

APPENDIX UNES (PROVISION OF ACCESS TO UNBUNDLED NETWORK ELEMENTS)

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APPENDIX UNEs

(PROVISION OF ACCESS TO UNBUNDLED NETWORK ELEMENTS)

1. INTRODUCTION

- 1.1 This Appendix UNEs 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 as specifically defined in this Appendix UNEs for the provision by CLEC of a Telecommunications Service). 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 directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.3 SBC-2STATE - As used herein, SBC-2STATE means SBC CALIFORNIA and SBC NEVADA, the applicable SBC-owned ILEC(s) doing business in California and Nevada.
- 1.4 SBC-4STATE - As used herein, SBC-4STATE means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, and SBC Oklahoma the applicable SBC-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.
- 1.5 SBC-7STATE - As used herein, SBC-7STATE means SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA and SBC NEVADA, the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma and Texas.
- 1.6 SBC-8STATE - As used herein, SBC-8STATE means SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA, SBC NEVADA and SBC CONNECTICUT the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma and Texas.
- 1.7 SBC-10STATE - As used herein, SBC-10STATE means SBC SOUTHWEST REGION 5-STATE and SBC MIDWEST REGION 5-STATE an the applicable SBC-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas and Wisconsin.
- 1.8 SBC-12STATE - As used herein, SBC-12STATE means SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE and SBC-2STATE the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.
- 1.9 SBC-13STATE - As used herein, SBC-13STATE means SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE, SBC-2STATE and SBC CONNECTICUT the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.
- 1.10 SBC ARKANSAS - As used herein, SBC ARKANSAS means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, the applicable SBC-owned ILEC doing business in Arkansas.
- 1.11 SBC CALIFORNIA - As used herein, SBC CALIFORNIA means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.
- 1.12 SBC CONNECTICUT - As used herein, SBC CONNECTICUT means The Southern New England Telephone Company d/b/a SBC Connecticut, the applicable above listed ILEC doing business in Connecticut.

- 1.13 SBC KANSAS - As used herein, SBC KANSAS means Southwestern Bell Telephone, L.P. d/b/a SBC Kansas, the applicable SBC-owned ILEC doing business in Kansas.
- 1.14 SBC ILLINOIS - As used herein, SBC ILLINOIS means Illinois Bell Telephone Company d/b/a SBC Illinois, the applicable SBC-owned ILEC doing business in Illinois.
- 1.15 SBC INDIANA - As used herein, SBC INDIANA means Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, the applicable SBC-owned ILEC doing business in Indiana.
- 1.16 SBC MICHIGAN - As used herein, SBC MICHIGAN means Michigan Bell Telephone Company d/b/a SBC Michigan, the applicable SBC-owned ILEC doing business in Michigan.
- 1.17 SBC MIDWEST REGION 5-STATE - As used herein, SBC MIDWEST REGION 5-STATE means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.
- 1.18 SBC MISSOURI - As used herein, SBC MISSOURI means Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, the applicable SBC-owned ILEC doing business in Missouri.
- 1.19 SBC NEVADA - As used herein, SBC NEVADA means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.
- 1.20 SBC OHIO - As used herein, SBC OHIO means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.
- 1.21 SBC OKLAHOMA - As used herein, SBC OKLAHOMA means Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma, the applicable SBC-owned ILEC doing business in Oklahoma.
- 1.22 SBC SOUTHWEST REGION 5-STATE - As used herein, SBC SOUTHWEST REGION 5-STATE means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma and Texas.
- 1.23 SBC TEXAS - As used herein, SBC TEXAS means Southwestern Bell Telephone, L.P. d/b/a SBC Texas, the applicable SBC-owned ILEC doing business in Texas.
- 1.24 SBC WISCONSIN - As used herein, SBC WISCONSIN means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.
- 1.25 The Prices at which SBC-13STATE agrees to provide electronic access to its Directory Assistance (DA) database are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.

2. TERMS AND CONDITIONS

- 2.1 This Agreement sets forth the terms and conditions pursuant to which SBC-13STATE will provide CLEC with access to unbundled network elements and to the extent specifically required by this appendix, in SBC-13STATE's incumbent local exchange areas for the provision of Telecommunications Services by CLEC.
 - 2.1.1 A network element, including a network element referred to as a UNE under this Agreement that is no longer required to be unbundled under Applicable Law, as determined by Applicable Law may only be removed from this Agreement, or "Declassified," in accordance with the Agreement's change of law provisions. Without limitation, a UNE that has ceased to be a UNE and, for the sake of clarity, has been removed pursuant to the change of law provisions of this Agreement may also be referred to as "Declassified."
 - 2.1.2 Intentionally omitted

- 2.1.3 It is the Parties' intent that only UNEs shall be available under this Agreement; accordingly, if this Agreement requires or appears to require UNE(s) as defined in this Section 2.1.
- 2.1.2.1 Intentionally omitted
- 2.2 Intentionally omitted
- 2.3 SBC-13STATE shall not be obligated to provide combinations (whether considered new, pre-existing or existing) or other arrangements (including, where applicable, Commingled Arrangements) involving SBC-13STATE network elements that do not constitute UNEs, or where UNEs are not requested for permissible purposes.
- 2.4 Intentionally omitted
- 2.5 Transition Procedure
 - 2.5.1 Intentionally Omitted
 - 2.5.2 To the extent an element described as a UNE or an unbundled network element in this Agreement is Declassified, SBC-13STATE may discontinue the provision of such element, whether previously provided alone or in combination with or as part of any other arrangement with other UNEs or other elements or services. Accordingly, in the event one or more elements described as UNEs or as unbundled network elements in this Agreement is Declassified, SBC-13STATE will provide written notice to CLEC of its discontinuance of the element(s) and/or the combination or other arrangement in which the element(s) has been previously provided. During a transitional period of ninety (90) days from the date of such notice, SBC-13STATE agrees to continue providing such element(s) under the terms of this Agreement. Upon receipt of such written notice, CLEC will cease ordering new elements that are identified as Declassified in the SBC-13STATE notice letter referenced in this Section 2.5. To the extent that the CLEC has processed orders and such orders are provisioned after this 90 day transitional period, such elements are still subject to this Section 2.5, including the options set forth in (a) and (b) below, and SBC-13STATE's rights of discontinuance or conversion in the event the options are not accomplished. During such 90 day transitional period, the following options are available to CLEC with regard to the element(s) identified in the SBC-13STATE notice, including the combination or other arrangement in which the element(s) were previously provided:
 - (a) CLEC may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or
 - (b) SBC-13STATE and CLEC may agree upon another service arrangement or element (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous access product or service may be substituted, if available.

Notwithstanding anything to the contrary in this Agreement, , at the end of that ninety (90) day transitional period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under (a) above, and if CLEC and SBC-13STATE have failed to reach agreement, under (b) above, as to a substitute service arrangement or element, then SBC-13STATE may, at its sole option, disconnect the element(s), whether previously provided alone or in combination with or as part of any other arrangement, or convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service, if available.

- 2.5.1 The rights and obligations set forth in Section 2.5, above, apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.

- 2.5.2 Intentionally omitted
- 2.6 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)).
- 2.7 SBC-13STATE will provide CLEC nondiscriminatory access to UNEs (Act, Section 251(c)(3), Act, 47 CFR § 51.307(a)):
 - 2.7.1 At any technically feasible point (Act, Section 251(c)(3); 47 CFR § 51.307(a));
 - 2.7.2 At the rates, terms, and conditions which are just, reasonable, and nondiscriminatory (Act, Section 251(c)(3); 47 CFR § 51.307(a));
 - 2.7.3 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));
 - 2.7.4 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));
 - 2.7.5 With technical information regarding SBC-13STATE's network facilities to enable CLEC to achieve access to UNEs (47 CFR § 51.307(e));
 - 2.7.6 Without limitations, restrictions, or requirements on requests for, that would impair CLEC's ability to provide a Telecommunications Service in a manner it intends (47 CFR § 51.309(a));
 - 2.7.7 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));
 - 2.7.8 Intentionally omitted
 - 2.7.9 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).
- 2.8 As provided for herein, SBC-13STATE will permit CLEC exclusive use of a UNE facility for a period of time, and when CLEC is purchasing access to a feature, function, or capability of such a facility, SBC-13STATE will provide use of that feature, function, or capability for a period of time (47 CFR § 51.309(c)).
- 2.9 SBC-13STATE will maintain, repair, or replace UNEs (47 CFR § 51.309(c)) as provided for in this Agreement.
- 2.10 To the extent technically feasible, the quality of the UNE and access to such UNE shall be at least equal to what SBC-13STATE provides other telecommunications carriers requesting access to the UNE (47 CFR § 51.311(a), (b)).
- 2.11 Each Party shall be solely responsible for the services it provides to its End Users and to other Telecommunications Carriers.
- 2.12 UNEs provided to CLEC under the provisions of this Appendix shall remain the property of SBC-13STATE.
- 2.13 Performance of UNEs
 - 2.13.1 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.
 - 2.13.2 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 47 CFR § 51.325.
 - 2.13.3 SBC-13STATE may elect to conduct upgrades or conversions for the improvement of its network or systems. During such upgrades or conversions, CLEC orders for UNEs from affected wire center(s)

shall be suspended for a period of three days prior and one day after the upgrade or conversion date, consistent with the suspension SBC-13STATE places on itself for orders from its End Users.

- 2.13.4 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.
- 2.14 Conditions for Access to UNEs
- 2.14.1 In order to access and use UNEs, CLEC must be a Telecommunications Carrier (Section 251(c)(3)), and must use the UNE(s) for the provision of a Telecommunications Service (Section 251(c)(3)) . Together, these conditions are the “Statutory Conditions” for access to UNEs. Accordingly, CLEC hereby represents and warrants that it is a Telecommunications Carrier and that it will notify SBC-13STATE immediately in writing if it ceases to be a Telecommunications Carrier. Failure to so notify SBC-13STATE shall constitute material breach of this Agreement.
- 2.14.1.1 By way of example, use of a UNE (whether on a stand-alone basis, in combination with other UNEs (or otherwise), with a network element possessed by CLEC, or otherwise) to provide service to CLEC or for other administrative purpose(s) does not constitute using a UNE pursuant to the Statutory Conditions.
- 2.14.1.2 By way of further example, CLEC may not access UNEs exclusively for the provision of mobile wireless services, or long distance services or interexchange services (telecommunications service between different stations in different exchange areas).
- 2.14.2 Other conditions to accessing and using any UNE (whether on a stand-alone basis or in combination with other UNEs, with a network element possessed by CLEC, or otherwise) may be applicable under and effective FCC rules and associated and effective FCC and judicial orders and will also apply.
- 2.15 New Combinations Involving UNEs
- 2.15.1 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. 467(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.
- 2.15.1.1 Any combining obligation is limited solely to combining of UNEs; accordingly, no other facilities, services or functionalities are subject to combining, including but not limited to facilities, services or functionalities that SBC-13STATE might offer pursuant to Section 271 of the Act.
- 2.15.2 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. In any dispute resolution proceeding, SBC-13STATE shall have the burden 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 2.15 of this Appendix.
- 2.15.3 In accordance with and subject to the provisions of this Section 2.15, including Section 2.15.3.2 and 2.15.5, the new UNE combinations, if any, set forth in the Schedule(s) – UNE Combinations attached and incorporated into this Appendix shall be made available to CLEC as specified in the specific Schedule for a particular State. SBC-13STATE shall perform the functions necessary to combine UNEs as provided herein.

- 2.15.3.1 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. SBC-13STATE shall perform the actions necessary to complete the actual physical combination for those new UNE combinations, if any, set forth in the Schedule(s) – UNE Combinations to this Appendix, :
- 2.15.3.1.1 Intentionally omitted
- 2.15.3.1.2 Intentionally omitted
- 2.15.3.1.3 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.
- 2.15.3.2 A new UNE combination, if any, 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.
- 2.15.3.3 For a new UNE combination, if any, 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.
- 2.15.3.4 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, if any, set forth in Schedule(s) – UNE Combinations, which work is not covered by the charges applicable per Section 2.16.3.3. For any such work done by SBC-13STATE under Section 2.16.1, 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 SBC-13STATE, 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.
- 2.15.4 In accordance with and subject to the provisions of this Section 2.15, any request not included in Section 2.15.3 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.

