

Performance Measurement Numbers:

65	Trouble Report Rate.....
65.1	Trouble Report Rate net of installation and repeat reports
66	Percent Missed Repair Commitments.....
67	Mean Time To Restore
68	Eliminated with the 6 month review - effective 7/12/00
69	Percent Repeat Reports

V. INTERCONNECTION TRUNKS.....

Performance Measurement Numbers:

70	Percentage of Trunk Blockage
70.1	Trunk Blockage Exclusions
71	Common Transport Trunk Blockage
72	Distribution Of Common Transport Trunk Groups > 2%/1%
73	Percentage of Installations Completed Within the Customer Requested Due Date.....
73.1	Percentage Held Interconnection Trunks
74	Average Delay Days For Missed Due Dates – Interconnection Trunks.....
75	Eliminated with the 6 month review - effective 7/12/00
76	Average Trunk Restoration Interval – Interconnection Trunks
77	Average Trunk Restoration Interval for Service Affecting Trunk Groups
78	Eliminated with the 6 month review - effective 7/12/00

VI. DIRECTORY ASSISTANCE (DA) AND OPERATOR SERVICES (OS)

Performance Measurement Numbers:

79	Eliminated with the 6 month review - effective 7/12/00.....
80	Directory Assistance Average Speed Of Answer
81	Eliminated with the 6 month review - effective 7/12/00
82	Operator Services Speed Of Answer
83	Eliminated with 6 month review - effective 7/12/00
84	Eliminated with 6 month review - effective 7/12/00
85	Eliminated with 6 month review - effective 7/12/00
86	Eliminated with 6 month review - effective 7/12/00

VII. INTERIM NUMBER PORTABILITY (INP)

Performance Measurement Numbers:

87	Eliminated with 6 month review - effective 7/12/00
88	Eliminated with 6 month review - effective 7/12/00
89	Eliminated with 6 month review - effective 7/12/00
90	Eliminated with 6 month review - effective 7/12/00

VIII. LOCAL NUMBER PORTABILITY (LNP)

Performance Measurement Numbers:

- 91 Percentage of LNP Only Due Dates Within Industry Guidelines
- 92 Percentage of Time the Old Service Provider Releases the
Subscription Prior to the Expiration of the Second 9 Hour (T2) Timer
- 93 Percentage of Customer Account Restructured Prior to LNP Due Date.....
- 94 Eliminated with 6 month review - effective 7/12/00
- 95 Eliminated with 6 month review - effective 7/12/00
- 96 Percentage Pre-mature Disconnects for Stand alone LNP Orders
- 97 Percentage of Time SWBT Applies the 10-digit Trigger Prior to
the LNP Order Due Date.....
- 98 Percentage Stand Alone LNP I-Reports in 10 Days.....
- 99 Average Delay Days for SWBT Missed Due Dates for Stand
Alone LNP Orders
- 100 Average Time of Out of Service for LNP Conversions.....
- 101 Percent Out of Service < 60 minutes

IX. 911

Performance Measurement Numbers:

- 102 Average Time To Clear Errors.....
- 103 Percent Accuracy for 911 Database Updates
(Facility Based Providers).....
- 104 Average Time Required to Update 911 Database
(Facility Based Providers).....
- 104.1 The average time it takes to unlock the 911 record

X. POLES, CONDUIT AND RIGHTS OF WAY

Performance Measurement Numbers:

- 105 Percent of requests processed within 35 Days
- 106 Average Days Required to Process a Request

XI. COLLOCATION

Performance Measurement Numbers:

- 107 Percentage Missed Collocation Due Dates
- 108 Average Delay Days for SWBT Missed Due Dates.....
- 109 Percent of Requests Processed Within the Tariffed Timelines.....

XII. DIRECTORY ASSISTANCE DATABASE

Performance Measurement Numbers:

- 110 Percentage of Updates Completed into the DA Database
Within 72 Hours for Facility Based CLECs
- 111 Average Update Interval for DA Database for Facility Based CLECs
- 112 Percentage DA Database Accuracy For Manual Updates.....
- 113 Percentage of Electronic Updates that Flow Through the DSR
Process Without Manual Intervention.....

XIII. COORDINATED CONVERSIONS.....

Performance Measurement Numbers:

- 114 Percentage of Premature Disconnects for CHC/FDT LNP
with Loop Lines
- 114.1 CHC/FDT LNP with Loop Provisioning Interval
- 115 Percent Provisioning Trouble Reports (PTR)
- 115.1 Mean Time To Restore - Provisioning Trouble Report (PTR)
- 116 Eliminated with 6 month review - effective 7/12/00

XIV. NXX

Performance Measurement Numbers:

- 117 Percent NXXs loaded and tested prior to the LERG effective date
- 118 Average Delay Days for NXX Loading and Testing
- 119 Eliminated with 6 month review - effective 7/12/00

XV. BONA FIDE/SPECIAL REQUEST PROCESS (BFRs)

Performance Measurement Numbers:

- 120 Percentage of Requests Processed Within 30 Business Days
- 121 Percentage of Quotes Provided for Authorized BFRs/Special
Requests Within X (10, 30, 90) Days
- 122 Eliminated with 6 month review - effective 7/12/00
- 123 Percent of Timely and Compliant Change Management Notices
- 124 Timely resolution of significant Software Failures related
with Releases

**XVI. GENERAL BUSINESS RULES (APPLICABLE TO ALL MEASURES EXCEPT AS
SPECIFICALLY NOTED).....**

- A. Reporting of Exclusions.....
- B. Geographic Market Regions
- Appendix One.....
- Appendix Two
- Appendix Three.....
- Appendix Four

APPENDIX
PERFORMANCE MEASUREMENTS BUSINESS RULES (VERSION 1.7)
RESALE POTS, RESALE SPECIALS AND UNES

Pre-Ordering/Ordering

Measurement
Average Response Time For OSS Pre-Order Interfaces
Definition: The average response time in seconds from the SWBT side of the Remote Access Facility (RAF) and return for pre-order interfaces (Verigate, DataGate/EDI/CORBA) by function.
Exclusions: • None
Business Rules: <p>The clock starts on the date/time when the request is received by SWBT, and the clock stops on the date/time when SWBT has completed the transmission of the response to the CLEC. Timestamps are taken at the DataGate and Verigate servers and do not include transmission time through the LRAF. Response time is accumulated for each major query type, and then divided by the associated total number of queries received by SWBT during the reporting period. The response time is measured only within the published hours of interface availability. Published hours of interface availability are documented on the CLEC web site. (SWBT will not schedule system maintenance during normal business hours (8:00 a.m. to 5:30 p.m. Monday through Friday). If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time.</p> <p>For the protocol translation response times, start and end times are as follows: EDI input time starts at the time the CLEC successfully connects to the EDI Interactive Agent and the end time is when the connection is made to DataGate for processing. EDI output time starts when the response message is received from DataGate and the end time is when the message is sent to the CLEC. CORBA input time starts at the time the message is received by the CORBA interface and the end time is when the connection is made to DataGate for processing. CORBA output time starts when the response message is received from DataGate and the end time is when the message is sent to the CLEC.</p>

Service Availability	6.6 seconds	6.6 seconds
Service Appointment Scheduling (Due Date)	1.0 second	1.0 second
Dispatch Required	12.6 seconds	12.6 seconds
PIC	19.1 seconds	19.1 seconds
Actual Loop Makeup Information requested – actual data returned	12.6 seconds	12.6 seconds
Actual Loop Makeup Information requested – design data returned	23 seconds	23 seconds
Design Loop Makeup Information requested – design data returned	10 seconds	10 seconds
Protocol translation time - EDI input messages	Diagnostic	Not Applicable
Protocol translation time - EDI output messages	Diagnostic	Not Applicable
Protocol Translation Time – CORBA input messages	Diagnostic	Not Applicable
Protocol Translation Time – CORBA output messages	Diagnostic	Not Applicable

1.1 Measurement (Formerly PM57)	
Average Response Time for Manual Loop Make-Up Information	
Definition	
The average time required to provide manual loop qualification for xDSL capable loops measured in business days.	
Exclusions	
<ul style="list-style-type: none"> Manual requests for Loop Makeup Information not initiated by the CLEC; however, manual requests initiated by the LSC as part of the ordering process when no mechanized loop qualification data is available will be included. 	
Business Rules	
<p>For a DataGate/EDI/CORBA or Verigate initiated request, the start date and time is when the request is received in the Loop Qual System. The end date and time for the DataGate/EDI/CORBA or Verigate request is when the loop makeup information has either has been e-mailed back to the CLEC or, if the CLEC does not want email, is available in the Loop Qual System.</p> <p>For manual requests for Loop Makeup Information initiated by the LSC as part of the ordering process, the start date and time is the receipt date and time of the good LSR. The end date and time is when the loop makeup information is available in the Loop Qual System.</p> <p>SWBT will provide raw data to CLECS in an agreed to format, on a monthly basis, without the need for a request from a CLEC, until such time as both parties agree it is no longer necessary.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> None 	
Calculation	Report Structure
$\Sigma(\text{Date and Time the Loop Qualification is made available to CLEC} - \text{Date and Time the CLEC request is received}) / \text{Total number of loop qualifications}$	By CLEC, All CLECs and SWBT or its affiliates (or SWBT acting on behalf of its' affiliate).
Measurement Type	
Tier 1 – Low Tier 2 – Medium	
Benchmark	
3 business days, Critical z-value applies.	

1.2 Measurement (New Measure)	
Accuracy of Actual Loop Makeup Information Provided for DSL Orders	
Definition:	
The percent of accurate DSL actual Loop Makeup Information provided to the CLEC.	
Exclusions:	
None	
Business Rules:	
This measurement tracks accuracy of the loop makeup information provided to the CLEC. It compares reported loop makeup information to actual loop makeup information on the loop provided to the CLEC, and it captures both the clerical error and underlying data error.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • DSL actual Loop Makeup Information provided manually • DSL actual Loop Makeup Information provided electronically 	
Calculation:	Report Structure:
(# of orders for which Loop makeup information provided by SWBT is identical to engineering work confirmation/DLR ÷ total actual Loop Makeup Information responses) * 100	Reported on a CLEC, all CLECs, SWBT DSL affiliate, and SWBT DSL Retail basis by interface for EDI, DATAGATE, VERIGATE, or manually, depending on method of provision of actual loop makeup information.
Measurement Type:	
Tier 1 – Low Tier 2 – Medium	
Benchmark:	
95% accurate for each level of disaggregation, or parity with SWBT DSL Retail, SWBT DSL Affiliate, or other CLECs, whichever is higher.	

2. Measurement		
Percent Responses Received within "X" seconds – OSS Interfaces		
Definition:		
The percent of responses completed in "x" seconds for pre-order interfaces (Verigate and DataGate/EDI/CORBA,)by function.		
Exclusions:		
• None		
Business Rules:		
See Measurement No. 1		
Levels of Disaggregation:		
See Measurement No. 1		
Calculation:		Report Structure:
(# of responses within each time interval ÷ total responses) * 100		Reported on a CLEC, all CLECs, and SWBT affiliate where applicable (or SWBT acting on behalf of its' affiliate), by interface.
Measurement Type:		
Tier 1 – Low Tier 2 – Medium		
Benchmarks:		
Benchmarks for summary CSR applies to <= 30 WTNs. Benchmarks for Loop Makeup Information are interim until parties agree that sufficient data is available to set final benchmarks. No damages will apply for Loop Makeup Information until final benchmarks are set. Critical z-value does not apply.		
Measurement	DataGate/EDI/CORBA	Verigate
Address Verification	90% in = 8.0 seconds 95% in = 12.0 seconds	80% in = 5.0 seconds 90% in = 7.0 seconds
Request For Telephone Number	90% in = 7.0 seconds 95% in = 9.5 seconds	80% in = 4.0 seconds 90% in = 6.0 seconds
Request For Customer Service Record (CSR)	90% in = 8.0 seconds 95% in = 13 seconds	80% in = 7.0 seconds 90% in = 10.0 seconds
Service Availability	90% in = 12.0 seconds 95% in = 16.0 seconds	80% in = 11.0 seconds 90% in = 13.0 seconds
Service Appointment Scheduling (Due Date)	90% in = 1 seconds 95% in = 2.0 seconds	80% in = 2.0 seconds 90% in = 3.0 seconds
Dispatch Required	90% in = 15.0 seconds 95% in = 25.0 seconds	80% in = 17.0 seconds 90% in = 19.0 seconds
PIC	90% in = 27.0seconds 95% in = 41.0 seconds	80% in = 25.0 seconds 90% in = 27.0 seconds

Actual Loop Makeup Information requested – actual data returned	90% in = 15.0 seconds 95% in = 25.0 seconds	80% in = 17.0 seconds 90% in = 19.0 seconds
Actual Loop Makeup Information requested – design data returned	90% in = 25.0 seconds 95% in = 35.0 seconds	80% in = 27.0 seconds 90% in = 29.0 seconds
Design Loop Makeup Information requested – design data returned	90% in = 11.9 seconds 95% in = 20.0 seconds	80% in = 13.5 seconds 90% in = 15.0 seconds
Protocol Translation Time – EDI input message	90% in = Diagnostic 95% in = Diagnostic	Not Applicable
Protocol Translation Time – EDI output message	90% in = Diagnostic 95% in = Diagnostic	Not Applicable
Protocol Translation Time – CORBA input message	90% in = Diagnostic 95% in = Diagnostic	Not Applicable
Protocol Translation Time – CORBA input message	90% in = Diagnostic 95% in = Diagnostic	Not Applicable

PM 3 WAS ELIMINATED WITH THE 6 MONTH REVIEW – EFFECTIVE 7/12/00

4. Measurement	
OSS Interface Availability	
Definition:	
Percent of time OSS interface is available compared to scheduled availability.	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules	
<p>The total “number of hours functionality to be available” is the cumulative number of hours (by date and time on a 24 hour clock) over which SWBT plans to offer and support CLEC access to SWBT’s operational support systems (OSS) functionality during the reporting period. “Hours Functionality is Available” is the actual number of hours, during scheduled available time, that the SWBT interface is capable of accepting or receiving CLEC transactions or data files. The actual time available is divided by the scheduled time available and then multiplied by 100 to produce the “Percent system availability” measure. SWBT will not schedule normal maintenance during OSS Hours of availability as posted on the CLEC web site unless otherwise notified via an accessible letter. SWBT will not schedule normal maintenance during business hours (8:00 a.m. to 5:30 p.m. Monday through Friday). When interfaces experience partial unavailability, an availability factor is applied to the calculation of downtime. This factor is stated as a percentage and represents the impact to the CLEC. Determination of the availability factor is governed by SWBT’s Availability Team on a case by case basis. Disputes related to application of the availability factor may be presented to the Commission. Whenever an interface experiences complete unavailability to a CLEC, the full duration of the unavailability will be counted, to the nearest minute, and no availability factor will be applied. SWBT shall calculate the availability time rounded to the nearest minute.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • EASE reported for Consumer and Business • EDI reported by protocol (SSL3, FTP, NDM, VAN) • EDI/CORBA for Pre-order • DataGate • Verigate • LEX • RAF – By CLEC • TOOLBAR • <u>Order Status</u> • <u>Trouble Administration</u> • <u>Provisioning Order Status</u> • Solid GUI (Diagnostic) 	
Calculation:	Report Structure:
$\frac{[(\text{Hours functionality is available during the scheduled available hours}) \div \text{Scheduled system available hours}]}{* 100}$	<p>Reported on an aggregate CLEC basis by interface. The RAF will be reported on an individual CLEC basis.</p>

Measurement type
Tier 1 – None Tier 2 – High
Benchmark
99.5%. The critical z allowance does not apply on this measurement. No damages are applicable for Solid GUL. This will be reviewed in 6 months

1.1 Measurement (NEW MEASURE)	
Pre-Order Backend System Database Query Availability	
Definition:	
Percent of time backend systems used for pre-order are available compared to scheduled availability.	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules:	
<p>The total "number of hours functionality to be available" is the cumulative number of hours (by date and time on a 24 hour clock) over which SWBT plans to offer and support CLEC access to SWBT's backend systems used for pre-order functionality during the reporting period. "Hours Functionality is Available" is the actual number of hours, during scheduled available time, that the backend systems are capable of providing pre-order responses to CLEC queries. The actual time available is divided by the scheduled time available and then multiplied by 100 to produce the "Percent system availability" measure. SWBT will not schedule normal maintenance during business hours (8:00 a.m. to 5:30 p.m. Monday through Friday). When a backend system experiences partial unavailability, an availability factor is applied to the calculation of downtime. This factor is stated as a percentage and represents the impact to the CLEC. Determination of the availability factor is governed by SWBT's Availability Team on a case by case basis. Disputes related to application of the availability factor may be presented to the Commission. Whenever a backend system experiences complete unavailability to a CLEC, the full duration of the unavailability will be counted, to the nearest minute, and no availability factor will be applied. SWBT shall calculate the availability time rounded to the nearest minute.</p>	
Levels of Disaggregation:	
<p>Wholesale and Retail Impacts Identified for:</p> <ul style="list-style-type: none"> • Address Verification (South PREMIS – Texas Only) • Request For Telephone Number (South PREMIS – Texas Only) • PIC (South PREMIS – Texas Only) • Request For Summary Customer Service Record (3 Texas Regions of CRIS) • Service Availability (3 Texas Regions of CRIS) • CLLI (3 Texas Regions of CRIS) • Due Date (3 Texas Regions of SORD) • Dispatch Required (South LFACS – Texas Only) • Loop Makeup Information (LoopQual) 	
Calculation	Report Structure
$[(\text{Hours functionality is available during the scheduled available hours}) \div \text{Scheduled system available hours}] * 100$	Reported on a SWBT and aggregate CLEC basis by backend system.

