

connection with this Agreement, including but not limited to indemnity obligations under Article 21 of this Agreement or the interconnection agreement, if any.

**24.05 Satisfaction of Existing Obligations and Assumption of Contingent Liabilities.** SWBT may condition its approval of any requested assignment or transfer on the assignee's or successor's payment or satisfaction of all outstanding obligations of Applicant under this Agreement and the assignee's or successor's assumption of any liabilities, or contingent liabilities, of Applicant arising out of or in connection with this Agreement.

**24.06 Satisfaction of All Other Licensing Requirements.** Applicant's assignee or successor must, within 60 days following the assignment, provide proof satisfactory to SWBT that such assignee or successor has complied or will comply with all licensing requirements established under this Agreement, including but not limited to requirements that such assignee or successor verify, to the best of its information and belief, as provided in Section 17.03, that all facilities owned or used by such assignee or successor and presently attached to SWBT's poles or placed within any portion of SWBT's conduit system within this State have been disclosed to SWBT and are subject to existing licenses and that such assignee or successor has complied with the insurance requirements set forth in Article 23 of this Agreement.

**24.07 Additional Post-Assignment Requirements.** Applicant's assignee or successor shall, within 60 days following the assignment:

- (a) sign this Agreement as an assignee or successor expressly agreeing to be bound by all provisions of this Agreement and licenses subject to this Agreement;
- (b) provide proof, satisfactory to SWBT, of such assignee's assumption of the obligations of this Agreement; and
- (c) pay a one-time contract administration fee, as provided in APPENDIX I of this Agreement, if no Master Agreement for Access to SWBT's Poles, Ducts, Conduits, or Rights-of-Way between SWBT and such assignee is in effect for this State, or an administrative record-keeping fee as provided in APPENDIX I of this Agreement, if there is a Master Agreement in effect for this State.

**24.08 Sublicenses Prohibited.** Nothing contained in this Agreement shall be construed as granting Applicant the right to sublicense any rights under this Agreement or licenses subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Applicant shall not allow third party to attach or place facilities to or in pole or conduit space occupied by or assigned to Applicant or to utilize such space.

**ARTICLE 25: TERMINATION OF AGREEMENT OR LICENSES;  
REMEDIES FOR BREACHES**

**25.01 Termination Due to Non-Use of Facilities or Loss of Required Authority.**

Applicant shall, by written notice to SWBT, terminate this Agreement and all licenses subject to this Agreement if Applicant ceases to have authority to do business or ceases to do business in this State, ceases to have authority to provide or ceases to provide cable television services in this State (if Applicant is cable television system having access to SWBT's poles, ducts, conduits or rights-of-way solely to provide cable television service), ceases to have authority to provide or ceases to provide telecommunications services in this State (if Applicant is a telecommunications carrier which does not also have authority to provide cable television service in this State), or ceases to make active use of SWBT's poles, ducts, conduits, and rights-of-way in this State. Applicant shall, by written notice to SWBT, terminate individual licenses subject to this Agreement if (a) Applicant ceases to utilize the pole attachment or conduit occupancy space subject to such licenses or (b) Applicant's permission to use or have access to particular poles, ducts, conduits, or rights-of-way has been revoked, denied, or terminated for reasons of safety or any other lawful reason by any federal, state, or local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access. Responsibility for terminating this Agreement or individual licenses under the circumstances set forth in this section shall be a contractual obligation imposed on Applicant, and the failure by Applicant to terminate this Agreement or individual licenses pursuant to this section shall be a material breach of this Agreement.

**25.02 Limitation, Termination, or Refusal of Access for Certain Material Breaches.** Applicant's access to SWBT's poles, ducts, conduits, and rights-of-way shall not materially interfere with or impair service over any facilities of SWBT or any joint user, cause material damage to SWBT's plant or the plant of any joint user, impair the privacy of communications carried over the facilities of SWBT or any joint user, or create serious hazards to the health or safety of any persons working on, within, or in the vicinity of SWBT's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, SWBT may limit, terminate or refuse access if Applicant violates this provision; provided, however, that such limitation, termination or refusal will be limited to Applicant's access to poles, ducts, conduits, and rights-of-way located in the SWBT construction district in which the violation occurs, shall be as narrowly limited in time and geographic scope as may be necessary to enable Applicant to adopt suitable controls to prevent further violations, and shall be subject to review, at Applicant's request, pursuant to the dispute resolution procedures set forth in this Agreement (or, if applicable, the parties' interconnection agreement) or, as permitted by law, before any court, agency, or other tribunal having jurisdiction over the subject matter. In the event Applicant invokes dispute resolution procedures or seeks review before a court, agency,

or other tribunal having jurisdiction of the subject matter, the limitation, termination, or refusal of access may be stayed or suspended by agreement of the parties or by order of the tribunal having jurisdiction over the parties' dispute.

**25.03 Notice and Opportunity to Cure Breach.** In the event of any claimed breach of this Agreement by either party, the aggrieved party may give written notice of such claimed breach as provided in this section.

(a) The notice shall set forth in reasonable detail:

- (1) the conduct or circumstances complained of, together with the complaining party's legal basis for asserting that a breach has occurred;
- (2) the action believed necessary to cure the alleged breach; and
- (3) any other matter the complaining party desires to include in the notice.

(b) Except as provided in Section 25.02 and subsection (c) of this section, the complaining party shall not be entitled to pursue any remedies available under this Agreement or relevant law unless such notice is given and (1) the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or (2) the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure; provided, however, that nothing contained in this section shall preclude either party from invoking the dispute resolution procedures set forth in Article 30 of this Agreement, or any complaint or dispute resolution procedures offered by the FCC or State Commission, at any time.

(c) Nothing contained in this section shall preclude either party from filing a complaint or bringing suit in any court, agency, or other tribunal of competent jurisdiction to restrain or enjoin any conduct of the other party which threatens the complaining party with irreparable injury, loss or damage without first giving the notice otherwise required by subsection (b).

**25.04 Remedies for Breach.** Subject to the provisions of this article and the dispute resolution procedures of Article 30, either party may terminate this Agreement in the event of a material breach by the other party or exercise any other legal or equitable right which such party may have to enforce the provisions of this Agreement. Except as otherwise specifically provided in Section 30.07, in any action based on an alleged breach

of this Agreement, the prevailing party shall be entitled to recover all costs and expenses incurred by such party, including but not limited to reasonable attorneys' fees.

#### **ARTICLE 26: FAILURE TO ENFORCE**

26.01 No Waiver. The failure by either party to take action to enforce compliance with any of the terms or conditions of this Agreement, to give notice of any breach, or to terminate this Agreement or any license or authorization subject to this Agreement shall not constitute a waiver or relinquishment of any term or condition of this Agreement, a waiver or relinquishment of the right to give notice of breach, or waiver or relinquishment of any right to terminate this Agreement. Notwithstanding any such failure, all terms and conditions of this Agreement and all rights of either party hereunder shall be and remain at all times in full force and effect.

#### **ARTICLE 27: EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION**

27.01 Effective Date. This Agreement shall be effective as of the \_\_\_ day of \_\_\_\_\_, 1999, or, if this Agreement has been entered into as an appendix, attachment, or exhibit to an interconnection agreement between the parties, the date of approval by the State Commission of the interconnection agreement, whichever date first occurs.

27.02 Initial Term. Unless sooner terminated as herein provided, the initial term of this Agreement shall run from the effective date until the end of the calendar year which includes the effective date.

27.03 Automatic Renewal. Unless sooner terminated as herein provided, this Agreement shall be automatically renewed for successive one-year terms beginning on the first day of each calendar year after the effective date.

27.04 Elective Termination. Either party may terminate this Agreement by giving the other party at least six months prior written notice as provided in this section.

(a) Applicant may terminate this Agreement with or without cause.

(b) The parties acknowledge that the Pole Attachment Act, 47 U.S.C. §224(e), as added by the Telecommunications Act of 1996, expressly directs the FCC to promulgate new regulations governing charges to telecommunications carriers for access to poles, ducts, conduits, and rights-of-way and that such new regulations are to take effect five years after the date of enactment of the Telecommunications Act of 1996 (that is, February 8, 2001). The parties further acknowledge that due to nondiscrimination requirements, it is desirable that formal attachment agreements establishing rates, terms, and conditions of access be revised

simultaneously, to the extent possible. Accordingly, the parties agree that SWBT may terminate this Agreement only for cause during the period beginning with the effective date of this Agreement through February 8, 2001. Thereafter, SWBT may terminate this Agreement with or without cause, subject to the provisions of subsection (d) and Section 27.05 below.

- (c) The notice of termination shall state the effective date of termination, which date shall be no earlier than the last to occur of the following dates: the last day of the current term of this Agreement or six months after the date the notice is given.
- (d) The elective termination of this Agreement by SWBT under this section shall not require immediate removal of Applicant's facilities from poles, ducts, conduits, and rights-of-way owned or controlled by SWBT and shall be subject to the provisions of Section 27.05 below; provided, however, that Applicant shall, within 60 days after the effective date of the termination, either initiate negotiations for continued access to SWBT's poles, ducts, conduits, and rights-of-way or remove its facilities in accordance with the provisions of Article 18 of this Agreement.

27.05 Effect of Elective Termination. Elective termination of this Agreement by Applicant, as permitted under Section 27.04 of this Agreement, shall not affect Applicant's liabilities and obligations incurred under this Agreement prior to the effective date of termination and shall not entitle Applicant to the refund of any advance payment made to SWBT under this Agreement. Elective termination of this Agreement by SWBT shall not affect SWBT's obligations to afford access to SWBT's poles, ducts, conduits, and rights-of-way owned or controlled by SWBT as required by the Pole Attachment Act, the Telecommunications Act of 1996, and other applicable laws, regulations, and commission orders.

## **ARTICLE 28: CONFIDENTIALITY OF INFORMATION**

28.01 Information Provided by Applicant to SWBT. Except as otherwise specifically provided in this Agreement, all company-specific and customer-specific information submitted by Applicant to SWBT in connection with this Agreement (including but not limited to information submitted in connection with Applicant's applications for the assignment of pole attachment and occupancy space and for pole attachment and conduit occupancy licenses) shall be deemed to be "confidential" or "proprietary" information of Applicant and shall be subject to the terms set forth in this article. Confidential or proprietary information specifically includes information or knowledge related to Applicant's review of records regarding a particular market area, or relating to assignment of space to Applicant in a particular market area, and further includes knowledge or information about the timing of Applicant's request for or review

of records or its inquiry about SWBT facilities. This article does not limit the use by SWBT of aggregate information relating to the occupancy and use of SWBT's poles, ducts, conduits, and rights-of-way by firms other than SWBT (that is, information submitted by Applicant and aggregated by SWBT in a manner that does not directly or indirectly identify Applicant).

28.02 Access Limited to Persons with a Need to Know. Confidential or proprietary information provided by Applicant to SWBT in connection with this Agreement shall not be disclosed to, shared with, or accessed by any person or persons (including but not limited to personnel involved in sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities) other than those who have a need to know such information for the limited purposes set forth in Sections 28.03-28.06.

28.03 Permitted Uses of Applicant's Confidential Information. Notwithstanding the provisions of Sections 28.01 and 28.02 above, SWBT and persons acting on SWBT's behalf may utilize Applicant's confidential or proprietary information for the following purposes: (a) posting information, as necessary, to SWBT's outside plant records; (b) placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing SWBT's poles, ducts, conduits, and rights-of-way and any SWBT facilities located on, within, or in the vicinity of such poles, ducts, conduits, and rights-of-way; (c) performing SWBT's obligations under this Agreement and similar agreements with third parties; (d) performing SWBT's general obligations to afford nondiscriminatory access to telecommunications carriers and cable television systems under the Pole Attachment Act; (e) determining which of SWBT's poles, ducts, conduits, and rights-of-way are (or may in the future be) available for SWBT's own use, and making planning, engineering, construction, and budgeting decisions relating to SWBT's poles, ducts, conduits, and rights-of-way; (f) preparing cost studies; (g) responding to regulatory requests for information; (h) maintaining SWBT's financial accounting records; and (i) complying with other legal requirements relating to poles, ducts, conduits, and rights-of-way.

28.04 Access by Third Parties. Information reflecting the assignment of pole attachment and conduit occupancy space to Applicant may be made available to personnel of third parties seeking access to SWBT's records under provisions, and subject to protections, equivalent to those contained and required by Section 7.03 of this Agreement.

28.05 Defense of Claims. In the event of a dispute between SWBT and any person or entity, including Applicant, concerning SWBT's performance of this Agreement, satisfaction of obligations under similar agreements with third parties, compliance with the Pole Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, SWBT may utilize confidential or proprietary information submitted by

Applicant in connection with this Agreement as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court orders, or reasonable discovery requests; provided, however, that SWBT shall not disclose Applicant's proprietary or confidential information without first, at SWBT's option: (a) obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Applicant's information; (b) seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or (c) providing Applicant notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

28.06 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding SWBT from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that SWBT shall not disclose Applicant's proprietary or confidential information without first, at SWBT's option: (a) obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Applicant's information; (b) seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or (c) providing Applicant notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

28.07 Other Uses of Confidential Information. No other uses of confidential information received from Applicant pursuant to this Agreement are authorized or permitted without Applicant's express written consent.

## ARTICLE 29: NOTICES

29.01 Notices to Applicant. Except as otherwise provided in APPENDIX VI ("Notices to Applicant"), all written notices required to be given to Applicant shall be delivered or mailed to Applicant's duly authorized agent or attorney, as designated in this section.

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

- (c) Applicant may authorize delivery of the notice by telephonic document transfer to the Applicant's duly authorized agent or attorney. Notice by telephonic document transfer after 5:00 p.m. local time of the recipient shall be deemed given on the following day.
- (d) Notices to Applicant shall be sent to the authorized agent or attorney designated below:

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

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

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

29.02 Notices to SWBT. Except as otherwise provided in APPENDIX VII ("Notices to SWBT"), all written notices required to be given to SWBT shall be delivered or mailed to SWBT's duly authorized agent or attorney, as designated in this section.

- (a) Such notice may be delivered to SWBT's duly authorized agent or attorney in person or by agent or courier receipted delivery.
- (b) Such notice may be mailed to SWBT's duly authorized agent or attorney by registered or certified mail, return receipt requested. When notice is given by mail, such notice shall be complete upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and control of the United States Postal Service and shall be deemed to have been given three days after the date of deposit.
- (c) SWBT may authorize delivery of the notice by telephonic document transfer to SWBT's duly authorized agent or attorney. Notice by telephonic document transfer after 5:00 p.m. local time of the recipient shall be deemed given on the following day.
- (d) On the effective date of this Agreement, and until further notice to Applicant, SWBT's duly authorized agent shall be the Utility Liaison Supervisor ("ULS") designated in APPENDIX VIII.

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

### ARTICLE 30: DISPUTE RESOLUTION

30.01 Purpose. The provisions of this article are intended to minimize litigation between the parties with respect to disputes arising in connection with this Agreement and shall be construed accordingly. Any dispute between the parties arising under this Agreement may be submitted by either party for resolution under this article.

30.02 Exclusive Remedy for Monetary Claims under \$25,000. Except for actions seeking injunctive relief related to the purposes of this Agreement or suits to compel compliance with the dispute resolution processes set forth in this article, the parties agree to use the dispute resolution processes set forth in this Agreement as their sole remedy with respect to any monetary claim of \$25,000 or less which arises out of or in connection with this Agreement.

30.03 Prerequisite to Litigation. The provisions of this article shall also apply to all disputes, without regard to the amount in controversy, in which Applicant contests charges billed by SWBT to Applicant under the terms of this Agreement. No suit, except for actions seeking injunctive relief related to the purposes of this Agreement or suits to compel compliance with the dispute resolution processes set forth in this article, shall be filed by either party against the other with respect to such contested charges until the parties have engaged in good faith negotiations as provided in Section 30.04, and, if the parties agree, in mediation under Section 30.05.

30.04 Good Faith Negotiation. Good faith negotiation as provided in this section shall be the first step in the dispute resolution process.

- (a) With respect to any dispute subject to the provisions of this article, either party may initiate negotiation proceedings by writing a certified or registered letter to the other party setting forth the particulars of the dispute, the terms of the Agreement that are involved, and a suggested resolution of the problem.
- (b) The recipient of the letter shall respond within 21 days to the proposed solution. The recipient shall either agree to the proposed solution or explain its disagreement.
- (c) If the correspondence does not resolve the dispute, each party, at the request of either party, will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve the dispute.

The location, form, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations.

- (d) Discussions and correspondence among the representatives as provided by this section are for purposes of settlement, are exempt from discovery and production, and shall not be admissible in arbitration, judicial, regulatory, or other proceedings in any forum.

30.05 Mediation. If the parties agree to mediation, the mediation may be conducted as provided in this section or in such other manner as may be mutually agreeable to the parties.

- (a) If agreed to by the parties, the dispute shall be referred to the nearest office of the American Arbitration Association, or such other mediator as may be selected by agreement of the parties, for mediation, that is, an informal, non-binding conference or conferences between the parties in which a mediator will seek to guide the parties to a resolution of the dispute.
- (b) If the dispute is referred to the American Arbitration Association, the parties are free to select any mutually acceptable panel member from the list of mediators at the American Arbitration Association. If the parties cannot agree or have no particular choice of a mediator and simply request that the American Arbitration Association assign a mediator to the dispute, then a list and resumes of available mediators, numbering one more than there are parties, will be sent to the parties, each of whom may strike one name leaving the remaining name as the mediator. If more than one name remains, the designated mediator shall be selected by the Administrator of the American Arbitration Association from the remaining names.
- (c) Mediation sessions shall be private.
- (d) All records, reports or other documents considered by the mediator shall be confidential.
- (e) The parties agree that the mediator shall not be compelled to divulge confidential materials or to testify about the mediation in arbitration, regulatory, judicial, or other proceedings in any forum.

- (f) The parties agree to maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitration, judicial, or other proceeding:
- (1) views expressed or suggestions made by the other party with respect to a possible settlement of the dispute;
  - (2) admissions made by the other party during the mediation proceedings;
  - (3) proposals made or views expressed by the mediator; or
  - (4) the fact that the other party had or had not indicated willingness to accept a proposal for settlement made by the mediator.
- (g) Subsections (e) and (f) of this section shall apply to anything said, done or occurring in the course of the mediation, including any private caucus or discussions between the mediator and any party or counsel before or after the joint mediation session. There shall be no stenographic record of the mediation process, except to memorialize a settlement record.
- (h) The mediation process shall be considered settlement negotiation for the purpose of all state and federal rules protecting disclosures made during such conferences from later discovery or use in evidence. All conduct, statements, promises, offers, views, and opinions, oral or written, made during the mediation by any party or a party's agent, employee, or attorney are confidential and, where appropriate, are to be considered work product and privileged. Such conduct, statements, promises, offers, views, and opinions shall not be subject to discovery or admissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties; provided, however, that evidence otherwise subject to discovery or admissible is not excluded from discovery or admission in evidence simply as a result of its having been used in connection with this settlement process.

30.06 Arbitration. If negotiations and mediations do not resolve the dispute within 90 days after the initiation of dispute resolution proceedings as provided in subsection (a) of Section 30.04 of this Agreement, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association if the dispute involves any monetary claim of \$25,000 or less which arises out of or in connection with this Agreement. The parties may voluntarily elect to arbitrate disputes in which the amount in controversy exceeds \$25,000, but they shall not be required by this Agreement to do so.

- (a) Either party may demand such arbitration in accordance with the procedures set out in the Commercial Arbitration Rules.
- (b) Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this subsection.
  - (1) Each party may submit in writing to any other party, and such other party shall so respond, to a maximum of any combination of 35 of the following: interrogatories, document production requests, and requests for admissions. The interrogatories, document production requests, and requests for admissions shall not have subparts.
  - (2) Additional discovery may be permitted upon mutual agreement of the parties or upon order of the arbitrator on a showing of good cause.
- (c) The arbitrator shall control the scheduling so as to process the matter expeditiously. The times set forth in this subsection shall apply unless extended upon mutual agreement of the parties or by the arbitrator on a showing of good cause.
  - (1) The arbitration hearing shall commence within 60 days of the demand for arbitration and shall be held, in the absence of agreement by the parties to a different venue, St. Louis, Missouri.
  - (2) The parties shall submit written briefs five days before the hearing.
  - (3) The arbitrator shall rule on the dispute by issuing a written opinion within 30 days after the close of hearings.
  - (4) The arbitrator shall have no authority to order punitive or consequential damages.
  - (5) Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

30.07 Costs. Except as specifically provided in this section, each party shall bear its own costs of all dispute resolution procedures under this article.

- (a) A party seeking discovery shall reimburse the responding party for the costs incurred by the responding party in producing documents.
- (b) The parties shall equally split the fees of the arbitration and the arbitrator.

30.08 No Abridgment of Rights under the Communications Act of 1934 or the Pole Attachment Act. Nothing contained in this article shall abridge the rights of either party to seek relief from the FCC with respect to any dispute subject to the jurisdiction of the FCC under the Communications Act of 1934 or the Pole Attachment Act, or from the State Commission with respect to any dispute subject to its jurisdiction, except that the parties may not seek relief from the FCC or the State Commission with respect to any dispute that has already been resolved by mediation under Section 30.05 or by binding arbitration under Section 30.06.

### **ARTICLE 31: ACCESS TO APPLICANT'S POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY**

31.01 No Reciprocal Access to Applicant's Facilities. This Agreement does not include provisions for reciprocal access by SWBT to Applicant's poles, ducts, conduits, and rights-of-way.

### **ARTICLE 32: GENERAL PROVISIONS**

32.01 Entire Agreement. This Agreement, together with the interconnection agreement, if any, to which this Agreement is an appendix, attachment, or exhibit, sets forth the entire understanding and agreement of the parties.

32.02 Prior Agreements Superseded. This Agreement supersedes all prior agreements and understandings, whether written or oral, between Applicant and SWBT relating to the placement and maintenance of Applicant's facilities on and within SWBT's poles, ducts, and conduits within this State.

