

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application for )  
Approval of an Amendment to an )  
Interconnection Agreement By and Between )  
Southwestern Bell Telephone, L.P., d/b/a )  
AT&T Missouri, and Xspedius Management )  
Co. Switched Services, L.L.C. and Xspedius )  
Management Co. of Kansas City, L.L.C. )

Case No. \_\_\_\_\_

**APPLICATION FOR APPROVAL OF AN INTERCARRIER COMPENSATION  
AMENDMENT TO INTERCONNECTION AGREEMENT**

AT&T Missouri,<sup>1</sup> pursuant to Commission Rule 3.513 (4 CSR 240-3.513), respectfully submits the attached Amendment to Interconnection Agreement By and Between AT&T Missouri and Xspedius Management Co. Switched Services, L.L.C. and Xspedius Management Co. of Kansas City, L.L.C. ("Xspedius") regarding Intercarrier Compensation, and further requests that the Commission approve the amendment. In support of this Application, AT&T Missouri states that:

1. AT&T Missouri is a Texas limited partnership<sup>2</sup> duly authorized to conduct business in Missouri,<sup>3</sup> with its principal Missouri office at One SBC Center, Room 3520, St. Louis, Missouri 63101. AT&T Missouri is authorized to do business in Missouri and its fictitious name is duly registered with the Missouri Secretary of State.<sup>4</sup> AT&T Missouri is a "local exchange telecommunications company" and a "public utility," and is duly authorized to provide

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri ("AT&T Missouri").

<sup>2</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the Southwestern Bell Telephone, L.P. partnership agreement was filed with the Commission on October 15, 2003. See, In the Matter of the Application of Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Review and Reversal of North American Number Plan Administrator's Decision to Withhold Numbering Resources, Case No. TO-2004-0170.

<sup>3</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the certificate from the Missouri Secretary of State certifying that Southwestern Bell Telephone, L.P. is a foreign limited partnership duly authorized to transact business in the State of Missouri was filed with the Commission on January 7, 2002. See, In the Matter of the Application of Southwestern Bell Telephone Company to Transfer Property and Ownership of Stock Pursuant to Section 392.300, RSMo., Case No. TO-2002-185.

<sup>4</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the registration of the fictitious name "AT&T Missouri" was filed with the Commission on December 2, 2005. See, In the Matter of the Application of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri for Review and Reversal of the North American Number Plan Administrator's Decision to Withhold Numbering Resources, Case No. TO-2006-0247.

"telecommunications service" within the State of Missouri, as each of those phrases is defined in Section 386.020, RSMo. 2000.

2. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Paul G. Lane  
Leo J. Bub  
Robert J. Gryzmala  
Mimi B. MacDonald  
Attorneys for Southwestern Bell Telephone, L.P.,  
d/b/a AT&T Missouri  
One SBC Center, Suite 3516  
St. Louis, Missouri 63101

3. AT&T Missouri does not have any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment, or decision has occurred within three (3) years of the date of this Application.

4. AT&T Missouri does not have any annual report or assessment fees that are overdue.

5. The Commission initially approved the present interconnection agreement ("ICA") between AT&T Missouri and Xspedius, pursuant to its August 15, 2005 Order Approving Arbitrated Interconnection Agreement, in Case No. TK-2006-0043. That Order was followed by an August 16, 2005, Notice of Correction indicating that the earlier order should also have stated that the Errata filed by Xspedius on August 11, 2005, was also approved. That errata had to do with the ICA's General Terms and Conditions and the Remand Order Embedded Base Temporary Rider. Finally, in its October 25, 2005, Order Approving Errata and Modifying Order Approving Arbitrated Interconnection Agreement, the Commission approved errata correcting certain of the rates reflected in the filed ICA. The purpose of the amendment submitted herewith is to delete in its entirety the parties' "Attachment 12: Inter-carrier Compensation" in their previously approved ICA, and to substitute a new "Attachment 12: Inter-carrier Compensation" in its stead. Thus, the

amendment submitted herewith is comprised of an “Amendment to Interconnection Agreement” pursuant to which (at Section 1) the parties have incorporated a substituted “Attachment 12: Intercarrier Compensation” in which Sections 4.2 and 4.2.1 have been newly negotiated between the parties. To AT&T Missouri’s knowledge, this type of interconnection agreement amendment has not previously been approved by the Commission. Consequently, the amendment is being submitted to the Commission for its approval pursuant to 4 CSR 240-3.513(6)(C).

AT&T Missouri respectfully requests that the Commission approve the amendment negotiated between AT&T Missouri and Xspedius and submitted herewith.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.  
D/B/A AT&T MISSOURI

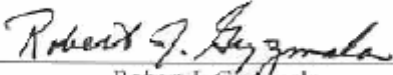
BY 

|                    |        |
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## **CERTIFICATE OF SERVICE**

Copies of this document was served on the following party by e-mail on March 2, 2006.

  
Robert J. Gryzmala

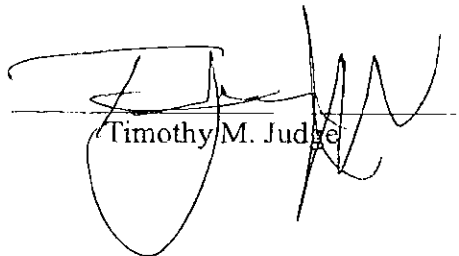
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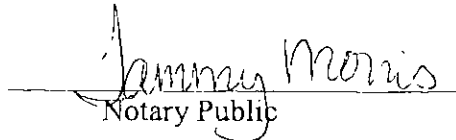
James C. Falvey  
Xspedius Management Co. Switched Services, LLC  
Xspedius Management Co. of Kansas City, LLC  
[jim.falvey@xspedius.com](mailto:jim.falvey@xspedius.com)

**VERIFICATION**

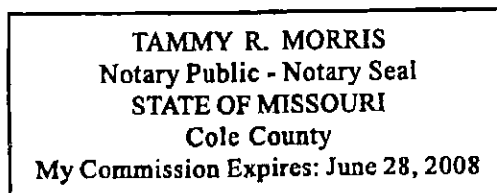
I, Timothy M. Judge, a duly authorized representative of Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri, hereby verify and affirm that I have read the foregoing Application and that the statements contained therein are true and correct to the best of my information and belief.

  
Timothy M. Judge

Subscribed and sworn to before me on this 2nd day of March, 2006.

  
Notary Public

My Commission Expires: June 28, 2008



**AMENDMENT TO**  
**INTERCONNECTION AGREEMENT**  
**BY AND BETWEEN**  
**SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a AT&T Missouri<sup>1</sup>**  
**AND**  
**XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES, L.L.C. AND XSPEDIUS**  
**MANAGEMENT CO. OF Kansas City, L.L.C.**

Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri, as the Incumbent Local Exchange Carrier in Missouri (hereafter, "AT&T Missouri" or "ILEC ") and Xspedius Management Co., Switched Services, L.L.C. and Xspedius Management Co. of Kansas City, L.L.C., as Competitive Local Exchange Carriers ("CLECs"), in Missouri, (referred to as "Xspedius"), in order to amend, modify and supersede any affected provisions of their Interconnection Agreement with ILEC in Missouri ("Interconnection Agreement"), hereby execute this Reciprocal Compensation Amendment ("Amendment"). CLEC is also referred to as a "LEC."