Measurement Type
Tier 1 – None
Tier 2 – None
Benchmark
Diagnostic

5. Measurement
Percent Firm Order Confirmations (FOCs) Returned on time for LSR requests.
Definition
Percent of FOCs returned to the CLEC within a specified time frame from receipt of a complete and accurate service request to return of confirmation to CLEC.
Exclusions
<ul style="list-style-type: none"> • Rejected (manual and electronic) LSRs. • SWBT only Disconnect orders. • Services ordered out of the Access Tariff • XDSL orders (See PM 5.1) • Interconnection Orders (See PM 5.2) • Unbundled Dedicated Transport Orders (See PM 5.2)
Business Rules
<p>FOC business rules are established to reflect the Local Service Center (LSC) normal hours of operation, which include Monday through Friday, 8:00 a.m. to 5:30 p.m., excluding holidays and weekends. If the start time is outside of normal business hours, then the start date/time is set to 8:00 a.m. on the next business day. Example: If the request is received Monday through Friday between 8:00 a.m. to 5:30 p.m.; the valid start time will be Monday through Friday between 8:00 a.m. to 5:30 p.m. If the actual request is received Monday through Thursday after 5:30 p.m. and before 8:00 a.m. the next day; the valid start time will be the next business day at 8:00 a.m. If the actual request is received Friday after 5:30 p.m. and before 8:00 a.m. Monday; the valid start time will be at 8:00 a.m. Monday. If the request is received on a holiday (anytime); the valid start time will be the next business day at 8:00 a.m. For LSRs received electronically requiring no manual intervention by the LSC, the OSS hours of operation will be used in lieu of the LSC hours of operation (i.e., actual OSS processing time outside of LSC hours will not be excluded in calculating the interval). The returned confirmation to the CLEC will establish the actual end date/time. Provisions are established within the DSS reporting systems to accommodate situations when the LSC works holidays, weekends, and when requests are received outside normal working hours. For UNE Loop and Port combinations, orders requiring N, C, and D orders; the FOC is sent back at the time the last order that establishes service is distributed.</p> <p>All UNE P orders are categorized as Simple or Complex in the same manner as Retail or Resale orders are categorized. All orders that flow through EASE are categorized as Simple and all orders that do not flow through EASE are categorized as Complex.</p> <p>A Mechanized Business Ordering system (MBOS) document is also required for engineering of trunks that must take place prior to the request being worked. Depending on the changes being made, the due dates for the restructure could be the same day or next day for simple changes. Complex accounts needing an MBOS</p>

could require approximately 5 days to restructure.

The MBOS form must be initiated by the LSC service representative with information from the LSR for services such as Centrex, DIDs, Plexar I, Package II, Plexar II Basic, Plexar Custom Basic, and PRI services such as Smart Trunks, Select Video, etc. Once the MBOS form is completed, the LSC service representative must release it to the other involved departments for review and determination of the design information and to determine the necessary steps to provide the services. This may involve review of TN number availability, design circuit provisioning, translations requirements, etc. to determine the service availability and due date. Depending on the service and complexity of the request, the return of the MBOS could be 3-5 days. Therefore, the FOC is to be negotiated for any services that require an MBOS.

If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time.

LEX/EDI

For LEX and EDI originated LSRs, the start date and time is the receive date and time that is automatically recorded by the interface (EDI or LEX) with the system date and time. The end date and time is recorded by the interface (EDI or LEX) and reflects the actual date and time the FOC is available to the CLEC. For LSRs where FOC times are negotiated with the CLEC, the ITRAK entry on the SORD service order is used in the calculation.

VERBAL or MANUAL REQUESTS

Manual service order requests are those initiated by the CLEC either by telephone, fax, or other manual methods (i.e. courier). The fax receipt date and time is recorded and input on the SM-FID on each service order in SORD for each FOC opportunity. The end time is the actual date and time that a successful attempt to send a paper fax, is made back to the CLEC. If a CLEC does not require a paper fax the FOC information is provided over the phone. In these instances, the order distribution time is used as the FOC end date and time. If a CLEC chooses to receive their FOCs via the Website, the end time is the date and time the FOC is loaded to the Website. The ITRAK-FID is used when FOC times are negotiated with the CLEC. The LSC populates the ITRAK-FID with certain pre-established data entries that are used in the FOC calculation.

Levels of Disaggregation**Manually submitted:**

- Simple Res. And Bus. < 24 Hours
- Complex Business (1-200 Lines) < 24 Hours
- Complex Business (>200 Lines) < 48 Hours
- MBOS related services (Centrex, Plexar I Pkg II, Plexar II, Plexar Custom Basic, and DID Trunks (1-200 lines) = negotiated
- UNE Loop (1-49 Loops) < 24 Hours
- UNE Loop (> 49 Loops) < 48 Hours
- Switch Ports < 24 Hours
- Simple Res. And Bus. LNP Only (1-19 Lines) < 24 Hours
- Simple Residence and Business LNP Only (20+ Lines) < 48 Hours
- LNP with Loop (1-19 Loops) < 24 Hours
- LNP with Loop (20+ Loops) < 48 Hours
- LNP Complex Business (1-19 Lines) < 24 Hours
- LNP Complex Business (20-50 Lines) < 48 Hours
- LNP Complex Business (50+ Lines) < Negotiated with Notification of Timeframe within 24 Hours

Electronically submitted via LEX or EDI:

- Simple Res. And Bus. < 5 Hours
- Complex Business (1-200 Lines) < 24 Hours
- Complex Business (>200 Lines) < 48 Hours
- MBOS related services (Centrex, Plexar I Pkg II, Plexar II, Plexar Custom Basic, and DID Trunks (1-200 lines) = negotiated
- UNE Loop (1-49 Loops) < 5 Hour
- UNE Loop (> 49 Loops) < 48 Hours
- Switch Ports < 5 Hours
- Simple Residence and Business LNP Only (1-19 Lines) < 5 Hours
- Simple Residence and Business LNP Only (20+ Lines) < 48 Hours
- LNP with Loop (1-19 Loops) < 5 Hours
- LNP with Loop (20+ Loops) < 48 Hours
- LNP Complex Business (1-19 Lines) < 24 Clock Hours
- LNP Complex Business (20-50 Lines) < 48 Clock Hours
- LNP Complex Business (50+ Lines) < Negotiated with Notification of Timeframe within 24 Clock Hours

Calculation	Report Structure
$\left(\frac{\text{\# FOCs returned within "x" hours}}{\text{total FOCs sent}} \right) * 100$	Reported by CLEC, all CLECs, and SWBT affiliate where applicable (or SWBT acting on behalf of its' affiliate). This includes mechanized from EDI and LEX and manual (e.g. FAX or phone orders).

Measurement Type
Tier 1 – Low Tier 2 – Medium
Benchmark
<p>All 5 Hour FOC 95% / 24 Hour FOC 94% / 48 Hour FOC 95%/Acct Restr. 95% the Average for the last 5% for 95% benchmark or the last 6% for 94% benchmark shall not exceed 20% of the established benchmark, excluding projects. Violations with respect to the “tail” (the last 5/6%) are subject to Tier 1 low damages and Tier 2 medium damages, and will apply <i>only if</i> SWBT has met the benchmark on the corresponding “percent within x” measurement.</p> <p>The critical z-value does not apply to the following categories</p> <ul style="list-style-type: none">• Simple res. and bus – LEX, EDI and Manual• Complex business – LEX, Manual• UNE (1-49) – EDI, LEX• Simple res. and bus LNP only (1-19) – LEX, EDI• Simple res. and bus. LNP with loop (1-19) – LEX, EDI• LNP Complex Business – LEX, EDI <p>The critical z-value applies to all other categories.</p>

5.1 Measurements
Percent Firm Order Confirmations (FOCs) for XDSL-capable loops & Line Sharing Returned Within "x" Hours
Definition:
Percent of FOCs returned within a specified time frame from receipt of a complete and accurate service request to return of confirmation to CLEC.
Exclusions:
<ul style="list-style-type: none"> • DSL Orders-orders rejected for incomplete or incorrect LSR • DSL Orders-orders denied for pair gain • SWBT only Disconnect orders. • Rejects for non-conformance as to PSD masks if, and only if, the CLEC requests such qualification on the LSR
Business Rules:
<p>FOC business rules are established to reflect the Local Service Center (LSC) normal hours of operation, which include Monday through Friday, 8:00 a.m.-5:30 p.m., excluding holidays and weekends. If the start time is outside of normal business hours, then the start date/time is set to 8:00 a.m. on the next business day. Example: If the request is received Monday through Friday between 8:00 a.m. to 5:30 p.m.; the valid start time will be Monday through Friday between 8:00 a.m. to 5:30 p.m. If the actual request is received Monday through Thursday after 5:30 p.m. and before 8:00 a.m. the next day; the valid start time will be the next business day at 8:00 a.m. If the actual request is received Friday after 5:30 p.m. and before 8:00 a.m. Monday; the valid start time will be at 8:00 a.m. Monday. If the request is received on a holiday (anytime); the valid start time will be the next business day at 8:00 a.m. For LSRs received electronically requiring no manual intervention by the LSC, the OSS hours of operation will be used in lieu of the LSC hours of operation. The returned confirmation to the CLEC will establish the actual end date/time. Provisions are established within the DSS reporting systems to accommodate situations when the LSC works holidays, weekends, and when requests are received outside normal working hours.</p>
<u>LEX/EDI</u>
<p>For LEX and EDI originated LSRs that do not require manual loop makeup information after the receipt of the LSR (requests where mechanized loop makeup information is available when LSR is submitted) the start date and time is the receipt date and time that is automatically recorded by the interface (EDI or LEX). The end date and time is automatically recorded by the interface (EDI or LEX) and reflects the actual date and time the FOC is available to the CLEC.</p>
<p>For DSL orders that require manual loop makeup information after the receipt of the LSR (CLEC did not request manual loop makeup information), the start time for the FOC is the date and time the loop makeup information is available in the Loop Qual System. The end date and time is automatically recorded by the interface (EDI or LEX) and reflects the actual date and time the FOC is available to the CLEC.</p>

MANUAL REQUESTS

Manual service order requests are those requests initiated by the CLEC by fax. For manual requests that do not require a loop qualification after the receipt of the LSR, the receive date and time is when a good LSR is received in the LSC. The end time is the fax date and time the fax (FOC) is sent back to the CLEC or the time of the fax attempt by SWBT. The fax end time is recorded and input via an internal Web application. If a CLEC chooses to receive their FOCs via the Website, the end time is the date and time the FOC is loaded to the Website.

For a manual request that requires an associated loop qualification, the start date and time is when the loop qualification is completed by OSP Engineering and is made available in the LoopQual system, and the end date and time is when the fax is sent back to the CLEC.

Levels of Disaggregation**Manually submitted**

- UNE xDSL Capable Loop (1-49 Loops) < 24 Hours
- UNE xDSL Capable Loop (> 49 Loops) < 48 Hours
- Line Sharing (1-49 Loops) < 24 Hours
- Line Sharing (>49) < 48 Hours

Electronically submitted

- UNE xDSL Capable Loop (1-20Loops) < 6 Business Hours
- UNE xDSL Capable Loop (> 20 Loops) < 14 Business Hours
- Line Sharing (1-49 Loops) < 6 Business Hours
- Line Sharing (>49) < 14 Business Hours

Calculation

$(\# \text{ FOCs returned within "x" hours} \div \text{total FOCs sent}) * 100$

Report Structure

Reported by CLEC, all CLECs, and SWBT affiliate (or SWBT acting on behalf of its' affiliate) where applicable. This includes mechanized from EDI and LEX and manual (FAX or phone orders). These are reported by the percent within x and by the average of the remainder.

Measurement Type:
UNE xDSL Capable Loops: Tier 1 – Low, Tier 2-Medium Line Sharing: Diagnostic (New product, no historical data)
Benchmark:
Line Sharing: Diagnostic for first three months of implementation of the measure then Tier 1 All 6 Hour FOC 95% / 14 Hour FOC 95% / 24 Hour FOC 94% / 48 Hour FOC 95% The Average for the last 5% for 95% benchmark shall not exceed 20% of the established benchmark, excluding projects.

5.2 Measurement (New Measure)	
Percent Firm Order Confirmations (FOCs) Returned within X days on ASR requests	
Definition	
Percent of FOCs returned within a specified time frame from receipt of a complete and accurate service request to return of confirmation to CLEC.	
Exclusions	
<ul style="list-style-type: none"> • All LSRs • Access Orders purchased from SWB tariffs • Rejected (manual and electronic) ASRs. • SWBT only Disconnect orders. 	
Business Rules	
<p>FOC business rules are established to reflect the Local Service Center (LSC) normal hours of operation, which include Monday through Friday, 8:00 a.m.-5:30 p.m., excluding holidays and weekends. If the start time is outside of normal business hours, then the start date/time is set to 8:00 a.m. on the next business day. Example: If the request is received Monday through Friday between 8:00 a.m. to 5:30 p.m.; the valid start time will be Monday through Friday between 8:00 a.m. to 5:30 p.m. If the actual request is received Monday through Thursday after 5:30 p.m. and before 8:00 a.m. the next day, the valid start time will be the next business day at 8:00 a.m. If the actual request is received Friday after 5:30 p.m. and before 8:00 a.m. Monday; the valid start time will be at 8:00 a.m. Monday. If the request is received on a holiday (anytime); the valid start time will be the next business day at 8:00 a.m. The returned confirmation to the CLEC will establish the actual end date/time. Provisions are established within the DSS reporting systems to accommodate situations when the LSC works holidays, weekends, and when requests are received outside normal working hours.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • Interconnection Facilities and Trunks < 7 Business Days • Unbundled Dedicated Transport <ul style="list-style-type: none"> • DS3s < 5 Business Days • DS1s < 1 Business Day • Projects – Negotiated • Broadband service product (Note: Additional disaggregations may be required as necessary in the future. 	
Calculation	Report Structure
$(\# \text{ FOCs returned within "x" hours} \div \text{total FOCs sent}) * 100$	Reported by CLEC, all CLECs, and SWBT affiliate
Measurement Type	
<p>Tier 1 – Diagnostic Tier 2 – None</p>	
This measure is diagnostic for 3 months, until September 2000. With October data it will	

be Tier 1 – Low, Tier 2 – Low.

Benchmark

- Diagnostic for first three months of implementation of the measure then Tier 1 Low
- Interconnection Facilities and Trunks = 95% < 7 Business Days
- Unbundled Dedicated Transport DS3s = 95% < 5 Business Days
- Unbundled Dedicated Transport DS1s = 95% < 1 Business Day

The z-value applies

6. Measurement	
Average Time To Return FOC	
Definition	
The average time to return FOC from receipt of complete and accurate service request to return of confirmation to CLEC.	
Exclusions	
<ul style="list-style-type: none"> • Rejected Orders. • SWBT only Disconnect orders. • Orders involving major projects. 	
Business Rules	
See Measurement No. 5	
Levels of Disaggregation	
Disaggregate for LEX and EDI by the following: <ul style="list-style-type: none"> • Mechanically received via LEX/EDI and FOC'd without LSC intervention (mechanical/mechanical) - Overall average - Reported for 90% and 95% • Mechanically received via LEX/EDI and FOC'd with LSC intervention (mechanical/manual) - Overall average - Reported for 90% and 95% • Received manually via FAX/paper and FOC'd via FAX (manual/manual) - Overall average - Reported for 90% and 95% 	
Calculation	Report Structure
$\Sigma[(\text{Date and Time of FOC}) - (\text{Date and Time of Order Received by SWBT})]/(\# \text{ of FOCs})$	Reported for CLEC and all CLECs.
Measurement Type	
Tier 1 – None Tier 2 – None	
Benchmark	
Diagnostic	

6.1 Measurement: (New Measure)	
Average Time to Return DSL FOC's	
Definition:	
The average time to return DSL FOC's from receipt of complete and accurate service request to return of confirmation to CLEC.	
Exclusions:	
<ul style="list-style-type: none"> • DSL Orders-orders rejected for incomplete or incorrect LSR • DSL Orders-orders denied for pair gain • SWBT only Disconnect orders. • Orders involving major projects. • Rejects for non-conformance as to PSD masks if, and only if, the CLEC requests such qualification on the LSR 	
Business Rules:	
See Measurement No. 5.1	
Levels of Disaggregation:	
Disaggregate for LEX and EDI by the following:	
<ul style="list-style-type: none"> • Mechanically received via LEX/EDI and FOC'd without LSC intervention (mechanical/mechanical) – Overall average <ul style="list-style-type: none"> - Reported for 90% and 95% • Mechanically received via LEX/EDI and FOC'd with LSC intervention (mechanical/manual) – Overall average <ul style="list-style-type: none"> - Reported for 90% and 95% • Received manually via FAX/paper and FOC'd via FAX (manual/manual) – Overall average <ul style="list-style-type: none"> - Reported for 90% and 95% 	
Calculation:	Report Structure:
$\Sigma[(\text{Date and Time of FOC}) - (\text{Date and Time of Order Received by SWBT})]/(\# \text{ of FOCs})$	Reported for CLEC and all CLECs and SWB Affiliate.
Measurement Type:	
Tier 1 – None	
Tier 2 – None	
Benchmark:	
Diagnostic	

PM 7 WAS ELIMINATED WITH THE 6 MONTH REVIEW - EFFECTIVE 7/12/00

7.1 Measurement	
Percent Mechanized Completions Notifications Available Within one Day of Work Completion	
Definition	
Percent Mechanized Completions Notifications Available Within one Day	
Exclusions	
<ul style="list-style-type: none"> Exclude Weekends And Holidays 	
Business Rules	
Days are calculated by subtracting the date the SOC was available to the CLEC via EDI/LEX minus the order completion date. If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time.	
Levels of Disaggregation	
<ul style="list-style-type: none"> LEX EDI 	
Calculation	Report Structure
(# mechanized completions notifications returned to the CLEC within 1 day of work completion ÷ total mechanized completions notifications) * 100	Reported by CLEC and all CLECs and SWB Affiliate.
Measurement Type	
Tier 1 – Low Tier 2 – None	
Benchmark	
97% The critical z-value does not apply.	

0000728

PM 8 WAS ELIMINATED WITH 6 MONTH REVIEW - EFFECTIVE 7/12/00

9. Measurement	
Percent Rejects	
Definition	
The number of rejects compared to the issued unique LSRs and SUPPs for the electronic interfaces (EDI and LEX).	
Exclusions	
<ul style="list-style-type: none"> • Notifications returned post-FOC as electronic jeopardies 	
Business Rules	
A reject is a notification to a CLEC that an LSR received via LEX or EDI did not pass LASR edit checks, other system edits, or edits by the LSC.	
Levels of Disaggregation	
<ul style="list-style-type: none"> • None 	
Calculation	Report Structure
(# of rejects ÷ total unique LSRs and SUPPs) * 100	Reported by CLEC, SWBT DSL Affiliate and all CLECs for the electronic interfaces (EDI and LEX).
Measurement Type	
Tier 1 – None Tier 2 – None	
Benchmark	
Measurement is diagnostic. No benchmark required.	