32.03 Amendments Shall Be in Writing. Except as otherwise specifically provided to the contrary by other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.

32.04 Survival of Obligations. Any liabilities or obligations of either party for acts or omissions prior to the termination of this Agreement, any obligations of either party under provisions of this Agreement relating to confidential and proprietary information, indemnification, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, will survive the termination of this Agreement.

32.05 Multiple Counterparts. This Agreement may be executed in multiple counterparts.

32.06 Effect on Licenses Issued Under Prior Agreements. All currently effective pole attachment and conduit occupancy licenses granted to Applicant shall, on the effective date of this Agreement, be subject to the rates, terms, conditions, and procedures set forth in this Agreement.

32.07 Force Majeure. Except as otherwise specifically provided in this Agreement, neither party will be liable for any delay or failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, disputes, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the party claiming excusable delay or other failure to perform; provided, however, that Force Majeure will not include acts of any governmental authority relating to environmental, health, or safety conditions at work locations. If any Force Majeure condition occurs, the party whose performance fails or is delayed because of such Force Majeure condition will give prompt notice to the other party, and, upon cessation of such Force Majeure condition, will give like notice and commence performance hereunder as promptly as reasonably practicable.

32.08 Severability. If any article, section, subsection, or other provision or portion of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement as to either party, the invalidity of such provision shall not render this entire Agreement unenforceable and this Agreement shall be administered as if it did not contain the invalid provision.

32.09 Choice of Law. Except to the extent that federal law controls any aspect of this Agreement, the validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of this State, applied without regard to the provisions of this State's laws relating to conflicts-of-laws.

32.10 Changes in the Law. Because the primary purpose of this Agreement is to provide access to poles, ducts, conduits, and rights-of-way in accordance with the Pole Attachment Act, as amended by the Telecommunications Act of 1996 and subsequent amendments, the parties contemplate that changes in this Agreement may from time to time be necessary or desirable to conform to changes in the Pole Attachment Act as that Act is amended, interpreted, and applied. This Agreement is based in large part on regulatory decisions by the FCC, which has jurisdiction over the rates, terms, and conditions of access to poles, ducts, conduits, and rights-of-way (except to the extent that such jurisdiction has been pre-empted by individual states) and decisions by the State Commission. More specifically, this Agreement is based in large part on the FCC's First Interconnection Order in CC Docket No. 96-98, on FCC rules announced with the First Interconnection Order, and on Arbitration Orders by the State Commission.

- [ ] Applicant desires to have access to SWBT's poles, ducts, conduits, and rights-of-way on terms that are not less favorable than those obtained by firms participating in interconnection arbitration proceedings before the State Commission. Applicant also desires to have access to SWBT's poles, ducts, conduits, and rights-of-way to the full extent permitted under the FCC's First Interconnection Order in CC Docket No. 96-98. SWBT is entering into this Agreement for the purpose of providing nondiscriminatory access in compliance with the Pole Attachment Act and regulatory decisions thereunder, including decisions by the State Commission in interconnection arbitration proceedings in which Applicant is not a party. Each party is entering into this Agreement based on current interpretations of the law by the FCC and State Commission. In the event of any changes in the Pole Attachment Act, changes in applicable FCC or State Commission rulings, or judicial determinations that such rulings are erroneous or invalid, each party shall, at the request of the other, engage in good faith negotiations to supplement, amend or replace any provisions of this Agreement affected by such changes or determinations and to conform this Agreement to changes in the underlying laws on which the Agreement is based.
- [ ] This Agreement has been entered into as a result of private negotiation between the parties and arbitration by the State Commission, acting pursuant to the Telecommunications Act of 1996. If the actions of any legislative bodies, courts, or regulatory agencies of competent jurisdiction invalidate, modify, or stay the enforcement of laws, rules, regulations, or commission orders that were the basis for a provision of this Agreement (including but not limited to any provision of this Agreement required by any arbitration award approved by the State Commission), the affected provision shall be invalidated, modified, or stayed as required by action of the legislative body, court, or regulatory agency. In the event of such a change in the law, each party shall expend diligent efforts to arrive at an agreement respecting the modifications to the Agreement required by the law or requested in good faith by the other party. If negotiations fail, disputes between the parties concerning interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in the interconnection agreement or this Agreement; provided, however, that this section shall not be construed as precluding either party from seeking appropriate relief from the FCC in connection with the parties' rights and obligations under the Pole Attachment Act. In the event of any material change in the law, each party agrees to enter into

good faith negotiations to conform this Agreement to the changes in the law.

**ARTICLE 33: APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS**

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

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION  
WHICH MAY BE ENFORCED BY THE PARTIES.**

SOUTHWESTERN BELL TELEPHONE COMPANY

By: \_\_\_\_\_  
Signature of SWBT's Authorized Officer/Employee

\_\_\_\_\_  
Name of SWBT's Authorized Officer/Employee (Printed or Typed)

\_\_\_\_\_  
Position/Title of SWBT's Authorized Officer/Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
City and State of Execution by SWBT

Prism California Operations LLC, Prism Kansas Operations LLC, Prism Missouri  
Operations LLC, Prism Texas Operations LLC

Applicant's Name (Printed or Typed)

By: \_\_\_\_\_  
Signature of Applicant's Authorized Officer/Employee

\_\_\_\_\_  
Name of Authorized Officer/Employee (Printed or Typed)

\_\_\_\_\_  
Position/Title of Authorized Officer/Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
City and State of Execution by Applicant

**APPENDIX I  
 SCHEDULE OF FEES AND CHARGES (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached and sets forth the rates, fees and charges to be paid by Applicant to SWBT pursuant to the Master Agreement and licenses subject to the Master Agreement. The rates, fees, and charges set forth in this Appendix shall be subject to all applicable laws, rules, regulations, and commission orders as provided in Section 19.01 of the Master Agreement and shall be subject to revision as provided in Section 19.12 of the Master Agreement.

A) Pole Attachment Fees

1) General

- a) For billing purposes, pole attachments shall be considered i) to have commenced on the first to occur of the following dates: the date of assignment (or provisional assignment) of pole attachment space, the date a license for such pole attachment is issued, or the date of actual attachment and ii) to have ended on the last to occur of the following dates: the date Applicant's assignment lapses or is relinquished, the date notice is given (under Section 18.06 of the Master Agreement) that Applicant has removed the attached facilities from SWBT's pole, or the date of termination of Applicant's license.
- b) Fees shall be payable semiannually in advance on the first days of January and July and shall be prorated on a daily basis as provided in Section 19.04. Fees for pole attachments shall be based on the number of pole attachments as of the date of billing. If Applicant occupies more than one usable space on a pole, separate attachment fees shall apply to each space occupied. For billing purposes, a single pole attachment includes the point of attachment and all facilities located in the usable space on the pole in the space assigned to Applicant (typically six inches above and six inches below the point of attachment), together with routine ancillary apparatus such as anchors, anchor/guy strands, drive rings, J-hooks, dead-end clamps, and other apparatus which does not interfere with the ability of SWBT to occupy or assign usable space on the pole other than the usable space licensed to Applicant. Fees for pole space assignments and unauthorized pole attachments shall be billed in the same manner as if a license had been issued.

2) Fees (1999 Rates)

<u>Semiannual Pole Attachment Fees</u>	<u>Annual</u>	<u>Semiannual</u>
Per pole attachment (cable service only)	<u>\$ 2.35</u>	<u>\$ 1.175</u>
Per pole attachment (telecommunications carriers)	<u>\$ 2.35</u>	<u>\$ 1.175</u>
Per pole attachment (other)	<u>\$ N/A</u>	<u>\$ N/A</u>

B) Conduit Occupancy Fees

1) General

- a) For billing purposes, conduit occupancy shall be considered to have i) begun on the first to occur of the following dates: the date of assignment (or provisional assignment) of conduit occupancy space, the date a license for such conduit occupancy is issued, or the date of actual occupancy; and ii) ended on the last to occur of the following dates: the date Applicant's assignment lapses or is relinquished, the date notice is given (under Section 18.06 of the Master Agreement) that Applicant has removed the attached facilities from SWBT's conduit, or the date of termination of Applicant's license. Occupancy ends only when facilities have been removed from SWBT's conduit system and required post-removal procedures (e.g., plugging ducts) have been completed. Fees for conduit space assignments and unauthorized conduit occupancy shall be billed in the same manner as if a license had been issued.
- b) Fees shall be payable semiannually in advance on the first days of January and July.

(2) Fees (1999 Rates)

<u>Semiannual Per Foot Conduit Occupancy Fees</u>	<u>Annual</u>	<u>Semiannual</u>
Full duct/duct foot (cable service only)	\$ 0.41/ft	\$ 0.205/ft
Full duct/duct foot (telecommunications carriers)	\$ 0.41/ft	\$ 0.205/ft
Full duct/duct foot (other)	\$ N/A	\$ N/A
Half duct/duct foot (cable service only)*	\$ 0.205/ft	\$ 0.1025/ft
Half duct/duct foot (telecommunications carriers)*	\$ 0.205/ft	\$ 0.1025/ft
Half duct/duct foot (other)*	\$ N/A	\$ N/A

\*Each inner duct is billed at the half duct rate.

- a) Facility footage shall be measured i) from the center of one manhole to the center of an adjacent manhole if the facility runs between two manholes, ii) from the center of a manhole to the end of a duct not terminated in a manhole, or iii) from the center of a manhole to the property line if the duct is connected at the property line to a duct owned and controlled by a third-party property owner.
- b) Semiannual full duct conduit occupancy fees will apply to the first facility placed in a previously unoccupied duct except as provided in c)-d) below.
- c) If two or more facilities occupy a duct that has not been subdivided by inner duct, a semiannual half duct conduit occupancy fee will be charged for each facility placed in the duct.

- d) A semiannual half duct occupancy fee will apply to the first facility placed by Applicant in a previously unoccupied duct that has not been subdivided by inner duct if and only if the presence of Applicant's facility does not render the other half of the duct unusable by others.
  - e) When Applicant's facilities are installed within inner duct, a single semiannual one-half duct conduit occupancy fee will apply to each inner duct occupied.
- C) Application Fees. No application fees shall be charged for the submission of access applications or provisional space assignments. Charges for processing applications are set forth below.
- D) Pre-license Survey Work. Charges for pre-license survey work are not set on a fixed fee basis and will be determined on a case-by-case basis. If pre-license survey work is performed by SWBT's contractors, Applicant shall reimburse SWBT for the actual out-of-pocket costs incurred by SWBT for such work (plus the applicable additive, if any, to compensate SWBT for administrative costs). If pre-license survey work is performed by SWBT employees, pre-license survey charges shall be computed by multiplying the applicable hourly rates times the number of hours reasonably spent by SWBT's employees on pre-license survey work.
- E) Facilities Modification, Capacity Expansion, and Make-ready Work. Charges for facilities modification, capacity expansion, and make-ready work are not set on a fixed fee basis and will be determined on a case-by-case basis. If such work is performed by SWBT's contractors, Applicant shall reimburse SWBT for the actual out-of-pocket costs incurred by SWBT for such work (plus the applicable additive, if any, to compensate SWBT for administrative costs). If such work is performed by SWBT employees, charges for such work shall be computed by multiplying the applicable hourly rates times the number of hours reasonably spent by SWBT's employees on the work. In all cases, except as otherwise specifically provided to the contrary in the Master Agreement, such charges shall include the costs of materials required to perform the work. No later than 45 days after receipt by SWBT of Applicant's completed application, or within such other period as may be mutually agreed upon in writing by the parties, SWBT will furnish Applicant an estimate of the charges for facilities modification, capacity expansion, and make-ready work. Except as otherwise specifically provided in other parts of the Master Agreement, Applicant will pay(1) half of SWBT's charges for the project at 50 percent job completion and the remainder at 100 percent completion and (2) if outside contractors are involved, half of the total compensation to be paid to outside contractors at 50 percent job completion and the remainder at 100 percent completion. SWBT may, at its election, require Applicant to pay SWBT's out-of-pocket costs for materials as those costs are incurred and may require Applicant to pay outside contractor costs on the same schedule SWBT pays such outside contractors; provided, however, that this provision shall be subject to applicable rulings, if any, of the State Commission. Bills and invoices submitted by SWBT to Applicant for make-ready charges shall be due and payable 30 days after the date of the bill or invoice.

- F) Construction Inspectors. Subject to all applicable commission orders, where work is being performed on Applicant's behalf in SWBT's manholes or other portions of SWBT's conduit system, Applicant and SWBT shall equally share the costs attributable to having a construction inspector present when SWBT considers it necessary to have such an inspector present. SWBT shall not charge Applicant for more than one such construction inspector per site at any given time. If the construction inspector is a SWBT contractor, Applicant shall reimburse SWBT for one-half the actual out-of-pocket costs (without additives for administrative costs) incurred by SWBT in connection with the presence of such inspector. If the construction inspector is a SWBT employee, charges for the construction inspector shall be computed by multiplying the applicable hourly rate times the number of hours reasonably spent by the employee as a construction inspector in connection with the project.
- G) Other Work Performed Pursuant to the Master Agreement. For all other work performed by SWBT's contractors pursuant to the Master Agreement, including but not limited to work performed in opening manholes and participating in work operations at Applicant's request, Applicant shall reimburse SWBT for the actual out-of-pocket costs incurred by SWBT in connection with the performance of such work (plus the applicable additive, if any, to compensate SWBT for administrative costs). For all other work performed by SWBT's employees pursuant to the Master Agreement, including but not limited to work performed in opening manholes, providing access to and copies of records, and participating in work operations at Applicant's request, SWBT's charges shall be computed by multiplying the applicable hourly rates times the number of hours reasonably spent by SWBT's employees on such work.
- H) Contract Administration Fee and Administrative Record-keeping Fees. Subject to applicable commission orders, and pending the establishment of permanent cost-based rates, a one-time contract administration fee of \$250.00 shall be due and payable at the time of the execution of the Master Agreement. Subject to applicable commission orders, SWBT may charge administrative record-keeping fees not exceeding \$125.00 in connection with records and billing changes resulting from the sale, consolidation, or other transfer of Applicant's business or facilities, name changes, and the like. SWBT shall provide Applicant, on Applicant's request, a statement of the basis for the fees.
- I) Other Administrative and Ancillary Fees. No other administrative or ancillary fees are charged by SWBT on a fixed fee basis.
- J) Hourly Rates. Except as otherwise provided by any applicable law, rule, regulation, or commission order, hourly rates charged for SWBT employees shall be such employees' fully loaded hourly rates.
- K) Payment Date. For fees and charges other than charges for facilities modification, capacity expansion, and make-ready work, each bill or invoice submitted by SWBT to Applicant shall state the date that payment is due, which date shall be not less than 60 days after the date of the bill or invoice. For facilities modification, capacity expansion, and make-ready work, the payment due date shall be not less than 30 days after the date of the bill or

invoice. Interest on past due charges shall accrue as provided in Section 19.11(a) of the Master Agreement.

Agreement No. \_\_\_\_\_

**APPENDIX II  
IDENTIFICATION OF APPLICANT (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

Applicant's legal name is: CLEC \_\_\_\_\_  
\_\_\_\_\_

Applicant's principal place of business is located in the State of \_\_\_\_\_.

Applicant does business under the following assumed names: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant is:

- a corporation organized under the laws of the State of \_\_\_\_\_,  
charter no. \_\_\_\_\_;
- a partnership organized under the laws of the State of \_\_\_\_\_; or
- another entity, as follows: \_\_\_\_\_  
\_\_\_\_\_.

Applicant represents that Applicant is:

- (1) a cable system (as defined in 47 U.S.C. §§ 153(37) and 522(7)) seeking a pole attachment or conduit occupancy license solely to provide cable service (as defined in 47 U.S.C. § 522(6));
- (2) a telecommunications carrier, as defined in 47 U.S.C. § 153(49), as modified by 47 U.S.C. § 224; or
- (3) a person or entity which is neither (1) nor (2) above, as follows:  
\_\_\_\_\_

Agreement No. \_\_\_\_\_

**APPENDIX III  
ADMINISTRATIVE FORMS AND NOTICES (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached and contains administrative forms referred to in the Master Agreement or used in connection with the provision of access to SWBT's poles, ducts, conduits, and rights-of-way. The forms are forms presently in use and have not been fully conformed to the Master Agreement. The forms may be further revised by SWBT to conform to the Master Agreement and revised from time to time to reflect changes in the applicable law, changes in the Master Agreement, and changes in the procedures through which access to poles, ducts, conduits, and rights-of-way is afforded by SWBT to Applicant and others.

- SW-9433: Pole Attachments
- SW-9434: Access Application and Make-Ready Authorization
- SW-9435: Conduit Occupancy
- SW-9436A: Notification of Surrender or Modification of Pole Attachment License by Licensee
- SW-9436B: Notification of Surrender or Modification of Conduit Occupancy License by Applicant
- SW-9436C: Notification of Unauthorized Attachments by Applicant

Agreement No. \_\_\_\_\_

**APPENDIX IV  
INSURANCE REQUIREMENTS (MISSOURI)**

This Appendix IV is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

1) Premises. As used in this Appendix, the term "premises" refers to any site located on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way and any location where Applicant or any person acting on Applicant's behalf may be physically present while traveling to or departing from any such site.

2) Requirements Applicable to Applicant and All Persons and Entities Acting on Applicant's Behalf. Applicant shall maintain, at all times during the term of the Master Agreement, all insurance and coverages set forth below. Such insurance and coverages shall not only cover Applicant but all contractors, subcontractors, and other persons or entities acting on Applicant's behalf at the premises described in 1) above. Applicant should require that all contractors, subcontractors, and other persons or entities acting on Applicant's behalf at premises described in 1) above obtain the same insurance and coverages.

3) Workers' Compensation Insurance. Applicant shall maintain, at all times during the term of the Master Agreement, Workers' Compensation Insurance and Employer's Liability Insurance with minimum limits of \$100,000 for bodily injury-each accident, \$100,000 for bodily injury by disease-each employee, and \$500,000 for bodily injury by disease-policy limits, for all employees performing work or otherwise present on the premises described in 1) above. Such insurance must comply with the Workers' Compensation laws of this State and shall provide coverage, at a minimum, for all benefits required by such Worker's Compensation laws. Applicant shall require any contractor, subcontractor, or other person or entity acting on Applicant's behalf to provide Workers' Compensation Insurance and Employer's Liability Insurance for their respective employees unless such employees are covered by the protection afforded by Applicant.

4) General Liability Insurance. To protect SWBT and any joint user from any liability for bodily injury or property damage, Applicant shall maintain, at all times during the term of the Master Agreement, General Liability insurance satisfactory to SWBT. SWBT shall be added as an additional insured in the standard policy or an endorsement thereto. Applicant shall also require any contractor, subcontractor, or other person or entity acting on Applicant's behalf to provide General Liability coverage with the same limits and with SWBT added as an additional insured unless such contractor, subcontractor, or other person or entity is covered by the General Liability protection afforded by Applicant.

- a) The following coverages must be included in (and may not be excluded from) the policy or policies obtained to satisfy the General Liability insurance

requirements of Applicant and any contractor, subcontractor, or other person or entity acting on Applicant's behalf. The coverages may be provided by the standard policy or endorsements thereto. Exclusion endorsements deleting these coverages will not be accepted.

- 1) Personal Injury and Advertising Injury coverage.
  - 2) Premises/Operations coverage, including also coverage for any newly acquired ownership or controlled premises or operations.
  - 3) Independent Contractors coverage to provide protection for Applicant's contractors, subcontractors, and other persons or entities acting on Applicant's behalf.
  - 4) Explosion, Collapse, and Underground Hazard (XCU) coverage.
  - 5) Completed Operations coverage providing for bodily injury and property damage liabilities which may occur once the operations have been completed or abandoned.
  - 6) Contractual Liability coverage to provide financial responsibility for the Applicant to meet its indemnification obligations.
  - 7) Broad Form Property Damage (BFPD) coverage for damage to property in the care or custody of Applicant and damage to work performed by or on behalf of the Applicant.
- b) Minimum policy limits shall be as follows:
- General Aggregate Limit: \$1,000,000.
- Sublimit for all bodily injury, property damages, or medical expenses incurred in any one occurrence: \$1,000,000.
- Sublimit for personal injury and advertising: \$1,000,000.
- Products/Operations Aggregate Limit: \$1,000,000.
- Each occurrence sublimit for Products/Operations: \$1,000,000.
- c) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

- d) Policy language or endorsements adding SWBT as an additional insured shall not include exclusions or exceptions which defeat the purpose of protecting SWBT from any liability for bodily injury or property damage arising out of Applicant's operations.

5) Automobile Liability insurance. The parties contemplate that Applicant and personnel acting on Applicant's behalf will utilize automobiles, trucks, and other motor vehicles on public and private property, including public rights of way, in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. Accordingly, Applicant shall maintain, at all times during the term of the Master Agreement, Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage which may arise out of the operation or use of motor vehicles of any type. Coverage shall extend to "any auto" -- that is, coverage shall be extended to all owned, non-owned, and hired vehicles used by Applicant or by any person or entity acting on Applicant's behalf in connection with any work performed, or to be performed, on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

6) Layering of General Liability and Automobile Liability coverages. Applicant's insurance may be written via a primary policy with either an excess or umbrella form over the primary policy. If coverage is written in this manner, the total of the combined policy limits must meet or exceed the minimum limits specified in the Master Agreement.

7) Deductibles. No deductibles shall be allowed without the express written consent of SWBT.

8) Claims Made Policies. Claims Made Policies will not be accepted.

9) Proof of Insurance. Certificates of Insurance stating the types of insurance and policy limits provided the insured, or other proof of insurance satisfactory to SWBT, must be received by SWBT prior to the issuance of any licenses pursuant to the Master Agreement and before Applicant or any person acting on Applicant's behalf performs any work on the premises described in 1) above.