**1.0 Scope of Amendment**

1.1 "Attachment 12: Intercarrier Compensation" currently set forth in the Parties' Interconnection Agreement is hereby deleted in its entirety. The Parties hereby incorporate the Attached Appendix A, also entitled "Attachment 12: Intercarrier Compensation" and incorporated herein by reference, into their Interconnection Agreement.

**2.0 Reservation of Rights**

2.1 The Parties reserve the right to raise the appropriate treatment of Voice Over Internet Protocol ("VoIP") and traffic utilizing in whole or part Internet Protocol technology under the Dispute Resolution provisions of this Agreement, including but not limited, to any rights they may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (Rel. April 21, 2004). The Parties acknowledge that there is an on-going disagreement between LECs and ILEC over whether or not, under the law, VoIP traffic or traffic utilizing in whole or part IP technology is subject to reciprocal compensation or switched access charges. The Parties therefore agree that neither one will argue or take the position before any regulatory commission or court that this Amendment constitutes an agreement as to whether or not reciprocal compensation or switched access charges apply to that traffic or a waiver by either party of their position or their rights as to that issue. The Parties further agree that they each have reserved the right to advocate their respective positions relating to the treatment and compensation for VoIP traffic and traffic utilizing in whole or part Internet Protocol technology before any state commission or the Federal Communications Commission ("FCC") whether in bilateral complaint dockets, arbitrations under Section 252 of the Act, state commission or FCC established rulemaking dockets, or before any judicial or legislative body.

**3.0 Miscellaneous**

3.1 This Amendment will be effective ten (10) days after approval by Missouri Public Service Commission.

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<sup>1</sup> On December 30, 2001, Southwestern Bell Telephone Company (a Missouri corporation) was merged with and into Southwestern Bell Texas, Inc. (a Texas corporation) and, pursuant to Texas law, was converted to Southwestern Bell Telephone, L.P., a Texas limited partnership. Southwestern Bell Telephone, L.P. is now doing business in Missouri as "AT&T Missouri".

- 3.2 This Amendment is coterminous with the underlying Interconnection Agreement and does not extend the term or change the termination provisions of the underlying Interconnection Agreement.
- 3.3 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING INTERCONNECTION AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- 3.4 Every rate, term and condition of this Amendment is legitimately related to the other rates, terms and conditions in this Amendment. Without limiting the general applicability of the foregoing, the change of law provisions of the underlying Interconnection Agreement, including but not limited to the "Intervening Law" or "Change of Law" or "Regulatory Change" section of the General Terms and Conditions of the Interconnection Agreement and as modified in this Amendment, are specifically agreed by the Parties to be legitimately related to, and inextricably intertwined with the other rates, terms and conditions of this Amendment.
- 3.5 In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-312 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

IN WITNESS WHEREOF, this Amendment to the Interconnection Agreement was exchanged in triplicate on this 23<sup>rd</sup> day of February, 2006, by AT&T Missouri, signing by and through its duly authorized representative, and Xspedius signing by and through its duly authorized representative.

Xspedius Management Co. Switched Services, L.L.C.  
and Xspedius Management Co. of Kansas City, L.L.C.

Southwestern Bell Telephone, L.P. d/b/a AT&T  
Missouri by AT&T Operations, Inc., its authorized  
agent

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

(Print or Type)

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Rebecca L. Sparks

(Print or Type)

Title: \_\_\_\_\_

(Print or Type)

Title: \_\_\_\_\_

Executive Director-Regulatory

Date: \_\_\_\_\_

Date: \_\_\_\_\_

FACILITIES-BASED OCN # \_\_\_\_\_

ACNA \_\_\_\_\_

## ATTACHMENT 12: INTERCARRIER COMPENSATION

### 1. INTRODUCTION

AT&T MISSOURI agrees to comply with all generic Missouri Commission reciprocal compensation decisions regarding internet service traffic, subject to the final outcome of appeals of those decisions and the reciprocal compensation selected by the CLEC under this Agreement. Both parties, however, reserve all rights to contest any order or decision requiring the payment of reciprocal compensation for internet service traffic, including the right to seek refunds or to implement a new system of reciprocal compensation, pursuant to regulatory or judicial approval in accordance with the intervening law provisions in the General Terms and Conditions. Nothing in this Attachment shall constitute an admission by AT&T MISSOURI that ISP-Bound Traffic (as defined in Section 1.2) is in fact Section 251(b)(5) Traffic (as defined below) subject to reciprocal compensation under the 1996 Federal Telecommunications Act. The Parties further acknowledge that the FCC has issued a Notice of Proposed Rulemaking on the topic of Intercarrier Compensation generally. See, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket 01-92; established in Notice of Proposed Rulemaking Order No. 01-132, April 27, 2001. In the event that a final, legally binding FCC Order is issued upon the conclusion of that NPRM proceeding and during the term of this Appendix, the Parties agree to conform this Agreement to the compensation procedures set forth in that Order.

- 1.1 For purposes of compensation under this Agreement, the telecommunications traffic traded between CLEC and AT&T MISSOURI will be classified as either Section 251(b)(5) Traffic (including Local Traffic), ISP-Bound Traffic, Transit Traffic, IntraLATA Interexchange Traffic, Meet Point Billing, FX Traffic (Virtual, Dedicated and FX-type), FGA Traffic, or Cellular Traffic.

The compensation arrangement for terminating calls from a Cellular provider to CLEC or AT&T MISSOURI end users is set forth in Section 8.0 of this Attachment.

The compensation arrangement for the joint provision of Feature Group A (FGA) Services is covered in Appendix FGA, attached hereto and incorporated by reference. The Parties agree that, notwithstanding the classification of traffic under this Agreement, either Party is free to define its own "local" calling area(s) for purposes of its provision of telecommunications services to its end users. However, either party providing Metropolitan Calling Area (MCA) service shall offer the full calling scope prescribed in Case No. TO-92-306, without regard to the identity of the called party's local service provider. The parties may offer additional toll-free outbound calling or other services in conjunction with MCA service, but in any such offering the party shall not identify any calling scope other than that prescribed in Case No. TO-92-306 as "MCA" service. The provisions of this Attachment apply to calls originated over the originating carrier's facilities or over local switching purchased by CLEC from AT&T MISSOURI on a wholesale basis. The provisions of this Attachment do not apply to traffic originated over services provided under local Resale services.

