# APPENDIX
# INTERCARRIER COMPENSATION

# (AFTER FCC ORDER NO. 01-131, AGREEING TO EXCHANGE ALL ISP-BOUND and SECTION 251(b)(5) TRAFFIC AT THE FCC RATES IN CERTAIN STATES, WHERE APPLICABLE)

# TABLE OF CONTENTS

# APPENDIX INTERCARRIER COMPENSATION

## 1. SCOPE OF APPENDIX

1.1 This Appendix sets forth the terms and conditions for Intercarrier Compensation of intercarrier telecommunications traffic exchanged between the applicable AT&T Inc. (AT&T) owned Incumbent Local Exchange Carrier and CLEC, but only to the extent they are interconnected and exchanging calls pursuant to a fully executed, underlying Interconnection Agreement approved by the applicable state or federal regulatory agency for telecommunications traffic in the applicable state(s).

1.2 The provisions of this Appendix apply to telecommunications traffic originated over the originating carrier's facilities or over local circuit switching purchased by CLEC from AT&T-13STATE on a wholesale basis (non-resale) and used in providing wireline local telephone exchange (dialtone) service to its end user customers.

1.3 The provisions of this Appendix do not apply to traffic originated over services provided under local Resale service. AT&T-13STATE will compensate the terminating carrier in accordance with this Appendix for Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic (also known as "Optional Calling Area Traffic") and IntraLATA Toll Traffic that originates from an End User that is served by a carrier providing telecommunications services utilizing AT&T-13STATE's Resale Service.

1.4 Any inconsistencies between the provisions of this Appendix and other provisions of the underlying Interconnection Agreement shall be governed by the provisions of this Appendix.

## 2. ILEC DESIGNATIONS

2.1 AT&T Inc. (AT&T) means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company d/b/a AT&T Connecticut, Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin.

2.2 AT&T-2STATE - As used herein, AT&T-2STATE means AT&T CALIFORNIA and AT&T NEVADA, the applicable AT&T-owned ILEC(s) doing business in California and Nevada.

2.3 AT&T-4STATE - As used herein, AT&T-4STATE means Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri and AT&T Oklahoma, the applicable AT&T-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

2.4 AT&T-7STATE - As used herein, AT&T-7STATE means AT&T SOUTHWEST REGION 5-STATE, AT&T CALIFORNIA and AT&T NEVADA, the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma and Texas.

2.5 AT&T-8STATE - As used herein, AT&T-8STATE means AT&T SOUTHWEST REGION 5-STATE, AT&T CALIFORNIA, AT&T NEVADA and AT&T CONNECTICUT, the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma and Texas.

2.6 AT&T-10STATE - As used herein, AT&T-10STATE means AT&T SOUTHWEST REGION 5-STATE and AT&T MIDWEST REGION 5-STATE, the applicable AT&T-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas and Wisconsin.

2.7 AT&T-12STATE - As used herein, AT&T-12STATE means AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE and AT&T-2STATE, the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

2.8 AT&T-13STATE - As used herein, AT&T-13STATE means AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE, AT&T-2STATE and AT&T CONNECTICUT, the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

2.9 AT&T ARKANSAS - As used herein, AT&T ARKANSAS means Southwestern Bell Telephone Company d/b/a AT&T Arkansas, the applicable AT&T-owned ILEC doing business in Arkansas.

2.10 AT&T CALIFORNIA - As used herein, AT&T CALIFORNIA means Pacific Bell Telephone Company d/b/a AT&T California, the applicable AT&T-owned ILEC doing business in California.

2.11 AT&T KANSAS - As used herein, AT&T KANSAS means Southwestern Bell Telephone Company d/b/a AT&T Kansas, the applicable AT&T-owned ILEC doing business in Kansas.

2.12 AT&T ILLINOIS - As used herein, AT&T ILLINOIS means Illinois Bell Telephone Company d/b/a AT&T Illinois, the applicable AT&T-owned ILEC doing business in Illinois.

2.13 AT&T INDIANA - As used herein, AT&T INDIANA means Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, the applicable AT&T-owned ILEC doing business in Indiana.

2.14 AT&T MICHIGAN - As used herein, AT&T MICHIGAN means Michigan Bell Telephone Company d/b/a AT&T Michigan, the applicable AT&T-owned doing business in Michigan.

2.15 AT&T MIDWEST REGION 5-STATE - As used herein, AT&T MIDWEST REGION 5-STATE means Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, The Ohio Bell Telephone Company d/b/a AT&T Ohio, and/or Wisconsin Bell, Inc. d/b/a AT&T Wisconsin, the applicable AT&T-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.

2.16 AT&T MISSOURI - As used herein, AT&T MISSOURI means Southwestern Bell Telephone Company d/b/a AT&T Missouri, the applicable AT&T-owned ILEC doing business in Missouri.

2.17 AT&T NEVADA - As used herein, AT&T NEVADA means Nevada Bell Telephone Company d/b/a AT&T Nevada, the applicable AT&T-owned ILEC doing business in Nevada.