- 2.15.4.1 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.
- 2.15.4.2 In addition to any other applicable charges, CLEC shall be charged a reasonable cost-based fee for any combining work done by SBC-13STATE under Section 2.15.1. 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 2.15.1, CLEC shall be charged a market-based rate for any such work.
- 2.15.5 Without affecting the other provisions hereof, the UNE combining obligations referenced in this Section 2.16 apply only in situations where each of the following is met:
 - 2.15.5.1 it is technically feasible, including that network reliability and security would not be impaired;
 - 2.15.5.2 SBC-13STATE's ability to retain responsibility for the management, control, and performance of its network would not be impaired;
 - 2.15.5.3 Intentionally omitted
 - 2.15.5.4 it would not undermine the ability of other Telecommunications Carriers to obtain access to UNEs or to Interconnect with SBC-13STATE's network; and
 - 2.15.5.5 Intentionally omitted
 - 2.15.5.5.1 Intentionally omitted
 - 2.15.5.5.2 Intentionally omitted
- 2.15.6 Intentionally omitted
 - 2.15.6.1 Intentionally omitted
 - 2.15.6.2 Intentionally omitted
- 2.15.7 Intentionally omitted
- 2.16 Conversion of Wholesale Services to UNEs
 - 2.16.1 Upon request, SBC-13STATE shall convert a wholesale service, or group of wholesale services, to the equivalent UNE, or combination of UNEs, that is available to CLEC under terms and conditions set forth in this Appendix, so long as the CLEC and the wholesale service, or group of wholesale services, and the UNEs, or combination of UNEs, that would result from the conversion meets the eligibility criteria in Section 2.18 below, if applicable, and the Statutory Conditions set forth in Section 2.14.1 above for such conversion. SBC-13STATE shall perform all functions necessary to effect the conversion without adversely affecting the service quality, availability, or performance of the services as perceived by CLEC's customer(s).
 - 2.16.2 Where processes for the conversion requested pursuant to this Appendix are not already in place, SBC-13STATE will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.
 - 2.16.3 SBC-13STATE shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and a UNE or combination of UNEs. SBC-13STATE's may charge only a record change charge for conversions. No additional charges shall apply unless SBC-13STATE represents to CLEC, in writing or by email, that such charge is directly attributable to a cost (not already recouped through Unbundled Network Element pricing or other means) that SBC-13STATE must incur in order to perform the applicable conversion.

- 2.16.4 This Section 2.16 only applies to situations where the wholesale service, or group of wholesale services, is comprised solely of UNEs offered or otherwise provided for in this Appendix.
- 2.16.5 If CLEC does not meet the applicable eligibility criteria or, for any reason, stops meeting the eligibility criteria for a particular conversion of a wholesale service, or group of wholesale services, to the equivalent UNE, or combination of UNEs, CLEC shall not request such conversion or continue using such the UNE or UNEs that result from such conversion.
- 2.16.5.1 This Section 2.16.5 applies to any UNE or combination of UNEs, including whether or not such UNE or combination of UNEs had been previously converted from an SBC-13STATE service.
- 2.16.5.2 SBC-13STATE may exercise its rights provided for hereunder and those allowed by the FCC in auditing compliance with any applicable eligibility criteria.
- 2.16.6 In requesting a conversion of an SBC-13STATE service, CLEC must follow the guidelines and ordering requirements provided by SBC-13STATE that are applicable to converting the particular SBC-13STATE service sought to be converted.
- 2.16.7 Nothing contained in this Appendix or Agreement provides CLEC with an opportunity to supersede or dissolve existing contractual arrangements, or otherwise affects SBC-13STATE's ability to enforce any tariff, contractual, or other provision(s), including those providing for early termination liability or similar charges.
- 2.17 **Commingling**
- 2.17.1 "Commingling" means the connecting, attaching, or otherwise linking of a UNE, or a combination of UNEs, to one or more facilities or services that CLEC has obtained at wholesale from SBC-13STATE pursuant to any method other than Section 251(c)(3) unbundling, or the combining of a UNE, or a combination of UNEs, with one or more such facilities or services. "Commingle" means the act of commingling.
- 2.17.1.1 "Commingled Arrangement" means the arrangement created by Commingling.
- 2.17.1.2 Neither Commingling nor a Commingled Arrangement shall include, involve, or otherwise encompass an SBC-13STATE offering pursuant to 47 U.S.C. § 271 that is not a UNE under 47 U.S.C. § 251(c)(3). For purposes of clarification, CLEC shall be permitted to Commingle UNEs available on an unbundled basis pursuant to Section 251 with network elements available on an unbundled basis solely pursuant to Section 271. SBC-13STATE is not required, however, to permit CLEC to commingle network elements available on an unbundled basis solely pursuant to Section 271 (i.e. not also subject to unbundling pursuant to Section 251) with special access or other non-Section 251 services, unless the FCC specifically requires it.
- 2.17.1.3 Where processes for any Commingling requested pursuant to this Agreement (including, by way of example, for existing services sought to be converted to a Commingled Arrangement) are not already in place, SBC-13STATE will develop and implement processes. subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.
- 2.17.1.4 Intentionally omitted
- 2.17.2 Except as provided in Section 2 and, further, subject to the other provisions of this Agreement, SBC-13STATE shall permit CLEC to Commingle a UNE or a combination of UNEs with facilities or services obtained at wholesale from SBC-13STATE to the extent required by FCC and effective rules and associated and effective FCC and judicial orders.
- 2.17.3 Upon request, and subject to this Section 2, SBC-13STATE shall perform the functions necessary to Commingle a UNE or a combination of UNEs with one or more facilities or services that CLEC has obtained at wholesale from SBC-13STATE (as well as requests where CLEC also wants SBC-13STATE to complete the actual Commingling), except that SBC-13STATE shall have no obligation

to perform the functions necessary to Commingle (or to complete the actual Commingling) if (i) it is not technically feasible, including that network reliability and security would be impaired; or (iii) SBC-13STATE's ability to retain responsibility for the management, control, and performance of its network would be impaired; or (iv) it would undermine the ability of other Telecommunications Carriers to obtain access to UNEs or to Interconnect with SBC-13STATE's network.

2.17.3.1 Intentionally omitted

2.17.3.1.1 Intentionally omitted

2.17.3.1.2 Intentionally omitted

2.17.3.2 Intentionally omitted

2.17.4 In accordance with and subject to the provisions of this Section 2.17, any request by CLEC for SBC-13STATE to perform the functions necessary to Commingle (as well as requests where CLEC also wants SBC-13STATE to complete the actual Commingling), shall be made by CLEC in accordance with the bona fide request (BFR) process set forth in this Agreement.

2.17.4.1 SBC-13STATE is developing a list of Commingled Arrangements that will be available for ordering, which list will be made available in the CLEC Handbook and posted on "CLEC Online." Once that list is included in the CLEC Handbook or posted, whichever is earlier, CLEC will be able to submit orders for any Commingled Arrangement on that list. The list may be modified, from time to time.

2.17.4.2 Any CLEC request for a Commingled Arrangement not found on the then-existing list of orderable Commingled Arrangements must be submitted via the bona fide request (BFR) process. In any such BFR, CLEC must designate among other things the UNE(s), combination of UNEs, and the facilities or services that CLEC has obtained at wholesale from SBC-13STATE sought to be Commingled and the needed location(s), the order in which such UNEs, such combinations of UNEs, and such facilities and services are to be Commingled, and how each connection (e.g., cross-connected) is to be made between them.

2.17.4.2.1 For any commingled arrangement, SBC-13STATE shall charge CLEC the rates and charges applicable to the UNE(s) or those applicable to the facilities or services that CLEC has obtained at wholesale from SBC as well as other applicable rates (e.g. service order charge, record change charge). For commingling orders pursuant to a BFR, CLEC shall be charged a reasonable fee for any Commingling work done by SBC-13STATE under this Section 2.11 (including performing the actual Commingle). Such fee shall be calculated using the Time and Material charges as reflected in the Appendix Pricing. SBC-13STATE Preliminary Analysis to the BFR shall include an estimate of such fee for the specified Commingling.

2.17.5 SBC-13STATE shall not be required to, and shall not, provide "ratcheting" as a result of Commingling or a Commingled Arrangement. As a general matter, "ratcheting" is a pricing mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate. SBC-13STATE shall charge the rates for UNEs (or UNE combinations) Commingled with facilities or services obtained at wholesale (including for example special access services) on an element-by-element basis, and such facilities and services on a facility-by-facility, service-by-service basis.

2.17.6 SBC-13STATE shall not be obligated to Commingle network elements that are not provided in this Appendix, or where UNEs are not requested for permissible purposes. If CLEC does not meet the applicable eligibility criteria or, for any reason, stops meeting the eligibility criteria for a particular UNE involved or to be involved in a Commingled Arrangement, CLEC shall not request such Commingled Arrangement or continue using such Commingled Arrangement.

2.17.7 In the event that Commingling involves SBC-13STATE performing the functions necessary to combine UNEs (e.g., make a new combination of UNEs), and including making the actual UNE

combination, then Section 2.16 shall govern with respect to that UNE combining aspect of that particular Commingling and/or Commingled Arrangement.

2.17.8 SBC-13STATE shall not deny access to a UNE or a combination of UNEs on the grounds that one or more of the UNEs is connected to, attached to, linked to, or combined with, a facility or service obtained at wholesale from SBC-13STATE, or that one or more of the elements shares part of SBC-13STATE's network with access services or inputs for non-qualifying services.

2.17.9 Intentionally omitted

2.18 Mandatory Eligibility Criteria for Access to Certain UNEs

2.18.1 Except as provided below in this Section 2.18 or elsewhere in the Agreement and subject to this Section and Section 2.16, Conversion of Wholesale Services to UNEs, of this Appendix, SBC-13STATE shall provide access to UNEs and combinations of UNEs without regard to whether the CLEC seeks access to the UNEs to establish a new circuit or to convert an existing circuit from a service to UNEs.

2.18.1.1 "Enhanced Extended Link" or "EEL" means a UNE combination consisting of an unbundled loop(s) and Unbundled Dedicated Transport, together with any facilities, equipment, or functions necessary to combine those UNEs (including, for example, multiplexing capabilities). An DS1 or higher EEL is required to terminate in a collocation arrangement that meets the requirements of Section 2.18.3 of this Appendix (e.g., the end of the Unbundled Dedicated Transport that is opposite the end connected to the UNE local loop, must be accessed by CLEC at such a CLEC collocation arrangement via a cross-connect).

2.18.2 SBC-13STATE is not obligated, and shall not, provide access to (1) an unbundled DS1 loop in combination, or Commingled, with a dedicated DS1 transport facility or service or a dedicated DS3 or higher transport facility or service, or an unbundled DS3 loop in combination, or Commingled, with a dedicated DS3 or higher transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or higher channel termination service (collectively, the "Included Arrangements"), unless CLEC certifies that all of the following conditions are met with respect to the arrangement being sought:

2.18.2.1 CLEC (directly and not via an Affiliate) has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.

2.18.2.2 The following criteria are satisfied for each Included Arrangement, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL:

2.18.2.2.1 Each circuit to be provided to each End User will be assigned a local telephone number (NPA-NXX-XXXX) that is associated with local service provided within an SBC-13STATE local service area and within the LATA where the circuit is located ("Local Telephone Number"), prior to the provision of service over that circuit (and for each circuit, CLEC will provide the corresponding Local Telephone Number(s) as part of the required certification); and

2.18.2.2.2 Each DS1-equivalent circuit on a DS3 EEL, must have its own Local Telephone Number assignment, so that each DS3 must have at least 28 Local voice Telephone Numbers assigned to it; and

2.18.2.2.3 Each circuit to be provided to each End User will have 911 or E911 capability prior to the provision of service over that circuit; and

- 2.18.2.2.4 Each circuit to be provided to each End User will terminate in a collocation arrangement that meets the requirements of Section 2.18.3 of this Appendix UNE; and
- 2.18.2.2.5 Each circuit to be provided to each End User will be served by an interconnection trunk that meets the requirements of Section 2.18.4 of this Appendix UNE; and
- 2.18.2.2.6 For each 24 DS1 EELs, or other facilities having equivalent capacity, CLEC will have at least one active DS1 local service interconnection trunk that meets the requirements of Section 2.18.4 of this Appendix; and
- 2.18.2.2.7 Each circuit to be provided to each End User will be served by a switch capable of providing local voice traffic.

By way of example only, the application of the foregoing conditions means that a wholesale or retail DS1 or higher service/circuit (whether intrastate or interstate in nature or jurisdiction) comprised, in whole or in part, of a UNE local loop-Unbundled Dedicated Transport(s)-UNE local loop (with or without multiplexing) cannot qualify for at least the reason that the UNE local loop-Unbundled Dedicated Transport combination included within that service/circuit does not terminate to a collocation arrangement.