- a) Certificates of Insurance using the insurance industry standard ACORD form are preferred.
- b) Certificates provided with respect to General Liability policies and certificates provided with respect to Automobile Liability policies shall indicate SWBT as an Additional Insured.
- c) Deductibles, if permitted, shall be listed on the Certificate of Insurance.

- d) The cancellation clause on the certificate of insurance shall be amended to read as follows:

“SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED OR MATERIALLY CHANGED BEFORE THE EXPIRATION DATE, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.”

A certificate which does not include the phrase “or materially changed” does not meet SWBT’s requirements. A certificate reciting that the issuing company will “endeavor to” mail 30 days written notice to the certificate holder does not meet SWBT’s requirements. The language “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives” or similar language must be deleted from the certificate.

- e) The certificate holder shall be:

Southwestern Bell Telephone Company  
12930 Olive Street Road, Floor 2  
Creve Couer, Missouri 63141  
ATTENTION: Utility Liaison Supervisor

- f) Failure to object to any coverage described in a certificate shall not constitute written permission from SWBT to any variance from or alteration of any requirement set forth in this Appendix and shall not be construed as a waiver by SWBT of any rights under the Master Agreement.

10) Rating of Insurers. SWBT requires that companies affording insurance coverage have a B+VII or better rating, as rated in the current A.M. Best Key Rating Guide for Property and Casualty Insurance Companies.

11) Self-insurance. If authorized in the Master Agreement, self-insurance shall be allowed in lieu of the above requirements upon Applicant’s submission of proof that it has met the self-insurance requirements stated in the Master Agreement.

Agreement No. \_\_\_\_\_

**APPENDIX V  
NONDISCLOSURE AGREEMENT (MISSOURI)**

Nondisclosure Agreement (SWBT Pole, Duct, Conduit, and Right-of-Way)

This Nondisclosure Agreement, effective as of the \_\_\_\_ day of \_\_\_\_\_, 1999, has been entered into by and between Southwestern Bell Telephone Company ("SWBT"), a Missouri corporation, and the undersigned person or firm ("Recipient") as a condition of access to certain records and information maintained by SWBT. The parties stipulate and agree as follows:

- 1) SWBT maintains records and information, including but not limited to outside plant engineering and construction records, which relate to poles, ducts, conduits, and rights-of-way which SWBT owns or controls. SWBT represents that such records and information are not made generally available for inspection or copying by the public and include business, economic, and engineering information (including but not limited to plans, designs, maps, diagrams, cable counts and cable-specific information, circuit records, and other competitively sensitive information) which SWBT intends to keep secret and which has economic value by virtue of not being generally known to or readily ascertainable by the public, including SWBT's competitors.
- 2) SWBT has agreed to make certain of its records and information relating to poles, ducts, conduits, and rights-of-way available to cable television systems and telecommunications carriers who are presently entitled under federal law to have access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT.
- 3) Recipient represents that Recipient is a cable television system or telecommunications carrier entitled under federal law to access to poles, ducts, conduits, and rights-of-way owned or controlled by SWBT, or, if an individual, that he or she is acting on behalf of \_\_\_\_\_, which is such a cable television system or telecommunications carrier. Recipient further represents that Recipient is seeking access to SWBT's records and information relating to poles, ducts, conduits, and rights-of-way for the limited purpose of enabling engineering and construction personnel employed by or acting on behalf of such cable television system or telecommunications carrier to make engineering and construction decisions necessary to utilize SWBT's poles, ducts, conduits, and rights-of-way.
- 4) SWBT agrees that permitted uses of records and information concerning SWBT's poles, ducts, conduits, and rights-of-way are (a) determining which poles, ducts, conduits, and rights-of-way owned or controlled by SWBT are available for use by such cable television systems or telecommunications carriers as permitted by federal law, (b) designing, engineering, constructing, installing, maintaining, and removing equipment which is to be

attached to or placed within such poles, ducts, conduits, and rights-of-way, and (c) contesting decisions, if any, by SWBT not to provide access to such poles, ducts, conduits, and rights-of-way as requested. No other uses of such records or information are authorized or permitted under this Agreement.

5) Recipient agrees that Recipient will not use, or permit any other person or entity to use or have access to SWBT's records and information relating to poles, ducts, conduits, or rights-of-way or information for any purpose other than the limited purposes stated in 4) above and that such records and information shall not be disclosed or shared with any person or persons other than those who have a need to know such information for such limited purposes. Recipient specifically agrees that such records and information shall not be used or accessed by any person involved in sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities. Recipient further agrees that Recipient shall not furnish copies of such records or disclose information contained in such records to any person or entity which has not executed and delivered to SWBT a counterpart of this Agreement prior to receipt of such copies or information.

6) Recipient agrees that Recipient will not without SWBT's express written authorization copy, duplicate, sketch, draw, photograph, download, photocopy, scan, replicate, transmit, deliver, send, mail, communicate, or convey any of SWBT's records relating to poles, ducts, conduits, or rights-of-way. Recipient further agrees that Recipient will not conceal, alter, or destroy any SWBT records furnished to Recipient pursuant to this Agreement.

7) Notwithstanding the provisions of 6) above, and except as provided in 8) below, Recipient may copy, take notes from, make, and use (for the limited purposes specified herein) drawings with reference to the following records provided by SWBT to Recipient for inspection: pole and conduit route maps, cable plat maps, and plant location records reflecting approximate locations of SWBT's existing poles, ducts, conduits, and rights-of-way. All such copies, notes, and drawings (whether in hardcopy or electronic form) shall be marked with the legend: "**PROPRIETARY INFORMATION: NOT FOR USE BY OR DISCLOSURE TO ANY PERSON WHO HAS NOT EXECUTED A NONDISCLOSURE AGREEMENT (SWBT POLE, DUCT, CONDUIT, AND RIGHT-OF-WAY).**"

8) No references to cable counts, cable designations or cable-specific information, circuit information, or customer-specific information of any kind may be included in any copies, notes, or drawings made pursuant to 7) above; provided, however, that Recipient may make estimates regarding the physical characteristics (such as size and weight) of the cables being surveyed when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of SWBT's poles, ducts, conduits, or rights-of-way for Recipient/Applicant's intended uses.

9) All records and information relating to poles, ducts, conduits, and rights-of-way provided to Recipient/Applicant by SWBT (whether in writing, orally, or in electronic or other

formats) shall be deemed to be proprietary information subject to this Agreement without regard to whether such information, at the time of disclosure, has been marked with restrictive notations such as "Proprietary," "Restricted Proprietary," "Confidential," "Not to Be Copied or Reproduced," or the like.

10) This Agreement applies only to records and information provided to Recipient by SWBT and does not apply to records and information obtained by Recipient from other lawful sources.

11) This Agreement does not prohibit the disclosure of records or information in response to subpoenas and/or orders of a governmental agency or court of competent jurisdiction. In the event Recipient receives an agency or court subpoena requiring such disclosure, Recipient shall immediately, and in no event later than five calendar days after receipt, notify SWBT in writing.

12) The Parties agree that, in the event of a breach or threatened breach of this Agreement, SWBT may seek any and all relief available in law or in equity as a remedy for such breach, including but not limited to monetary damages, specific performance, and injunctive relief. The Parties acknowledge that SWBT's records and information relating to poles, ducts, conduits, and rights-of-way include valuable and unique information and that disclosure of such information (including circuit information) will result in irreparable injury to SWBT. In the event of any breach of this Agreement for which legal or equitable relief is sought, SWBT shall be entitled to recover from Recipient all reasonable attorney's fees and other reasonable costs (including but not limited to fees of expert witnesses) incurred by SWBT in connection with the prosecution of its claims against Recipient.

13) This Agreement shall be effective on the effective date shown above and shall remain in full force and effect until terminated by either party as provided herein. Either party may, at any time, with or without cause, terminate this Agreement by giving the other party 60 days' advance written notice of its decision to terminate. The parties further agree that termination of this Agreement shall have no effect on the duty of any person or entity, including Recipient, to abide by all terms of this Agreement with respect to records and information received by Recipient while this Agreement is in effect.

14) This Agreement shall benefit and be binding on the parties below and their respective heirs, successors, and assigns.

15) This Agreement will be governed by the laws of the State of Missouri.

16) This Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and none of the terms of this Agreement may be amended or modified except by written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or caused this Agreement to be executed by their duly authorized representatives, in duplicate, as of the dates set forth below.

CLEC \_\_\_\_\_  
Recipient (Print or Type Name)

Southwestern Bell Telephone Company

By \_\_\_\_\_  
Signature of Recipient or Representative

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code

\_\_\_\_\_  
City, State, and Zip Code

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Agreement No. \_\_\_\_\_

**APPENDIX VI  
NOTICES TO APPLICANT (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

Notices in general. Except as otherwise stated in this Appendix, all notices to Applicant shall be given to Applicant's duly authorized agent or attorney as specified in Section 29.01 of the Master Agreement.

Changes in notice requirements. Changes in the notice requirements set forth in this Appendix may be made by Applicant from time to time in accordance with the provisions of Section 29.03 of the Master Agreement.

Special notice provisions. The following special notice provisions, if any, shall apply:

Agreement No. \_\_\_\_\_

**APPENDIX VII  
NOTICES TO SWBT (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

Utility Liaison Supervisor (ULS). Except as otherwise stated in this Appendix, all notices to SWBT shall be given to the Utility Liaison Supervisor (ULS) designated in APPENDIX VIII of the Master Agreement. The Utility Liaison Supervisor is generally responsible for coordinating applications for access to SWBT's poles, ducts, conduits, and rights-of-way and serving as Applicant's initial point of contact for matters arising out of or in connection with the administration of the Master Agreement. Notices to the ULS shall be given in writing in the manner prescribed in Section 29.02. Notices to be sent to the ULS include, but are not limited to, notices under the following provisions of the Master Agreement.

- 7.01 Notification of Designation of Primary Point of Contact
- 7.03(a) Notification of intent to review records
- 8.XX All Notifications in Article 8
- 9.XX All Notifications in Article 9
- 10.04(e) Notification Regarding Make-Ready Work
- 12.03(d) Notification of placing J-hook on non-licensed pole
- 12.04 Notification of occupation of maintenance duct for short-term use
- 12.06 Notification of Applicant's maintenance contact
- 13.01 Notification of planned modifications
- 14.02(c) Notification of Applicant's desire to add to or modify its existing attachment
- 15.02(b) Notification of occupation of maintenance duct for short-term emergency use
- 15.03 Notification of emergency repair coordinators
- 16.01 Notification that facilities have been brought into compliance

- 17.02(c) Disclaimer of ownership or responsibility for untagged facilities
- 17.06 Notification of Applicant's response to ownership of facilities in question
- 18.01(a) Notice of intent to remove facilities
- 18.01(e) Notice of intent to terminate license
- 18.06 Notification of completion of removal of facilities
- 20.01(c) Notification of change of bond
- 21.17 Notification of claims
- 23.XX All notifications of insurance coverage in Article 23
- 24.03 Notification of assignment
- 25.01 Notification of termination
- 25.03 Notification of cure of breach
- 27.04 Notice of elective termination
- 29.03 Notification of change in notice requirements

Other notices. The following notices may be given orally or in writing (including fax) and shall be given to SWBT's Local Service Provider Center (LSPC) at 1-800-486-5598 instead of the ULS.

- 6.05(a) Notifications relating to electrical interference
- 6.09(d) Notifications of unsafe conditions
- 6.11(a) Notification of manhole entry
- 6.13(c) Notification of environmental contaminants
- 10.02(b) Notification of materials required for self-provisioning of inner duct
- 15.04 Notification of conditions requiring emergency repair

Proprietary: Not for Use or Disclosure Outside the SBC Communications Inc. Family of Companies Except Under Written Agreement. The terms, conditions, and prices contained herein are subject to negotiation by both Parties, and therefore, subject to change or modification, until such time as both Parties agree on the entire agreement and indicate such agreement by signing the document.

- 15.06(a) Notification of performing corrective work on emergency repair.
- 15.06(b) Notification of performing corrective work on emergency repair.  
(no advanced notice)

Additional information and questions concerning notice requirements. The ULS, as Applicant's initial point of contact, will provide additional information to Applicant concerning notification procedures for notices to be given to LSPC. Questions to SWBT concerning notice requirements should be directed to the ULS. The ULS is not authorized to provide Applicant legal advice with respect to notice requirements. Questions by Applicant's personnel and other persons acting on Applicant's behalf concerning Applicant's legal obligations should be directed to Applicant's legal counsel or such other personnel as Applicant may direct.

Changes in notice requirements. Changes in the notice requirements set forth in this Appendix may be made by SWBT from time to time in accordance with the provisions of Section 29.03 of the Master Agreement.

Agreement No. \_\_\_\_\_

**APPENDIX VIII  
IDENTIFICATION OF UTILITY LIAISON SUPERVISOR (MISSOURI)**

This Appendix is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

There are three Utility Liaison Supervisors for Missouri. They are as follows:

Notices to the Utility Liaison Supervisor for the 816 area code should be addressed as follows:

Name: Gary Williams

Title: Utility Liaison Supervisor

Firm: Southwestern Bell Telephone Company

Address: 500 E. 8th, Room 648

City/State/Zip: Kansas City, Missouri 64106

Notices to the Utility Liaison Supervisor for the 314, 573, 636, and 660 area codes should be addressed as follows:

Name: Craig Rompf

Title: Utility Liaison Supervisor

Firm: Southwestern Bell Telephone Company

Address: 12930 Olive Street Road, Floor 2

City/State/Zip: Creve Couer, Missouri 63141

Notices to the Utility Liaison Supervisor for the 417 area code should be addressed as follows:

Name: Daryl Yerton

Title: Utility Liaison Supervisor

Firm: Southwestern Bell Telephone Company

Address: 1111 W. Capitol, Room 525

City/State/Zip: Little Rock, Arkansas 72201

Agreement No. \_\_\_\_\_

**APPENDIX VI  
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Firm: Southwestern Bell Telephone Company

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# APPENDIX PRICING

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## APPENDIX PRICING

### 1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions under which the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) provides pricing below and divided into the following five categories: Unbundled Network Elements, Resale, Other (Resale), Other and Reciprocal Compensation. These categories are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 SWBT-MO - As used herein, SWBT-MO means the applicable above listed ILEC doing business in Missouri
- 1.3 For any rate element and/or charge contained in or referenced to in this Appendix Pricing that are not listed herein, including Bona Fide Requests (BFR), SWBT-MO and CLEC will negotiate prices.
- 1.4 The following defines the zones found in the Appendix Pricing:

<u>Rate Zone:</u>	<u>Description:</u>
Zone 1	The geographic area within each of the <u>SWBT-MO</u> exchanges which are classified as Rate group D exchanges in <u>SWBT-MO</u> 's Local Exchange Tariff; (St. Louis and Kansas City Exchanges)
Zone 2	The geographic area within each of the <u>SWBT-MO</u> exchanges which are classified as Rate group B exchanges in <u>SWBT-MO</u> 's Local Exchange Tariff
Zone 30	The geographic area within each of the <u>SWBT-MO</u> exchanges which are classified as Rate group A exchanges in <u>SWBT-MO</u> 's Local Exchange Tariff
Zone 4	The geographic area within each of the <u>SWBT-MO</u> exchanges which are classified as Rate group C exchanges in <u>SWBT-MO</u> 's Local Exchange Tariff; (Springfield Exchanges). Zone 4 rates will be billed as Zone 1 rates.

- 1.5 For modifications of SWBT-MO's plant facilities see the BFR process to satisfy the CLEC request.

## 2. RECURRING CHARGES

- 2.1 Unless otherwise identified in the Pricing Tables, where rates are shown as monthly, a month will be defined as a calendar month. The minimum term for each monthly rated Unbundled Network Element (UNE), Resale, Other (Resale), Other and Reciprocal Compensation elements will be one (1) month. After the initial month, billing will be on the basis of whole or fractional months used. The minimum service period for UNEs provided under the BFR process set forth in Appendix UNE of this Agreement may be longer.
- 2.2 Where rates (excluding Resale) are based on minutes of use, usage will be accumulated at the End Office Switch or other measurement point without any per call rounding and total minutes by End Office Switch or other measurement point will then be rounded to the next higher minute. CLEC shall pay for all usage on such calls including those that are not completed due to "busy" or "don't answer" status.
- 2.3 Where rates are distance sensitive, the mileage will be calculated on the airline distance involved between the locations. To determine the rate to be billed SWBT-MO will first compute the mileage using the V&H coordinates method, as set forth in the National Exchange Carrier Association, Inc. Tariff FCC No 4. When the calculation results in a fraction of a mile, SWBT-MO will round up to the next whole mile before determining the mileage and applying rates.
- 2.4 Where rates consist of usage sensitive charges or per occurrence charges, such rates are classified as "recurring charges".

## 3. NON-RECURRING CHARGES

- 3.1 Nonrecurring Charges are applicable for all five (5) categories of rates.
- 3.2 Consistent with FCC Rule 51.307(d), there are non-recurring charges for each UNE on the first connection on an CLEC order as well as separate non-recurring charges for each additional connection associated with the same CLEC order at the same CLEC specified premises.
- 3.3 For Resale, when a CLEC converts an End User currently receiving non-complex service from the SWBT-MO network, without any changes to SWBT-MO's network, the normal service order charges and/or nonrecurring charges associated with said additions and/or changes will apply.

- 3.4 CLEC shall pay a non-recurring charge when a CLEC adds or removes a signaling point code. The rates and charges for signaling point code(s) are identified in the Appendix SS7. This charge also applies to point code information provided by CLEC allowing other Telecommunications Carriers to use CLEC's SS7 signaling network.
- 3.5 CLEC shall pay a service order processing charge (Service Order Charge) for each service order issued by SWBT-MO to process a request for installation, disconnection, rearrangement, changes to or record orders for UNEs.
- 3.6 Some items, which must be individually charged, are billed as nonrecurring charges.
- 3.7 Time and Material charges (a.k.a. additional labor charges) are defined in FCC Tariff 73.

#### 4. UNBUNDLED LOCAL SWITCHING (ULS)

- 4.1 Unbundled Local Switching (ULS) may include two usage sensitive components: originating usage (ULS-O) and terminating usage (ULS-T). ULS-O represents the use of the unbundled Local Switching element to originate Local Calls. ULS-T represents the use of the unbundled Local Switching element to terminate Local Calls.
- 4.2 Rate Structure for ULS
  - 4.2.1 Intra Switch Calls - calls originating and terminating in the same switch i.e., the same 11 digit Common Language Location Identifier (CLLI) end office:
    - 4.2.1.1 CLEC will pay ULS-O and SS7 signaling for a call originating from an CLEC ULS line or trunk port that terminates to a SWBT-MO End User service line, Resale service line, or any unbundled line or trunk port which is connected to the same End Office Switch.
    - 4.2.1.2 CLEC will pay ULS-O and SS7 signaling charges for a centrex-like ULS intercom call in which CLEC's user dials from one centrex-like station to another centrex-like station in the same common block defined system.
    - 4.2.1.3 SWBT-MO will not bill ULS-T for Intra switch calls.

- 4.2.2 Inter Switch Calls - calls not originating and terminating in the same switch i.e., not the same 11 digit Common Language Location Identifier (CLLI) end office:
- 4.3 General Principles for Inter Switch Calls
- 4.3.1 Local Calls
- 4.3.1.1 When a call originates from a CLEC ULS Port, CLEC will pay ULS-O and SS7 signaling charges. If the call routes over SWBT-MO's common network, CLEC will pay charges for Common Transport as reflected in Appendix Pricing. CLEC will also pay Tandem Switching charges where applicable as reflected in Appendix Pricing.
- 4.3.1.2 The Parties agree that, for calls originated over unbundled local switching and routed over common transport, SWBT-MO will not be required to record and will not bill actual tandem switching usage. Rather, CLEC will pay the rate shown on Appendix Pricing labeled "Blended Transport," for each minute of use of unbundled common transport, whether or not the call actually traverses the Tandem Office Switch.
- 4.3.1.3 When a call terminates to an CLEC ULS Port, CLEC will pay ULS-T charges.
- 4.3.2 IntraLATA and InterLATA Toll Calls
- 4.3.2.1 With the implementation of intraLATA Dialing Parity, intraLATA toll calls from CLEC ULS Ports will be routed to the End User intraLATA Primary Interexchange Carrier (PIC) choice. When an interLATA toll call is initiated from an ULS port it will be routed to the End User interLATA PIC choice.
- 4.3.2.2 CLEC may provide exchange access transport services to Interexchange Carriers (IXCs) for intraLATA traffic originated by or terminating to CLEC local service End Users, upon request, using UNEs. For interLATA toll calls and intraLATA toll calls (post Dialing Parity) that are originated by local End Users using SWBT-MO unbundled local switching, CLEC may offer to deliver the calls to the PIC at the SWBT-MO access Tandem Office Switch, with CLEC using unbundled common transport and Tandem Office Switching to transport the call from the originating unbundled local switch to the PIC's interconnection at the access Tandem Office Switch.. When the PIC agrees to

take delivery of toll calls under this arrangement, then CLEC will pay SWBT-MO ULS-O usage, signaling, common transport, and Tandem Office Switching for such calls. SWBT-MO will not bill any access charges to the PIC under this arrangement. CLEC may use this arrangement to provide exchange access services to itself when it is the PIC for toll calls originated by CLEC local End Users using SWBT-MO unbundled local switching.

4.3.2.3 If the PIC elects to use transport and Tandem Office Switching provided by SWBT-MO to deliver interLATA toll calls or intraLATA toll calls (post Dialing Parity) that are originated by CLEC local End Users using SWBT-MO unbundled local switching, then CLEC will pay SWBT ULS-O usage and signaling only in connection with such calls. SWBT-MO will not bill the PIC any originating switching access charges in connection with such calls.

4.3.2.4 When an IntraLATA or InterLATA toll call terminates to an CLEC ULS Port, CLEC will pay ULS-T charges and SWBT-MO will not charge terminating access to CLEC or the IXC except that SWBT-MO may bill the IXC for terminating transport in cases where the IXC has chosen SWBT-MO as its transport provider.

