

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

AUG 23 2002

Missouri Public
Service Commission

Northeast Missouri Rural Telephone Company
and Modern Telecommunications Company,

Petitioners,

v.

Southwestern Bell Telephone Company,
Southwestern Bell Wireless (Cingular),
VoiceStream Wireless Corporation,
Western Wireless Corporation,
Aerial Communications, Inc.,
CMT Partners (Verizon Wireless),
Sprint Spectrum LP,
United States Cellular Corp., and
Ameritech Mobile Communications, Inc.,

Respondents.

Case No. TC-2002-57, et al.

Exhibit No. 36

Interconnection Agreement Between
Western Wireless Corporation
and
Southwestern Bell Telephone Company
(approved in Case No. TO-98-12)

TC 98-12

FILED

OCT 20 1997

MISSOURI
PUBLIC SERVICE COMMISSION

MISSOURI

AGREEMENT FOR INTERCONNECTION
AND RECIPROCAL COMPENSATION

by and between

WESTERN WIRELESS CORPORATION

and

SOUTHWESTERN BELL TELEPHONE COMPANY

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APPENDICES:

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PRICING

**AGREEMENT FOR INTERCONNECTION
AND RECIPROCAL COMPENSATION**

This Agreement, entered into this _____ day of _____ 1997, is by and between Southwestern Bell Telephone Company, a Missouri corporation with its offices located at One Bell Center, St. Louis, Missouri 63101 ("SWBT"), and Western Wireless Corporation, with its offices located at 2001 NW Sammamish Rd., #100, Issaquah, Washington 98027 ("Carrier") (collectively, the "Parties").

WHEREAS, SWBT is a Local Exchange Carrier in the State of Missouri;

WHEREAS, Carrier is a Commercial Mobile Radio Service provider operating within the state of Missouri and, specifically, the Geographic Service Areas set forth in Appendix GSA;

WHEREAS, the Parties desire to enter into an agreement for the interconnection of their networks and reciprocal compensation for the termination of Local Traffic (as defined below) between their respective networks pursuant to the Telecommunications Act of 1996 (the "Act"), and other applicable state laws;

NOW THEREFORE, the Parties hereby agree as follows:

1. DEFINITIONS

Definitions of the terms used in this Agreement are listed below. The Parties agree that certain terms may be defined elsewhere in this Agreement, as well. Terms not defined shall be construed in accordance with their customary meaning in the telecommunications industry as of the effective date of this Agreement.

"Act" means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, as may be subsequently amended or, as from time to time interpreted in the duly authorized rules and regulations of the FCC or the Commission having authority to interpret the Act within its state of jurisdiction.

"Area Wide Calling Plan" or "AWCP" means a billing option available to CMRS providers where the CMRS provider compensates SWBT for land to mobile traffic in lieu of toll charges that would normally be billed to SWBT's end user.

"Calling Party Number" or "CPN" is a feature of signaling system 7 ("SS7") protocol whereby the 10 digit number of the calling party is forwarded from the end office.

"Carrier" has the meaning set forth in the preamble.

"Cell Site" means the location of fixed radio transmitting and receiving facilities associated with the origination and termination of wireless traffic to a wireless end user and may be used as a point of interconnection to the landline network.

"Collocation" has the meanings given to the term in the Act, applicable rules of the FCC and Commission, and the Commission's arbitration awards.

"Commercial Mobile Radio Service" or "CMRS" has the meaning given to the term in the Act.

"Commission" or "PUC" or "PSC" means the state administrative agency to which the United States Congress or state legislature has delegated authority to regulate the operations of Local Exchange Carriers ("LECs") as defined in the Act.

"Common Channel Signaling" or "CCS" means a special network, fully separate from the transmission path of the public switched network, that digitally transmits call set-up and network control data.

"Connecting Facilities" means dedicated facilities provided either under this Agreement or separate contract used to connect Carrier's network and SWBT's network for the purposes of interchanging traffic.

"Conversation Time" means the time (in full second increments) that both Parties' equipment is used for a call, measured from the receipt of answer supervision to disconnect supervision.

"Customer" means, whether or not capitalized, any business, residential or governmental customer of services covered by the Agreement, and includes the term "End User". More specific meanings of either of such terms are dependent upon the context in which they appear in the Agreement and the provisions of the Act.

"End Office" means a local SWBT switching point where SWBT exchange service customer station loops are terminated for purposes of interconnection to each other and to the network.

"End User" means, whether or not capitalized, any business, residential or governmental customer of services covered by the Agreement and includes the term "Customer". More specific meanings of either of such terms are dependent upon the context in which they appear in the Agreement and the provisions of the Act.

"Exchange Access" has the meaning given the term in the Act.

"FCC" means the Federal Communications Commission.

"Independent Local Exchange Carrier" has the meaning given the term in the Act.

"Interconnection" has the meaning given the term in the Act and refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing to Telephone Exchange Service traffic and Exchange Access traffic.

"Interexchange Carrier" or "IXC" means a carrier other than a CMRS provider or a LEC that provides, directly or indirectly, interLATA and/or intraLATA, for-hire telecommunications service.

"InterLATA" has the meaning given the term in the Act.

"InterMTA Traffic" means all calls which originate in one MTA and terminate in another MTA.

"IntraLATA Toll Traffic" means all IntraLATA calls other than Local Traffic.

"Local Access and Transport Area" or "LATA" has the meaning given to the term in the Act.

"Local Exchange Carrier" or "LEC" has the meaning given to the term in the Act.

"Local Service Provider" means a carrier licensed by the Commission with the appropriate certification (e.g., a Certificate of Authorization or Service Provider Certificate of Authorization).

"Local Traffic", for the application of reciprocal compensation, means telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area ("MTA"), as defined in 47 CFR Section 24.202(A).

"Mobile Switching Center" or "MSC" means a Carrier's facilities and related equipment used to route, transport and switch wireless calls to and from the public switched telephone network.

"Major Trading Area" or "MTA" has the meaning given to the term in 47 CFR Section 24.202(A).

"NXX", "NXX Code", "Central Office Code", or "CO Code" is the 3-digit switch indicator that is defined by the D, E, and F digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 telephone numbers.

"Party" means either SWBT or Carrier, and "Parties" means SWBT and Carrier.

"Reciprocal Compensation" means the arrangement between two carriers in which each of the two carriers receives symmetrical compensation from the other carrier for the transport and termination on each carrier's network of Local Traffic that originates on the network of the other carrier.