10. Measurement	
Percent Mechanized Rejects Returned Within one hour of receipt of LSR	
Definition	
Percent mechanized rejects returned within one hour of the receipt of the LSR	
Exclusions	
<ul style="list-style-type: none"> • None 	
Business Rules	
<p>The start time used is the date and time the LSR is recorded by the interface (EDI/LEX)</p> <p>The end time is the date and time the reject notice is available to the CLEC via EDI or LEX. A mechanized reject is any reject made available to the CLEC electronically without manual intervention. If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • LEX • EDI 	
Calculation	Report Structure
$(\# \text{ mechanized rejects returned within } 1 \text{ hour} \div \text{total rejects}) * 100$	Reported for CLEC and all CLECs and SWB affiliate.
Measurement Type	
<p>Tier 1 – Low</p> <p>Tier 2 – None</p>	
Benchmark	
97% within 1 hour. The Critical z-value applies.	

10.1 Measurement	
Percent Manual Rejects Received Electronically and Returned Within X Hours	
Definition	
Percentage of manual rejects received electronically and returned within X hours of the receipt of LSR from CLEC.	
Exclusions	
<ul style="list-style-type: none"> Rejects of LSRs received through manual process i.e. via mail, fax or courier 	
Business Rules	
<p>The start time is the time the LSR is received electronically via EDI or LEX. The end time is the date and time the reject notice is available to the CLEC via EDI/LEX. A manual reject is a reject of an electronic LSR that requires manual intervention. If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time. Business Hours are 8:00 AM-5:30 PM, M-F.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> EDI and LEX (for reporting purposes only, aggregated for purposes of penalty) 	
Calculation	Report Structure
(# electronic manual rejects returned within X hours of receipt of LSR ÷ total electronic manual rejects) * 100	Reported by CLEC and all CLECs and SWB affiliate.
Measurement Type	
<p>Tier 1 – Low Tier 2 – None</p>	
Benchmark	
97% within 6 Hours. Critical z-value does not apply.	

10.2 Measurement (New Measure)	
Percentage of Orders that receive SWB-caused Jeopardy Notifications	
Definition	
Percentage of total orders received electronically via LEX/EDI and processed for which SWB notifies the CLEC that an order is in jeopardy of meeting the due date, due to SWB cause.	
Exclusions	
<ul style="list-style-type: none"> • None 	
Business Rules	
Percentage of Orders Given Jeopardy Notices measures the number of jeopardy notices sent to customers as a percentage of the total number of orders completed in the period. A jeopardy is a notification provided to the CLECs where SWBT identifies the potential for not meeting the scheduled due date (LOF or additional information).	
Levels of Disaggregation	
<ul style="list-style-type: none"> • Jeopardies previously referred to as Rejects (See Accessible Letter CLECSS99-175 dated December 30, 1999) • Facilities Jeopardies • Other SWBT caused Jeopardies • CLEC/EU caused Jeopardies (See Jeopardy Codes Below – Appendix Four) 	
Calculation	Report Structure
(Number of orders jeopardized ÷ Number of orders confirmed) * 100	Reported by CLEC and all CLECs and SWB affiliate.
Measurement Type	
Diagnostic	
Benchmark	
Diagnostic	

11. Measurement	
Mean Time to Return Mechanized Rejects	
Definition	
Average time required to return a mechanized reject.	
Exclusions	
<ul style="list-style-type: none"> • See Measurement No. 10 	
Business Rules	
The start time is the time the LSR is received electronically via EDI or LEX. The end time is the date and time the reject notice is available to the CLEC. A mechanized reject is any reject returned electronically (without manual intervention) to the CLEC.	
Levels of Disaggregation	
<ul style="list-style-type: none"> • EDI • LEX 	
Calculation	Report Structure
$\Sigma[(\text{Date and Time of Order Rejection}) - (\text{Date and Time of Order Receipt})] \div (\# \text{ of unique LSR's and Supps Rejected})$	Reported on CLEC and all CLECs and SWB Affiliate.
Measurement Type	
Tier 1 – None Tier 2 – None	
Benchmark	
Diagnostic	

11.1 Measurement	
Mean Time to Return Manual Rejects that are Received Electronically via LEX or EDI	
Definition:	
Average time to return manual rejects received electronically via LEX or EDI; receipt to return.	
Exclusions:	
<ul style="list-style-type: none"> • See Measurement 10.1 	
Business Rules:	
See Measurement 10.1	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • See Measurement 10.1 	
Calculation:	Report Structure:
$\{\sum(\text{receipt to CLEC of electronic manual rejects} - \text{receipt of electronic manual LSRs}) \div \text{total electronic manual rejects}\}$	Reported for CLEC and all CLECs and SWB Affiliate.
Measurement Type:	
Tier 1 – None Tier 2 – None	
Benchmark:	
6 Hours Critical z value does not apply.	

00000735

112 Measurement (New Measure)	
Average SWB-caused Jeopardy Notification Interval	
Definition	
Measures the average remaining time between the pre-existing committed order completion date and time (communicated via the FOC) and the date and time SWB issues a notice to the CLEC indicating an order received electronically via LEX/EDI is in jeopardy of missing the due date (or the due date/time has been missed).	
Exclusions	
<ul style="list-style-type: none"> • None 	
Business Rules	
<p>With respect to this interval, it is assumed that the order due date time is 5:00 PM for uncoordinated orders, and the Jeopardy date and time will be the actual date and time that SWB issues a notice and is available to the CLEC indicating an order is in jeopardy of missing the due date. With regards to coordinated orders (CHC/FDT), the scheduled due date and time will be used. If the CLEC accesses SWBT systems using a Service Bureau Provider, the measurement of SWBT's performance does not include Service Bureau Provider processing, availability or response time. Business Hours are 8:00 AM-5:30 PM, M-F.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • Jeopardies previously referred to as Rejects (See Accessible Letter CLECSS99-175 dated December 30, 1999) • Facilities Jeopardies • Other SWBT caused Jeopardies • CLEC/EU caused Jeopardies (See Jeopardy Codes Below – Appendix Four) 	
Calculation	Report Structure
Sum ((Committed Due Date /Time for the order) – (Date/Time of Jeopardy notice))/ (number of Jeopardy Orders)	Reported by CLEC and all CLECs and SWB affiliate.
Measurement Type	
Diagnostic	
Benchmark	
TBD	

00000736

12. Measurement	
Mechanized USOC Provisioning Accuracy	
Definition	
Percent of mechanized orders completed as ordered.	
Exclusions	
None	
Business Rules	
This measurement compares the USOCs ordered on a mechanized order, to that which is provisioned based on the posted service order.	
Levels of Disaggregation	
<ul style="list-style-type: none"> None 	
Calculation	Report Structure
(# of orders completed as ordered ÷ total orders) * 100	Reported by individual CLEC, CLECs and SWBT, and SWB affiliate as appropriate.
Measurement Type	
Tier 1 – Low	
Tier 2 – Low	
Benchmark	
Parity	

12.1 Measurement (New Measure)	
Percent Provisioning Accuracy for non-flow through orders	
Definition	
Percent of posted (non-flow through) service orders submitted via LEX/EDI that are provisioned as requested on the CLEC submitted LSR.	
Exclusions	
<ul style="list-style-type: none"> • Flow through service orders as identified in PM 13 • Cancelled Orders • Rejected orders due to CLEC caused errors 	
Business Rules	
This measurement compares all fields that can be compared mechanically (e.g. features, PIC, etc.) as submitted on the LSR to the associated service order that provisioned the requested services and posted to billing.	
Levels of Disaggregation	
<ul style="list-style-type: none"> • None 	
Calculation	Report Structure
(# of posted, non-flow through service orders with fields provisioned as ordered on the LSR's ÷ total non-flow through service orders posted * 100	Reported by individual CLEC, CLECs and SWBT
Measurement Type	
Tier 1 – High Tier 2 – None	
Benchmark	
95%	

13. Measurement	
Order Process Percent Flow Through	
Definition:	
Percent of orders from entry to distribution that progress through SWBT ordering systems without manual intervention.	
Exclusions:	
<ul style="list-style-type: none"> Excludes rejected orders For new versions of the ordering systems which provide additional flow through capabilities, orders that have the potential to flow through in the new version, but for which CLEC utilized the older version, should be excluded from this measurement in both the numerator and denominator. 	
Business Rules:	
The number of orders that flow through SWBT's ordering systems and are distributed in SORD without manual intervention, divided by the total number of MOG Eligible orders and orders that would flow through EASE within the reporting period. Orders that fall out for manual handling, that are worked by SWBT and not rejected back to CLEC due to CLEC caused errors, will be included as failed pass-through occurrences.	
Level of Disaggregation:	
<ul style="list-style-type: none"> EASE LEX EDI <p>The data reported by interface, as specified above, will be used to determine the amount of any Tier 1 or Tier 2 payments under this measurement. In addition, for each interface SWBT will report its performance separately by order type (Resale POTS, UNE combinations POTS, specials (resale and UNE combinations), UNE loops, DSL-capable loops, and other). Tier 1 and Tier 2 payments will not apply to the reports that are disaggregated by order type (these same transactions will be included in the data that is reported by interface and will be subject to Tier 1 and Tier 2 payments there).</p>	
Calculation:	Report Structure:
(# of orders that flow through ÷ total MOG-eligible orders and orders that flow through EASE) * 100	Reported by CLEC, all CLECs and SWBT and SWB affiliate.
Measurement Type:	
Tier 1 – Low Tier 2 – High	
Benchmark:	
Parity	

13.1 Measurement (New Measure)
Overall Percent LSR Process Flow Through
Definition:
Percent of LSRs that progress through SWBT's ordering, provisioning, and billing systems without manual intervention.
Exclusions:
<ul style="list-style-type: none"> • LSRs rejected electronically at LASR or MOG due to a CLEC-caused entry error
Business Rules:
<p>The number of LSRs that are completely processed, through posting and through all relevant systems and databases, without manual intervention, divided by the total number of LSRs that are not rejected electronically at LASR or MOG due to a CLEC-caused entry error within the reporting period. LSRs for which SWBT returns an erroneous electronic reject are counted in the denominator and as a failed pass through occurrence in the numerator. Other examples of LSRs that would be counted as failed pass-through occurrences in the numerator would include:</p>
<ul style="list-style-type: none"> • LSRs for which SWBT returns a manually generated reject, order confirmation, or jeopardy notification, • LSRs for which SWBT internal service orders are not electronically generated or as to which any manual entry is made on associated SWBT internal service orders, • LSRs with any associated service orders that do not distribute out of SWBT's SORD system without fall out or manual processing, • LSRs with any associated service orders that do not update databases without fall out or manual processing, • LSRs which result in any manual AIN trigger setting or manual switch translation work, • LSRs with any associated service orders that do not successfully post to each SWBT back end billing systems without fall out or manual processing including error resolution.
Levels of Disaggregation:
<ul style="list-style-type: none"> • EASE • LEX • EDI
<p>For each interface, SWBT will report its performance separately by order type (Resale POTS, UNE combinations POTS, Specials (resale and UNE combinations), UNE loops, DSL-capable loops, and other).</p>

Calculation	Report Structure
(# of LSRs completely processed without manual intervention ÷ total # of LSRs not rejects at LASR or MOG due to CLEC-caused entry error) * 100	Reported by CLEC, all CLECs, SWBT and SWBT Affiliates.
Measurement Type	
Tier 1 – None Tier 2 – None	
Benchmark	
Diagnostic	

Billing

14. Measurement	
Billing Accuracy	
Definition	
SWBT performs three bill audits to ensure the accuracy of the bills rendered to its customers: CRIS, CABS and toll/usage.	
Exclusions	
Non-recurring charges are not part of the CRIS audit process, as SWBT has developed a test order process to ensure the accuracy of CRIS non-recurring charges.	
Business Rules	
The purpose of the CRIS Bill Audit is to review and recalculate each service billed for each of the seven bill processing centers in the five states. Wholesale accounts are included in each processing center for every billing period. In the toll/usage bill audit, a sample of customer accounts is selected using an appropriate mix of USOCs and Classes of Service. The purpose of this audit is to ensure that monthly bills sent to the CLECs, whether it is for resale or unbundled services, and retail customers are rated accurately according to tariffs and CLEC contracts. For all accounts that are audited, the number of bills that have been released prior to correction (bills are audited for complete information, accurate calculations and are properly formatted) are counted as an error against the total bills audited.	
Levels of Disaggregation	
<ul style="list-style-type: none"> • CLEC and non-CLEC 	
Calculation	Report Structure
(# of bills not corrected prior to bill release ÷ total bills audited) * 100	Reported for aggregate of all CLECs and SWBT for the CRIS, CABS and Usage bill audits.
Measurement Type	
Tier 1 – None	
Tier 2 – None	
Benchmark	
Parity	

00000742

15. Measurement	
Percent of Accurate and Complete Formatted Mechanized Electronic Bills via EDI or BDT	
Definition	
The percent of monthly bills sent to the CLECs via the mechanized electronic EDI or BDT process that are accurate and complete. SWBT will consider, upon review, adding new electronic processes that may be developed in the future"	
Exclusions	
<ul style="list-style-type: none"> • None 	
Business Rules	
<p>EDI Billing accuracy is based upon three factors: totaling, formatting, and syntax. In other words, does the bill total up correctly, does the EDI Billing data conform to the format outlined in the SWB Electronic Commerce Guide for EDI Billing, and is the EDI Billing data syntactically correct. For completeness, EDI checks that the sum of all itemized calls equals the total for the itemized calls bill section, and the sum of all OC&C charges should equal the total for the OC&C section. Similar audits are performed for total current charges and the amount due.</p> <p>BDT Billing accuracy is based upon three factors: totaling, formatting, and syntax. In other words, does the bill total up correctly, does the BDT Billing data conform to the Billing Output Specifications (BOS) format, and is the BDT Billing data syntactically correct? For completeness, BDT checks that the sum of all itemized calls equals the total for the itemized calls bill section, and the sum of all OC&C charges should equal the total for the OC&C section. Similar audits are performed for total current charges and the amount due.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • EDI • BDT • To the extent SWBT sends bills to CLECs using application to application processes other than EDI or BDT, SWBT will include those bills in this measure, separately disaggregated or not, as appropriate, with notice to CLECs of the change. 	
Calculation	Report Structure
(Count of accurate and complete formatted mechanized electronic bills via EDI/BDT ÷ total # of mechanized electronic bills via EDI/BDT.) * 100	Reported for CLEC and all CLECs and ASI where applicable

Measurement Type
Tier 1 – Low Tier 2 – High
Benchmark
99% Critical z-value does not apply for EDI. Critical z-value applies for BDT.

16. Measurement

Percent of Accurate Usage Records transmitted (of those records that are subject to active CLEC review) via the "Extract Return File" process.

Definition:

For those CLECs who agree to utilize the "Extract Return Process," this measure identifies the usage records transmitted, within a given month, by SWBT to the CLECs on the Daily Usage extract feed that have been identified by the CLECs as being inaccurate. The CLECs would return these inaccurate records (preferably within the same month) via the "Extract Return File" process to SWBT. SWBT would then be responsible for validating that these records or a portion of these records were, indeed, transmitted inaccurately. CLECs will have an opportunity to contest any determination by SWBT that a record identified by a CLEC as inaccurate should be considered accurate.

Exclusions:

- Records that are classified as category "01" (the first two digits of the EMI record) which are rated records provided by other companies for SWBT to transmit via the Daily Usage Extract feed to the CLECs
- Category "11" records until such time that the industry has established a return code standard through the OBF forum
- Usage records that are not returned within 30 days via the "Extract Return File"
- Usage records transmitted to CLECs who do not affirmatively agree to utilize the "Extract Return File" process.

Business Rules:

Controls and edits within the billing system uncover certain types of errors that are likely to appear on the usage records. When these errors are uncovered, a new release of the program is written to ensure that the error does not occur again. Thus, an error that is reported in one month should not occur the next month because the billing program error would have been fixed by the next month.

In addition, records identified as inaccurate by the CLECs should be returned to SWBT via the "Extract Return File" process. SWBT will 30 days to validate and correct these records or a portion of these records (as appropriate) and retransmit them to the CLECs. SWBT will be held liable only for the records that have been validated as being inaccurate out of the total number of records returned by the participating CLECs. It is possible that through the validation processes, SWBT may determine that none of the records returned are inaccurate. In that case, SWBT will notify the CLEC of its determination. If the parties cannot agree on the correct determination, either party may invoke dispute resolution..

Levels of Disaggregation:

- None

Calculation	Report Structure
(Total usage records transmitted – total usage records returned by the CLECs via the “Extract Return File” process and validated to be inaccurate) ÷ total usage records transmitted) * 100	Reported for CLEC and all CLECs.
Measurement Type	
Tier 1 – Low Tier 2 – None	
Benchmark	
95% Critical z-value applies	

17 Measurement
Billing Completeness
Definition:
Percent of service orders completed within the billing cycle that post in the CRIS or CABS billing systems prior to the CLECs bill period.
Exclusions:
<ul style="list-style-type: none"> • Access Service Orders billed through CABS. • Interconnection Trunk Orders
Business Rules:
<p>The Billing Completeness Measure includes all orders and is created from the Posted Service Order Database (PSOD). PSOD includes copies of all posted service orders for both the CRIS and CABS. PSOD includes the Bill Period, Completion Date, and Post Date for each Service Order as well as an On-Time/Late indicator created based on these dates. This On-Time/Late indicator is calculated as follows:</p> <ol style="list-style-type: none"> 1. Determine the Bill Date, Completion Date, and Post Date for any order that has an OCN number regardless of order type. 2. Calculate the Bill Date minus one month by subtracting one month from the Bill Date. 3. Determine the Bill Render Date by using the Bill Date to look up the Bill Render Date on the Bill Period Calendar. 4. Compare the Completion Date, Bill Date, Bill Date Minus one month, Bill Render Date, and Post Date of the service order to determine if order is on-time or late: <ul style="list-style-type: none"> • If the Completion Date of the service order is prior to the Bill Date minus one month, then the order is late. • Compare the Post Date to the Bill Render Date. If the Post Date is earlier than or equal to the Bill Render Date and the Completion Date of the service order is equal to or greater than the Bill Date minus one month, then the order is on time. • In all other cases, the order is late. • The Billing Completeness Measure for each month is based on all orders that post within that given month. The denominator of the measure is all orders within a month. The numerator is the total number of on-time orders for that same month. The Billing Completeness Measure calculation is completed for each CLEC, for all CLECs, and for all retail service orders. The CLEC orders for both CRIS and CABS are defined as all service orders that include the AECN or OCN FID. The retail orders are all CRIS orders that do not include an AECN.
Levels of Disaggregation:
<ul style="list-style-type: none"> • None

Calculation	Report Structure
(Count of on-time service orders included in current applicable bill period ÷ total service orders in current applicable billing period) *100	Reported by CLEC, all CLECs, SWBT, and ASI where applicable.
Measurement Type	
Tier 1 – Low	
Tier 2 – Medium	
Benchmark	
Parity with SWBT Retail.	