#### 4.3.3 Toll Free Calls

4.3.3.1 When CLEC uses ULS Ports to initiate an 800-type call, SWBT-MO will perform the appropriate database query and route the call to the indicated IXC. CLEC will pay the 800 database query charge and ULS-O charge. CLEC will be responsible for any billing to the IXC for such calls.

#### 4.3.4 Optional Two-way Extended Area Service (EAS)

4.3.4.1 When the NXX of the telephone number provided to CLEC is one associated with an optional EAS arrangement, CLEC shall pay a flat-rated monthly port additive for the optional EAS toll package(s) inherent in the telephone number.

## 5 BILLING

5.1 For information regarding billing, non-payment, disconnects and dispute resolution, see the General Terms and Conditions of this Agreement.

## 6. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

MISSOURI		SWBT Generic Rates			
		SWBT RECURRING		SWBT NON-REC.	
		Monthly		Initial	Additional
<b>Network Interface Device (NID)</b>					
	Disconnect Loop from inside wiring, per NID	NA		\$ 71.45	\$ 35.70
<b>Unbundled Loops</b>					
**	2-Wire Analog - Metro (Zone 1)	\$ 12.71		\$ 26.07	\$ 11.09
**	2-Wire Analog - Suburban (Zone 2)	\$ 20.71		\$ 26.07	\$ 11.09
**	2-Wire Analog - Rural (Zone 3)	\$ 33.29		\$ 26.07	\$ 11.09
**	2-Wire Analog - Urban (Zone 4)	\$ 18.23		\$ 26.07	\$ 11.09
**	Conditioning for dB Loss	\$ 6.63		\$ 22.76	\$ 8.58
**	4-Wire Analog - Metro (Zone 1)	\$ 19.79		\$ 28.77	\$ 11.09
**	4-Wire Analog - Suburban (Zone 2)	\$ 35.35		\$ 28.77	\$ 11.09
**	4-Wire Analog - Rural (Zone 3)	\$ 61.16		\$ 28.77	\$ 11.09
**	4-Wire Analog - Urban (Zone 4)	\$ 30.08		\$ 28.77	\$ 11.09
**	2-Wire Digital - Metro (Zone 1)	\$ 25.79		\$ 57.77	\$ 30.22
**	2-Wire Digital - Suburban (Zone 2)	\$ 42.10		\$ 57.77	\$ 30.22
**	2-Wire Digital - Rural (Zone 3)	\$ 58.44		\$ 57.77	\$ 30.22
**	2-Wire Digital - Urban (Zone 4)	\$ 41.44		\$ 57.77	\$ 30.22
**	4-Wire Digital - Metro (Zone 1)	\$ 101.18		\$ 136.63	\$ 53.94
**	4-Wire Digital - Suburban (Zone 2)	\$ 106.06		\$ 136.63	\$ 53.94
**	4-Wire Digital - Rural (Zone 3)	\$ 107.89		\$ 136.63	\$ 53.94
**	4-Wire Digital - Urban (Zone 4)	\$ 101.39		\$ 136.63	\$ 53.94
<b>DSL Capable Loops:</b>					
<b>PSD Class #1 Capable Loop</b>					
	a. 2-Wire Digital "SDN Digital Subscriber Line" ("DSL") technology				
**	Zone 1	\$ 25.79		\$ 57.77	\$ 30.22
**	Zone 2	\$ 42.10		\$ 57.77	\$ 30.22
**	Zone 3	\$ 58.44		\$ 57.77	\$ 30.22
**	Zone 4	\$ 41.44		\$ 57.77	\$ 30.22
	b. 2-Wire (copper only facilities) "Symmetric Digital Subscriber Line" ("SDSL")				
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
<b>PSD Class #2 Capable Loop</b>					
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
<b>PSD Class #3 Capable Loop</b>					
	a. 2-Wire Mid-band Symmetric Technology				
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
	b. 4-Wire Mid-band Symmetric Technology				
**	Zone 1	\$ 19.79		\$ 28.77	\$ 11.09
**	Zone 2	\$ 35.35		\$ 28.77	\$ 11.09
**	Zone 3	\$ 61.16		\$ 28.77	\$ 11.09
**	Zone 4	\$ 30.08		\$ 28.77	\$ 11.09
<b>PSD Class #4 Capable Loop</b>					
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
<b>PSD Class #6 2-Wire Capable Loop - Asymmetrical Digital Subscriber Line Technology</b>					
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
<b>PSD Class #7 2-Wire Capable Loop</b>					
**	Zone 1	\$ 12.71		\$ 26.07	\$ 11.09
**	Zone 2	\$ 20.71		\$ 26.07	\$ 11.09
**	Zone 3	\$ 33.29		\$ 26.07	\$ 11.09
**	Zone 4	\$ 18.23		\$ 26.07	\$ 11.09
<b>Loop Qualification Process</b>		NA		\$ 15.00	
<b>DSL Conditioning Options</b>					
	Removal of Repeaters	NA		\$ 289.51	\$ 13.74
	Removal of Bridged Taps and Repeaters	NA		\$ TBD	\$ TBD
	Removal Bridged Taps	NA		\$ 484.19	\$ 24.24
	Removal of Bridged Taps and Load Coils	NA		\$ TBD	\$ TBD
	Removal of Load Coils	NA		\$ 797.78	\$ 18.18
	Conditioning of loops over 17,500 ft.	NA		TBD	TBD

TBD-To Be Determined  
 NRC-Nonrecurring only  
 ICB-Individual Case Basis  
 NA-Not Applicable

SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
 November 22, 1999

APPENDIX PRICING  
 SWBT-MO/CLEC

MISSOURI		SWBT Generic Rates		
		SWBT RECURRING		SWBT NON-REC.
		Monthly	Initial	Additional
<b>Loop Cross Connects</b>				
Analog Loop to Collocation				
	2-wire cross connect	\$ 2.10	\$ 136.40	\$ 112.75
**	2-wire cross connect (Without Testing)	\$ 0.31	\$ 19.96	\$ 12.69
	4-wire cross connect	\$ 4.20	\$ 142.25	\$ 118.60
**	4-wire cross connect (Without Testing)	\$ 0.63	\$ 25.38	\$ 17.73
Digital Loop to Collocation				
	2-wire cross connect	\$ 2.10	\$ 136.40	\$ 112.75
**	2-wire cross connect (Without Testing)	\$ 0.31	\$ 19.96	\$ 12.69
	4-wire cross connect	\$ 11.30	\$ 229.05	\$ 225.05
ADSL Shielded Cross connect to Collocation				
**	2-Wire DSL Non-Shielded Cross Connect to Collocation	\$ 0.80	\$ 19.96	\$ 12.69
**	4-Wire DSL Non-Shielded Cross Connect to Collocation	\$ 0.31	\$ 19.96	\$ 12.69
<b>Cross Connects to Point of Access (POA)</b>				
Analog Loop to POA				
	2-Wire-Mth1	\$ 1.15	\$ 88.25	\$ 72.50
	2-Wire-Mth2,3,4	\$ 1.20	\$ 88.25	\$ 72.50
	2-Wire-Mth5	\$ 0.85	\$ 88.25	\$ 72.50
	4-Wire-Mth1	\$ 1.55	\$ 102.60	\$ 88.00
	4-Wire-Mth2,3,4	\$ 1.60	\$ 102.60	\$ 88.00
	4-Wire-Mth5	\$ 1.25	\$ 102.60	\$ 88.00
Digital Loop to Point of Access				
	2-Wire-Mth1	\$ 1.15	\$ 88.25	\$ 72.50
	2-Wire-Mth2,3,4	\$ 1.20	\$ 88.25	\$ 72.50
	2-Wire-Mth5	\$ 0.85	\$ 88.25	\$ 72.50
	4-Wire-Mth1	\$ 1.55	\$ 147.90	\$ 101.15
	4-Wire-Mth2,3,4	\$ 1.60	\$ 147.90	\$ 101.15
	4-Wire-Mth5	\$ 1.25	\$ 147.90	\$ 101.15
Switch Ports to Point of Access				
	Analog Line Port - Mth 1	\$ 1.15	\$ 65.85	\$ 55.85
	Analog Line Port - Mth 2,3,4	\$ 1.20	\$ 65.85	\$ 55.85
	Analog Line Port - Mth 5	\$ 0.85	\$ 65.85	\$ 55.85
	ISDN BRI Line Port - Mth 1	\$ 1.55	\$ 75.30	\$ 66.20
	ISDN BRI Line Port - Mth 2,3,4	\$ 1.60	\$ 75.30	\$ 66.20
	ISDN BRI Line Port - Mth 5	\$ 1.25	\$ 75.30	\$ 66.20
	ISDN PRI Trunk Port - Mth 1	\$ 1.55	\$ 124.35	\$ 115.30
	ISDN PRI Trunk Port - Mth 2,3,4	\$ 1.60	\$ 124.35	\$ 115.30
	ISDN PRI Trunk Port - Mth 5	\$ 1.25	\$ 124.35	\$ 115.30
	Analog DID Trunk Port - Mth 1	TBD	TBD	TBD
	Analog DID Trunk Port - Mth 2,3,4	TBD	TBD	TBD
	Analog DID Trunk Port - Mth 5	TBD	TBD	TBD
	DS1 Trunk Port - Mth 1	TBD	TBD	TBD
	DS1 Trunk Port - Mth 2,3,4	TBD	TBD	TBD
	DS1 Trunk Port - Mth 5	TBD	TBD	TBD
Unbundled Dedicated Transport to Point of Access				
	DS1 - Mth 1	\$ 12.30	\$ 147.90	\$ 101.15
	DS1 - Mth 2,3,4	\$ 12.35	\$ 147.90	\$ 101.15
	DS1 - Mth 5	\$ 12.00	\$ 147.90	\$ 101.15
	DS3 - Mth 1	ICB	ICB	ICB
	DS3 - Mth 2,3,4	ICB	ICB	ICB
	DS3 - Mth 5	ICB	ICB	ICB
	OC3 - Mth 1	ICB	ICB	ICB
	OC3 - Mth 2,3,4	ICB	ICB	ICB
	OC3 - Mth 5	ICB	ICB	ICB
	OC12 - Mth 1	ICB	ICB	ICB
	OC12 - Mth 2,3,4	ICB	ICB	ICB
	OC12 - Mth 5	ICB	ICB	ICB
	OC48 - Mth 1	ICB	ICB	ICB
	OC48 - Mth 2,3,4	ICB	ICB	ICB
	OC48 - Mth 5	ICB	ICB	ICB
<b>Local Switching (per MOU)</b>				
		<b>USAGE</b>		
	Per Originating or Terminating MOU (Rural - Zone 3)	\$ 0.006841	NA	NA
	(Suburban - Zone 2)	\$ 0.006728	NA	NA
	(Metro - Zone 1)	\$ 0.005510	NA	NA
	Customized Routing	ICB	ICB	ICB

TBD-To Be Determined  
 NRO-Nonrecurring only  
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 NA-Not Applicable

SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
 November 22, 1999

APPENDIX PRICING  
 SWBT-MO/CLEC

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>Port Charge Per Month</b>				
Analog Line Port	\$ 3.35		\$ 95.50	\$ 85.50
Analog DID Trunk Port	\$ 23.85		\$ 163.85	\$ 183.85
ISDN BRI Port	\$ 6.85		\$ 15.50	\$ 8.45
ISDN PRI Port	\$ 198.70		\$ 513.75	\$ 235.95
DS1 Trunk Port	\$ 255.55		\$ 388.00	\$ 286.75
Optional Calling Area (Two-Way EAS) Additive	\$ 24.80		NA	NA
<b>Switch Port Cross Connects</b>				
Analog Line Port to Collocation	TBD		TBD	TBD
Analog DID Trunk Port to Collocation	TBD		TBD	TBD
ISDN BRI Port to Collocation	TBD		TBD	TBD
ISDN PRI Port to Collocation	TBD		TBD	TBD
DS1 Trunk Port to Collocation	TBD		TBD	TBD
<b>Tandem Switching</b>				
USAGE				
per Minute of Use	\$ 0.001514		NA	NA
<b>Common Transport</b>				
USAGE				
Termination per Minute of Use (Rural - Zone 3)	\$ 0.000352		NA	NA
(Suburban - Zone 2)	\$ 0.000332		NA	NA
(Metro - Zone 1)	\$ 0.000205		NA	NA
(Interzone)	\$ 0.000367		NA	NA
Facility per Minute, per Mile (Rural - Zone 3)	\$ 0.000015		NA	NA
(Suburban - Zone 2)	\$ 0.000007		NA	NA
(Metro - Zone 1)	\$ 0.000002		NA	NA
(Interzone)	\$ 0.000003		NA	NA
<b>Blended Transport</b>				
USAGE				
(Rural - Zone 3)	\$ 0.000912		NA	NA
(Suburban - Zone 2)	\$ 0.000835		NA	NA
(Metro - Zone 1)	\$ 0.000671		NA	NA
(Interzone)	\$ 0.000865			
<b>Dedicated Transport</b>				
Entrance Facility:				
DS1 (Rural - Zone 3)	\$ 167.05		\$ 324.50	\$ 128.10
(Suburban - Zone 2)	\$ 152.15		\$ 324.50	\$ 128.10
(Metro - Zone 1)	\$ 135.20		\$ 324.50	\$ 128.10
DS3 (Rural - Zone 3)	\$ 1,434.60		\$ 556.10	\$ 247.30
(Suburban - Zone 2)	\$ 1,392.75		\$ 556.10	\$ 247.30
(Metro - Zone 1)	\$ 1,326.80		\$ 556.10	\$ 247.30
OC3 (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
OC12 (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
OC48 (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
Interoffice Transport:				
DS1 First Mile (Rural - Zone 3)	\$ 279.30		\$ 455.35	\$ 291.05
(Suburban - Zone 2)	\$ 151.55		\$ 455.35	\$ 291.05
(Metro - Zone 1)	\$ 111.45		\$ 455.35	\$ 291.05
(Interzone)	\$ 200.10		\$ 455.35	\$ 291.05
Each Additional Mile (Rural - Zone 3)	\$ 14.55		NA	NA
(Suburban - Zone 2)	\$ 8.75		NA	NA
(Metro - Zone 1)	\$ 3.10		NA	NA
(Interzone)	\$ 4.80		NA	NA
DS3 First Mile (Rural - Zone 3)	\$ 3,384.95		\$ 490.35	\$ 332.75
(Suburban - Zone 2)	\$ 2,783.40		\$ 490.35	\$ 332.75
(Metro - Zone 1)	\$ 1,389.45		\$ 490.35	\$ 332.75
(Interzone)	\$ 3,268.30		\$ 490.35	\$ 332.75
Each Additional Mile (Rural - Zone 3)	\$ 312.90		NA	NA
(Suburban - Zone 2)	\$ 304.75		NA	NA
(Metro - Zone 1)	\$ 81.80		NA	NA
(Interzone)	\$ 124.45		NA	NA
OC3 First Mile (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
Each Additional Mile (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
OC12 First Mile (Rural - Zone 3)	ICB		ICB	ICB
(Suburban - Zone 2)	ICB		ICB	ICB
(Metro - Zone 1)	ICB		ICB	ICB
Each Additional Mile (Rural - Zone 3)	ICB		ICB	ICB

MISSOURI		SWBT Generic Rates			
		SWBT RECURRING		SWBT NON-REC.	
		Monthly		Initial	Additional
	(Suburban - Zone 2)	ICB		ICB	ICB
	(Metro - Zone 1)	ICB		ICB	ICB
OC48	First Mile (Rural - Zone 3)	ICB		ICB	ICB
	(Suburban - Zone 2)	ICB		ICB	ICB
	(Metro - Zone 1)	ICB		ICB	ICB
	Each Additional Mile (Rural - Zone 3)	ICB		ICB	ICB
	(Suburban - Zone 2)	ICB		ICB	ICB
	(Metro - Zone 1)	ICB		ICB	ICB
<b>Multiplexing</b>					
	DS1 to Voice Grade	\$ 199.60		\$ 29.85	\$ 17.90
	DS3 to DS1	\$ 712.05		\$ 980.20	\$ 924.15
<b>Dedicated Transport Cross Connects</b>					
	DS1 to Collocation	\$ 11.30		\$ 229.05	\$ 225.05
	DS3 to Collocation	\$ 39.55		\$ 158.25	\$ 109.50
	OC3 to Collocation	ICB		ICB	ICB
	OC12 to Collocation	ICB		ICB	ICB
	OC48 to Collocation	ICB		ICB	ICB
<b>Network Reconfiguration Service</b>					
	DCS Port Charge				
	DS1	\$ 11.35		\$ 35.70	NA
	DS3	\$ 318.10		\$ 35.70	NA
	DCS Establishment Charge	NA		\$ 2,379.90	NA
	Database Modification Charge	NA		\$ 107.15	NA
	Reconfiguration Charge	NA		\$ 1.20	NA
<b>Line Information Database - LIDB</b>					
		<b>USAGE</b>			
	Validation Query (Includes SMS & Sleuth)	\$ 0.02600	(per query)	NA	NA
	OLNS Query (Includes SMS)	\$ 0.00550	(per query)	NA	NA
	CNAM Query (Includes SMS)	\$ 0.00360	(per query)	NA	NA
	Query Transport (Applies to Validation, OLNS, & CNAM)	\$ 0.00440	(per query)	NA	NA
	Service Order Cost	NA		\$ 256.70	NA
	Service Establishment Charge	NA		\$ 59.75	NA
<b>800 Database</b>					
		<b>USAGE</b>			
	Toll Free Database Query	\$ 0.000445		NA	NA
	Call Handling and Destination	\$ 0.000054		NA	NA
<b>SS7</b>					
	<b>SS7 Links - Cross Connects</b>				
	STP to Collocators Cage - DS0	\$ 74.15		\$ 299.30	\$ 235.75
	STP to Collocators Cage- DS1	\$ 53.65		\$ 266.70	\$ 203.15
	STP to SWBT MDF - DS0	\$ 74.15		\$ 299.30	\$ 235.75
	STP to SWBT DSX Frame-DS1	\$ 53.65		\$ 266.70	\$ 203.15
	<b>SS7 Links</b>				
	STP Access Connection - 1.544 Mbps		See Dedicated Transport		
	STP Access Link - 56 Kbps	\$ 100.16	fixed+		
		\$ 0.91	per mile		
	STP Port	\$ 621.65		\$ 455.85	NA
	<b>SS7 Signalling</b>		<b>USAGE</b>		
	SS7 Signalling - per call	\$ 0.000559		NA	NA
	STP Trunk Signalling - per octet	\$ 0.00000280		NA	NA
	Point Code Addition			\$ 59.75	NA
	Global Title Translation Addition			\$ 26.90	NA
<b>Manual Service Order Charge</b>					
	New Service	NA		\$ 69.70	\$ 285.20
	Change	NA		\$ 67.25	\$ 158.55
	Record	NA		\$ 41.60	\$ 132.85
	Disconnect	NA		\$ 34.90	\$ 76.20
<b>Electronic Simple Service Order Charge</b>					
		NA		\$ 5.00	NA

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SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
 November 22, 1999

APPENDIX PRICING  
 SWBT-MO/CLEC

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>Maintenance of Service Charges</b>				
Basic Time	NA		\$ 42.75	\$ 34.20
Overtime	NA		\$ 53.45	\$ 43.35
Premium Time	NA		\$ 64.10	\$ 52.50
<b>Time and Material Charges</b>				
Basic Time	NA		\$ 42.75	\$ 34.20
Overtime	NA		\$ 53.45	\$ 43.35
Premium Time	NA		\$ 64.10	\$ 52.50
<b>Unbundled Switch Port - Vertical Features</b>				
<b>Analog Line Port Features (per feature per port):</b>				
Call Waiting	NA		\$ 2.65	NA
Call Forwarding Variable	NA		\$ 2.65	NA
Call Forwarding Busy Line	NA		\$ 2.65	NA
Call Forwarding Don't Answer	NA		\$ 2.65	NA
Three-Way Calling	NA		\$ 2.65	NA
Speed Calling - 8	NA		\$ 2.65	NA
Speed Calling - 30	NA		\$ 2.65	NA
Auto Callback/Auto Redial	NA		\$ 2.65	NA
Distinctive Ring/Priority Call	NA		\$ 2.65	NA
Selective Call Rejection/Call Blocker	NA		\$ 2.65	NA
Auto Recall/Call Return	NA		\$ 2.65	NA
Selective Call Forwarding	NA		\$ 2.65	NA
Calling Number Delivery	NA		\$ 2.65	NA
Calling Name Delivery	NA		\$ 2.65	NA
Calling Number/Name Blocking	NA		\$ 2.65	NA
Anonymous Call Rejection (to date only available in Texas)	NA		\$ 2.65	NA
Remote Access to Call Forwarding (RACF)	NA		\$ 2.65	NA
<b>Analog Line Port Features:</b>				
Personalized Ring (per arrangement per port)	NA		\$ 6.35	NA
Hunting Arrangement (per arrangement)	NA		\$ 32.95	NA
<b>Usage Sensitive Analog Line Port Features:</b>				
Call Trace per successful occurrence per port	NA		\$ 6.70	NA
Call Trace per feature per port	NA		\$ 2.65	
<b>ISDN BRI Port Features (per B Channel, unless noted)</b>				
CSV/CSD per ISDN BRI port (required/provided)	NA		\$ 19.65	NA
<b>Basic Electronic Key Terminal Service (EKTS)</b>				
Basic EKTS provides:	NA		\$ 19.65	NA
Bridged Call Exclusion				
Bridging				
Call Forwarding Don't Answer				
Call Forwarding Interface Busy				
Call Forwarding Variable				
Message Waiting Indicator				
Speed Call (Long)				
Speed Call (Short)				
Three-way Conference Calling				
Call Appearance Call Handling (CACH) EKTS	NA		\$ 23.95	NA
<b>CACH EKTS includes:</b>				
Additional Call Offering (inherent)				
Bridged Call Exclusion				
Bridging				
Call Forwarding Don't Answer				
Call Forwarding Interface Busy				
Call Forwarding Variable				
Intercom				
<b>Key System Coverage for Analog Lines</b>				
Message Waiting Indicator				
Speed Call (Long)				
Speed Call (Short)				
Three-way Conference Calling				