"Service Area" means the geographic area, e.g., Major Trading Area, Basic Trading Area, Metropolitan Service Area, Geographic Service Area, Rural Service Area, served by the cellular system within which Carrier is licensed to provide service.

"Signaling System 7" or "SS7" means a signaling protocol used by the CCS network.

"Signaling Transfer Point" or "STP" means the point where a party interconnects, either directly or through facilities provided by SWBT, or a Third Party Provider, with the CCS/SS7 network.

"SWBT" has the meaning set for in the preamble.

"Synchronous Optical Network" or "SONET" means an optical interface standard that allows inter-networking of transmission products from multiple vendors.

"Tandem" means the following:

"Access Tandem" means a switching system that provides a concentration and distribution function for originating or terminating traffic between end offices, other tandems and Third Party Providers.

"Wireless Tandem" means a switching system that provides a concentration and distribution function for originating and terminating traffic between the wireless MSCs and the landline network and has the software necessary to provide wireless interconnection services.

"Telecommunications" and "Telecommunications Carrier" have the meanings given to those terms in the Act.

"Termination" means the switching of Local Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party.

"Territory" means the five states of Missouri, Missouri, Kansas, Arkansas and Oklahoma in which SWBT was originally given the ability to operate its business following divestiture.

"Third Party Provider" shall mean any other facilities-based telecommunications carrier, including, without limitation, interexchange carriers, independent telephone companies, competitive local exchange carriers, or CMRS providers. The term shall not mean resellers of a LEC's local exchange services or resellers of a CMRS provider's services.

"Transiting Traffic" means intermediate transport and switching of traffic between two parties, one of which is not a Party to this Agreement, carried by a Party that neither originates nor terminates that traffic on its network while acting as an intermediary.

"Transport" means the transmission of Local Traffic subject to Section 251 (b)(5) of the Act from the interconnection point between two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by Third Party Provider.

"Trunk Group" means a set of trunks of common routing, origin and destinations, and which serve a like purpose or function.

"Trunk Side" means a Party's connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example another SWBT to Carrier switch. Trunk Side connections offer those transmission and signaling features appropriate for the connections of switching entities.

"V and H Coordinates Method" means the computing of airline miles between two points utilizing an established formula which is based on the vertical and horizontal coordinates of the two points used in the rating of calls.

"Wireless Calls" for the application of reciprocal compensation, means all calls originating from or terminating to the Carrier's network.

2. INTERCONNECTION

This Section 2 describes the network architecture with which the Parties to this Agreement may interconnect their respective networks for the transmission and routing of Telephone Exchange Service and Exchange Access as required by Section 251 (c)(2) of the Act.

2.1 Interconnection Facilities

2.1.1 Type 1: Facilities which provide a trunk side connection (line side treatment) between a SWBT end office and Carrier's Mobile Switching Center ("MSC") within that end office boundary. Type 1 facilities provide the capability to access all SWBT end offices within the LATA and Third Party Providers.

2.1.2 Type 2A: Facilities which provide a trunk side connection between Carrier's MSC and a SWBT Wireless Tandem. Type 2A facilities provide the capability to access all SWBT end offices within the LATA and Third Party Providers, excluding IXCs.

2.1.3 Type 2B: One-way facilities which provide a trunk side connection from a Carrier's MSC to a SWBT end office. Type 2B facilities provide the capability to access only subscribers served by that end office.

- 2.1.4 Type S: Facilities provisioned to provide out of band signaling between SWBT STPs and Carrier MSCs or STPs.
- 2.1.5 Equal Access Facilities: One-way facilities which provide a trunk side connection between Carrier's MSC and a SWBT Access Tandem. Equal Access Trunks provide the capability to pass interexchange traffic to IXC's.
- 2.1.6 Miscellaneous Facilities: Facilities which provide the transmission and routing of various types of traffic, such as 800/888 traffic, 911/E911 traffic, Operator Services traffic, and Directory Assistance traffic.
- 2.1.7 Carrier may develop additional Points of Presence (POP) other than the actual location of their MSC through the use of either SWBT's Special Access facilities, their own facilities, or facilities of a third party.
- 2.1.8 Carrier shall provide SWBT with an annual forecast of intended mobile to land usage for each point of interconnection. The Parties agree to work cooperatively to determine the number of trunks needed to handle the estimated traffic. Type 1 and Type 2A facilities may be either one-way or two-way when both Parties agree to share the facility; Type 2B facilities are restricted to one-way mobile to land. For one-way, or two-way facilities, terms, conditions, recurring and nonrecurring charges will apply as specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs. When both Parties agree to utilize two-way facilities charges will be shared by the Parties on a proportional (percentage) basis as specified in Appendix PRICING. The Parties shall review actual billed minutes accrued on shared two-way facilities and modify, six (6) months from the Effective Date of this Agreement and every six (6) months thereafter, the percentages specified in Appendix PRICING.

2.2 Facility Location

2.2.1 Technical Feasibility

- 2.2.1.1 As required by Section 251 of the Act, Carrier may interconnect with SWBT's network at any technically feasible point. The Parties acknowledge for purposes of this requirement that the locations listed in Appendix DCO constitute the technically feasible points of interconnection for the Carrier to pass traffic to SWBT for transport and termination by SWBT on its network or for transport to a Third Party Provider.
- 2.2.1.2 If Carrier requires interconnection at a location not listed in Appendix DCO, then it shall submit a Special Request pursuant to section 6.1.2.1.

2.2.1.3 The Parties recognize that SWBT, in its sole discretion, may remove a location from Appendix DCO in the normal course of its business, thus rendering interconnection at the location technically infeasible; provided, however, that SWBT shall provide Carrier at least 120 days written notice and shall work cooperatively with Carrier, at Carrier's expense, to reestablish the interconnection at another SWBT location within the 120 days; provided, further, however, that Carrier shall be responsible for any costs associated with the reconfiguration of its own network (except for the re-homing of the facilities, which shall be borne by SWBT). In addition, SWBT may add a location to Appendix DCO at any time, and shall notify Carrier of such addition in writing, which shall be considered an amendment to Appendix DCO.

2.2.2 Per LATA Requirement

Carrier acknowledges that SWBT is restricted in its ability to pass traffic from one LATA to another under the Act. As a result, Carrier agrees to interconnect to at least one SWBT facility in each LATA in which it desires to pass traffic to SWBT for transport and termination within such LATA. This requirement shall remain in effect until SWBT, in its reasonable judgment, notifies Carrier in writing that it is no longer subject to InterLATA restrictions in its Territory.

