

- 1.9 As used herein, **PACIFIC** means the applicable above listed ILECs doing business in California.

2. SERVICE DESCRIPTION

- 2.1 **SNET** does not offer access to the SS7 signaling network under this agreement. Rather, SS7 is available as described in DPUC ordered CT Access Service Tariff Section 18.2.8. SS7 interconnection arrangements between **SNET** and CLEC will be on an individual case basis (ICB) due to the individual architectures of both CLEC and **SNET** signaling networks and unique requirements of the individual parties.
- 2.2 **SS7 Transport**
- 2.2.1 SS7 as defined in this Appendix above, provides for the transporting of call setup (i.e. ISUP) signaling to each end-office subtended from the tandem in the LATA in which the interconnection occurs as outlined in this Agreement. SS7 Transport of SS7 Global Access or SS7 Access as defined in the **SBC-12STATE** below outlines the requirements by for interLATA signaling.
- 2.2.2 SS7 Transport provides for the routing and screening of SS7 messages from an **SBC-7STATE** pair of STPs (i.e., a mated pair) to another **SBC-7STATE** pair of STPs. In the **SBC-AMERITECH**, due to the fact that state gateway STPs are not interconnected, SS7 Transport provides for the routing and screening of SS7 messages from a **SBC-AMERITECH** pair of designated Gateway STPs (i.e., a mated pair) to another **SBC-AMERITECH** pair of STPs within the same state only. The screening of messages provides for CLEC designation of signaling points associated with the CLEC and controls which messages may be allowed by the **SBC-12STATE** STP pairs. The routing of messages provides for the transfer of a complete message between signaling links, and for a Global Title Translation (GTT) of the message address, if needed.
- 2.2.3 SS7 Transport provides routing of messages for all parts of the SS7 protocol. These messages may support other applications and services such as, for example, CLASS services, Message Waiting services, Toll Free Database services, Line Information Data Base (LIDB) Services, Calling Name (CNAM) Database services, Advanced Intelligent Network (AIN) services and Telecommunications Industry Association Interim Standard-41 (IS-41) services. SS7 Transport will route messages to the global title address or to the signaling point code address of the message based on the translation information of **SBC-12STATE**'s STP.

2.3 **Dedicated Signaling Links**

2.3.1 Dedicated Signaling Links provide interconnection to **SBC-12STATE**'s signaling network. Each signaling link is a set of dedicated 56Kbps (or higher speed) transmission paths between CLEC STPs or switches and the **SBC-12STATE** STP mated pair. The CLEC designated Signaling Points of Interconnection (SPOI) are at **SBC-7STATE**'s STP, an **SBC-7STATE** serving wire center or are collocated in an **SBC-12STATE** wire center. In the **SBC-AMERITECH** the SPOI is always collocated in the **SBC-AMERITECH** STP serving office. This means of collocation is required in the **SBC-AMERITECH** for access to the **SBC-AMERITECH** STP. The links are fully dedicated to the use of CLEC and provide the screening and routing usage for the **SBC-12STATE** STP to which the link is connected. Dedicated Signaling Links are available to CLECs for their use in furnishing SS7-based services or applications to their end users or other users of SS7 signaling information.

2.4 Dedicated Signaling Links include the following elements:

2.4.1 **SS7 Link Cross Connect**

2.4.1.1 The SS7 Link Cross Connect provides a DS-0 or DS1 connection in the **SBC-12STATE** STP building and connects the STP Port Termination to the CLEC SPOI.

2.4.2 **STP Port Termination**

2.4.2.1 The STP Port Termination is the physical termination of the signaling link (i.e. 56 kbps circuit) at an **SBC-12STATE** STP. A STP Port Termination is used for each 56 kbps SS7 Link Cross Connect terminated at a **SBC-12STATE** STP.

2.4.3 **STP Access Link**

2.4.3.1 The STP Access Link provides a 56-kilobit per second digital facility when CLEC requires an interoffice facility to connect from the CLEC SPOI to the STP building location.

2.5 The CLEC shall provide the portion of the signaling link from the CLEC premises within the LATA to the **SBC-12STATE** STP location or the CLEC SPOI. CLEC shall identify the DS1 or channel of a DS1 that will be used for the signaling link.

2.6 CLEC shall identify to **SBC-12STATE** the facility and channel to which the SS7 Link Cross Connect shall connect. If the facility does not terminate in the STP location **SBC-12STATE** shall provide a transport facility referred to as the STP

Access Link. The STP Access Link will connect to the DS-0 cross connect at the STP location.

- 2.7 When CLEC uses an alternative DS1 facility or arranges, or agrees to allow, a physical degree of diversity or performance that is not in accordance with the specifications of Telcordia technical publication, GR-905-CORE, CLEC acknowledges that the performance and reliability of the SS7 protocol may be affected and the performance and reliability standards described in GR-905-CORE may be disqualified.
- 2.8 Dedicated Signaling Links are subject to **SBC-12STATE** compatibility testing and certification requirements pursuant to the Network Operations Forum Reference Document, GR-905-CORE and **SBC-12STATE** Technical Publication, TP76638. In the **SBC-AMERITECH** Technical Publication AM-TR-OAT-000069 will apply in addition to the documents referenced above. In **SBC-2STATE** PUB L-780023-**SBC-2STATE** may be substituted for TP76638 and first interconnections to **PACIFIC**'s signaling network per CLEC and per signaling point type of equipment will require completion of **PACIFIC**'s CCS/SS7 interconnection questionnaire. Each individual set of links from CLEC switch to **SBC-12STATE** STP will require a pre ordering meeting to exchange information and schedule testing for certification by **SBC-12STATE**.
- 2.9 **Dedicated Signaling Links Technical Requirements**
 - 2.9.1 Unbundled Dedicated Signaling Links will perform in the following two ways:
 - 2.9.1.1 as an "A-link", which is a connection between a switch and a home signaling transfer point (STP) mated pair; and
 - 2.9.1.2 as a "B-link" or "D-link," which is an interconnection between STPs in different signaling networks.
 - 2.9.2 When CLEC provides its own switch or STP, CLEC will provide DS1 (1.544 Mbps) interfaces at the CLEC-designated SPOIs. DS1 transport to the SPOI can be provided for, as previously indicated, via existing transport facilities or through CLEC purchase of an **SBC-12STATE** dedicated transport facility, previously referred to as the "Access Connection". Each 56 Kbps transmission path will appear as a DS0 channel on the DS1 interface.
 - 2.9.3 In each LATA in which CLEC desires Dedicated Signaling Links for interconnection to the **SBC-12STATE** SS7 Signaling Network, CLEC must purchase dedicated signaling links to each STP of a mated pair of STPs.

- 2.9.4 CLEC assumes the responsibility to ensure diverse routing of CLEC signaling links from CLEC switch to CLEC SPOI. SBC-12STATE will provide the same amount of diversity as it provides to itself in terms of diverse routing of interoffice facilities, should such facilities be necessary.
- 2.9.5 When CLEC requests that SBC-12STATE add a Signaling Point Code (SPC), CLEC will identify to SBC-12STATE the SPCs associated with the CLEC set of links and will pay a non-recurring charge per STP pair at the rates set forth in Appendix PRICING UNE – Schedule of Prices, “Point Code Addition”. This rate element will not apply in SBC-2STATE.
- 2.9.6 CLEC will notify SBC-12STATE in writing thirty (30) days in advance of any material change in CLEC’s use of such SS7 signaling network, including but not limited to any change in CLEC SS7 Dedicated Signaling Links, SS7 Transport and/or STP.

2.10 Signaling Transfer Points (STPs)

- 2.10.1 The STP element is a signaling network function that includes all of the capabilities provided by the STP switches which enable the exchange of SS7 messages between switching elements, database elements and signaling transfer point switches via associated signaling links. STP includes the associated link interfaces.
- 2.10.2 Use of the STP routes signaling traffic generated by action of CLEC to the destination defined by PACIFIC’s signaling network, excluding messages to and from an SBC-7STATE local switching unbundled network element. Integrated services digital network user (ISUP) and Translational Capabilities Application Part (TCAP) signaling traffic addressed to SPs associated with CLEC set of links will be routed to CLEC.
- 2.10.3 SS7 Transport will apply to SS7 messages transported on behalf of CLEC from a SBC-12STATE designated STP pair to a to a SBC-12STATE STP pair located in a different LATA. In the SBC-AMERITECH this arrangement will only be provided for STPs located in the same state. In the SBC-7STATE, the rate, per octet, will apply to octets comprising ISUP and TCAP messages. In the SBC-AMERITECH the Signal Switching and Signal Transport rates will apply to ISUP and TCAP messages. In the SBC-2STATE, SS7 transport is not available. However, transit signaling provides the ability for an interconnecting network (ICN) to pass signaling information through the SBC-2STATE network to a third party without requiring a trunking connection by a third party with SBC-2STATE.
- 2.10.4 In such instance as CLEC utilizes SBC-12STATE’s Local Switching Network Element, CLEC does not separately order SS7 signaling under this

method. CLEC will be charged for the use of the SBC-12STATE SS7 signaling on a per call basis.

2.11 STP Technical Requirements

2.11.1 STPs will provide signaling connectivity to the following network elements connected to the SBC-12STATE SS7 network: SBC-12STATE Local Switching or Tandem Switching; SBC-12STATE Service Control Points/Call Related Databases; Third-Party local or tandem switching systems; and Third-party-provided STPs.

2.11.2 The Parties will indicate to each other the signaling point codes and other screening parameters associated with each Link Set ordered by CLEC at the SBC-12STATE STPs, and where technically feasible, each Party will provision such link set in accordance with these parameters. CLEC may specify screening parameters so as to allow transient messages to cross the SBC-12STATE SS7 Network. The Parties will identify to each other the GTT type information for message routing. CLEC will pay a non-recurring charge when CLEC requests SBC-12STATE add GTT type information for message routing, in connection with its use of unbundled signaling.

2.12 Interface Requirements

2.12.1 SBC-12STATE will provide STP interfaces to terminate A-links, B-links, and D-links.

2.12.2 CLEC will designate the SPOI for each link. CLEC will provide a DS1 or higher rate transport interface at each SPOI. SBC-12STATE will provide intraoffice diversity to the same extent it provides itself such diversity between the SPOIs and the SBC-12STATE STPs.

2.12.3 SBC-12STATE will provide intraoffice diversity to the same extent it provides itself such diversity between the SPOIs and the SBC-SWBT STPs.

3. **MANNER OF PROVISIONING**

3.1 The following describes the manner of provisioning for SS7 services. Each Party will work cooperatively with the other Party and will each provide knowledgeable personnel in order to provision, test and install SS7 Service in a timely fashion.

3.2 SS7 Transport

3.2.1 CLEC shall use SS7 Transport subject to the screening and routing information of the SBC-12STATE STPs. SBC-12STATE shall provide

information to CLEC on the routes and signaling point codes served by the **SBC-12STATE** STPs. SS7 Transport shall route ISUP messages for the purpose of establishing trunk voice paths between switching machines.

- 3.2.2 SS7 Transport shall route TCAP queries when feasible pursuant to the SS7 Protocol to the **SBC-12STATE** “regional” STP pair that directly serves the database of TCAP message. SS7 Transport shall route TCAP responses from a **SBC-12STATE** “regional” STP pair to another **SBC-12STATE** STP pair.
- 3.2.3 SS7 Transport provides a signaling route for messages only to signaling points to which **SBC-12STATE** has a route. SS7 Transport does not include the provision of a signaling route to every possible signaling point. When **SBC-12STATE** does establish a route to a signaling point in a mated pair of STPs, the route may not be available to other **SBC-12STATE** pairs of STPs, until ordered. When **SBC-12STATE** or CLEC, pursuant to a service order, arranges to establish a route to a signaling point, such route to the other signaling point or other signaling network will be used by all signaling points within, and connected to, the **SBC-12STATE** signaling network pursuant to the standard requirements of the SS7 protocol.
- 3.3 Disputes concerning the association of a signaling point among specific link sets associated with a **SBC-12STATE** mated STP will be resolved by consultation with the signaling point owner, as defined in the Local Exchange Routing Guide (LERG), Section 1, assignment of SPC.
- 3.4 **Dedicated Signaling Links**
 - 3.4.1 CLEC shall designate the signaling points and signaling point codes associated with CLEC. CLEC shall provide such information to **SBC-12STATE** to allow **SBC-12STATE** to translate **SBC-12STATE** STPs. The information shall define the screening and routing information for the signaling point codes of CLEC and may include global title address, translation type and subsystem designations as needed.
 - 3.4.2 Signaling links from **SBC-12STATE** mated pairs of STPs shall connect to CLEC premises (including collocation locations) within the same LATA. A set of links can be either:
 - 3.4.2.1 "A" Link Sets from CLEC's Signaling Point (SP)/Service Switching Point (SSP). A minimum of two links will be required, one from the SP/SSP to each STP; or,
 - 3.4.2.2 "B" Link Sets from CLEC's STPs that are connected to **SBC-12STATE**'s mated pair of STPs. A minimum of four links will be

required (i.e. a "quad") between the two pairs of STPs. (This same arrangement is sometimes referred to as a set of "D" links.)