- 1.2 Calls originated by CLEC's end users and terminated to AT&T MISSOURI's end users (or vice versa) will be classified as "Section 251(b)(5) Traffic" under this Agreement and subject to reciprocal compensation if the call: (i) originates and terminates to such end-users in the same AT&T MISSOURI exchange area; or (ii) originates and terminates to such end-users within different AT&T MISSOURI Exchanges that share a common mandatory local calling area, as defined in SBC MISSOURI's tariff, e.g., mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other like types of mandatory expanded local calling scopes. Calls originated by AT&T MISSOURI's end users and terminated to an ISP served by a CLEC (or vice versa) will be classified as compensable "ISP-Bound Traffic" in accordance with the FCC's Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) (FCC ISP Compensation Order) if

the call (i) originates from end users and terminates to an ISP in the same AT&T MISSOURI exchange area; or (ii) originates from end users and terminates to an ISP within different AT&T MISSOURI Exchanges that share common mandatory local calling area, as defined in SBC MISSOURI's tariff, e.g., mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other like types of mandatory expanded local calling scopes.

- 1.2.1 For compensation purposes in the state of Missouri, Section 251(b)(5) Traffic and ISP-Bound Traffic shall be further defined as "Metropolitan Calling Area (MCA) Traffic" and "Non-MCA Traffic." MCA Traffic is traffic originated by a party providing a local calling scope plan pursuant to the Missouri Public Service Commission Orders in Case No. TO-92-306 and Case No. TO-99-483 (MCA Orders) and the call is a Section 251(b)(5) Traffic or ISP-Bound Traffic based on the calling scope of the originating party pursuant to the MCA Orders. Non-MCA Traffic is all Section 251(b)(5) Traffic and ISP-Bound Traffic that is not defined as MCA Traffic.
  - 1.2.1.1 Pursuant to the Missouri Public Service Commission Order in Case No. O-99-483, MCA Traffic shall be exchanged on a bill-and-keep intercompany compensation basis meaning that the party originating a call defined as MCA Traffic shall not compensate the terminating party for terminating the call.
  - 1.2.1.2 The parties agree to use the Local Exchange Routing Guide (LERG) to provision the appropriate MCA NXXs in their networks. The LERG should be updated in accordance with industry standards for opening a new code to allow the other party the ability to make the necessary network modifications. If the Commission orders the parties to use an alternative other than the LERG, the parties will comply with the Commission's final order.
- 1.2.2 If CLEC provides service via resale or in conjunction with ported numbers, the appropriate MCA NXXs will be updated by AT&T MISSOURI.
- 1.2.3 Intentionally Omitted
- 1.2.4 Intentionally Omitted
- 1.2.5 Transit Traffic is a switching and transport function only, which allows one Party to send Local Traffic to a third party network through the other Party's tandem. Pursuant to the Missouri Public Service Commission Order in Case No. TO-99-483, AT&T is obligated to provide transit functionality for MCA traffic between CLEC and third-party networks and visa-versa at no charge to the originating and terminating carrier.
- 1.3 CLEC may establish its own local calling areas or prices for purpose of retail telephone service offerings.
  - 1.3.1 The transport and termination compensation for Virtual FX, Dedicated FX, and FX-type Traffic will be "Bill and Keep."

Foreign Exchange (FX) services are retail service offerings purchased by FX customers which allow such FX customers to obtain exchange service from a mandatory local calling area other than the mandatory local calling area where the FX customer is physically located. FX service enables particular end-user customers to avoid what might otherwise be toll calls between the FX customer's physical location and customers in the foreign exchange. There are two types of FX service:

- 1.3.1.1 "Dedicated FX Traffic" shall mean those calls routed by means of a physical, dedicated circuit delivering dial tone or otherwise serving an end user's station from a serving Central Office (also known as End Office) located outside of that station's mandatory local calling area. Dedicated FX Service permits the end user

physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, "foreign," exchange, thereby creating a local presence in that "foreign" exchange.

- 1.3.1.2 "Virtual Foreign Exchange (FX) Traffic" and "FX-type Traffic" shall refer to those calls delivered to telephone numbers that are rated as local to the other telephone numbers in a given mandatory local calling area, but where the recipient end user's station assigned that telephone number is physically located outside of that mandatory local calling area. Virtual FX Service also permits an end user physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, foreign," exchange, thereby creating a local presence in the "foreign" exchange. Virtual FX Service differs from Dedicated FX Service, however, in that Virtual FX end users continue to draw dial tone or are otherwise served from a Central (or End) Office which may provide service across more than one Commission-prescribed mandatory local calling area, whereas Dedicated FX Service end users draw dial tone or are otherwise served from a Central (or End) Office located outside their mandatory calling area.
- 1.3.2 "FX Telephone Numbers" (also known as "NPA-NXX" codes) shall be those telephone numbers with different rating and routing points relative to a given mandatory local calling area. FX Telephone Numbers that deliver second dial tone and the ability for the calling party to enter access codes and an additional recipient telephone number remain classified as Feature Group A (FGA) calls, and are subject to the originating and terminating carrier's tariffed Switched Exchange Access rates (also known as "Meet Point Billed" compensation), or if jointly provisioned FGA service, subject to the terms and conditions of Appendix FGA.
- 1.3.3 The Terminating Carrier shall be responsible for not billing any minutes of use on its network that are "Virtual FX Traffic," "FX-type Traffic," or "Dedicated FX Service" as defined herein. To the extent minutes of use are nevertheless billed and paid by the originating carrier, but later found to be Virtual FX, Dedicated FX, or FX-type Traffic that should have been subject to Bill and Keep, the terminating carrier will be responsible for reimbursing the originating carrier the amount of compensation paid, plus interest at the interest rate referenced in the General Terms & Conditions of this Agreement.
- 1.3.4 To the extent that the Parties jointly provide the Dedicated FX circuit serving the end user, the terms of Appendix FGA (as amended) shall apply for the joint revenue sharing between ILEC and CLEC.
- 1.3.5 To the extent that ISP-Bound Traffic is provisioned via Virtual FX Traffic, Dedicated FX Traffic, or other FX-type arrangement, it is subject to the compensation mechanism of Bill and Keep. "Bill and Keep" refers to an arrangement in which neither of two interconnecting parties charges the other for terminating FX traffic that originates on the other party's network.
- 1.4 With respect to CLEC's rights and obligations concerning CLEC and AT&T MISSOURI termination of wireline traffic, CLEC shall select one of the three options set forth below upon execution of this Agreement by making a designation on the signature page of the General Terms and Conditions of the Agreement. If CLEC fails to select one of the billing options identified below upon execution of this Agreement on the signature page in the General Terms and Conditions, Option 2 shall automatically apply as the default billing option, for the duration of the Agreement. CLEC may modify the default billing option made at the time of execution of this Agreement by providing advance written notice to AT&T MISSOURI within thirty (30) days of execution of this Agreement. CLEC will operate pursuant to the provisions of the billing option elected at the time of execution of this Agreement until the 31st day of receipt of such written notice, at which time the rate terms and condition of the new option election will become effective. The parties will work cooperatively to amend the Agreement to reflect the new billing option elected within sixty (60) days of written notification. CLEC may choose a different option if this Agreement is subsequently amended by AT&T MISSOURI pursuant to the Change In Law provisions of this Agreement. CLEC may amend Agreement to make a one-time election to modify its initial option selection made upon execution of this Agreement. CLEC will operate pursuant to

the provisions of the option elected at the time of execution of this Agreement until such amendment is approved by the Commission.