2.18 AT&T OHIO - As used herein, AT&T OHIO means The Ohio Bell Telephone Company d/b/a AT&T Ohio, the applicable AT&T-owned ILEC doing business in Ohio.

2.19 AT&T OKLAHOMA - As used herein, AT&T OKLAHOMA means Southwestern Bell Telephone Company d/b/a AT&T Oklahoma, the applicable AT&T-owned ILEC doing business in Oklahoma.

2.20 AT&T CONNECTICUT - As used herein, AT&T CONNECTICUT means The Southern New England Telephone Company d/b/a AT&T Connecticut, the applicable above listed ILEC doing business in Connecticut.

2.21 AT&T SOUTHWEST REGION 5-STATE - As used herein, AT&T SOUTHWEST REGION 5-STATE means Southwestern Bell Telephone Company d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas, the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma and Texas.

2.22 AT&T TEXAS - As used herein, AT&T TEXAS means Southwestern Bell Telephone Company d/b/a AT&T Texas, the applicable AT&T-owned ILEC doing business in Texas.

2.23 AT&T WISCONSIN - As used herein, AT&T WISCONSIN means Wisconsin Bell, Inc. d/b/a AT&T Wisconsin, the applicable AT&T-owned ILEC doing business in Wisconsin.

## 3. RESPONSIBILITIES OF THE PARTIES

3.1 For all traffic originated on a Party's network including, without limitation, Switched Access Traffic such Party shall provide Calling Party Number (CPN) as defined in 47 C.F.R. § 64.1600(c) ("CPN") in accordance with Section 3.3 below. CPN shall, at a minimum, include information in an industry recognized standard format, consistent with the requirements of the North American Numbering Plan (NANP) containing a unique three digit area code (NPA) and seven digit (NXX-XXXX) telephone number. 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.

3.2 If one Party is passing CPN but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.

3.3 For traffic which is delivered by one Party to be terminated on the other Party's network in AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE and AT&T CONNECTICUT, 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 at Intrastate Switched Access rates.

3.4 For those usage based charges where actual charge information is not determinable by AT&T-2STATE because the jurisdiction (i.e., intrastate vs. local) or origin of the traffic is unidentifiable, the Parties will jointly develop a Percent Local Usage (PLU) factor in order to determine the appropriate charges to be billed to the terminating party in accordance with Section 13.2 below.

3.5 CLEC has the sole obligation to enter into intercarrier compensation arrangements with third party telecommunications carriers regarding CLEC's traffic and such other carriers' traffic, including without limitation any where CLEC originates traffic to or terminates traffic from an End User being served by a third party telecommunications carrier who has purchased local switching from AT&T-13STATE on a wholesale basis (non-resale) which is used by such telecommunications carrier to provide wireline local telephone exchange (dialtone) service to its End Users. In no event will AT&T-13STATE 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-13STATE 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-13STATE will not be required to function as a billing intermediary, e.g., clearinghouse. AT&T-13STATE may provide information regarding such traffic to other telecommunications carriers or entities as appropriate to resolve traffic compensation issues.

3.6 The Parties agree that, notwithstanding the classification of traffic under this Appendix, either Party is free to define its own "local" calling area(s) for purposes of its provision of telecommunications services to its End Users.

3.7 For Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic, and IntraLATA Toll Traffic, the Party whose End User originates such traffic shall compensate the Party who terminates such traffic to its End User for the transport and termination of such traffic at the applicable rate(s) provided in this Appendix and Appendix Pricing and/or the applicable switched access tariffs. In AT&T CONNECTICUT, when CLEC purchases local switching from AT&T CONNECTICUT on a wholesale basis to provide service to its End Users, all Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic, and IntraLATA Toll Traffic originated by CLEC's End Users are not subject to intercarrier compensation as addressed in Section 4.7.3 below.

3.8 To the extent that the Parties are not currently exchanging traffic in a given LATA or Local Calling Area, the Parties' obligation to pay intercarrier compensation to each other shall commence on the date the Parties agree that the interconnection is complete (i.e., each Party has established its originating trunks as well as all ancillary traffic trunking such as Operator Services, 911 or Mass Calling trunks) and is capable of fully supporting originating and terminating End User customers' traffic. In addition, the Parties agree that test traffic is not subject to compensation pursuant to this Appendix Intercarrier Compensation.

3.9 The Parties acknowledge that this Attachment addresses solely the method of compensation for traffic properly exchanged by the Parties under this Agreement. This Attachment is not meant to address whether the Parties are obligated to exchange any specific type of traffic, nor the types of services to be offered by AT&T-13STATE pursuant to this agreement.