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>Basic individual features:</b>				
Additional Call Offering	NA		\$ 6.15	NA
Call Forwarding Don't Answer	NA		\$ 6.15	NA
Call Forwarding Interface Busy	NA		\$ 6.15	NA
Call Forwarding Variable	NA		\$ 6.15	NA
Calling Number Delivery	NA		\$ 6.15	NA
Hunt Group for CSD	NA		\$ 6.15	NA
Hunt Group for CSV	NA		\$ 6.15	NA
Message Waiting Indicator	NA		\$ 6.15	NA
Secondary Only Telephone Number	NA		\$ 6.15	NA
Three Way Conference Calling	NA		\$ 6.15	NA
<b>ISDN PRI Port Features</b>				
Backup D Channel	NA		\$ 63.80	NA
Calling Number Delivery	NA		\$ 2.65	NA
Dynamic Channel Allocation	NA		\$ 12.85	NA
DID #s - see Analog DID Trunk Port Features	NA			
<b>Analog Trunk Port Features (per feature per port)</b>				
DID #s - initial 100 #s	NA		\$ 170.45	NA
Initial 10 #s	NA		\$ 154.20	NA
Subsequent Add or Remove 100 #s	NA		NA	\$ 25.05
Subsequent Add or Remove 10 #s	NA		NA	\$ 8.80
<b>DS1 Digital Trunk Port Features (per feature per port)</b>				
DID #s - see Analog DID Trunk Port Features				
<b>Unbundled Centrex System Options</b>				
System Initial Establishment per Serving Office - Analog Only	NA		\$ 803.35	NA
System Initial Establishment per Serving Office - Analog/ISDN BRI mbr	NA		\$ 803.35	NA
System Initial Establishment per Serving Office - ISDN BRI Only	NA		\$ 391.05	NA
System Subsequent Change per Serving Office - Analog only system	NA		NA	\$ 244.80
System Subsequent Change per Serving Office - Analog/ISDN BRI mixed system	NA		NA	\$ 284.95
System Subsequent Change per Serving Office - ISDN BRI only system	NA		NA	\$ 284.95
System Subsequent Conversion per Serving Office - Add Analog to existing ISDN BRI	NA		NA	\$ 588.30
System Subsequent Conversion per Serving Office - Add ISDN BRI to existing Analog	NA		NA	\$ 284.95
<b>Analog Line Port (ALP) Features for Unbundled Centrex</b>				
Standard feature initialization per Analog Line Port	NA		\$ 5.40	NA
<b>Individual Features (per feature per port):</b>				
Automatic Callback Calling/Business Group Callback	NA		\$ 6.15	NA
Call Forwarding Variable/Business Group Call Forwarding Variable	NA		\$ 6.15	NA
Call Forwarding Busy Line	NA		\$ 6.15	NA
Call Forwarding Don't Answer	NA		\$ 6.15	NA
Call Hold	NA		\$ 6.15	NA
Call Pickup	NA		\$ 6.15	NA
Call Transfer - All Calls	NA		\$ 6.15	NA
Call Waiting - Intragroup/Business Group Call Waiting	NA		\$ 6.15	NA
Call Waiting - Originating	NA		\$ 6.15	NA
Call Waiting - Terminating	NA		\$ 6.15	NA
Class of Service Restriction - Fully Restricted	NA		\$ 6.15	NA
Class of Service Restriction - Semi Restricted	NA		\$ 6.15	NA
Class of Service Restriction - Toll Restricted	NA		\$ 6.15	NA
Consultation Hold	NA		\$ 6.15	NA
Dial Call Waiting	NA		\$ 6.15	NA
Directed Call Pickup - Non Barge In	NA		\$ 6.15	NA
Directed Call Pickup - With Barge In	NA		\$ 6.15	NA
Distinctive Ringing and Call Waiting Tone	NA		\$ 6.15	NA
Hunting Arrangement - Basic	NA		\$ 6.15	NA
Hunting Arrangement - Circular	NA		\$ 6.15	NA
Speed Calling Personal (short list)	NA		\$ 6.15	NA
Three Way Calling	NA		\$ 6.15	NA

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>ISDN BRI Port Features for Unbundled Centrex</b>				
Circuit Switched Voice (CSV)(CSD) per ISDN BRI Port	NA		\$ 19.85	NA
Standard feature initialization per ISDN BRI Device	NA		\$ 5.40	NA
Individual features (per feature per B Channel)				
Additional Call Offering for CSV	NA		\$ 6.15	NA
Automatic Callback Calling	NA		\$ 6.15	NA
Call Forwarding Busy Line	NA		\$ 6.15	NA
Call Forwarding Don't Answer	NA		\$ 6.15	NA
Call Forwarding Variable	NA		\$ 6.15	NA
Call Hold	NA		\$ 6.15	NA
Call Pickup	NA		\$ 6.15	NA
Call Transfer - All Calls	NA		\$ 6.15	NA
Class of Service Restriction - Fully Restricted	NA		\$ 6.15	NA
Class of Service Restriction - Semi Restricted	NA		\$ 6.15	NA
Class of Service Restriction - Toll Restricted	NA		\$ 6.15	NA
Consultation Hold	NA		\$ 6.15	NA
Dial Call Waiting	NA		\$ 6.15	NA
Directed Call Pickup - Non Barge In	NA		\$ 6.15	NA
Directed Call Pickup - With Barge In	NA		\$ 6.15	NA
Distinctive Ringing	NA		\$ 6.15	NA
Hunting Arrangement - Basic	NA		\$ 6.15	NA
Hunting Arrangement - Circular	NA		\$ 6.15	NA
Speed Calling Personal (short list)	NA		\$ 6.15	NA
Three Way Calling	NA		\$ 6.15	NA
<p><sup>24</sup> The Parties acknowledge and agree that, subject to the terms and conditions stated herein, SWBT will provide certain arbitrated rates, terms and conditions set forth in the Appendix Pricing UNE, Schedule of Prices, of this Agreement based upon statutes, orders, rules and/or regulations issued by federal and state legislatures, courts, and/or regulatory agencies, specifically including, but not limited to, the Missouri Public Service Commission's Order in the Consolidated Arbitration, Docket Nos. TO-97-40/TO-97-67, TO-98-115. These statutes, orders, rules and regulations are the subject of various current appeals, and subsequent appeals may also be taken from those statutes, orders, rules and regulations. The Parties recognize and agree that, in the event of any amendment of the Telecommunications Act of 1996, or any administrative, regulatory, legislative or judicial order, rule, opinion or other legal action, (collectively, "legal actions") which revises or modifies the Parties' rights and/or obligations pertaining to any matters contained in this Interconnection Agreement ("a subsequent development"), including any action invalidating or modifying the Interconnection Agreement approved in Docket TO-97-67 and TO-98-115, the relevant provisions of this Agreement cited above shall be deemed to be automatically modified, amended or conformed to be consistent with such subsequent development. By executing this document, neither Party is waiving its rights to contest the validity of any law, rule, court or regulatory decision or order or other requirement that specific provisions be contained in this contract, nor is any Party waiving its right to argue in the future that any law, rule, court or regulatory decision or other requirement should be revised, eliminated or modified. In no event shall SWBT be obligated to provide such rates, terms and conditions beyond the period of time SWBT is obligated to provide such rates, terms and conditions to the Party who originally arbitrated such provisions</p>				

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SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
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APPENDIX PRICING  
 SWBT-MO/CLEC

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>RESALE</b>				
<b>RESALE DISCOUNTS</b>				
		<b>RECURRING</b>	<b>NON-RECURRING</b>	
<b>BUSINESS</b>				
<b>LOCAL EXCHANGE SERVICE</b>				
Business 1 Party		19.20%	19.20%	
Business - Multi-Line Hunting		19.20%	19.20%	
Business Measured		19.20%	19.20%	
Business Measured (HTG Class of Service)		19.20%	19.20%	
<b>EXPANDED LOCAL CALLING</b>				
Mandatory EAS		19.20%	19.20%	
Optional Metropolitan Calling Area		19.20%	19.20%	
<b>VERTICAL SERVICES</b>				
Auto Redial		19.20%	19.20%	
Call Blocker		19.20%	19.20%	
Call Forwarding		19.20%	19.20%	
Call Forwarding - Busy Line		19.20%	19.20%	
Call Forwarding - Busy Line/Don't Answer		19.20%	19.20%	
Call Forwarding - Don't Answer		19.20%	19.20%	
Call Return		19.20%	19.20%	
Call Trace		19.20%	19.20%	
Call Waiting		19.20%	19.20%	
Calling Name		19.20%	19.20%	
Calling Number		19.20%	19.20%	
ComCall®		19.20%	19.20%	
Personalized Ring (1 dependent number)		19.20%	19.20%	
Personalized Ring (2 dependent numbers - 1st number)		19.20%	19.20%	
Personalized Ring (2 dependent numbers - 2nd number)		19.20%	19.20%	
Priority Call		19.20%	19.20%	
Remote Access to Call Forwarding		19.20%	19.20%	
Selective Call Forwarding		19.20%	19.20%	
Simultaneous Call Forwarding		19.20%	19.20%	
Speed Calling 8		19.20%	19.20%	
Speed Calling 30		19.20%	19.20%	
Three Way Calling		19.20%	19.20%	
<b>DID</b>				
DID (First Block of 100 - Category 1)		19.20%	19.20%	
DID (First Block of 10 - Category 1)		19.20%	19.20%	
DID (Ea. adl. block of 10 after first 10 - Category 1)		19.20%	19.20%	
DID (Ea. adl. block of 100 after first 100 - Category 2)		19.20%	19.20%	
DID (Ea. adl. block of 10 assigned over 1st 100 - Category 2)		19.20%	19.20%	
DID (with Multifrequency)		19.20%	19.20%	
DID (with Dual-Tone Multifrequency)		19.20%	19.20%	
DID (1st 10 Trunks or access lines)		19.20%	19.20%	
DID (11th thru 50th trunk or network access line)		19.20%	19.20%	
DID (51st trunk or network access line)		19.20%	19.20%	
<b>TRUNKS</b>				
Analog Trunks		19.20%	19.20%	
Digital Trunks		19.20%	19.20%	
<b>AIN</b>				
Area Wide Networking		19.20%	19.20%	
Disaster Routing Service		19.20%	19.20%	
Intelligent Redirection		19.20%	19.20%	
Intellinumber		19.20%	19.20%	
Positive ID		19.20%	19.20%	
<b>OTHER</b>				
Bundled Telecommunications Services (e.g., the Works)		19.20%	19.20%	
Customer Alerting Enablement		19.20%	19.20%	
Grandfathered Services		19.20%	19.20%	
Hot Line		19.20%	19.20%	
Hunting		19.20%	19.20%	
Local Operator Assistance Service		13.91%	13.91%	
Night Number associated with Telephone Number		19.20%	19.20%	
Night Number associated with a Terminal		19.20%	19.20%	
Promotions (Greater than 90 days)		19.20%	19.20%	
Preferred Number Service		19.20%	19.20%	
Telebranch®		19.20%	19.20%	
TouchTone		19.20%	19.20%	
Voice Dial		19.20%	19.20%	

TBD-To Be Determined  
 NRO-Nonrecurring only  
 ICB-Individual Case Basis  
 NA-Not Applicable

SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
 November 22, 1999

APPENDIX PRICING  
 SWBT-MO/CLEC

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
Warm Line	19.20%	19.20%		
ISDN				
Digiline	19.20%	19.20%		
Select Video Plus®	19.20%	19.20%		
Smart Trunkam	19.20%	19.20%		
TOLL				
IntraLATA MTS	19.20%	19.20%		
MaxMizer 800®	19.20%	19.20%		
OutWATS	19.20%	19.20%		
800 Service	19.20%	19.20%		
OPTIONAL TOLL CALLING PLANS				
1+ SAVERsm	19.20%	19.20%		
1+SAVER Direct	19.20%	19.20%		
Community Optional Saver	19.20%	19.20%		
Outstate Calling Area Service	19.20%	19.20%		
PLEXAR®				
Plexar 1K®	19.20%	19.20%		
Plexar 1K®	19.20%	19.20%		
Plexar Custom®	19.20%	19.20%		
PRIVATE LINE				
Analog Private Lines	19.20%	19.20%		
Business Video Service	19.20%	19.20%		
Digital Loop Service	19.20%	19.20%		
DOVLink	19.20%	19.20%		
Foreign Exchange Service	19.20%	19.20%		
Foreign Serving Office	19.20%	19.20%		
Frame Relay	19.20%	19.20%		
Group Alerting Services	19.20%	19.20%		
MegaLink 1K®	19.20%	19.20%		
MegaLink 1K®	19.20%	19.20%		
MicroLink 1K®	19.20%	19.20%		
MicroLink 1K®	19.20%	19.20%		
MultiPoint Video	19.20%	19.20%		
Service Loop Facility Modification Service	19.20%	19.20%		
	<b>RESALE DISCOUNTS</b>			
RESIDENCE	RECURRING	NON-RECURRING		
LOCAL EXCHANGE SERVICE				
Life Line and Link Up America Services	19.20%	19.20%		
Residence 1 Party	19.20%	19.20%		
Residence Measured	19.20%	19.20%		
EXPANDED LOCAL CALLING				
Mandatory EAS	19.20%	19.20%		
Optional Metropolitan Calling Area	19.20%	19.20%		
VERTICAL SERVICES				
Auto Redial	19.20%	19.20%		
Call Blocker	19.20%	19.20%		
Call Forwarding	19.20%	19.20%		
Call Forwarding - Busy Line	19.20%	19.20%		
Call Forwarding - Busy Line/Don't Answer	19.20%	19.20%		
Call Forwarding - Don't Answer	19.20%	19.20%		
Call Return	19.20%	19.20%		
Call Trace	19.20%	19.20%		
Call Waiting	19.20%	19.20%		
Calling Name	19.20%	19.20%		
Calling Number	19.20%	19.20%		
ComCall®	19.20%	19.20%		
Personalized Ring (1 dependent number)	19.20%	19.20%		
Personalized Ring (2 dependent numbers - 1st number)	19.20%	19.20%		
Personalized Ring (2 dependent numbers - 2nd number)	19.20%	19.20%		
Priority Call	19.20%	19.20%		
Remote Access to Call Forwarding	19.20%	19.20%		
Selective Call Forwarding	19.20%	19.20%		
Simultaneous Call Forwarding	19.20%	19.20%		
Speed Calling 8	19.20%	19.20%		
Three Way Calling	19.20%	19.20%		
ISDN				
Digiline	19.20%	19.20%		

TBD-To Be Determined  
 NRO-Nonrecurring only  
 ICB-Individual Case Basis  
 NA-Not Applicable

SOUTHWESTERN BELL TELEPHONE COMPANY  
 MISSOURI  
 Generic Rates  
 November 22, 1999

APPENDIX PRICING  
 SWBT-MQ/CLEC

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>RESALE DISCOUNTS</b>				
<b>OTHER (Resale)</b>	<b>RECURRING</b>	<b>NON-RECURRING</b>		
DIRECTORY ASSISTANCE SERVICES	13.91%	13.91%		
Nationwide Listing Services (NLS)	13.91%	13.91%		
TOLL				
Home 800sm	19.20%	19.20%		
IntraLATA MTS	19.20%	19.20%		
OPTIONAL TOLL CALLING PLANS				
1+ SAVERsm	19.20%	19.20%		
1+SAVER Direct	19.20%	19.20%		
Community Optional Saver	19.20%	19.20%		
Outstate Calling Area Service	19.20%	19.20%		
900 Call Restriction	19.20%	19.20%		
Access Services	0%	0%		
Additional Directory Listings	19.20%	19.20%		
Bill Plus	5%	5%		
Company Initiated Suspension Service	0%	0%		
Directory Assistance Services	13.91%	13.91%		
Connections with Terminal Equipment and Communications Equipment	0%	0%		
Consolidated Billing	5%	5%		
Construction Charges	0%	0%		
Customer Initiated Suspension Service	0%	0%		
Exchange Interconnection Service	0%	0%		
Operator Services	13.91%	13.91%		
Local Operator Assistance Service	13.91%	13.91%		
Maintenance of Service Charges	0%	0%		
Prepaid Calling Cards	19.20%	19.20%		
Telecommunications Service Priority Systems	0%	0%		
Toll Billing Exception (Billed Number Screen)	19.20%	19.20%		
Toll Restriction	19.20%	19.20%		
Wireless Carrier Interconnection Services	0%	0%		
Electronic Billing Information Data (daily usage) per message	\$ 0.003		NA	NA
Slamming Investigation Fee	NA		\$ 50.00	\$ 50.00
Local disconnect Report (LDR)				
Per WTN	\$ 0.10		NA	NA
Simple conversion charge per billable number	NA		\$ 25.00	NA
Electronic conversion orders per billable number	NA		\$ 5.00	NA
Complex conversion orders per billable number	NA		\$ 125.00	NA
SWBT transmittal of CLEC end-user listing to 3rd party pub, per occurrence, per dir publisher	NA		\$ 100.00	NA
OS/DA				
Branding - Resellers				
- Initial Load	NA		\$ 1,072.00	NA
- Subsequent Load	NA		\$ 1,072.00	NA
- Per Call	\$ 0.04		NA	NA
External Rater - Resellers				
- Initial Load	NA		\$ 1,538.54	NA
- Subsequent Rater Load	NA		\$ 623.37	NA
- Subsequent Reference Load	NA		\$ 623.37	NA
Billable Message Records and/or access usage records				
Per Record Charge				
Full Status RAO Company				
Hosting Company Network	\$ 0.002		NA	NA
National CMDS Network	\$ 0.005		NA	NA
Non-Full Status RAO Company				
Hosting Company Network	\$ 0.007		NA	NA
National CMDS Network	\$ 0.010		NA	NA

MISSOURI	SWBT Generic Rates			
	SWBT RECURRING		SWBT NON-REC.	
	Monthly		Initial	Additional
<b>OTHER</b>				
Directory Assistance				
	DA - Per Call	\$ 0.401	NA	NA
	IDACC - Per Call	\$ 0.240	NA	NA
	Nationwide Listing Services (NLS)	\$ 0.65	NA	NA
	Non Pub Emergency Service	\$ 2.10	NA	NA
	Branding - Facility Based			
	- Initial Load	NA	\$ 1,718.00	NA
	- Subsequent Load	NA	\$ 1,718.00	NA
	- Per Call (Line # based *)	\$ 0.04	NA	NA
	* When unbundled switching is used or where more than one brand required on same trunk group			
	Rate Reference - Facilities Based			
	- Initial Load	NA	\$ 1,939.29	NA
	- Subsequent Rater Load	NA	\$ 716.47	NA
	- Subsequent Reference Load	NA	\$ 716.47	NA
	Directory Assistance Listings (DAL)			
	- Initial Load, per listing	NA	\$ 0.0036	NA
	- Updates, per listing	NA	\$ 0.0045	NA
	- Non-Pub Emergency Message Service	\$2.10	NA	NA
	Operator Services			
	Fully Automated Call Processing (Per completed automated call)	\$ 0.17300	NA	NA
	Operator Assisted Call Processing (Per work second)	\$ 0.02000	NA	NA
	Branding - Facility Based			
	- Initial Load	NA	\$ 1,718.00	NA
	- Subsequent Load	NA	\$ 1,718.00	NA
	- Per Call (Line # based *)	\$ 0.04	NA	NA
	* When unbundled switching is used or where more than one brand required on same trunk group			
	Rate Reference - Facilities Based			
	- Initial Load	NA	\$ 1,939.29	NA
	- Subsequent Rater Load	NA	\$ 716.47	NA
	- Subsequent Reference Load	NA	\$ 716.47	NA
	Intralata Message Rating			
	- Rate per initial load	NA	\$ 605.23	NA
	- Rate per subsequent changes	NA	\$ 605.23	NA
	Local Exchange Routing Guide (LERG) Per NXX	NA	\$ 110.00	NA
	NXX Migration - Migration charge/NXX	NA	\$ 10,000.00	NA
	Electronic Billing Information Data (daily usage) per message	\$ 0.003	NA	NA
<b>RECIPROCAL COMPENSATION</b>		<b>USAGE</b>		
<b>Tandem Switching</b>				
	per Minute of Use	\$ 0.001514	NA	NA
<b>Common Transport</b>				
	Termination per Minute of Use (Rural - Zone 3)	\$ 0.000352	NA	NA
	(Suburban - Zone 2)	\$ 0.000332	NA	NA
	(Metro - Zone 1)	\$ 0.000206	NA	NA
	(Interzone)	\$ 0.000387	NA	NA
	Facility per Minute, per Mile (Rural - Zone 3)	\$ 0.000015	NA	NA
	(Suburban - Zone 2)	\$ 0.000007	NA	NA
	(Metro - Zone 1)	\$ 0.000002	NA	NA
	(Interzone)	\$ 0.000003	NA	NA
<b>Local Switching (per MOU)</b>				
	Per Originating or Terminating MOU (Rural - Zone 3)	\$ 0.006841	NA	NA
	(Suburban - Zone 2)	\$ 0.006728	NA	NA
	(Metro - Zone 1)	\$ 0.005510	NA	NA
<b>Transiting</b>				
	Rural - Zone 3	\$ 0.001972	NA	NA
	Suburban - Zone 2	\$ 0.001895	NA	NA
	Metro - Zone 1	\$ 0.001731	NA	NA
	OCA (Optional Area)	\$ 0.004000	NA	NA
	OCA Transport & Termination	\$ 0.016000	NA	NA