- 1.4.1 Option 1: The rates, terms and conditions for compensation (except those pertaining to Option 3) for Section 251(b)(5) Traffic contained below in Section 3.0 and the FCC's interim ISP terminating compensation rate plan for ISP Bound Traffic as contained below in Section 1.5; or
- 1.4.2 Option 2: Exchange all ISP-Bound Traffic and All Section 251(b)(5) Traffic at the FCC's Interim ISP Terminating Compensation Plan Rate as contained below in Section 1.6; or
- 1.4.3 Option 3: A reciprocal compensation arrangement for the transport and termination of wireline Section 251(b)(5) Traffic and ISP-Bound Traffic, based upon a long-term Bill and Keep arrangement. "Bill and Keep" refers to an arrangement in which neither of the two interconnecting parties charges each other for terminating traffic that originates on the other network. Each Party may recover the cost of both originating traffic that it delivers to the other Party and terminating traffic that it receives from the other Party from its end users as it deems necessary. With this option, Parties agree to use SS7 interconnection and the terms and conditions as more particularly described in Section 1.7 below.
- 1.5 Contract Rates for Section 251(b)(5) Traffic and FCC's Interim ISP Terminating Compensation Plan rate for ISP-Bound Traffic (Option 1)
  - 1.5.1 The CLEC may elect to take the rates, terms, and conditions for Section 251(b)(5) Traffic contain in Section 3 of this Attachment, and the rates, terms and conditions for ISP-Bound Traffic in Sections 1.5.2 through 1.5.5 which are based on the FCC ISP Compensation Order.
  - 1.5.2 Intercarrier Compensation Rate for ISP-Bound Traffic:
    - 1.5.2.1 The rates, terms, conditions in this Section 1.5 apply only to the termination of ISP-Bound Traffic. ISP-Bound Traffic is subject to the rebuttable presumption stated below.
    - 1.5.2.2 For traffic exchanged after the effective date of this Agreement, the Parties agree to compensate each other for ISP-Bound Traffic on a minute of use basis at \$.0007 per minute of use.
    - 1.5.2.3 Payment of ISP-Bound Traffic will not vary according to whether the traffic is routed through a tandem switch or directly to an end office switch.
  - 1.5.3 Intentionally Omitted
  - 1.5.4 Intentionally Omitted
  - 1.5.5 ISP-Bound Traffic Rebuttable Presumption

In accordance with Paragraph 79 of the FCC's ISP Compensation Order, CLEC and AT&T MISSOURI agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between CLEC and AT&T MISSOURI exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation terms in this Section 1.5. Either Party has the right to rebut the 3:1 ISP-Bound Traffic presumption by identifying the actual ISP-Bound Traffic by any means mutually agreed by the Parties, or by any method approved by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission agrees that such Party has rebutted the presumption, the methodology and/or means approved by the Commission for use in determining the ratio shall be utilized by the Parties

as of the date of the Commission approval and, in addition, shall be utilized to determine the appropriate true-up as described below. During the pendency of any such proceedings to rebut the presumption, CLEC and AT&T MISSOURI will remain obligated to pay the presumptive rates (reciprocal compensation rates for traffic below a 3:1 ratio, the rates set forth in Section 1.5.2.2 for traffic above the ratio) subject to a true-up upon the conclusion of such proceedings. Such true-up shall be retroactive back to the date a Party first sought appropriate relief from the Commission.

- 1.5.6 For combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties which does not exceed a 3:1 terminating to originating ratio as set forth in Section 1.5.5 above, such traffic shall be defined as "In-Balance" traffic. Each party will invoice the other party on a monthly basis for such "In-Balance" traffic at the reciprocal compensation rates set forth in Section 3.0 for Section 251(b)(5) Traffic.
- 1.5.7 For combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties exceeding a 3:1 terminating to originating ratio as set forth in Section 1.5.5 above, such traffic shall be defined as "Out-of-Balance" traffic. The Carrier whose traffic is "Out-of-Balance" will, on a monthly basis, calculate the amount of traffic that will be invoiced as follows: (1) for Section 251(b)(5) traffic, the rates shall be the reciprocal compensation rates set forth in Section 3.0; (2) for ISP-Bound Traffic, the rates shall be the FCC's interim ISP terminating compensation rates set forth in Section 1.5.2.2.
- 1.6 Exchange All ISP-Bound Traffic and All Section 251(b)(5) Traffic at the FCC's ISP Terminating Compensation Plan Rate (Option 2)

The CLEC may elect to take the rates, terms, and conditions contained in this Attachment in Section 1.6. 1 through 1.6.5 for all ISP-Bound Traffic and Section 251(b)(5) Traffic.

- 1.6.1 Compensation Rate Schedule for ISP-Bound Traffic and Section 251(b)(5) Traffic:
  - 1.6.1.1 The rates, terms, conditions in Sections 1.6.1 through 1.6.4 apply to the termination of all ISP-Bound Traffic and all Section 251(b)(5) Traffic. ISP-Bound Traffic is subject to the rebuttable presumption stated below.
  - 1.6.1.2 The Parties agree to compensate each other for the transport and termination of ISP-Bound Traffic and Section 251(b)(5) Traffic on a minute of use basis, at \$.0007 per minute of use.
  - 1.6.1.3 Under Option 2, payment of Intercarrier Compensation on ISP-Bound Traffic and Section 251(b)(5) Traffic will not vary according to whether the traffic is routed through a tandem switch or directly to an end office switch.
- 1.6.2 Intentionally Omitted
- 1.6.3 Intentionally Omitted
- 1.6.4 ISP-Bound Traffic Rebuttable Presumption

In accordance with Paragraph 79 of the FCC's ISP Compensation Order, CLEC and AT&T MISSOURI agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between CLEC and AT&T MISSOURI exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation terms in this Section 1.6. Either party has the right to rebut the 3:1 ISP presumption by identifying the actual ISP-Bound Traffic by any means mutually agreed by the Parties, or by any method approved by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission agrees that such Party has rebutted the presumption, the methodology and/or means

approved by the Commission for use in determining the ratio shall be utilized by the Parties as of the date of the Commission approval and. During the pendency of any such proceedings to rebut the presumption, CLEC and AT&T MISSOURI will remain obligated to pay the presumptive rates.

- 1.6.5 Each party will invoice the other party on a monthly basis for Section 251(b)(5) Traffic and ISP-Bound Traffic at the rates set forth in Section 1.6.1.2 if Option two is elected.