- 2.18.3 A collocation arrangement meets the requirements of Section 2.18.2.2.4 of this Appendix UNE if it is:
 - 2.18.3.1 Established pursuant to Section 251(c)(6) of the Act and located at SBC-13STATE's premises within the same LATA as the End User's premises, when SBC-13STATE is not the collocator; or
 - 2.18.3.2 Located at a third party's premises within the same LATA as the End User's premises, when SBC-13STATE is the collocator.
- 2.18.4 An interconnection trunk meets the requirements of Sections 2.18.2.2.5 and 2.18.2.2.6 of this Appendix UNE if CLEC will transmit the calling party's Local Telephone Number in connection with calls exchanged over the trunk and the trunk is located in the same LATA as the End User premises served by the Included Arrangement.
- 2.18.5 For a new circuit to which Section 2.18.2 applies, CLEC may initiate the ordering process if CLEC certifies that it will not begin to provide any service over that circuit until a Local Telephone Number is assigned and 911/E911 capability is provided, as required by Section 2.18.2.2.1 and Section 2.18.2.2.3, respectively. In such case, CLEC shall satisfy Section 2.18.2.2.1 and/or Section 2.18.2.2.3 if it assigns the required Local Telephone Number(s), and implements 911/E911 capability, within 30 days after SBC-13STATE provisions such new circuit. CLEC must provide SBC-13STATE with sufficient proof that such assignment and/or implementation has occurred by the end of such 30th day.
 - 2.18.5.1 Section 2.18.5 does not apply to existing circuits to which Section 2.18.2 applies, including conversions or migrations (e.g., CLEC shall not be excused from meeting the Section 2.18.2.2.1 and Section 2.18.2.2.3 requirements for existing circuits at the time it initiates the ordering process).
 - 2.18.6.1 If the information previously provided in a certification is inaccurate (or ceases to be accurate), CLEC shall update such certification promptly with SBC-13STATE.
- 2.18.7 In addition to any other audit rights provided for this Agreement and those allowed by law, SBC-13STATE may, obtain and pay for an independent auditor to audit CLEC, on an annual basis, applied on a State-by-State basis, for compliance with this Section 2.18. For purposes of calculating and applying an "annual basis", it means for a State a consecutive 12-month period, beginning upon SBC-13STATE's written notice that an audit will be performed for that State, subject to Section 2.18.7.4 of this Section.

- 2.18.7.1 Unless otherwise agreed by the Parties (including at the time of the audit), the independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an “examination engagement” and issue an opinion regarding CLEC’s compliance with the qualifying service eligibility criteria.
- 2.18.7.2 The independent auditor’s report will conclude whether CLEC materially complied with the service eligibility criteria set forth in Section 2.18.
- 2.18.7.3 Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor’s judgment.
- 2.18.7.4 To the extent the independent auditor’s report concludes that CLEC failed to materially comply with the service eligibility criteria set forth in Section 2.18, CLEC must true-up any difference in payments beginning from the that the non-compliant circuit was established as a UNE/UNE combination, in whole or in part (notwithstanding any other provision hereof), CLEC must convert the _UNE or UNE combination, or Commingled Arrangement, to an equivalent or substantially similar wholesale service, or group of wholesale services (and SBC-13STATE may initiate and affect such a conversion on its own without any further consent by CLEC), and CLEC shall timely make the correct payments on a going-forward basis, and all applicable remedies for failure to make such payments shall be available to SBC-13STATE. In no event shall rates set under Section 252(d)(1) of the Act apply for the use of any UNE for any period in which CLEC does not meet the conditions set forth in this Section 2.18 for that UNE, arrangement, or circuit, as the case may be. Also, the “annual basis” calculation and application shall be immediately reset, e.g., SBC-13STATE shall not have to wait the remaining part of the consecutive 12-month period before it is permitted to audit again in that State.
 - 2.18.7.4.1 To the extent that the independent auditor’s report concludes that CLEC failed to comply in all material respects with this Section 2.18, CLEC must reimburse SBC-13STATE the cost of the independent auditor and for SBC-13STATE’s costs in the same manner and using the same methodology and rates that SBC-13STATE is required to pay CLEC’s costs under Section 2.18.7.4.2.
 - 2.18.7.4.2 To the extent the independent auditor’s report concludes that the CLEC complied in all material respects with this Section 2.18, SBC-13STATE must reimburse CLEC for its reasonable staff time and other reasonable costs associated in responding to the audit (e.g., collecting data in response to the auditor’s inquiries, meeting for interviews, etc.).
- 2.18.7.5 CLEC will maintain the appropriate documentation to support its eligibility certifications, including without limitation call detail records, Local Telephone Number assignment documentation, and switch assignment documentation.
- 2.18.8 Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, CLEC shall comply with this Section 2.18 and, further, the failure of SBC-13STATE to require such compliance, including if SBC-13STATE provides a circuit(s), an EEL(s), or a Commingled circuit, that does not meet any eligibility criteria, including those in this Section 2.18, shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.
- 2.18 Where processes for any UNE requested pursuant to this Agreement, whether alone or in conjunction with any other UNE(s) or service(s), are not already in place, SBC-13STATE will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.
- 2.19 SBC-13STATE will combine UNES, combine UNE(s) with network elements possessed by CLEC, and/or Commingle only as set forth in this Appendix UNES.

2.20 Intentionally omitted

3. ACCESS TO UNE CONNECTION METHODS

- 3.1 Subject to Section 2 of this Appendix UNES, SBC-13STATE shall provide Access to UNE Connection Methods under the following terms and conditions.
- 3.2 This Section describes the connection methods under which SBC-13STATE agrees to provide CLECs with access to UNES under this Appendix UNES and the conditions under which SBC-13STATE makes these methods available. These methods provide CLEC access to multiple SBC-13STATE UNES that 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.
 - 3.2.1 Subject to availability of space and equipment, CLEC may use the methods listed below to access and combine UNE Local Loops within a requested SBC-13STATE Central Office.
 - 3.2.1.1 (Method 1)

SBC-13STATE will extend SBC-13STATE UNES requiring cross connection to the CLEC's Physical or Virtual Collocation Point of Termination (POT) when the CLEC is Physically Collocated, in a caged, cageless or shared cage arrangement or Virtually Collocated, within the same Central Office where the UNES which are to be combined are located. For Collocation terms and conditions refer to the Physical and Virtual Collocation Appendices.
 - 3.2.1.2 (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.
 - 3.2.1.3 (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.
- 3.3 The following terms and conditions apply to Methods 2 and 3 when SBC-13STATE provides access to UNES pursuant to Sections 3.2.1. 2 and 3.2.1.3:
 - 3.3.1 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.
 - 3.3.2 CLEC shall be responsible for initial testing and trouble sectionalization of facilities containing CLEC installed cross connects.
 - 3.3.3 CLEC shall refer trouble sectionalized in the SBC-13STATE UNE to SBC-13STATE.
 - 3.3.4 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.
 - 3.3.5 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.
 - 3.3.6 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 affected UNES. This interface may be manual or mechanized.
 - 3.3.7 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.
 - 3.3.8 Certain construction and preparation activities may be required to modify a building or prepare the premises for access to UNES.
 - 3.3.8.1 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).

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

4. ADJACENT LOCATION

- 4.1 Consistent with Section 2.1 of this Appendix UNEs, SBC-13STATE shall provide Adjacent Location provision under the following terms and conditions.
- 4.2* This Section describes the Adjacent Location Method for accessing UNEs. This Section also provides the conditions in which SBC CALIFORNIA offers the Adjacent Location Method.
- 4.3* The Adjacent Location Method allows a CLEC to access loops for a CLEC location adjacent to a SBC CALIFORNIA Central Office as identified by SBC CALIFORNIA. Under this method SBC CALIFORNIA 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.
- 4.4* This method requires the CLEC to provide copper cable, greater than 600 pairs, to the last manhole outside the SBC CALIFORNIA Central Office. The CLEC shall provide enough slack for SBC CALIFORNIA to pull the cable into the Central Office and terminate the cable on the Central Office Intermediate Distribution Frame (IDF).
- 4.5* The CLEC will obtain all necessary rights of way, easements, and other third party permissions.
- 4.6* The following terms and conditions apply when SBC CALIFORNIA provides the adjacent location:
 - 4.6.1 The CLEC is responsible for Spectrum Interference and is aware that not all pairs may be ADSL or POTS capable.
- 4.7* 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.
- 4.8* The CLEC will provide the excess cable length necessary to reach the SBC CALIFORNIA IDF in the SBC CALIFORNIA Central Office where CLEC requests connection.
- 4.9* The CLEC will be responsible for testing and sectionalization of facilities from the End User's location to the entrance manhole.
- 4.10* The CLEC should refer any sectionalized trouble determined to be in SBC CALIFORNIA's facilities to SBC CALIFORNIA.
- 4.11* The CLEC's employees, agents and contractors will be permitted to have access to the CLEC's cable where it is delivered to SBC CALIFORNIA (outside the entrance manhole). The CLEC is only able to enter the entrance manhole to splice under a duct lease agreement. If the CLEC leases ducts to get to the Central Office then CLEC has the right to splice the manholes on the route, including the entrance manhole.
- 4.12* In order for SBC CALIFORNIA to identify the entrance manhole for the CLEC, the CLEC must specify the direction from which the cable originates. SBC CALIFORNIA 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.
- 4.13* The CLEC will retain all assignment control. SBC CALIFORNIA will maintain TIRKS records for cable appearance information on the horizontal and vertical appearance on the SBC CALIFORNIA frame.
- 4.14* The CLEC will pay Time and Materials charges when SBC CALIFORNIA dispatches personnel and failure is in the CLEC's facility.

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

- 4.15* SBC CALIFORNIA will not assume responsibility for the quality of service provided over this special interconnection arrangement. Service quality is the responsibility of the CLEC. SBC CALIFORNIA limits each CLEC to two building entrances. Two entrances allow for CLEC growth or a diverse path.
- 4.16* Prior to SBC CALIFORNIA providing the Adjacent Location Method in this Appendix, the CLEC and SBC CALIFORNIA shall provide each other with a single point of contact for overall coordination.
- 4.17* The Adjacent Location Method of Accessing UNEs only allows for copper cable termination.

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6. BONA FIDE REQUEST

- 6.1 Subject to Section 2, SBC-13STATE shall process BFR requests under the following terms and conditions in this subsection.
- 6.2 The Bona Fide Request process described in Item I of this Section 6 applies to each Bona Fide Request submitted in the SBC-10STATE and SBC NEVADA Territory. The Bona Fide Request process described in Item II of this Section 6 shall apply to each Bona Fide Request submitted in the SBC CONNECTICUT Territory and the Bona Fide Request Process described in Item III of this Section shall apply to each Bona Fide Request submitted in the SBC CALIFORNIA 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 6 (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.
- 6.3 Item I
SBC-10STATE, SBC NEVADA Bona Fide Request Process
- 6.3.1 A Bona Fide Request ("BFR") is the process by which CLEC may request SBC-10STATE, SBC NEVADA to provide CLEC access to an additional or new, undefined UNE, UNE Combination and/or Commingling requests that constitute or involve a UNE required to be provided by SBC-10STATE, SBC NEVADA but that is not available under this Agreement at the time of CLEC's request.
- 6.3.2 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.
- 6.3.3 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, drawings when applicable, the location(s) where needed, the date required, and the projected quantity to be ordered with a 3 year forecast.
- 6.3.4 CLEC is responsible for all costs incurred by SBC-10STATE, SBC NEVADA to review, analyze and process a BFR. When submitting a BFR Application Form, CLEC has two options to compensate SBC-10STATE, SBC NEVADA for its costs incurred to complete the Preliminary Analysis of the BFR:
- 6.3.4.1 Include with its BFR Application Form a \$2,000 deposit to cover SBC-10STATE, SBC NEVADA's preliminary evaluation costs, in which case SBC-10STATE, SBC NEVADA may not charge CLEC in excess of \$2,000 to complete the Preliminary Analysis; or
- 6.3.4.2 Not make the \$2,000 deposit, in which case CLEC shall be responsible for all preliminary evaluation costs incurred by SBC-10STATE, SBC NEVADA to complete the preliminary Analysis (regardless of whether such costs are greater or less than \$2,000).
- 6.3.5 If CLEC submits a \$2,000 deposit with its BFR, and SBC-10STATE, SBC NEVADA is not able to process the Request or determines that the Request does not qualify for BFR treatment, then SBC-10STATE, SBC 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.