- 3.4.3 A STP Port Termination and SS7 Link Cross Connect is required for each 56-kbps access link utilized for the Service. STP locations are set forth in the National Exchange Carrier Association, Inc. (NECA) Tariff FCC No. 4.
- 3.4.4 A pre-order meeting will define the **SBC-12STATE** facility availability and the degree of diversity in both the **SBC-12STATE** physical network and the CLEC physical network from signaling point to signaling point for the link.
- 3.4.5 When CLEC requires a STP Access Link, CLEC and **SBC-12STATE** shall jointly negotiate the degree of diversity provided among and between multiple dedicated signaling links. The negotiation shall consider the requirements of the SS7 standard protocol, the degree of diversity available in each network and the possible alternatives.
- 3.4.6 All applicable signaling point codes for each signaling link must be installed at each of **SBC-12STATE**'s interconnecting STPs.
- 3.4.7 Call set-up times may be adversely affected when CLEC, using SS7 signaling, employs Intermediate Access Tandems (IATs) in its network. **SBC-12STATE** makes no warranties with respect to call set-up times when multiple STP pairs are involved or when the signaling traffic is exchanged between two non-**SBC-12STATE** signaling points.
- 3.4.8 Provisioning of the SS7 Service is in accordance with **SBC-7STATE** TP76638 **SBC-AMERITECH** AM-TR-OAT-000069 and GR-905-CORE, as amended or **SBC-2STATE** PUB L780023-**SBC-2STATE**.

3.5 Use of the STP

- 3.5.1 When CLEC orders **SBC-12STATE** unbundled Local Switching, the use of the STP shall apply. No order or provisioning by CLEC is needed. The **SBC-12STATE** Local Switch will use the **SBC-12STATE** SS7 signaling network.

4. **RESPONSIBILITIES OF SBC-12STATE**

- 4.1 **SBC-12STATE** shall manage the network and, at its sole discretion, apply protective controls. Protective controls include actions taken to control or minimize the effect of network failures or occurrences, which include, but are not limited to, failure or overload of **SBC-12STATE** or CLEC facilities, natural disasters, mass calling or national security demands.

- 4.2 **SBC-12STATE** shall determine the GTT route for messages routed to GTT, which are associated with **SBC-12STATE** signaling points.
- 4.3 **SBC-12STATE** shall define regional functions and local functions of its STPs. **SBC-12STATE** will route ISUP messages within the **SBC-12STATE** signaling network, subject to technical feasibility. Capacity limitations shall define a temporary technical infeasibility until the capacity limit can be resolved.
- 4.4 **SBC-12STATE** shall route messages generated by the action of CLEC throughout the **SBC-12STATE** signaling network as specified within this Appendix. The content of the messages is for the use of signaling points of origination and destination. **SBC-12STATE** will not use any information within messages for any purpose not required by or related to the use of the **SBC-12STATE** signaling network. **SBC-12STATE** will not divulge any message or any part of messages generated by CLEC to any other party, except as required to manage the **SBC-12STATE** signaling network or as may be required by law.

5. RESPONSIBILITIES OF CLEC

- 5.1 CLEC shall provision the signaling links at CLEC's premises and from CLEC's premises to **SBC-7STATE**'s STP location in a diverse, reliable and technically feasible manner. CLEC shall identify to **SBC-12STATE** the SPC(s) associated with the CLEC set of links.
- 5.2 CLEC shall identify to **SBC-12STATE** the GTT information for messages that route to CLEC.
- 5.3 When routing messages addressed to an **SBC-12STATE** Subsystem Number (SSN), CLEC shall use the **SBC-12STATE** defined SSN designation of the **SBC-12STATE** mated STP pair to which the message is routed.
- 5.4 CLEC shall transfer Calling Party Number Parameter information unchanged, including the "privacy indicator" information, when ISUP Initial Address Messages are interchanged with the **SBC-12STATE** signaling network.
- 5.5 CLEC shall furnish to **SBC-12STATE**, at the time the SS7 Service is ordered and annually thereafter, an updated three (3) year forecast of usage of the SS7 Signaling network. The forecast shall include total annual volume and busy hour busy month volume. **SBC-12STATE** shall utilize the forecast in its own efforts to project further facility requirements.
- 5.6 CLEC shall inform **SBC-12STATE** in writing thirty (30) days in advance of any change in CLEC's use of such SS7 Service which alters by ten percent (10%) for any thirty (30) day period the volume of signaling transactions by individual SS7 service that are planned by CLEC to be forwarded to **SBC-12STATE**'s network. CLEC

shall provide in said notice the reason, by individual SS7 service, for the volume change.

6. BONAFIDE REQUEST PROCESS

- 6.1 Any request for SS7 service not addressed within this Appendix may be submitted to **SBC-12STATE** via the Bonafide Request (“BFR”) process set forth in Appendix UNE.

7. DESCRIPTION OF RATE ELEMENTS SBC-AMERITECH

- 7.1 There are three types of charges that apply for SS7 Access. They are recurring, usage and nonrecurring charges. Recurring and nonrecurring charges apply for each port that is established on a STP. Usage charges apply for each Initial Address Message (IAM) or TCAP (excluding LIDB Access Service, 800 Access Service TCAP messages and LNP Database Access Query TCAP messages) message that is switched by the local STP and transported to an **SBC-AMERITECH** end office or for each IAM and TCAP message that is switched by the local STP in a hubbing arrangement.
- 7.2 Nonrecurring charges apply for the establishment of Originating Point Codes (OPC) and Global Title Address (GTA) Translations. An OPC charge applies for each OPC established, as well as each OPC added or changed subsequent to the establishment of STP Access. The OPC charge applies on a per service basis. A GTA Translation charge applies for each service or application (excluding LIDB Access Service and 800 Carrier-ID-Only Service) that utilizes TCAP messages. A GTA Translation charge also applies for each service (excluding LIDB Access Service and 800 Carrier-ID-Only Service) added or changed subsequent to the initial establishment of STP Access.
- 7.3 **Signal Formulation**
- 7.3.1 An IAM Formulation usage charge will be assessed for each IAM message formulated at the **SBC-AMERITECH** tandem for CLEC to **SBC-AMERITECH** terminated calls.
- 7.4 **Signal Transport**
- 7.4.1 An IAM Signal Transport usage charge will also be assessed for each IAM message that is transported from the local STP to the **SBC-AMERITECH** end office for terminating traffic. A TCAP Signal Transport usage charge will be assessed for each TCAP message that is transported from the local STP to the **SBC-AMERITECH** end office (excluding LIDB and 800 Access Service).

7.5 **Signal Switching**

7.5.1 An IAM Signal Switching usage charge will be assessed for each IAM message that is switched by the local STP for each IAM messages that is switched for direct routed terminating traffic. A TCAP Signal Switching usage charge will be assessed for each TCAP message that is switched by the local STP termination of non-call associated signaling messages (excluding LIDB and 800 Access Service).

7.6 **Signal Tandem Switching**

7.6.1 An IAM Signal Tandem Switching usage charge will be assessed for an IAM message that is switched by an **SBC-AMERITECH** STP and transported to an end office for tandem routed terminating traffic. When Signal Tandem Switching usage charges are assessed, Signal Switching and Signal Transport charges do not apply, except for SS7 Transport.

8. **DESCRIPTION OF RATE ELEMENTS SBC-7STATE**

8.1 The following rate elements apply to **SBC-7STATE** SS7 Service:

8.2 **SS7 Transport**

8.2.1 SS7 Transport shall be measured per octet of information screened and routed.

8.2.2 CLEC shall pay SS7 Transport Per Octet rate element for the screening and routing of messages by each additional **SBC-7STATE** STP pair. A usage rate applies per octet generated by action of CLEC.

8.2.3 SS7 Transport is not available in the **SBC-2STATE**.

8.3 **Dedicated Signaling Links**

8.3.1 **SS7 Link Cross Connect**

8.3.1.1 CLEC shall pay the DS-0 or DS-1 rate for the SS7 Link Cross Connect at the STP location for each Dedicated Signaling Link. Rates are per DS-0 and DS-1 bandwidth and per connection to unbundled dedicated facility or connection to a collocation cage. Rates are per month and nonrecurring installation per first or additional cross connects ordered and shall apply on a per order basis.

8.3.2 **STP Port Termination**

8.3.2.1 CLEC shall pay the STP Port Termination rate element for each termination of the SS7 Link Cross Connect at the **SBC-7STATE** STP. One STP Port Termination must be installed at **SBC-7STATE**'s interconnecting STP for each Dedicated Signaling Link.

8.3.2.2 There are two charges that apply to the STP Port Termination, i.e., a fixed recurring monthly rate per port termination and a nonrecurring installation charge per port.

8.3.3 **STP Access Link**

8.3.3.1 CLEC shall pay the STP Access Link rate element for each STP Access Link when the STP Access Link is provided. The charge includes a fixed rate per month plus a rate per mile per month.

8.4 **Signaling Point Code Addition**

8.4.1 CLEC shall pay the Signaling Point Code Addition rate element for the establishment and translation of each applicable CCS network signaling point code at a **SBC-7STATE** STP. CLEC shall pay a nonrecurring charge per SPC established at each STP.

8.5 **Global Title Translation (GTT) Addition**

8.5.1 CLEC shall pay the GTT Addition rate element for the establishment of CLEC's GTA, translation type or subsystem information in the **SBC-7STATE** STP translations. CLEC shall pay a nonrecurring charge per GTT established at each STP.

8.6 **Use of the STP Per Call**

8.6.1 CLEC shall pay the Use of the STP Per Call rate element for Use of the **SBC-7STATE** STP. The rate shall apply for each call originated by CLEC subscribers using the **SBC-7STATE** Local Switching Network Element. The rate is based on an assumed mean quantity of 200 octets of signaling used for each originated call times the STP Transport rate element.

8.6.2 The Use of the STP Per Call is a surrogate for STP Transport and Dedicated Signaling Links when CLEC uses the **SBC-7STATE** Local Switching network element.

9. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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



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

TABLE OF CONTENTS

1. INTRODUCTION	4
2. DEFINITIONS.....	4
3. SCOPE OF APPENDIX.....	6
4. EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION.....	7
5. GENERAL PROVISIONS.....	9
6. DISCLAIMER OF WARRANTIES	10
7. DISPUTE RESOLUTION	11
8. INDEMNIFICATION	11
9. LIABILITIES AND LIMITATIONS OF LIABILITY	14
10. INSURANCE.....	16
11. ASSIGNMENT OF RIGHTS	17
12. TERMINATION OF AGREEMENT OR OCCUPANCY PERMITS; REMEDIES FOR BREACHES.....	20
13. FAILURE TO ENFORCE.....	21
14. CONFIDENTIALITY OF INFORMATION.....	21
15. ACCESS TO RIGHTS-OF-WAY	23
16. SPECIFICATIONS	25
17. ACCESS TO RECORDS	26
18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS.....	27
19. POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS.....	27
20. ISSUANCE OF OCCUPANCY PERMITS (INCLUDING MAKE-READY WORK) 28	
21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES	30

22. USE AND ROUTINE MAINTENANCE OF ATTACHING PARTY'S FACILITIES	31
23. MODIFICATION OF ATTACHING PARTY'S FACILITIES.....	31
24. REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES..	32
25. EMERGENCY REPAIRS AND POLE REPLACEMENTS.....	32
26. INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES.....	35
27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS.....	36
28. REMOVAL OF ATTACHING PARTY'S FACILITIES	37
29. RATES, FEES, CHARGES, AND BILLING.....	39
30. PERFORMANCE AND PAYMENT BONDS	39
31. NOTICES	40
32. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS.....	41

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

1. INTRODUCTION

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

2. DEFINITIONS

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

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

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

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

3. SCOPE OF APPENDIX

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

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

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

4. EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION

- 4.1 Effective Date. This Appendix shall be effective as of the _____ day of _____, 2002, or, if this Appendix has been entered into as an

appendix, attachment, or exhibit to an interconnection Appendix between the parties, the date of approval by the State Commission of the interconnection Appendix, whichever date first occurs.

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

5. GENERAL PROVISIONS

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

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

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

6. DISCLAIMER OF WARRANTIES

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

7. DISPUTE RESOLUTION

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

8. INDEMNIFICATION

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

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

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

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

9. LIABILITIES AND LIMITATIONS OF LIABILITY

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

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

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

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

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

10. INSURANCE

- 10.1 At all times in which the Attaching Party has attachments to SBC-13STATE poles, or is occupying SBC-13STATE conduit or right-of-way, Attaching Party shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set for below. Such insurance and coverage shall not only cover the Attaching Party, but it must cover all contractors, subcontractors and/or any other person acting on Attaching Party's behalf, that are providing services under this Appendix.
- 10.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Appendix and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$1,000,000 for Bodily Injury by disease-each employee.
- 10.1.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations.
- 10.1.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired and non-owned vehicles.
- 10.2 Attaching Party agrees to name SBC-13STATE as an Additional Insured on the Commercial General Liability policy and Commercial Automobile Liability Policy.

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

11. ASSIGNMENT OF RIGHTS

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

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

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

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

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

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

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

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

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

13. FAILURE TO ENFORCE

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

14. CONFIDENTIALITY OF INFORMATION

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

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

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

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

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

15. ACCESS TO RIGHTS-OF-WAY

- 15.1 To the extent SBC-13STATE has the authority to do so, SBC-13STATE grants Attaching Party a right to use any right-of-way for SBC-13STATE

poles, ducts, or conduits to which Attaching Party may attach its facilities for the purposes of constructing, operating and maintaining such Attaching Party's facilities on SBC-13STATE's poles, ducts or conduits. Notwithstanding the foregoing, Attaching Party shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the SBC-13STATE pole, duct or conduit to which Attaching Party seeks to attach its facilities. Attaching Party shall furnish proof of any such easement, right of way, license, permit, permission, certification, or franchise within thirty (30) days of request by SBC-13STATE. SBC-13STATE does not warrant the validity or apportionability of any rights it may hold to place facilities on private property.