2.2.3 Incumbent LEC Requirement

The Parties acknowledge that the terms and conditions specified in this Agreement do not apply to the provision of services or facilities by SWBT in those areas where SWBT is not the incumbent LEC.

2.3 Additional Interconnection Methods Available to Carrier

2.3.1 Carrier may provide its own facilities and transport for the delivery of traffic from its MSC (or other mutually agreed upon point on Carrier's network) to the interconnection point on SWBT's network. Alternatively, Carrier may purchase an entrance facility and transport from a third party or from SWBT for the delivery of such traffic. Rates for entrance facilities and transport purchased from SWBT are specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs.

2.3.2 Carrier may request virtual collocation from SWBT at the rates, terms and conditions specified in FCC Tariff No. 73, Section 25, and physical collocation as specified in applicable tariff (or in the absence of an applicable tariff, on an individual case basis). Alternatively, Carrier may collocate at a SWBT facility with a third party with whom SWBT has

already contracted for collocation. When Carrier collocates at a SWBT facility, it shall provide for the transport of traffic from its network to the appropriate interconnection point on SWBT's network pursuant to section 2.3.1 above. SWBT shall provide collocation space to Carrier only for equipment used for the purposes of interconnecting to SWBT's network. SWBT is not required to permit collocation of equipment used to provide enhanced services. If Carrier causes SWBT to build a collocation cage and then Carrier does not use the facility (or all the facility), Carrier shall reimburse SWBT as if Carrier was using the entire facility.

2.3.3 Carrier may request SONET Based Interconnection ("SBI") pursuant to SWBT's tariff terms and conditions in FCC No. Tariff 73, Section 30.

2.3.4 Carrier and SWBT may share SWBT's interconnection facilities at the rates specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs. Charges will be shared by the Parties based on their proportional (percentage) use of such facilities as specified in Appendix PRICING.

2.4 Interconnection Methods Available to SWBT

2.4.1 Carrier locations listed in Appendix DCO constitute the technically feasible points of interconnection Carrier shall provide for SWBT to pass traffic to Carrier for transport and termination on Carrier's network.

2.4.2 If SWBT requires interconnection at a location not listed in Appendix DCO, then it shall submit a Special Request pursuant to section 6.1.2.1.

2.4.3 SWBT may provide its own facilities and transport for the delivery of traffic from its point of interconnection to the interconnection point on Carrier's network. Alternatively, SWBT may purchase an entrance facility and transport from a third party or from Carrier for the delivery of such traffic. Rates for entrance facilities and transport purchased from Carrier are specified in Appendix PRICING.

2.4.4 SWBT may request virtual or physical collocation from Carrier at the rates, terms and conditions established by Carrier for such services. Alternatively, SWBT may collocate at a Carrier facility with a third party with whom Carrier has already contracted for collocation. When SWBT collocates at a Carrier facility, it shall provide for the transport of traffic from its network to the appropriate interconnection point on Carrier's network pursuant to section 2.4.3 above.

2.4.5 SWBT may request SONET Based Interconnection ("SBI") pursuant to rates, terms and conditions established by Carrier for such services.

- 2.4.6 Carrier and SWBT may share Carrier's interconnection facilities at the rates specified in Appendix PRICING. Charges will be shared by the Parties based on a proportional (percentage) basis as specified in Appendix PRICING.

2.5 Technical Requirements and Standards

- 2.5.1 Each Party will provide the services in this Agreement to the other Party at a standard at least equal in quality and performance to that which the Party provides itself. Either Party may request, and the other Party will provide, to the extent technically feasible, services that are superior or lesser in quality than the providing Party provides to itself, provided, however, that such services shall be considered Special Requests.
- 2.5.2 Nothing in this Agreement will limit either Party's ability to modify its network, including, without limitation, the incorporation of new equipment, new software or otherwise. Each Party will provide the other Party written notice of any such modifications to its network which will materially impact the other Party's service consistent with the timelines established by the FCC in the Second Report and Order, CC Docket 96-98. Carrier will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required because of SWBT modifications, including, without limitation, changes in facilities, operations or procedures, minimum network protection criteria, or operating or maintenance characteristics of facilities.

3. TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE PURSUANT TO SECTION 251(C)(2)

This Section 3 provides the terms and conditions for the exchange of traffic between the Parties' respective networks for the transmission and routing by the Parties of Local Traffic, and Transiting Traffic.

3.1 Basic Terms

3.1.1 Mobile to Land Traffic

- 3.1.1.1 Carrier shall be responsible for the delivery of traffic from its network to the appropriate point of interconnection on its network for the transport and termination of such traffic by SWBT to a SWBT end user or for delivery by SWBT to a Third Party Provider.

- 3.1.1.2 Unless Carrier elects to provision its own facilities under section 2.3, SWBT shall provide the physical plant facilities that

interconnect Carrier's point of interconnection with SWBT's point of interconnection. SWBT shall provision mobile to land connecting facilities for Carrier under the terms and conditions specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs.

3.1.2 Land to Mobile Traffic

3.1.2.1 SWBT shall be responsible for the delivery of traffic from its network to the appropriate point of interconnection (within the serving wire center boundary of the end office in which the tandem, providing Type 2A Interconnection, is located, or within the serving wire center boundary of the end office providing Type 1 Interconnection) on its network for the transport and termination of such traffic by Carrier to the handset of a Carrier end user.

3.1.2.2 Unless SWBT elects to have Carrier or a third party provision facilities under section 2.4, SWBT shall provide the physical plant facilities that interconnect SWBT's point of interconnection with Carrier's point of interconnection. SWBT shall be responsible for the physical plant facility from its network to the appropriate point of interconnection within the serving wire center boundary of the end office in which the tandem, providing Type 2A Interconnection, is located, or within the serving wire center boundary of the end office providing Type 1 Interconnection.

3.1.3 Traffic To Third Party Providers

Carrier and SWBT shall compensate each other for traffic that transits their respective systems to any Third Party Provider, as specified in Appendix PRICING. The Parties agree to enter into their own agreements with Third Party Providers. In the event that Carrier sends traffic through SWBT's network to a Third Party Provider with whom Carrier does not have a traffic interchange agreement, then Carrier agrees to indemnify SWBT for any termination charges rendered by a Third Party Provider for such traffic.

