Issue No.	Attmt & Sec No.	Issue Statement	Disputed Contract Language	AT&T Missouri Position	Global Crossing Position
1	Attachment 2 – Network Interconnection – Section 6.14	What is the appropriate compensation for VoIP?	6.14.1 For purposes of this Agreement only, Switched Access Traffic shall mean all traffic that originates from an End User physically located in one (1) local exchange and delivered for termination to an End User physically located in a different local exchange (excluding traffic from exchanges sharing a common mandatory local calling area as defined in AT&T-22STATE's local exchange tariffs on file with the applicable state commission) **including, without limitation, any traffic that (i) terminates over a Party's circuit switch, including traffic from a service that originates over a circuit switch and uses Internet Protocol (IP) transport technology (regardless of whether only one provider uses IP transport or multiple providers are involved in providing IP transport) and/or (ii) originates from the End User's premises in IP format and is transmitted to the switch of a provider of voice communication applications or services when such switch utilizes IP technology.** ***The Parties have been unable to agree as to whether IP-to-PSTN and PSTN-to-IP VoIP transmissions which cross different local calling area boundaries or LATAs constitute Switched Access Traffic ("Disputed VoIP"). Notwithstanding the foregoing, without waiving any rights with***	The parties agree that Switched Access Traffic is subject to interstate and intrastate switched access charges and that Switched Access Traffic is traffic that originates from an end user physically located in one local exchange and delivered for termination to an end user physically located in a different local exchange (excluding traffic between exchanges sharing a common mandatory local calling area as defined in AT&T Missouri's local exchange tariff). The parties also agree that local IP-to-PSTN and PSTN-to-IP traffic should be treated as local traffic. ("IP-to-PSTN" traffic means voice traffic that originates in Internet Protocol format and is transmitted to the Public	VoIP should not be subject to access charges. Global Crossing contends that non-local IP-to-PSTN and PSTN-to-IP traffic should be treated differently than "regular" (non-IP) non-local voice traffic. Specifically, Global Crossing contends that such traffic, when it originates and terminates in different local exchange areas – which Global Crossing calls "Disputed VoIP" traffic – should be exempt from switched access charges.

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			respect to either Party's position as to the jurisdictional nature of Disputed VoIP, and without waiving any rights of the Parties to request an amendment to this Agreement pursuant to the provisions set forth in Section [8] of the General Terms and Conditions of this Agreement, the Parties agree to continue to abide by any effective and applicable FCC rules and orders regarding the nature of such traffic and the compensation payable by the Parties for such traffic, if any, pursuant to this Agreement. Notwithstanding anything to the contrary in this Agreement, all Switched Access Traffic shall be delivered to the terminating Party over feature group access trunks per the terminating Party's access tariff(s) and shall be subject to applicable intrastate and interstate switched access charges. However, in states where applicable law provides, such compensation shall not exceed the compensation contained in the respective AT&T-22STATE tariff in whose exchange area the End User is located, provided, however, the following categories of Switched Access Traffic are not subject to the above stated requirement relating to routing over feature group access trunks:	Switched Telephone Network ("PSTN"), e.g., AT&T Missouri's network, from which it is terminated to the called party. "PSTN-to-IP" traffic means the converse). The parties disagree, however, about whether non-local IP-to-PSTN and PSTN-to-IP traffic should be treated differently, for intercarrier compensation purposes, than other non-local traffic that is sent to or from the PSTN. There is no basis in law or in current FCC regulation for treating VoIP traffic differently than other voice traffic; the FCC's rules, and FCC-approved tariffs, which subject Switched Access Traffic to switched access charges, apply to all telecommunications, and do	

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				not make any special provision for VoIP traffic. In addition, Missouri law squarely supports AT&T Missouri's position. Section 392.550.2, RS Mo, enacted in 2008 as part of HB 1779, provides in pertinent part: "Interconnected voice over Internet protocol service shall be subject to appropriate exchange access charges to the same extent that telecommunications services are subject to such charges." Although the FCC has not yet expressly addressed IP-to-PSTN traffic or PSTN-IP traffic, it has ruled that non-local PSTN-IP-PSTN traffic (also referred to as "IP-in the Middle Traffic") is telecommunications subject to access charges under	

