillip Gaddy

**XI. COLLOCATION  
CONTRACTUAL DISPUTED ISSUES MATRIX  
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Issue:	AT&T Witness
<b>ISSUE 1:</b>  What conditions, if any, should be placed on SWBT's ability to reserve space for itself?	Larry Barnes
<b>ISSUE 2:</b>  Who should determine if space is available for collocation in eligible structures and in what manner?	Larry Barnes
<b>ISSUE 3:</b>  Should the agreement include a definition of facility or facilities?	Larry Barnes
<b>ISSUE 4:</b>  How much time should SWBT be permitted to prepare a price quotation?  Should SWBT be required to refund the entire engineering design charge upon a determination that space and power are not available?	Larry Barnes
<b>ISSUE 5:</b>  Which specific elements may be billed as part of the monthly charge?	Larry Barnes
<b>ISSUE 6:</b>  With regard to a specific collocation request:  (1) If the Commission is reviewing disputes between the parties over physical collocation price quotations, must SWBT refrain from issuing such quotations to other LSPs for the same collocation space or refrain from allowing use of that collocation space by other LSPs?  (2) What methodology is appropriate to determine SWBT's Common Charge, Collocated Space Charge, and Monthly Charge for providing AT&T physical collocation facilities?	Larry Barnes
<b>ISSUE 7:</b>  Should SWBT permit AT&T to inspect the Collocated Space prior to its acceptance or rejection of the price quotation?	Larry Barnes
<b>ISSUE 8:</b>  Can SWBT require an up-front payment of quoted non-recurring charges (i.e., the Collocated Space Charge, the Custom Work Charge, and the Common Charge) from AT&T as a condition to reserving and commencing preparation of the collocated Space?	Larry Barnes
<b>ISSUE 9:</b>  May AT&T subcontract the preparation of Collocated Space?	Larry Barnes

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AT&T-SWBT INTERCONNECTION AGREEMENT - MISSOURI**

Issue:	AT&T Witness
<b>ISSUE 10:</b>  Should SWBT be required to refund a pro-rata share of the common charge more than twelve months after the initial collocator has collocated in an Eligible Structure?	Larry Barnes
<b>ISSUE 11:</b>  How should SWBT's compensation be calculated and documented when SWBT begins preparing Collocated Space at AT&T's request prior to receiving regulatory approval if such approval is not obtained and the collocation installation is abandoned?	Larry Barnes
<b>ISSUE 12:</b>  May AT&T review and approve the working drawings and specifications for the preparation of the Collocated Space and the modification of the Eligible Structure?	Larry Barnes
<b>ISSUE 13:</b>  Is AT&T entitled to have approval rights over contractor bids for modifying the Eligible Structure and preparing the Collocated Space?	Larry Barnes
<b>ISSUE 14:</b>  See Issue 9.	Larry Barnes
<b>ISSUE 15:</b>  See Issue 9.	Larry Barnes
<b>ISSUE 16:</b>  Should SWBT be required to provide as-built drawings to AT&T?	Larry Barnes
<b>ISSUE 17:</b>  Is AT&T entitled to inspect, during space preparation, the facilities where its Collocated Space is collocated, and is AT&T entitled to require SWBT to modify the collocation space or make changes to the eligible structure?	Larry Barnes
<b>ISSUE 18:</b>  Must SWBT notify AT&T that preparation of Collocated Space is 50% completed?	Larry Barnes
<b>ISSUE 19:</b>  Can AT&T hire subcontractors to expedite completion of its requested work within the cage portion of the Collocated Space?	Larry Barnes
<b>ISSUE 20:</b>  Can SWBT be made liable for liquidated damages if the Collocated Space is not	Larry Barnes