- 6.3.6 Upon written notice, CLEC may cancel a BFR at any time, but will pay SBC-10STATE, SBC NEVADA its reasonable and demonstrable costs of processing and/or implementing the BFR up to and including the date SBC-10STATE, SBC 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.
- 6.3.7 SBC-10STATE, SBC NEVADA will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt SBC-10STATE, SBC 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-10STATE, SBC NEVADA has received a materially complete and accurate BFR Application Form.
- 6.3.8 Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a materially complete and accurate BFR SBC-10STATE, SBC NEVADA will provide to CLEC a preliminary analysis of such Request (the "Preliminary Analysis"). The Preliminary Analysis will (i) indicate that SBC-10STATE, SBC NEVADA will offer the Request to CLEC or (ii) advise CLEC that SBC-10STATE, SBC NEVADA will not offer the Request. If SBC-10STATE, SBC NEVADA indicates it will not offer the Request, SBC-10STATE, SBC 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 for a UNE, or is otherwise not required to be provided by SBC-10STATE, SBC NEVADA under the Act and/or, (iii) that the BFR is not the correct process for the request.
- 6.3.9 If the Preliminary Analysis indicates that SBC-10STATE, SBC NEVADA will offer the Request, CLEC may, at its discretion, provide written authorization for SBC-10STATE, SBC 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-10STATE, SBC 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-10STATE, SBC NEVADA all demonstrable costs as set forth above. Any request by CLEC for SBC-10STATE, SBC NEVADA to proceed with a Request received after the thirty (30) calendar day window will require CLEC to submit a new BFR.
- 6.3.10 As soon as feasible, but not more than ninety (90) calendar days after its receipt of authorization to develop the BFR Quote, SBC-10STATE, SBC NEVADA shall provide to CLEC a BFR Quote.
- 6.3.11 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-10STATE, SBC 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 the Dispute Resolution Process set forth in the General Terms and Conditions of this Agreement. If SBC-10STATE, SBC 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-10STATE, SBC NEVADA for its costs incurred up to the date of cancellation (whether affirmatively canceled or deemed canceled by CLEC).
- 6.3.12 Unless CLEC agrees otherwise, all rates and costs quoted or invoiced herein shall be consistent with the pricing principles of the Act.

- 6.3.13 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 forth in the General Terms and Conditions section of this Agreement.

6.4* Item II

SBC CONNECTICUT Bona Fide Request Process

- 6.4.1 The Bona Fide Request provisions set forth in 6.3 Item I shall apply to BFRs submitted to SBC CONNECTICUT, with the following exceptions:
- 6.4.2 Section 6.3.1 is amended to add the following: A CLEC may submit a BFR to request new UNEs, provided the request is not covered by one of the following conditions:
- 6.4.2.1 The UNEs 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.
- 6.4.2.2 The UNEs 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.
- 6.4.2.3 The UNEs requested are not included in a Telco tariffed offering as an existing capability or functional equivalent.
- 6.4.2.4 If the request is covered by one of the conditions listed above, SBC CONNECTICUT will make these items generally available.
- 6.4.3 Sections 6.3.3 and 6.3.4 are amended as follows: No charges apply for SBC CONNECTICUT to prepare the Preliminary Analysis.
- 6.4.4 Section 6.3.6 is amended as follows: Cancellation charges will not apply if the written notice of cancellation is received by SBC CONNECTICUT after SBC CONNECTICUT 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 SBC CONNECTICUT 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 SBC CONNECTICUT receives the written notice of cancellation from CLEC. However, if SBC CONNECTICUT 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 SBC CONNECTICUT or the estimate in the BFR Quote plus twenty percent (20%).
- 6.4.5 Section 6.3.7 is amended as follows: SBC CONNECTICUT will promptly consider and analyze each BFR it receives. Within ten (10) Business Days of its receipt, SBC CONNECTICUT 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 SBC CONNECTICUT has received a complete and accurate BFR Application Form.
- 6.4.6 SBC CONNECTICUT will apply standard tariffed Processing Fees (BFR development costs) according to the Connecticut Access Service Tariff 4.11.
- 6.4.7 For SBC CONNECTICUT, 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

* Section 6.4 is available only in the State of Connecticut. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

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 the Department on the matter in dispute.

6.5 Item III

SBC CALIFORNIA Bona Fide Request Process

- 6.5.1 The Bona Fide Request provisions set forth in 6.3 Item I shall apply to BFRs submitted to SBC CALIFORNIA, with the following exceptions:
- 6.5.2 Section 6.3.1 is amended as follows: A Bona Fide Request ("BFR") is the process by which CLEC may request SBC CALIFORNIA to provide CLEC access to an additional or new, undefined UNE.
- 6.5.3 Interconnection arrangement, or other (a "Request"), that is required to be provided by SBC CALIFORNIA under the Act but is not available under this Agreement or defined in a generic appendix at the time of CLEC's request.
- 6.5.4 Section 6.3.3 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.
- 6.5.5 Section 6.3.8 is amended as follows: Except under extraordinary circumstances, within thirty (30) calendar days of its receipt of a complete and accurate BFR, SBC CALIFORNIA will provide to CLEC a Preliminary Analysis of such Request. The Preliminary Analysis will confirm that SBC CALIFORNIA will offer the request. The Preliminary Analysis provided by SBC CALIFORNIA will include cost categories (material, labor and other) and high level costs for the request. SBC CALIFORNIA 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).
- 6.5.6 If the BFR is denied, SBC CALIFORNIA 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, interconnection or other arrangement required by law.
- 6.5.7 If SBC CALIFORNIA refers CLEC to an alternate process, 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.

7. NETWORK INTERFACE DEVICE

- 7.1 Subject to Section 2 of this Appendix UNE, SBC-13STATE shall provide UNE Network Interface Device under the following terms and conditions in this subsection.
- 7.2 The UNE Network Interface Device (NID) is defined as any means of interconnection of End User premises wiring to SBC-13STATE's distribution loop facilities, such as a cross connect device used for that purpose. Fundamentally, the UNE 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 UNE 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 UNE NID on an unbundled basis to CLEC for the provision of a Telecommunications Service. CLEC access to the UNE NID is offered as specified below (SBC-12STATE) or by tariff (SBC CONNECTICUT).

* Section 6.5 is available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.1.

- 7.3 SBC-12STATE will permit CLEC to connect its local loop facilities to End Users' premises wiring through SBC-12STATE's UNE NID, or at any other technically feasible point.
- 7.4 CLEC may connect to the End User's premises wiring through the SBC-12STATE UNE NID, as is, or at any other technically feasible point. Any repairs, upgrade and rearrangements to the UNE 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 UNE NID, at charges reflected in the state specific Appendix Pricing.
- 7.5 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 UNE NID where necessary.
- 7.6 The SBC-12STATE UNE NIDs that CLEC uses under this Appendix will be existing UNE NIDs installed by SBC-12STATE to serve its End Users.
- 7.7 CLEC shall not attach to or disconnect SBC-12STATE's ground. CLEC shall not cut or disconnect SBC-12STATE's loop from the UNE NID and/or its protector. CLEC shall not cut any other leads in the UNE NID.
- 7.8 CLEC, who has constructed its own NID at a premises and needs only to make contact with SBC-12STATE's UNE NID, can disconnect the End User's wiring from SBC-12STATE's UNE NID and reconnect it to the CLEC's NID.
- 7.9 If CLEC requests a different type of UNE NID not included with the loop, SBC-12STATE will consider the requested type of UNE NID to be facilitated via the Bona Fide Request (BFR) Process.

8. UNE LOCAL LOOP

- 8.1 Subject to Section 2 of this Appendix, SBC-13STATE shall provide UNE Local Loop under the following terms and conditions in this subsection.
- 8.2 A UNE Local Loop is a 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. SBC-13STATE will make available the UNE Local Loops set forth herein below between a distribution frame (or its equivalent) in an SBC-13STATE Central Office and the loop demarcation point at an End User premises. The Parties acknowledge and agree that SBC-13STATE shall not be obligated to provision any of the UNE Local Loops provided for herein to cellular sites or to any other location that does not constitute an End User premises. Where applicable, the UNE 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 UNE Local Loop 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 CLEC requested line conditioning (subject to applicable charges in Appendix Pricing) for purposes of the deployment of xDSL-based technologies as more specifically provided in the xDSL and Line Splitting Appendix to, or elsewhere in, this Agreement. UNE Local Loops are copper loops (two-wire and four-wire analog voice-grade copper loops, digital copper loops [e.g., DS0s and integrated services digital network lines]), , as well as two-wire and four-wire copper loops conditioned, at CLEC request and subject to charges, to transmit the digital signals needed to provide digital subscriber line services) (the terms and conditions for 2-wire and 4-wire xDSL loops are set forth in the xDSL and Line Splitting Appendix to, or elsewhere in this Agreement where xDSL loops are addressed. xDSL loops are not covered under this Appendix UNES), UNE DS1 Digital Loops (subject to caps set forth in Section 8.3.4.4.1) and Lawful UNE DS3 Digital Loops (subject to caps set forth in Section 8.3.5.4.1), where such loops are deployed in SBC-13STATE wire centers. CLEC agrees to operate each UNE Local Loop type within applicable technical standards and parameters.
 - 8.2.1 When a UNE Local Loop is ordered to a high voltage area, the Parties understand and agree that the UNE Local Loop will require a High Voltage Protective Equipment (HVPE) (e.g., a positron), to ensure the safety and integrity of the network, the Parties' employees and/or representatives, and the CLEC's End User. Therefore, any request by CLEC for a UNE Local Loop to a high voltage

area will be submitted by CLEC to SBC-13STATE via the BFR process set forth in Section 6 "Bona Fide Request," and CLEC shall be required to pay SBC-13STATE for any HVPE that is provisioned by SBC-13STATE to CLEC in connection with the CLEC's UNE Local Loop order to the high voltage area.

- 8.3 The following types of UNE Local Loop will be provided at the rates, terms, and conditions set forth in this Appendix (SBC-12STATE) or by tariff (SBC CONNECTICUT) and in the state specific Appendix Pricing (SBC-12STATE) or by tariff (SBC CONNECTICUT):

8.3.1 2-Wire Analog UNE Local Loop

8.3.1.1 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.

8.3.1.2 If CLEC requests one or more UNE Local Loops serviced by Integrated Digital Loop Carrier (IDLC) SBC-12STATE will, where available, move the requested UNE Local Loop(s) to a spare, existing all-copper or universal digital loop carrier UNE Local Loop at no additional charge to CLEC. If, however, no spare UNE Local Loop is available, as defined above, SBC-12STATE will within two (2) business days of CLEC's request, notify CLEC of the lack of available facilities.

8.3.2 4-Wire Analog UNE Local Loop

8.3.2.1 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.

8.3.3 2-Wire Digital UNE Local Loop

8.3.3.1 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, including overhead.

8.3.4 DS1 Digital Loop

8.3.4.1 A DS1 Digital Loop (DS1 Loops) is a digital local loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services, including T1 services.

8.3.4.2 . Subject to the cap described in Section 8.3.4.4.1 below, SBC-13STATE shall provide CLEC with nondiscriminatory access to DS1 Loops on an unbundled basis to any building not served by a wire center with at least 60,000 business lines and at least four fiber-based collocators. For purposes of this Section 8.3.4, "business lines" and "fiber-based collocators" are as defined in 47 C.F.R. 51.5.

8.3.4.3 In the event that a wire center in which, as of the date of full signature of this Agreement by the Parties, nondiscriminatory access to DS1 Loops on an unbundled basis was required as set forth in Section 8.3.4.2, is determined to have at least 60,000 business lines and at least four fiber-based collocators, the procedures set forth in Section 8.4, below will apply.

8.3.4.4 DS1 Loop "Caps"

8.3.4.4.1 SBC 13-STATE is not obligated to provide to CLEC more than ten (10) DS1 UNE loops at a time per requesting carrier to any single building in which DS1 Loops and DS3 loops are available on an unbundled basis; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Loops once CLEC has already obtained ten DS1 UNE Loops at the same qualifying building. If, notwithstanding this Section, CLEC submits such an order, at SBC-13STATE's option it may accept the order, but convert any requested DS1 UNE Loop(s) in excess of the cap to Special Access upon

thirty (30) days advance written notice, and applicable Special Access charges will apply to CLEC for such DS1 Loop(s) as of the date of conversion.

8.3.5 DS3 Digital Loop

8.3.3.1 A DS3 digital loop (DS3 Loop) is a digital local loop having a total digital signal speed of 44.736 megabytes per second.

8.3.5.2 Subject to the cap described in Section 8.3.5.4.1 below, SBC-13STATE shall provide CLEC with nondiscriminatory access to DS3 Loops on an unbundled basis to any building not served by a wire center with at least 38,000 business lines and at least four fiber-based collocators. For purposes of this Section 8.3.5, "business lines" and "fiber-based collocators" are as defined in 47 C.F.R. 51.5

8.3.5.3 In the event that a wire center in which, as of the date of full signature of this Agreement by the Parties, nondiscriminatory access to DS3 Loops on an unbundled basis was required as set forth in Section 8.3.5.2, is determined to have at least 38,000 business lines and at least four fiber-based collocators, the procedures set forth in Section 8.4, below will apply in the event DS3 Digital Loops are or have been Declassified.

8.3.5.4 DS3 Loop "Caps"

8.3.5.4.1 SBC 13-STATE is not obligated to provide to CLEC more than one (1) DS3 UNE loop per requesting carrier to any single building in which DS3 Loops are available on an unbundled basis; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Loops once CLEC has already obtained one DS3 UNE loop to the same building. If, notwithstanding this Section, CLEC submits such an order, at SBC-13STATE's option it may accept the order, but convert any requested DS3 UNE Loop(s) in excess of the cap to Special Access upon thirty (30) days advance written notice, and applicable Special Access charges will apply to CLEC for such DS3 Loop(s) as of the date of conversion.