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				the FCC's rules. *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephone Services are Exempt from Access Charges*, WC Docket No. 02-361, released April 21, 2004 (FCC 04-97) ("*Access Charge Avoidance Order*"). That FCC ruling is controlling here, and it supports AT&T Missouri's position that IP-to-PSTN traffic and PSTN-to-IP traffic, like IP-in the Middle traffic, warrant no distinctive treatment and are telecommunications subject to access charges under current FCC rules. Separate and apart from the fact that AT&T Missouri's proposed contract language accurately reflects current law, Global Crossing's proposed language is	

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				plainly unacceptable, because it leaves the treatment of VoIP traffic open, thus guaranteeing that there will be continuing disputes under the ICA for such traffic.	
2	Attachment 13 - Network Elements – Sections 6.1.3.2, 6.1.3.3, 6.1.3.5 and 6.1.4	Under what circumstances is AT&T Missouri obligated to combine network elements?	6.1.3 Without affecting the other provisions hereof, the UNE combining obligations referenced in this Section apply only in situations where each of the following is met: 6.1.3.1 it is technically feasible, including that network reliability and security would not be impaired; **and** **6.1.3.2 AT&T-22STATE's ability to retain responsibility for the management, control and performance of its network would not be impaired;** **6.1.3.3 AT&T-22STATE would not be placed at a disadvantage in operating its own network;** 6.1.3.4 It would not undermine the ability of other	AT&T Missouri's obligation to perform functions necessary to create UNE combinations is a qualified one, as the Supreme Court explained in *Verizon Communications, Inc.*, *v. FCC*, 535 U.S. 467 (2002). FCC Rule 315(c) states: "Upon request, an incumbent LEC shall perform the functions necessary to combine unbundled network elements in any manner, even if those elements are not ordinarily combined in the incumbent LEC's	FCC rules in Section 51.315 require AT&T Missouri to combine UNEs where doing so "is technically feasible" and "would not undermine the ability of other carriers to obtain access to unbundled network elements or to interconnect with the incumbent LEC's network".

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			Telecommunications Carriers to obtain access to 251(c) (3) UNEs or to Interconnect with AT&T-22STATE's network; **and** **6.1.3.5 CLEC is either unable to make the combination itself; or is a new entrant and is unaware that it needs to combine certain UNEs to provide a Telecommunications Service, but such obligation under this Section ceases if AT&T-22STATE informs CLEC of such need to combine.** **6.1.4 For purposes of Section 6.1.3.5 above and without limiting other instances in which CLEC may be able to make a combination itself, CLEC is deemed able to make a combination itself when the UNE(s) sought to be combined are available to CLEC, including without limitation on/at an AT&T-22STATE Premises, as defined in the Attachment 12 – Collocation.**	network, provided that such combination: (1) Is technically feasible; and (2) Would not undermine the ability of other carriers to obtain access to unbundled network elements or to interconnect with the incumbent LEC's network." 47 C.F.R. § 51.315(c). The U.S. Court of Appeals for the Eighth Circuit held that Rule 315(c) was invalid in *Iowa Utilities Bd. v. FCC*, 219 F.3 744 (8th Cir. 2000). In *Verizon*, the Supreme Court reinstated Rule 315(c). In doing so, however, the Court recognized the following additional limitations that apply to the combination requirements over and above the requirements of technical feasibility and nondiscrimination that	

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				appeared in the text of the rule: (1) the incumbent LEC's duty to combine only arises when the new entrant is "unable to do the job itself"; (2) the incumbent only has to "perform the functions necessary to combine" and not necessarily complete the actual combinations; and (3) the new entrant must pay "a reasonable cost based fee" for the incumbent's efforts. *Verizon*, 535 U.S. at 535. AT&T Missouri's proposed language is consistent with FCC Rule 315(c) and the *Verizon* decision.	
3	Attachment 13 - Network Elements –	Under what circumstances is AT&T Missouri required to perform commingling?	6.3.1 Commingling is not permitted, nor is AT&T-22STATE required to perform the functions necessary to Commingle, where the Commingled Arrangement (i) is not technically feasible, including that network reliability and security would be	AT&T Missouri's obligation to commingle UNEs or combinations of UNEs with facilities or services obtained at wholesale is no broader	Disagree pursuant to Section 51.315 of the FCC's rules. That rule provision requires AT&T Missouri to combine