#### 1.7 Long-Term Local Bill and Keep Option (Option 3)

As an alternative to Options 1 and 2, a CLEC can elect long-term local Bill and Keep as the reciprocal compensation arrangement for wireline Section 251(b)(5) Traffic and ISP-Bound Traffic originated and terminated between AT&T MISSOURI and CLEC in Missouri so long as qualifying traffic between the parties remains in balance in accordance with this Section 1.7. Long-term local Bill and Keep applies only to Section 251(b)(5) Traffic as defined in Section 1.0 and ISP-Bound Traffic as defined in Section 1.2 of this Attachment and does not include MCA Traffic, IntraLATA Interexchange Traffic, Meet Point Billing Traffic, FX Traffic, FGA Traffic or Cellular Traffic, which shall be subject to compensation as described elsewhere in this Attachment.

- 1.7.1 The Parties agree that Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties will be subject to Bill and Keep as the method of intercarrier compensation provided that Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties is in balance within +/- 5% of equilibrium (50%).
  - 1.7.1.1 The calculation for determining whether traffic is in balance will be based on the difference between the total Section 251(b)(5) Traffic and ISP-Bound Traffic originated by each Party's end users terminated to the other Party's End Users, divided by the sum of both Parties' end users' terminated Section 251(b)(5) Traffic, and ISP-Bound Traffic multiplied by 100.
- 1.7.2 The Parties agree that where Section 251(b)(5) Traffic and ISP-Bound Traffic is determined to be out-of-balance by more than 5% per month for three (3) consecutive months, Option 2 shall immediately apply to all Section 251(b)(5) Traffic and ISP-Bound Traffic.
- 1.7.3 Intentionally Omitted
- 1.7.4 Once Option 2 applies to CLEC's Section 251(b)(5) Traffic and ISP-Bound Traffic, it will apply for the remaining term of this Agreement, until and unless CLEC makes a one-time election to modify this compulsory option selection by entering into an Amendment or if this Agreement is subsequently amended by AT&T MISSOURI pursuant to the Change In Law provisions of this Agreement. CLEC will operate pursuant to the provisions of Option 2 as set forth in Section 1.6 until such amendment is approved by the Commission.
  - 1.7.4.1 In the event that either Party disputes whether its Section 251(b)(5) Traffic and ISP-Bound Traffic is in balance, the Parties agree to work cooperatively to reconcile the inconsistencies in their usage data.
  - 1.7.4.2 Should the Parties be unable to agree on the amount and balance of Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between their End Users, either Party may invoke the dispute resolution procedures under this Agreement. In the event that dispute resolution procedures results in the calculations being delayed, the reciprocal compensation rates will apply retroactively to the date such reciprocal compensation were applicable under Sections 1.7.4 and 1.7.5.

- 1.7.5 Upon reasonable belief that traffic other than Section 251(b)(5) Traffic defined in Section 1.2 and ISP-Bound Traffic as defined in Section 1.2 of this Attachment is being terminated under this long-term local Bill and Keep arrangement, either Party may request a meeting to confirm the jurisdictional nature of traffic delivered as Bill and Keep. Parties will consult with each other to attempt to resolve issues without the need for an audit. Should no resolution be reached within 60 days, an audit may be requested and will be conducted by an independent auditor under an appropriate non-disclosure agreement. Only one audit may be conducted by each Party within a six-month period.
- 1.7.6 The auditing Party will pay the audit costs unless the audit reveals the delivery of a substantial amount of traffic originating from a party in this Agreement other than Section 251(b)(5) Traffic and ISP-Bound Traffic for termination to the other party under the long term local Bill and Keep arrangement. In the event the audit reveals a substantial amount of traffic other than Section 251(b)(5) Traffic and ISP-Bound Traffic, the Party delivering such traffic will bear the cost of the audit and will pay appropriate compensation for such traffic with interest as referenced in the General Terms and Conditions of this Agreement.
- 1.7.7 The Parties will consult and negotiate in good faith to resolve any issues of accuracy or integrity of data collected, generated, or reported in connection with audits or otherwise.
- 1.7.8 The audit provisions set out in Sections 1.7.6 through 1.7.8 above do not alter or affect audit provisions set out elsewhere in this Agreement.

## **2. RESPONSIBILITIES OF THE PARTIES**

- 2.1 Each Party will include in the information transmitted to the other for each call being terminated on the other's network (where technically available to the transmitting party), the originating Calling Party Number (CPN). For all traffic originated on a Party's network including, without limitation, Switched Access Traffic, and wireless traffic, such Party shall provide CPN as defined in 47 C.F.R. § 64.1600(c) ("CPN") in accordance with Section 2.5. Each Party to this Agreement will be responsible for passing on any CPN it receives from a third party for traffic delivered to the other Party. In addition, each Party agrees that it shall not strip, alter, modify, add, delete, change, or incorrectly assign any CPN. If either party identifies improper, incorrect, or fraudulent use of local exchange services (including, but not limited to PRI, ISDN and/or Smart Trunks), or identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN, the Parties agree to cooperate with one another to investigate and take corrective action.
- 2.2 If one Party is passing CPN but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.
- 2.3 For traffic which is delivered by one Party to be terminated on the other Party's network, if the percentage of such calls passed with CPN is greater than ninety percent (90%), all calls delivered by one Party to the other for termination without CPN will be billed as either Section 251(b)(5) Traffic or IntraLATA Toll Traffic in direct proportion to the total MOUs of calls delivered by one Party to the other with CPN. If the percentage of calls passed with CPN is less than 90%, all calls delivered by one Party to the other without CPN will be billed as Intrastate Access Rates.
- 2.4 Except for the specific instance wherein the Commission has established an alternative compensation mechanism for the exchange of traffic, i.e., traffic subject to the Commission's order regarding the establishment of MCAs, CLEC has the sole obligation to enter into a compensation agreement with third party carriers that CLEC originates traffic to and terminates traffic from, including traffic either originated or terminated to a CLEC end-user served by CLEC using an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis. In no event will AT&T MISSOURI have any liability to CLEC or any third party if CLEC fails to enter into such compensation arrangements. In

the event that traffic is exchanged with a third party carrier with whom CLEC does not have a traffic compensation agreement, CLEC will indemnify, defend and hold harmless AT&T MISSOURI against any and all losses including without limitation, charges levied by such third party carrier. The third party carrier and CLEC will bill their respective charges directly to each other. AT&T MISSOURI will not be required to function as a billing intermediary, e.g., clearinghouse. AT&T MISSOURI may provide information regarding such traffic to other telecommunications carriers or entities as appropriate to resolve traffic compensation issues.

### **3. RECIPROCAL COMPENSATION FOR TERMINATION OF SECTION 251(B)(5) TRAFFIC**

3.1 If Option 1 is elected by the CLEC, in accordance with Section 1.5 of this Attachment, the compensation set forth below will apply to all Section 251(b)(5) Traffic as defined in Section 1.0 of this Attachment.