- 15.2 Private Rights-of-Way Not Owned or Controlled by Either Party. Neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third-parties which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. Each party shall make its own, independent legal assessment of its right to enter upon or use the property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.
- 15.3 Access to Rights-of-Way Generally. At locations where SBC-13STATE has access to third-party property pursuant to non-exclusive rights-of-way, SBC-13STATE shall not interfere with Attaching Party's negotiations with third-party property owners for similar access or with Attaching Party's access to such property pursuant to easements or other rights-of-ways obtained by Attaching Party from the property owner. At locations where SBC-13STATE has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, SBC-13STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Attaching Party on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits SBC-13STATE to provide such access, and provided further that SBC-13STATE's charges for such access shall include Attaching Party's pro rata portion of the charges, if any, paid by SBC-13STATE to obtain the right-of-way, plus any other documented legal, administrative, and engineering costs incurred by SBC-13STATE in obtaining the right-of-way and processing Attaching Party's request for access.

16. SPECIFICATIONS

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

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

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

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

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

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

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

16.2.5 the **SBC-13STATE** Structure Access Guidelines

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

16.3.1 Attaching Party will notify **SBC-13STATE** not less than 5 business days in advance before entering **SBC-13STATE**'s conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.

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

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

17. ACCESS TO RECORDS

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

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

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

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

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

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

17.3.4 the total capacity of the Structure.

17.3.5 the existing utilization of the Structure.

17.4 SBC-13STATE will not acquire additional information or provide information in formats other than that in which it currently exists and is maintained by SBC-13STATE.

- 17.5 SBC-13STATE will expunge any confidential or proprietary information from its maps and records prior to providing access to the same to the Attaching Party.

18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS

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

19. POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

- 19.1 Selection of Space. SBC-13STATE will select or approve the Attaching Party's selection of the space Applicant will occupy on SBC-13STATE's poles or in SBC-13STATE's conduit systems. Maintenance ducts shall not be considered available for Attaching Party's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, ducts and attachment space on poles reserved for municipal use shall not be considered available for the Attaching Party's

use. All other ducts, inner ducts, space on poles or space in rights-of-ways which are not assigned or occupied shall be deemed available for use by **SBC-13STATE**, Attaching Party, and other parties entitled to access underapplicable law.

19.2 Pole, Duct, and Conduit Space Assignments.

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

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

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

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

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

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

20.1 Response Within 45 Days. Within 45 days of Attaching Party's submission of a request for access to **SBC-13STATE** Structure, **SBC-13STATE** shall provide a written response to the application. The response shall state whether the request is being granted or denied, and if the request is denied, provide the reasons why the request is being denied. If denial of access is proposed, **SBC-13STATE** will meet with the Attaching Party and explore in good faith reasonable alternatives to accommodate the proposed attachment. The Attaching Party must request such meeting within ten (10) business days of receipt of a notice of denial.

SBC-13STATE will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.

- 20.2 If access is granted the response will further advise Attaching Party in writing of:
- 20.2.1 what modifications, capacity expansions, or make-ready work, if any, will be required to prepare **SBC-13STATE**'s Structure, and
- 20.2.2 an estimate of charges for such modifications, capacity expansions, or make-ready work.
- 20.3 **Make-ready Work.** If it is determined that make ready work will be necessary to accommodate Attaching Party's facilities, Attaching Party shall have 45 days (the "acceptance period") to either
- 20.3.1 submit payment for the estimate authorizing **SBC-13STATE** or its contractor to complete the make-ready work; or
- 20.3.2 advise **SBC-13STATE** of its willingness to perform the proposed make-ready work itself if permissible in the application area.
- 20.4 Make-ready work performed by Attaching Party, or by an authorized contractor selected by Attaching Party, shall be performed in accordance with **SBC-13STATE**'s specifications and in accordance with the same standards and practices which would be followed if such work were being performed by **SBC-13STATE** or **SBC-13STATE**'s contractors. Neither Attaching Party nor authorized contractors selected by Attaching Party shall conduct such work in any manner which degrades the integrity of **SBC-13STATE**'s Structures or interferes with any existing use of **SBC-13STATE**'s facilities or the facilities of any Other User.
- 20.5 **Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities.** Attaching Party shall make arrangements with the Other Users with facilities attached to **SBC-13STATE**'s poles or occupying space in **SBC-13STATE**'s conduit system regarding reimbursement for any expenses incurred by the Other Users in transferring or rearranging the Other Users' facilities to accommodate the attachment or placement of Attaching Party's facilities to or in **SBC-13STATE**'s poles, ducts, conduits and rights of ways.
- 20.6 **Reimbursement for the Creation or Use of Additional Capacity.** If any additional capacity is created as a result of make-ready work performed to accommodate Attaching Party's facilities, Attaching Party shall not have a preferential right to utilize such additional capacity in the future and shall

not be entitled to any fees subsequently paid to **SBC-13STATE** for the use of such additional capacity. If **SBC-13STATE** utilizes additional space or capacity created at Attaching Party's expense, **SBC-13STATE** will reimburse Attaching Party on a pro-rata basis for **SBC-13STATE**'s share, if any, of Attaching Party's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. **SBC-13STATE** will notify the Attaching Party if any entity, including **SBC-13STATE**, attaches facilities to additional capacity on **SBC-13STATE**'s Structure created at the Attaching Party's expense. **SBC-13STATE** shall not be required to collect or remit any such amounts to Attaching Party, to resolve or adjudicate disputes over reimbursement between Attaching Party and Other Users.

20.7 If Attaching Party utilizes space or capacity on any **SBC-13STATE** Structure created at **SBC-13STATE**'s expense after February of 1996, the Attaching Party will reimburse Attaching Party on a pro-rata basis for the Attaching Party's share, if any, of **SBC-13STATE**'s capacity creation costs.

20.8 **Occupancy Permit and Attachment.** After all required make-ready work is completed, **SBC-13STATE** will issue an occupancy permit confirming that Attaching Party may attach specified facilities to **SBC-13STATE**'s Structure.

20.9 The Attaching Party must occupy the assigned space within a period not to exceed twelve (12) months from the issuance of the occupancy permit. If the Attaching Party does not occupy the assigned space within the twelve (12) month period, the Occupancy Permit will lapse and the space will be considered available for use by **SBC-13STATE** or Other User.

***PACIFIC only:** Space assignment shall not exceed nine (9) months in California.

20.10 The Attaching Party's obligation to pay semiannual pole attachment or conduit occupancy fees will commence on the date the Occupancy Permit is provided by **SBC-13STATE** to the Attaching Party.

21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES

21.1 **Responsibility for Attaching and Placing Facilities.** The Attaching Party shall be responsible for the actual attachment of its facilities to **SBC-13STATE**'s poles and the placement of such facilities in **SBC-13STATE**'s ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.

- 21.2 Construction Schedule. After the issuance of an occupancy permit, Attaching Party shall provide SBC-13STATE with a construction schedule and thereafter keep SBC-13STATE informed of anticipated changes in the construction schedule.

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

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

23. MODIFICATION OF ATTACHING PARTY'S FACILITIES

- 23.1 Notification of Planned Modifications. Attaching Party shall notify SBC-13STATE in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities already attached to a SBC-13STATE Structure. The notice shall contain sufficient information to enable SBC-13STATE to determine whether the proposed addition, relocation, replacement, or modification is within the scope of Attaching

Party's present occupancy permit or requires a new or amended occupancy permit.

- 23.2 Replacement of Facilities and Overlapping Additional Cables. Attaching Party may replace existing facilities with new facilities occupying the same SBC-13STATE Structure, and may overlap additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

24. REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES

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

25. EMERGENCY REPAIRS AND POLE REPLACEMENTS

- 25.1 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.
- 25.1.1 Nothing contained in this Appendix shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- 25.1.2 Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that an entity using the maintenance duct for emergency repair activities will notify SBC-13STATE within 12

hours of the current business day (or first business day following a non-business day) that such entity is entering the **SBC-13STATE** conduit system and using the maintenance duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance ducts will be used to restore the highest priority services, as defined in Section 2.7, first. Existing spare ducts may be used for restoration purposes providing the spare ducts are restored after restoration work is complete. Any spare ducts not returned will be included be assigned to the user of the duct and an occupancy permit issued.

- 25.1.3 The Attaching Party shall either vacate the maintenance duct within 30 days or, with **SBC-13STATE**'s consent, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner-duct, a suitable replacement inner-duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance ducts. Entities not vacating the maintenance duct must provide an immediate maintenance duct at the entity's cost.

- 25.2 **Designation of Emergency Repair Coordinators and Other Information.** For each **SBC-13STATE** construction district, Attaching Party shall provide **SBC-13STATE** with the emergency contact number of Attaching Party's designated point of contact for coordinating the handling of emergency repairs of Attaching Party's facilities and shall thereafter notify **SBC-13STATE** of changes to such information.

- 25.3 **Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations.** When notice and coordination are practicable, **SBC-13STATE**, Attaching Party, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.

- 25.3.1 Emergency service restoration work requirements shall take precedence over other work operations.

- 25.3.2 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent

with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.

25.3.3 **SBC-13STATE** shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by **SBC-13STATE** on a nondiscriminatory basis in accordance with the principles set forth in this section.

25.4 **Emergency Pole Replacements.**

25.4.1 When emergency pole replacements are required, **SBC-13STATE** shall promptly make a good faith effort to contact Attaching Party to notify Attaching Party of the emergency and to determine whether Attaching Party will respond to the emergency in a timely manner.

25.4.2 If notified by **SBC-13STATE** that an emergency exists which will require the replacement of a pole, Attaching Party shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an **SBC-13STATE** replacement pole, the transfer shall be in accordance with **SBC-13STATE**'s placement instructions.

25.4.3 If Attaching Party is unable to respond to the emergency situation immediately, Attaching Party shall so advise **SBC-13STATE** and thereby authorize **SBC-13STATE** (or any Other User sharing the pole with **SBC-13STATE**) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on Attaching Party's behalf.

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

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

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

26. INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES

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

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

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

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

fashion as make ready work or modifications for a new request for attachment.

27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

- 27.1 Facilities to Be Marked. Attaching Party shall tag or otherwise mark all of Attaching Party's facilities placed on or in SBC-13STATE's Structure in a manner sufficient to identify the facilities as those belonging to the Attaching Party.
- 27.2 Removal of Untagged Facilities. SBC-13STATE may, without notice to any person or entity, remove from SBC-13STATE's poles or any part of SBC-13STATE's conduit system the Attaching Party's facilities, if SBC-13STATE determines that such facilities are not the subject of a current occupancy permit and are not otherwise lawfully present on SBC-13STATE's poles or in SBC-13STATE's conduit system.
- 27.3 Notice to Attaching Party. If any of Attaching Party's facilities for which no occupancy permit is presently in effect are found attached to SBC-13STATE's poles or anchors or within any part of SBC-13STATE's conduit system, SBC-13STATE, without prejudice to other rights or remedies available to SBC-13STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Agreement, shall send a written notice to Attaching Party advising Attaching Party that no occupancy permit is presently in effect with respect to the facilities and that Attaching Party must, within 30 days, respond to the notice as provided in Section 27.6 of this Appendix.
- 27.4 Attaching Party's Response. Within 60 days after receiving a notice under Section 27.5 of this Appendix, Attaching Party shall acknowledge receipt of the notice and submit to SBC-13STATE, in writing, an application for a new or amended occupancy permit with respect to such facilities.
- 27.5 Approval of Request and Retroactive Charges. If SBC-13STATE approves Attaching Party's application for a new or amended occupancy permit, Attaching Party shall be liable to SBC-13STATE for all fees and charges associated with the unauthorized attachments as specified in Section 27.10 of this Appendix. The issuance of a new or amended occupancy permit as provided by this article shall not operate retroactively or constitute a waiver by SBC-13STATE of any of its rights or privileges under this Appendix or otherwise.
- 27.6 Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from SBC-13STATE's poles, conduit system or rights of way or until a new or amended occupancy

permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if Attaching Party and its predecessors had continuously complied with all applicable SBC-13STATE licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. In addition, the Attaching Party shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date Attaching Party is notified by SBC-13STATE of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Attaching Party shall rearrange or remove its unauthorized facilities at SBC-13STATE's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to SBC-13STATE or another Other User, and shall pay SBC-13STATE for all costs incurred by SBC-13STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Attaching Party's unauthorized facilities.

27.7 Removal of Unauthorized Attachments. If Attaching Party does not obtain a new or amended occupancy permit with respect to unauthorized facilities within the specified period of time, SBC-13STATE shall by written notice advise Attaching Party to remove its unauthorized facilities not less than 60 days from the date of notice and Attaching Party shall remove the facilities within the time specified in the notice. If the facilities have not been removed within the time specified in the notice, SBC-13STATE may, at SBC-13STATE's option, remove Attaching Party's facilities at Attaching Party's expense.

27.8 No Ratification of Unpermitted Attachments or Unauthorized Use of SBC-13STATE's Facilities. No act or failure to act by SBC-13STATE with regard to any unauthorized attachment or occupancy or unauthorized use of SBC-13STATE's Structure shall be deemed to constitute a ratification by SBC-13STATE of the unauthorized attachment or occupancy or use, nor shall the payment by Attaching Party of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Attaching Party from liability for any trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

28. REMOVAL OF ATTACHING PARTY'S FACILITIES

28.1 When Applicant no longer intends to occupy space on a SBC-13STATE pole or in a SBC-13STATE duct or conduit, Applicant will provide written notification to SBC-13STATE that it wishes to terminate the occupancy permit with respect to such space and will remove its facilities

from the space described in the notice. Upon removal of Applicant's facilities, the occupancy permit shall terminate and the space shall be available for reassignment.

28.1.1 Attaching Party shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from **SBC-13STATE**'s Structure.

28.1.2 Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to **SBC-13STATE**'s manholes.