8.4 Declassification Procedure

8.4.1 DS1. Once a wire center exceeds both the 60,000 business lines and four fiber-based collocators threshold criteria as described in Section 8.3.4.2 above, no future DS1 Digital Loop unbundling will be required in that wire center. Upon receiving a request from CLEC for access to a DS1 Loop in which CLEC certifies that, based upon a reasonably diligent inquiry, CLEC is entitled to unbundled access to DS1 Loops in the particular wire center, SBC-13STATE shall immediately process the request. To the extent that SBC-13STATE seeks to challenge the classification of such wire center as it applies to DS1 Loops, the issue shall be resolved through the dispute resolution procedures in this Agreement. Accordingly Once it is determined through such procedure that a particular wire center exceeds both threshold criteria above, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 UNE Digital Loops in such wire center(s).

8.4.2 Once a wire center exceeds both the 38,000 business lines and four fiber-based collocator thresholds criteria as described in Section 8.3.5.2 above, no future DS3 Digital Loop unbundling will be required in that wire center. Upon receiving a request from CLEC for access to a DS3 Loop in which CLEC certifies that, based upon a reasonably diligent inquiry, CLEC is entitled to unbundled access to DS3 Loops in the particular wire center, SBC-13STATE shall immediately process the request. To the extent that SBC-13STATE seeks to challenge the classification of such wire center as it applies to DS3 Loops, the issue shall be resolved through the dispute resolution procedures in this Agreement. Once it is determined through such procedure that a particular wire center exceeds both threshold criteria above CLEC may not order or otherwise obtain, and CLEC will cease ordering DS3 UNE Digital Loops in such wire center(s).

8.4.3 Effect on Embedded Base. Upon Declassification of DS1 Digital Loops or DS3 Digital Loops already purchased by CLEC as UNES under this Agreement, SBC-13STATE will provide written

notice to CLEC of such Declassification, proceed in accordance with Section 2.5 "Notice and Transition Procedure."

8.4.3.1 Products provided by SBC-13STATE in conjunction with such Loops (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 "Notice and Transition Procedure" where such Loops are no longer available in accordance with this Section 8.4.

8.4.4 The Parties agree that activity by SBC-13STATE under this Section 8.4 shall not be subject to the Network Disclosure Rules.

8.5 Routine Network Modifications – UNE Local Loops

8.5.1 SBC-13STATE shall make all routine network modifications to UNE Local Loop facilities used by requesting telecommunications carriers where the requested UNE Local Loop facility has already been constructed. SBC-13STATE shall perform routine network modifications to UNE Local Loop facilities in a nondiscriminatory fashion, without regard to whether the UNE Local Loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

8.5.2 A routine network modification is an activity that SBC-13STATE regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of existing cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to activate such loops for its own customers, under the same conditions and in the same manner that SBC-13STATE does for its own customers. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. SBC-13STATE will place drops in the same manner as it does for its own customers.

8.5.3 Routine network modifications do not include constructing new UNE loops; installing new cable; securing permits, rights-of-way, or building access arrangements; constructing and/or placing new manholes, conduits; or installing new terminals, or removing or reconfiguring packetized transmission facility; SBC-13STATE is not obligated to perform those activities for a requesting telecommunications carrier.

8.5.4 SBC-13STATE shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC-13STATE's customers.

8.5.5 This Agreement does not require SBC-13STATE to deploy time division multiplexing-based features, functions and capabilities with any copper or fiber packetized transmission facility to the extent SBC-13STATE has not already done so; remove or reconfigure packet switching equipment or equipment used to provision a packetized transmission path; reconfigure a copper or fiber packetized transmission facility to provide time division multiplexing-based features, functions and capabilities; to deploy TDM voice grade transmission capacity into new or existing networks that never had TDM capability; nor does this Agreement prohibit SBC-13STATE from upgrading a customer from a TDM-based service to a packet switched or packet transmission service, or removing copper loops or subloops from the network, provided SBC-13STATE complies with the copper loop or copper subloop retirement rules in 47 C.F.R. 51.319(a)(3)(iii).

8.5.6 Notwithstanding anything to the contrary herein, SBC-13STATE's obligations with respect to routine network modifications apply only where the loop transmission facilities are subject to unbundling and, as to access to the TDM capabilities of SBC-13STATE's hybrid loops, only with respect to any existing capabilities of SBC-13STATE's hybrid loops.

8.5.6 SBC-12STATE shall provide routine network modifications at the rates, terms and conditions set out in this Appendix (SBC-12STATE), and in the state specific Appendix Pricing (SBC-12STATE) or by tariff (SBC CONNECTICUT). A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time

and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

9. UNE SUBLOOPS

- 9.1 Subject to the other terms and conditions of this Appendix, SBC-12STATE shall provide UNE Subloops under the following terms and conditions in this subsection.
- 9.2 SBC-12STATE will provide UNE Subloops as set forth in this Appendix. Other than as specifically set out elsewhere in this Agreement, SBC CONNECTICUT does not offer UNE Subloops under this Agreement. Rather, UNE Subloops are available as described in Section 18 of the Connecticut Service Tariff.
 - 9.2.1 A UNE Subloop is a smaller included segment of SBC-12STATE's UNE local loop plant, i.e., a portion of the UNE Loop from some technically accessible terminal beyond SBC-12STATE's central office and the network demarcation point, including that portion of the UNE Loop, if any, which SBC-12STATE's owns and controls inside the End User premises.
- 9.3 Definitions pertaining to the UNE Subloop
 - 9.3.1 Accessible terminals contain cables and their respective wire pairs that terminate on screw posts. This allows technicians to affix cross connects between binding posts of terminals collocated at the same point. Terminals differ from splice cases, which are inaccessible because the case must be breached to reach the wires within.
 - 9.3.2 "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.
 - 9.3.3 "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.
 - 9.3.4 "Digital UNE 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 UNE Subloop transport.
 - 9.3.5 "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.
 - 9.3.6 "MTE" for the purpose of Term To NID UNE Subloop. "MTE" is a Multi Tenant Environment for buildings with exterior or interior mounted terminals.
 - 9.3.7 "Network Terminating Wire (NTW)" is the service wire that connects the ILEC's distribution cable to the NID at the demarcation point.
 - 9.3.8 "SAI/FDI-to-Term UNE Subloop" is that portion of the UNE Loop from the SAI/FDI to an accessible terminal.
 - 9.3.9 "SAI/FDI-to-NID UNE Subloop" is that portion of the UNE Loop from the SAI/FDI to the Network Interface Device (NID), which is located on an end user's premise.
 - 9.3.10 "SPOI" is defined as a Single Point of Interconnection. At the request of CLEC, and subject to charges, SBC-12STATE will construct a SPOI only to those multiunit premises where SBC-12STATE has distribution facilities to the premises and SBC-12STATE either owns, controls, or leases the inside wire, if any, at such premises. If SBC-12STATE has no facilities which it owns, controls or leases at a multiunit premises through which it serves, or can serve, End Users at such premises, it is not obligated to construct a SPOI. SBC-12STATE's obligation to build a SPOI for multiunit premises only arises when CLEC indicates that it will place an order for a UNE Subloop via a SPOI.

- 9.3.11 “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.
- 9.3.12 “Term-to-NID UNE Subloop” is that portion of the UNE Loop from an accessible terminal to the NID, which is located at an end user’s premise. Term-to-NID UNE Subloop includes use of the Network Terminating Wire (NTW).
- 9.4 SBC-12STATE will offer the following UNE Subloop types:
- 9.4.1 2-Wire Analog UNE 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).
- 9.4.2 4-Wire Analog UNE 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).
- 9.4.3 UNE xDSL Subloop is as defined in the xDSL and Line Splitting Appendix and will be available to CLEC in the SBC-12STATE states in those instances where CLEC has an approved and effective xDSL and Line Splitting Appendix as a part of this Agreement. In addition to the provisions set forth in the xDSL and Line Splitting Appendix, the UNE xDSL Subloop is subject to the UNE subloop terms and conditions set forth in this Appendix, the collocation provisions set forth elsewhere in this Agreement and the rates set forth in the Appendix Pricing. If there is any conflict between the provisions set forth in the xDSL and Line Splitting Appendix as to the UNE xDSL Subloop and the UNE subloop provisions set forth in this Appendix, the UNE subloop provisions set forth in this Appendix shall control.
- 9.4.4 SBC-13STATE is not obligated under this Agreement to provide any other type of subloop. CLEC shall not request such subloops under this Agreement, whether alone, in combination or Commingled. Accordingly, if CLEC requests and SBC-13STATE provides a subloop(s) that is not described or provided for in this Agreement, SBC-13STATE may, at any time, even after the subloop(s) has been provided to CLEC, discontinue providing such subloop(s) (including any combination(s) including that subloop) upon 30 days’ advance written notice to CLEC. Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, the failure of SBC-13STATE to refuse to provide, including if SBC-13STATE provides or continues to provide, access to such subloop(s) (whether on a stand-alone basis, in combination with UNEs (or otherwise), with a network element possessed by CLEC, or otherwise), shall not act as a waiver of any part of this Agreement, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.
- 9.5 Intentionally Left Blank.
- 9.6 UNE Subloops are provided “as is” unless CLEC requests loop conditioning on UNE xDSL Subloops for the purpose of offering advanced services. UNE xDSL Subloop conditioning will be provided at the rates, terms, and conditions set out in the state specific Appendix Pricing.
- 9.7 If a Term to NID UNE Subloop has been disconnected and thus an end-user is no longer receiving service via that UNE Subloop, and such UNE Subloop has been determined to be a non-defective pair, then that UNE Subloop would be considered an existing spare portion of the loop, based on a first come first served basis.
- 9.8 Copper UNE Subloops
- 9.8.1 Access to terminals for copper UNE Subloops is defined to include:
- any technically feasible point near the End User premises accessible by a cross-connect (such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the End User 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 Terminal (underground or aerial).

9.9 CLEC may request access to the following copper UNE Subloop segments:

FROM:	TO:
1. Serving Area Interface or Feeder Distribution Interface	Terminal
2. Serving Area Interface or Feeder Distribution Interface	Network Interface Device
3. Terminal	Network Interface Device
4. NID	Stand Alone
5. SPOI (Single Point of Interface)	Terminal
6. SPOI (Single Point of Interface)	Network Interface Device

9.10 Provisioning

- 9.10.1 Connecting Facility Arrangement (CFA) assignments must be in-place prior to ordering and assigning specific UNE Subloop circuit(s).
- 9.10.2 Spare UNE 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.

9.11 Maintenance

- 9.11.1 The Parties acknowledge that by separating switching, and distribution plant, the ability to perform mechanized testing and monitoring of the UNE Subloop from the SBC-12STATE switch/testing equipment will be lost.
- 9.11.2 CLEC shall isolate trouble to the SBC-12STATE UNE Subloop portion of the CLEC's service before reporting trouble to SBC-12STATE.
- 9.11.3 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.
- 9.11.4 Once all UNE 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 UNE Subloops are contained in the state specific Appendix Pricing.
- 9.11.5 In the event of Catastrophic Damage to the RT, SAI/FDI, Terminal, SPOI, or NID where CLEC has a SAA, SBC-12STATE repair forces will restore service in a non-discriminatory manner which will allow the greatest number of all End Users to be restored in the least amount of time. Should the CLEC cabling require replacement, SBC-12STATE will provide prompt notification to CLEC for CLEC to provide the replacement cable to be terminated as necessary.

9.12 UNE Subloop Access Arrangements

- 9.12.1 Prior to ordering UNE Subloop facilities, CLEC will establish Collocation using the Collocation process as set forth in the Collocation Appendix, or will establish a UNE Subloop Access Arrangement utilizing the Special Construction Arrangement (SCA), either of which are necessary to interconnect to the SBC-12STATE UNE Subloop network.
- 9.12.2 The space available for collocating or obtaining various UNE Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC will initiate an SCA by submitting a UNE Subloop Access Arrangement Application.
- 9.12.3 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 UNE Subloop access, appropriate rates for the engineering and other associated costs performed will be charged.

- 9.12.4 The assignment of UNE 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 UNE Subloop facilities.
- 9.12.5 Subloop inquiries do not serve to reserve UNE Subloops.
- 9.12.6 Several options exist for Collocation or UNE 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.
- 9.12.7 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.
- 9.12.8 Prior to submitting the UNE Subloop 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 UNE Subloops, should collocation, access to poles/conduits or rights of way be required.
- 9.12.9 Except as set forth below in this 9.12.9, construction of the UNE 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 9.12.7. In the event CLEC disputes the estimate for an SAA in accordance with the dispute resolution procedures set forth in 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.
- 9.12.10 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.
- 9.12.11 A non-binding CLEC forecast shall be required as a part of the request for SAA, identifying the UNE 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.
- 9.12.12 In order to maximize the availability of terminations for all CLECs, the CLEC shall provide CFA for their UNE 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.
- 9.12.13 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.
- 9.12.14 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.
- 9.13 UNE Subloop Access Arrangement (SAA) Access Points
 - 9.13.1 SAI/FDI, ECS, SPOI, or Terminal
 - 9.13.1.1 CLEC cable to be terminated in a SBC-12STATE SAI/FDI, or Terminal, shall consist of 22 or 24-gauge copper twisted pair cable bonded and grounded to the power company Multi Grounded Neutral (MGN). Cable may be filled if buried or buried to aerial riser cable. CLEC's Aerial cables should be aircore.