3.9.1 More specifically, and without limiting the foregoing Section 3.9, the parties acknowledge that this Attachment does not address "Out of Exchange Traffic" with an "Out of Exchange-LEC." The Parties acknowledge that they have agreed upon terms and conditions for the exchange of such traffic, as provided for in Appendix OE-LEC hereto. For purposes of this Agreement, "Out of Exchange LEC" (OE-LEC) means a CLEC operating within AT&T-13STATE's incumbent local exchange area and also providing telecommunications services in another ILEC's incumbent local exchange area that shares mandatory or optional calling with AT&T-13STATE. For purposes of this Agreement, "Out of Exchange Traffic" is defined as Section 251(b)(5) Traffic, ISP-Bound Traffic, FX Traffic, Optional EAS Traffic, MCA Traffic, IntraLATA Toll Traffic and/or InterLATA Section 251(b)(5) Traffic exchanged pursuant to an FCC approved or court ordered InterLATA boundary waiver that:

(i) Originates from an OE-LEC End User located in another ILEC's incumbent local exchange area and terminates to an AT&T-13STATE End User located in an AT&T-13STATE local exchange area or;

(ii) Originates from an AT&T-13STATE End User located in an AT&T-13STATE local exchange area and terminates to an OE-LEC End User located in another ILEC's incumbent local exchange area.

## 4. RECIPROCAL COMPENSATION FOR TERMINATION OF SECTION 251(b)(5) TRAFFIC

4.1 Section 251(b)(5) Traffic shall mean telecommunications traffic in which the originating End User of one Party and the terminating End User of the other Party are:

a. both physically located in the same ILEC Local Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff on file with the applicable state commission or regulatory agency; or

b. both physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes but is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other types of mandatory expanded local calling scopes.

4.2 AT&T-12STATE made an offer (the "Offer") to all telecommunications carriers to exchange Section 251(b)(5) Traffic and ISP-Bound Traffic on and after the designated dates provided below pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan of 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") which was remanded but not vacated in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002).

AT&T-13STATE and CLEC agree to carry out the FCC's interim ISP terminating compensation plan on the date designated by AT&T-13STATE in a particular state without waiving, and expressly reserving, all appellate rights to contest FCC, judicial, legislative, or other regulatory rulings regarding ISP-Bound traffic, including but not limited to, appeals of the FCC's ISP Compensation Order. By agreeing to this Appendix, both Parties reserve the right to advocate their respective positions before courts, state or federal commissions, or legislative bodies.

4.2.1 Should a regulatory agency, court or legislature change or nullify the AT&T-13STATE's designated date to begin billing under the FCC's ISP terminating compensation plan, then the Parties also agree that any necessary billing true ups, reimbursements, or other accounting adjustments shall be made symmetrically and to the same date that the FCC terminating compensation plan was deemed applicable to all traffic in that state exchanged under Section 251(b)(5) of the Act. By way of interpretation, and without limiting the application of the foregoing, the Parties intend for retroactive compensation adjustments, to the extent they are ordered by Intervening Law, to apply uniformly to all traffic among AT&T-13STATE, CLEC and Commercial Mobile Radio Service (CMRS) carriers in the state where traffic is exchanged as Local Calls within the meaning of this Appendix.

4.2.2 The Parties further acknowledge that federal or state court challenges could be sustained against the FCC's ISP Compensation Order in particular, or against ISP intercarrier compensation generally. In particular, a court could order an injunction, stay or other retroactive ruling on ISP compensation back to the effective date of the FCC's ISP Compensation Order. Alternatively, a court could vacate the underlying Order upon which the compensation was based, and the FCC (either on remand or on its own motion) could rule that past traffic should be paid at different rates, terms or conditions. Because of these possibilities, the Parties agree that should the ISP Compensation Order be modified or reversed in such a manner that prior intercarrier compensation was paid under rates, terms or conditions later found to be null and void, then the Parties agree that, in addition to negotiating appropriate amendments to conform to such modification or reversal, the Parties will also agree that any billing true ups, reimbursements, or other accounting adjustments on past traffic shall be made uniformly and on the same date as for all traffic exchanged under Section 251(b)(5) of the Act. By way of interpretation, and without limiting the application of the foregoing, the Parties intend for retroactive compensation adjustments, to apply to all traffic among AT&T-13STATE, CLEC, and CMRS carriers in the state where traffic is exchanged as Local Calls within the meaning of this Appendix.

4.3 In AT&T-12STATE the rates, terms and conditions for compensation of Section 251(b)(5) Traffic, as defined in Section 4.1 and ISP-Bound Traffic, as defined in Section 5.1 will be compensated at the FCC's interim ISP terminating compensation rate as set forth in Section 5.3.2 below in a specific state on the later of (i) the Effective Date of this Agreement and (ii) the effective date of the offer in a particular state. The Parties acknowledge that AT&T-12STATE has made such offer in its respective states of (i) Indiana, Ohio, Texas and Wisconsin effective on and after June 1, 2003; (ii) Arkansas and Michigan effective on and after July 6, 2003; (iii) California effective on and after August 1, 2003; (iv) Illinois effective on and after September 1, 2003; and (v) Kansas, Missouri, Oklahoma and Nevada on and after June 1, 2004. Until and unless AT&T CONNECTICUT chooses to offer to exchange Section 251(b)(5) Traffic and ISP-Bound Traffic on and after a designated date pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan, the compensation set forth below in Section 4 will apply to all Section 251(b)(5) Traffic and ISP-Bound Traffic as for that particular state.