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	Sections 6.3.1, 6.3.5 and 6.3.6		impaired; or **(ii) would impair AT&T-22STATE's ability to retain responsibility for the management, control, and performance of its network; or (iii) would place AT&T-22STATE at a disadvantage in operating its own network; or (iv)** would undermine the ability of other Telecommunications Carriers to obtain access to UNEs or to Interconnect with AT&T-22STATE's network. **6.3.5 Upon request, and subject to Section 6, AT&T-22STATE shall perform the functions necessary to Commingle a 251(c)(3) UNE or a combination of 251(c)(3) UNEs with one or more facilities or services that CLEC has obtained at wholesale from AT&T-22STATE (as well as requests where CLEC also wants AT&T-22STATE to complete the actual Commingling), except that AT&T-22STATE shall have no obligation to perform the functions necessary to Commingle (or to complete the actual Commingling) if (i) Section 6.2.1 above applies to the Commingled Arrangement sought by CLEC; or (ii) the CLEC is able to perform those functions itself. Where CLEC is a new entrant and is unaware that it needs to Commingle to provide a Telecommunications Service, AT&T-22STATE's**	than its obligation to combine UNEs. Accordingly, the limitations the Supreme Court applied to combinations in *Verizon Communications, Inc.*, *v. FCC*, 535 U.S. 467 (2002) necessarily apply equally to commingling.	UNEs where doing so "is technically feasible" and "would not undermine the ability of other carriers to obtain access to unbundled network elements or to interconnect with the incumbent LEC's network. No other conditions are allowed.

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			obligation to Commingle ceases if AT&T-22STATE informs CLEC of such need to Commingle. **6.3.6 For purposes of Section 6.3.1 above and without limiting other instances in which CLEC may be able to Commingle for itself, CLEC is deemed able to Commingle for itself when the UNE(s), UNE combination, and facilities or services obtained at wholesale from AT&T-22STATE are available to CLEC at the CLEC's Collocation Arrangement. For Collocation terms and conditions see Attachment 12 – Collocation.**		
4	Attachment 13 - Network Elements - Section 6.3.3	Is AT&T Missouri obligated to commingle Section 271 network elements that are not subject to unbundling under Section 251(c)(3)?	**6.3.3 Any Commingling obligation is limited solely to Commingling of one or more facilities or services that are provided at wholesale from AT&T-22STATE with UNEs; accordingly, no other facilities, services or functionalities are subject to Commingling, including but not limited to facilities, services or functionalities that AT&T-22STATE might offer pursuant to Section 271 of the Act.**	A state commission has no jurisdiction or authority to require the inclusion of § 271 checklist items or to order § 271 unbundling as part of arbitrated interconnection agreements. *Southwestern Bell Telephone, L.P. v. Missouri Public Service Comm.*, 461 F. Supp. 1055, 1069-71 (E.D. Mo. 2006,	There is no reason why 271 elements, to the extent there are any, could not be commingled with 251 elements. There are many publicly available AT&T interconnection agreements in which this restriction does not appear.

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				aff'd 530 F.3d 676 (8th Cir. 2008).	
5	Attachment 13 - Sections 10.4.3 and 10.7.2	Should Global Crossing be permitted to obtain more than 25% of AT&T Missouri's available Dark Fiber?	**10.4.3 CLEC will not obtain any more than twenty-five (25%) percent of the spare UNE Dedicated Transport Dark Fiber contained in the requested segment during any two-year period.** 10.7 Right of Revocation of Access to UNE Dedicated Transport Dark Fiber: 10.7.1 Right of revocation of access to UNE Dedicated Transport Dark Fiber is distinguishable from Declassification. For clarification purposes, AT&T-21STATE's right of revocation of access under this Section applies even when the affected Dedicated Transport Dark Fiber remains a UNE, subject to unbundling obligations under Section 251(c)(3) of the Act, in which case CLEC's rights to the affected network element may be revoked as provided in this Section.	No – a CLEC should be allowed to obtain no more than 25% of the available dark fiber available in a given transport segment during any two-year period. That limitation ensures that dark fiber will be available for other competing carriers, and thereby establishes parity and prevents a CLEC from gaming the system by monopolizing the dark fiber in a given segment. AT&T Missouri's proposed language is consistent with the FCC's statement in its Third Report and Order—FCC 99-238 – that "If incumbent LECs are able to demonstrate to the state commission that unlimited access to unbundled dark fiber threatens their ability	This requirement does not appear in the FCC's rules. This section should mirror the FCC's rules.
		Should Global Crossing be allowed to hold onto Dark Fiber that it has ordered from AT&T Missouri indefinitely,	**10.7.2 Should CLEC not utilize the fiber strand(s) subscribed to within the twelve (12) month period following the date AT&T-21STATE provided the fiber(s), AT&T-21STATE may revoke CLEC's access to the UNE Dedicated Transport Dark Fiber and recover those fiber**		