28.1.3 Applicant shall be solely responsible for the removal of its own facilities from **SBC-13STATE**'s Structure.

28.2 At **SBC-13STATE**'s request, Attaching Party shall remove from **SBC-13STATE**'s Structure any of Attaching Party's facilities which are no longer in active use. Upon request, the Attaching Party will provide proof satisfactory to **SBC-13STATE** that an Attaching Party's facility is in active service. Attaching Party shall not abandon any of its facilities by leaving such facilities on or in **SBC-13STATE**'s Structure.

28.3 Removal Following Termination of Occupancy permit. Attaching Party shall remove its facilities from **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way within 60 days after termination of the occupancy permit.

28.4 Removal Following Replacement of Facilities. Attaching Party shall remove facilities no longer in service from **SBC-13STATE**'s Structures within 60 days after the date Attaching Party replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit.

28.5 Removal to Avoid Forfeiture. If the presence of Attaching Party's facilities on or in **SBC-13STATE**'s Structure would cause a forfeiture of the rights of **SBC-13STATE** to occupy the property where such Structure is located, **SBC-13STATE** will promptly notify Attaching Party in writing and Attaching Party shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. **SBC-13STATE** will give Attaching Party not less than 60 days from the date of notice to remove Attaching Party's facilities unless prior removal is required to prevent the forfeiture of **SBC-13STATE**'s rights. At Attaching Party's request, the parties will engage in good faith negotiations with each other, with Other Users, and with third-party property owners and cooperatively take such other steps as

may be necessary to avoid the unnecessary removal of Attaching Party's facilities.

- 28.6 Removal of Facilities by SBC-13STATE; Notice of Intent to Remove. If Attaching Party fails to remove its facilities from **SBC-13STATE**'s Structure in accordance with the provisions of Sections 28.1-28.6 of this Appendix, **SBC-13STATE** may remove such facilities and store them at Attaching Party's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Attaching Party for any injury, loss, or damage resulting from such actions. **SBC-13STATE** shall give Attaching Party not less than 60 days prior written notice of its intent to remove Attaching Party's facilities pursuant to this section.
- 28.7 Removal of Facilities by SBC-13STATE. If **SBC-13STATE** removes any of Attaching Party's facilities pursuant to this article, Attaching Party shall reimburse **SBC-13STATE** for **SBC-13STATE**'s costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

29. RATES, FEES, CHARGES, AND BILLING

- 29.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees outlined in this Appendix will be set forth in APPENDIX PRICING as part of the Interconnection Agreement. All rates, charges and fees shall be subject to all applicable federal and state laws, rules, regulations, and commission orders.
- 29.2 Changes to Rates, Charges and Fees. Subject to applicable federal and state laws, rules, regulations and orders, **SBC-13STATE** shall have the right to change the rates, charges and fees outlined in this Appendix. **SBC-13STATE** will provide the Attaching Party 60 days written notice, advising the Attaching Party of the specific changes being made and the effective date of the change. If the changes outlined in the notice are not acceptable to the Attaching Party, Attaching Party may either (1) seek renegotiation of this Appendix, (2) terminate this Appendix, or (3) seek relief through the dispute resolution process in the General Terms and Conditions of this Agreement.

30. PERFORMANCE AND PAYMENT BONDS

- 30.1 Bond May Be Required. **SBC-13STATE** may require Attaching Party, authorized contractors, and other persons acting on Attaching Party's behalf to execute performance and payment bonds (or provide other forms

of security) in amounts and on terms sufficient to guarantee the performance of the Attaching Party's obligations arising out of or in connection with this Appendix.

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

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

31. NOTICES

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

31.1.1 Such notice may be delivered to the party's duly authorized agent or attorney in person or by agent or courier receipted delivery.

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

31.1.3 Notices to a party shall be sent to the authorized agent or attorney designated below:

If to Attaching Party:

Name: Charles L. Schneider, Jr.

Title: Director, Business Development

Firm: Bullseye Telecom, Inc.

Address: 25900 Greenfield Road, Suite 330

City/State/Zip: Oak Park, MI 48237

If to SBC:

Name: Contract Administration

Title: Notices Manager

Firm: SBC Communications, Inc.

Address: 311 S. Akard, 9th Floor

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

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

32. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

32.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Appendix which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute

resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no permit; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire Agreement.

APPENDIX UNE

TABLE OF CONTENTS

1. INTRODUCTION.....	3
2. TERMS AND CONDITIONS	4
3. ACCESS TO UNE CONNECTION METHODS.....	16
4. ADJACENT LOCATION	17
5. BONA FIDE REQUEST.....	19
6. NETWORK INTERFACE DEVICE	26
7. LOCAL LOOP	27
8. SUB-LOOP ELEMENTS	28
9. ENGINEERING CONTROLLED SPLICE (ECS).....	36
10. PACKET SWITCHING	38
11. LOCAL SWITCHING.....	39
12. SHARED TRANSPORT.....	43
13. INTEROFFICE TRANSPORT	49
14. DARK FIBER.....	52
15. OPERATOR SERVICES AND DIRECTORY ASSISTANCE	56
16. SIGNALING NETWORKS AND CALL-RELATED DATABASES.....	56
17. OPERATIONS SUPPORT SYSTEMS FUNCTIONS.....	56
18. CROSS CONNECTS	56
19. RECONFIGURATION	61
20. RESERVATION OF RIGHTS	62
21. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS	62

**APPENDIX UNE
(UNBUNDLED NETWORK ELEMENTS)**

1. INTRODUCTION

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

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

2. **TERMS AND CONDITIONS**

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

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

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

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

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

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

2.11 New Combinations Involving UNEs

2.11.1 Subject to the provisions hereof and upon CLEC request, SBC-13STATE shall meet its combining obligations involving UNEs as and to the extent required by FCC rules and orders, and *Verizon Comm. Inc. v. FCC*, 535 U.S. _____, No. 00-511, 2002 WL 970643 (May 13, 2002) ("*Verizon Comm. Inc.* ") and, to the extent not inconsistent therewith, the rules and orders of relevant State Commission and any other Applicable Law.

2.11.2 In the event that SBC-13STATE denies a request to perform the functions necessary to combine UNEs or to perform the functions necessary to combine UNEs with elements possessed by CLEC, SBC-13STATE shall provide written notice to CLEC of such denial and the basis thereof. Any dispute over such denial shall be addressed using the dispute resolution procedures applicable to this Agreement. If such dispute cannot be resolved to the mutual satisfaction of the parties, SBC-13STATE shall initiate a proceeding before the State commission for the State in which the combination is sought, to prove that such denial meets one or more applicable standards for denial, including without limitation those under the FCC rules and orders, *Verizon Comm. Inc.*, and the Agreement, including Section 2.11.1 of this Appendix.

2.11.3 In accordance with and subject to the provisions of this Section 2.11, including Section 2.11.3.2 and 2.11.5, the new UNE combinations set forth in the Schedule(s) – UNE Combinations attached and incorporated into this Appendix UNE shall be made available to CLEC as specified in the specific Schedule for a particular State.

2.11.3.1 A "Pre-existing Combination" shall not be considered a new combination involving UNEs under this Section. A "Pre-existing Combination" means a combination of UNEs where no physical work is required by SBC-13STATE at an SBC-13STATE premises, an outside plant location, or a customer premises, in order to establish physical connections between the UNEs that constitute the UNE combination. A Pre-existing Combination

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

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

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

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

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

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

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

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

- 2.11.3.2.3 Without affecting the application of Section 2.11.3.2.2 (which shall apply in accordance with its provisions), upon notice by **SBC-13STATE**, the parties shall engage in good faith negotiations to amend the Agreement to set forth and delineate those functions or other actions that go beyond the ILEC obligation to perform the functions necessary to combine UNEs and combine UNEs with elements possessed by a requesting telecommunications carrier, and to eliminate any **SBC-13STATE** obligation to perform such functions or other actions. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the parties regarding those functions and other actions that go beyond those functions necessary to combine UNEs and combine UNEs with elements possessed by a requesting telecommunications carrier, shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.
- 2.11.3.3 For a new UNE combination listed on a Schedule – UNE Combinations does not imply or otherwise indicate the availability of related support system capabilities, including without limitation, whether electronic ordering is available for any particular included new UNE combination in one or more States. Where electronic ordering is not available, manual ordering shall be used.
- 2.11.3.4 For a new UNE combination listed on a Schedule – UNE Combinations, CLEC shall issue appropriate service requests. These requests will be processed by **SBC-13STATE**, and CLEC

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

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

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

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

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

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

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

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

2.11.5.5 CLEC is

2.11.5.5.1 unable to make the combination itself; or

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

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

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

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

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

- 2.11.8 Nothing in this Agreement shall impose any obligation on **SBC-13STATE** to provide UNEs, combinations of UNEs, or combinations of UNE(s) and CLEC's own elements beyond those obligations imposed by the Act, including the rules and orders of the FCC and *Verizon Comm. Inc.* and, to the extent not inconsistent therewith, the rules and orders of the relevant State Commission and any other Applicable Law. The preceding includes without limitation the following:
- 2.11.8.1 The UNE combination known as an "enhanced extended loop" or "EEL" (a combination of a UNE loop and UNE dedicated transport, with appropriate Cross-Connects, and when needed, multiplexing) shall only be provided to CLEC to the extent that the EEL is used to provide a significant amount of local exchange service to a particular End User customer (this limitation is the same as the requirements set forth in the FCC's Supplemental Order Clarification in CC Docket No. 96-98, FCC 00-183 (rel. June 2, 2000));
- 2.11.8.2 **SBC-13STATE** will not connect to or combine UNEs with any non-251(c)(3) or other **SBC-13STATE** offerings with the exception of tariffed Collocation services;
- 2.11.8.3 **SBC-13STATE** need not provide combinations involving network elements that do not constitute required UNEs, or where UNEs are not requested for permissible purposes.
- 2.12 As of February 2, 2020, CLEC may no longer order 2-Wire Analog UNE Loops or 4-Wire Analog UNE Loops ("Analog Loops") pursuant to this Agreement. Any existing Analog Loops ordered on or before February 1, 2020 ("Analog Loop Embedded Base") are grandfathered until August 2, 2022. CLEC shall convert the Analog Loop Embedded Base to a commercial offering, or other comparable service, or disconnect such Analog Loop on, or before, August 1, 2022. Exhibit A to this Amendment contains Analog Loop element descriptions and USOCs that are subject to the FCC UNE and Resale Forbearance Order, however this Agreement may also contain additional and/or older element descriptions and USOCs that are also Analog Loops subject to the FCC UNE and Resale Forbearance Order.
- a. To the extent CLEC fails to adhere to the above, at AT&T's sole discretion, AT&T may take one or more of the following actions for any remaining Analog Loops and CLEC will be responsible for all recurring and non-recurring charges:
- i. convert to an analogous arrangement available under a separate commercial agreement executed by the Parties, or

- ii. convert to AT&T tariff or guidebook services (in which case month-to-month rates, terms and conditions shall apply), or
 - iii. reprice by application of a new rate (or by application of a surcharge to an existing rate), or
 - iv. disconnect
 - b. AT&T reserves the right to backbill CLEC for the difference between an Analog Loop rate and the non-UNE rate that applies under this Section 4 for any new Analog Loops inadvertently ordered on or after February 2, 2020, and any Analog Loop Embedded Base remaining as of August 1, 2022.
 - c. AT&T's election to reprice the Analog Loop shall not preclude AT&T from later converting the Analog Loop to an analogous arrangement available under a separate commercial agreement or an AT&T tariff or guidebook service.
- 2.13 As of January 12, 2020, CLEC may no longer order DS1/DS3 Unbundled Dedicated Transport ("DS1/DS3 UDT"), whether stand-alone or part of a combination (e.g., Enhanced Extended Link), pursuant to this Agreement between Tier 1 wire centers and/or wire centers subject to UDT forbearance under Public Notice DA 19-733, dated August 1, 2019. Any such existing DS1/DS3 UDT ordered on or before January 11, 2020, is grandfathered until July 12, 2022 ("UDT Embedded Base").
- i. CLEC must convert any grandfathered DS1/DS3 UDT to another product/service offering on or before July 12, 2022, pursuant to the Conversion of 251(c)(3) UNE/UNE Combinations to Wholesale Services provisions of this Agreement or other similar provision.
 - ii. If CLEC fails to convert grandfathered DS1/DS3 UDT before July 12, 2022, at AT&T's sole discretion, AT&T may convert any, or all, of the remaining DS1/DS3 UDT to the equivalent Special Access service at month-to-month rates, terms and conditions. CLEC shall be responsible for all associated recurring and non-recurring charges.
 - iii. AT&T reserves the right to backbill CLEC for the difference between a DS1/DS3 UDT rate and the non-UNE rate that applies under this Section 5 for any new circuits inadvertently ordered on or after January 12, 2020 and any UDT Embedded Base remaining as of July 12, 2022.
 - iv. If the FCC determines that additional wire centers are subject to forbearance, CLEC shall cease ordering DS1/DS3 UDT as of the date specified by the FCC and adhere to any FCC-specified transition timelines.
- 2.14 Any future forbearance from or rule changes for Section 251(c)(3) UNEs offered pursuant to this Agreement shall be incorporated by reference as of the effective date of the FCC order and shall not require a written amendment. AT&T shall provide

Notice to CLEC of how the Parties will implement the subsequent UNE forbearance or rule change. Notice will include applicable transition periods and any changes to rate(s), term(s) and/or condition(s) to the underlying Agreement.