4.4 In instances where the originating carrier is originating telecommunications traffic over its own facilities, (i.e., not leased or purchased from AT&T-13STATE), the following tandem serving rate elements are applicable on a terminating MOU basis and includes compensation for the following sub-elements:

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

4.4.2 Tandem Transport - compensation for the transmission of traffic 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.

4.4.3 End Office Switching in a Tandem Serving Arrangement - compensation for the local end office switching and line termination necessary to complete the transmission in a tandem-served arrangement. It consists of a call set-up rate (per message) and a call duration (per minute) rate.

4.5 In instances where the originating carrier is originating telecommunications traffic over its own facilities, (i.e., not leased or purchased from AT&T-13STATE), the following end office switching rate elements are applicable on a terminating MOU basis::

4.5.1 End Office Switching - compensation for the local end office switching and line termination necessary to complete the transmission in an end office serving arrangement. It consists of a call set-up rate (per message) and a call duration (per minute) rate.

4.6 CLEC shall only be paid End Office Serving Rate Elements.

4.7 Intercarrier Compensation for Wholesale Local Switching Traffic

4.7.1 Where CLEC purchases local switching from AT&T-12STATE on a wholesale basis, CLEC will deal directly with third party carriers for purposes of reciprocal compensation for calls originated by or terminated to the End Users served by such arrangements. AT&T-12STATE is required to provide CLEC with timely, complete and correct information to enable CLEC to meet the requirements of this section.

4.7.2 The following reciprocal compensation terms shall apply to all traffic exchanged between AT&T-12STATE and CLECs when CLEC purchases local switching from AT&T-12STATE on a wholesale basis:

4.7.2.1 For intra-switch Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between AT&T-12STATE and CLEC, the Parties agree to impose no call termination charges pertaining to reciprocal compensation on each other.

4.7.2.2 For interswitch Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between AT&T-12STATE and CLEC where CLEC's End User originates a call that is terminated to a AT&T-12STATE End User, such traffic shall be paid for reciprocally at the FCC Plan rate set forth in Section 5.3.2 for the transport and termination of Section 251(b)(5) Traffic, and ISP-Bound Traffic.

4.7.3 In AT&T CONNECTICUT, when CLEC purchases local switching from AT&T CONNECTICUT on a wholesale basis to provide service to its End Users, AT&T CONNECTICUT will be solely responsible for compensating the terminating third party carrier for Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic and IntraLATA Toll Traffic that originates from CLEC's End Users. When CLEC purchases local switching from AT&T CONNECTICUT on a wholesale basis, CLEC can not seek intercarrier compensation from AT&T CONNECTICUT for Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic and IntraLATA Toll Traffic that originates from either an AT&T CONNECTICUT End User or a third party carrier's End User.

# 5. RATES, TERMS AND CONDITIONS OF FCC'S INTERIM ISP TERMINATING COMPENSATION PLAN

5.1 In accordance with the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Compensation 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"), "ISP-Bound Traffic" shall mean telecommunications traffic exchanged between CLEC and AT&T-13STATE in which the originating End User of one Party and the ISP served by the other Party are:

a. both physically located in the same ILEC Local Exchange Area as defined by the ILEC's Local (or "General") Exchange Tariff on file with the applicable state commission or regulatory agency; or

b. both physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.

In states in which AT&T-13STATE has offered to exchange Section 251(b)(5) Traffic and ISP-Bound traffic pursuant to the FCC's interim ISP terminating compensation plan set forth in the FCC ISP Compensation Order, traffic is presumed to be ISP-Bound Traffic in accordance with the rebuttable presumption set forth in Section 5.4 of this Appendix.

5.2 The Parties hereby agree that the following rates, terms and conditions set forth in Section 5 shall apply to the termination of all Section 251(b)(5) Traffic and all ISP-Bound Traffic exchanged between the Parties in each of the applicable state(s) AT&T-13STATE has made an offer as described in Section 4 above effective on the later of (i) the Effective Date of this Agreement and (ii) the effective date of the offer in the particular state and all ISP-Bound Traffic is subject to the rebuttable presumption.

5.3 Intercarrier Compensation for all ISP-Bound Traffic and Section 251(b)(5) Traffic

5.3.1 The rates, terms, and conditions in Section 5 apply to the termination of all Section 251(b)(5) Traffic as defined in Section 4.1 and ISP-Bound Traffic as defined in Section 5.1 and ISP-Bound Traffic is subject to the rebuttable presumption.

5.3.2 The Parties agree to compensate each other for the transport and termination of all Section 251(b)(5) and ISP-Bound Traffic and traffic on a minute of use basis, at $.0007 per minute of use.

5.3.3 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.

5.4 ISP-Bound Traffic Rebuttable Presumption

5.4.1 In accordance with Paragraph 79 of the FCC's ISP Compensation Order, the Parties agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation terms in this Section 5.4. 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. During the pendency of any such proceedings to rebut the presumption, the Parties will remain obligated to pay the rates set forth in Section 5.3.2 for Section 251(b)(5) Traffic and ISP-Bound Traffic.