3.2 **Reciprocal Compensation**

3.2.1 Rates

The Parties shall provide each other symmetrical, Reciprocal Compensation for the transport and termination of Local Traffic at the rates specified in

Appendix PRICING. SWBT shall compensate Carrier for the transport and termination of Local Traffic originating on SWBT's network; Carrier shall compensate SWBT for the transport and termination of Local Traffic originating on Carrier's network. Compensation shall vary based on the method of interconnection used by the Parties, as specified in Appendix PRICING. Additional charges may also apply (on a non-symmetrical, non-reciprocal basis) as provided for in this Agreement. The Parties acknowledge that the rates set forth in Appendix PRICING are interim and shall be replaced by final rates as adopted by the Commission or the FCC, based on a final and unappealable ruling, and as further described below and in section 14.

3.2.2 True Up

The Parties recognize that rates, among other things, provided for under this Agreement may be affected by subsequent ruling of state or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction. Accordingly, the Parties agree that in the event of such a final, non-appealable ruling, the Parties shall true up the Reciprocal Compensation provided for in this section once the ruling, decision or other mandate becomes effective, final and non-appealable (the "True Up Date"). The Parties shall complete true up 60 days after the True Up Date. The Parties agree that such True Up will include the Reciprocal Compensation associated with the provisioning of an AWCP, as outlined in paragraph 5.5.2.

3.2.3 Exclusions

Reciprocal Compensation shall apply solely to the transport and termination of Local Traffic, and shall not apply to any other traffic or services, including without limitation:

3.2.3.1 interMTA traffic;

3.2.3.2 Transiting Traffic;

3.2.3.3 traffic which neither originates nor terminates on Carrier's network; and

3.2.3.4 Paging Traffic.

3.2.4 Measuring Calls as Local Traffic

In order to measure whether traffic is Local Traffic for purposes of calculating Reciprocal Compensation, the Parties agree as follows; for SWBT, the origination or termination point of a call shall be the end office

which serves, respectively, the calling or called party. For Carrier, the origination or termination point of a call shall be the cell site/base station which serves, respectively, the calling or called party at the time the call begins.

3.2.5 Conversation Time

For purposes of billing compensation for the interchange of Local Traffic, billed minutes will be based upon conversation time. Conversation time will be determined from actual usage recordings. Conversation time begins when the terminating Party's network receives answer supervision and ends when the terminating Party's network receives disconnect supervision.

3.3 Additional Compensation

In addition to any other charges specified in this Agreement, the following charges may be applicable as specified in this Agreement at the rates listed in Appendix PRICING. Charges listed are in addition to, not exclusive of, any other charges that may be applicable under this Agreement.

3.3.1 Transiting Charge: Each Party shall compensate the other Party for traffic which transits the other Party's network destined to a Third Party Provider at rates specified in Appendix PRICING.

3.3.2 Facilities Charges: Each Party shall compensate the other (not on a reciprocal, symmetrical basis) for the use of the providing Party's facilities between Carrier and SWBT points of interconnection, in either direction, as the case may be.

3.3.3 Special Requests: All requests for (i) services covered by this Agreement for which facilities do not exist, (ii) facilities, equipment or technologies not in the providing Party's sole discretion, necessary to fulfill a request under this Agreement, or (iii) services not specifically enumerated in this Agreement, shall be handled as a Special Request, as described in Section 6.1.2.2. Special Requests under (ii) may include, without limitation, requests for fiber, microwave, alternate routing, redundant facilities and other non-standard facilities or services.

3.4 Signaling

SWBT will provide at Carrier's request Signaling System 7 ("SS7") in order to allow out of band signaling in conjunction with the exchange of traffic between the Parties' respective networks. SWBT shall provide such service at the rates specified in Appendix PRICING. This rate is for the use of multiple SWBT STPs in the provisioning of mobile to land traffic. Charges for STP Access Links and Port Terminations used to connect Carrier's MSC or STP (whichever is applicable) and SWBT's STP shall be shared by the Parties based on the proportional

(percentage) basis as specified in Appendix PRICING and at rates specified in Section 23 of FCC Tariff No. 73.

4. TRANSMISSION AND ROUTING OF EXCHANGE ACCESS SERVICE PURSUANT TO SECTION 251(C)(2)

This Section 4 provides the terms and conditions for the exchange of traffic between Carrier's network and SWBT's network for switched access to IXC's, thus enabling Carrier end users to access IXC's for the transmission and routing of interMTA and interLATA calls.

4.1 General

4.1.1 Carrier may order Equal Access Trunks in order to provide for access to IXC's through SWBT's network. Equal Access Trunks shall be used solely for the transmission and routing of Exchange Access to allow Carrier's end users to access IXC's, and shall not be used by Carrier for any other purpose.

4.1.2 For as long as SWBT may require, Carrier shall provide SWBT the appropriate call data to allow SWBT to bill IXC's for Originating Access (as defined below). Such data shall be provided in a form mutually agreed to by the Parties. SWBT shall notify Carrier in writing when it no longer requires Carrier to provide such data.

4.2 Access Charges

4.2.1 When Applicable

Carrier shall pay SWBT Switched Access charges (including Carrier Common Line, Local Switching and Transport) for any and all traffic which crosses an MTA boundary (as defined by the cell site/base station at which the call originates or terminates and the SWBT end user's serving wire center at which the call originates or terminates). Switched Access charges are specified in Appendix PRICING paragraph 5.2 as InterMTA rates.

Both Parties recognize that legislative and regulatory activities may impact the rates, terms and conditions associated with Switched Access services. The Parties agree that any rate changes associated with Switched Access services will flow through to the InterMTA rates specified in Appendix PRICING as stated in Section 14 of this Agreement.

If traffic is handed from SWBT directly to an IXC, from Carrier to an IXC via equal access trunks, or from an IXC directly to SWBT, access charges shall not apply to Carrier.

4.2.2 InterMTA Factor

The Parties have agreed upon the interMTA factor specified in Appendix PRICING, which represents the percent of total minutes to be billed access charges. Carrier represents that the factor is based on a reasonable traffic study conducted by Carrier, and shall make such study available to SWBT upon request. Six months after the effective date of this Agreement, and every six (6) months thereafter, Carrier shall conduct a study (available to SWBT on request) to ensure the Parties are using an accurate interMTA factor.