3.2 Applicability of Rates:

3.2.1 The rates, terms, conditions in this Section 3.0 apply only to the termination of Section 251(b)(5) Traffic except as explicitly noted.

3.2.2 The Parties agree to compensate each other for the termination of Section 251(b)(5) Traffic on a minute of use (MOU) basis. The following rate elements apply, but the corresponding rates are shown in Appendix Pricing:

3.3 Rate Elements:

3.3.1 Tandem Serving Rate Elements:

3.3.2 Tandem Switching - compensation for the use of tandem switching only, consisting of a duration (per minute) rate element

3.3.3 Tandem Transport - compensation for the transmission facilities between the local tandem and the end offices subtending that tandem consisting of a transport termination (per minute) rate element and transport facility mileage (per minute, per mile) rate element

3.3.4 End Office Switching - compensation for the local end office switching and line termination necessary to complete the transmission in an end office serving arrangement consisting of a duration (per minute) rate element.

3.3.5 If CLEC has not affirmatively demonstrated that its switch serves a geographic area comparable to the area served by AT&T MISSOURI's tandem switch pursuant to 47 C.F.R. §51.711 (a)(3) as set forth in Section 4 below, CLEC shall only be paid End Office Serving Rate Elements.

3.4 Intercarrier Compensation for Wholesale Local Switching Traffic

3.4.1 Where CLEC provides service to a CLEC end user using any combination of Network Elements that utilizes an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis, CLEC will deal directly with a third party carrier for purposes of reciprocal compensation. The following reciprocal compensation terms (unless CLEC is operating under Option 3) shall apply in all cases where CLEC purchases an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis. These terms and conditions are in addition to the terms and conditions outlined in Attachment 6. AT&T MISSOURI is required to provide CLEC with timely, complete and correct information to enable CLEC to meet the requirements of this section.

- 3.4.1.1 For intra-switch Section 251(b)(5) Traffic and ISP-Bound Traffic where CLEC has purchased an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis, the Parties agree to impose no call termination charges pertaining to reciprocal compensation on each other.
- 3.4.1.2 For interswitch Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between AT&T MISSOURI end users and CLEC's end users where CLEC utilizes an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis, the Parties agree to compensate each other for the termination of such traffic at: (i) the FCC Plan rate specified in Section 1.6.1.2 for the transport and termination of Section 251(b)(5) Traffic, and ISP-Bound Traffic if Option 2 is elected by CLEC; or (ii) the End Office Switch rate set forth in Appendix Pricing and as specified in Section 3.3.4 for the transport and termination of Section 251(b)(5) Traffic, excluding ISP-Bound Traffic and the FCC Plan rate set forth in Section 1.6.1.2 for the transport and termination of ISP-Bound Traffic if Option 1 is elected.

#### **4. TANDEM INTERCONNECTION RATE APPLICATION**

- 4.1 Transport and termination rates will vary according to whether the traffic is routed through a tandem switch or directly to an end office switch. The tandem interconnection rate shall apply only when CLEC's switch serving specific LATA has been determined to have the same or greater geographic scope as a similarly-situated AT&T Tandem Switch serving the same LATA. Where CLEC has not affirmatively demonstrated that its switch serves a geographic area comparable to the area served by AT&T MISSOURI's tandem switch pursuant to 47 C.F.R. §51.711 (a)(3), CLEC shall be entitled to receive the End Office Switching rate set forth in Appendix Pricing and as specified in Section 3.3.4 above if Option 1 is elected.
- 4.1.2 For purposes of this Section 4, CLEC's switch actually serves a geographic area comparable to the area served by AT&T MISSOURI's tandem when CLEC:
- (i) Deploys a switch to serve this area;
  - (ii) Has obtained NPA and NXXs to serve the exchanges within this area; and
  - (iii) Can show that it is serving this area either through its own facilities or a combination of its own facilities and leased facilities connected to its collocation arrangements in ILEC central offices.
- 4.2 Based on the specific architecture of the Xspedius network the Parties agree that Xspedius' switch meets the criteria set forth in Section 4.1 and will be compensated for Section 251(b)(5) Traffic that originates from an AT&T MISSOURI End User that terminates to a Xspedius End User as follows:
- (i) Seventy percent (70%) of AT&T MISSOURI's Section 251(b)(5) Traffic that is terminated to Xspedius' End Users shall be compensated at the end office switching rate as set forth in Appendix Pricing.
  - (ii) Thirty percent (30%) of AT&T MISSOURI's Section 251(b)(5) Traffic that is terminated to Xspedius' End Users shall be compensated at a tandem blended rate calculated as follows:  
  
[End Office Switching + Tandem Switching + Transport Termination + (15 x Tandem Transport Facility Mileage)]
- 4.2.1 For purposes of this tandem blended rate, the End Office Switching rate, the Tandem Switching rate, and the Tandem Transport rates are the rates defined in Section 3.3 above.

## **5. OTHER TELECOMMUNICATIONS TRAFFIC**

5.1 The Parties recognize and agree that could also be traded outside of the applicable local calling scope, or routed in ways that could make the rates and rate structure in Options 1, 2, and/or 3 above not apply to calls that fit the definitions of:

- IntraLATA Interexchange Traffic
- 800, 888, 877, ("8YY") Traffic
- Feature Group A Traffic
- FX Traffic
- MCA Traffic

5.2 The Parties agree that, for the purposes of this Attachment, either Party's end users remain free to place calls on a "Non-Local" basis under any of the above classifications. The applicable rates, terms and conditions for: (a) "8YY" Traffic are set forth in Sections 8.2 and 8.3; (b) Feature Group A Traffic are set forth in Section 1.3.4; (c) FX Traffic are set forth in Sections 1.3 through 1.3.5; (e) IntraLATA Toll Traffic are set forth in Section 8.0; and/or (f) MCA Traffic are set forth in Sections 1.2.1 through 1.2.2.

## **6. TRANSIT TRAFFIC COMPENSATION**

6.1 Transit Traffic is a switching and transport function only, which allows one Party (originating Party) to send Local Traffic, as defined in Section 1.1, to a third party network through the other Party's tandem and/or transport facilities (tandem Party). The Transit Rate of \$0.000960 is charged by the tandem Party to the originating Party on a MOU basis. The Transit Rate element is only applicable when calls do not terminate to the tandem Party's End User.

6.2 Where the Transit Provider is sent CPN by the originating carrier, the Transit Provider will send the original and true CPN to the terminating Party. Except as provided in Section 9, below, terminating carriers shall be required to directly bill third parties that originate calls and send traffic over Transiting Carrier's network.

6.3 In the event one Party originates traffic that transits the other Party's network to reach a third party telecommunications carrier with whom the originating Party does not have a traffic interexchange agreement, then the originating Party will indemnify the transiting Party for any lawful charges that any terminating third-party carrier imposes or levies on the transiting Party for the delivery or termination of such traffic.