5.5 For purposes of this Section 5.5, all Section 251(b)(5) Traffic and all ISP-Bound Traffic shall be referred to as "Billable Traffic" and will be billed in accordance with Section 13.0 below.

5.5.1 Each party will invoice the other party on a monthly basis for combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties at the rate set forth in Section 5.3.2.

## 6. OTHER TELECOMMUNICATIONS TRAFFIC

6.1 Except as set forth in Section 5 above, the terms of this appendix are not applicable to (i) interstate or intrastate Exchange Access traffic, (ii) Information Access traffic, or (iii) any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission, with the exception of ISP-Bound Traffic which is addressed in this Appendix. All Exchange Access traffic and IntraLATA Toll Traffic shall continue to be governed by the terms and conditions of the applicable federal and state tariffs.

6.2 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, but within the same LATA as the number that is assigned. 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. FX Telephone Numbers" are those telephone numbers with rating and routing point that are different from those of the geographic area in which the End User is physically located. 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). There are two types of FX service:

6.2.1 "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.

6.2.2 "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.

6.2.3 FX Traffic is not Section 251(b)(5) Traffic and instead the transport and termination compensation for FX Traffic is subject to a Bill and Keep arrangement in AT&T-12STATE.

6.2.3.1 To the extent that ISP-Bound Traffic is provisioned via an FX-type arrangement, such traffic is subject to a Bill and Keep arrangement. "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.

6.2.4 Intentionally left blank

6.2.5 Pursuant to the Connecticut Commission Arbitration Award in Docket. 01-01-29RE01, the originating Party will bill the terminating Party the appropriate originating access charges for all traffic, except ISP-Bound Traffic, that is terminated to a number that is provisioned as a Virtual FX, Dedicated FX or FX-type service as defined in Section 6.2 above in AT&T CONNECTICUT. In such circumstances, for ISP-Bound Traffic the appropriate compensation mechanism is bill and keep.

6.2.6 Segregating and Tracking FX Traffic

6.2.6.1 For AT&T-12STATE, the terminating carrier is responsible for separately identifying IntraLATA Virtual FX, Dedicated FX, and FX-type Traffic from other types of Intercarrier traffic for compensation purposes. The terminating carrier will be responsible for providing the originating carrier with an FX Usage Summary which includes a ten (10) digit telephone number level detail of the minutes of use terminated to FX Telephone Numbers on its network each month (or in each applicable billing period, if not billed monthly), or by any means mutually agreed by the Parties.

6.2.6.2 Terminating carrier will not assess compensation charges to the Voice FX MOU and ISP FX MOU in AT&T-12STATE.

6.2.6.3 Intentionally left blank

6.2.6.4 For AT&T CONNECTICUT, FX traffic must be identified as voice FX and ISP FX. AT&T CONNECTICUT will work with CLEC in reviewing its data to determine the volume of IntraLATA FX traffic being exchanged for an agreed-upon period of time. 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 a factor. Once the data review is completed, the Parties will estimate the percentage of minutes of use that is attributable to FX traffic. For AT&T CONNECTICUT ISP FX percentage will be assigned ("PIFX") and voice FX percentage will be assigned ("PVFX"). The PIFX and PVFX ("FX factor") will be used in lieu of providing the actual minutes of use data. This plan will be applied on an individual CLEC basis.

6.2.6.4.1 The FX factor will be applied to the measured local usage minutes of use ("MOU") and result in the following billing adjustments:

(i) Terminating carrier will multiply the measured local MOU by the FX factor to calculate the IntraLATA FX traffic.

(ii) Terminating carrier will subtract both the voice FX MOU and ISP FX MOU from the measured local MOU.

(iii) Terminating carrier will apply the appropriate compensation rate to the adjusted local MOU for Section 251(b)(5) Traffic, and ISP-Bound Traffic, as set forth in Section 5.3.2 above.

(iv) Terminating carrier will not assess compensation charges to the ISP FX MOU in AT&T CONNECTICUT where such traffic is subject to a Bill and Keep Arrangement.

(v) Originating carrier will apply the appropriate originating access charges only to the Voice FX MOU in AT&T CONNECTICUT.

6.2.6.4.2 The FX factor may be adjusted by the Parties on a quarterly basis.

6.2.6.5 Either Party may request an audit of the FX Usage Summary or the FX Factor on no fewer than thirty (30) business day's written notice and any audit shall be accomplished during normal business hours at the office of the Party being audited. Such audit must be performed by a mutually agreed-to auditor paid for by the Party requesting the audit. Such audits shall be requested within six months of having received the FX Usage Summary or the FX Factor and associated usage from the other Party and may not be requested more than twice per year, once per calendar year, unless the audit finds there has been a 20% or higher net error or variance in calculations, in which case a subsequent audit is required. Based upon the audit, previous compensation, billing and/or settlements will be adjusted for the past six (6) months.

6.2.6.5.1 If the FX factor is adjusted based upon the audit results, the adjusted FX factor will apply for the six (6) month period following the completion of the audit. If, as a result of the audit, either Party has overstated the FX factor or underreported the FX Usage by twenty percent (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit and will pay for the cost of a subsequent audit which is to happen within nine (9) months of the initial audit.