17.1 Measurement (New Measure)	
Service Order Posting	
Definition:	
Number of Days for Service Order Posting at the 85, 90, and 95 Percentiles	
Exclusions:	
<ul style="list-style-type: none"> • Access Service Orders billed through CABS • Interconnection Trunk Orders 	
Business Rules:	
<p>This measure includes all SORD orders and is created from the Posted Service Order Database (PSOD). This measurement will determine the number days to post a service order to CRIS or CABS billing system at the 85, 90 and 95 percentiles and the percentage of that posts within 5 business days. This measurement would include all SORD orders produced as a result of an LSR request (i.e., C, N, and D wholesale orders). The base for this measure is the total number of SORD service orders that post in a given month.</p>	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • CABS • CRIS 	
Calculation:	Report Structure:
85, 90 and 95 Percentile and the percentage of orders that posts within 5 business days	Reported by CLEC and all CLECs
Measurement Type:	
Diagnostic	
Benchmark:	
TBD	

18. Measurement	
Mechanized Electronic Billing Timeliness EDI and BDT (Wholesale Bill)	
Definition:	
Mechanized Electronic Billing Timeliness measures the length of time from the billing date to the time it is sent or transmitted (made available) to the CLECs.	
Exclusions:	
<ul style="list-style-type: none"> Excludes Weekends and Holidays. Excludes test transmissions 	
Business Rules:	
The transmission date is used to gather the data for the reporting period. The measure counts the number of workdays between the bill day and transmission date for each bill.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> EDI BDT To the extent SWBT sends bills to CLECs using other application to application processes other than EDI or BDT, SWBT will include those bills in this measure, separately disaggregated or not, as appropriate, with notice to CLECs of the change. 	
Calculation:	Report Structure:
(Count of mechanized electronic bills transmitted on time ÷ total number of bills released) * 100	Reported for CLEC and all CLECs and ASI where applicable.
Measurement Type:	
Tier 1 – Low Tier 2 – High	
Benchmark:	
95% within 6 th workday Critical z-value does not apply for EDI, Critical z-value applies for BDT.	

19. Measurement	
Daily Usage Feed Timeliness	
Definition:	
Usage information is sent to the CLECs on a daily basis. This usage data must be sent to the CLEC within 6 work days in order to be considered timely.	
Exclusions:	
<ul style="list-style-type: none"> Excludes Weekends and Holidays. 	
Business Rules:	
The measure uses the actual EMI usage records that are sent to the CLECs. Data date is the recording date of the usage and is part of the EMI usage record. Cycle date is the day the Daily Usage file is sent to the CLEC. Cycle date is found on the pack header record of the Daily Usage file.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> None 	
Calculation:	Report Structure:
(Number of usage feeds transmitted on time ÷ total number of usage feeds) * 100	Reported for CLEC and all CLECs.
Measurement Type:	
Tier 1 – None Tier 2 – None	
Benchmark:	
95% within 6 th workday, Critical z-value does not apply.	

PM 20 WAS ELIMINATED WITH THE 6 MONTH REVIEW - EFFECTIVE 7/12/00

Miscellaneous Administrative

PM 21 WAS ELIMINATED WITH THE 6 MONTH REVIEW - EFFECTIVE 7/12/00

2.2 Measurement	
Local Service Center (LSC) Grade Of Service (GOS)	
Definition	
Percent of calls answered by the Local Service Center (LSC) within 20 seconds.	
Exclusions	
<ul style="list-style-type: none"> Excludes Weekends and Holidays. 	
Business Rules	
<p>The clock starts when the customer enters the queue and the clock stops when a SWBT representative answers the call. The speed of answer is determined by measuring and accumulating the elapsed time from the entry of a CLEC customer call into the SWBT call management system queue until the CLEC customer call is transferred to SWBT personnel assigned to handling CLEC calls for assistance. Data is accumulated from 12:00 a.m. on the first calendar day to 11:59 p.m. on the last calendar day of the month for the reporting period. Hours of operation are 8:00 a.m. to 5:30 p.m. Monday through Friday.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> By SWBT LSC 	
Calculation	Report Structure
<p>Total number of calls answered by the LSC within a specified period of time ÷ Total number of calls answered by the LSC</p>	<p>Reported for all calls to the LSC by operational separation and SWBT.</p>
Measurement Type	
<p>Tier 1 – None Tier 2 – High</p>	
Benchmark	
Parity with SWBT RSC / BSC	

23. Measurement	
Percent Busy in the Local Service Center (LSC)	
Definition:	
Percent of calls which are unable to reach the Local Service Center (LSC) due to a busy condition in the ACD.	
Exclusions:	
See Measurement No. 22	
Business Rules:	
Blocked calls are those which are unable to reach the Local Service Center (LSC) due to a busy condition in the ACD.	
Levels of Disaggregation:	
See Measurement No. 22	
Calculation:	Report Structure:
(Count of blocked calls ÷ total calls offered) * 100	Reported for all CLECs and SWBT.
Measurement Type:	
Tier 1 – None Tier 2 – Low	
Benchmark:	
Parity with SWBT RSC / BSC	

PM 24 WAS ELIMINATED WITH THE 6 MONTH REVIEW - EFFECTIVE 7/12/00

Measurement	
Local Operations Center (LOC) Grade Of Service (GOS)	
Definition:	
Percent of calls answered by the Local Operations Center (LOC) within 20 seconds	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules	
<p>The clock starts when the customer enters the queue and the clock stops when the SWBT representative answers the call. The speed of answer is determined by measuring and accumulating the elapsed time from the entry of a CLEC customer call into the SWBT call management system queue until the CLEC customer call is transferred to SWBT personnel assigned to handling CLEC calls for assistance. Data is accumulated from 12:00 a.m. on the first calendar day to 11:59 p.m. on the last calendar day of the month for the reporting period. The Measure includes calls to the LOC related to provisioning activities, e.g., coordinated conversions, as well as maintenance activities.</p>	
Levels of Disaggregation	
<ul style="list-style-type: none"> • Maintenance Calls (i.e., calls to 1-800-220-4818) • Provisioning Calls – DSL (i.e., calls to 1-817-212-5900) • Provisioning Calls – All other (i.e., calls to Resale: 1-817-212-5598 calls to Interconnection: 1-817-212-5588) <p>(The above telephone numbers are subject to change, but notification will be made via an Accessible Letter.)</p>	
Calculation	Report Structure
Total number of calls answered by the LOC 20 seconds ÷ total number of calls answered by the LOC	Reported for all calls to the LOC by operational separation and SWBT Retail Repair Bureau (CSB) for maintenance calls.
Measurement Tiers	
<p>Tier 1 – None</p> <p>Tier 2 – High</p>	
Benchmark	
<ul style="list-style-type: none"> • Maintenance Calls – Parity with CSB • Provisioning Calls DSL – 90% within 20 seconds – critical z-value applies. • Provisioning Calls All Other – 90% within 20 seconds – critical z-value applies. 	

2b. Measurement	
Percent Busy in the Local Operations Center (LOC)	
Definition:	
Percent of calls which are unable to reach the Local Operations Center (LOC) due to a busy condition in the ACD.	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules:	
Blocked calls are calls those, which are unable to reach the Local Operations Center (LOC) due to a busy condition in the ACD.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • Maintenance Calls (i.e., calls to 1-800-220-4818) • Provisioning Calls – DSL (i.e., calls to 1-817-212-5900) • Provisioning Calls – All other (i.e., calls to Resale: 1-817-212-5598 calls to Interconnection: 1-817-212-5588) <p>(The above telephone numbers are subject to change, but notification will be made via an Accessible Letter.)</p>	
Calculation:	Report Structure:
(Count of blocked calls ÷ total calls offered) * 100	Reported for all CLECs and SWBT.
Measurement Type:	
Tier 1 – None Tier 2 – Low	
Benchmark:	
<ul style="list-style-type: none"> • Maintenance Calls – Parity with CSB • Provisioning Calls DSL – 1% - critical z-value applies • Provisioning Calls All Other – 1% - critical z-value applies 	

RESALE POTS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY SWBT

Provisioning

27 Measurement	
Mean Installation Interval	
Definition	
Average business days from application date to completion date.	
Exclusions	
<ul style="list-style-type: none"> • Excludes customer-caused misses. • Field Work orders – excludes customer requested due dates greater than 5 business days. • No Field Work orders – excluded if order applied for before 3:00 p.m.; and the due date requested is not same day; and if order applied for after 3:00 p.m.; and the due date requested is beyond the next business day. • Excludes all orders except N, T, and C orders. • Excludes Weekends and Holidays. • Excludes expedites for which the CLEC pays. 	
Business Rules	
<p>The clock starts on the Application Date, which is the day that SWBT receives a correct Service Order (EASE) / LSR (LEX or EDI). The clock stops on the Completion Date, which is the day that SWBT personnel complete the service order activity. Orders are included in the month they are completed. There are 2 types of orders in the measurement. Same Day Due orders (defined as distribution time EQUAL or BEFORE 3:00 p.m. and Application Date = Distribution Date = Due Date. Next Day Due orders (defined as distribution time AFTER 3:00 p.m. and Application Date = Distribution Date and Due Date is one business day after Application Date. If the order is Same Day Due, then (Completion – Application Date), if the order is Next Day Due, then [(Completion – Next Business Day) + 1]. UNE Combinations, are reported at order level.</p>	
Levels of Disaggregation	
<p>POTS</p> <ul style="list-style-type: none"> • Field Work (FW) • No Field Work (NFW) • Business class of service • Residence class of service <p>UNE Combination</p> <ul style="list-style-type: none"> • Field Work (FW) • No Field Work (NFW) 	
Calculation	Report Structure

$\frac{[\sum(\text{completion date} - \text{application date})]}{(\text{Total number of orders completed})}$	Reported for CLEC, all CLECs and SWBT.
Measurement Type	
Tier 1 – High Tier 2 – High	
Benchmark	
Resale POTS parity between Field Work compared to SWBT Field Work (N, T, C order types) and No Field Work compared to SWBT Retail No Field Work (N, T, C order types). UNE Combination Parity between Field Work compared to SWBT Field Work (N, T, C order types) and No Field Work compared to SWBT Retail No Field Work (N, T, C order types).	

28. Measurement
Percent POTS/UNE-P Installations Completed Within the customer requested due date.
Definition
Measure of orders completed within the customer requested due date when that date is greater than or equal to the offered interval or if expedited (accepted or not accepted), the date agreed to by SWBT.
Exclusions
<ul style="list-style-type: none"> • Excludes customer caused misses. • Excludes all orders except N, T, and C orders. • Excludes Weekends and Holidays.
Business Rules
<p>The clock starts on the Application Date, which is the day that SWBT receives a correct Service Order (EASE) / LSR (LEX or EDI). The clock stops on the Completion Date which is the day that SWBT personnel complete the service order activity. Orders are included in the month they are completed. There are 2 types of orders in the measurement. Same Day Due orders (defined as distribution time EQUAL or BEFORE 3:00 p.m. and Application Date = Distribution Date = Due Date. Next Day Due orders (defined as distribution time AFTER 3:00 p.m. and Application Date = Distribution Date and Due Date is one business day after Application Date. If the order is Same Day Due, then (Completion – Application Date), if the order is Next Day Due, then [(Completion – Next Business Day) + 1]. UNE Combinations, are reported at order level.</p> <p>Due dates for Field Work orders are determined by the offered interval on the due date board at the time that the order is distributed, unless an expedite has been accepted by SWBT. If the CLEC submits an expedite which is not accepted or the LSR contains an invalid due date, the SWBT agreed to due date will be substituted for the customer requested due date and included in this measure.</p> <p>Due dates for No Field Work Orders will be the due date requested on the LSR, except that, for a No Field Work Order submitted after 3:00 p.m. and the due date requested is the same business day, the due date will be the next business day, unless an expedite has been accepted by SWBT.</p> <p>SWB will provide a diagnostic measure as to how often due date on FOC changes from requested. This will be in the form of a monthly report of the percentage of CLEC requested due dates which are confirmed by FOC, reported separately for resale and for UNE-P if technically feasible. (including/disaggregated by both Field Work and No Field Work orders).</p>

Levels of Disaggregation	
POTS <ul style="list-style-type: none"> • Field Work (FW) • No Field Work (NFW) • Business class of service • Residence class of service UNE Combination <ul style="list-style-type: none"> • Field Work (FW) • No Field Work (NFW) 	
Calculation	Report Structure
(Count of orders installed within the requested interval ÷ total number of orders not subject to exclusions) * 100	Reported for CLEC, all CLECs and SWBT.
Measurement Type	
Tier 1 – None Tier 2 – None	
Benchmark	
Resale POTS parity between Field Work compared to SWBT Field Work (N, T, C order types) and No Field Work compared to SWBT Retail No Field Work (N, T, C order types). UNE Combination Parity between Field Work compared to SWBT Field Work (N, T, C order types) and No Field Work compared to SWBT Retail No Field Work. (N, T, C order types).	

29. Measurement	
Percent SWBT Caused Missed Due Dates	
Definition:	
Percent of N, T, and C orders where installation was not completed by the due date as a result of a SWBT caused missed due date.	
Exclusions:	
<ul style="list-style-type: none"> Excludes orders that are not N, T, or C. 	
Business Rules:	
The due date is the negotiated date by the customer and the SWBT representative for service activation. For CLEC orders, the due date is the due date reflected on the FOC. The Completion Date is the day that SWBT personnel complete the UNE Combinations, are reported at order level. This measure includes in both the numerator and the denominator the number of orders cancelled after a SWBT-caused missed due date.	
Levels of Disaggregation:	
<p>POTS</p> <ul style="list-style-type: none"> Field Work (FW) No Field Work (NFW) Business class of service Residence class of service <p>UNE Combination</p> <ul style="list-style-type: none"> Field Work (FW) No Field Work (NFW) 	
Calculation:	Report Structure:
(Count of N, T, C orders not completed by the due date or cancelled after the due date as a result of a SWBT cause ÷ total number of orders plus total cancels after the due date as a result of SWBT caused missed due dates) * 100	Reported for CLEC, all CLECs and SWBT.
Measurement Type:	
<p>Tier 1 – High</p> <p>Tier 2 – High</p>	
Benchmark:	
Resale POTS parity between Field Work compared to SWBT Field Work (N, T, and C order types) and No Field Work compared to SWBT Retail No Field Work (N, T, and C order types). UNE Combination Parity between Field Work compared to SWBT Field Work (N, T, and C order types) and No Field Work compared to SWBT Retail No Field Work. (N, T, and C order types).	

7.03 Access to Records Relating to SWBT's Poles, Ducts, Conduits, and Rights-of-Way. This section establishes procedures through which certain records and information relating to SWBT's poles, ducts, conduits, and rights-of-way will be made available to CLEC. Access to such records and information shall be conditioned on CLEC's execution of a nondisclosure agreement equivalent in substance to the Nondisclosure Agreement (SWBT Pole, Duct, Conduit, and Rights-of-Way) attached to this Appendix as Exhibit V or such other nondisclosure agreement as shall be mutually acceptable to the parties, and no person acting on CLEC's behalf shall be granted access to such records and information without first signing such a nondisclosure agreement. CLEC shall reimburse SWBT for all reasonable costs incurred by SWBT in granting CLEC's requests for access to records and information under this section.

- (a) CLEC shall, after the effective date of this Appendix, have reasonable access to (1) SWBT's pole and conduit maps and records, (2) SWBT's cable plat maps, and, (3) in addition, other SWBT plant location records recording or logging assignments of pole, duct, and conduit space. CLEC shall be permitted to examine these records during regular business hours at a location where copies of such records are maintained or at such other location as may be mutually agreed upon by the parties. Access to such maps and records shall be by appointment only, and SWBT shall make such maps and records available for inspection by CLEC on two business days notice; provided, however, that CLEC shall, as a courtesy, whenever feasible, provide SWBT with additional advance notice (e.g., 10 business days) of its intent to examine such records.
- (b) The access described in subsection (a) shall include the right to make copies, at CLEC's expense, except for cable plat maps, which shall be made available for inspection only. In all instances, such access shall include the ability to take notes and make drawings with references to those maps and records. No references to cable counts or circuit information may be included in any such copies, notes, or drawings. With respect to other cable-specific or customer-specific information, CLEC copies, notes, or drawings may include only such information as needed for bona fide engineering and construction purposes (e.g., proposing cable consolidations and identifying plant discrepancies) and not for sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities. CLEC's copies, notes, and drawings may include estimates regarding the physical characteristics (such as size and weight) of cables when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of SWBT's poles, ducts, conduits, and rights-of-way for CLEC's intended uses.

SWBT shall provide CLEC the best information available from SWBT's current pole and conduit maps and records, cable plat maps, and other outside plant and construction records. SWBT represents that such records reflect approximate

geographical locations of the facilities depicted and may not accurately reflect information such as:

- (1) the exact location of the facilities depicted;
- (2) the physical size, characteristics, or condition of the facilities depicted;
- (3) the ducts or inner ducts presently occupied, assigned, or available within any particular conduit segment or manhole;
- (4) the arrangement of facilities attached to a pole, the position of facilities suspended between poles or their relationship to each other and to the ground, or the positioning of cables and other facilities housed within ducts, conduits, manholes or other portions of SWBT's conduit system; and
- (5) other information which must be assessed before it can be determined that space is available on or in a pole, duct, or conduit for the attachment or occupancy of CLEC's facilities or that the pole, duct, or conduit depicted is suitable for CLEC's intended use.