- 9.13.1.2 The CLEC may elect to place their cable to within 3 feet of the SAA site and coil up an amount of cable, defined by the engineer in the design phase, that SBC-12STATE will terminate on available binding posts in the SAI/FDI or Terminal.
- 9.13.1.3 The CLEC may “stub” up a cable at a prearranged meet point, defined during the engineering site visit, and SBC-12STATE will stub out a cable from the SAI/FDI or Terminal, which SBC-12STATE will splice to the CLEC cable at the meet point.
- 9.13.1.4 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.
- 9.13.1.5 Exhausted termination points in a SAI/FDI - When a SAI/FDI’s termination points are all terminated to assignable cable pairs, SBC-12STATE may choose to increase capacity of the SAI/FDI by the method of its 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 its cable at the SAI/FDI.
- 9.13.1.6 Exhausted Termination Points in a Terminal- When a terminal’s termination points are all terminated to assignable cable pairs, SBC-12STATE 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.
- 9.14 Relocation of Existing ILEC/CLEC Facilities involved in a SAA at a RT/ECS, SAI/FDI, SPOI, Terminal or NID
 - 9.14.1 SBC-12STATE shall notify CLEC of pending relocation as soon as SBC-12STATE receives such notice.
 - 9.14.2 CLEC shall notify SBC-12STATE of its intentions to remain, or not, in the SAA by way of a new UNE Subloop Access Arrangement Application for a new SCA.
 - 9.14.3 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.
 - 9.14.4 CLEC shall notify SBC-12STATE of acceptance or rejection of the new SCA within 10 business days of its receipt of SBC-12STATE’s estimate.
 - 9.14.5 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.
 - 9.14.6 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.
 - 9.14.7 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.
- 9.15 Establishment of Intermediary Box for CLEC Access to Term to NID MTE UNE Subloop Segment
 - 9.15.1 As an alternative to the establishment of a UNE Subloop Access Arrangement in those instances where CLEC wishes to access/lease SBC-12STATE Term to NID UNE Subloop segments in order to serve its End Users at MTEs in SBC-12STATE (“Term to NID MTE UNE Subloop Segments”), CLEC may place, own and manage, for its own use, an intermediary box, which would provide CLEC with access to a Term to NID MTE UNE Subloop Segment cross-connect leased from SBC-12STATE within the intermediary box (in order to obtain access to SBC-12STATE Term to NID MTE UNE Subloop Segments). In the event CLEC wishes to access SBC-12STATE Term to NID MTE UNE Subloop Segments via the establishment of an intermediary box, the following rates, terms and conditions shall apply:

- 9.15.1.1 CLEC would manage the process for placing its own intermediary box, including, without limitation, coordination with the property owner and/or management. CLEC may, at its discretion, choose to retain ownership in whole or to share ownership of the intermediary box with other CLECs. Intermediary box shall be placed no more than two feet from the SBC terminal.
- 9.15.1.2 The intermediary box shall contain blocks that meet SBC-12STATE's published industry standards for the placement of services and facilities and should be labeled with CLEC's ACNA to enable the SBC-12STATE technician the ability to run jumper/cross connect from SBC-12STATE terminal to the intermediary box.
- 9.15.1.3 LEC agrees that the SBC-12STATE technician shall run the jumper/cross-connect from SBC-12STATE's serving terminal to CLEC's intermediary box, in order for CLEC to access SBC-12STATE Term to NID MTE UNE Subloop Segments in SBC-12STATE. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's intermediary box.
- 9.15.1.4 CLEC must have in place Connecting Facility Arrangement (CFA) assignments prior to ordering and assigning specific Term to NID MTE UNE Subloop Segments from SBC-12STATE.
- 9.15.1.5 Following CLEC's provisioning, placement, and completion of Connecting Facility Arrangement Assignments ("CFA") data submission to SBC-12STATE associated with the intermediary box, CLEC would place orders and schedule activities related to access to the Term to NID MTE UNE Subloop Segment including, without limitation: transferring the End User's service from SBC-12STATE to CLEC, providing SBC-12STATE with CFA prior to ordering and the assigning of a specific Term to NID MTE UNE Subloop Segment(s).
- 9.15.1.6 The ordering procedures for the Term to NID MTE UNE Subloop Segment will be the same as those that apply to UNE Subloop today and shall be submitted to SBC-12STATE by CLEC via a Local Service Request ("LSR").
- 9.15.1.7 SBC-12STATE will upon receipt of the LSR from CLEC for a Term to NID MTE UNE Subloop Segment, process the order and place the jumper/cross connect to the CFA provided by the CLEC on the LSR, from the SBC-12STATE terminal to the CLEC intermediary box. SBC-12STATE must have access to the intermediary box for completion of the order.
- 9.15.2 In connection with the MTE intermediary box for CLEC access to Term to NID MTE UNE Subloop Segments in SBC-12STATE only, CLEC may elect to lease from SBC-12STATE Term to NID MTE UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE UNE Subloop Segment." In the event CLEC wishes to lease the Term to NID MTE UNE Subloop Segment from SBC-12STATE in lieu of SBC-12STATE's standard Term to NID UNE Subloop segment addressed in this 9.15.2, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID MTE UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE UNE Subloop Segment.
- 9.16 Establishment of Term to NID MTE UNE Subloop Segment When no Intermediary Box is installed
 - 9.16.1 In those instances where CLEC elects not to install an intermediary box or to have SBC-12STATE install an intermediary box pursuant to the SAA process outlined herein above, the CLEC may still lease from SBC-12STATE Term to NID MTE UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE UNE Subloop Segment". In the event CLEC wishes to lease the Term to NID MTE UNE Subloop Segment from SBC-12STATE in lieu of SBC-12STATE's standard Term to NID UNE Subloop segment addressed in Section 9.15.2 above, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID

MTE UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE UNE Subloop Segment. In such cases, SBC-12STATE will provide CLEC with access to the Term To NID MTE UNE Subloop via a cross connect. The SBC technician will tag appropriately and will leave up to two feet of exposed wire at SBC-12STATE's terminal. The cross connect would then be terminated by the CLEC technician in the CLEC terminal, at a time of CLEC's own choosing. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's terminal.

- 9.16.2 If CLEC elects this option to obtain access to the Term To NID UNE Subloop in an MTE Environment, neither the SBC-12STATE SAA process nor the intermediary box option would be required. Because the CLEC would have full responsibility for terminating the SBC-12STATE cross-connect, SBC-12STATE could not require any CFA information from CLEC.

10. ENGINEERING CONTROLLED SPLICE (ECS)

- 10.1 Subject to the other terms and conditions of this Appendix, SBC-12STATE shall provide to Engineering controlled Splice under the following terms and conditions in this subsection.
- 10.2 SBC-12STATE will also make available an Engineering Controlled Splice (ECS), which will be owned by SBC-12STATE, for CLECs to gain access to UNE Subloops at or near remote terminals.
- 10.3 The ECS shall be made available for UNE Subloop Access Arrangements (SAA) utilizing the Special Construction Arrangement (SCA).
- 10.3.1 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-12STATE will construct any UNE Subloop Access Arrangement requested by a Telecommunications Carrier in a cost-effective and efficient manner. If SBC-12STATE 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, CLEC will not be liable for such extra costs.
- 10.3.2 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-12STATE places more pairs at the splice.
- 10.3.3 SBC-12STATE 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-12STATE will construct the engineering controlled splice, the ECS maybe owned by SBC-12STATE or the CLEC (depending on the specific arrangement) at the option of SBC-12STATE.
- 10.3.4 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.
- 10.3.5 SBC-12STATE may require a separate SCA for each remote terminal site.
- 10.3.6 Except as set forth below in this Section 10.3.6, written acceptance and at least 50% of payment for the SCA must be submitted at least 90 days before access to the copper UNE Subloop is to be provisioned by SBC-12STATE. 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 9.12.7. In the event CLEC disputes the estimate for the ECS in accordance with the dispute resolution procedures set forth in this Agreement, SBC-12STATE 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.

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

10.4.1 Dedicated Facility Option (DFO)

10.4.1.1 CLEC may request SBC-12STATE 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 UNE Subloop orders.

10.4.1.2 CLEC must designate the quantity of UNE Subloops they desire to access via this spliced, dedicated facility, specified by subtending SAI.

10.4.1.3 CLECs will compensate SBC-12STATE for each of the dedicated UNE Subloop facilities, based on recurring UNE Subloop charges, for the quantity of UNE Subloops dedicated to the CLEC between the ECS and the SAI.

10.4.2 Cross-connected Facility Option (CFO)

10.4.2.1 CLEC may request SBC-12STATE build an ECS cross-connect junction on which to terminate CLEC’s SAA facility.

10.4.2.2 The SCA associated with this option will include the charges associated with constructing the cross-connect device, including the termination of SBC-12STATE cabling between the ECS and the RT and/or SAI, and the inventorying of that SBC-12STATE cabling.

10.4.2.3 CLEC must designate the quantity of UNE Subloops they desire to access via this cross-connectable, dedicated facility, specified by subtending SAI.

10.4.2.4 CLECs will compensate SBC-12STATE for the charges incurred by SBC-12STATE derived from the CLEC’s request for the SCA.

- 10.5 The introduction of an ECS creates the following additional copper UNE Subloop segments:

FROM:

TO:

- | | |
|-------|---|
| 1. RT | Serving Area Interface or Feeder Distribution Interface |
| 2. RT | Terminal |
| 3. RT | NID |

11. RESERVED

12. RESERVED

13. DS1 AND DS3 DEDICATED TRANSPORT

- 13.1 Subject to Section 2 of this Appendix UNES, SBC-13STATE shall provide UNE DS1/DS3 Dedicated Transport under the following terms and conditions in this subsection.

- 13.2 For purposes of this Agreement, the following definitions apply:

13.2.1 “Dedicated Transport” is defined as SBC-13STATE interoffice transmission facilities between wire centers or switches owned by SBC-13STATE, or between wire centers or switches owned by SBC-13STATE and switches owned by requesting telecommunications carriers, dedicated to a particular customer or carrier.

13.2.1.1 SBC-13STATE is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of SBC-13STATE wire centers.

13.2.2 A “route” is defined as a transmission path between one of SBC-13STATE’s wire centers or switches and another of SBC-13STATE’s wire centers or switches. A route between two points (e.g., wire center of switch “A” and wire center or switch “Z”) may pass through one or more

intermediate wire centers or switches (e.g. wire center or switch "X"). Transmission paths between identical end points (e.g., wire center or switch "A" and wire center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate wire centers or switches, if any.

13.3 SBC-13STATE will be responsible for the engineering, provisioning, maintenance of the underlying equipment and facilities that are used to provide UNE DS1/DS3 Dedicated Transport.

13.3.1 Subject to the caps set forth in Sections 13.3.5 and 13.3.6, SBC-13STATE shall provide CLEC with nondiscriminatory access to (i) UNE DS1 Dedicated Transport on an unbundled basis between any pair of SBC-13STATE wire centers except where both wire centers defining the route are Tier 1 wire centers, as defined in Section 13.5.1 below, and (ii) DS3 Dedicated Transport on an unbundled basis between any pair of SBC-13STATE wire centers except where both wire centers defining the route are Tier 1 and/or Tier 2 wire centers, as defined in Section 13.5.1 below (e.g., SBC-13STATE must unbundle DS3 Dedicated Transport if a wire center on either end of a requested route is a Tier 3 wire center).

13.3.2 Other than as specifically set forth elsewhere in this Agreement, SBC CONNECTICUT does not offer UNE DS1/DS3 Dedicated Transport under this Agreement. Rather, it is available as described in Section 18 of the Connecticut Access Service Tariff.

13.3.3 SBC-13STATE will provide UNE DS1 and DS3 Transport to a requesting CLEC only at the following speeds: DS1 (1.544 Mbps) and DS3 (44.736 Mbps).

13.3.4 UNE DS1 and DS3 Transport includes, as follows:

13.3.4.1 Multiplexing – an option which converts a circuit from higher to lower bandwidth, or from digital to voice grade.