6.3 Private Line Services include private line-like and special access services and are not subject to intercarrier compensation. Private Line Services are defined as a digital point-to-point connection that provides a dedicated circuit of pre-subscribed bandwidth between any two points. Private Line Services are used to consolidate communications over one line for voice, data, video and multimedia.

6.4 The Parties recognize and agree that ISP and Internet traffic (excluding ISP-Bound Traffic as defined in Section 5.1) could also be exchanged outside of the applicable local calling scope, or routed in ways that could make the rates and rate structure in Sections 4 and 5 above not apply, including but not limited to ISP calls that fit the underlying Agreement's definitions of:

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

6.5 The Parties agree that, for the purposes of this Appendix, either Party's End Users remain free to place ISP calls under any of the above classifications. Notwithstanding anything to the contrary herein, to the extent such ISP calls are placed, the Parties agree that Sections 4 and 5 above do not apply. The applicable rates, terms and conditions for: (a) FX Traffic are set forth in Section 6.2; (b) Optional EAS Traffic are set forth in Section 7; (c) 8YY Traffic are set forth in Section 10; (d) Feature Group A Traffic are set forth in Section 6.2; (e) IntraLATA Toll Traffic are set forth in Section 12; and/or (f) MCA Traffic are set forth in Section 8.

## 7. OPTIONAL CALLING AREA TRAFFIC – AT&T ARKANSAS, AT&T KANSAS AND AT&T TEXAS

7.1 Compensation for Optional Calling Area (OCA) Traffic, (also known as Optional Extended Area Service and Optional EAS) is for the termination of intercompany traffic to and from the Commission approved one-way or two-way optional exchanges(s) and the associated metropolitan area, except mandatory extended traffic as addressed in Sections 4.1 and 5.1 above. The transport and termination rate applies when AT&T ARKANSAS, AT&T KANSAS or AT&T TEXAS transports traffic and terminates it at its own switch.

7.2 In the context of this Appendix, Optional Calling Areas (OCAs) exist only in the states of Arkansas, Kansas and Texas, and are outlined in the applicable state Local Exchange tariffs. This rate is independent of any retail service arrangement established by either Party. CLEC and AT&T ARKANSAS, AT&T KANSAS and AT&T TEXAS are not precluded from establishing its own local calling areas or prices for purposes of retail telephone service; however the terminating rates to be used for any such offering will still be administered as described in this Appendix.

7.3 The state specific OCA Transport and Termination rates are outlined in Appendix Pricing.

## 8. MCA TRAFFIC -- AT&T MISSOURI

8.1 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 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.

8.1.1 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.

8.1.2 Pursuant to the Missouri Public Service Commission Order in Case No. TO-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.

8.2 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 at least forty-five (45) days in advance of 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.

8.3 If CLEC provides service via resale or in conjunction with ported numbers in the MCA, the appropriate MCA NXXs will be updated by AT&T SOUTHWEST REGION 5-STATE.

## 9. PRIMARY TOLL CARRIER ARRANGEMENTS

9.1 A Primary Toll Carrier (PTC) is a company that provides IntraLATA Toll Traffic Service for its own End User customers and potentially for a third party ILEC's End User customers. In this ILEC arrangement, the PTC would receive the ILEC End User IntraLATA toll traffic revenues and pay the ILEC for originating these toll calls (originating access and billing & collection charges). The PTC would also pay the terminating access charges on behalf of the ILEC. In those states wherein Primary Toll Carrier arrangements are mandated and AT&T-13STATE is functioning as the PTC for a third party ILEC's End User customers, the following provisions apply to the IntraLATA toll traffic which is subject to the PTC arrangement:

(i) AT&T-13STATE shall deliver such IntraLATA toll traffic that originated from that third party ILEC and terminated to CLEC as the terminating carrier in accordance with the terms and conditions of such PTC arrangement mandated by the respective state Commission. AT&T-13STATE shall pay the CLEC on behalf of the originating third party ILEC for the termination of such IntraLATA toll traffic at the terminating access rates as set forth in the CLEC's Intrastate Access Service Tariff, but such compensation shall not exceed the compensation contained in the AT&T-13STATE Intrastate Access Service Tariff in the respective state; and/or

(ii) AT&T-13STATE shall deliver such IntraLATA toll traffic that originated from CLEC and terminated to third party ILEC in accordance with the terms and conditions of such PTC arrangement mandated by the respective state Commission. CLEC shall pay AT&T-13STATE for the use of its facilities at the rates set forth in AT&T-13STATE's Intrastate Access Service Tariff. CLEC shall pay the ILEC for the termination of such traffic originated from CLEC.

## 10. INTRALATA 800 TRAFFIC

10.1 The Parties shall provide to each other IntraLATA 800 Access Detail Usage Data for Customer billing and IntraLATA 800 Copy Detail Usage Data for access billing in Exchange Message Interface (EMI) format. On a monthly basis the Parties agree to provide this data to each other at no charge. In the event of errors, omissions, or inaccuracies in data received from either Party, the liability of the Party providing such data shall be limited to the provision of corrected data only. If the originating Party does not send an End User billable record to the terminating Party, the originating Party will not bill the terminating Party any interconnection charges for this traffic.