The Parties agree that if the percent of land to mobile interMTA traffic is less than 3% of total land to mobile traffic, then such traffic will be deemed as de minimis and the land to mobile factor will be set at 0%.

The Parties agree that the percent of land to mobile interMTA traffic is less than 3% of the total land to mobile traffic as of the effective date of this Agreement.

4.2.3 Examples

Following are two examples of traffic for which Carrier shall be required to pay access charges. They are examples only and in no way shall be deemed limiting or exhaustive of the applicability of access charges under this Agreement.

4.2.3.1 When a SWBT end user calls a Carrier end user (a land to mobile call), SWBT delivers the call to Carrier, and Carrier transports the call across MTA boundaries (either directly or through an IXC, access charges shall apply to Carrier ("Originating Access").

4.2.3.2 When a Carrier end user calls a SWBT end user (a mobile to land call), the call crosses MTA boundaries, and Carrier transports the call across MTA boundaries, access charges shall apply to Carrier ("Terminating Access").

5. TRANSMISSION AND ROUTING OF OTHER TYPES OF TRAFFIC

This Section 5 provides the terms for the exchange of 800/888 traffic, 911/E911 traffic, and Directory Assistance traffic from an end user on Carrier's network to SWBT's network.

5.1 800/888 Traffic

- 5.1.1 Carrier may order from SWBT Miscellaneous Facilities in order to deliver 800/888 Traffic from a Carrier end user to SWBT's network. Such Miscellaneous Facilities shall be used solely for the transmission and routing of 800/888 traffic to allow Carrier's end users to send calls to SWBT for completion to IXCs, LECs other than SWBT, or SWBT.
- 5.1.2 Charges for Miscellaneous Facilities are specified in Section 7 of the applicable interstate or intrastate Special Access Tariffs. Additional charges for services provided on Miscellaneous Facilities may also apply, including, without limitation charges for directory assistance services and transport as well as other operator services.

5.2 E911/911 Traffic

With respect to all matters relating to E911/911 traffic, the Parties shall: (i) continue to handle such services as they do today and (ii) work together to meet any and all applicable requirements mandated under law, including tariffs, and rules and regulations of the FCC. The Parties acknowledge and agree that as applicable requirements are met and implemented, additional charges for E911/911 traffic may apply and shall in no way delay implementation of such requirements.

5.3 Directory Assistance

5.3.1 Directory Assistance Service

- 5.3.1.1 SWBT may provide Directory Assistance ("DA") service from directory assistance locations to Carrier's premises. SWBT DA service is provided when Carrier's customers reach a SWBT DA position.
- 5.3.1.2 DA calls will be completed over Type 1 end office connections for NPAs served within the LATA. For NPA 555-1212 calls, Carrier may pass those to IXCs over equal access facilities.
- 5.3.1.3 Carrier may combine DA calls over existing Type 1 connecting circuits or may complete DA calls over a Miscellaneous Facility group.
- 5.3.1.4 Rates listed in Appendix PRICING shall apply.

5.3.2 DA Call Completion

5.3.2.1 General

5.3.2.1.1 DA Call Completion ("DACC") is a service that provides Carrier's customers the option of having their local or IntraLATA calls completed when requesting a telephone listing from a SWBT DA operator.

5.3.2.1.2 DACC is available when Carrier has elected to receive the service and has ordered the required dedicated operator service circuits to each of the DA locations within the LATA. DACC, when billed to Carrier, is only available on a fully automated basis.

5.3.2.1.3 In addition to the appropriate charges for DA and DACC, terminating usage charges, rated as Type 2A service, apply for all calls completed using DACC.

5.3.2.1.4 DACC is available under three billing applications, specified in the next three sections: multiple rate option, single rate option and alternate billing.

5.3.2.2 Multiple Rate Option

5.3.2.2.1 Under the multiple rate option, Carrier is billed individually for DA and DACC when provided.

5.3.2.2.2 If Carrier chooses the multiple rate option, a seven digit Automatic Number Identification ("ANI") field following the called number is required from Carrier as prescribed in SWBT publication DACC Technical Requirements for Cellular Providers.

5.3.2.2.3 Carrier has the option of providing customer specific ANI for the purpose of directly billing for DACC or providing Carrier's billing number in the ANI field.

5.3.2.3 Single Rate Option

With a single rate option, Carrier is charged a single fixed rate for the DA and DACC portion of a DA call. This rate applies for all DA calls including those where DACC was not requested by Carrier's customer.

5.3.2.4 Alternate Billing

- 5.3.2.4.1 Carrier's customer has the option of billing the DACC charge as a credit card, third number or collect call under alternate billing. Alternate billing is only available when Carrier has advised SWBT of its intent to allow alternate billing of DACC.
- 5.3.2.4.2 Alternate billing of DACC is available in conjunction with existing DA and the DACC Multiple Rate Option. Alternate billing will not be provided with the Single Rate Option.
- 5.3.2.4.3 When an unauthorized alternate billing request for DACC is received, Carrier's customer will be advised of the unavailability of alternately billed DACC and to contact Carrier for further assistance in completing the call.

5.3.2.5 Manner of Provisioning

- 5.3.2.5.1 Operator Service Circuits: When Carrier requests DACC service, both DA and DACC services are provided over a dedicated trunk group from each Carrier MSC to the SWBT DA switch in the LATA. A separate trunk group is required for each NPA served by the SWBT DA switch in the LATA.
- 5.3.2.5.2 Billing Information Tape: When Carrier chooses the multiple rate option, billing information tapes ("BIT") will be automatically provided on a daily basis detailing the call information associated with the ANI provided by Carrier. Carrier has the option of receiving the call information via a data circuit as detailed in section 5.3.2.5.3. The charge for BIT is listed in Appendix PRICING.
- 5.3.2.5.3 Electronic Data Transmission: Electronic Data Transmission ("EDT") provides Carrier the option of receiving detailed call information via a data circuit instead of the daily BIT. The EDT data circuit is established between SWBT's data center and Carrier's premises of choice. The type EDT data circuit required is dependent upon the volume of billing information and the type terminating equipment provided by Carrier at its premises. While there is no charge for EDT, Carrier is responsible for the data circuit charges.