3. ACCESS TO UNE CONNECTION METHODS

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

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

3.1.1.1 (Method 1)

SBC-13STATE will extend SBC-13STATE UNEs requiring cross connection to the CLEC's Physical Collocation Point of Termination (POT) when the CLEC is Physically Collocated, in a caged or shared cage arrangement, within the same Central Office where the UNEs which are to be combined are located.

3.1.1.2 (Method 2)

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

3.1.1.3 (Method 3)

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

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

3.2.1 Within ten (10) business days of receipt of a written request for access to

UNEs involving three (3) or fewer Central Offices, SBC-13STATE will provide a written reply notifying the requesting CLEC of the method(s) of access available in the requested Central Offices. For requests impacting four (4) or more Central Offices the Parties will agree to an implementation schedule for access to UNEs.

- 3.2.2 Access to UNEs via Method 1 is only available to Physically Collocated CLECs. Access to UNEs via Method 2 and Method 3 is available to both Collocated and Non-Collocated CLECs. Method 2 and Method 3 are subject to availability of SBC-13STATE Central Office space and equipment.
- 3.2.3 The CLEC may cancel the request at any time, but will pay SBC-13STATE's reasonable and demonstrable costs for modifying SBC-13STATE's Central Office up to the date of cancellation.
- 3.2.4 CLECs may elect to access SBC-13STATE's UNEs through Physical Collocation arrangements.
- 3.2.5 CLEC shall be responsible for initial testing and trouble sectionalization of facilities containing CLEC installed cross connects.
- 3.2.6 CLEC shall refer trouble sectionalized in the SBC-13STATE UNE to SBC-13STATE.
- 3.2.7 Prior to SBC-13STATE providing access to UNEs under this Appendix, CLEC and SBC-13STATE shall provide each other with a point of contact for overall coordination.
- 3.2.8 CLEC shall provide all tools and materials required to place and remove the cross connects necessary to combine and disconnect UNEs when CLEC combines or disconnects UNEs.
- 3.2.9 All tools, procedures, and equipment used by CLEC to connect to SBC-13STATE's network shall comply with technical standards set out in SBC Local Exchange Carrier Technical Document TP76299MP, to reduce the risk of damage to the network and customer disruption.
- 3.2.10 CLEC shall be responsible for CLEC's personnel observing SBC-13STATE's site rules and regulations, including but not limited to safety regulations and security requirements, and for working in harmony with others while present at the site. If SBC-13STATE for any reasonable and lawful reason requests CLEC to discontinue furnishing any person provided by CLEC for performing work on SBC-13STATE's premises, CLEC shall immediately comply with such request. Such person shall leave SBC-13STATE's premises promptly, and CLEC shall not furnish such person again to perform work on SBC-13STATE's premises without SBC-

13STATE's consent.

- 3.2.11 CLEC shall provide positive written acknowledgment that the requirements stated in Section 3.2.10 have been satisfied for each employee requiring access to **SBC-13STATE** premises and/or facilities. **SBC-13STATE** identification cards will be issued for any CLEC employees who are designated by CLEC as meeting the necessary requirements for access. Entry to **SBC-13STATE** premises will be granted only to CLEC employees with such identification.
- 3.2.12 CLEC shall designate each UNE being ordered from **SBC-13STATE**. CLEC shall provide an interface to receive assignment information from **SBC-13STATE** regarding location of the extended UNEs. This interface may be manual or mechanized.
- 3.2.13 **SBC-13STATE** will provide CLEC with contact numbers as necessary to resolve assignment conflicts encountered. All contact with **SBC-13STATE** shall be referred to such contact numbers.
- 3.2.14 The CLEC shall provide its own administrative Telecommunication Service at each facility and all materials needed by CLEC at the work site. The use of cellular telephones is not permitted in **SBC-13STATE** equipment areas.
- 3.2.15 Certain construction and preparation activities may be required to modify a building or prepare the premises for access to UNEs.
- 3.2.15.1 Where applicable, costs for modifying a building or preparing the premises for access to **SBC-13STATE** UNEs will be made on an individual case basis (ICB).
- 3.2.15.2 **SBC-13STATE** will provide Access to UNEs (floor space, floor space conditioning, cage common systems materials, and safety and security charges) in increments of one (1) square foot. For this reason, **SBC-13STATE** will ensure that the first CLEC obtaining Access to UNEs in an **SBC-13STATE** premises will not be responsible for the entire cost of site preparation and security.
- 3.2.15.3 **SBC-13STATE** will contract for and perform the construction and preparation activities using same or consistent practices that are used by **SBC-13STATE** for other construction and preparation work performed in the building.

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

4.* ADJACENT LOCATION

- 4.1* This Section describes the Adjacent Location Method for accessing UNEs. This Section also provides the conditions in which **PACIFIC** offers the Adjacent Location Method.
- 4.2* The Adjacent Location Method allows a CLEC to access loops, switch ports, and dedicated transport for a CLEC location adjacent to a **PACIFIC** Central Office as identified by **PACIFIC**. Under this method **PACIFIC** UNEs will be extended to the adjacent location, via copper cabling provided by the CLEC, which the CLEC can then utilize to provide Telecommunications Service.
- 4.3* This method requires the CLEC to provide copper cable, greater than 600 pairs, to the last manhole outside the **PACIFIC** Central Office. The CLEC shall provide enough slack for **PACIFIC** to pull the cable into the Central Office and terminate the cable on the Central Office Intermediate Distribution Frame (IDF).
- 4.4* The CLEC will obtain all necessary rights of way, easements, and other third party permissions.
- 4.5* The following terms and conditions apply when **PACIFIC** provides the adjacent location:
- 4.5.1 The CLEC is responsible for Spectrum Interference and is aware that not all pairs may be ADSL or POTS capable.
- 4.6* The installation interval applies on an individual application basis. The CLEC is responsible for paying all up front charges (nonrecurring and case preparation costs) before work will begin. This assumes that all necessary permits will be issued in a timely manner.
- 4.7* The CLEC will provide the excess cable length necessary to reach the **PACIFIC** IDF in the **PACIFIC** Central Office where CLEC requests connection.
- 4.8* The CLEC will be responsible for testing and sectionalization of facilities from the customer's location to the entrance manhole.
- 4.9* ¹The CLEC should refer any sectionalized trouble determined to be in **PACIFIC**'s facilities to **PACIFIC**.
- 4.10* The CLEC's employees, agents and contractors will be permitted to have access to the CLEC's cable where it is delivered to **PACIFIC** (outside the entrance manhole).

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

The CLEC is only able to enter the entrance manhole to splice under a duct lease agreement. If the CLEC leases ducts to get to the Central Office then CLEC has the right to splice the manholes on the route, including the entrance manhole.

- 4.11* In order for PACIFIC to identify the entrance manhole for the CLEC, the CLEC must specify the direction from which the cable originates. PACIFIC will verify that a vacant sleeve or riser duct exists at the entrance manhole. If none exists, construction of one will be required. If a vacant access sleeve or riser duct does not exist, and one must be constructed, the CLEC will pay for the construction on an Outside Plant Custom Work Order.
- 4.12* The CLEC will retain all assignment control. PACIFIC will maintain TIRKS records for cable appearance information on the horizontal and vertical appearance on the PACIFIC frame.
- 4.13* The CLEC will pay Time and Materials charges when PACIFIC dispatches personnel and failure is in the CLEC's facility.
- 4.14* PACIFIC will not assume responsibility for the quality of service provided over this special interconnection arrangement. Service quality is the responsibility of the CLEC. PACIFIC limits each CLEC to two building entrances. Two entrances allow for CLEC growth or a diverse path.
- 4.15* Prior to PACIFIC providing the Adjacent Location Method in this Appendix, the CLEC and PACIFIC shall provide each other with a single point of contact for overall coordination.
- 4.16* The Adjacent Location Method of Accessing UNEs only allows for copper cable termination.

5. BONA FIDE REQUEST

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

5.2 ITEM I

SBC-SWBT, SBC-AMERITECH, NEVADA

Bona Fide Request Process

- 5.2.1 A Bona Fide Request (“BFR”) is the process by which CLEC may request **SBC-SWBT, SBC-AMERITECH, NEVADA** to (i) provide CLEC access to an additional or new, undefined UNE, that is required to be provided by **SBC-SWBT, SBC-AMERITECH, NEVADA** under the Act but is not available under this Agreement or defined in a generic appendix at the time of CLEC’s request, or (ii) perform combining pursuant to Section 2.11.4 (each of (i) and (ii) referred to as a “Request”).
- 5.2.2 The BFR process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) paragraph 259 and n. 603 and subsequent rulings.
- 5.2.3 All BFRs must be submitted with a BFR Application Form in accordance with the specifications and processes set forth in the respective sections of the CLEC Handbook. Included with the Application CLEC shall provide a technical description of each requested UNE or combination, drawings when applicable, the location(s) where needed, the date required, and the projected quantity to be ordered with a 3 year forecast.
- 5.2.4 CLEC is responsible for all costs incurred by **SBC-SWBT, SBC-AMERITECH, NEVADA** to review, analyze and process a BFR. When submitting a BFR Application Form, CLEC has two options to compensate **SBC-SWBT, SBC-AMERITECH, NEVADA** for its costs incurred to complete the Preliminary Analysis of the BFR:
- 5.2.4.1 Include with its BFR Application Form a \$2,000 deposit to cover **SBC-SWBT, SBC-AMERITECH, NEVADA**’s preliminary evaluation costs, in which case **SBC-SWBT, SBC-AMERITECH, NEVADA** may not charge CLEC in excess of \$2,000 to complete the Preliminary Analysis; or
- 5.2.4.2 Not make the \$2,000 deposit, in which case CLEC shall be responsible for all preliminary evaluation costs incurred by **SBC-SWBT, SBC-AMERITECH, NEVADA** to complete the preliminary Analysis (regardless of whether such costs are greater or less than \$2,000).
- 5.2.5 If CLEC submits a \$ 2,000 deposit with its BFR, and **SBC-SWBT, SBC-AMERITECH, NEVADA** is not able to process the Request or determines that the Request does not qualify for BFR treatment, then **SBC-SWBT, SBC-AMERITECH, NEVADA** will return the \$2,000 deposit to CLEC.

Similarly, if the costs incurred to complete the Preliminary Analysis are less than \$2,000, the balance of the deposit will, at the option of CLEC, either be refunded or credited toward additional developmental costs authorized by CLEC.

- 5.2.6 Upon written notice, CLEC may cancel a BFR at any time, but will pay SBC-SWBT, SBC-AMERITECH, NEVADA its reasonable and demonstrable costs of processing and/or implementing the BFR up to and including the date SBC-SWBT, SBC-AMERITECH, NEVADA received notice of cancellation. If cancellation occurs prior to completion of the preliminary evaluation, and a \$2,000 deposit has been made by CLEC, and the reasonable and demonstrable costs are less than \$2,000, the remaining balance of the deposit will be, at the option of the CLEC, either returned to CLEC or credited toward additional developmental costs authorized by CLEC.
- 5.2.7 SBC-SWBT, SBC-AMERITECH, NEVADA will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt SBC-SWBT, SBC-AMERITECH, NEVADA will acknowledge receipt of the BFR and in such acknowledgement advise CLEC of the need for any further information needed to process the Request. CLEC acknowledges that the time intervals set forth in this Appendix begins once SBC-SWBT, SBC-AMERITECH, NEVADA has received a complete and accurate BFR Application Form and, if applicable, \$2,000 deposit.
- 5.2.8 Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR, SBC-SWBT, SBC-AMERITECH, NEVADA will provide to CLEC a preliminary analysis of such Request (the “Preliminary Analysis”). The Preliminary Analysis will (i) indicate that SBC-SWBT, SBC-AMERITECH, NEVADA will offer the Request to CLEC or (ii) advise CLEC that SBC-SWBT, SBC-AMERITECH, NEVADA will not offer the Request. If SBC-SWBT, SBC-AMERITECH, NEVADA indicates it will not offer the Request, SBC-SWBT, SBC-AMERITECH, NEVADA will provide a detailed explanation for the denial. Possible explanations may be, but are not limited to: i) access to the Request is not technically feasible, ii) that the Request is not required to be provided by SBC-SWBT, SBC-AMERITECH, NEVADA under the Act and/or, iii) that the BFR is not the correct process for the request.
- 5.2.9 If the Preliminary Analysis indicates that SBC-SWBT, SBC-AMERITECH, NEVADA will offer the Request, CLEC may, at its discretion, provide written authorization for SBC-SWBT, SBC-AMERITECH, NEVADA to develop the Request and prepare a “BFR Quote”. The BFR Quote shall, as applicable, include (i) the first date of availability, (ii) installation intervals, (iii) applicable rates (recurring, nonrecurring and other), (iv) BFR development and processing costs and (v) terms and conditions by which the Request shall be made available. CLEC’s written authorization to develop the

BFR Quote must be received by **SBC-SWBT, SBC-AMERITECH, NEVADA** within thirty (30) calendar days of CLEC's receipt of the Preliminary Analysis. If no authorization to proceed is received within such thirty (30) calendar day period, the BFR will be deemed canceled and CLEC will pay to **SBC-SWBT, SBC-AMERITECH, NEVADA** all demonstrable costs as set forth above. Any request by CLEC for **SBC-SWBT, SBC-AMERITECH, NEVADA** to proceed with a Request received after the thirty (30) calendar day window will require CLEC to submit a new BFR.