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		or should AT&T Missouri be allowed to reclaim unused Dark Fiber after a reasonable period so that it will be available for use by other carriers?	**facilities and return them to AT&T-21STATE's inventory.** 10.7.3 AT&T-21STATE may reclaim from CLEC the right to use UNE Dedicated Transport Dark Fiber, whether or not such fiber is being utilized by CLEC, upon twelve (12) months written Notice to CLEC. If the reclaimed UNE Dedicated Transport Dark Fiber is not otherwise Declassified during the Notice period, AT&T-21STATE will provide an alternative facility for CLEC with the same bandwidth CLEC was using prior to reclaiming the facility. AT&T-21STATE must also demonstrate upon CLEC's request that the reclaimed Dedicated Transport Dark Fiber will be needed to meet AT&T-21STATE's bandwidth requirements within the twelve (12) months following the revocation.	to provide service as a carrier of last resort, state commissions retain the flexibility to establish reasonable limitations governing access to dark fiber loops in their state". AT&T Missouri's proposed language for section 10.7.2 serves a similar purpose. A CLEC should not be allowed to deprive other competitors access to the limited amounts of available dark fiber by acquiring dark fiber and not using it.. . AT&T Missouri's proposed language gives a CLEC a full year to make use of dark fiber it has obtained from AT&T Missouri. If the CLEC does not use the fiber within that period, it is appropriate to allow AT&T Missouri to reclaim the fiber so it will be available for use	

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				by others.	
6	Attachment 13 - Network Elements – Section 11.1.7	Which Routine Network Modification ("RNM") costs are not being recovered in existing recurring and non-recurring charges?	11.1.7 AT&T-22STATE shall provide RNM at the rates, terms and conditions set forth in this Attachment and in the Pricing Schedule or at rates to be determined on an individual case basis (ICB) or through the Special Construction (SC) process; provided, however, that AT&T-22STATE will impose charges for RNM only in instances where such charges are not included in any costs already recovered through existing, applicable recurring and non-recurring charges. **The RNM for which AT&T-22STATE is not recovering costs in existing recurring and non-recurring charges, and for which costs will be imposed on CLEC as an ICB/SC include, but are not limited to: (i) adding an equipment case, (ii) adding a doubler or repeater including associated line card(s), (iii) installing a repeater shelf, and any other necessary work and parts associated with a repeater shelf, and (iv) where applicable, deploying multiplexing equipment, to the extent such equipment is not present on the UNE Loop or Transport facility when ordered.**	The parties agree that AT&T Missouri should be allowed to recover its costs for RNMs that are not otherwise already being recovered. AT&T Missouri's proposed language accurately identifies those costs. Furthermore, in the 2005 Post M2A Arbitration proceedings, the Arbitrator's Report specifically noted that there was "[n]o dispute" between AT&T Missouri and the CLEC Coalition regarding contract language directed to the same activities as those identified in the contract language AT&T Missouri proposes here. *See*, Arbitrator's Report, Attachment III.A, Part 4, Detailed Language Decision Matrix for "CC	The rule is that AT&T Missouri can charge for RNM in order to recover its costs. Global Crossing has no knowledge as to what costs are currently being recovered by AT&T Missouri in its MRCs and NRCs and cannot agree that the costs specified are not being recovered.

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				UNE 23," [UNE para. 10.7.2]).	

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