5.3.2.6 Rate Regulations

- 5.3.2.6.1 Type 2A usage charges for DACC service are found in Appendix PRICING and are rated from the Type 2A SWC. If Carrier does not have Type 2A service, usage charges are rated from the SWBT end user to the Type 1 end office designated by Carrier.
- 5.3.2.6.2 Under the multiple rate option, the DA rates found in Appendix PRICING apply in addition to the multiple rate option charge in Appendix PRICING.
- 5.3.2.6.3 DACC and associated usage are charged only upon completion of calls under the multiple rate option. DA charges always apply for calls placed to a DA position.
- 5.3.2.6.4 Under the single rate option, the DA charges listed in Appendix PRICING apply to all calls placed to a DA position including those calls where DACC was not requested by Carrier's customer. The associated usage charges only apply when a call has been completed.
- 5.3.2.6.5 When Carrier's customer elects to alternately bill DACC, Carrier will be charged for the completed DA call from Appendix PRICING and Carrier's customer will be charged the appropriate DACC rate from Section 11 of the General Exchange Tariff.
- 5.3.2.6.6 When an alternately billed DACC call is completed outside a local calling area, Carrier's customer will be billed the applicable rates from Section 2 of the Long Distance Message Telecommunications Service Tariff in addition to the DACC charges.

5.4 Operator Services

Operator Service ("OS") calls will be limited to 0+ or 0- calls on a sent paid basis only. The term "sent paid" means that all calls must be paid for by Carrier's end user at the time the call is placed. This can be accomplished by using a telecommunications credit card, placing the call collect or billing the call to a third number. No charges are incurred by Carrier. Sent paid calls can be completed as follows:

- 5.4.1 Fully Automated: when Carrier's end user dials zero (0) plus a seven or ten digit telephone number and the call is completed without the assistance of a SWBT operator.

- 5.4.2 Semi-Automated: when Carrier's end user dials zero (0) plus a seven or ten digit telephone number and the call is completed with assistance of a SWBT operator.
- 5.4.3 Manual: when Carrier's end user dials zero (0) only, then places a call with the assistance of a SWBT operator.

5.5 Area Wide Calling Plan

Area Wide Calling Plan (AWCP) is an optional reverse billing arrangement which may be requested by Carrier. This optional service permits SWBT's end user to call certain Carrier end users from any location within the LATA without incurring an additional charge, i.e., no "toll" charges are applied to the SWBT's end user.

- 5.5.1 Subscribing to the AWCP, Carrier agrees to incur a per minute of use charge for all land to mobile calls, which terminate outside of the local calling scope of the SWBT local exchange, as defined by the Intrastate Local Exchange Tariff, serving the SWBT end user who originated the call.
- 5.5.2 The charges for this service are as specified in Appendix PRICING. Mileage charges shall be calculated or measured using the V & H Coordinates Method. Mileage will be determined by calculating the airline distance from the calling party's end office to the Carrier point of interconnection. In addition to the AWCP rates in Appendix PRICING, Carrier agrees to pay the Land to Mobile Interconnection Rate for all minutes billed under an AWCP.
- 5.5.3 AWCP will be provisioned using a SWBT provided dedicated one-way land to mobile Type 2A Connecting Facility group established solely for the completion of AWCP calls. AWCP will only be provisioned utilizing a NXX code dedicated to this service.
- 5.5.4 No AWCP usage charges will apply for calls which originate and terminate within the local calling scope of the SWBT local exchange where Carrier and SWBT interconnect for the provisioning of this service.
- 5.5.5 SWBT will pay the Land to Mobile Interconnection Rate for all traffic associated with an AWCP.

6. ADDITIONAL ORDERING AND BILLING PROVISIONS

6.1 Ordering

- 6.1.1 Unless otherwise provided for in this Agreement, this provision shall apply for the ordering of interconnection herein. Each Party shall be responsible

for ordering from the other any interconnection or other facilities as specified in this Agreement. The Parties shall mutually agree upon the format for any orders and any required codes or other information that must be included in any particular order. Subject to the paragraph immediately below, orders shall be processed as follows: after the receipt of a request, a Party shall notify the ordering Party, in a timely manner and in agreement with published intervals, of any additional information it may require to determine whether it is technically feasible to meet the request. Within 45 days of its receipt of said information, the Party shall notify the ordering Party ("Notification") if the request is technically feasible. If the request is technically feasible, the Party shall activate the order as mutually agreed to by the parties after Notification (the "Activation Date").

6.1.2 Special Requests

- 6.1.2.1 If either Party requires interconnection at a location not listed in Appendix DCO, then it shall submit a Special Request in writing to the other Party specifying (i) the point of interconnection, (ii) an estimated activation date, and (iii) a forecast of intended use. Within 20 days of its receipt of the ordering Party's request (the "Request Date"), the providing Party shall notify the ordering Party of any additional information it may require to determine whether it is technically feasible to meet the request. Within 60 days of its receipt of said information (or 60 days from the Request Date if the providing Party does not ask for additional information), the providing Party shall notify the ordering Party ("Notification") if its request is technically feasible. If the request is technically feasible, the providing Party shall activate the interconnection at any time 15 days after Notification (the "Activation Date") as specified by the ordering Party. Upon activation the Parties shall be deemed to have amended Appendix DCO to include the added location. Special Requests for interconnection locations not listed in Appendix DCO may involve additional charges.
- 6.1.2.2 The Parties recognize that Special Requests may be made of the other Party pursuant to section 3.3.3 herein. The providing Party shall have 75 days to notify the ordering Party ("Special Notification") if the ordering Party's Special Request, in the providing Party's sole discretion, will be fulfilled and what the cost of fulfilling such request will be. If the Special Request will be fulfilled, the providing Party shall activate the order at a time agreed to by the Parties.
- 6.1.2.3 An ordering Party may cancel a Special Request at any time, but will pay the providing Party's reasonable and demonstrable

costs of processing and/or implementing the Special Request up to the date of cancellation.

6.2 Billing

6.2.1 Each Party shall deliver monthly settlement statements for terminating the other Party's traffic based on a mutually agreed schedule. Each Party will record its terminating minutes of use including identification of the originating and terminating CLLI Code for all intercompany calls. Bills rendered by either Party shall be paid within thirty (30) days of the bill date or by the next bill date.

6.2.2 Late Charges

Bills will be considered past due 30 days after the bill date or by the next bill date (i.e., same date as the bill date in the following month), whichever occurs first, and are payable in immediately available funds.