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>		<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
<b>Loops Promotion</b>					
2-Wire Analog Promotion					
Zone 1 - Urban	U21	*	\$11.00	See NRC rate below USOC NRBM4	See NRC rate below USOC NRBM4
Zone 2 - Suburban	U21	*	\$15.00	See NRC rate below USOC NRBM4	See NRC rate below USOC NRBM4
Zone 3 - Rural	U21	*	\$13.25	See NRC rate below USOC NRBM4	See NRC rate below USOC NRBM4
Zone 4	U21	*	\$9.20	See NRC rate below USOC NRBM4	See NRC rate below USOC NRBM4
2-Wire Analog Promotion	NRBM4		NA	Uses existing rates in underlying agreement	Uses existing rates in underlying agreement
<b>ADSL Promotion</b>					
ADSL					
Zone 1 - Urban	U2F	*	\$4.77	\$9.78	\$4.16
Zone 2 - Suburban	U2F	*	\$7.77	\$9.78	\$4.16
Zone 3 - Rural	U2F	*	\$12.48	\$9.78	\$4.16

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>		<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
Zone 4	U2F	*	\$6.84	\$9.78	\$4.16
Service Order Promotion - Manual	NRBAY	*	NA	\$0.00	NA
Service Order Promotion - Electronic	NRBAW	*	NA	\$5.00	NA
<b>XDSL Promotion</b>					
PSD #1B Capable Loop - 2-Wire Very Low-band Symmetric Technology: 2-Wire Copper "Symmetric Digital Subscriber Line" (SDSL)					
Zone 1 - Urban	2SLAX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	2SLAX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	2SLAX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLAX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
PSD#2 Capable Loop - 2-Wire Low-band Symmetric Technology					
Zone 1 - Urban	2SLCX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	2SLCX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>	<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
Zone 3 - Rural	2SLCX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLCX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
PSD#3A Capable Loop - Mid-band Symmetric Technology: 2-Wire Mid-Band Symmetric Technology				
Zone 1 - Urban	2SLBX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	2SLBX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	2SLBX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLBX	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
PSD#3B Capable Loop - Mid-band Symmetric Technology: 4-Wire Mid-Band Symmetric Technology				
Zone 1 - Urban	4SL1X	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	4SL1X	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	4SL1X	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	4SL1X	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>		<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
PSD#4 Capable Loop - 2-Wire High-band Symmetric Technology					
Zone 1 - Urban	2SLDX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	2SLDX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	2SLDX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLDX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
PSD#5 Capable Loop - 2-Wire Asymmetrical Digital Subscriber Line Technology					
Zone 1 - Urban	U2F	*	\$4.77	\$9.78	\$4.16
Zone 2 - Suburban	U2F	*	\$7.77	\$9.78	\$4.16
Zone 3 - Rural	U2F	*	\$12.48	\$9.78	\$4.16
Zone 4	U2F	*	\$6.84	\$9.78	\$4.16
PSD#6 2-Wire Very High-band Capable					
Zone 1 - Urban	2SLEX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>		<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
Zone 2 - Suburban	2SLEX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	2SLEX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLEX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
PSD#7 2-Wire Capable Loop - 2-Wire Short Reach Very High-band Symmetric Technology					
Zone 1 - Urban	2SLFX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 2 - Suburban	2SLFX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 3 - Rural	2SLFX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
Zone 4	2SLFX		Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%	Discount existing rate in underlying agreement 25%
UNE-P Promotion					
Network Component	R2RLP	*	NA	\$29.55	\$16.90
Analog Line Port					
Zone 1 - Urban	RBQ		Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate

**Missouri  
Merger Commitment Amendments**

<b>MERGER COMMITMENT AMENDMENTS</b>	<b>USOC</b>	<b>Monthly Rate</b>	<b>Nonrecurring Rate First</b>	<b>Nonrecurring Rate Additional</b>
Zone 2 - Suburban	RBQ	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
Zone 3 - Rural	RBQ	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
Zone 4	RBQ	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
<b>2-Wire Analog Loop</b>				
Zone 1 - Urban	RB9	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
Zone 2 - Suburban	RB9	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
Zone 3 - Rural	RB9	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
Zone 4	RB9	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
2-Wire cross-connect from analog loop to switch port	UDLX2	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate	Uses existing rate in underlying agreement, if none, use generic rate
<p><b>*These rates are subject to adjustment as set out in the Conditions for FCC Order Approving SBC/Ameritech Merger, CC Docket No. 98-141 (FCC Merger Conditions).</b></p>				

Agreement No. \_\_\_\_\_

**MASTER AGREEMENT FOR ACCESS  
TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY (TEXAS)**

This Agreement dated \_\_\_\_\_, 19\_\_, is made by and between Southwestern Bell Telephone Company ("SWBT") and the undersigned Applicant. As provided in this Agreement, SWBT will provide Applicant nondiscriminatory access, in accordance with the Pole Attachment Act, the Telecommunications Act of 1996, and applicable rules, regulations, and commission orders, to poles, ducts, conduits, and rights-of-way owned or controlled by SWBT and located in this state.

**ARTICLE 1: PARTIES**

1.01 Southwestern Bell Telephone Company. Southwestern Bell Telephone Company is a corporation chartered in the State of Missouri. SWBT's principal office is located at 1010 Pine Street, St. Louis, Missouri 63101.

1.02 Applicant. Applicant is a telecommunications carrier or cable television system doing business or operating in this State under the following name(s):

\_\_\_\_\_  
Applicant maintains offices in this State at the following address:  
\_\_\_\_\_

Applicant is more fully described in APPENDIX II ("Identification of Applicant").

**ARTICLE 2: PURPOSE OF AGREEMENT**

2.01 Primary Purpose of Agreement. The primary purpose of this Agreement is to set forth the rates, terms, conditions, and procedures under which SWBT will provide Applicant access to SWBT's poles, ducts, conduits, and rights-of-way located in this State.

2.02 Applicability. This Agreement applies to all poles, ducts, conduits, and rights-of-way subject to the Pole Attachment Act, 47 U.S.C. § 224, as amended by the Telecommunications Act of 1996, and further amendments.

2.03 Construction in Accordance with Purpose. All provisions of this Agreement shall be construed and applied consistently with the requirements of the Pole Attachment Act and those provisions of the Telecommunications Act of 1996, including but not limited to 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii), which mandate access to SWBT's poles, ducts, conduits, and rights-of-way.

2.04 Uniform Application and Nondiscriminatory Access. In Paragraph 1156 of the First Interconnection Order in CC Docket No. 96-98, the FCC has ordered that “[W]here access is mandated, the rates, terms, and conditions of access must be uniformly applied to all telecommunications carriers and cable operators that have or seek access.” In Paragraph 1157 of the First Interconnection Order, the FCC has further stated that except as specifically noted elsewhere in that order, “a utility may not favor itself over other parties with respect to the provision of telecommunications or video programming services.” This Agreement has been drafted and shall be construed to effectuate these nondiscriminatory access requirements.

2.05 Effect on Rights and Remedies under Law. This Agreement is intended by the parties to implement, rather than abridge, their respective rights under federal and state law. In the event of an irreconcilable conflict between any provision of this Agreement and any applicable federal or state laws, rules, regulations, or commission orders, the parties’ rights and remedies under such laws, rules, regulations, and orders shall take precedence over the terms of this Agreement.

2.06 Additional Negotiations. This Agreement is one of many agreements between SWBT and parties seeking access to SWBT’s poles, ducts, conduits, and rights-of-way in this State. Nothing contained in this Agreement shall preclude SWBT from negotiating additional or different terms of access with third parties. Applicant may, at any time, seek amendments to this Agreement to conform to the terms of agreements between SWBT and third parties. In addition, the parties acknowledge that it may be necessary to amend or supersede this Agreement to conform to changes in the law, streamline procedures for granting access, address issues not addressed in this Agreement, and resolve operational concerns arising by virtue of the presence of competing providers of telecommunications and cable television services on, within, or in the vicinity of SWBT’s poles, ducts, conduits, and rights-of-way. Each party shall, therefore, at the request of the other party, engage in good faith negotiations to supplement, amend or replace this Agreement.

2.07 Relationship to Interconnection Agreement. SWBT has provided Applicant the option of executing this Agreement either as a standalone agreement or as part of the interconnection agreement, if any, between the parties. Applicant’s election is reflected in this section, and this Agreement shall be construed in accordance with Applicant’s election. If this Agreement has been executed as part of an interconnection agreement, Applicant shall have the additional option of replacing this Agreement at any time with SWBT’s then-current Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way.

[ ] This Agreement has been entered into as a standalone Agreement.

[X] This Agreement has been entered into, at Applicant's request, as an appendix, attachment, or exhibit to an interconnection agreement between the parties. Except as otherwise specifically stated in this Agreement, the terms of this Agreement, which are specific to poles, ducts, conduits, and rights-of-way, shall apply in the event of conflict between the terms of this Agreement and the general terms and conditions set forth in the interconnection agreement.

2.08 Access Ancillary to Arrangements for Interconnection, Collocation, and Access to Unbundled Network Elements. Nothing contained in this Agreement shall be construed as precluding Applicant from having such additional access to SWBT's poles, ducts, conduits, and rights-of-way as may be necessary to effectuate the terms of other arrangements between Applicant and SWBT relating to interconnection, collocation, and access to unbundled network elements. To the extent that this Agreement does not provide the access required, additional terms of access may be included in any tariff or agreement between the parties establishing arrangements for interconnection, collocation, or access to unbundled network elements.

### ARTICLE 3: DEFINITIONS

3.01 Definitions in general. As used in this Agreement, the terms defined in this article shall have the meanings set forth below in Sections 3.02 to 3.48 except as the context otherwise requires.

3.02 Agreement. The term "Agreement" refers to this Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way. The term "Agreement" includes all appendices, attachments, and addenda to this Agreement, including but not limited to addenda, if any, reflecting state-specific requirements or Applicant-specific requirements imposed by interconnection arbitration orders.

3.03 Anchor. The term "anchor" refers to a device, structure, or assembly which stabilizes a pole and holds it in place. An anchor assembly may consist of a rod and fixed object or plate, typically embedded in the ground, which is attached to a guy strand or guy wire which, in turn, is attached to the pole. The term "anchor" does not include the guy strand which connects the anchor to the pole.

3.04 Appendix. The capitalized term "APPENDIX" refers to one of the following appendices to this Agreement.

APPENDIX I: Schedule of Rates, Fees, and Charges

APPENDIX II: Identification of Applicant

APPENDIX III: Administrative Forms and Notices

- SW-9433: Pole Attachments
- SW-9434: Access Application and Make-Ready Authorization
- SW-9435: Conduit Occupancy
- SW-9436A: Notification of Surrender or Modification of Pole Attachment License by Licensee
- SW-9436B: Notification of Surrender or Modification of Conduit Occupancy License by Applicant
- SW-9436C: Notification of Unauthorized Attachments by Applicant
- APPENDIX IV: Insurance Requirements
- APPENDIX V: Nondisclosure Agreement
- APPENDIX VI: Notices to Applicant
- APPENDIX VII: Notices to SWBT
- APPENDIX VIII: Identification of Utility Liaison Supervisor (ULS)

3.05 Assigned. When used with respect to pole, duct, conduit, or right-of-way space, the term "assigned" refers to space that is occupied by, or has been designated for occupancy by, either party or by a third party. Except as otherwise specifically provided in this Agreement, no person or entity shall have the right to occupy space assigned to another person or entity (other than on a temporary basis in the event of emergency as provided in Section 15.02 of this Agreement) until the assignment has been released or lapsed. Assignment procedures are described in Section 8.02 of this Agreement.

3.06 Authorized contractor. "Authorized contractors" are contractors selected by Applicant who may, subject to Applicant's direction and control, perform facilities modification or make-ready work which would ordinarily be performed by SWBT or persons acting on SWBT's behalf. As used in this Agreement, the term "authorized contractor" does not refer to contractors performing routine installation, maintenance, or repair work on Applicant's behalf or other contractors who may be selected by Applicant to perform work on Applicant's behalf without SWBT's approval. More specifically, the term "authorized contractor" refers only to those contractors included on a list of contractors mutually approved by Applicant and SWBT to perform one or more of the following tasks within a specified SWBT construction district: (a) installation of those sections of Applicant's ducts or facilities which connect to SWBT's conduit system as

provided in Section 6.08(c); (b) installation of inner duct as provided in Section 10.02(b); (c) excavation work in connection with the removal of retired or inactive (dead) cables as provided in Section 10.02(c); or (d) make-ready work as provided in Sections 10.04 and 10.05. A person or entity approved as an authorized contractor is only an authorized contractor with respect to those tasks for which such person or entity has been approved by both parties and is an authorized contractor only in those SWBT construction districts agreed to by both parties. Designation of an authorized contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an authorized contractor for other purposes, nor shall approval of an authorized contractor by one SWBT construction district constitute approval of such authorized contractor for the area served by a different SWBT construction district; provided, however, that if a specific construction job extends beyond the boundaries of a single construction district, an authorized contractor shall, for the purposes of that job, be deemed to have been approved by all SWBT construction districts in which the work is to be performed. If, by agreement of the parties or commission order, Applicant has been approved as an authorized contractor, such approval shall be noted by an addendum to this Agreement.

3.07 Available. When used with respect to pole, duct, conduit, and right-of-way space, the term "available" refers to space that is not occupied or assigned. In conduit systems owned or controlled by SWBT, maintenance ducts will not be considered "available" for assignment. All other unassigned ducts, inner ducts, sub-ducts, and partitioned conduits in a conduit system owned or controlled by SWBT will be deemed available for assignment.

3.08 Cables. The term "cable" includes but is not limited to twisted-pair copper, coaxial, and fiber optic cables. Cables are transmission media which may be attached to our placed in poles, ducts, conduits, and rights-of-way but are not themselves poles, ducts, conduits, or rights-of-way. Nothing contained in this Agreement shall be construed as a grant of access to cables attached to SWBT's poles or placed in SWBT's ducts, conduits, or rights-of-way.

3.09 Conduit. The term "conduit" refers to all SWBT conduits subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, conduits are tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. Except as the context otherwise requires, the term "conduit" refers only to conduit owned or controlled by SWBT, including the re-enterable manholes and handholes used to connect ducts and provide access to cables, wires, and other facilities within the ducts. As used in this Agreement, the term "conduit" refers only to conduit structures (including ducts, manholes and handholes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SWBT structures (such as huts and cabinets) which branch off from or are connected to SWBT's conduit.

3.10 Conduit occupancy. The term "conduit occupancy" refers to the presence of wire, cable, optical conductors, or other equipment within any part of SWBT's conduit system.

3.11 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Agreement, the term "conduit system" refers only to conduit systems owned or controlled by SWBT and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SWBT structures (such as huts and cabinets) which branch off from or are connected to SWBT's conduit.

3.12 Construction District. The term "construction district" refers to the SWBT organization responsible for outside plant construction in a specified geographic area. The term "construction district" connotes responsibility for handling a function and not to the official name of the organization responsible for outside plant construction matters.

3.13 Cost/Cost-based. The terms "cost" and "costs" refer to costs determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. The term "cost-based" refers to rates, fees, and other charges which are based on costs and determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders.

3.14 Duct. The term "duct" refers to all SWBT ducts subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, a "duct" is a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other equipment. As used in this Agreement, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels. Except as the context otherwise requires, the term "duct" refers only to ducts owned or controlled by SWBT and space within those ducts and does not include cables and other telecommunications equipment located within such ducts.

3.15 Facilities. The terms "facility" and "facilities" refer to any property, equipment, or items owned or controlled by any person or entity.

3.16 FCC. The acronym "FCC" refers to the Federal Communications Commission.

3.17 First Interconnection Order. The term "First Interconnection Order" refers to the First Report and Order adopted by the FCC on September 1, 1996, and released on September 8, 1996, in CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and CC Docket No. 95-185, In the Matter of Interconnection between Local Exchange Carriers and

Commercial Mobile Radio Service Providers. Access to poles, ducts, conduits, and rights-of-way is addressed in the First Interconnection Order in Paragraphs 1119-1240.

3.18 Handhole. The term "handhole" refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Agreement, the term "handhole" refers only to handholes which are part of SWBT's conduit system and does not refer to handholes which provide access to buried cables not housed within SWBT ducts or conduits. As used in this Agreement, the term "handhole" refers only to handhole structures owned or controlled by SWBT and does not include cables and other telecommunications equipment located within handhole structures.

3.19 Hazardous substances. The term "hazardous substances" refers to hazardous and toxic substances, waste, pollutants, contaminants, and materials as defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601(14), as amended, and other federal, state, and local health, safety, and environmental laws, ordinances, statutes, rules, and regulations applicable to sites subject to this Agreement, including but not limited to the Occupational Safety and Health Act ("OSHA"). In general, the term "hazardous substances" refers to any substance the presence, use, transport, abandonment or disposal of which (a) requires investigation, remediation, compensation, fine, or penalty under health, safety, and environmental laws, ordinances, statutes, rules, and regulations applicable to sites subject to this Agreement or (b) poses risks to human health, safety, or the environment and is regulated under any such laws, ordinances, statutes, rules, and regulations. For the purposes of this Agreement, the term "hazardous substances" shall also include petroleum, natural gas, and other combustible or noxious liquids, gases, or solids which may accumulate at sites subject to this Agreement.

3.20 Interconnection agreement. The term "interconnection agreement" refers to the interconnection agreement, if any, to which this Agreement has been made an appendix, attachment, or exhibit, or, as the context may require, any other interconnection agreement between the parties.

3.21 Jacket. The term "jacket" refers to a single enclosed outer covering containing communications wires, fibers, or other communications media. As used in this Agreement, the term "jacket" refers to the outermost sheath or jacket of a cable.

3.22 Joint user. The term "joint user" refers to any person or entity which has entered or may enter into an agreement or arrangement with SWBT permitting it to attach its facilities to SWBT's poles or place its facilities in SWBT's ducts, conduits, or rights-of-way.

3.23 License. The term "license" refers to a written instrument confirming that SWBT has granted the application of Applicant or a third party for access to pole, duct, conduit, or right-of-way space and that, based on Applicant's or such third party's

representations (and SWBT's field inspection, if any), it appears that no further facilities modification, capacity expansion or make-ready work by SWBT is required before facilities described in the application are installed in the space requested. The term "license" refers to licenses issued by SWBT pursuant to this Agreement and may, if the context requires, refer to licenses issued by SWBT before the date of this Agreement. The parties' use of the term "license" in this Agreement shall not be construed as conferring authority or discretion on SWBT's part to deny access to Applicant in any manner inconsistent with the requirements of the Pole Attachment Act, the Telecommunications Act of 1996, and applicable rules, regulations, and commission orders.

3.24 Local service provider ("LSP"). The terms "local service provider" and "LSP" refer only to telecommunications carriers authorized by applicable federal and state laws and regulations to provide local exchange service. As used in this Agreement, these terms include SWBT.

3.25 Maintenance duct. The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) which may be used, on a short-term basis, for maintenance, repair, or emergency restoration activities. Maintenance ducts will be available, on a nondiscriminatory basis, to all persons and entities (including SWBT, Applicant, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located for (a) short-term emergency repairs as provided in Article 15 of this Agreement and (b) short-term non-emergency maintenance or repair activities as provided in Articles 12 and 13 of this Agreement. No more than one full-sized duct within any given conduit section will be designated by SWBT as the maintenance duct. In those locations where, on the effective date of this Agreement, there is not a full-sized duct available to be used as a maintenance duct, SWBT will designate an inner duct, if one is available, as the maintenance duct although such inner duct may be too small to accommodate some of the cables occupying the conduit section in which such inner duct is located. The term "maintenance duct" does not include ducts and conduits extending from a SWBT manhole to customer premises. Maintenance ducts will not be considered "available" (as defined in Section 3.07) for assignment to SWBT, Applicant, or joint users for purposes other than short-term uses contemplated in this section; provided, however, that SWBT may assign the duct currently designated as a maintenance duct if another suitable full-sized duct will be made available to serve as a replacement maintenance duct and may assign an inner duct currently designated as a maintenance duct if another inner duct will be made available to serve as a replacement maintenance duct. Maintenance duct designations may change from time to time and may or may not be reflected in SWBT's outside plant records. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.

3.26 Make-ready work. The term "make-ready work" refers to all work performed or to be performed to prepare SWBT's poles, ducts, conduits, rights-of-way,

and related facilities for the requested occupancy or attachment of Applicant's facilities. Make-ready work does not include the actual installation of Applicant's facilities. "Make-ready work" includes, but is not limited to, clearing obstructions (e.g., by "rodding" ducts to ensure clear passage), and rearranging, transferring, replacing, and removing existing facilities on a pole or in a conduit system where such work is required to accommodate Applicant's facilities (as contrasted with work performed on SWBT's behalf in furtherance of SWBT's own business needs or convenience). "Make-ready work" may require "dig-ups" of existing facilities and may include the repair, enlargement or modification of SWBT's facilities (including, but not limited to, poles, ducts, conduits, handholes, and manholes), consolidating services into fewer cables, or the performance of other work required to make a pole, anchor, duct, conduit, manhole, handhole, or right-of-way usable for the initial placement of Applicant's facilities. As used in this Agreement, the term "make-ready work" also includes associated planning and engineering work required to confirm or determine the extent of make-ready work required and to plan make-ready projects.

3.27 Manhole. The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron, cast aluminum, steel, or concrete manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in ducts or conduits which are parts of SWBT's conduit system. As used in this Agreement, the term "manhole" refers only to manhole structures owned or controlled by SWBT and does not include cables and other telecommunications equipment located within manhole structures.

3.28 Occupancy. The term "occupancy" refers to the presence of cables or other facilities on a pole, in a duct or conduit, or within a right-of-way.

3.29 Overlashing. The term "overlashing" refers to the practice of placing an additional cable or inner duct by lashing such cable or inner duct with spinning wire over an existing cable and strand.

3.30 Person acting on Applicant's behalf. The terms "person acting on Applicant's behalf," "personnel performing work on Applicant's behalf," and similar terms include both natural persons and firms and ventures of every type, including, but not limited to, corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on Applicant's behalf," "personnel performing work on Applicant's behalf," and similar terms specifically include, but are not limited to, Applicant, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request of or as directed by Applicant and their respective officers, directors, employees, agents, and representatives. An authorized contractor selected by Applicant to perform make-ready work shall be deemed to be a person acting on Applicant's behalf while performing such work at Applicant's request.