7.04 Pre-Occupancy Inspection of Poles, Ducts, Conduits, and Rights-of-Way. CLEC shall be permitted to view and inspect specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis as provided in this section.

- (a) After the effective date of this Agreement, SWBT shall permit CLEC to view specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis. Nothing contained in this section shall preclude CLEC from visually inspecting SWBT's poles, ducts, conduits, or rights-of-way from any vantage point lawfully accessible to CLEC without SWBT's permission.
- (b) CLEC shall not enter any SWBT manhole for the purpose of performing a pre-occupancy inspection without complying with all applicable requirements set forth in Article 6 of this Appendix, including but not limited to the provisions of Section 6.11 relating to the opening of manholes.

ARTICLE 8: POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

8.01 Selection of Space. SWBT must allow CLEC to select the space CLEC will occupy on poles or in conduit systems based upon the same criteria SWBT applies to itself and must provide CLEC information about the network guidelines and engineering protocols used by SWBT in determining the placement of facilities on poles and in conduits. In conduit systems owned or controlled by SWBT, maintenance ducts (as defined in Section 3.25) shall not be considered available for CLEC's use except as specifically provided elsewhere in this Appendix.

All other ducts, inner ducts, sub-ducts, and partitioned conduits which are not assigned or occupied shall be deemed available for use by SWBT, CLEC, and third parties entitled to access under the Pole Attachment Act.

8.02 Pole, Duct, and Conduit Space Assignments. Pole, duct, and conduit space selected by CLEC will be assigned to CLEC as provided in this section. Information received by SWBT in connection with this section shall be subject to the provisions of Article 27 of this Appendix (Confidentiality of Information).

- (a) On receipt of CLEC's application for a pole attachment or conduit occupancy license pole, duct, and conduit space selected by CLEC shall be assigned to CLEC for a pre-occupancy period not to exceed 12 months, beginning with the date of such assignment. The assignment (and date and time) of assignment shall be logged and recorded in the appropriate SWBT records. If such space has been provisionally assigned to CLEC as authorized below in subsection (b), the 12-month pre-occupancy assignment period will begin on the date the provisional assignment is recorded in SWBT's records or the date of SWBT's receipt of CLEC's notice of intent to occupy under subsection (b), whichever date first occurs.
- (b) SWBT shall, within 60 days after the effective date of this Appendix, adopt interim procedures which will enable pole, duct, and conduit space to be provisionally assigned to CLEC and other applicants prior to the submission of formal applications required pursuant to Section 9.02 of this Appendix. Where indicated below, the interim procedures shall apply, on a nondiscriminatory basis, to the assignment of space to SWBT as well as to CLEC and other applicants. SWBT may, on 60 days advance notice to CLEC, revise such interim procedures if such procedures prove to be unworkable, in which event CLEC may challenge SWBT's decision to revise or terminate such interim procedures in accordance with procedures available to CLEC under applicable federal and state laws and regulations. The procedures shall enable CLEC and other applicants, by written notice, to advise SWBT of their intent to occupy unassigned space which appears, from SWBT's records, to be available for assignment. Upon receipt of such notice, SWBT shall date-and time-stamp the notice and provisionally assign the space selected by CLEC or such other applicant by logging and recording the assignment (and date and time of assignment) in the appropriate SWBT records, which records will be available for inspection as provided in Section 7.03 of this Appendix. Space provisionally assigned to CLEC or such other applicant shall not be available for assignment to any other person or entity, including SWBT. Notwithstanding such provisional assignment, CLEC shall not occupy such space without first obtaining a license. The following additional requirements shall apply.

- (1) Before giving SWBT a notice of its intent to occupy unassigned space, CLEC shall make a good faith determination that it actually plans to occupy such space. The assignment process shall not be used by either party for the purpose of holding or reserving space which such party does not plan to use or for the purpose of precluding SWBT or any other person or entity from utilizing or having access to SWBT's poles, ducts, conduits, or rights-of-way.
- (2) With respect to unassigned conduit occupancy space, the notice must include all information required to enable SWBT and joint users, including other persons or entities which may from time to time seek space in the same ducts and conduits, to determine the specific space which CLEC desires to occupy. The notice must, therefore, include, at a minimum, the following information:
 - (i) the specific conduit sections, and each manhole, to be occupied;
 - (ii) the number of ducts, and number of inner ducts, to be occupied by CLEC within each conduit section;
 - (iii) the physical size (diameter) of the cables to be placed in such duct, if known, or the maximum and minimum sizes of the cables which may be placed if more than one size cable is being considered for the space to be occupied;
 - (iv) the anticipated use by CLEC of any infrequent construction techniques and connectivity solutions authorized under Section 6.03 to avoid high or unusual expenditures;
 - (v) CLEC's best estimates of the dates when CLEC plans to begin and complete construction at the sites specified in the notice; and
 - (vi) if applicable, a conspicuous statement (e.g., the words "immediate occupancy" in capital letters) or indication that CLEC intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Appendix.
- (3) With respect to unassigned pole space, such notice must include all information required to enable SWBT and other joint users, including other persons or entities seeking space on the same poles, to determine the specific space which CLEC desires to occupy. The notice must, therefore, include, at a minimum, the following information:
 - (i) the specific poles to be occupied;

- (ii) the specific space on each pole to be occupied, including the height (distance from the ground) of the attachment and the side (road or field) where the attachment is to be made;
 - (iii) the anticipated number and types of cables to be attached, together with the anticipated physical size (diameter) and weight (weight per foot) of such cables, and the anticipated number and types of strands, if any, to be used to support the cables, such information to be sufficient to give notice to SWBT and other joint users of the remaining space on the pole available and what facilities modification, capacity expansion, or make-ready work may be required of subsequent applicants as a result of the provisional assignment of space to CLEC;
 - (iv) the anticipated use by CLEC of any infrequent construction techniques and connectivity solutions authorized under Section 6.03 to avoid high or unusual expenditures;
 - (v) CLEC's best estimates of the dates when CLEC plans to begin and complete construction at the sites specified in the notice;
 - (vi) if applicable, a conspicuous statement (e.g., the words "immediate occupancy" in capital letters) or indication that CLEC intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Appendix.
- (4) No later than 30 days after giving such notice, CLEC shall file an application under Section 9.02 or the provisional assignment shall lapse.
- (5) As stated in Section 7.03(b), SWBT does not represent that its records accurately reflect the information necessary to enable CLEC to rely upon a records-based assignment process. SWBT shall have no duty to verify that space provisionally assigned pursuant to this subsection is actually available until CLEC has formally applied for the space and SWBT has completed the pre-license survey.
- (c) Assignments made prior to the issuance of a license shall be provisional assignments and shall be subject to modification if it is subsequently determined that the space selected by CLEC is already occupied or that a different assignment is required to comply with SWBT's standards for assigning pole, duct, and conduit occupancy space.

- (d) CLEC's obligation to pay semi-annual pole attachment or conduit occupancy fees shall commence from the date the assignment or provisional assignment is logged and recorded in the appropriate SWBT records.
- (e) During the 12-month assignment period following the date space is assigned to CLEC and entered into the appropriate SWBT record, SWBT shall not occupy or use such space without CLEC's permission, shall not assign such space to any party other than CLEC, and shall not knowingly permit any party other than CLEC to occupy or use such space without CLEC's permission except as otherwise specifically provided in this Appendix. The assignment to CLEC shall automatically lapse 12 months after the date the assignment has been entered into the appropriate SWBT record if CLEC has not occupied such assigned space within such 12-month period; provided, however, that if CLEC's failure to occupy the space within such 12-month period results from SWBT's failure to perform make-ready work on schedule, the parties shall negotiate a single extension of the assignment period, which extension shall not extend the assignment period beyond three months from the date of completion of SWBT's make-ready work; and, provided further, that if CLEC can demonstrate that its failure to occupy the space within such 12-month period results from the actions of SWBT or third parties other than persons acting on CLEC's behalf, or from acts of God, the assignment may be extended for a period no longer than three months from the date CLEC is first able to commence construction activities at the site involved. Assignments to third parties shall be subject to the same rules applicable to CLEC under this subsection. Extensions permitted under this subsection must be requested in writing before expiration of the original 12-month period and shall be recorded on the appropriate SWBT records available for inspection under Section 7.03.
- (f) SWBT may assign space to itself by making appropriate entries in the same records used to log assignments to CLEC and third parties. If SWBT assigns pole, duct, or conduit space to itself, such assignment shall automatically lapse 12 months after the date the assignment has been entered into the appropriate SWBT record if SWBT has not occupied such assigned space within such 12-month period; provided, however, that if SWBT's failure to occupy the space within such 12-month period results from the actions of CLEC or third parties other than persons acting on SWBT's behalf, or from acts of God, SWBT's assignment may be extended for a period no longer than three months from the date SWBT is able to commence construction at the site involved. Extensions permitted under this subsection must be recorded before expiration of the original 12-month period on the appropriate SWBT records available for inspection under Section 7.03.
- (g) If facilities modifications, capacity expansions, or other make-ready work are required due to the assignment of space to CLEC or SWBT under this section, the party to whom such space has been assigned shall reimburse the person or entity

incurring the costs for such facilities modifications, capacity expansions, or make-ready work, if the party to whom such space has been assigned fails to occupy the assigned space within the 12-month assignment period or any extension thereof.

- (h) Except as provided in subsections (e)-(f) above, assignments shall not be extended, renewed, or sequentially repeated in any manner (other than by actual occupancy) that enables CLEC, SWBT, or any joint user to preclude access by others to unused pole attachment or conduit occupancy space for any period greater than 12 months after the date of initial assignment.
- (i) At CLEC's election, CLEC may file an application for access which specifically requests that the space sought by CLEC not be assigned to CLEC immediately and not be recorded immediately in the SWBT records available for inspection by other telecommunications carriers, cable television systems, or other providers of telecommunications services under Section 7.03 of this Appendix. In that event, the space sought by CLEC will not be assigned to CLEC and will remain available for assignment to others without restriction until such time as such space is formally assigned to CLEC in accordance with CLEC's written instructions and the assignment is recorded in the records available for inspection under Section 7.03. The assignment shall be made no later than the date of issuance to CLEC of a license confirming that CLEC has the right to occupy the space described in the license. In the event that CLEC elects to proceed under this subsection, CLEC's obligation to pay pole attachment and conduit occupancy fees shall not commence until the date the assignment is recorded in the appropriate SWBT records and CLEC shall bear the risks that (1) the space sought by CLEC will be assigned to and occupied by another person or entity or (2) circumstances will occur which may require that SWBT reevaluate CLEC's application and repeat the field inspection portion of the pre-license survey at CLEC's expense.

8.03 Immediate Occupancy. SWBT shall, within 60 days after the effective date of this Appendix, adopt interim procedures which will provide CLEC the ability to attach or place facilities on or in SWBT's poles, ducts, conduits, and rights-of-way on an immediate basis when such space is available for CLEC's use and no make-ready work or infrequent construction techniques or connectivity solutions are required. SWBT may, on 60 days advance notice to CLEC, revise or terminate such interim procedures if they prove to be unworkable, in which event CLEC may seek renegotiation of this Appendix or challenge SWBT's decision in accordance with procedures available to CLEC under applicable federal and state laws, regulations, and commission orders. The special procedures established under this section shall supplement, rather than replace, the regular assignment and licensing procedures set forth in Articles 8-10 of this Appendix, are intended to be used only under special circumstances (e.g., when the regular procedures allow insufficient time to meet customer service commitments or resolve non-routine construction or network contingencies), shall not be used on a routine basis, and shall be consistent with subsections (a)-(f) below.

- (a) Upon giving SWBT the notice required by this subsection, CLEC may immediately occupy space assigned or provisionally assigned to CLEC pursuant to Section 8.02 of this Appendix. The notice shall be contained in either a notice of intent to occupy as provided in Section 8.02(b) or a license application under Section 9.02. CLEC shall not give such notice or occupy such space without first reviewing SWBT's records and determining that the records reflect that the space sought is available.
- (b) CLEC shall not occupy space which has not been assigned or provisionally assigned to CLEC. The assignment must be recorded on the appropriate SWBT records, as provided in Section 8.02, prior to CLEC's occupancy. If CLEC subsequently determines that the records are inaccurate and that the space assigned to CLEC is not available, or that the space assigned is not suitable for CLEC's intended use, CLEC shall, within one business day, notify SWBT in writing that it no longer intends to occupy the space earlier assigned and is releasing the assignment. Except as otherwise provided in this subsection, CLEC shall not occupy other space on the pole or in the duct or conduit without first obtaining an assignment or provisional assignment of the space which CLEC will occupy. To avoid high or unusual expenditures resulting from unanticipated conditions at the site, CLEC may occupy space not assigned to CLEC subject to the following terms and conditions.
- (1) CLEC may occupy the next available space shown on SWBT's records as available at the time of CLEC's last review of the records. CLEC shall not knowingly occupy space occupied by or assigned to SWBT or any third party without consent of the party to whom the space has been assigned.
 - (2) Within one business day after occupying such space, CLEC shall submit to SWBT a written notice of intent to occupy or an application for the space occupied showing the reason for CLEC's use of the space occupied.
 - (3) CLEC shall bear the risk that space occupied by CLEC pursuant to this section was assigned to SWBT or a third party during the period between CLEC's last review of the records and CLEC's occupancy of such space. After occupying space not previously assigned to CLEC, CLEC shall review the records and promptly notify the affected party if CLEC determines that it has occupied space assigned to such party. At the request of the party to whom such space has been assigned, CLEC shall, within 24 hours, or within such other period of time mutually agreed to by the parties affected, remove its facilities from the space in question if the parties affected cannot reach an acceptable alternative solution. SWBT and CLEC anticipate that all parties affected will act in good faith to work out acceptable solutions and that the parties affected will not insist on

strict adherence to the 24-hour removal requirement unless there is a legitimate business need for compelling removal within such time period.

- (4) SWBT shall be entitled to recover from CLEC actual costs, if any, directly incurred by SWBT as a result of CLEC's decision under this subsection to occupy space subject to a valid prior assignment to SWBT. CLEC shall indemnify, on request defend, and save SWBT harmless from any injury, loss, damage, liability, or claim asserted against SWBT by any third party resulting from CLEC's decision under this subsection to occupy space assigned to such third party.
- (c) Nothing in this section authorizes CLEC to place its facilities on or in any pole, duct, or conduit space already occupied by the facilities of SWBT or a third party, even if the presence of such facilities is not reflected on SWBT's records.
- (d) Nothing in this section authorizes CLEC, without first obtaining SWBT's written authorization, to (1) place its facilities on any pole or in any duct or conduit that requires make-ready work (other than third-party make-ready work arranged directly by CLEC) or (2) utilize any infrequent construction technique or connectivity solution described in Section 6.03.
- (e) If CLEC has not done so already, within 24 hours after occupying space pursuant to this section, CLEC will submit to SWBT an application for the space occupied as provided in Section 9.02 of this Appendix. The application may be submitted by fax.
- (f) CLEC will bear all risks resulting from the possibility that assigned space which appears from the records to be available is not available or in suitable condition to be used by CLEC and shall indemnify, on request defend, and hold SWBT harmless from any injury, loss, damage, claim, or liability (including but not limited to third-party claims) resulting from CLEC's occupancy of space in violation of this section.

ARTICLE 9: APPLICATIONS AND PRE-LICENSE SURVEYS

9.01 Licenses Required. Except as otherwise specifically permitted in this Appendix, CLEC shall apply in writing for and receive a license before attaching facilities to specified SWBT poles or placing facilities within specified SWBT ducts or conduits, manholes, or handholes. License applications and information received by SWBT in connection with such applications shall be subject to the provisions of Article 27 of this Appendix (Confidentiality of Information).

9.02 Application Form. To apply for a pole attachment or conduit occupancy license under this Appendix, CLEC shall submit to SWBT two signed copies of the appropriate

application forms. SWBT represents that the forms specified in subsections (a) and (b) are forms in use prior to the effective date of this Appendix and that SWBT plans to revise such forms to conform to the provisions of this Appendix and to streamline the application process. The parties therefore agree that the forms specified in subsections (a) and (b) shall be interim forms only. SWBT reserves the right to change the format and content of these forms upon 60 days written notice to CLEC.

- (a) To apply for a pole attachment license, CLEC shall submit to SWBT two signed copies of SWBT's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9433. An application for a pole attachment license shall not be complete or subject to processing by SWBT until these forms have been submitted to SWBT; provided, however, that such forms shall be deemed to be substantially complete if they contain the information specified in subsections (c)-(g) below, as applicable. Copies of Forms SW-9433 and SW-9434, are attached to this Appendix as parts of Exhibit III.
- (b) To apply for a conduit occupancy license, CLEC shall submit to SWBT two signed copies of SWBT's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9435 ("Conduit Occupancy"). An application for a conduit occupancy license shall not be complete or subject to processing by SWBT until these forms have been submitted to SWBT; provided, however, that such forms shall be deemed to be substantially complete if they contain the information specified in subsections (c)-(g) below, as applicable. Copies of Forms SW-9434 and SW-9435, are attached to this Appendix as parts of Exhibit III.
- (c) Each application for a license under this Appendix shall include the following information, at a minimum:
 - (1) the poles, ducts, and conduits (including all manholes) along CLEC's proposed route to or within which CLEC desires to attach or place its facilities;
 - (2) a description of the facilities to be attached to SWBT's poles and a description of the facilities to be placed within each component of SWBT's conduit system (including but not limited to ducts, conduits, manholes, and handholes) along the proposed route; and
 - (3) for poles, the proposed points of attachment.
 - (4) if applicable, a conspicuous notation that the space requested is not to be assigned (or billed) to CLEC until SWBT has received CLEC's written instruction to make such assignment or issued a license authorizing CLEC to occupy the space requested; and

- (5) if applicable, a conspicuous statement (e.g., the words "immediate occupancy" in capital letters) or indication that CLEC intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Appendix.
- (d) Facilities descriptions which apply to multiple pole attachments or conduit occupancies need only be described once on any form. Facilities descriptions shall include, at a minimum, the following information:
 - (1) the number and types of cables, including the physical size (diameter) and weight (weight per foot);
 - (2) the number and types of strands, if any, which will be used to support the cables, including the rated holding capacity expressed in thousand pound increments (e.g., 2.2M) of such strands; and,
 - (3) sufficient information to identify and describe the physical characteristics (size, dimensions, and weight) of apparatus enclosures and other facilities to be attached to SWBT's poles or placed in SWBT's conduit system.
- (e) When it appears to CLEC that facilities modification, capacity expansion, or make-ready work, may be required to accommodate CLEC's access requests, CLEC shall describe the facilities modification, capacity expansion or make-ready work which CLEC proposes. CLEC shall also describe its intent to use any infrequent construction techniques or connectivity solutions under Section 6.03 to avoid high or unusual expenditures and its reasons for the utilization of such techniques or solutions.
- (f) CLEC acknowledges that the poles along a particular pole line or route may include poles owned by firms (such as electric utilities) other than SWBT, that it may be necessary for SWBT to rearrange its facilities or perform other make-ready work on poles other than poles it owns or controls in order to accommodate CLEC's request for access to SWBT's poles and that, at the time an application is submitted, it may be difficult for CLEC to determine with certainty whether a particular pole is owned or controlled by SWBT or by another entity. Accordingly, the application shall, to the extent feasible, identify all poles utilized by SWBT (without regard to ownership) along the proposed route.
- (g) Each application for a license under this Appendix shall be accompanied by a construction schedule showing CLEC's projected dates for beginning and completing construction at the sites specified in the application. Information on this schedule may be used by SWBT's engineering and outside plant construction personnel in scheduling work required to process CLEC's applications and

scheduling such capacity expansions, make-ready work, and facilities modifications, if any, as may be necessary to accommodate CLEC's facilities.