If the entire amount billed, exclusive of any amount disputed, is received by the billing Party after the payment due date or if any portion of the payment is received by the billing Party in funds which are not immediately available to the billing Party, then a late payment charge will apply to the unpaid balance. The late payment charge will be the lesser of:

The highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily and applied for each month or portion thereof that an outstanding balance remains; or

0.000590, compounded daily and applied for each month or portion thereof that an outstanding balance remains.

6.3 Miscellaneous Nonrecurring Charges

6.3.1 Maintenance of Service Charge

When Carrier reports trouble to SWBT for clearance and no trouble is found in SWBT's network, the Carrier shall be responsible for payment of a Maintenance of Service Charge for the period of time when SWBT personnel are dispatched. In the event of an intermittent service problem that is eventually found to be in SWBT's network, Carrier shall receive a credit for any Maintenance of Service Charges applied in conjunction with this service problem.

If the carrier reports trouble to SWBT for clearance and SWBT personnel are not allowed access to the Carrier's premises, the Maintenance of Service Charge will apply for the time that SWBT personnel are

dispatched; provided that SWBT and Carrier have arranged a specific time for the service visit.

6.3.2 Additional Engineering Charges

Additional Engineering charges will be billed to the Carrier when SWBT incurs engineering time to customize the Carrier's service at the Carrier's request.

6.3.3 Additional Labor Charges

Additional labor will be charged when SWBT installs facilities outside of normally scheduled working hours at the customers request. Additional labor also includes all time in excess of one-half (1/2) hour during which SWBT personnel stand by to make installation acceptance test or cooperative test with a Carrier to verify facility repair on a given service.

6.3.4 Access Order Charge

An Access Order charge applies whenever Carrier requests installation, addition, rearrangement, change or move of the interconnection services associated with this Agreement.

6.3.5 Design Change Charge

A Design Change Charge applies when SWBT personnel review Carrier's interconnection service to determine what changes in the design of the service are required as a result of request(s) by the Carrier. SWBT will notify Carrier when the Design Change Charge would apply.

6.3.6 Service Date Change Charge

The Service Date Change Charge applies when the Carrier requests a change in the date of installation or rearrangement of interconnection service. The customer may request changes provided that the new date is no more than 45 calendar days beyond the original service date unless the requested changes are associated with an order which has been designated as a "special project". If a change or rearrangement of interconnection is necessary beyond 45 days, then the order must be canceled and reordered.

6.3.7 Access Customer Name and Address (ACNA), Billing Account Number (BAN) and Circuit Identification Change Charges

These charges apply whenever the Carrier requests changes in their ACNA, their BAN number or their Circuit Ids, respectively.

6.3.8 Supercedure

This charge also applies when Carrier assumes the license of and incorporates the interconnection services provided to another Carrier into Carrier's account.

7. NETWORK MAINTENANCE AND MANAGEMENT

The Parties will work cooperatively to install and maintain a reliable network. The Parties will exchange appropriate information (e.g., maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, etc.) to achieve this desired reliability, subject to the confidentiality provisions herein.

7.1 Network Management Controls

- 7.1.1 Each Party shall provide a 24-hour contact number for network traffic management issues to the other's surveillance management center. A FAX number must also be provided to facilitate notifications for planned mass calling events. Each Party agrees, at a minimum, to maintain the network traffic management controls capabilities set forth in SWBT's Wireless Interconnection Handbook, a copy of which has been provided to Carrier. Carrier acknowledges that the Handbook may be amended by SWBT from time to time.
- 7.1.2 Neither Party will use any service provided under this Agreement in a manner that impairs the quality of service to other carriers or to either Party's subscribers. Either Party will provide the other Party notice of said impairment at the earliest practicable time.
- 7.1.3 A Party's use of the other Party's facilities, or of its own equipment or that of a third party in conjunction with the other Party's facilities, shall not materially interfere with or impair service over any facilities of the other Party, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any communications carrier over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, the Party providing the facilities may discontinue or refuse service if the Party using the facilities violates this provision, provided that such termination of service will be limited to the Party's use of a facility, where appropriate.

7.2 Law Enforcement and Civil Process

SWBT and Carrier shall handle law enforcement requests as follows:

- 7.2.1 Intercept Devices: Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with a customer of the other Party, it shall refer such request to the Party that serves such customer, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request.
- 7.2.2 Subpoenas: If a Party receives a subpoena for information concerning an end user the Party knows to be an end user of the other Party it shall refer the subpoena back to the requesting Party with an indication that the other Party is the responsible company, unless the subpoena requests records for a period of time during which the Party was the end user's service provider, in which case the Party will respond to any valid request.
- 7.2.3 Law Enforcement Emergencies: If a Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect or one way denial of outbound calls for an end user of the other Party by the receiving Party's switch, that Party will comply with any valid emergency request. However, neither Party shall be held liable for any claims or damages arising from compliance with such requests on behalf of the other Party's end user and the Party serving such end user agrees to indemnify and hold the other Party harmless against any and all such claims.

8. NUMBERING ISSUES

8.1 Access to Numbering Resources

Carrier shall have access to numbering resources in the same fashion as they are provided to other Telecommunications Carriers. Carrier may either pay SWBT the sum of \$110 per NXX in exchange for SWBT's input of required data necessary to update the Local Exchange Routing Guide ("LERG") on Carrier's behalf, or Carrier may perform its own LERG updates at its own expense. SWBT shall not be liable for any losses or damages arising out of errors, defects, or failures associated with the input of Carrier's data into the LERG other than direct damages; provided, however, that Carrier's direct damages shall not exceed the amount of the charges paid to SWBT by Carrier for LERG input under this Agreement. Carrier agrees to defend, indemnify and hold harmless SWBT from any and all losses, damages, or other liabilities, including attorneys' fees, that it may incur as a result of claims, demands, or other suits brought by any party that may arise out of the data submitted and/or the input of that data into the LERG by

SWBT. Carrier shall defend against all end user claims just as if Carrier had performed its own input into the LERG.

8.2 Local Dialing Parity

SWBT agrees that local dialing parity will be available to Carrier in accordance with the Act.

8.3 IntraLATA Toll Dialing Parity

SWBT agrees to make IntraLATA toll dialing parity available in accordance with Section 271(e) of the Act.