10.2 IntraLATA 800 Traffic calls are billed to and paid for by the called or terminating Party, regardless of which Party performs the 800 query.

## 11. MEET POINT BILLING (MPB) AND SWITCHED ACCESS TRAFFIC COMPENSATION

11.1 Intercarrier compensation for Switched Access Traffic shall be on a Meet Point Billing ("MPB") basis as described below.

11.2 The Parties will establish MPB arrangements in order to provide Switched Access Services via the respective carrier's Tandem Office Switch in accordance with the MPB guidelines contained in the Ordering and Billing Forum's MECOD and MECAB documents, as amended from time to time.

11.3 Billing for the Switched Exchange Access Services jointly provided by the Parties via MPB arrangements shall 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 own tariff for that portion of the service it provides. Each Party will bill its own network access service rates. The residual interconnection charge (RIC), if any, will be billed by the Party providing the end office function.

11.4 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.

11.5 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 traffic jointly handled by the Parties via the Meet Point Billing arrangement. Information shall be exchanged in 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 MPB will be on a reciprocal, no charge basis. Each Party agrees to provide the other Party with AURs based upon mutually agreed upon intervals.

11.6 MPB shall also apply to all jointly provided Switched Access MOU traffic bearing the 900, or toll free NPAs (e.g., 800, 877, 866, 888 NPAs, or any other non-geographic NPAs). The Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.

11.7 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.

11.8 AT&T-13STATE and CLEC agree to provide the other Party with notification of any discovered errors in the record exchange process within ten (10) business days of the discovery.

11.9 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. COMPENSATION FOR ORIGINATION AND TERMINATION OF INTERLATA TRAFFIC

12.1 Where a CLEC originates or terminates its own end user InterLATA Traffic not subject to Meet Point Billing, the CLEC must purchase feature group access service from AT&T-13STATE's state or federal access tariffs, whichever is applicable, to carry such InterLATA Traffic.

## 13. INTRALATA TOLL TRAFFIC COMPENSATION

13.1 For intrastate IntraLATA Message Telephone Service (MTS) toll traffic, compensation for termination of such traffic will be at terminating access rates. For intrastate IntraLATA 800 Service, compensation for termination of such traffic will be at originating access rates, including the Carrier Common Line (CCL) charge where applicable. The appropriate access rates are set forth in each Party's Intrastate Access Service Tariff, but such compensation shall not exceed the compensation contained in an AT&T-13STATE's tariff in whose exchange area the End User is located.

13.2 For interstate IntraLATA MTS toll traffic, compensation for termination of such traffic will be at terminating access rates. For interstate IntraLATA 800 Service, compensation for termination of such traffic will be originating access rates, including the CCL charge where applicable. The appropriate access rates are set forth in each Party's interstate Access Service Tariff, but such compensation shall not exceed the compensation contained in the AT&T-13STATE's tariff in whose exchange area the End User is located.

## 14. BILLING ARRANGEMENTS FOR TERMINATION OF SECTION 251(b)(5) TRAFFIC, ISP-BOUND TRAFFIC, OPTIONAL EAS TRAFFIC AND INTRALATA TOLL TRAFFIC

14.1 In AT&T-13STATE, 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, Optional EAS Traffic, ISP-Bound Traffic and IntraLATA Toll Traffic. These recordings are the basis for each Party to generate bills to the other Party.

14.1.1 Where CLEC is using terminating recordings to bill intercarrier compensation, AT&T-12STATE 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-12STATE non-resale offering whereby AT&T-12STATE 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.

14.2 For those usage based charges where actual charge information is not determinable by AT&T-2STATE because the jurisdiction (i.e., intrastate vs. local) or origin of the traffic is unidentifiable, the Parties will jointly develop a Percent Local Usage (PLU) factor in order to determine the appropriate charges PLU is calculated by dividing the Local MOU delivered to a Party for termination by the total MOU delivered to a Party for termination.

14.2.1 CLEC and AT&T-2STATE agree to exchange such reports and/or data as provided in this Attachment to facilitate the proper billing of traffic. Either Party may request an audit of such usage reports on no fewer than thirty (30) business day's written notice and any audit shall be accomplished during normal business hours at the office of the Party being audited. Such audit must be performed by a mutually agreed-to auditor paid for by the Party requesting the audit. Such audits shall be requested within six months of having received the usage reports from the other Party and may not be requested more than twice per year, once per calendar year for each call detail type unless the audit finds there has been a 20% or higher net error or variance in calculations, in which case a subsequent audit is required. Based upon the audit, previous compensation, billing and/or settlements will be adjusted for the past six (6) months. Also, if the PLU is adjusted based upon the audit results, the adjusted PLU will apply for the six (6) month period following the completion of the audit. If, as a result of the audit, either Party has overstated the PLU or underreported the call detail usage by twenty percent (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit and will pay for the cost of a subsequent audit which is to happen within nine (9) months of the initial audit.