3.31 Person acting on SWBT's behalf. The terms "person acting on SWBT's behalf," "personnel performing work on SWBT's behalf," and similar terms include both natural persons and firms and ventures of every type, including but not limited to corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on SWBT's behalf," "personnel performing work on SWBT's behalf," and similar terms specifically include, but are not limited to, SWBT, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request of or as directed by SWBT and their respective officers, directors, employees, agents, and representatives. An authorized contractor selected by SWBT to perform make-ready work shall be deemed to be a person acting on SWBT's behalf while performing such work at SWBT's request.

3.32 Pole. The term "pole" refers to all SWBT poles subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). Except as the context otherwise requires, the term "pole" refers only to poles (and associated anchors) which are owned or controlled by SWBT and does not include cables and other telecommunications equipment attached to pole structures.

3.33 Pole Attachment. As defined in the Pole Attachment Act, 47 U.S.C. § 224(a)(4), the term "pole attachment" refers to "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." In this Agreement, except as the context otherwise requires, the term "pole attachment" refers to any attachment by a cable television system or provider of telecommunications service to a pole (and associated anchors) owned or controlled by SWBT. The term "pole attachment" includes all such facilities attached to or supported by a SWBT pole, including but not limited to cables, risers and U-guards, equipment boxes, drop wires, anchors, bolts, clamps, drive rings, guys, hooks, strands, and other hardware affixed to the pole. Groupings of associated pole attachments for billing purposes shall be consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. Except as otherwise authorized by applicable FCC rules, regulations, or orders, Applicant's pole attachments occupying the same usable space (or otherwise associated with facilities occupying the same usable space on a pole) shall be treated as a single attachment for billing purposes.

3.34 Pole Attachment Act. The term "Pole Attachment Act" refers to those provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, now codified as 47 U.S.C. § 224, as those provisions may be amended from time to time.

3.35 Pre-license survey. The term "pre-license survey" refers to work and activities performed or to be performed by SWBT or by persons acting on SWBT's behalf for the primary purpose of:

- (a) confirming or determining the existing availability and capacity of a pole, duct, conduit, or right-of-way and identifying capacity, safety, reliability, or engineering concerns, if any, relating to Applicant's application;
- (b) confirming or determining the extent, if any, to which modifications to SWBT's poles, ducts, conduits, or right-of-ways are required to accommodate Applicant's facilities;
- (c) confirming or determining what make-ready work, if any, will be required to prepare SWBT's poles, ducts, conduits, or rights-of-way to accommodate Applicant's facilities; and
- (d) estimating the costs, if any, that Applicant will be required to pay for any such facilities modification, capacity expansion, or make-ready work.

3.36 Pre-occupancy survey. The term "pre-occupancy survey" refers to work and activities performed or to be performed by Applicant or persons acting on Applicant's behalf for the primary purpose of enabling Applicant to determine:

- (a) whether SWBT's poles, ducts, conduits, or rights-of-way, in their existing condition, are suitable for Applicant's intended use;
- (b) the extent, if any, to which modifications of SWBT's poles, ducts, conduits, or rights-of-way will be proposed by Applicant to expand the capacity of SWBT's poles, ducts, conduits, or rights-of-way to accommodate Applicant's facilities; and
- (c) what other capacity expansion or make-ready work, if any, will be proposed by Applicant to prepare SWBT's poles, ducts, conduits, and rights-of-way to accommodate Applicant's facilities.

3.37 Primary point of contact. The term "primary point of contact" refers to the persons designated by Applicant and SWBT, respectively, to coordinate arrangements for Applicant's access to SWBT's poles, ducts, conduits, and rights-of-way and records relating to such poles, ducts, conduits, and rights-of-way. SWBT's designated primary point of contact shall be the Utility Liaison Supervisor unless the parties have arranged for that function to be performed by a designated account representative who will serve as an intermediary between Applicant and the Utility Liaison Supervisor.

3.38 Rights-of-way. The term "rights-of-way" refers to all SWBT rights-of-way subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, rights-of-way

are legal rights to pass over or through property of another party for limited purposes as defined in a statute, ordinance, easement, grant or other conveyance. Rights-of-way include but are not limited to (a) public rights-of-way which SWBT may occupy as permitted by law for the placement of its facilities (e.g., rights-of-way on, under, or over streets, highways, and other public roads) and (b) easements or servitudes granted by property owners or obtained through the exercise of eminent domain authority authorizing SWBT to pass over, place facilities on, and have rights of ingress and egress to the property of such property owners. Rights-of-way may also include easements which, at the time of land development or subdivision, were dedicated for use by public or private utilities and are being occupied, in whole or in part, by SWBT's facilities. Except as the context otherwise requires, the term "rights-of-way" as used in this Agreement refers only to rights-of-way owned or controlled by SWBT and does not include (a) cables and other telecommunications equipment buried or located on such rights-of-way, (b) public rights of way (which are owned by and subject to the control of governmental entities), or (c) any space which is owned and controlled by a third-party property owner and occupied by SWBT with permission from such owner rather than as a matter of legal right. As used in this Agreement, the term "right-of-way" may also include certain fee-owned or leased property acquired by SWBT for the specific purpose of installing poles, ducts, or conduits or burying underground cables which are part of SWBT's network distribution facilities.

3.39 Sheath. The term "sheath" refers to an enclosed covering containing communications wires, fibers, or other communications media. A cable may include both inner and outer sheaths.

3.40 Spinning. The term "spinning" refers to a method of attaching a cable or inner duct to a supporting strand. "Spinning" is sometimes referred to as "lashing."

3.41 State. When capitalized, the term "State" (as used in terms such as "this State") refers to the State of Texas.

3.42 State Commission. The term "State Commission" refers to the Texas Public Utility Commission.

3.43 Strand. The term "strand" refers to support wires, typically stranded together, or other devices attached to a pole and connecting that pole to an anchor or to another pole for the purpose of increasing pole stability or supporting wires, cables, and associated facilities. The term "strand" includes, but is not limited to, strands sometimes referred to as "anchor strands," "anchor/guy strands," "down guys," "guy strands," "pole-to-pole guys," and "messengers."

3.44 Telecommunications Act of 1996. The term "Telecommunications Act of 1996" refers to the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, enacted February 8, 1996.

3.45 Third party. The terms "third party" and "third parties" refer to persons and entities other than the parties to this Agreement (that is, persons and entities other than Applicant and SWBT).

3.46 Utility Liaison Supervisor ("ULS"). The terms "Utility Liaison Supervisor" and "ULS" refer to the person or persons designated by SWBT to be responsible for handling and processing requests for access to SWBT's poles, ducts, conduits, and rights-of-way in this State. The term "ULS" connotes responsibility for handling a function and is not a job title. Except as otherwise specifically provided in this Agreement or in the parties' interconnection agreement, if any, the ULS shall serve as Applicant's single point of contact for arranging access to SWBT's poles, ducts, conduits, and rights-of-way and access to SWBT's records relating to SWBT's poles, ducts, conduits, and rights-of-way. The Utility Liaison Supervisor for this State is identified in APPENDIX VIII.

3.47 Vault. The term "vault" includes central office vaults and controlled environment vaults ("CEVs"). Vaults may be connected to, but are not considered part of, SWBT's conduit system. Access, if any, to vaults (and to ducts, conduits, and risers which serve no purpose other than to provide a means of entry to and exit from such vaults) shall be governed by the tariffs, agreements, or commission orders, if any, establishing arrangements for interconnection, collocation, and access to unbundled network elements, and not by this Agreement.

3.48 "Vicinity of ...". When used in terms such as "vicinity of SWBT's conduit system," "vicinity of SWBT's poles," "vicinity of SWBT's rights-of-way," or "vicinity of SWBT's poles, ducts, conduits, or rights-of-way," the term "vicinity of ..." includes sites on, within, near to, surrounding, or adjoining SWBT's poles, ducts, conduits, and rights-of-way. These sites include, but are not limited to, all sites within a distance of 10 feet of any SWBT pole, duct, conduit, or right-of-way.

#### **ARTICLE 4: NATURE AND SCOPE OF AGREEMENT**

4.01 Scope of Agreement. This Agreement establishes the rates, terms, conditions, and procedures for access to SWBT's poles, ducts, conduits, and rights-of-way located within this State, without regard to whether such poles, ducts, conduits, or rights-of-way are located on public or private property; provided, however, that nothing contained in this Agreement shall be construed as a grant of access to any facilities which are not poles, ducts, conduits, or rights-of-way subject to the Pole Attachment Act or to any poles, ducts, conduits, rights-of-way, facilities, or property owned and controlled by parties other than SWBT. Separate tariffs or agreements, including other portions of the parties' interconnection agreement, and not this Agreement, shall govern Applicant's access, if any, to the following facilities which require special security, technical, and construction arrangements outside the scope of this Agreement:

- (a) SWBT's central office vaults and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from SWBT's central offices;
- (b) controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;
- (c) ducts and conduits located within buildings owned by SWBT; and
- (d) ducts, conduits, equipment rooms, and similar spaces located in space leased by SWBT from third-party property owners for purposes other than to house cables and other equipment in active service as part of SWBT's network distribution operations.

4.02 No Transfer of Property Rights to Applicant. Nothing contained in this Agreement or any license subject to this Agreement shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. The payment of fees and charges as provided by this Agreement and licenses subject to this Agreement shall not create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. No use, however extended, of SWBT's poles, ducts, conduits, or rights-of-way shall create or vest (or be construed as creating or vesting) in Applicant any right, title, or interest in or to any real or personal property owned by SWBT, and the placement of Applicant's facilities on or in SWBT's poles, ducts, conduits and rights-of-way shall not create or vest in SWBT any right, title, or interest in such facilities.

4.03 No Effect on SWBT's Right to Abandon, Convey or Transfer Poles, Ducts, Conduits, or Rights-of-Way. Except as provided in subsections (a)-(d) of this section, nothing contained in this Agreement or any license subject to this Agreement shall in any way affect SWBT's right to abandon, convey, or transfer to any other person or entity SWBT's interest in any of SWBT's poles, ducts, conduits, or rights-of-way.

- (a) SWBT shall give Applicant no less than 60 days written notice prior to abandoning, conveying, or transferring any pole, duct, conduit, or right-of-way (1) to or in which Applicant has attached or placed facilities pursuant to this Agreement or (2) with respect to which Applicant has been assigned pole attachment or conduit occupancy space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.

- (b) SWBT represents that prior to the effective date of this Agreement, and prior to enactment of the Telecommunications Act of 1996, SWBT entered into one or more "joint use pole agreements" with electric utilities located in this State and that such agreements may require SWBT to transfer or convey poles to such electric utilities from time to time. Nothing contained in this Agreement shall abridge the rights of SWBT or any electric utility under any contract executed prior to the effective date of this Agreement. In the event of any transfer or conveyance of poles to an electric utility pursuant to such a joint pole agreement, SWBT will, at Applicant's request, provide Applicant and the transferee utility with such information as may be necessary to minimize any burdens to Applicant which may arise out of or in connection with the transfer or conveyance.
- (c) Transfers of SWBT's poles, ducts, conduits, and rights-of-way shall be subject to Applicant's rights at the time of transfer. Applicant shall, at the request of SWBT or the transferee, provide SWBT or the transferee with all information required to assess Applicant's rights, post-transfer intentions with respect to continued occupancy, and willingness to negotiate new rates, terms, and conditions of access. Applicant shall not unreasonably refuse to negotiate with the transferee. If the transferee itself is a local exchange carrier or other utility subject to the Pole Attachment Act, Applicant shall, at the request of the transferee, negotiate in good faith new rates, terms, and conditions of access.
- (d) Transfers or conveyances of poles, ducts, conduits, or rights-of-way to any entity controlling, controlled by, or under common control with SWBT or to any entity which acquires or succeeds to ownership of substantially all of SWBT's assets shall be subject to Applicant's rights under this Agreement and licenses subject to this Agreement.

4.04 No Effect on SWBT's Rights to Manage its Poles, Ducts, Conduits, and Rights-of-Way. Subject to Applicant's rights under this Agreement and applicable federal and state laws, rules, regulations, and commission orders, including, but not limited to, 47 C.F.R. §1.1403 (requiring 60 days' notice of contemplated modifications), SWBT may (a) locate, relocate, move, replace, modify, maintain, and remove all poles, ducts, conduits, and rights-of-way subject to this Agreement at any time and in any manner as SWBT deems appropriate and (b) enter into new agreements or arrangements with other persons or entities permitting them to attach facilities to SWBT's poles or place facilities in or on SWBT's ducts, conduits, or rights-of-way.

4.05 No Right to Interfere. Except to the extent expressly provided by the provisions of this Agreement, the provisions of this Agreement shall not be construed as authorizing either party to this Agreement, or persons acting on their behalf, to rearrange

or interfere in any way with (a) the facilities of the other party or joint users, (b) the use of or access to such facilities by the other party or joint users, or (c) the ability of either party or joint users to conduct normal business operations, serve their respective customers, or avail themselves of new business opportunities.

4.06 Required Franchises, Permits, Certificates, and Licenses. This Agreement shall not be construed as relieving either party from any obligations it may have to obtain legal authority to construct, operate, maintain, repair, and remove its facilities on public or private property (including but not limited to any required franchises, permits, certificates, licenses, easements, or the like) from all appropriate public authorities and private persons or entities.

4.07 DISCLAIMER OF WARRANTIES. SWBT MAKES NO REPRESENTATIONS THAT SWBT'S POLES, DUCTS, CONDUITS, OR RIGHTS-OF-WAY ARE SUITABLE FOR APPLICANT'S INTENDED USES. SWBT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN THIS AGREEMENT, SWBT MAKES NO IMPLIED WARRANTIES OF ANY KIND.

4.08 Third-party Beneficiaries. Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

#### **ARTICLE 5: ACCESS TO RIGHTS-OF-WAY**

5.01 Public Rights-of-Way. SWBT and Applicant agree that neither party has the right to restrict or interfere with the other party's lawful access to and use of public rights-of-way, including public rights-of-way which pass over property owned by either party. Except as otherwise specifically provided in this Agreement, SWBT and Applicant shall each be responsible for obtaining their own rights-of-way and permission to use real or personal property owned or controlled by any governmental body.

5.02 Private Rights-of-Way Not Owned or Controlled by Either Party. SWBT and Applicant agree that neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third-parties which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. Subject to the procedures set forth in Section 5.04 below, each party shall make its own, independent legal assessment of its right to enter upon or use the property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.

5.03 Access to Rights-of-Way Generally. Each pole attachment and conduit occupancy assignment or license made, issued, or subject to this Agreement shall include

access to and use of all associated rights-of-way including, but not limited to, rights-of-way required by Applicant for ingress, egress, or other access to any sites where SWBT's poles or any part of SWBT's conduit system are located, but only to the extent, if any, that SWBT has the legal authority to grant such access and use. At locations where SWBT has access to third-party property pursuant to non-exclusive rights-of-way, SWBT shall not interfere with Applicant's negotiations with third-party property owners for similar access or with Applicant's access to such property pursuant to easements or other rights-of-ways obtained by Applicant from the property owner; provided, however, that neither party shall conduct activities on such right-of-way which interfere with the facilities of the other party or with the other party's access to and use of its own facilities. At locations where SWBT has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, SWBT shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Applicant and third parties on a nondiscriminatory, first-come, first-served basis, provided that the underlying agreement with the property owner permits SWBT to provide such access, and provided further that Applicant agrees to indemnify, on request defend, and hold SWBT harmless from any injury, loss, damage, claim, or liability arising out of or in connection with such access or use. Such access shall be granted, on a case-by-case basis, in the form of a license, sublicense, sub-easement, or other mutually acceptable writing. Except as otherwise agreed to by the parties, SWBT's charges for such access (obtained from SWBT rather than from the third-party property owner) shall include (a) a pro rata portion of the charges (including but not limited to one-time charges and recurring charges), if any, paid by SWBT to obtain the right-of-way plus (b) any other documented legal, administrative, and engineering costs incurred by SWBT in obtaining the right-of-way and processing Applicant's request for access. Applicant's pro rata portion of the charge paid by SWBT shall be negotiated on a case-by-case basis and shall take into account the size of the area used by Applicant and the number of users occupying the right-of-way.

5.04 Special Procedures for Obtaining Access to Third-party Property. Although SWBT will afford access to rights-of-way owned or controlled by it and permit Applicant to utilize SWBT's rights-of-way to the extent that SWBT has legal authority to do so, Applicant acknowledges that SWBT may not own or control certain rights-of-way to the extent necessary to permit Applicant full access to such rights-of-way. The following general principles shall be applied with respect to access to rights-of-way on third-party property in those situations in which SWBT does not have authority to permit Applicant access or either party has a good faith belief that SWBT does not have such authority:

- (a) Applicant will first attempt to obtain right-of-way directly from the property owner.
- (b) If Applicant has the right of eminent domain under state law, Applicant will independently attempt to obtain the right-of-way it seeks through the exercise of that right.

- (c) If Applicant is unable to obtain access to a right-of-way under subsections (a) or (b) above, Applicant may request in writing that SWBT exercise its right of eminent domain to condemn the right-of-way for Applicant's use and SWBT will respond to Applicant's written request within 45 days. SWBT will exercise its right of eminent domain on Applicant's behalf only if permitted to do so under applicable state law, and only if Applicant agrees to bear all costs and expenses, including but not limited to legal fees, arising out of or in connection with the condemnation proceedings.

5.05 Access to Rights-of-Way Incident to the Use of CEVs and Similar Structures. SWBT will provide Applicant nondiscriminatory access, consistent with the requirements of the Pole Attachment Act and Telecommunications Act of 1996, and as provided in Sections 5.03 and 5.04 above, to rights-of-way containing Controlled Environment Vaults (CEVs), huts, cabinets, and other similar structures. SWBT will place no restrictions on access to such rights-of-way that are more restrictive than those SWBT places on itself; provided, however, that neither party shall conduct activities on such rights-of-way which interfere with the facilities of the other party, with the privacy of communications carried over the other party's network, or with the other party's access to and use of its own facilities. This section relates only to access to rights-of-way and shall not be construed as granting access to the CEVs, huts, cabinets, and similar structures located on such rights-of-way. Access, if any, to CEVs, huts, cabinets, and similar structures, and to ducts, conduits, and risers which serve no purpose other than to provide a means of entering or exiting such structures, shall be governed by the tariff, agreement, or order, if any, granting Applicant access to such structures.

5.06 Access to Building Entrance Facilities, Building Distribution Facilities, and Equipment Rooms. The parties acknowledge that ownership and control of building entrance and distribution ducts, building entrance and distribution conduits, building entrance and building distribution space, equipment rooms, equipment closets, mechanical rooms, telephone communications rooms, and similar spaces will vary from location to location and that the respective rights of third-party property owners, tenants in buildings owned by third-party property owners, telecommunications carriers, cable television systems, and other providers of telecommunications services with respect to such ducts, conduits, and spaces must be determined on a case-by-case basis. Each party shall, when feasible, directly obtain from third-party property owners such access to building entrance and building distribution ducts, building entrance and building distribution conduits, building entrance and distribution space, equipment rooms, equipment closets, mechanical rooms, telephone communications rooms, and other similar areas as may be needed by such party to serve the building owner and tenants located within buildings owned by third parties or to access other space in the building occupied or to be occupied by such party. In those situations in which Applicant cannot obtain from the building owner access on terms satisfactory to Applicant, Applicant may

request access from SWBT as provided in Sections 5.03-5.04 of this Agreement; provided, however, that a separate, building-specific notice of intent to occupy under Section 8.02(b) or license application under Section 9.02, including such additional information as may be necessary to identify the space to be occupied and the facilities to be placed in such space, shall be required for access to the facilities and space subject to this section. Any such notice or application shall conspicuously note on its face that access to building entrance or building distribution facilities or space is being sought. Applicant acknowledges that SWBT must, before providing access to building space and facilities located on or within third-party property, review applicable legal documents and physical arrangements relating to the property, including physical arrangements within the building. Upon completion of that review, SWBT will notify Applicant whether Applicant's request can be granted under this Agreement, will require access arrangements under a tariff or other applicable agreement, or will require other special handling (e.g., direct negotiations with the third-party property owner). Pending such notice, Applicant may not occupy any duct, conduit, or space subject to this section pursuant to Section 8.03 without SWBT's express written consent but may exercise occupancy rights obtained directly from the building owner. If SWBT has lawful authority to provide such access and is required by the Pole Attachment Act to do so, SWBT shall provide Applicant access under this Agreement. Such access shall be negotiated on a case-by-case basis taking into account any special legal, technical, security, or construction considerations applicable to the ducts, conduits, or space which Applicant seeks to access. Such access, when provided, shall only include access to ducts, conduits, and available space (as distinguished from access to cables and other equipment not subject to the Pole Attachment Act). Such access shall be subject to such reasonable terms and conditions as may be appropriate to protect the equipment and other property of the parties and third parties, the reliability of the parties' networks and the networks of third parties, and the privacy of communications carried over the parties' networks and networks of third parties.