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Issue:	AT&T Witness
completed within the Completion Interval?	
<b>ISSUE 21:</b>  Issue resolved.	Larry Barnes
<b>ISSUE 22:</b>  As related to a collocation space within an eligible structure:  1. Is AT&T entitled to occupy the Collocated Space before paying all applicable charges?  2. Is AT&T entitled to inspect and require modifications to the eligible structure in order to correct errors in construction at SWBT's expense upon completion of work?  3. Is AT&T entitled to inspect and require modification of AT&T's collocation space to correct errors in construction at SWBT's expense upon completion of work?	Larry Barnes
<b>ISSUE 23:</b>  See Issue 22.	Larry Barnes
<b>ISSUE 24a:</b>  Will and how soon should SWBT provide AT&T information about cable termination for point of termination bay(s) after its approval of the Collocated Space preparation?	Larry Barnes
<b>ISSUE 24b:</b>  (1) Will and how soon must SWBT provide information depicting the exact path of AT&T's outside plant ingress and egress into its Collocated Space within what timeframe?  (2) Must SWBT make environmental warranties relating to the ingress and egress into the Collocated Space?	Larry Barnes
<b>ISSUE 24c:</b>  Will SWBT provide AT&T information about Power Cabling Connectivity and if so within what timeframe?	Larry Barnes
<b>ISSUE 25:</b>  (1) How long does AT&T have after collocation space is made available and SWBT has made interconnection available does AT&T have to interconnect to SWBT's network?  (2) Can AT&T sublease its Collocated Space to another LSP?  (3) If the collocation arrangement is terminated because AT&T fails to place operational telecommunications equipment in the Collocated Space and connect it with SWBT's network, is AT&T liable for the unpaid balance of the charges?	Larry Barnes

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

Issue:	AT&T Witness
<b>ISSUE 26:</b>  Under what circumstances may SWBT raise the monthly charge for a Collocated Space?	Larry Barnes
<b>ISSUE 27:</b>  How should compensation between the parties be calculated and documented when AT&T cancels a request for Collocated Space or fails to occupy a Collocated Space in the time specified?	Larry Barnes
<b>ISSUE 28:</b>  What terms and conditions should govern billing and payment of Collocation Charges?	Larry Barnes
<b>ISSUE 29:</b>  What amount of interest should AT&T pay SWBT on unpaid collocation charges?	Larry Barnes
<b>ISSUE 30:</b>  What terms and conditions should govern the relocation of Collocated Space at SWBT's request?	Larry Barnes
<b>ISSUE 31:</b>  Issue resolved.	Larry Barnes
<b>ISSUE 32:</b>  (1) Can AT&T use any media, other than dielectric fiber optic cable, as a transmission medium to the Collocated Space?  (2) How many points of entry to an Eligible Structure must SWBT provide?	Larry Barnes
<b>ISSUE 33a:</b>  Issue deleted.	Larry Barnes
<b>ISSUE 33b:</b>  Issue resolved by AT&T's agreeing to strike the last sentence of their proposed language and SWBT agreeing to accept the remainder of proposal.	Larry Barnes
<b>ISSUE 33c:</b>  (1) Deleted.  (2) Must SWBT agree to collocate equipment that is used or useful (rather than necessary) in SWBT's Eligible Structure?  (3) Is SWBT required to collocate AT&T's enhanced or information services equipment? Also see Issue 46.  (4) Must SWBT agree to provide AT&T with remote switching module equipment on a	Larry Barnes

**XI. COLLOCATION  
CONTRACTUAL DISPUTED ISSUES MATRIX  
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Issue:	AT&T Witness
virtual collocation basis?  (5) Can SWBT limit the use or functionality of AT&T's collocated equipment to the provision of telecommunications services?	
<u>ISSUE 33d:</u>  Must SWBT provide AT&T personnel and designated agents access to bathrooms and drinking water within the Eligible Structure?	Larry Barnes
<u>ISSUE 33e:</u>  Must SWBT complete an Environmental, Health & Safety Questionnaire for each Eligible Structure in which AT&T applies for Collocated Space?	Larry Barnes
<u>ISSUE 34:</u>  What are the consequences if AT&T's list of collocated equipment be inaccurate?	Larry Barnes
<u>ISSUE 35:</u>  When must SWBT consent to AT&T's collocation of subsequent equipment?	Larry Barnes
<u>ISSUE 36:</u>  Should the events detailed in paragraph 10x be considered a material breach of contract for a particular collocation arrangement?	Larry Barnes
<u>ISSUE 37:</u>  Does SWBT's obligation to permit a collocator to connect its network with that of another collocator in an Eligible Structure extend to virtual collocation?	Larry Barnes
<u>ISSUE 38:</u>  Must SWBT permit AT&T to subcontract the interconnection of its network to that of another collocator within the Eligible Structure?	Larry Barnes
<u>ISSUE 39:</u>  What is the appropriate method for AT&T to object the contents of SWBT's technical publications?	Larry Barnes
<u>ISSUE 40:</u>  See Issue 39.	Larry Barnes
<u>ISSUE 41:</u>  May AT&T or AT&T's subcontractors extend AT&T's cable through the cable vault to the Collocated Space?	Larry Barnes