6.4 Unless otherwise provided in this Agreement, neither the terminating party nor the tandem provider will be required to function as a billing intermediary, e.g. clearinghouse.

6.5 Subject to section 9 below, CLEC shall not bill AT&T MISSOURI for terminating any Transit traffic, whether identified or unidentified, i.e. whether AT&T MISSOURI is sent CPN or is not sent CPN by the originating company. However, in the event CLEC indicates to AT&T MISSOURI that unidentified transit traffic volume has become significant, AT&T MISSOURI agrees to work with CLEC to explore alternatives and to devise a jointly agreed approach to minimizing the amount of unidentified transit traffic.

6.6 The transit rate above shall also apply in the case of Local Traffic originated in third party ILEC exchange areas that traverses the AT&T MISSOURI Tandem Office Switch and terminates in other third party

exchange areas, providing the other LEC exchanges share a common mandatory local calling area with all AT&T MISSOURI exchanges included in a metropolitan exchange.

- 6.7 CLEC will pay the Local Transit Traffic rates (found in Section 6.0 of this Attachment) to AT&T MISSOURI for calls that originate on CLEC's network and are sent to AT&T MISSOURI for termination to a CMRS provider as long as such Traffic can be identified as wireless traffic. AT&T MISSOURI will pay the same Local Transit Traffic rate to CLEC for such calls that originate on AT&T MISSOURI's network and are sent through CLEC for termination on a CMRS Provider's network. Each Party shall be responsible for interconnection agreements with CMRS provider's network. AT&T MISSOURI and CLEC agree that the call records exchanged between the Parties have sufficient information to identify the originating carrier for billing purposes. AT&T MISSOURI shall provide information to CLEC identifying in detail the type of call records it will send to CLEC, and will, absent agreement with CLEC otherwise, use only industry standard billing and call records formats to transmit such information to CLEC.
- 6.8 When traffic is originated by a CMRS Provider to the CLEC, and the traffic cannot be specifically identified as wireless traffic for purposes of compensation between AT&T MISSOURI, CLEC and the CMRS Provider, the traffic will be rated either as local or access and the appropriate compensation rates shall be paid by the transiting party to the terminating party.
- 6.9 AT&T MISSOURI and CLEC agree to use terminating records for billing of reciprocal compensation. AT&T MISSOURI will not bill CLEC directly for calls that originate from third party CLECs using AT&T MISSOURI's unbundled local switching (ULS). When a call is either originated from a CLEC using AT&T MISSOURI's ULS or terminated to a CLEC using AT&T MISSOURI's ULS, AT&T MISSOURI will provide to the terminating CLEC detailed call records including the OCN of the originating CLEC using ULS. This will allow the terminating CLEC to directly bill reciprocal compensation to the originating CLEC.

## **7. SEGREGATING AND TRACKING FX TRAFFIC**

- 7.1 In order to ensure that Virtual FX, Dedicated FX, and FX-type Traffic is being properly segregated from other types of intercarrier traffic, the terminating carrier will be responsible for keeping a written record of all FX Telephone Numbers (whether Dedicated, Virtual, and FX-type) for which Bill and Keep applies, and providing an NXX level summary of the minutes of use to FX Telephone Numbers on its network to the originating carrier each month (or in each applicable billing period, if not billed monthly).
- 7.2 Each Party shall maintain reports, records and data relevant to the billing of such FX services addressed herein for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.
- 7.3 Alternatively, CLEC may elect to assign a Percentage of FX Usage (PFX) which shall represent the estimated percentage of minutes of use that is attributable to all Dedicated FX, Virtual FX, and FX-type Traffic in a given usage month. Once the CLEC elects this method to estimate the percentage of minutes of use that is attributable to FX traffic, Section 7.1 no longer applies, until and unless the Parties mutually agree to segregate and track such traffic at an NXX level summary. If the parties can not reach agreement on the appropriate FX Factor, the Parties shall engage in the dispute resolution process set forth in this agreement. During the dispute resolution process. Disputed amounts for FX Traffic will remain unpaid by the Party billed and are not subject to interest during the pendency of such Intercarrier Compensation dispute.
- 7.3.1 The PFX must be agreed upon in writing prior to the usage month (or other applicable billing period) in which the PFX is to apply and may only be adjusted once each quarter. The parties may agree to use traffic studies, retail sales of Dedicated FX lines, or any other agreed method of estimating the FX traffic to be assigned the PFX.

## **8. COMPENSATION FOR TERMINATION OF INTRALATA INTEREXCHANGE TOLL TRAFFIC**

- 8.1 IntraLATA Interexchange Traffic, not considered EAS Traffic and carried on the jointly-provided ILEC network, is considered as IntraLATA Toll Traffic and is subject to tariff access charges. Billing arrangements are outlined in Section 11.
- 8.2 Compensation for the termination of this traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge, as set forth in each Party's intrastate access service tariff.
- 8.3 For interstate IntraLATA service, compensation for terminating of intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge, as set forth in each Party's interstate access service tariff.

## **9. COMPENSATION FOR ORIGINATION AND TERMINATION OF SWITCHED ACCESS SERVICE TRAFFIC TO OR FROM AN INTEREXCHANGE CARRIER (IXC) (MEET-POINT BILLING (MPB) ARRANGEMENTS)**

- 9.1 For interLATA traffic and intraLATA traffic, compensation for termination of intercompany traffic will be at access rates as set forth in each Party's own applicable interstate or intrastate access tariffs.
- 9.2 The Parties will establish MPB arrangements in order to provide Switched Access Services to Interexchange Carriers via a Party's access tandem switch, in accordance with the MPB guidelines adopted by and contained in the Ordering and Billing Forum's MECOD and MECAB documents.
- 9.3 The Parties will maintain provisions in their respective federal and state access tariffs, or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
- 9.4 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Switched Access Services jointly handled by the parties via the MPB arrangement. The Parties will exchange the information in Exchange Message Interface (EMI) format or via a mutually acceptable electronic file transfer protocol. Where the EMI records cannot be transferred due to a transmission failure, records can be provided via a mutually acceptable medium. The exchange of Access Usage Records ("AURs") to accommodate meet point billing will be on a reciprocal, no charge basis. Each Party agrees to provide the other Party with AURs based upon mutually agreed upon intervals. Each Party will act as the Official Recording Company for switched Access usage when it is jointly provided between the Parties. As described in the MECAB document, the Official Recording Company for tandem routed traffic is: (1) the end office company for originating traffic, (2) the tandem company for terminating traffic and (3) the SSP company for originating 800 traffic.
- 9.5 Initially, billing to interexchange carriers for the Switched Access Services jointly provided by the parties via the MPB arrangement will be according to the multiple bill single tariff method. As described in the MECAB document each Party will render a bill in accordance with its tariff for its portion of the service. Each Party will bill its own network access service rates to the IXC. The residual interconnection charge (RIC), if any, will be billed by the Party providing the End Office function.
- 9.6 MPB will also apply to all jointly provided Switched Access MOUs bearing the 900, or toll free NPAs (e.g., 800, 877, 866, and 888 NPAs or any other non-geographical NPAs). The Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.