- (a) Applicant's access, if any, to building entrance ducts and building entrance conduits entering SWBT-owned buildings (including but not limited to central offices) and access, if any, to other building entrance and building distribution facilities and space located within such buildings shall be arranged under and shall be subject to tariffs, agreements, and, if applicable, commission or court orders establishing such access rights rather than this Agreement.
- (b) Applicant's access to and use of building entrance ducts, building entrance conduits, building entrance space, and other building entrance facilities owned and controlled by third-parties shall be obtained by Applicant through direct negotiations between Applicant and the third-party property owners who own and control access to such facilities. If SWBT owns a building entrance duct, building entrance conduit, or other building entrance space, or if SWBT has sufficient control over a

building entrance duct, building entrance conduit, or other building entrance space to permit other telecommunications carriers or cable television systems to have access to such ducts, conduits, or space without approval or consent from the third-party property owner, SWBT shall, if adequate capacity is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Applicant and other telecommunications carriers and cable television systems on a nondiscriminatory, first-come, first-served basis; provided, however, that Applicant agrees to indemnify, on request defend, and hold SWBT harmless from any injury, loss, damage, claim or liability arising out of or in connection with Applicant's access to or use of such building entrance ducts, building entrance conduits, or other building entrance space. Such access shall be granted, on a case-by-case basis, in the form of a license, sublicense, easement, sub-easement, or other mutually acceptable writing and shall not include access to or the right to use SWBT's cables or other SWBT telecommunications equipment occupying such ducts, conduits, or space. Except as otherwise agreed to by the parties, SWBT's charge for such access (obtained from SWBT rather than from the third-party property owner) shall include (1) a pro rata portion of all charges (including but not limited to one-time charges and recurring charges), if any, paid by SWBT to obtain the building entrance duct, building entrance conduit, or building entrance space and (2) any other documented legal, administrative, engineering and construction costs incurred by SWBT to obtain such duct, conduit, or space, process Applicant's request for access, or prepare the facilities for Applicant's occupancy or use. SWBT's charges to Applicant under this subsection shall be calculated and negotiated on a case-by-case basis.

- (c) Applicant's access to and use of building distribution ducts, building distribution conduits, building distribution space, and other building distribution facilities owned and controlled by third-parties shall be obtained by Applicant through direct negotiations between Applicant and the third-party property owners who own and control access to such facilities. If SWBT owns a building distribution duct, building distribution conduit, or other building distribution space, or if SWBT has sufficient control over a building distribution duct, building distribution conduit, or other building distribution space to permit other telecommunications carriers or cable television systems to have access to such duct, conduit, or space without approval or consent from the third-party property owner, SWBT shall, if adequate capacity is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Applicant and other telecommunications carriers and cable television systems on a nondiscriminatory, first-come, first-served basis; provided, however, that Applicant agrees to indemnify, on request

defend, and hold SWBT harmless from any injury, loss, damage, claim or liability arising out of or in connection with Applicant's access to or use of such building distribution ducts, building distribution conduits, or other building distribution space. Such access shall be granted, on a case-by-case basis, in the form of a license, sublicense, easement, sub-easement, or other mutually acceptable writing and shall not include access to or the right to use SWBT's cables or other SWBT telecommunications equipment occupying such ducts, conduits, or space. Except as otherwise agreed to by the parties, SWBT's charges for such access (obtained from SWBT rather than from the third-party property owner) shall include (1) a pro rata portion of all charges (including but not limited to one-time charges and recurring charges) paid by SWBT to obtain the building distribution duct, building distribution conduit, or building distribution space and (2) any other documented legal, administrative, engineering costs and construction costs incurred by SWBT to obtain such duct, conduit, or space, process Applicant's request for access, or prepare the facilities for Applicant's occupancy or use. SWBT's charges to Applicant under this subsection shall be calculated and negotiated on a case-by-case basis.

- (d) Access to equipment rooms, equipment closets, mechanical rooms, telephone communications rooms, and similar areas located in buildings owned and controlled by third-parties shall be subject to access as provided in subsection (c); provided, however, that when any such room or space is leased to SWBT on an exclusive basis (as may be the case if the room or space will be used to house remote switching equipment, pair gain equipment, or other network equipment used to provide or support telecommunications services to customers at locations outside the building in which such room is located), access, if any, shall be also subject to facilities collocation tariffs, agreements, or arrangements.
- (e) Nothing contained in this section shall be construed as authorizing Applicant to occupy space owned or controlled by third parties or to utilize third-party facilities or property without permission or authority from the owner of such property, where such permission or authority is required. Neither this section nor any license or permission granted under or subject to this section shall be construed as a representation by SWBT to Applicant that Applicant has the right to have access to or occupy any duct, conduit, or space owned and controlled by a third-party property owner or to utilize any telecommunications equipment owned or controlled by SWBT or any third party (including but not limited to owner- or tenant-owned cables, wires, and equipment located on the customer side of any network interface device).

- (f) If Applicant has been granted access to a building entrance or building distribution duct, conduit, or space pursuant to this section, Applicant shall, at SWBT's request, relinquish such access to SWBT if it is subsequently determined that Applicant's use of such space will preclude SWBT from meeting carrier- or provider-of-last-resort obligations to customers on the premises affected.

## ARTICLE 6: SPECIFICATIONS

6.01 Compliance with Requirements, Specifications, and Standards. Applicant agrees that Applicant's facilities attached to SWBT's poles or occupying space in SWBT's ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement.

6.02 Design to Minimize the Need for Access to SWBT's Poles, Ducts, and Conduits. The parties shall each design their facilities to minimize the need for the parties to access SWBT's poles, ducts, and conduits.

6.03 Infrequent Construction Techniques and Connectivity Solutions. Unless precluded by documented engineering criteria or written guidelines SWBT applied to itself as of January 1, 1996, and consistent with considerations of safety, reliability, and sound engineering practice, SWBT will permit Applicant at its own expense to utilize the following techniques to avoid high or unusual expenditures: (a) placement of pole attachments on both the "field" side and "road" side of a pole; (b) placement of extension arms or stand-off brackets on poles; and (c) building conduit branches into SWBT's conduit systems. Applicant acknowledges that use of the above techniques will be rare, will be permitted only on a case-by-case basis, and must be performed in a manner which does not jeopardize the structural integrity of SWBT's facilities, the safety of personnel working on or in SWBT's poles, ducts, or conduits, and does not render unusable other available space on the pole or in the duct or conduit. Except as otherwise agreed to by the parties in writing, extension arms or stand-off brackets, if utilized, shall be installed as make-ready work in accordance with SWBT's specifications and at Applicant's expense. Once installed, extension arms and stand-off brackets shall become part of the pole and shall be owned by SWBT. Unused capacity on any such extension arms or stand-off brackets shall be deemed "available" (as defined in Section 3.07) for assignment.

6.04 Published Standards. SWBT and Applicant agree that the following standards equally apply to either party with respect to facilities attached to or placed in SWBT's poles, ducts, conduits, and rights-of-way and further agree that facilities shall be placed, constructed, maintained, repaired, and removed in accordance with current (as of the date when such work is performed) editions of the following publications:

- (a) the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";
- (b) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE"); and
- (c) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA").

6.05 Additional Electrical Design Specifications: Conduit. The parties agree that, in addition to the specifications and requirements referred to in Sections 6.01-6.04 above, facilities placed in SWBT's conduit system after the effective date of this Agreement shall meet the electrical design specifications set forth in this section.

- (a) No facilities shall be placed in SWBT's conduit system in violation of FCC regulations, including regulations relating to electrical interference. In addition, neither party shall place any facility in SWBT's conduit system which causes or may cause electrical interference with the facilities of the other party or joint users sufficient to jeopardize network integrity or degrade the quality of any communications services offered by either party or a joint user. If either party is notified by the other party or a joint user that its facilities are causing, or have the potential to cause, unacceptable levels of electrical interference, the party notified shall either correct the problem, remove the facility, or initiate good faith negotiations with the complaining party or joint user to resolve the issue.
- (b) Facilities placed in SWBT's conduit system shall not be designed to use the earth as the sole conductor for any part of the circuits.
- (c) Facilities placed in SWBT's conduit system and carrying more than 50 volts AC (rms) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded sheath or shield.
- (d) No coaxial cable shall be placed in SWBT's conduit system unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.
- (e) Coaxial cable placed in SWBT's conduit system may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half ampere and where such cable has two separate grounded metal sheaths or shields and a suitable insulating jacket over the outer sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer sheath shall not

exceed 200 microamperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.

- (f) The integrity of SWBT's conduit system and overall safety of personnel require that "dielectric cable" be used within SWBT's conduit system when a cable facility utilizes a duct or route shared in the same trench by any electric transmission facilities such as the facilities of a power utility.

**6.06 Additional Physical Design Specifications: Conduit.** Facilities placed in SWBT's conduit system following the effective date of this Agreement shall meet all of the following physical design specifications:

- (a) Except as otherwise specifically agreed in this Agreement or licenses subject to this Agreement, Applicant's facilities shall enter SWBT's conduit system at locations consistent with the physical design specifications that SWBT applies to itself (typically through a manhole) or at such other designated locations agreed upon in writing (e.g., through the licensing process) by the parties in accordance with Section 6.03 (infrequent construction techniques and connectivity solutions).
- (b) Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in SWBT's conduit or ducts.
- (c) Neither party shall circumvent the corrosion mitigation measures of the other party or joint users.
- (d) New construction splices in cables (including but not limited to fiber optic and twisted pair cables) shall be located in manholes, pull boxes or handholes.

**6.07 Efficient Use of Conduit.** To ensure efficient use of conduits, SWBT will, when cable diameters permit, install inner ducts in multiples that fully utilize duct space (typically three or four inner ducts in a full four-inch duct) as needed for SWBT's own business purposes and to accommodate Applicant and other joint users; provided, however, that SWBT will not be required to install inner duct in advance of need or in anticipation of potential future requests for access by Applicant and other joint users. In addition, the parties shall, in accordance with SWBT's duct selection standards, install cables in inner duct when cable diameters permit.

**6.08 Specifications Applicable to Connections: Conduit.** Except as otherwise specifically agreed in this Agreement or licenses subject to this Agreement, or as

mutually agreed upon by the parties in writing, the following specifications apply to connections of Applicant's ducts and conduits to SWBT's conduit system:

- (a) Applicant shall not bore, make, or enlarge any hole in, or otherwise structurally modify or alter any manhole, handhole, duct, conduit, or other facility which is part of SWBT's conduit system except as provided in this Agreement, in licenses subject to this Agreement, or as mutually agreed upon by the parties in writing.
- (b) Nothing contained in subsection (a) shall be construed as precluding Applicant or qualified personnel acting on Applicant's behalf from reattaching cable racks or performing similar routine work which is minor in nature and associated with the placement and splicing of Applicant's cable.
- (c) Where Applicant's duct or facility physically connects with SWBT's conduit system, the section of Applicant's duct or facility which connects to SWBT's conduit system shall be installed by SWBT or its contractor at Applicant's expense (which will be SWBT's actual costs or the price charged SWBT by the contractor performing such work). SWBT will perform this work in an interval consistent with the intervals SWBT performs the same or similar types of work for itself. If SWBT's interval for beginning or completing this work does not meet Applicant's needs, Applicant may arrange for the work to be performed by an authorized contractor selected by Applicant from a list, jointly developed by Applicant and SWBT, of mutually agreed contractors qualified to perform such work. Work performed by an authorized contractor selected by Applicant to perform work under this subsection shall be performed in accordance with both parties' specifications and in accordance with both parties' standards and practices. Each party shall indemnify, on request defend, and hold the other party harmless from any injuries, losses, damages, claims, or liabilities resulting from the performance of work by the indemnifying party or by persons acting on the indemnifying party's behalf under this subsection.
- (d) SWBT will have the option to monitor the entrance and exit of Applicant's facilities into SWBT's conduit system and the physical placement of Applicant's facilities in and removal of such facilities from any part of SWBT's conduit system. Notice requirements for such monitoring are addressed in Section 6.11 of this Agreement.
- (e) If Applicant constructs or utilizes a duct (other than a duct owned or controlled by SWBT) which is connected to SWBT's conduit system, the duct and all connections between that duct and SWBT's conduit

system shall be sealed to prevent the entry of gases or liquids into SWBT's conduit system. If Applicant's duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids into SWBT's conduit system.

6.09 General Requirements Relating to Personnel, Equipment, Materials, and Public Safety. Except as otherwise specifically provided in this Agreement, Applicant shall be responsible for selecting the employees and contractors who will perform work on Applicant's behalf on, within, and in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. Applicant, its contractors, subcontractors, and other vendors acting on Applicant's behalf shall also be responsible for selecting the personnel who perform work on Applicant's behalf at such sites, directing the work performed by such personnel, compensating their respective employees, and complying with all applicable laws, rules, regulations, and agency orders relating to withholding taxes, social security taxes, and other employment-related taxes. The provisions of this section are intended to protect the integrity of the networks, facilities and operations of SWBT, Applicant and joint users, to protect the health and safety of persons working on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, to assure the financial responsibility of all persons and entities performing work on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, and to protect the public at large. The requirements of this section (other than the provisions of subsection (h)) shall be reciprocal and shall apply to SWBT and personnel acting on SWBT's behalf to the same extent they apply to Applicant.

- (a) Contractors, subcontractors, and other vendors, including authorized contractors, performing work on Applicant's behalf on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way shall meet the same financial responsibility (insurance and bonding) requirements generally applicable to contractors, subcontractors, and vendors performing work on SWBT's behalf on, within, or in the vicinity of such poles, ducts, conduits, or rights-of-way. SWBT shall advise Applicant of SWBT's requirements and any changes in such requirements. Applicant shall be solely responsible for assuring compliance with such requirements by contractors, subcontractors, and other vendors acting on Applicant's behalf and shall be liable to SWBT for any injury, loss, or damage suffered by SWBT as a result of its failure to do so.
- (b) Only properly trained persons shall work on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. Applicant shall be responsible for determining that all such persons acting on Applicant's behalf have proper training.

- (c) Neither Applicant nor any person acting on Applicant's behalf shall permit any person to climb or work on SWBT's poles or in the vicinity of SWBT's poles, or enter SWBT's manholes or work within or in the vicinity of SWBT's conduit system, unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to the pole or conduit system and to perform the work safely.
- (d) Neither Applicant nor any person acting on Applicant's behalf shall permit any person acting on Applicant's behalf to perform any work on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way without first verifying, to the extent practicable, on each date when such work is to be performed, that conditions at the work site (including but not limited to the physical condition of the pole or any part of SWBT's conduit system) are sufficiently safe for the work to be performed. If Applicant or any person acting on Applicant's behalf determines that the condition of any pole, duct, conduit, conduit system, or right-of-way is not safe enough for the work to be performed, Applicant shall notify SWBT of conditions at the site and shall not proceed with the work until Applicant is satisfied that the work can be safely performed.
- (e) Neither Applicant nor any person acting on Applicant's behalf shall knowingly permit defective equipment or materials to be used on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.
- (f) When Applicant or personnel performing work on Applicant's behalf are working on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way located within, under, over, adjacent to, or in the vicinity of streets, highways, alleys or other traveled rights-of-way, such personnel shall follow procedures which Applicant deems appropriate for the protection of persons and property. Applicant and its contractors shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. Applicant and its contractors shall provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers, and property from danger. Applicant and its contractors shall have sole responsibility for the safety of all personnel performing work on Applicant's behalf, for the safety of bystanders, and for insuring that all operations performed by persons acting on Applicant's behalf conform to current OSHA regulations and all other governmental rules, ordinances or statutes.

- (g) Neither Applicant nor any persons acting on Applicant's behalf shall engage in any conduct which damages public or private property in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, interferes with the use or enjoyment of such public or private property except as expressly permitted by the owner of such property, or creates a hazard or nuisance on such property (including but not limited to a hazard or nuisance resulting from any abandonment of Applicant's facilities, failure to remove such facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to exclude others from the premises or give notice to others of unsafe conditions on the premises while work performed on Applicant's behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).
- (h) Applicant shall promptly suspend activities on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way (other than sites owned or controlled by Applicant) if notified by SWBT that such activities create an unreasonable risk of injury to persons or property (including unreasonable risks of service interruptions). Applicant shall not resume such activities on or in the vicinity of SWBT's poles or rights-of-way until Applicant is satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified and shall not resume such activities within or in the vicinity of SWBT's conduit system until both Applicant and SWBT are satisfied that the work may safely proceed and that hazardous conditions at the site have been rectified. In the event that SWBT requires Applicant to suspend work activities and it is later determined that there was no reasonable basis for the work suspension, SWBT shall reimburse Applicant for actual costs resulting from the delay.
- (i) All personnel acting on Applicant's behalf shall, while working on or in SWBT's poles, ducts, conduits, or rights-of-way, carry with them suitable identification and shall, upon the request of any SWBT employee or representative, produce such identification.
- (j) Applicant and persons acting on Applicant's behalf are encouraged to report unsafe conditions on, within, or in the vicinity of SWBT's poles or conduit system to SWBT.
- (k) Applicant shall establish sufficient controls and safeguards to assure compliance with all provisions of this section.

6.10 Specific Requirements Relating to Personnel, Equipment, Materials, and Construction Practices Within or in the Vicinity of SWBT's Conduit Systems. When

Applicant, its contractors, and other persons acting on Applicant's behalf perform work for Applicant within or in the vicinity of SWBT's ducts, conduits, and rights-of-way where such ducts or conduits are located, they will be guided by the following:

- (a) Except as may be mutually agreed upon by the parties in writing, Applicant shall not "rod" or clear any duct or inner duct in SWBT's conduit system other than a duct or inner duct assigned to Applicant. Following the assignment of a specific duct or inner duct to Applicant, Applicant may request that SWBT rod or clear the duct or inner duct. If the duct or inner duct cannot be cleared, SWBT will assign the next available duct or inner duct to Applicant. Applicant's request for assignment of the next available duct shall be in writing, may be transmitted to SWBT via fax or other transmission media mutually agreed upon by the parties, and shall be processed within the same intervals applicable to the processing of similar requests by SWBT's own personnel.
- (b) Personnel performing work within SWBT's conduit system on either party's behalf shall not climb on, step on, or otherwise disturb the cables, air pipes, equipment, or other facilities located in any manhole or other part of SWBT's conduit system.
- (c) Personnel performing work within or in the vicinity of SWBT's conduit system (including any manhole) on either party's behalf shall, upon completing their work, make reasonable efforts to remove all tools, unused materials, wire clippings, cable sheathing and other materials brought by them to the work site.
- (d) All of Applicant's facilities shall be firmly secured and supported in accordance with Bellcore and industry standards and any applicable construction standards adopted by SWBT and applicable to SWBT's own facilities.
- (e) Applicant's facilities shall be plainly identified with Applicant's name in each manhole with a firmly affixed permanent tag that meets the identification standards set by SWBT for its own facilities.
- (f) Manhole pumping and purging required in order to allow Applicant's work operations to proceed shall be performed by Applicant or its contractor in accordance with the requirements of Sections 6.14 and 6.15 of this Agreement.

- (g) Planks or other types of platforms shall be supported only by cable racks.
- (h) Any leak detection liquid or device used by Applicant or personnel performing work on Applicant's behalf within or in the vicinity of SWBT's conduit system shall be of a type approved by SWBT and included on SWBT's then-current list of approved types of leak-detection liquids and devices; provided, however, that Applicant may use any type of leak detection liquid or device which meets Bellcore's published standards if SWBT has not provided Applicant SWBT's list of approved types of leak detection liquids or devices at least 60 days in advance of Applicant's work.
- (i) Applicant and its contractors shall be responsible for providing proper ventilation while work is being performed in SWBT's conduit system on Applicant's behalf. Except for protective screens, no temporary cover shall be placed over an open manhole unless it is at least four feet above the surface level of the manhole opening.
- (j) Smoking or the use of any open flame is prohibited in manholes, in any other portion of the conduit system, or within 10 feet of any open manhole entrance.
- (k) Artificial lighting, when required by Applicant, will be provided by Applicant. Only explosion-proof lighting fixtures shall be used.
- (l) Neither Applicant nor personnel performing work on Applicant's behalf shall allow any combustible gas, vapor, liquid, or material to accumulate in SWBT's conduit system (including any manhole) during work operations performed within or in the vicinity of SWBT's conduit system.
- (m) Applicant shall comply with the standards set by SWBT for its own personnel restricting the use of spark producing tools, equipment, and devices (including but not limited to such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like) in manholes and other portions of SWBT's conduit system, provided that such standards have been communicated in writing to Applicant at least 60 days in advance of the construction, installation, or placement of Applicant's facilities within SWBT's conduit system.
- (n) Cable lubricants used in conduit systems shall be of a type or types approved by SWBT and included on SWBT's then-current list of approved types of cable lubricants; provided, however, that Applicant may use any type of cable lubricant which meets Bellcore's published

standards if SWBT has not provided Applicant SWBT's list of approved types of cable lubricants at least 60 days in advance of Applicant's work.

6.11 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of SWBT's manholes and access to SWBT's conduit system.

- (a) Applicant will notify SWBT not less than 48 hours in advance before entering SWBT's conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed. As a courtesy, Applicant shall, when feasible, provide SWBT with 10 working days advance notice before entering SWBT's conduit system. SWBT shall, within 10 working days after the effective date of this Agreement, advise Applicant of the manner in which notices required by this section shall be given.
- (b) An authorized employee or representative of SWBT may be present as a construction inspector at any time when Applicant or personnel acting on Applicant's behalf enter or perform work within SWBT's conduit system. Such inspectors may inspect the performance and quality of the work and monitor the work for compliance with the terms, conditions, and specifications of this Agreement or, in the case of facilities modification, capacity expansion or make-ready work, the plans and specifications of the facilities modification, capacity expansion, or make-ready project. When SWBT inspectors are present, Applicant and its contractors shall have sole authority, responsibility, and control over the method or manner by which the work is to be performed. SWBT's inspectors may call violations to Applicant's attention but shall have no authority to direct or advise Applicant or personnel acting on Applicant's behalf concerning the method or manner by which the work is to be performed; provided, however, that nothing contained in this subsection shall relieve Applicant from complying with any requirements of this Agreement.
- (c) The parties contemplate that Applicant may need to perform operations in SWBT's conduit system other than during normal business hours and may on occasion require access to manholes on shorter notice than contemplated in subsection (a) above. Under these circumstances, Applicant shall notify SWBT as soon as is reasonably possible of its intent to enter and perform work in the conduit system and SWBT shall not, without due cause and justification, insist on literal compliance with scheduling requirements of subsection (a). SWBT will establish procedures enabling SWBT to receive notices from Applicant under this subsection 24 hours a day, seven days a week.