**XI. COLLOCATION  
CONTRACTUAL DISPUTED ISSUES MATRIX  
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Issue:	AT&T Witness
<b>ISSUE 42:</b>  See Issue 41.	Larry Barnes
<b>ISSUE 43:</b>  What are the parties' responsibilities regarding removal of equipment from the Collocated Space?	Larry Barnes
<b>ISSUE 44:</b>  Deleted Issue.	Larry Barnes
<b>ISSUE 45:</b>  What terms and conditions should apply to SWBT's provision of power to AT&T's equipment?	Larry Barnes
<b>ISSUE 46:</b>  Can AT&T unilaterally permit the joint occupancy, subletting or assignment of its Collocated Space?	Larry Barnes
<b>ISSUE 47:</b>  What obligations does SWBT have to AT&T where a casualty loss renders the Collocated Space untenable?	Larry Barnes
<b>ISSUE 48:</b>  1. In the event of casualty loss, is SWBT obligated to repair, restore, rebuild or replace, at its expense, AT&T's improvements, equipment and fixtures in the Collocated Space?  2. What is SWBT's repair obligation when SWBT's intentional or negligent act causes damage to AT&T's Collocated Space?	Larry Barnes
<b>ISSUE 49:</b>  When and under what conditions may SWBT repossess a Collocated Space?	Larry Barnes
<b>ISSUE 50:</b>  Must SWBT notify AT&T that it has repossessed a Collocated Space?	Larry Barnes
<b>ISSUE 51:</b>  Can SWBT be required to lease additional Collocated Space to AT&T in Eligible Structures if it is in material breach of the Agreement?	Larry Barnes
<b>ISSUE 52:</b>  Which limitation of liability provisions should apply to this Appendix concerning acts or omissions by others?	Larry Barnes



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CONTRACTUAL DISPUTED ISSUES MATRIX  
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Issue:	AT&T Witness
<b>ISSUE 53:</b>  See Issue 6.1 and 40.	Larry Barnes
<b>ISSUE 54a:</b> (1) Resolved with SWBT accepting AT&T's position on 22x. (2) Should AT&T indemnify SWBT for damage to vehicles of AT&T's contractors, invitees, licensees or agents?	Larry Barnes
<b>ISSUE 54B:</b>  Deleted.	Larry Barnes
<b>ISSUE 54c</b>  Resolved by SWBT accepting AT&T's proposed language.	Larry Barnes
<b>ISSUE 54d:</b>  Must AT&T acknowledge in this Appendix that it is not entitled to lost profits and revenues in the event of a service interruption?	Larry Barnes
<b>ISSUE 54e:</b>  Must AT&T accept the recommendations made by SWBT's property insurance manager when SWBT has not provided AT&T with copies of all applicable surveys, recommendations and compliance requirements?	Larry Barnes
<b>ISSUE 55:</b>  Should Appendix 13 be modified to include SWBT's proposed contract language in 22x that SWBT, by agreeing to this appendix, is not waiving any rights?	Larry Barnes
<b>ISSUE 56:</b>  What is the effect of subsequently approved conflicting tariff provisions on the agreements set forth in this Appendix?	Larry Barnes
<b>ISSUE 57:</b>  Issue resolved.	Larry Barnes