9.03 Cooperation in the Application Process. The orderly processing of applications submitted by CLEC and other parties seeking access to SWBT's poles, ducts, conduits, and rights-of-way requires good faith cooperation and coordination between SWBT's personnel and personnel acting on behalf of CLEC and other firms seeking access. The parties therefore agree to the following transitional procedures which shall remain in effect during the term of this Appendix unless earlier modified by mutual agreement of the parties.

- (a) Before submitting a formal written application for access to SWBT's poles, ducts, conduits, and rights-of-way, CLEC shall make a good faith determination that it actually plans to attach facilities to or place facilities within the poles, ducts, conduits, or rights-of-way specified in the application. Applications shall not be submitted for the purpose of holding or reserving space which CLEC does not plan to use or for the purpose of precluding SWBT or any other provider of telecommunications services from using such poles, ducts, conduits, or rights-of-way.
- (b) CLEC shall only submit applications for access to poles, ducts, conduits, and rights-of-way which it plans to use within one year following the date access is granted and will use its best efforts to submit applications in an orderly manner in accordance with CLEC's needs. If CLEC contemplates the need to submit more than 10 applications within any 45-day period with respect to poles, ducts, conduits, and rights-of-way within the territory of any single SWBT construction district, CLEC shall give SWBT advance notice as promptly as is reasonably practicable.
- (c) No more than 300 poles (and their associated anchors and anchor/guy strands) shall be the subject of any single pole attachment license application.
- (d) No more than 20 manholes shall be the subject of any single conduit occupancy license application.

9.04 CLEC's Priorities. When CLEC has multiple applications on file within a single SWBT construction district, CLEC shall, at SWBT's request, designate its desired priority of completion of pre-license surveys, capacity expansions, make-ready work, and facilities modifications with respect to all such applications.

9.05 Pre-license Survey. A pre-license survey (including a review of records and field inspection, if necessary) will be completed by SWBT after CLEC has submitted its written license application as specified in Section 9.02 of this Appendix. SWBT will not, without due cause and justification, repeat pre-occupancy survey work performed by CLEC.

- (a) The field inspection portion of the pre-license survey, which includes the visual inspection of existing pole and conduit facilities, shall be performed by SWBT or its authorized representative. Primary purposes of the field inspection will be to enable SWBT to (1) confirm or determine the facilities modification, capacity expansion, and make-ready work, if any, necessary to accommodate CLEC's facilities; (2) plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare SWBT's poles, ducts, conduits, rights-of-way, and associated facilities for CLEC's proposed attachments or occupancy; and (3) estimate the costs associated with such facilities modification, capacity expansion, or make-ready work. SWBT may dispense with the field inspection if it appears that the information necessary to process CLEC's license application is already available from existing sources, including the application forms and such other information as may be available to SWBT. If CLEC has occupied the space requested before the issuance of a license, a post-installation inspection of CLEC's facilities may be performed, in place of the field inspection portion of the pre-license survey, to determine whether such facilities are in compliance with the specifications of Article 6 and other provisions of this Appendix. In performing such inspection, SWBT will not, without due cause and justification, repeat pre-occupancy survey work performed by CLEC.
- (b) The administrative processing portion of the pre-license survey (which includes processing the application and reviewing records) will be performed by SWBT.
- (c) Before performing any portion of the pre-license survey, SWBT shall obtain CLEC's written authorization to perform such work. Authorization may be given, when possible, when the application is submitted.

ARTICLE 10: ISSUANCE AND DENIAL OF LICENSES

(INCLUDING FACILITIES MODIFICATIONS, CAPACITY EXPANSIONS, AND MAKE-READY WORK)

10.01 Response Within 45 Days. Within 45 days of CLEC's submission of a license application pursuant to Section 9.02 of this Appendix, or within such other period of time as may be mutually agreed upon in writing by the parties, SWBT shall respond to the application. The response shall state whether the application is being granted or denied. If denial is anticipated, or if SWBT personnel involved in the processing of CLEC's request for access become aware of hazardous substances at the site requested by CLEC, SWBT shall promptly advise CLEC and shall, at CLEC's request, discuss alternatives to denial and issues associated with the presence of such hazardous substances.

- (a) If access is granted, SWBT shall, no later than 45 days after CLEC's submission of the license application, further advise CLEC in writing (1) what facilities modifications, capacity expansions, or make-ready work, if any, will be required

to prepare SWBT's pole or conduit facilities (2) provide CLEC an estimate of charges for such facilities modifications, capacity expansions, or make-ready work, (3) disclose to CLEC any hazardous substances known by SWBT to be present at the site.

- (b) If access is denied, SWBT will confirm the denial in writing by the 45th day after the receipt by SWBT of CLEC's completed application. The denial of access shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how such evidence and information relates to a denial of access for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. If CLEC in its completed application sets forth in writing specific proposals for expanding capacity, the denial statement shall specifically address such proposals.
- (c) CLEC agrees that if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific poles, ducts, or conduit facilities, CLEC shall promptly withdraw or amend its application, thereby minimizing the administrative burdens on SWBT of processing and responding to the application.
- (d) Notwithstanding the 45-day deadline, SWBT will, pursuant to Section 8.03 of this Appendix, make available to CLEC for immediate occupancy any duct, conduit, or pole space not currently assigned, not designated as the maintenance duct, and not subject to applicable make-ready requirements. Availability shall be based on the appropriate SWBT records to be maintained by SWBT but which will be made available for viewing by CLEC on two business days notice as provided in Section 7.03 of this Appendix. CLEC will bear all risks resulting from the possibility that space which appears from the records to be available is not in suitable condition to be used by CLEC.
- (e) If SWBT fails to respond in writing within 30 days of SWBT's documented receipt of a license application pursuant to Section 9.02 of this Appendix, or within such other period of time as may be mutually agreed upon in writing by the parties, CLEC may by written notice inquire whether SWBT intends to deny CLEC's request for access. After such notice has been given and receipt by SWBT of a properly submitted license application has been confirmed, SWBT's failure to respond in writing within 15 days after receipt of the notice shall be deemed to constitute approval of the request for access. In such event, CLEC shall be entitled to occupy the space requested without the formality of a license; provided, however, that nothing contained in this subsection shall authorize CLEC to occupy space already occupied or subject to a prior valid space assignment to SWBT or any third-party; and provided further that nothing in this subsection authorizes CLEC, without first obtaining SWBT's written authorization, to (1) place its facilities on any pole or in any duct or conduit that requires make-ready work (other than third-party make-ready work arranged

directly by CLEC) or (2) utilize any infrequent construction technique or connectivity solution described in Section 6.03.

10.02 Obligation to Construct or Modify Facilities; Capacity Expansions. The parties agree that SWBT may grant access subject to CLEC's approval of such make-ready work or facilities modifications as may be required to expand capacity to accommodate CLEC's request, in which event CLEC shall either accept such conditions, initiate good faith negotiations to explore other potential accommodations, or withdraw its request for access. If SWBT does not offer to expand capacity and denies CLEC's request for access, SWBT shall promptly notify CLEC of such determination. SWBT shall not deny CLEC's request for access on lack of capacity grounds when capacity can be expanded as provided in this section and in Section 6.03 of this Appendix dealing with infrequent construction techniques and connectivity solutions:

- (a) SWBT agrees to modify its outside plant facilities to the extent that CLEC agrees to pay for the modification at cost, such as but not limited to cable consolidations, as long as such modifications are consistent with capacity, safety, reliability, and engineering considerations which SWBT would apply to SWBT if the work were performed for its own benefit. SWBT may recover from CLEC the costs of modifying its outside plant facilities for CLEC's space. SWBT may not require payment of the full amount in advance. CLEC will pay half of the contractors' costs after 50% completion of work, and the remainder at completion. To facilitate the sharing of costs by all parties benefiting from the modification, SWBT will establish a methodology whereby CLEC will be reimbursed on a pro rata basis for any portion of the facility later used by SWBT and other telecommunications providers, including, but not limited to, telecommunications carriers and cable television systems.
- (b) SWBT agrees, at its own expense, to install inner duct in a timely manner to accommodate CLEC's space needs in accordance with the same time interval SWBT provides to itself. If SWBT's interval for beginning or completing make-ready work does not meet CLEC's needs, CLEC, as a qualified contractor, may perform the inner-duct installation itself or utilize subcontractor(s) selected by CLEC from a list of mutually agreeable qualified "bidders" developed by SWBT and CLEC. When inner duct is installed by CLEC or an authorized contractor in SWBT's conduit system, SWBT shall provide the inner-ducting materials to be installed and CLEC shall bear all other installation expenses. CLEC shall give SWBT sufficient advance notice of the materials needed to enable SWBT to provide such materials to CLEC on a timely basis. CLEC shall return all unused materials, including unused inner duct and reels, to SWBT or purchase them from SWBT. Inner duct installed by CLEC or an authorized contractor shall be installed in accordance with the same standards and practices which would be followed if the inner duct were being installed by SWBT or SWBT's contractors. CLEC will indemnify SWBT for damages, resulting from CLEC's self-provisioning of the inner-duct.

- (c) SWBT agrees to, remove cables at its expense that are retired or inactive (dead) to free-up requested duct and pole space, provided that such removal is reasonably feasible (i.e. cable pulls easily without incident). If a section of cable is "frozen" in a duct and would require excavation to remove, CLEC, at its option, may excavate the obstruction or request that SWBT excavate the obstruction. The excavation would be at CLEC's expense; removal of the remainder of the cable would be at SWBT's expense.

10.03 Issuance of Licenses and Immediate Access When No Make-ready Work is Required. If, on the basis of CLEC's representations or SWBT's field inspection, if any, SWBT determines that no make-ready work is necessary to accommodate CLEC's facilities, SWBT will issue a license without performing make-ready work and pole attachment or conduit occupancy space will be made available to CLEC for immediate occupancy. Immediate occupancy prior to the issuance of a license shall be governed by Section 8.03.

10.04 Performance of Make-ready Work. Except as otherwise specifically provided in Section 10.02 and in this section, make-ready work shall be performed by SWBT or by contractors, subcontractors, or other persons acting on SWBT's behalf and shall be performed by SWBT in accordance with the same time intervals which would be applicable if SWBT were performing the work for itself.

- (a) CLEC and SWBT will mutually establish and maintain a list of authorized contractors who may be selected by CLEC to perform make-ready work when SWBT's interval for beginning or completing such make ready work does not meet CLEC's needs.
- (b) If SWBT's interval for beginning or completing make-ready work does not meet CLEC's needs, CLEC may, as an authorized contractor, perform the make-ready work itself or arrange for the work to be performed by an authorized contractor selected by CLEC from the applicable list of authorized contractors. Subject to the availability of personnel, CLEC may also request that SWBT perform the work on an expedited basis; provided, however, that make-ready work will not be performed on an expedited basis unless CLEC first approves any overtime or premium rates or charges associated with performance of the work on an expedited basis.
- (c) From time to time, additional contractors, subcontractors or other vendors may be approved by CLEC and SWBT to perform make-ready work in the event that the workload exceeds the capacity of the authorized contractors on the approved list to perform the make-ready work in a timely manner.

- (d) Nothing contained in this section authorizes CLEC, any authorized contractor selected by CLEC, or any other person acting on CLEC's behalf to consolidate SWBT's cables.

10.05 Make-ready Work. If SWBT determines that make-ready work will be necessary to accommodate CLEC's facilities, SWBT shall promptly notify CLEC of the make-ready work proposed to enable the accommodation of CLEC's facilities.

- (a) The notice shall be given in writing no later than 45 days after the receipt by SWBT of CLEC's completed application pursuant to Section 9.02 of this Appendix or within such other period of time as may be mutually agreed upon in writing by the parties.
- (b) The notice will include SWBT's estimate of make-ready charges, which estimate shall be stated on SWBT Form SW-9434 ("Access Application and Make-Ready Authorization"), a copy of which is attached hereto as part of EXHIBIT III.
- (c) CLEC shall have 20 days (the "acceptance period") after receiving SWBT's estimate of make-ready charges to authorize completion of the make-ready work proposed by SWBT or to advise SWBT of its willingness to perform the proposed make-ready work itself. If CLEC advises SWBT that it is willing to perform the make-ready work proposed by SWBT in accordance with a design approved by SWBT, and SWBT's specifications, SWBT will not, without due cause and justification, refuse to accept CLEC's offer to perform the work. Authorization shall be accomplished by CLEC's signing the estimate and returning it to SWBT within the 20-day acceptance period.
- (d) Within the 20-day acceptance period, the parties may negotiate modifications of the make-ready work to be performed. If the parties reach agreement through negotiation, a new estimate shall be prepared and authorization shall be accomplished by CLEC's signing the revised estimate and returning it to SWBT within the original 20-day acceptance period, or within such period of time as may be mutually agreed upon by the parties.
- (e) If CLEC does not sign and return the estimate within the 20-day acceptance period, or within such other period of time as may be mutually agreed upon in writing by the parties, CLEC shall notify SWBT in writing by the 20th day whether CLEC is withdrawing its application, electing to perform the make-ready work itself as provided in subsection (c) or electing to treat SWBT's make-ready requirements as a denial of access.
 - (1) If no such notice is given by the 20th day, or such later date as may be mutually agreed upon by the parties, SWBT shall contact CLEC to determine whether CLEC intends to withdraw its application. CLEC shall

be deemed to have withdrawn its application if, in response to SWBT's inquiry, CLEC does not immediately sign and return the estimate to SWBT.

- (2) If CLEC timely notifies SWBT that it is electing to treat SWBT's make-ready requirements as a denial of access, SWBT shall, within 20 days after receiving the notice, provide CLEC with a written statement explaining its decision to grant access only if the specified make-ready work is performed. The statement shall be specific, shall include all relevant evidence and information supporting SWBT's decision to grant access only if the specified make-ready work is performed, and shall explain how such evidence and information relates to SWBT's decision for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. The statement shall also set forth the basis for SWBT's make-ready proposals and specifically address SWBT's rationale for rejecting CLEC's alternative written proposals, if any.

10.06 Multiple Applications. Applications shall be processed on a first-come, first-served basis. Applications filed on the same date shall be treated as having been filed simultaneously and shall be processed accordingly.

10.07 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. CLEC shall make arrangements with the owners of other facilities attached to SWBT's poles or occupying space in SWBT's conduit system regarding reimbursement for any expenses incurred by them in transferring or rearranging their facilities to accommodate the attachment or placement of CLEC's facilities to or in SWBT's poles, ducts, and conduits.

10.08 Reimbursement for the Creation or Use of Additional Capacity. CLEC acknowledges that as a result of make-ready work performed to accommodate CLEC's facilities, additional capacity may become available on SWBT's poles or in its conduit system. In such event, CLEC shall not have any preferential right to utilize such additional capacity in the future and shall not be entitled to any monies which may subsequently be paid to SWBT for the use of such additional capacity by any joint user; provided, however, SWBT must establish a methodology whereby CLEC is reimbursed on a pro-rata basis for any portion of the capacity later used by SWBT or another telecommunications provider, including, but not limited to, telecommunications carriers and cable television systems.

10.09 License and Attachment. After all required make-ready work is completed, SWBT will issue a license confirming that CLEC may attach specified facilities to SWBT's poles or place specified facilities in SWBT's conduit system. CLEC shall have access to attach or place only those facilities specifically described in licenses subject to this Appendix, and no others, except as otherwise specifically provided in (a) Sections 8.03 and 12.03 or other provisions of this Appendix, (b) any other written agreement between the parties providing for such access, or (c) the provisions of any applicable tariffs or commission orders.

ARTICLE 11: CONSTRUCTION OF CLEC'S FACILITIES

11.01 Responsibility for Attaching and Placing—Facilities. Each party shall be responsible for the actual attachment of its facilities to SWBT's poles and the actual placement of its facilities in SWBT's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities. In this regard, each party shall be solely responsible for (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and attachment of its facilities and (b) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way.

11.02 Construction Schedule. After the issuance of a license, CLEC shall provide SWBT with an updated construction schedule and shall thereafter keep SWBT informed of anticipated changes in the construction schedule. Construction schedules received by SWBT shall be subject to the provisions of Article 27 of this Appendix (Confidentiality of Information). Construction schedules required by this section shall include, at a minimum, the following information:

- (a) the name, title, business address, and business telephone number of the manager responsible for construction of the facilities;
- (b) the names of each contractor and subcontractor that will be involved in the construction activities;
- (c) the estimated dates when construction will begin and end; and
- (d) the approximate dates when CLEC or personnel working on CLEC's behalf will be performing construction work in connection with the attachment of CLEC's facilities to SWBT's poles or the placement of CLEC's facilities in any part of SWBT's conduit system.