**10. INTENTIONALLY OMITTED**

**11. BILLING ARRANGEMENTS FOR TERMINATION OF SECTION 251(B)(5) TRAFFIC, ISP-BOUND TRAFFIC AND INTRALATA TOLL TRAFFIC**

11.1 In AT&T MISSOURI each Party, unless otherwise agreed, will calculate terminating interconnection minutes of use based on standard switch recordings made within the terminating carrier's network for Section 251(b)(5) Traffic, ISP-Bound Traffic and IntraLATA Toll Traffic. These terminating recordings are the basis for each Party to generate bills to the originating carrier.

11.1.1 Where a CLEC terminating traffic to its switch, CLEC is not technically capable of billing the originating carrier through the use of terminating records, AT&T MISSOURI will provide the terminating CLEC the appropriate call records that will allow the terminating CLEC the ability to directly bill the proper intercarrier compensation charges to the originating carrier.

11.1.2 Where CLEC is using terminating recordings to bill intercarrier compensation, AT&T MISSOURI will provide the terminating Category 11-01-XX records by means of the Daily Usage File (DUF) to identify traffic that originates from an end user being served by a third party telecommunications carrier using an AT&T MISSOURI non-resale offering whereby AT&T MISSOURI provides the end office switching on a wholesale basis. Such records will contain the Operating Company Number (OCN) of the responsible LEC that originated the calls which CLEC may use to bill such originating carrier for MOUS terminated on CLEC's network.

11.2 ISP-Bound Traffic will be calculated using the 3:1 Presumption as outlined in Sections 1.5.5 and 1.6.4 above.

11.3 The measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.

11.4 In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data within sixty (60) days of notification and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no more than three (3) to twelve (12) consecutive months of prior usage data.

**12. INTENTIONALLY OMITTED**

**13. SWITCHED ACCESS TRAFFIC**

13.1 For purposes of this Agreement only, Switched Access Traffic shall mean all traffic that originates from an end user physically located in one local exchange and delivered for termination to an end user physically located in a different local exchange (excluding traffic from exchanges sharing a common mandatory local calling area as defined in SBC MISSOURI's local exchange tariffs on file with the applicable state commission) including, without limitation, any traffic that (i) terminates over a Party's circuit switch, including traffic from a service that originates over a circuit switch and uses Internet Protocol (IP) transport technology (regardless of whether only one provider uses IP transport or multiple providers are involved in providing IP transport) and/or (ii) originates from the end user's premises in IP format and is transmitted to the switch of a provider of voice communication applications or services when such switch utilizes IP technology and terminates over a Party's circuit switch. Notwithstanding anything to the contrary in this Agreement, all Switched Access Traffic shall be delivered to the terminating Party over feature group access trunks per the terminating Party's access tariff(s) and shall be subject to applicable intrastate and interstate

switched access charges; provided, however, the following categories of Switched Access Traffic are not subject to the above stated requirement relating to routing over feature group access trunks:

- (i) IntraLATA toll Traffic or Optional EAS Traffic from a CLEC end user that obtains local dial tone from CLEC where CLEC is both the Section 251(b)(5) Traffic provider and the intraLATA toll provider,
- (ii) IntraLATA toll Traffic or Optional EAS Traffic from an AT&T end user that obtains local dial tone from AT&T where AT&T is both the Section 251(b)(5) Traffic provider and the intraLATA toll provider;
- (iii) Switched Access Traffic delivered to AT&T from an Interexchange Carrier (IXC) where the terminating number is ported to another CLEC and the IXC fails to perform the Local Number Portability (LNP) query; and/or
- (iv) Switched Access Traffic delivered to either Party from a third party competitive local exchange carrier over interconnection trunk groups carrying Section 251(b)(5) Traffic and ISP-Bound Traffic (hereinafter referred to as "Local Interconnection Trunk Groups") destined to the other Party.

Notwithstanding anything to the contrary in this Agreement, each Party reserves its rights, remedies, and arguments relating to the application of switched access charges for traffic exchanged by the Parties prior to the Effective Date of this Agreement and described in the FCC's Order issued in the Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services Exempt from Access Charges, WC Docket No. 01-361(Released April 21, 2004).

13.2 In the limited circumstances in which a third party competitive local exchange carrier delivers Switched Access Traffic as described in Section 13.1 (iv) above to either Party over Local Interconnection Trunk Groups, such Party may deliver such Switched Access Traffic to the terminating Party over Local Interconnection Trunk Groups. If it is determined that such traffic has been delivered over Local Interconnection Trunk Groups, the terminating Party may object to the delivery of such traffic by providing written notice to the delivering Party pursuant to the notice provisions set forth in the General Terms and Conditions and request removal of such traffic. The Parties will work cooperatively to identify the traffic with the goal of removing such traffic from the Local Interconnection Trunk Groups. If the delivering Party has not removed or is unable to remove such Switched Access Traffic as described in Section 13.1(iv) above from the Local Interconnection Trunk Groups within sixty (60) days of receipt of notice from the other party, the Parties agree to jointly file a complaint or any other appropriate action with the applicable Commission to seek any necessary permission to remove the traffic from such interconnection trunks up to and including the right to block such traffic and to obtain compensation, if appropriate, from the third party competitive local exchange carrier delivering such traffic to the extent it is not blocked.

13.3 Notwithstanding any other provision of this Agreement, the Parties shall exchange enhanced/information services traffic, including without limitation Voice Over Internet Protocol ("VOIP") traffic and other enhanced services traffic (collectively, "IS Traffic"), in accordance with this section. IS Traffic is defined as traffic that undergoes a net protocol conversion, as defined by the FCC, between the calling and called parties, and/or traffic that features enhanced services that provide customers a capability for generating, acquiring storing, transforming, processing, retrieving, utilizing, or making available information. The Parties shall exchange IS Traffic over the same interconnection trunk groups used to exchange local traffic. In addition to other jurisdictional factors the Parties may report to one another under this Agreement, the Parties shall report a Percent Enhanced Usage ("PEU") factor on a statewide basis or as otherwise determined by CLEC at its sole discretion. The numerator of the PEU factor shall be the number of minutes of IS Traffic sent to the other Party for termination to such other Party's customers. The denominator of the PEU factor shall be the

total combined number of minutes of traffic, including IS Traffic, sent over the same trunks as IS Traffic. Either Party may audit the other Party's PEU factors pursuant to the audit provisions of this Agreement. The Parties shall compensate each other for the exchange of IS Traffic applying the same rate elements used by the Parties for the exchange of ISP-bound traffic whose dialing patterns would otherwise indicate the traffic is local traffic. This compensation regime for IS Traffic shall apply regardless of the locations of the calling and called parties, and regardless of the originating and terminating NPA/NXXs.