- 5.2.10 As soon as feasible, but not more than ninety (90) calendar days after its receipt of authorization to develop the BFR Quote, **SBC-SWBT, SBC-AMERITECH, NEVADA** shall provide to CLEC a BFR Quote.
- 5.2.11 Within thirty (30) calendar days of its receipt of the BFR Quote, CLEC must either (i) confirm its order pursuant to the BFR Quote (ii) cancel its BFR and reimburse **SBC-SWBT, SBC-AMERITECH, NEVADA** for its costs incurred up to the date of cancellation, or (iii) if it believes the BFR Quote is inconsistent with the requirements of the Act and/or this Appendix, exercise its rights under Section 10 of the GTC. If **SBC-SWBT, SBC-AMERITECH, NEVADA** does not receive notice of any of the foregoing within such thirty (30) calendar day period, the BFR shall be deemed canceled. CLEC shall be responsible to reimburse **SBC-SWBT, SBC-AMERITECH, NEVADA** for its costs incurred up to the date of cancellation (whether affirmatively canceled or deemed canceled by CLEC).
- 5.2.12 Unless CLEC agrees otherwise, all rates and costs quoted or invoiced herein shall be consistent with the pricing principles of the Act.
- 5.2.13 If a Party believes that the other Party is not requesting, negotiating or processing a BFR in good faith and/or as required by the Act, or if a Party disputes a determination, or price or cost quote, such Party may seek relief pursuant to the Dispute Resolution Process set forward in the General Terms and Conditions section of this agreement.

5.3* **Item II**

SNET Bona Fide Request Process

- 5.3.1 The Bona Fide Request provisions set forth in Item I of Section 5 shall apply to BFRs submitted to **SNET**, with the following exceptions:

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

- 5.3.2 Section 5.2.1 is amended to add the following: A CLEC may submit a BFR to request new UNEs or Combinations of UNEs provided the request is not covered by one of the following conditions:
- 5.3.2.1 The UNEs or combinations requested have not previously been identified or defined by the Department of Public Utility Control (DPUC), the Federal Communications Commission, the CLEC's approved interconnection agreement, or in the listings of combinations in Docket No. 98-02-01, DPUC Investigation into Rebundling of Telephone Company Network Elements, August 17, 1998.
 - 5.3.2.2 The UNEs or combinations requested are not currently deployed by an incumbent local exchange carrier in another jurisdiction or deemed acceptable for deployment by another state commission or an industry standards body.
 - 5.3.2.3 The UNEs or combinations requested are not included in a Telco tariffed offering as an existing capability or functional equivalent.
 - 5.3.2.4 If the request is covered by one of the conditions listed above, SNET will make these items generally available.
- 5.3.3 Section 5.2.4 and 5.2.5 are amended as follows: No charges apply for SNET to prepare the Preliminary Analysis.
- 5.3.4 Section 5.2.6 is amended as follows: Cancellation charges will not apply if the written notice of cancellation is received by SNET after SNET submits its Preliminary Analysis to CLEC but before CLEC's request for the BFR Quote. Cancellation charges will apply after CLEC submits its request for SNET to provide a BFR Quote, but before the BFR Quote is provided to CLEC. CLEC shall be liable for reimbursement of all actual costs in connection with developing the BFR Quote incurred up to the time SNET receives the written notice of cancellation from CLEC. However, if SNET receives notification from CLEC for cancellation of the BFR after receipt by CLEC of the BFR Quote, the cancellation charges shall not exceed the lesser of the actual costs incurred by SNET or the estimate in the BFR Quote plus twenty percent (20%).
- 5.3.5 Section 5.2.7 is amended as follows: SNET will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt, SNET will acknowledge receipt of the BFR and in such acknowledgement advise CLEC of the need for any further information needed to process the Request. CLEC acknowledges that the time intervals set forth in this

Appendix begin once **SNET** has received a complete and accurate BFR Application Form.

- 5.3.6 **SNET** will apply standard tariffed Processing Fees (BFR development costs) according to the Connecticut Access Service Tariff 4.11.
- 5.3.7 For **SNET**, under the Dispute Resolution Process (DRP), either Party may petition the Department for relief pursuant to its own processes and the Uniform Administrative Procedures Act regarding the issues raised during the BFR process. Upon request, a designated member of the Department staff may confer with both Parties orally or in person concerning the substance of the Parties' dispute, and may make such recommendations as he or she shall deem appropriate for consideration by both Parties to resolve expeditiously the issues in dispute. Any such participation by Department staff in such mediation shall not be construed in any subsequent proceeding as establishing precedent or any Formal position of Department on the matter in dispute.

5.4* **Item III**

Pacific Bona Fide Request Process

- 5.4.1 The Bona Fide Request provisions set forth in Item I of Section 5 shall apply to BFRs submitted to **PACIFIC**, with the following exceptions:
- 5.4.2 Section 5.2.1 is amended as follows: A Bona Fide Request ("**BFR**") is the process by which CLEC may request **PACIFIC** to provide CLEC access to an additional or new, undefined UNE, or a combination of UNEs,
- 5.4.3 interconnection arrangement, or other (a "Request"), that is required to be provided by **PACIFIC** under the Act but is not available under this Agreement or defined in a generic appendix at the time of CLEC's request.
- 5.4.4 Section 5.2.3 is amended as follows: All BFRs must be submitted with a BFR/Interconnection or Network Element Application Form in accordance with the specifications and processes set forth in the sections of the Handbook.
- 5.4.5 Section 5.2.8 is amended as follows: Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR, **PACIFIC** will provide to CLEC a Preliminary Analysis

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

of such Request. The Preliminary Analysis will confirm that PACIFIC will offer the request. The Preliminary Analysis provided by PACIFIC will include cost categories (material, labor and other) and high level costs for the request. PACIFIC will attempt to provide a “yes” response earlier than thirty (30) calendar days if possible. CLEC acknowledges that an earlier “yes” response will not include high level costs. The costs will be sent by the 30th calendar day. When wholesale construction is required, costs will be provided within an additional twenty-four (24) calendar days (i.e., by the 54th calendar day).

- 5.4.6 If the BFR is denied, PACIFIC will notify CLEC within fifteen (15) calendar days. The reason for denial will accompany the notification. Reasons for denial may include, but are not limited to: 1) not technically feasible, 2) the BFR is not the appropriate process for the Request and there is a referral to the appropriate process, and/or 3) the Request does not qualify as a new UNE, combination of UNEs, or interconnection arrangement required by law.
- 5.4.7 If PACIFIC refers CLEC to an alternate process details the details of the provision of the alternate process will accompany the notification. The details may include an application form for the alternate process and other documentation required for CLEC to submit the application for the alternate process.

6. NETWORK INTERFACE DEVICE

- 6.1 The Network Interface Device (NID) UNE is defined as any means of interconnection of End User customer premises wiring to SBC-13STATE's distribution loop facilities, such as a cross connect device used for that purpose. Fundamentally, the NID establishes the final (and official) network demarcation point between the loop and the End User's inside wire. Maintenance and control of the End User's inside wiring (on the End User's side of the NID) is under the control of the End User. Conflicts between telephone service providers for access to the End User's inside wire must be resolved by the End User. Pursuant to applicable FCC rules, SBC-13STATE offers nondiscriminatory access to the NID on an unbundled basis to any requesting telecommunications carrier for the provision of a telecommunications service. CLEC access to the NID is offered as specified below (SBC-12STATE) or by tariff (SNET).
- 6.2 SBC-12STATE will permit CLEC to connect its local loop facilities to End Users' premises wiring through SBC-12STATE's NID, or at any other technically feasible point.

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

- 6.3 CLEC may connect to the End User's premises wiring through the SBC-12STATE NID, as is, or at any other technically feasible point. Any repairs, upgrade and rearrangements to the NID required by CLEC will be performed by SBC-12STATE based on Time and Material charges. SBC-12STATE, at the request of CLEC, will disconnect the SBC-12STATE local loop from the NID, at charges reflected in the state specific Appendix Pricing.
- 6.4 With respect to multiple dwelling units or multiple-unit business premises, CLEC will connect directly with the End User's premises wire, or may connect with the End User's premises wire via SBC-12STATE's NID where necessary.
- 6.5 The SBC-12STATE NIDs that CLEC uses under this Appendix will be existing NIDs installed by SBC-12STATE to serve its End Users.
- 6.6 CLEC shall not attach to or disconnect SBC-12STATE's ground. CLEC shall not cut or disconnect SBC-12STATE's loop from the NID and/or its protector. CLEC shall not cut any other leads in the NID.

7. LOCAL LOOP

- 7.1 Pursuant to applicable FCC rules, a local loop UNE is a dedicated transmission facility between a distribution frame (or its equivalent) in an SBC-13STATE Central Office and the loop demarcation point at an End User premises. Where applicable, the local loop includes all wire within multiple dwelling and tenant buildings and campuses that provides access to End User premises wiring, provided such wire is owned and controlled by SBC-13STATE. The local loop UNE includes all features, functions and capabilities of the transmission facility, including attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and line conditioning. The local loop UNE includes, but is not limited to DS1, DS3, fiber, and other high capacity loops to the extent required by applicable law, and where such loops are deployed in SBC-13STATE wire centers. CLEC agrees to operate each loop type within the technical descriptions and parameters accepted within the industry.
- 7.2 The following types of local loop UNEs will be provided at the rates, terms, and conditions set out in this Appendix (SBC-12STATE) or by tariff (SNET) and in the state specific Appendix Pricing (SBC-12STATE) or by tariff (SNET):
 - 7.2.1 2-Wire Analog Loop
 - 7.2.1.1 A 2-Wire analog loop is a transmission facility which supports analog voice frequency, voice band services with loop start

signaling within the frequency spectrum of approximately 300 Hz and 3000 Hz.

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

7.2.2 4-Wire Analog Loop

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

7.2.3 2-Wire Digital Loop

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

7.2.4 4-Wire Digital Loop

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

7.2.5 DS3 Digital Loop

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

7.2.6 OC3 Loop

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

7.2.7 OC12 Loop

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

7.2.8 OC48 Loop

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

7.3 Unbundled DS1, DS3, and/or optical loops may not be employed in combination with transport facilities to replace special access services or facilities, except consistently with the certification and other requirements of the Supplemental Order released and adopted by the FCC on November 24, 1999 in Docket No. 96-98 ("In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996"), including but not limited to the requirement that significant local exchange traffic, in addition to exchange access service, be provided to a particular customer over the facilities in compliance with the Supplemental Order, and with SBC-13STATE's processes implementing the Supplemental Order.

8. **SUB-LOOP ELEMENTS**

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

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

8.2 Definitions pertaining to the Sub-Loop:

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

- 8.2.2 "Demarcation Point" is defined as the point on the loop where the ILEC's control of the wire ceases and the subscriber's control (or on the case of some multiunit premises, the landlord's control) of the wire begins.
- 8.2.3 "Digital Subloop" May be deployed on non-loaded copper cable pairs, channels of a digital loop carrier system, channels of a fiber optic transport system or other technologies suitable for the purpose of providing 160 Kbps and 1.544 Mbps subloop transport.
- 8.2.4 "Distribution Cable" is defined as the cable from the SAI/FDI to the terminals from which an end user can be connected to the ILEC's network. "Feeder cable" is defined as that cable from the MDF to a point where it is cross connected in a SAI/FDI for neighborhood distribution.
- 8.2.5 "MDF-to-SAI/FDI" is that portion of the loop from the MDF to the SAI/FDI.
- 8.2.6 "MDF-to-Term" is that portion of the loop from the MDF to an accessible terminal.
- 8.2.7 "Network Terminating Wire (NTW)" is the service wire that connects the ILEC's distribution cable to the NID at the demarcation point.
- 8.2.8 "SAI/FDI-to-Term" is that portion of the loop from the SAI/FDI to an accessible terminal.
- 8.2.9 "SAI/FDI-to-NID" is that portion of the loop from the SAI/FDI to the Network Interface Device (NID), which is located an end user's premise.
- 8.2.10 "SPOI" is defined as a Single Point of Interconnection. When there is a single Demarcation Point in a Multi-Tenant Environment, the SPOI is the Demarcation Point and the SPOI will allow ILECs and CLECs to interconnect to wiring owned or controlled by the property owner of their agent. When there is multiple Demarcation Points in a Multi-Tenant Environment, the SPOI will allow ILECs and CLECs to interconnect to wiring that is part of the regulated network and is owned and controlled by the ILEC.
- 8.2.11 "SAI/FDI" is defined as the point in the ILEC's network where feeder cable is cross connected to the distribution cable. "SAI" is Serving Area Interface. "FDI" is Feeder Distribution Interface. The terms are interchangeable.
- 8.2.12 "Term-to-NID" is that portion of the loop from an accessible terminal to the NID, which is located at an end user's premise. Term-to-NID includes use of the Network Terminating Wire (NTW).

- 8.3 **SBC-12STATE** will offer the following subloop types:
- 8.3.1 2-Wire Analog Subloop provides a 2-wire (one twisted pair cable or equivalent) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
 - 8.3.2 4-Wire Analog Subloop provides a 4-wire (two twisted pair cables or equivalent, with separate transmit and receive paths) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
 - 8.3.3 4-Wire DS1 Subloop provides a transmission path capable of supporting a 1.544 Mbps service that utilizes AMI or B8ZS line code modulation.
 - 8.3.4 DS3 Subloop provides DS3 service from the central office MDF to an Interconnection Panel at the RT. The loop facility used to transport the DS3 signal will be a fiber optical facility.
 - 8.3.5 2-Wire / 4-Wire Analog DSL Capable Subloop that supports an analog signal based DSL technology (such as ADSL). It will have twisted copper cable that may be loaded, have more than 2,500 feet of bridged tap, and may contain repeaters.
 - 8.3.6 2-Wire / 4-Wire Digital DSL Capable Subloop that supports a digital signal based DSL technology (such as HDSL or IDSL). It will have twisted copper cable that may be loaded, have more than 2,500 feet of bridged tap, and may contain repeaters.
 - 8.3.7 ISDN Subloop is a 2-Wire digital offering which provides a transmission path capable of supporting a 160 Kbps, Basic Rate ISDN (BRI) service that utilizes 2B1Q line code modulation with end user capacity up to 144 Kbps.
- 8.4 Left Blank Intentionally.
- 8.5 Subloops are provided “as is” unless CLEC requests loop conditioning on xDSL Subloops for the purpose of offering advanced services. xDSL subloop conditioning will be provided at the rates, terms, and conditions set out in the state specific Appendix Pricing.
- 8.6 A subloop unbundled network element is an existing spare portion of the loop that can be accessed via cross-connects at accessible terminals. An accessible terminal is a point on the loop where technicians can access the copper or fiber within the cable without removing a splice case to reach the copper or fiber within.
- 8.7 Twisted-pair Copper Subloops:

8.7.1 Access to terminals for twisted-pair copper subloops is defined to include:

- any technically feasible point near the customer premises accessible by a cross-connect (such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the customer premises),
- the Feeder Distribution Interface (FDI) or Serving Area Interface (SAI), where the “feeder” leading back to the central office and the “distribution” plant branching out to the subscribers meet,
- the Main Distributing Frame (MDF),
- the Terminal (underground or aerial).