14.3 In states in which AT&T-13STATE has offered to exchange Section 251(b)(5) Traffic and ISP-Bound traffic pursuant to the FCC's interim ISP terminating compensation plan set forth in the FCC ISP Compensation Order, ISP-Bound Traffic will be calculated using the 3:1 Presumption as set forth in Section 5.4 of this Appendix.

14.4 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.

14.5 All ISP-Bound Traffic for a given usage month shall be due and owing at the same time as payments for Section 251(b)(5) under this Appendix. The Parties agree that all terms and conditions regarding disputed minutes of use, nonpayment, partial payment, late payment, interest on outstanding balances, or other billing and payment terms shall apply to ISP-Bound Traffic the same as for Section 251(b)(5) Traffic under this Appendix.

14.6 For billing disputes arising from Intercarrier Compensation charges, the party challenging the disputed amounts (the "Non-Paying Party") may withhold payment for the amounts in dispute (the "Disputed Amounts") from the party rendering the bill (the "Billing Party") only for so long as the dispute remains pending pursuant to the dispute resolution procedures of the General Terms and Conditions. Late payment charges and interest will continue to accrue on the Disputed Amounts while the dispute remains pending. The Non-Paying Party need not pay late payment charges or interest on the Disputed Amounts for so long as the dispute remains pending pursuant to the dispute resolution procedures of the General Terms and Conditions. Upon resolution of the dispute pertaining to the Disputed Amounts in accordance with the dispute resolution provisions of the General Terms and Conditions: (1) the Non-Paying Party will remit the appropriate Disputed Amounts to the Billing Party, together with all related interest and late payment charges, to the Billing Party within ten (10) business days of the resolution of the dispute, if (and to the extent) the dispute is resolved in favor of the Billing Party; and/or (2) the Billing Party will render all appropriate credits and adjustments to the Non-Paying Party for the Disputed Amounts, together with all appropriate interest and late payment charges, within ten (10) business days of the resolution of the dispute, if (and to the extent) the dispute is resolved in favor of the Non-Paying Party.

14.7 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.

## 15. RESERVATION OF RIGHTS AND SPECIFIC INTERVENING LAW TERMS

15.1 In the event the pricing scheme in the FCC's Interim ISP Compensation Order (defined in Section 5 of this Attachment) is modified, eliminated or replaced, then the Parties agree to negotiate an appropriate amendment to conform to such change in accordance with the Intervening Law provisions of this

Agreement and such new or changed provisions will apply on a prospective basis, beginning with the effective date of the new order, unless a determination is made as to retroactive application in the decision rendering such modification, elimination or replacement, in which instance, the new or changed provisions will apply retroactively as set forth in the new order. Either Party may begin billing the other Party according to the terms of the new order, beginning sixty (60) days after delivering a request to negotiate the change. True-up of any retroactive application, for either the amendment negotiation period and/or for the retroactive application period provided in the order, shall occur within one hundred and twenty (120) days of the effective date of the order, or be subject to dispute under Section 9 of the General Terms and Conditions of this Agreement.

## 16. SWITCHED ACCESS TRAFFIC

16.1 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 AT&T-13STATE'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. 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 it 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).

16.2 In the limited circumstances in which a third party competitive local exchange carrier delivers Switched Access Traffic as described in Section 15.1 (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 15.1(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.

## 17. ALTERNATE TANDEM PROVIDER

17.1 An Alternate Tandem Provider shall mean a Telecommunications Carrier, with no End Users, that provides tandem switching services to CLEC with whom it is directly interconnected for the purpose of delivering Third Party Originating Carrier traffic via direct interconnection arrangements with AT&T-13STATE to (i) AT&T-13STATE's End User; (ii) to an End User of a Third Party Terminating Carrier that utilizes local switching from AT&T-12STATE purchased on a wholesale basis to provide service to its End Users; and/or (iii) a Third Party Terminating Carrier's End User.

17.2 "Third Party Originating Carrier" means a Competitive Local Exchange Carrier (CLEC), Incumbent Local Exchange Carrier (ILEC), Commercial Mobile Radio Service (CMRS) provider and/or Out-of Exchange Local Exchange Carrier (OE-LEC) that sends traffic originated by its End Users to an Alternate Tandem Provider.

17.3 Third Party Terminating Carrier shall mean Competitive Local Exchange Carrier (CLEC), Incumbent Local Exchange Carrier (ILEC), Commercial Mobile Radio Service (CMRS) provider, Out-of Exchange Local Exchange Carrier (OE-LEC), AT&T-13STATE as the Incumbent Local Exchange Carrier (ILEC) or a Carrier that utilizes local switching from AT&T-12STATE purchased on a wholesale basis to provide service to its End Users, to which traffic is terminated when CLEC uses an Alternate Tandem Provider.

17.4 When Alternate Tandem Provider sends Traffic originated by the End Users of CLEC functioning as the Third Party Originating Carrier to an End User of AT&T-13STATE who is functioning as the Third Party Terminating Carrier, CLEC is responsible for all Minutes of Use ("MOUs") billed by AT&T-13STATE for the termination of such traffic.