ARTICLE 12: USE AND ROUTINE MAINTENANCE OF CLEC'S FACILITIES

12.01 Use of CLEC's Facilities. Each license granted under this Appendix authorizes CLEC to have access to CLEC's facilities on or within SWBT's poles, ducts, and conduits as needed for the purpose of serving CLEC's customers.

12.02 Routine Maintenance of CLEC's Facilities. Each license granted under this Appendix authorizes CLEC to engage in routine maintenance of facilities located on or within SWBT's poles, ducts, and conduits pursuant to such license. Routine maintenance does not include the replacement or modification of CLEC's facilities in any manner which results in

CLEC's attachments differing substantially in size, weight, or physical characteristics from the attachments described in CLEC's license.

12.03 Installation of Drive Rings and J-Hooks. CLEC may install drive rings and J-hooks on SWBT's poles for the attachment of drop wires as specified in this section.

- (a) Drive rings and J-hooks may be installed as specified in pole attachment licenses issued to CLEC.
- (b) If attachment space has already been licensed to CLEC on a given SWBT pole, CLEC may install drive rings and J-hooks within the space assigned to CLEC (e.g., typically six inches above and six inches below CLEC's point of attachment on the pole if the point of attachment is in the center of the space assigned to CLEC) without applying for or obtaining a new or amended license. No additional attachment charges shall apply with respect to drive rings and J-hooks installed in CLEC's licensed attachment space.
- (c) CLEC's first choice for placement of drive rings and J-hooks shall be the licensed attachment space assigned to CLEC as provided in subsections (a) and (b) above; provided, however, that if attachment space already licensed to CLEC on a given SWBT pole is not adequate for CLEC's drive rings or J-hooks, CLEC may, when necessary, and without applying for or obtaining a new or amended license, install such drive rings and J-hooks above or below CLEC's licensed attachment space as described in subsection (b) above. No additional attachment charges shall apply with respect to drive rings and J-hooks installed outside CLEC's licensed attachment space as provided in this subsection.
- (d) If CLEC has not already been licensed attachment space on a given pole, CLEC may, when necessary, install drive rings and J-hooks on unassigned space on such pole without first obtaining a license for such attachment and shall, promptly following such installation, notify SWBT of the attachment. Such notification shall be made on a form to be developed by SWBT for this purpose and shall constitute an application for a license. Such application may be conditionally granted without a prelicense survey or other inquiry by SWBT, and SWBT shall not be required to process the application, log the attachment as an assignment in its outside plant records, or issue a permanent license unless its specifically requested by CLEC to do so; provided, however, that a conditionally granted application under this subsection shall be subject to revocation if it is subsequently determined that such attachment has been made in violation of subsection (e) of this section or other provisions of this Appendix. Drive-rings and J-hooks installed pursuant to this subsection are pole attachments and charges for such attachments shall be determined in accordance with the Pole Attachment Act and applicable rules, regulations, and commission orders.

- (e) Notwithstanding the provisions of subsections (c)-(d) above, CLEC may not install drive rings and J-hooks in space assigned to SWBT or another joint user without the approval of SWBT or such other joint user and may not install drive rings and J-hooks in unassigned space in any manner which will block or preclude the subsequent occupancy or use of such space by SWBT or other joint users. If the presence of such CLEC facilities in space not assigned to CLEC will block or preclude the use of assigned or otherwise assignable space by SWBT or other joint users, CLEC shall, on SWBT's request, promptly relocate the facilities in order to accommodate the facilities of other users and shall bear all expenses associated with such relocation.
- (f) SWBT may not install drive rings and J-hooks in space assigned to CLEC without CLEC's approval and shall, at CLEC's request, promptly relocate the facilities in order to accommodate CLEC's facilities and bear all expenses associated with such relocation. If SWBT drive rings or J-hooks have been installed in space subsequently assigned to CLEC, or if the presence of SWBT drive rings or J-hooks blocks or precludes the use of otherwise assignable space on SWBT's poles, SWBT shall, at CLEC's request, relocate such facilities, if it is feasible to do so, as make-ready work.
- (g) CLEC shall, at the request of SWBT or another joint user, at CLEC's expense, promptly relocate or, if necessary, remove any drive rings and J-hooks placed on SWBT's poles other than as permitted in this section.

12.04 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities.

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

12.05 Responsibility for Maintenance of Facilities. Each party shall be solely responsible for maintaining its own facilities and (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the maintenance of such party's facilities and (b) directing the activities of all such personnel

while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way.

12.06 Information Concerning the Maintenance of CLEC's Facilities. Promptly after the issuance of a license, CLEC shall provide SWBT with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of CLEC's facilities and shall thereafter notify SWBT of changes to such information. The manager responsible for routine maintenance of CLEC's facilities shall, on SWBT's request, identify any contractor, subcontractor, or other person performing maintenance activities on CLEC's behalf at a specified site.

ARTICLE 13: MODIFICATION OF CLEC'S FACILITIES

13.01 Notification of Planned Modifications. CLEC shall notify SWBT in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities attached to a pole, or located in any SWBT duct or conduit. The notice shall contain sufficient information to enable SWBT to determine whether the proposed addition, relocation, replacement, or modification is permitted under CLEC's present license or requires a new or amended license. No notice shall be required for such routine modifications as the installation or placement of drive rings or J-hooks, terminals, and other ancillary apparatus routinely used in providing service to customers, having no effect on the structural integrity of SWBT's poles, ducts, or conduits, and having no effect on the ability of SWBT or joint users to use or have access to SWBT's poles, ducts, conduits, or rights-of-way.

13.02 New or Amended License Required. A new or amended license will be required if the proposed addition, relocation, replacement, or modification:

- (a) requires that CLEC occupy additional space on SWBT's poles (except on a temporary basis in the event of an emergency);
- (b) requires that CLEC occupy additional space (other than space in the maintenance duct in accordance with Sections 12.04, 13.03, and 15.02 of this Appendix) in any SWBT duct or conduit except on a temporary basis in the event of an emergency;
- (c) results in the facilities attached being different from those described as authorized attachments in CLEC's present application, current license, notice of intent to occupy, or license application and supplemental documentation (e.g., different duct or size increase causing a need to re-calculate storm loadings, guying, or pole class);
- (d) requires additional holding capacity on a permanent basis.

13.03 Use of Maintenance Duct in Connection with Facility Modifications and Replacements. Non-emergency access to the maintenance duct in connection with facilities

modifications and replacements shall be subject to the provisions of Section 12.04 of this Appendix.

13.04 Replacement of Facilities and Spinning/Overlashing Additional Cables. CLEC may replace existing facilities with new facilities occupying the same pole, duct, or conduit space, and may spin or overlash additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

13.05 Streamlined Procedures for the Issuance of Amended Licenses. SWBT may streamline procedures for the issuance of amended licenses with respect to proposed additions, relocations, replacements, or modifications of CLEC's facilities when it appears to SWBT that the proposed additions, relocations, replacements, or modifications will not require make-ready work by SWBT, will not interfere with SWBT's use of its poles, conduit systems, or facilities attached or connected thereto or contained therein, and will not interfere with the use of existing facilities attached or connected thereto or contained therein by joint users.

ARTICLE 14: REARRANGEMENT OF CLEC'S FACILITIES

14.01 Notice of Planned Modifications. The parties acknowledge that the Pole Attachment Act recites in part that "Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment." The parties further acknowledge that the FCC, in its First Report and Order in CC Docket No. 96-98, recites that "... absent a private agreement establishing notification procedures, written notification of a modification must be provided to parties holding attachments on the facility to be modified at least 60 days prior to the commencement of the physical modification itself." This article is intended by the parties to alter the above-described notification requirements only as provided in Section 14.02(b) below.

14.02 Rearrangement of CLEC's Facilities at SWBT's Request. CLEC acknowledges that, from time to time, it may be necessary or desirable for SWBT to rearrange facilities on or within its poles or conduit systems, change out poles, add poles to a pole line, relocate or reconstruct poles, pole lines, conduit segments, or conduit runs, enlarge manholes, reinforce conduit, or otherwise modify poles, pole lines, or portions of its conduit system and that such changes may be necessitated by SWBT's own business needs or by factors outside of SWBT's control, such as the decision by a municipality to widen streets or the decision by another person or entity to seek access to SWBT's poles, ducts, conduits, or rights-of-way.

- (a) CLEC agrees that CLEC will cooperate with SWBT and joint users in making such rearrangements as may be necessary to enable such changes to be made and that costs incurred by CLEC in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with

then-applicable statutes, rules, regulations, and commission orders, including the Pole Attachment Act and rules, regulations and commission orders thereunder.

- (b) CLEC shall make all rearrangements of its facilities within 60 days after receiving written notification by SWBT of the required rearrangements. SWBT may request that such modification be made within a shorter period of time, in which event CLEC shall not refuse to comply such request without due cause and justification. In determining due cause and justification, the following factors, among others, may be considered:
- (1) the circumstances under which the rearrangements are sought (e.g., street-widening project, request by a competing provider for access);
 - (2) the timeliness of SWBT's request to CLEC;
 - (3) the nature and number of rearrangements sought;
 - (4) the impact on the ability of the parties and joint users to meet customer service needs; and
 - (5) risks of service interruption to customers of the parties and joint users.
- (c) Nothing contained in this article shall preclude CLEC from advising SWBT, within 60 days from the date of the notice, of its desire to add to or modify its existing attachments.

ARTICLE 15: EMERGENCY REPAIRS AND POLE REPLACEMENTS

15.01 Applicability. The parties acknowledge that in the event of an emergency, services provided by the parties and joint users to their respective customers may be interrupted, that it may not be possible for all service providers with facilities attached to SWBT's poles to restore service to all customers at the same time, that disputes may arise between the parties concerning the manner in which emergency repairs shall be made, that it is essential that decisions be made quickly and that it is highly desirable that all service providers utilizing SWBT's poles, ducts, and conduits enter into appropriate arrangements relating to emergency repairs and service restoration. In the absence of prearranged agreements it is expected that disputes will be immediately resolved at the site among the affected parties based upon the criteria set forth in Section 15.05 of this Appendix. The parties further agree that the provisions of this article shall apply in the absence of more comprehensive agreements relating to emergency repairs.

15.02 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party plans and practices which will enable it to make such emergency repairs.

- (a) Nothing contained in this Appendix shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- (b) Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any person or entity (including but not limited to SWBT, CLEC, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located; provided, however, that a party using the maintenance duct for emergency repair activities shall immediately notify SWBT of such use and must either vacate the maintenance duct within 30 days or, with SWBT's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if a designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such party occupies the maintenance duct. The parties agree not to exceed 30 days' use except in unusual emergencies that may require longer than 30 days to rectify.
- (c) If necessary, other unoccupied ducts may be used on a short-term basis when the maintenance duct is unavailable. Any such use shall be subject to the same rules applicable to the maintenance duct and shall be subject to the rights of any party or joint user to whom such duct has been assigned.

15.03 Designation of Emergency Repair Coordinators and Other Information. For each SWBT construction district, CLEC shall provide SWBT with the emergency contact number of CLEC's designated point of contact for coordinating the handling of emergency repairs of CLEC's facilities and shall thereafter notify SWBT of changes to such information.

15.04 Reporting of Conditions Requiring Emergency Repairs. CLEC shall notify SWBT at the earliest practicable opportunity after discovering any condition on or in any of SWBT's poles, ducts, conduits, or rights-of-way requiring emergency repairs to SWBT's facilities and SWBT shall notify CLEC at the earliest practicable opportunity after discovering any condition on or in any of SWBT's poles, ducts, conduits, or rights-of-way requiring emergency repairs to CLEC's facilities.

15.05 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, SWBT, CLEC, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties in accordance with the following principles:

- (a) Emergency service restoration work requirements shall take precedence over other work operations.

- (b) Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities and shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- (c) SWBT shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties are unable to reach prompt agreement; provided, however, that these decisions shall be made by SWBT on a nondiscriminatory basis in accordance with the principles set forth in this section.

15.06 Unilateral Corrective Action. When SWBT or CLEC reasonably believes that, due to the condition of either party's facilities placed on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, there is an immediate or imminent threat to the safety or health of employees or any other person, to the physical integrity or functioning of SWBT's or CLEC's facilities, or SWBT's or CLEC's ability to meet its service obligations, SWBT or CLEC may unilaterally perform such limited corrective work as may be necessary to prevent or mitigate against the injury threatened. For example, if facilities have become detached or partially detached from a pole, or detached or partially detached from supporting racks or wall supports within a manhole, SWBT or CLEC may reattach them as provided in this section but shall not be obligated to do so.

- (a) Before performing any corrective work involving facilities, SWBT or CLEC shall attempt to notify the other party. After such notice has been given, the parties shall coordinate corrective work.
- (b) When an emergency situation exists such that advance notice and coordination are not practicable, SWBT or CLEC may perform corrective work without first giving notice to the other, and shall promptly notify the other of the corrective work performed and the reason why notice was not given.

15.07 Emergency Pole Replacements. CLEC agrees to cooperate fully with SWBT when emergency pole replacements are required.

- (a) When emergency pole replacements are required, SWBT shall promptly make a good faith effort to contact CLEC to notify CLEC of the emergency and to determine whether CLEC will respond to the emergency in a timely manner.

- (b) If notified by SWBT that an emergency exists which will require the replacement of a pole, CLEC shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to a SWBT replacement pole, the transfer shall be in accordance with SWBT's placement instructions.
- (c) If CLEC is unable to respond to the emergency situation immediately, CLEC shall so advise SWBT and thereby authorize SWBT (or any joint user sharing the pole with SWBT) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on CLEC's behalf.

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

- (a) Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.
- (b) CLEC agrees to reimburse SWBT for the costs incurred by SWBT for work performed by SWBT on CLEC's behalf in accordance with the provisions of this article; provided, however, that when the costs incurred by SWBT are for work performed in part for CLEC and in part for SWBT and third parties, CLEC shall only reimburse SWBT for CLEC's share of the costs.

ARTICLE 16: INSPECTION BY SWBT OF CLEC'S FACILITIES

16.01 SWBT's Right to Make Periodic or Spot Inspections. SWBT shall have the right, but not the duty, to make periodic or spot inspections at any time of CLEC's facilities attached to SWBT's poles or placed within SWBT's ducts, conduits, or rights-of-way. Such inspection may be conducted for the purpose of determining whether facilities attached to SWBT's poles or placed in SWBT's conduit system are in compliance with the terms of this Appendix and licenses hereunder, SWBT may charge CLEC for inspection expenses only if the inspection reflects that CLEC is in substantial noncompliance with the terms of this Appendix. If the inspection reflects that CLEC's facilities are not in compliance with the terms of this Appendix, CLEC shall bring its facilities into compliance promptly after being notified of such noncompliance and shall notify SWBT in writing when the facilities have been brought into compliance.

16.02 Report of Inspection Results. SWBT will provide CLEC the results of any inspection of CLEC's facilities performed under Section 16.01 of this Appendix.

ARTICLE 17: TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

17.01 Facilities to Be Marked. CLEC shall tag or otherwise mark all of CLEC's facilities placed on or in SWBT's poles, ducts, conduits, and rights-of-way in a manner sufficient to identify the facilities as CLEC's facilities.

17.02 Removal of Untagged or Unauthorized Facilities. Subject to the provisions of subsections (a)-(c) of this section, SWBT may, without notice to any person or entity, remove from SWBT's poles or any part of SWBT's conduit system any untagged or unmarked facilities, including any such facilities owned or used by CLEC, if SWBT determines that such facilities are not the subject of any current license authorizing their continued attachment to SWBT's poles or occupancy of SWBT's conduit system and are not otherwise lawfully present on SWBT's poles or in SWBT's conduit system.

- (a) Before removing any such untagged or unmarked facilities, SWBT shall first attempt to determine whether the facilities are being used by CLEC or any other firm, are authorized by any license subject to this Appendix, or are otherwise lawfully present on SWBT's poles or in SWBT's conduit system.
- (b) SWBT shall not remove untagged or unmarked facilities which are thought to be operational without first making reasonable efforts to (1) determine the identity of the owner or other person or entity thought to be responsible for the facilities and (2) give advance written notice to such person or entity.
- (c) If the facilities appear to be facilities which are subject to a current license granted to CLEC under this Appendix, or if the facilities are otherwise lawfully present on SWBT's poles or in SWBT's conduit system, SWBT shall give written notice to CLEC requesting CLEC to tag or mark the facilities within 60 days and CLEC shall either tag the facilities within 60-day period, advise SWBT in writing of its schedule for tagging the facilities, or notify SWBT in writing that it disclaims ownership of or responsibility for the facilities. If CLEC disclaims ownership of or responsibility for the facilities, CLEC shall disclose to SWBT the identity of the owner or other party thought by CLEC to be responsible for the facilities.

17.03 Updating of Plant Location Records. CLEC shall furnish SWBT, upon request, with such information as may from time to time be necessary for SWBT to correct and update SWBT's pole and conduit maps and records, cable plat maps, and other plant location records, if any, recording or logging assignments of pole, duct, and conduit space.

ARTICLE 18: REMOVAL OF CLEC'S FACILITIES

18.01 Responsibility for Removing Facilities. CLEC shall be responsible for and shall bear all expenses arising out of in connection with the removal of its facilities from SWBT's

poles, ducts, conduits, and rights-of-way. Such removals shall be performed in accordance with the provisions of this article.

- (a) CLEC shall give SWBT, when practicable, at least 30 days' advance notice in writing of its intent to remove facilities from any part of SWBT's conduit system and the proposed method of removal. The notice shall include the locations of the facilities to be removed, the name, telephone number of the manager responsible for the removal of the facilities, and the estimated dates when the removal of the facilities will begin and end.
- (b) CLEC shall, if requested by SWBT to do so, place a pull mandrel (slug) through all or any specified part of the duct which was occupied by CLEC.
- (c) Except as otherwise agreed upon in writing by the parties, CLEC must, after removing its facilities, plug all previously occupied ducts at the entrances to SWBT's manholes (if SWBT would itself plug the ducts under the same circumstances) in accordance with the standards set by SWBT for its operations, provided that such standards have been communicated in writing to CLEC at least 10 days in advance of the removal of CLEC's facilities.
- (d) CLEC shall be solely responsible for the removal of its own facilities and for (1) paying all persons and entities which provide materials, labor, access to real or personal property, or other goods or services in connection with the removal of CLEC's facilities from SWBT's poles, ducts, conduits, or rights-of-way and (2) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.
- (e) When CLEC no longer intends to occupy space on a pole or in a conduit CLEC will provide written notification to SWBT that it wishes to terminate the license with respect to such space and will remove its facilities from the space described in the notice. Upon removal of CLEC's facilities, the license shall terminate and the space shall be available for reassignment.