8.8 CLEC may request access to the following twisted-pair copper subloop segments:

<u>FROM:</u>	<u>TO:</u>
1. Main Distributing Frame	Serving Area Interface or Feeder Distribution Interface
2. Main Distributing Frame	Terminal
3. Serving Area Interface or Feeder Distribution Interface	Terminal
4. Serving Area Interface or Feeder Distribution Interface	Network Interface Device
5. Terminal	Network Interface Device
6. NID	Stand Alone
7. *SPOI (Single Point of Interface)	Stand Alone

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

8.9 High Capacity Subloops:

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

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

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

- 8.10 Unbundled DS1 and DS3 subloops may not be utilized in combination with transport facilities to replace special access services or facilities, except consistently with the certification and other requirements of the Supplemental Order released and adopted by the FCC on November 24, 1999 in Docket No. 96-98 ("In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996"), including but not limited to the requirement that significant local exchange traffic in addition to exchange access service, be provided to a particular customer over the facilities in compliance with the Supplemental Order, and with processes implementing the Supplemental Order.
- 8.11 Provisioning:
- 8.11.1 Connecting Facility Arrangement (CFA) assignments must be in-place prior to ordering and assigning specific subloop circuit(s).
- 8.11.2 Spare subloop(s) will be assigned to CLEC only when an LSR/ASR is processed. LSR/ASRs will be processed on a "first come first serve" basis.
- 8.12 Maintenance:
- 8.12.1 The Parties acknowledge that by separating switching, feeder plant and distribution plant, the ability to perform mechanized testing and monitoring of the subloop from the SBC-12STATE switch/testing equipment will be lost.
- 8.12.2 CLEC shall isolate trouble to the SBC-12STATE Subloop portion of the CLEC's service before reporting trouble to SBC-12STATE.
- 8.12.3 SBC-12STATE shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC dispatches SBC-12STATE on a trouble report and the fault is determined to be in the CLEC's portion of the loop. Such charges may be found in the individual state pricing appendices or tariffs.
- 8.12.4 Once all subloop access arrangements have been completed and balance of payment due SBC-12STATE is received, the CLEC may place a LSR for subloops at this location. Prices at which SBC-12STATE agrees to provide CLEC with Unbundled Network Elements (UNE) are contained in the state specific Appendix Pricing.
- 8.12.5 In the event of Catastrophic Damage to the RT, SAI/FDI, Terminal, or NID where CLEC has a SAA, SBC-13 STATE repair forces will restore service in a non-discriminatory manner which will allow the greatest number of all customers to be restored in the least amount of time. Should the CLEC cabling require replacement, SBC-13STATE will provide prompt

notification to CLEC for CLEC to provide the replacement cable to be terminated as necessary.

8.13 Subloop Access Arrangements:

- 8.13.1 Prior to ordering subloop facilities, CLEC will establish Collocation using the Collocation process as set forth in the Collocation Appendix, or will establish a Subloop Access Arrangement utilizing the Special Construction Arrangement (SCA), either of which are necessary to interconnect to the **SBC-12STATE** subloop network.
- 8.13.2 The space available for collocating or obtaining various Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC will initiate an SCA by submitting a Sub-loop Access Arrangement Application.
- 8.13.3 Upon receipt of a complete and correct application, **SBC-12STATE** will provide to CLEC within 30 days a written estimate for the actual construction, labor, materials, and related provisioning costs incurred to fulfill the SCA on a Time and Materials basis. When CLEC submits a request to provide a written estimate for sub-loop(s) access, appropriate rates for the engineering and other associated costs performed will be charged.
- 8.13.4 The assignment of subloop facilities will incorporate reasonable practices used to administer outside plant loop facilities. For example, where SAI/FDI interfaces are currently administered in 25 pair cable complements, this will continue to be the practice in assigning and administering subloop facilities.
- 8.13.5 Subloop inquiries do not serve to reserve subloop(s).
- 8.13.6 Several options exist for Collocation or Subloop Access Arrangements at technically feasible points. Sound engineering judgment will be utilized to ensure network security and integrity. Each situation will be analyzed on a case-by-case basis.
- 8.13.7 CLEC will be responsible for obtaining rights of way from owners of property where **SBC-12STATE** has placed the equipment necessary for the SAA prior to submitting the request for SCA.
- 8.13.8 Prior to submitting the Sub-loop Access Arrangement Application for SCA, the CLEC should have the "Collocation" and "Poles, Conduit, and Row" appendices in the Agreement to provide the guidelines for both CLEC and ILEC to successfully implement subloops, should collocation, access to poles/conduits or rights of way be required.

- 8.13.9 Except as set forth below in this Section 8.13.9, construction of the Subloop Access Arrangement shall be completed within 90 days of CLEC submitting to SBC-12STATE written approval and payment of not less than 50% of the total estimated construction costs and related provisioning costs after an estimate has been accepted by the carrier and before construction begins, with the balance payable upon completion. SBC-12STATE will not begin any construction under the SCA until the CLEC has provided proof that it has obtained necessary rights of way as defined in Section 8.13.7. In the event CLEC disputes the estimate for an SAA in accordance with the dispute resolution procedures set forth in the General Terms and Conditions, Section 10, of this Agreement, SBC-12STATE will proceed with construction of the SAA upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the SAA. Such payments may be subject to any “true-up”, if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 8.13.10 Upon completion of the construction activity, the CLEC will be allowed to test the installation with a SBC-12STATE technician. If the CLEC desires test access to the SAA, the CLEC should place its own test point in its cable prior to cable entry into SBC-12STATE’s interconnection point.
- 8.13.11 A non-binding CLEC forecast shall be required as a part of the request for SAA, identifying the subloops required for line-shared and non line-shared arrangements to each subtending SAI. This will allow SBC-12STATE to properly engineer access to each SAI and to ensure SBC-12STATE does not provide more available terminations than the CLEC expects to use.
- 8.13.12 In order to maximize the availability of terminations for all CLECs, the CLEC shall provide CFA for their subloop pairs utilizing the same 25-pair binder group. The CLEC would begin utilizing the second 25-pair binder group once the first 25-pair binder group reached its capacity.
- 8.13.13 Unused CLEC terminations (in normal splicing increments such as 25-pair at a SAI/FDI) which remain unused for a period of one year after the completion of construction shall be subject to removal at CLEC expense.
- 8.13.14 In the event a CLEC elects to discontinue use of an existing SAA, or abandons such arrangement, CLEC shall pay SBC-12STATE for removal of their facilities from the SAA.
- 8.14 Subloop Access Arrangement (SAA) Access Points:
- 8.14.1 SAI/FDI or Terminal

- 8.14.1.1 CLEC cable to be terminated in a ~~SBC-12~~STATE SAI/FDI, or Terminal, shall consist of 22 or 24-guage copper twisted pair cable bonded and grounded to the power company Multi Grounded Neutral (MGN). Cable may be filled if buried or buried to aerial riser cable. CLEC's Aerial cables should be aircore.
- 8.14.1.2 The CLEC may elect to place their cable to within 3 feet of the SAA site and coil up an amount of cable, defined by the engineer in the design phase, that ~~SBC-12~~STATE will terminate on available binding posts in the SAI/FDI or Terminal.
- 8.14.1.3 The CLEC may "stub" up a cable at a prearranged meet point, defined during the engineering site visit, and ~~SBC-12~~STATE will stub out a cable from the SAI/FDI or Terminal, which ~~SBC-12~~STATE will splice to the CLEC cable at the meet point.
- 8.14.1.4 Dead counts will be offered as long as they have not been placed for expansion purposes planned within the 12-month period beginning on the date of the inquiry LSR.
- 8.14.1.5 Exhausted termination points in a SAI/FDI - When a SAI/FDI's termination points are all terminated to assignable cable pairs, ~~SBC-12~~STATE may choose to increase capacity of the SAI/FDI by the method of it's choice, for which the CLEC will be charged a portion of the expense to be determined with the engineer, for the purpose of allowing the CLEC to terminate it's cable at the SAI/FDI.
- 8.14.1.6 Exhausted Termination Points in a Terminal- When a terminal's termination points are all terminated to assignable cable pairs, ~~SBC-13~~STATE may choose to increase the capacity of the Terminal or to construct an adjacent termination facility to accommodate the CLEC facilities for which the CLEC will be charged.
- 8.15 Relocation of Existing ILEC/CLEC Facilities involved in a SAA at a RT, SAI/FDI, Terminal or NID:
 - 8.15.1 ~~SBC-12~~STATE shall notify CLEC of pending relocation as soon as ~~SBC-12~~STATE receives such notice.
 - 8.15.2 CLEC shall notify ~~SBC-12~~STATE of it's intentions to remain, or not, in the SAA by way of a new Subloop Access Arrangement Application for a new SCA.

- 8.15.3 **SBC-12STATE** shall then provide the CLEC an estimate to terminate their facilities as part of the relocation of the site including the applicable SAA. This process may require a site visit with the CLEC and **SBC-12STATE** engineer.
- 8.15.4 CLEC shall notify **SBC-12STATE** of acceptance or rejection of the new SCA within 10 business days of it's receipt of **SBC-12STATE**'s estimate.
- 8.15.5 Upon acceptance of the **SBC-12STATE** estimate, CLEC shall pay at least 50% of the relocation costs at the same time as they notify **SBC-12STATE** of their acceptance of estimate costs.
- 8.15.6 Should CLEC decide not to continue the SAA, CLEC will notify **SBC-12STATE** as to the date that **SBC-12STATE** may remove CLEC's facilities from that SAA. CLEC will pay **SBC-12STATE** for all costs associated with the removal of the CLEC's SAA.
- 8.15.7 In the event that CLEC does not respond to **SBC-12STATE** in time to have their facilities relocated, **SBC-12STATE** shall move CLEC facilities and submit a bill for payment to the CLEC for the costs associated with the relocation. Should CLEC elect not pay this bill, then CLEC facilities will be removed from the site upon 30 days notice to the CLEC.
- 8.16 RT (for DS3 Subloop):
- 8.16.1 The CLEC may elect to place their cable (fiber or coax) to within 3 feet of the RT and coil up an amount of cable, defined by the engineer in the design phase, that **SBC-12STATE** will terminate on a fiber/coax interconnection block to be constructed in the RT.
- 8.16.2 The CLEC may "stub" up a cable (fiber or coax) at a prearranged meet point, defined during the engineering site visit, and **SBC-12STATE** will stub out a cable from the RT, which **SBC-12STATE** will splice to the CLEC cable at the meet point.

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

- 9.1 Although under no obligation to do so at non-Pronto sites, as a voluntary offering, **SBC-13STATE** will also make available an Engineering Controlled Splice (ECS), which will be owned by **SBC-13STATE**, for CLECs to gain access to subloops at or near remote terminals. This voluntary service is in addition to FCC UNE Remand requirements.
- 9.2 The ECS shall be made available for Subloop Access Arrangements (SAA) utilizing the Special Construction Arrangement (SCA).

- 9.2.1 CLEC requesting such a SCA shall pay all of the actual construction, labor, materials and related provisioning costs incurred to fulfill its SCA on a Time and Materials basis, provided that **SBC-13STATE** will construct any Subloop Access Arrangement requested by a telecommunications carrier in a cost-effective and efficient manner. If **SBC-13STATE** elects to incur additional costs for its own operating efficiencies and that are not necessary to satisfy an SCA in a cost-effective and efficient manner, the requesting telecommunications carrier will not be liable for such extra costs.
- 9.2.2 CLEC shall be liable only for costs associated with cable pairs that it orders to be presented at an engineering controlled splice (regardless of whether the requesting carrier actually utilizes all such pairs), even if **SBC-13STATE** places more pairs at the splice.
- 9.2.3 **SBC-13STATE** will either use existing copper or construct new copper facilities between the SAI(s) and the ECS, located in or at the remote terminal site. Although **SBC-13STATE** will construct the engineering controlled splice, the ECS maybe owned by **SBC-13STATE** or the CLEC (depending on the specific arrangement) at the option of **SBC-13STATE**.
- 9.2.4 If more than one requesting telecommunications carrier obtains space in expanded remote terminals or adjacent structures and obtains an SAA with the new copper interface point at the ECS, the initial telecommunications carrier which incurred the costs of construction of the engineering controlled splice and/or additional copper/fiber shall be reimbursed those costs in equal proportion to the space or lines used by the requesting carriers.
- 9.2.5 **SBC-13STATE** may require a separate SCA for each remote terminal site.
- 9.2.6 Except as set forth below in this Section 9.2.6, written acceptance and at least 50% of payment for the SCA must be submitted at least 90 days before access to the copper subloop is to be provisioned by **SBC-13STATE**. If an augment of cabling is required between the ECS and the SAI, the interval for completion of the SCA will be determined on an individual case basis. **SBC-12STATE** will not begin any construction of the ECS until the CLEC has provided proof that it has obtained the necessary rights of way as defined in Section 9.3. In the event CLEC disputes the estimate for the ECS in accordance with the dispute resolution procedures set forth in the General Terms and Conditions, Section 10, of this Agreement, **SBC-13STATE** will proceed with construction of the ECS upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the ECS. Such payments may be subject to any "true-up", if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.