13.3.4.2 Other Optional features are outlined in Appendix Pricing.

13.3.5 DS3 Transport "Caps"

13.3.5.1 SBC 13-STATE is not obligated to provide to CLEC more than twelve(12) DS3 UNE Dedicated Transport circuits on each route on which DS3 Dedicated Transport is available on an unbundled basis; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Dedicated Transport once CLEC has already obtained twelve DS3 UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at SBC-13STATE's option it may accept the order, but convert any requested DS3 UNE Dedicated Transport in excess of the cap to Special Access upon thirty (30) days advance written notice, and applicable Special Access charges will apply to CLEC for such DS3 Dedicated Transport circuits as of the date of conversion.

13.3.6 DS1 Transport "Caps"

13.3.6.1 SBC 13-STATE is not obligated to provide to CLEC more than ten (10) DS1 UNE Dedicated Transport circuits on each route on which DS1 Dedicated Transport is available on an unbundled basis; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Dedicated Transport once CLEC has already obtained ten DS1 UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at SBC-13STATE's option it may accept the order, but convert any requested DS1 UNE Dedicated Transport in excess of the cap to Special Access upon (30) days advance written notice, and applicable Special Access charges will apply to CLEC for such DS1 Dedicated Transport circuits as of the date of conversion.

13.4 Diversity

13.4.1 When requested by CLEC, and subject to all applicable terms, conditions, and applicable charges, and only where such interoffice facilities exist at the time of CLEC request, Physical diversity shall be provided for UNE Dedicated Transport. Physical diversity means that two circuits are

provisioned in such a way that no single failure of facilities or equipment will cause a failure on both circuits.

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

13.5 Declassification Procedure

- 13.5.1 Wire Center "Tiers" -- For purposes of this Section 13.5 (and Section 14 related to Dark Fiber), wire centers are classified into three "tiers," as follows:

(i) Tier 1 Wire Centers are those ILEC wire centers that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 1 Wire Centers also are those ILEC tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by CLECs. Once a wire center is determined to be a Tier 1 Wire Center as set forth herein, that wire center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.

(ii) Tier 2 Wire Centers are those ILEC wire centers that are not Tier 1 Wire Centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both. Once a wire center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.

(iii) Tier 3 Wire Centers are those ILEC wire centers that do not meet the criteria for Tier 1 or Tier 2 Wire Centers.

13.5.2 DS1 Transport Declassification

- 13.5.2.1 Once both wire centers defining a particular DS1 Dedicated Transport route(s) become Tier 1 Wire Centers, no future unbundling of DS1 Dedicated Transport along such route(s) will be required. Upon receiving a request from CLEC for access to DS1 Dedicated Transport in which CLEC certifies that, based upon a reasonably diligent inquiry, CLEC is entitled to unbundled access to DS1 Dedicated Transport over the particular route, SBC-13STATE shall immediately process the request. To the extent that SBC-13STATE seeks to challenge the classification of the particular route, the issue shall be resolved through the dispute resolution procedures in this Agreement. Once it is determined through such procedure that a particular route is no longer available for access on an unbundled basis to DS1 Dedicated Transport,, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 UNE Dedicated Transport on such route(s).

13.5.3 DS3 Transport Declassification

- 13.5.3.1 Once both wire centers defining a particular DS3 Dedicated Transport route(s) become Tier 1 and/or Tier 2 wire centers (e.g., neither wire center is a Tier 3 Wire Center), no future unbundling of DS3 Dedicated Transport along such route(s) will be required. Upon receiving a request from CLEC for access to DS3 Dedicated Transport in which CLEC certifies that, based upon a reasonably diligent inquiry, CLEC is entitled to unbundled access to DS3 Dedicated Transport over the particular route, SBC-13STATE shall immediately process the request. To the extent that SBC-13STATE seeks to challenge the classification of the particular route, the issue shall be resolved through the dispute resolution procedures in this Agreement. Once it is determined through such procedure that a particular route is no longer available for access on an unbundled basis to DS3 Dedicated Transport, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS3 UNE Dedicated Transport on such route(s).
- 13.5.4 Effect on Embedded Base. Upon Declassification of DS1 Dedicated Transport or DS3 Dedicated Transport already purchased by CLEC as UNES under this Agreement, SBC-13STATE will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 "Notice and Transition Procedure."
- 13.5.5 Products provided by SBC-13STATE in conjunction with UNE DS1 or DS3 Dedicated Transport (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 "Notice and Transition Procedure" where such Transport is no longer available in accordance with this Section 13.5.
- 13.6 The Parties agree that activity by SBC-13STATE under this Section 13.5 shall not be subject to the Network Disclosure Rules.
- 13.7 Routine Network Modifications – UNE Dedicated Transport
- 13.7.1 SBC-13STATE shall make routine network modifications to UNE Dedicated Transport facilities used by requesting telecommunications carriers where the requested UNE Dedicated Transport facilities have already been constructed. SBC-13STATE shall perform routine network modifications to UNE Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the UNE Dedicated Transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.
- 13.7.2 A routine network modification is an activity that SBC-13STATE regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier, and SBC-13STATE is not obligated to perform those activities for a requesting telecommunications carrier.
- 13.7.3 Routine network modifications do not include constructing new UNE Dedicated Transport; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. SBC-13STATE is not obligated to perform those activities for a requesting telecommunications carrier.
- 13.7.4 SBC-13STATE shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC-13STATE's retail customers.
- 13.7.5 Notwithstanding anything to the contrary herein, SBC-13STATE's obligations with respect to routine network modifications apply only where the dedicated transport transmission facilities are subject to unbundling.
- 13.7.6 SBC-12STATE shall provide routine network modifications at the rates, terms and conditions set out in this Appendix (SBC-12STATE), and in the state specific Appendix Pricing (SBC-12STATE) or by

tariff, as such tariff may be modified from time to time (SBC CONNECTICUT). A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications

14. DARK FIBER DEDICATED TRANSPORT

- 14.1 Subject to Section 2 of this Appendix UNES, SBC-12STATE shall provide UNE Dedicated Transport Dark Fiber under the following terms and conditions in this subsection. SBC-13STATE is not required to provide Loop Dark Fiber on an unbundled basis. (For definitional purposes only, Loop Dark fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications service.)
- 14.2 In SBC-12STATE, Dedicated Transport Dark Fiber is deployed, unlit optical fiber within SBC-12STATE's network. Dedicated Transport Dark Fiber consists of unactivated optical interoffice transmission facilities. Other than as specifically set out elsewhere in this Agreement, SBC CONNECTICUT does not offer dedicated transport dark fiber under this Agreement; rather, unbundled dedicated transport dark fiber is available to CLECs as described in Section 18.2.1N of the Connecticut Service Tariff.
- 14.3 UNE Dedicated Transport Dark Fiber
 - 14.3.1 SBC-13STATE shall provide CLEC with nondiscriminatory access to Dedicated Transport Dark Fiber on an unbundled basis between any pair of SBC-13STATE wire centers except where both wire centers defining the route are Tier 1 and/or Tier 2 wire centers, as defined in Section 13.5.1 above (e.g., SBC-13STATE must unbundle Dedicated Transport Dark Fiber if a wire center on either end of a requested route is a Tier 3 wire center). At dedicated transport dark fiber segments in such routes, SBC-12STATE will provide a UNE Dedicated Transport Dark Fiber segment that is considered "spare" as defined in Sections 14.6 and 14.7 below. UNE Dedicated Transport Dark Fiber is defined as SBC-12STATE dark fiber interoffice transmission facilities dedicated to a particular CLEC that are within SBC-12STATE's network, connecting SBC-12STATE switches or wire centers within a LATA. SBC-12STATE is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of SBC-12STATE wire centers
- 14.4 A "route" is defined as a transmission path between one of SBC-12STATE's wire centers or switches and another of SBC-12STATE's wire centers or switches. A route between two points (e.g., wire center of switch "A" and wire center or switch "Z") may pass through one or more intermediate wire centers or switches (e.g. wire center or switch "X"). Transmission paths between identical end points (e.g., wire center or switch "A" and wire center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate wire centers or switches, if any.
- 14.5 Spare Fiber Inventory Availability and Condition
 - 14.5.1 All available spare UNE Dedicated Transport Dark Fiber will be provided as is. No conditioning will be offered. Spare dedicated transport dark fiber is fiber that can be spliced in all segments, point to point but not assigned, and spare dedicated transport dark fiber does not include maintenance spares, fibers set aside and documented for SBC-12STATE's forecasted growth, defective fibers, or fibers subscribed to by other Telecommunications Carriers. CLEC will not obtain any more than 25% of the spare UNE Dedicated Transport Dark Fiber contained in the requested segment during any two-year period.
- 14.6 Determining Spare Fibers

- 14.6.1 SBC-12STATE will inventory dedicated transport dark fiber. Spare dedicated transport dark fiber does not include the following:
 - 14.6.1.1 Maintenance spares. Maintenance spares shall be kept in inventory like a working fiber. Spare maintenance fibers are assigned as follows:
 - 14.6.1.1.1 Cables with 24 fibers and less: two maintenance spare fibers
 - 14.6.1.1.2 Cables with 36 and 48 fibers: four maintenance spare fibers
 - 14.6.1.1.3 Cables with 72 and 96 fibers: eight maintenance spare fibers
 - 14.6.1.1.4 Cables with 144 fibers: twelve maintenance spare fibers
 - 14.6.1.1.5 Cables with 216 fibers: 18 maintenance spares
 - 14.6.1.1.6 Cables with 288 fibers: 24 maintenance spares
 - 14.6.1.1.7 Cables with 432 fibers: 36 maintenance spares
 - 14.6.1.1.8 Cables with 864 fibers: 72 maintenance spares.
 - 14.6.1.2 Defective fibers. Defective fibers, if any, will be deducted from the total number of spare dedicated transport dark fiber that would otherwise be available.
 - 14.6.1.3 SBC-12STATE growth fibers. Fibers documented as reserved by SBC-12STATE for utilization for growth within the 12 month-period following the carrier's request.
- 14.6.2 The appropriate SBC-12STATE engineering organization will maintain records on each fiber optic cable for which CLECs request UNE Dedicated Transport Dark Fiber.
- 14.7 Quantities and Time Frames for ordering UNE Dedicated Transport Dark Fiber
 - 14.7.1 The minimum number of UNE Dedicated Transport Dark Fiber strands that CLEC can order is one, and such strands must be ordered on a strand-by-strand basis. The maximum number of such strands that CLEC can order is no greater than 25% of the spare dedicated transport dark fiber in the segment requested. Should spare dedicated transport dark fiber fall below 8 strands in a given location, SBC-12STATE will provide no more than a quantity of 2 strands. (See definition of spare set forth in Section 14.6 above.)
 - 14.7.2 If CLEC wishes to request UNE Dedicated Transport Dark Fiber, it must submit a dark fiber facility inquiry, providing CLEC's specific point to point (A to Z) dark fiber requirements. When CLEC submits a dark fiber facility inquiry appropriate rates for the inquiry will be charged as outlined in state specific Appendix Pricing.
 - 14.7.2.1 If spare UNE Dedicated Transport Dark Fiber is available, as determined under this Agreement, SBC-12STATE will notify CLEC and CLEC may place an Access Service Request (ASR) for such fiber.
 - 14.7.3 UNE Dedicated Transport Dark Fiber will be assigned to CLEC only when an ASR is processed. ASRs will be processed on a first-come-first-served basis. Inquiry facility checks do not serve to reserve UNE Dedicated Transport Dark Fiber. When CLEC submits the ASR, the ASR will be processed and the UNE Dedicated Transport Dark Fiber facilities will be assigned. The charges which will be established as set forth in Appendix Pricing will be applied.
- 14.8 Right of Revocation of Access to UNE Dedicated Transport Dark Fiber
 - 14.8.1 Right of revocation of access to UNE Dedicated Transport Dark Fiber is distinguishable from Declassification as defined in Section 5 of this Appendix. For clarification purposes, SBC-12STATE's right of revocation of access under this Section 14.9 applies even when the affected dedicated transport dark fiber remains a UNE, subject to unbundling obligations under Section 251(c)(3) of the Act, in which case CLEC's rights to the affected network element may be revoked as provided in this Section 14.8.
 - 14.8.2 Should CLEC not utilize the fiber strand(s) subscribed to within the 12-month period following the date SBC-12STATE provided the fiber(s), SBC-12STATE may revoke CLEC's access to the UNE Dedicated Transport Dark Fiber and recover those fiber facilities and return them to SBC-12STATE inventory.