18.02 Removal of Facilities Not in Active Use. At SWBT's request, CLEC shall remove from SWBT's poles, ducts, conduits, and rights-of-way any of CLEC's facilities which are no longer in active use; provided, however, that CLEC shall not be required to remove such facilities when due cause and justification exists for allowing them to remain in place. CLEC shall not be required to remove retired or inactive (dead) cables that have been overlashed by other facilities which remain in active use unless removal expenses are paid by the person or entity requesting removal of such facilities. CLEC shall not be required to remove cables that would require excavation to remove unless the person or entity requesting removal of such cables bears the expenses of such excavation in a manner analogous to the provisions of Section 10.02(c) of this Appendix. CLEC shall not abandon any of its facilities by leaving them on SWBT's poles, in SWBT's ducts, conduits, or rights-of-way, at any location where they may

block or obstruct access to SWBT's poles or any part of SWBT's conduit system, or on any public or private property (other than property owned or controlled by CLEC) in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

18.03 Removal Following Termination of License. CLEC shall remove its facilities from SWBT's poles, ducts, conduits, or rights-of-way within 60 days, or within such other period of time as shall be mutually agreeable to the parties, after termination of the license authorizing the attachment of such facilities to SWBT's poles or the placement of such facilities in SWBT's ducts, conduits, or rights-of-way.

18.04 Removal Following Replacement of Facilities. Except as provided in Section 18.02, CLEC shall remove facilities no longer in service from SWBT's poles or conduit system within 60 days, or within such other period of time as shall be mutually agreeable to the parties, after the date CLEC replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit; provided, however, that removal of facilities from the maintenance duct shall be governed by Sections 12.04, 13.03, and 15.02 of this Appendix and not by this subsection.

18.05 Notice of Completion of Removal Activities. CLEC shall give written notice to SWBT stating the date on which the removal of its facilities from SWBT's poles, ducts, conduits, and rights-of-way has been completed. Charges shall continue to accrue with respect to such facilities until CLEC's facilities have been removed, pull mandrels (slugs) have been pulled if required by Section 18.01(b) of this Appendix, CLEC has plugged all previously occupied ducts at the entrances to SWBT's manholes as required by Section 18.01(c) of this Appendix, and the notice required by this section has been given.

18.06 Notice of SWBT's Intent to Remove Facilities. If CLEC fails to remove its facilities from SWBT's poles or conduit system, in accordance with the provisions of Sections 18.01 and 18.05 of this Appendix, SWBT may remove such facilities 60 days after giving CLEC written notice of its intent to do so. The notice shall state:

- (a) the date when SWBT plans to commence removal of CLEC's facilities, and that CLEC may remove the facilities at CLEC's sole cost and expense at any time before the date specified;
- (b) SWBT's plans with respect to disposition of the facilities removed; and
- (c) that CLEC's failure to remove the facilities or make alternative arrangements with SWBT for removal and disposition of the facilities shall constitute an abandonment of the facilities and of any interest therein.

18.07 Removal of Facilities by SWBT. If SWBT removes any of CLEC's facilities pursuant to this article, CLEC shall reimburse SWBT for SWBT's costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

18.08 Reattachment or Subsequent Attachment Following Removal. After CLEC's facilities have been properly removed pursuant to the provisions of this article, neither the removed facilities nor replacement facilities shall be attached to SWBT's poles or placed in SWBT's conduit system until CLEC has first submitted new applications for the facilities and complied with the provisions of this Appendix.

18.09 Termination of Licenses After Removal of Facilities. CLEC agrees to provide written notice to SWBT when it ceases to use facilities attached to SWBT's poles or placed in any part of SWBT's conduit system. Upon the giving of such notice and the removal of such facilities, CLEC's license with respect to such facilities and the space occupied by those facilities shall terminate.

ARTICLE 19: RATES, FEES, CHARGES, AND BILLING

19.01 Rates and Administrative Fees. The following rates and administrative fees shall apply during the terms of the parties' Interconnection Agreement and shall not be increased or decreased except as provided herein or by Commission order.

- (a) **Rates for Pole Attachments and Conduit Occupancy.** In accordance with the Missouri Public Service Commission's arbitration order in Case No. TO-97-40, CLEC shall pay SWBT rates of \$2.35 per year per pole attachment and \$0.40 per duct foot per year for conduit occupancy, until such time as the Federal Communications Commission promulgates amended rules governing pole attachment and conduit occupancy rates. Conduit occupancy rates apply to manhole occupancy, calculated to the center point of the manhole. Pole attachment and conduit occupancy rates charged by SWBT to CLEC under this Appendix will then be adjusted in accordance with the FCC's rules on a going-forward basis.
- (b) **Administrative Fees.** As provided by the Missouri Public Service Commission's arbitration order in Case No. TO-97-40, SWBT shall be allowed to charge administrative fees to CLEC. The amount charged by SWBT to CLEC for administrative fees shall be identical to the amount charged by SWBT to CATV providers. Further, in accordance with the Missouri Public Service Commission's arbitration order in Case No. TO-97-40, if the FCC promulgates rules governing the assessment of administrative fees, those rules shall apply to administrative fees charged by SWBT to CLEC on a going-forward basis.
- (c) **Partial Duct and Inner Duct Occupancy Rates.** SWBT's rates for partial duct and inner duct occupancy shall be determined in accordance with the Pole Attachment Act and applicable rules, regulations, and Commission orders thereunder. Partial duct and inner duct rates shall be standardized

rather than determined on a case-by-case basis which requires individual analysis of conduit sections occupied. If two or more cable facilities occupy a duct that has not been subdivided by inner duct, a half-duct occupancy rate will apply for each cable facility placed in the duct. A half-duct occupancy rate will apply to the first facility placed by CLEC in a previously unoccupied duct that has not been subdivided by inner duct if the presence of CLEC's cable facility does not render the other half of the duct unusable by others. A half-duct rate shall apply to each inner duct occupied. If the FCC promulgates rules governing rates for partial duct and inner duct occupancy, those rules shall apply, on a going forward basis, to partial duct and inner duct occupancy rates charged to CLEC by SWBT under this Appendix.

19.02 This section intentionally left blank.

19.03 Semiannual Attachment and Occupancy Fees. SWBT's semiannual fees for attachments to SWBT's poles and occupancy of SWBT's ducts and conduits are specified in Exhibit I. For all attachments to SWBT's poles and occupancy of SWBT's ducts and conduits, CLEC agrees to pay SWBT's semiannual charges as specified in Exhibit I.

19.04 Billing for Attachment and Occupancy Fees. Semiannual attachment and occupancy fees under this Appendix and licenses issued hereunder shall be payable in advance. Fees for pole attachments shall be based on the number of pole attachments for which licenses have been issued as of the date of billing by SWBT, shall be determined in accordance with the schedule of charges set forth in Exhibit I, and shall be payable semiannually in advance. Fees for conduit occupancy shall be based on the number of duct feet subject to occupancy by CLEC under licenses issued as of the date of billing by SWBT, shall be determined in accordance with the schedule of charges set forth in Exhibit I, and shall be payable semiannually in advance. Pole attachment and conduit occupancy space assigned to CLEC prior to the issuance of a license shall be billed in the same manner as if a license had been issued.

- (a) Bills shall be submitted to CLEC for two semiannual billing periods, the first period including charges for the months of January through June and the second including charges for the months of July through December.
- (b) Charges associated with newly licensed pole attachments and conduit occupancy shall be prorated on a daily basis and billed with the next semiannual bill.
- (c) Charges shall be adjusted and retroactively prorated on a daily basis following the removal of CLEC's facilities (in accordance with Article 18) and shall be retroactively adjusted as a credit on the next semiannual bill.

19.05 Pre-license Survey Fees. With respect to pre-license surveys conducted by SWBT pursuant to Section 9.05 of this Appendix, SWBT may charge CLEC cost-based pre-license

survey fees pursuant to such methodologies as shall be approved by the Missouri Public Service Commission following the filing by SWBT of any required study providing cost justification for the imposition of pre-license survey fees.

19.06 Make-Ready Charges. CLEC agrees to pay make-ready charges, if any, as specified in this section. SWBT may recover from CLEC the costs of make-ready work performed by SWBT or persons acting on SWBT's behalf. SWBT may not require payment of the full amount in advance. CLEC will pay half of SWBT's make-ready charges after 50% completion of work, and the remainder at completion. Bills and invoices submitted by SWBT to CLEC for make ready charges shall be due and payable 30 days after the date of the bill or invoice.

19.06A Charges for Work Performed by SWBT Employees. Except as otherwise specifically required by applicable commission orders, SWBT's charges to CLEC for work performed by SWBT employees pursuant to this Appendix shall be computed by multiplying the fully loaded hourly rates for such employees times the number of hours required to perform the work. Disputes over SWBT's charges for work performed by SWBT employees, including disputes between the parties concerning the number of hours required to perform the work, shall be subject to the dispute resolution procedures of Article 30. Notwithstanding the execution of this Appendix, CLEC shall have the right to challenge the methodology utilized by SWBT to determine hourly rates for SWBT employees at any time in any forum having jurisdiction over the subject matter.

19.07 Due Date for Payment. For all fees and charges other than make ready charges, each bill or invoice submitted by SWBT to CLEC for any fees or charges under this Appendix shall state the date that payment is due, which date shall be not less than 60 days after the date of the bill or invoice. CLEC agrees to pay each such bill or invoice on or before the stated due date.

ARTICLE 20: PERFORMANCE AND PAYMENT BONDS

20.01 Bond May Be Required. SWBT may require CLEC, authorized contractors, and other persons acting on CLEC's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of their respective obligations arising out of or in connection with this Appendix only as provided in subsections (a)-(b) of this section. Bonds shall not be required for entities meeting all self-insurance requirements of Section 22.02 of this Appendix.

- (a) If CLEC elects to perform facilities modification, capacity expansion, or make-ready work under Section 6.08(c) or Sections 10.02-10.05 of this Appendix, SWBT may require CLEC, authorized contractors, and other persons acting on CLEC's behalf to execute bonds equivalent to those which would be required by SWBT if the work had been performed by contractors, subcontractors, or other persons selected directly by SWBT. No bonds shall be required of CLEC,

authorized contractors, or other persons acting on CLEC's behalf except in those situations where a bond would be required if the work were being performed on SWBT's behalf.

- (b) No other bond shall be required of CLEC to secure obligations arising under this Appendix in the absence of due cause and justification.
- (c) If a bond or similar form of assurance is required of CLEC, an authorized contractor, or other person acting on CLEC's behalf, CLEC shall promptly submit to SWBT, upon request, adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be canceled, changed or materially altered without first providing SWBT 60 days written notice.
- (d) SWBT may communicate directly with the issuer of any bond issued pursuant to this section to verify the terms of the bond, to confirm that the bond remains in force, and to make demand on the issuer for payment or performance of any obligations secured by the bond.

ARTICLE 21

(RESERVED)

ARTICLE 22: INSURANCE

22.01 Insurance Required. CLEC shall comply with the insurance requirements specified in this section.

- (a) Unless CLEC has provided proof of self-insurance as permitted in Section 22.02 below, CLEC shall obtain and maintain in full force and effect, for so long as this Appendix remains in effect, insurance policies specified in Exhibit IV of this Appendix. Each policy shall name SWBT as an additional insured and shall include provisions requiring the insurer to give SWBT notice of any lapse, cancellation, or termination of the policy or any modification to the policy affecting SWBT's rights under the policy, including but not limited to any decrease in coverage or increase in deductibles.
- (b) Exclusions from coverage or deductibles, other than those expressly permitted in EXHIBIT IV, must be approved in writing by SWBT.
- (c) Authorized contractors and other contractors performing work on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way on CLEC's behalf shall be required to meet the same insurance requirements applicable to contractors performing similar work on SWBT's behalf. CLEC shall be

responsible for securing compliance by its contractors with this requirement and shall be liable to SWBT for any damages resulting from its failure to do so.

- (d) Self-insurance shall be permitted for persons and entities (including but not limited to CLEC and authorized contractors) meeting the self-insurance requirements set forth in Section 22.02 of this Appendix.

22.02 Proof of Insurance or Self-insurance. Proof of insurance or self-insurance shall be made pursuant to the provisions of this section.

- (a) CLEC shall submit to SWBT adequate proof (as determined by SWBT) that the companies insuring CLEC are providing all coverages required by this Appendix. CLEC's insurers shall provide SWBT with certifications that the required coverages will not be canceled, changed, or materially altered (e.g., by increasing deductibles or altering exclusions from coverages) except after 30 days written notice to SWBT.
- (b) SWBT will accept certified proof of a person or entity's qualification as a self-insurer for Workers' Compensation and Employers Liability, where self-insurance is permitted, upon receipt of a current copy of a Certificate of Authority to Self-insure issued by the Workers' Compensation Commission of this State. SWBT will accept self-insurance by a person or entity in lieu of other Commercial General Liability and Automobile Liability Coverage if such person or entity warrants that its net worth, as shown by its most recent audited financial statement with no negative notes, is at least 10 times the minimum liability limits set forth in Exhibit IV and SWBT is satisfied that such person or entity will be able to meet its liability obligations under this Appendix.

22.03 Licensing Contingent on Proof of Insurance. All insurance required in accordance with Exhibit IV, or self-insurance as permitted in Section 22.02, must be in effect before SWBT will issue pole attachment or conduit occupancy licenses under this Appendix and shall remain in force until all of CLEC's facilities have been removed from SWBT's poles, ducts, conduits, and rights-of-way.

22.04 Failure to Obtain or Maintain Coverage. CLEC's failure to obtain and maintain the required levels and types of insurance coverage required under this Appendix may be grounds for termination of this Appendix and licenses subject to policies of insurance required under this Appendix will be canceled or changed in any manner which will result in CLEC's failure to meet the requirements of this Appendix, SWBT may terminate this Appendix and all licenses subject to this Appendix not less than 60 days after giving CLEC written notice of its intention to do so, and such termination shall be effective on the termination date specified in the notice unless CLEC has obtained (or made arrangements satisfactory to SWBT to obtain) the required coverage from another source. In the alternative, SWBT may, in its sole discretion, elect to take such action as may be necessary to keep the policy in effect with the required coverages.

ARTICLE 23

(RESERVED)

**ARTICLE 24: TERMINATION OF AGREEMENT OR LICENSES;
REMEDIES FOR BREACHES**

24.01 Termination of Appendix Due to Non-Use of Facilities. CLEC shall, by written notice to SWBT, terminate this Appendix if CLEC ceases to do business in this State, or ceases to make active use of SWBT's poles, ducts, conduits, and rights-of-way in this State.

24.02 Limitation, Termination, or Refusal of Access Due to Certain Material Breaches. CLEC's access to SWBT's poles, ducts, conduits, and rights-of-way will not materially interfere with or impair service over any facilities of SWBT or any joint user, cause material damage to SWBT's plant or the plant of any joint user, impair the privacy of communications carried over the facilities of SWBT or any joint user, or create serious hazards to health or safety of any persons working on, within, or in the vicinity of SWBT's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, SWBT may limit, terminate or refuse access if CLEC violates this provision; provided, however, that such limitation, termination or refusal will be limited to CLEC's access to poles, ducts, conduits, and rights-of-way located in the SWBT construction district in which the violation occurs, shall be as narrowly limited in time and geographic scope as may be necessary to enable CLEC to adopt suitable controls to prevent further violations, and shall be subject to review, at CLEC's request, pursuant to the dispute resolution procedures set forth in this Appendix (or, if applicable, the parties' Interconnection Agreement) or, as permitted by law, before any court, agency, or other tribunal having jurisdiction over the subject matter. In the event CLEC invokes dispute resolution procedures or seeks review before a court, agency, or other tribunal having jurisdiction over the subject matter, the limitation, termination, or refusal of access may be stayed or suspended by agreement of the parties or by order of the tribunal having jurisdiction over the parties' dispute.

24.03 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Appendix by either party, the aggrieved party may give written notice of such claimed breach as provided in this section.

(a) The notice shall set forth in reasonable detail:

- (1) the conduct or circumstances complained of, together with the complaining party's legal basis for asserting that a breach has occurred;
- (2) the action believed necessary to cure the alleged breach; and
- (3) any other matter the complaining party desires to include in the notice.

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- (b) Except as provided in Section 24.02 and subsection (c) of this section, the complaining party shall not be entitled to pursue any remedies available under this Appendix or relevant law unless such notice is given and (1) the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or (2) the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure; provided, however, that nothing contained in this section shall preclude either party from invoking the dispute resolution procedures set forth in Article 30 of this Appendix, or any complaint or dispute resolution procedures offered by the FCC or State Commission, at any time.
- (c) Nothing contained in this section shall preclude either party from filing a complaint or bringing suit in any court, agency, or other tribunal of competent jurisdiction to restrain or enjoin any conduct of the other party which threatens the complaining party with irreparable injury, loss or damage without first giving the notice otherwise required by subsection (b).

ARTICLE 25

(RESERVED)

ARTICLE 26

(RESERVED)

ARTICLE 27: CONFIDENTIALITY OF INFORMATION

27.01 Information Provided by CLEC to SWBT. Except as otherwise specifically provided in this Appendix, all company-specific and customer-specific information submitted by CLEC to SWBT in connection with this Appendix (including but not limited to information submitted in connection with CLEC's applications for the assignment of pole attachment and occupancy space and for pole attachment and conduit occupancy licenses) shall be deemed to be "Confidential" or "Proprietary" information of CLEC and shall be subject to the terms set forth in this article. Confidential or Proprietary information specifically includes information or knowledge related to CLEC's review of records regarding a particular market area, or relating to assignment of space to CLEC in a particular market area, and further includes knowledge or information about the timing of CLEC's request for or review of records or its inquiry about SWBT facilities. This article does not limit the use by SWBT of aggregate information relating to the occupancy and use of SWBT's poles, ducts, conduits, and rights-of-way by firms other than SWBT (that is, information submitted by CLEC and aggregated by SWBT in a manner that does not directly or indirectly identify CLEC).