- 9.3 CLECs will have two (2) options for implementing the ECS: a “Dedicated Facility Option” (DFO) and a “Cross-connected Facility Option” (CFO).

9.3.1 Dedicated Facility Option (DFO)

- 9.3.1.1 CLEC may request SBC-13STATE splice the existing cabling between the ECS and the SAI to the CLEC’s SAA facility. This facility will be “dedicated” to the CLEC for subsequent subloop orders.
- 9.3.1.2 CLEC must designate the quantity of subloops they desire to access via this spliced, dedicated facility, specified by subtending SAI. This designation must differentiate cabling desired for access to the HFPL subloop from the cabling desired for access to non-line shared subloops.
- 9.3.1.3 CLECs will compensate SBC-13STATE for each of the dedicated subloop facilities, based on recurring subloop charges, for the quantity of subloops dedicated to the CLEC between the ECS and the SAI.

9.3.2 Cross-connected Facility Option (CFO)

- 9.3.2.1 CLEC may request SBC-13STATE build an ECS cross-connect junction on which to terminate CLEC’s SAA facility.
- 9.3.2.2 The SCA associated with this option will include the charges associated with constructing the cross-connect device, including the termination of SBC-13STATE cabling between the ECS and the RT and/or SAI, and the inventorying of that SBC-13STATE cabling.
- 9.3.2.3 CLEC must designate the quantity of subloops they desire to access via this cross-connectable, dedicated facility, specified by subtending SAI. This designation must differentiate cabling desired for access to the HFPL subloop from the cabling desired for access to non-line shared subloops.
- 9.3.2.4 CLECs will compensate SBC-13STATE for the charges incurred by SBC-13STATE derived from the CLEC’s request for the SCA.

10. PACKET SWITCHING

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

- 10.1.1 **SBC-13STATE** has deployed digital loop carrier systems, including but not limited to, integrated digital loop carrier or universal digital loop carrier systems; or has deployed any other system in which fiber optic facilities replace copper facilities in the distribution section (e.g., end office to remote terminal, pedestal or environmentally controlled vault);
- 10.1.2 There are no spare copper loops capable of supporting the xDSL services the requesting carrier seeks to offer;
- 10.1.3 **SBC-13STATE** has not permitted a requesting carrier to deploy DSLAM at the remote terminal, pedestal or environmentally controlled vault or **other** interconnection point, nor has the requesting carrier obtained a virtual collocation arrangement at these sub-loop interconnection points as defined by 47 CFR §51.319(b); and
- 10.1.4 **SBC-13STATE** has deployed packet switching capability for its own use.

11. LOCAL SWITCHING

- 11.1 The Unbundled Local Switching (ULS) capability, to be provided on an unbundled basis pursuant to this Agreement, is defined as set forth in FCC Rule 51.319. Pursuant to that Rule, ULS includes:
 - 11.1.1 line-side facilities, which include the connection between a Loop termination at the Main Distribution Frame and a switch line card;
 - 11.1.2 trunk-side facilities, which include the connection between trunk termination at a trunk-side cross- connect panel and a switch trunk card; and
 - 11.1.3 all features, functions, and capabilities of the switch available from the specific port type (line side or trunk side port), which include:
 - 11.1.3.1 the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to ILEC customers, such as a telephone number, white page listing, and dial tone;
 - 11.1.3.2 access to OS/DA and 9-1-1; and
 - 11.1.3.3 all other features that the switch provides, including custom calling, CLASS features and Centrex.

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

- 11.2.1 Unbundled Local Switching uses routing instructions resident in the SBC-12STATE switch to direct all CLEC traffic.
- 11.2.2 Vertical features, CLASS features, and other features resident in the SBC-12STATE switch providing the ULS port are available under ULS. Refer to state specific Appendix Pricing for SBC-12STATE and Section 18 of the Connecticut Service Tariff for SNET.
- 11.2.3 SBC-12STATE will allow CLEC to designate the features and functions that are available on a particular ULS port to the extent such features and functions are activated in that switch or as may be requested by the Bona Fide Request process. When CLEC purchases ULS in SBC-12STATE, CLEC will be required to designate the features and functions that are to be activated on each ULS port.
- 11.2.4 ULS as provided by SBC-12STATE includes standard Central Office treatments (e.g., busy tones, vacant codes, fast busy, etc.), supervision and announcements.
- 11.2.5 SBC-12STATE will control congestion points such as those caused by radio station call-ins and network routing abnormalities using appropriate network capabilities. CLEC agrees to respond to SBC-12STATE's notifications regarding network congestion.
- 11.2.6 SBC-12STATE will perform testing through ULS for CLECs in the same manner and frequency that it performs for its own customers for an equivalent service.
- 11.2.7 SBC-12STATE will repair and restore any SBC-12STATE equipment that may adversely impact ULS.
- 11.2.8 SBC-12STATE will provide usage detail for each ULS port via on a daily basis. Refer to state specific Appendix pricing.
- 11.2.9 SBC-12STATE will provide CLEC the functionality of blocking calls (e.g., 900 calls, international calls (IDDD), and toll calls) by line or trunk to the extent that SBC-12STATE provides such blocking capabilities to its End Users and to the extent required by federal and/or State law.
- 11.2.10 At SBC-13STATE's discretion and upon not less than ninety (90) days' written notice to CLEC, SBC-13STATE may elect to discontinue providing ULS or to provide ULS at market prices to CLECs serving end-users with four or more voice grade lines within any territory (each an "exception Territory") with respect to which SBC-13STATE can demonstrate that, as of

the date on which CLEC receives notice (the “Exception Notice Date”), SBC-13STATE has satisfied each of the following conditions.

- a) A territory shall constitute an “Exception Territory” if it constitutes the service area of SBC-13STATE offices that both are assigned to density zone 1 and are located within one of the Top 50 Metropolitan Statistical Areas (“MSAs”). The Parties shall determine density zone assignments by reference to the NECA Tariff No. 4, in effect on January 1, 1999. The Top 50 MSAs are those listed in Appendix B of the FCC Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket 96-98 (“UNE Remand Order”); and
- b) In the Exception Territory where SBC-13STATE elects to offer the Enhanced Extended Loop (EEL) in accordance with the UNE Remand Order, the EEL would be available to the CLEC in the Exception Territory at prices which are set in accordance with the pricing standards of Section 252 of the Act. Such prices would be specified in Appendix Pricing. SBC-13STATE may only exercise its rights to discontinue or market-price ULS under this Section for CLEC End Users involving four or more lines.

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

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

11.3 Customized Routing

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

11.4 Unbundled Local Switching Usage Sensitive Rate Element

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

11.5 Switch Ports

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

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

- 11.5.1.1.1 The Analog Line Port is a line side switch connection available in either a loop or ground start signaling configuration used primarily for switched voice communications.
- 11.5.1.1.2 The Analog Line Port can be provisioned with Centrex-like features and capabilities. When a CLEC wants to provide the Centrex-like port, a system establishment charge is applicable to translate the common block and system features in the switch.
- 11.5.1.1.3 The Analog Line Port can be provisioned with two-way, one-way-out, and one-way-in, directionality for PBX business applications.
- 11.5.1.1.4 ISDN Basic Rate Interface (BRI) Port is a 2-wire line side switch connection which provides two 64 kbps “B” (bearer) channels for circuit switched voice and/or data and on 16 kbps “D” (delta) channel for signaling.

11.5.1.2 Trunk Side Switch Ports – ~~SBC-12STATE~~

- 11.5.1.2.1 The Analog DID Trunk Port is a 2-wire trunk side switch port that supports Direct Inward Dialing (DID) capability for PBX business applications.
- 11.5.1.2.2 ISDN Primary Rate Interface (PRI) Trunk Side Port is a trunk side switch connection that provides twenty-three 64 kbps “B” channels for digital voice and data and one 64 kbps “D” channel.
- 11.5.1.2.3 DS1 Trunk Port is a trunk side DS1 interface intended for digital PBX business applications. Also this ULS Trunk Port is used to terminate dedicated facilities associated

with completing ULS Custom Routing calls in **SBC-AMERITECH**.

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

11.6 **Tandem Switching**

11.6.1 Tandem Switching is defined as:

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

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

11.6.1.3 all technically feasible functions that are centralized in Tandem Office Switches (as distinguished from separate end-office switches), including but not limited to call recording, the routing of calls to operator services, and signaling conversion features.

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

12. **SHARED TRANSPORT**

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

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

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

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

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

- 12.1.2 **SBC-AMERITECH** provides to CLECs subscribing to ULS the function of shared transport (as defined in the Third Order on Reconsideration and Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 12 FCC Rcd 12460 (1997)), as described in Paragraph 56 of Attachment 1 in the August 27, 1999 *ex parte* to the FCC in *In the Matter of the SBC/Ameritech Merger*, CC Docket No. 98-141 (“FCC Conditions”).
- 12.1.3 ULS-ST permits the CLEC to access the interoffice network of **SBC-AMERITECH** for the origination from and completion to the associated ULS port of End User local traffic to and from **SBC-AMERITECH** switches or third-party switches. ULS-ST also permits access to that network, using Common Transport and Tandem Switching, for the origination from and completion to the associated ULS port of End User toll traffic where a PIC’d/LPIC’d Interexchange Carrier for that ULS port is not directly connected to the **SBC-AMERITECH** switch providing that ULS port. **SBC-AMERITECH** will not require use of dedicated transport or customized routing to complete calls when using ULS-ST.
- 12.1.4 All CLEC’s local traffic between **SBC-AMERITECH** switches will use Shared Transport and all local CLEC’s traffic to non-**SBC-12STATE** switches will use the transit function of Shared Transport (with this transit function being referred to as “Shared Transport-Transit”). All interexchange traffic will be routed to the interLATA (PIC) or intraLATA toll (LPIC) Interexchange Carrier, as appropriate, selected for that ULS port.
- 12.1.5 The Unbundled Shared Transport rate is a blend of Shared Transport and Shared Transport-Transit. **SBC-12STATE** reserves the right to seek separate rates for Shared Transport and Shared Transport-Transit in future negotiations to amend or replace this Agreement.
- 12.1.6 **SBC-12STATE**’s ability to provide ULS-ST is limited to existing switch and transmission facilities capacities of the **SBC-12STATE** network.
- 12.1.7 In providing ULS-ST, **SBC-12STATE** will use the existing **SBC-12STATE** routing tables contained in **SBC-12STATE** switches, as **SBC-12STATE** may change those tables from time to time including after CLEC purchases ULS-ST.
- 12.1.8 **SBC-12STATE** will provide SS7 signaling on interswitch calls originating from an ULS port. CLEC will be charged for the use of the **SBC-12STATE** signaling on a per- call basis.
- 12.2 Custom Routing of OS/DA with ULS-ST

- 12.2.1 CLEC can only mix ULS-ST and custom routing within a SBC-AMERITECH end office switch where CLEC chooses to custom route all of its OS and/or all of its DA (OS/DA) traffic for its End Users served by SBC-AMERITECH's ULS-ST ports in that SBC-AMERITECH end office switch. If this custom routing for OS/DA is chosen in a given SBC-AMERITECH end office switch, then all End Users served via ULS-ST ports in that switch will have their OS/DA traffic routed over the same custom route designated by CLEC.
- 12.2.2 CLEC must provide SBC-AMERITECH routing instructions necessary to establish such custom routing of OS/DA traffic in those end offices where CLEC has End Users served via ULS-ST ports. CLEC will be charged by SBC-AMERITECH for the establishment of each custom route for OS or DA traffic in an end office switch.
- 12.2.3 SBC-AMERITECH will direct all custom routed local OS and/or local DA calls using the Advanced Intelligence Network programming developed to be compatible with ULS-ST to a specific trunk group associated with an ULS Trunk Port or over an existing dedicated trunk group designated by CLEC.
- 12.2.4 CLEC will request custom OS/DA routing for use with ULS-ST other than described in this Section via the Bona Fide Request process.
- 12.3 ULS-ST Usage-Sensitive Rating
 - 12.3.1 SBC-12STATE will charge CLEC ULS usage rates for intraswitch and interswitch traffic originating from an ULS port and for interswitch traffic terminating to an ULS port.
 - 12.3.2 SBC-12STATE will charge CLEC using SBC-12STATE's Shared Transport a usage-sensitive Blended Transport rate in addition to the originating ULS usage-sensitive rate for local interswitch calls. The Blended Transport rate is based upon a blend of direct and tandem-routed local traffic to/from either an SBC-12STATE end office or to/from a non-SBC-12STATE end office.
 - 12.3.3 The charges for Shared Transport are reflected in Appendix Pricing (SBC-12STATE) and Section 18 of the Connecticut Service Tariff for SNET.
- 12.4 Reciprocal Compensation associated with ULS-ST
 - 12.4.1 For the traffic to which reciprocal compensation applies and subject to the other provisions in this Agreement regarding reciprocal compensation:
 - 12.4.2 As to ULS-ST only, SBC-AMERITECH will charge CLEC using SBC-AMERITECH's ULS-ST a Reciprocal Compensation rate specific to ULS-