- 14.8.3 SBC-12STATE may reclaim from the CLEC the right to use UNE Dedicated Transport Dark Fiber , whether or not such fiber is being utilized by CLEC, upon twelve (12) months written notice to the CLEC. If the reclaimed UNE Dedicated Transport Dark Fiber is not otherwise Declassified during the notice period, SBC-12STATE will provide an alternative facility for the CLEC with the same bandwidth the CLEC was using prior to reclaiming the facility. SBC-12STATE must also demonstrate to the CLEC that the reclaimed dedicated transport dark fiber will be needed to meet SBC-12STATE's bandwidth requirements within the 12 months following the revocation.
- 14.9 Access Methods specific to UNE Dedicated Transport Dark Fiber
 - 14.9.1 The demarcation point for UNE Dedicated Transport Dark Fiber at Central Offices and End User premises will be in an SBC-12STATE approved splitter shelf. This arrangement allows for non-intrusive testing.
 - 14.9.2 At CO's, UNE Dedicated Transport Dark Fiber terminates on a fiber distribution frame, or equivalent in the CO. CLEC access is provided via collocation.
- 14.10 Installation and Maintenance for UNE Dedicated Transport Dark Fiber
 - 14.10.1 SBC-12STATE will install demarcations and place the fiber jumpers from the fiber optic terminals to the demarcation point. CLEC will run its fiber jumpers from the demarcation point (1x2, 90-10 optical splitter) to the CLEC or End User equipment.
- 14.11 Dark Fiber Transport Declassification
 - 14.11.1 Once both wire centers defining a particular Dedicated Transport Dark Fiber route(s) become Tier 1 and/or Tier 2 wire centers (e.g., neither wire center is a Tier 3 Wire Center), no future unbundling of Dedicated Transport Dark Fiber along such route(s) will be required. Upon receiving a request from CLEC for access to Dedicated Transport Dark Fiber in which CLEC certifies that, based upon a reasonably diligent inquiry, CLEC is entitled to unbundled access to Dedicated Transport Dark Fiber over the particular route, SBC-13STATE shall immediately process the request. To the extent that SBC-13STATE seeks to challenge the classification of the particular route, the issue shall be resolved through the dispute resolution procedures in this Agreement. Once it is determined through such procedure that a particular route is no longer available for access on an unbundled basis to Dedicated Transport Dark Fiber, CLEC may not order or otherwise obtain, and CLEC will cease ordering UNE Dedicated Transport Dark Fiber on such route(s).
 - 14.11.2 Effect on Embedded Base. Upon Declassification of route(s) as they apply to the availability of unbundled Dedicated Transport Dark Fiber in accordance with this Section 14.11 already purchased by CLEC as UNES under this Agreement, SBC-13STATE will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 "Notice and Transition Procedure," and at the end of the 30-day notice period under that Section, provision of the affected dedicated transport dark fiber to CLEC will be terminated without further obligation of SBC-12STATE.
 - 14.11.3 Products provided by SBC-12STATE in conjunction with UNE Dedicated Transport Dark Fiber , if any, shall also be subject to termination under this Section 14.11 where such fiber is no longer available in accordance with this Section 14.11 .
 - 14.11.4 The Parties agree that activity by SBC-12STATE under this Section 14.11 shall not be subject to the Network Disclosure Rules.
- 14.12 Routine Network Modifications
 - 14.12.1 SBC-12STATE shall make routine network modifications to UNE Dedicated Transport Dark Fiber used by requesting Telecommunications Carriers for the provision of Telecommunication Services where the requested UNE Dedicated Transport Dark Fiber facilities have already been constructed. SBC-12STATE shall perform routine network modifications to UNE Dedicated Transport Dark Fiber in a nondiscriminatory fashion, without regard to whether such fiber being

accessed was constructed on behalf, or in accordance with the specifications, of any Telecommunications Carrier.

- 14.12.2 A routine network modification is an activity that SBC-12STATE regularly undertakes for its own customers. Routine network modifications do not include the installation of fiber for a requesting Telecommunications Carrier, nor do routine network modifications include the provision of electronics for the purpose of lighting dark fiber (i.e., optronics), and SBC-12STATE is not obligated to perform those activities for a requesting Telecommunications Carrier.
- 14.12.3 Routine network modifications do not include constructing new UNE Dedicated Transport Dark Fiber; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. SBC-13STATE is not obligated to perform those activities for a requesting telecommunications carrier.
- 14.12.4 SBC-13STATE shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC-13STATE's retail customers.
- 14.12.5 Notwithstanding anything to the contrary herein, SBC-13STATE's obligations with respect to routine network modifications apply only where the dark fiber transport transmission facilities are subject to unbundling.
- 14.12.6 SBC-12STATE shall provide routine network modifications at the rates, terms and conditions set out in this Appendix (SBC-12STATE), and in the state specific Appendix Pricing (SBC-12STATE) or by tariff, as such tariff may be modified from time to time (SBC CONNECTICUT). A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

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16. 911 OR E911 DATABASE

- 16.1 Access to the SBC-13STATE 911 or E911 call related databases will be provided as described in the 911 and E911 Appendix.

17. OPERATIONS SUPPORT SYSTEMS FUNCTIONS

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

18. CROSS CONNECTS

- 18.1 SBC-13STATE shall provide Cross Connects under the following terms and conditions in this subsection. SBC-13STATE shall only be obligated to provide Cross Connects under this Appendix for purposes of permitting CLEC to connect SBC-13STATE UNE(s) to other UNE(s) or to CLEC's own facilities.
- 18.2 The cross connect is the media between the SBC-7STATE UNE and a CLEC designated point of access as described in various sections of this Appendix, or the media between a SBC-7STATE UNE and a Collocation area for the purpose of permitting the CLEC to connect the SBC-7STATE UNE to other UNEs or to the CLEC's own facilities. Where SBC-7STATE has otherwise committed to connect one UNE to another UNE on behalf of CLEC, or to leave connected one UNE to another UNE on behalf of CLEC the

- cross connect is the media between one SBC-7STATE UNE and another SBC-7STATE UNE. Nothing in this section is a commitment to connect or leave connected any two or more UNES.
- 18.3 SBC-7STATE will provide cross connects at the rates, terms, and conditions set forth in Appendix Pricing. Pricing for SBC MIDWEST REGION 5-STATE is provided as set forth in Appendix Pricing. For all other cross-connect pricing for SBC CONNECTICUT refer to the applicable state tariff.
- 18.4 The applicable UNE Loop cross connects to point of access for the purpose of CLEC combining a SBC-13STATE UNE Loop with another SBC-13STATE UNE are as follows:
- 18.4.1 2-Wire Analog Loop to UNE Connection Methods point of access
 - 18.4.2 4-Wire Analog Loop to UNE Connection Methods point of access
 - 18.4.3 2-Wire Digital Loop to UNE Connection Methods point of access
 - 18.4.4 DS1 Digital Loop to UNE Connection Methods point of access
 - 18.4.5 DS3 Digital Loop to UNE Connection Methods point of access
- 18.5 The applicable Loop cross connects for the purpose of CLEC connecting a SBC SOUTHWEST REGION 5-STATE and SBC NEVADA UNE Loop to a CLEC's Collocated facilities are as follows:
- 18.5.1 2-Wire Analog Loop to Collocation
 - 18.5.2 2-Wire Analog Loop to Collocation (without testing)
 - 18.5.3 4-Wire Analog Loop to Collocation
 - 18.5.4 4-Wire Analog Loop to Collocation (without testing)
 - 18.5.5 2-Wire and 4-Wire DS1 Digital Loop to Collocation
 - 18.5.6 2-Wire and 4-Wire DS1 Digital Loop to Collocation (without testing)
 - 18.5.7 2-Wire DSL Shielded Cross Connect to Collocation
 - 18.5.8 4-Wire DSL Shielded Cross Connect to Collocation
 - 18.5.9 2-Wire DSL non-shielded Cross Connect to Collocation
 - 18.5.10 4-Wire DSL non-shielded Cross Connect to Collocation
 - 18.5.11 DS3 Digital Loop to Collocation
 - 18.5.12 DS3 Digital Loop to Collocation (without testing)
- 18.6 The applicable cross connect for SBC MIDWEST REGION 5-STATE UNE Loop is as follows:
- 18.6.1 2-Wire Analog
 - 18.6.2 4-Wire Analog
 - 18.6.3 DS1
 - 18.6.4 DS3
 - 18.6.5 DS-3 Loop to Collocation
 - 18.6.6 2-Wire Digital
- 18.7 The applicable UNE Loop cross connects to the Adjacent Location Method of Accessing UNES for the purpose of a CLEC combining a SBC CALIFORNIA UNE Loop with a CLEC's own facilities are as follows:
- 18.7.1 2-Wire Analog Loop to Adjacent Location Method point of access
 - 18.7.2 4-Wire Analog Loop to Adjacent Location Method point of access
 - 18.7.3 2-Wire and 4-Wire DS1 Digital Loop to Adjacent Location Method point of access
 - 18.7.4 DSL shielded Cross Connect to Adjacent Location point of access
 - 18.7.5 DS3 Digital Loop to Adjacent Location Method point of access
- 18.8 The applicable cross connects for the purpose of a CLEC connecting a SBC CALIFORNIA UNE Loop to a CLEC's Collocated facility are as follows:
- 18.8.1 Voice Grade/ISDN EISCC
 - 18.8.2 DS-0 EISCC

- 18.8.3 DSL Shielded Cross Connect to Collocation
- 18.8.4 DS-1 EISCC
- 18.8.5 DS-3 EISCC
- 18.9 The applicable cross connect for SBC MIDWEST REGION 5-STATE UNE Dedicated Transport is as follows:
 - 18.9.1 DS-1
 - 18.9.2 DS-3
- 18.9 The applicable dedicated transport cross connects for the purpose of CLEC connecting an SBC SOUTHWEST REGION 5-STATE and SBC NEVADA dedicated transport UNE to a CLEC's Collocated facilities are as follows:
 - 18.7.1 DS-1 to Collocation
 - 18.7.2 DS-3 Collocation

19. PROVISIONING/MAINTENANCE OF UNES

- 19.1 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.
- 19.2 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.
- 19.3 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.
- 19.4 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.
- 19.5 CLEC's use of any SBC-13STATE UNE, or of its own equipment or facilities in conjunction with any SBC-13STATE UNE, 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.
- 19.6 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 order UNES. 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.

- 19.7 CLEC shall connect equipment and facilities that are compatible with the SBC-13STATE UNEs, and shall use UNEs in accordance with the applicable regulatory standards and requirements referenced in this Agreement.
- 19.8 CLEC shall not combine or use UNEs in a manner that will undermine the ability of other Telecommunications Carriers to obtain access to unbundled network elements or to Interconnect with SBC-13STATE's network.
- 19.8.1 SBC-13STATE shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC reports a suspected failure of a UNE and SBC-13STATE dispatches personnel to the End User's premises or an SBC-13STATE Central Office and trouble was not caused by SBC-13STATE's facilities or equipment. Time and materials will include all technicians dispatched, including technicians dispatched to other locations for purposes of testing.
- 19.9 CLEC shall pay Time and Material charges when SBC-13STATE dispatches personnel and the trouble is in equipment or communications systems provided an entity by other than SBC-13STATE or in detariffed CPE provided by SBC-13STATE, unless covered under a separate maintenance agreement.
- 19.10 CLEC shall pay Maintenance of Service charges when the trouble clearance did not otherwise require dispatch, but dispatch was requested for repair verification or cooperative testing, and the circuit did not exceed maintenance limits.
- 19.11 If CLEC issues a trouble report allowing SBC-13STATE access to End User's premises and SBC-13STATE personnel are dispatched but denied access to the premises, then Time and Material charges will apply for the period of time that SBC-13STATE personnel are dispatched. Subsequently, if SBC-13STATE personnel are allowed access to the premises, these charges will still apply.
- 19.12 Time and Material charges apply on a first and additional basis for each half-hour or fraction thereof. If more than one technician is dispatched in conjunction with the same trouble report, the total time for all technicians dispatched will be aggregated prior to the distribution of time between the "First Half Hour or Fraction Thereof" and "Each Additional Half Hour or Fraction Thereof" rate categories. Basic Time is work-related efforts of SBC-13STATE performed during normally scheduled working hours on a normally scheduled workday. Overtime is work-related efforts of SBC-13STATE performed on a normally scheduled workday, but outside of normally scheduled working hours. Premium Time is work related efforts of SBC-13STATE performed other than on a normally scheduled workday.
- 19.12.1 If CLEC requests or approves an SBC-13STATE technician to perform services in excess of or not otherwise contemplated by the nonrecurring charges herein, CLEC will pay Time and Material charges for any additional work to perform such services, including requests for installation or other work outside of normally scheduled working hours.
- 19.13 Maintenance of Elements
- 19.13.1 If trouble occurs with UNEs provided by SBC-13STATE, CLEC will first determine, whether the trouble is in CLEC's own equipment and/or facilities or those of the End User. If CLEC determines the trouble is in SBC-13STATE's equipment and/or facilities, CLEC will issue a trouble report to SBC-13STATE.
- 19.13.2 CLEC shall pay Time and Material charges (maintenance of service charges/additional labor charges) when CLEC reports a suspected failure of a UNE and SBC-13STATE dispatches personnel to the End User's premises or an SBC-13STATE Central Office and trouble was not caused by SBC-13STATE's facilities or equipment. Time and Material charges will include all technicians dispatched, including technicians dispatched to other locations for purposes of testing.