9. VERIFICATION REVIEWS

- 9.1 Each Party will be responsible for the accuracy and quality of its data as submitted to the other Party. Upon reasonable written notice, each Party or its authorized representative (providing such authorized representative does not have a conflict of interest related to other matters before one of the Parties) shall have the right to conduct a review and verification of the other Party to give assurances of compliance with the provisions of this Agreement. This includes on-site verification reviews at the other Party's or the Party's vendor locations.
- 9.2 After the initial year of this Agreement verification reviews will normally be conducted on an annual basis with provision for staged reviews, as mutually agreed, so that all subject matters are not required to be reviewed at the same time. Follow up reviews will be permitted on a reasonable time schedule between annual reviews where significant deviations are found. During the initial year of the Agreement more frequent reviews may occur.
- 9.3 The review will consist of an examination and verification of data involving records, systems, procedures and other information related to the services performed by either Party as related to settlement charges or payments made in connection with this Agreement as determined by either Party to be reasonably required. Each Party, whether or not in connection with an on-site verification review, shall maintain reasonable records for a minimum of twenty-four (24) months and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement.
- 9.4 The Parties' right to access information for verification review purposes is limited to data not in excess of twenty-four (24) months in age. Once specific data has been reviewed and verified, it is unavailable for future reviews. Any items not reconciled at the end of a review will, however, be subject to a follow-up review effort. Any retroactive adjustments required subsequent to previously reviewed and verified data will also be subject to follow-up review. Information of either

Party involved with a verification review shall be subject to the confidentiality provisions of this Agreement.

- 9.5 The Party requesting a verification review shall fully bear its costs associated with conducting a review. The Party being reviewed will provide access to required information, as outlined in this section, at no charge to the reviewing Party. Should the reviewing Party request information or assistance beyond that reasonably required to conduct such a review, the Party being reviewed may, at its option, decline to comply with such request or may bill actual costs incurred in complying subsequent to the concurrence of the reviewing Party.

10. LIABILITY AND INDEMNIFICATION

- 10.1 With respect to any claim or suit for damages arising out of mistakes, omissions, defects in transmission, interruptions, failures, delays or errors occurring in the course of furnishing any service hereunder, the liability of the Party furnishing the affected service, if any, shall not exceed an amount equivalent to the proportionate charge to the other Party for the period of that particular service during which such mistake, omissions, defect in transmission, interruption, failures, delay or error occurs and continues; provided, however, that any such mistakes, omissions, defects in transmission, interruptions, failures, delays, or errors which are caused or contributed to by the negligence or willful act of the complaining Party or which arise from the use of the complaining Party's facilities or equipment shall not result in the imposition of any liability whatsoever upon the Party furnishing service.

10.2 NO CONSEQUENTIAL DAMAGES

NEITHER SWBT NOR CARRIER SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES SUFFERED BY SUCH OTHER PARTY (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY SUCH OTHER PARTY), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT. EACH PARTY HEREBY RELEASES THE OTHER PARTY (AND SUCH OTHER PARTY'S SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) FROM ANY SUCH CLAIM. NOTHING CONTAINED IN THIS SECTION WILL LIMIT SWBT'S OR CARRIER'S LIABILITY TO THE OTHER FOR (i) WILLFUL OR INTENTIONAL MISCONDUCT (INCLUDING GROSS NEGLIGENCE) OR (ii) BODILY INJURY, DEATH, OR DAMAGE TO TANGIBLE REAL OR TANGIBLE PERSONAL PROPERTY TO THE EXTENT PROXIMATELY CAUSED BY SWBT OR CARRIER'S

NEGLIGENT ACT OR OMISSION OR THAT OF THEIR RESPECTIVE AGENTS, SUBCONTRACTORS OR EMPLOYEES, NOR WILL ANYTHING CONTAINED IN THIS SECTION LIMIT THE PARTIES' INDEMNIFICATION OBLIGATIONS, AS SPECIFIED HEREIN.

- 10.3 Each Party shall be indemnified and held harmless by the other Party against claims and damages by third parties arising from (i) any act or omission of the indemnifying Party in connection with its performance or non-performance under this Agreement; (ii) actual or alleged infringement by the indemnifying Party of any patent, trademark, copyright, service mark, trade name, trade secret or intellectual property right (now known or later developed); and (iii) provision of the indemnifying Party's services or equipment, including but not limited to claims arising from the provision of the indemnifying Party's services to its end users (e.g., claims for interruption of service, quality of service or billing disputes). Each Party shall also be indemnified and held harmless by the other Party against claims and damages of persons furnished by the indemnifying Party or by any of its subcontractors, under worker's compensation laws or similar statutes.
- 10.4 The Parties agree to release, defend, indemnify, and hold harmless the other Party from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly or indirectly, by the other Party's employees and equipment associated with the provision of any service herein. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used in connection with any services herein.
- 10.5 When the lines or services of other companies and carriers are used in establishing connections to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other companies or carriers.

10.6 OSHA Requirements

The Parties agree to abide by and to undertake the duty of compliance on behalf of the other Party with all federal, state and local laws, safety and health regulations relating to one Party's at other Party's facilities, and to indemnify and hold the other Party harmless for any judgments, citations, fines, or other penalties which are assessed against such Party as the result solely of the first Party's failure to comply with any of the foregoing.

11. CONFIDENTIALITY AND PROPRIETARY INFORMATION

- 11.1 For the purposes of this Agreement, confidential information ("Confidential Information") means confidential or proprietary technical or business information given by one Party (the "Discloser") to the other (the "Recipient"). All information which is disclosed by one Party to the other in connection with this Agreement, during negotiations and the term of this Agreement will automatically

be deemed proprietary to the Discloser and subject to this Section 11, unless otherwise confirmed in writing by the Discloser. The Recipient agrees (i) to use Confidential Information only for the purpose of performing under this Agreement, (ii) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (iii) to safeguard it from unauthorized use or disclosure using at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third-party agent or consultant, such disclosure must be agreed to in writing by the Discloser, and the agent or consultant must have executed a written agreement of nondisclosure and nonuse comparable in scope to the terms of this section.

- 11.2 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.
- 11.3 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information if directed to so by Discloser except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement; the Recipient shall certify destruction by written letter to the Discloser. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it will notify such other Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information.
- 11.4 The Recipient shall have no obligation to safeguard Confidential Information: (i) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (ii) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (iii) after it is rightfully acquired by the Recipient free of restrictions on its disclosure; or (iv) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, as long as, in the absence of an applicable protective order, the Discloser has been previously notified by the Recipient in time sufficient for the Recipient to undertake all lawful measures to avoid disclosing such information and for Discloser to have reasonable time to seek or negotiate a protective order before or with any applicable mediator, arbitrator, state or regulatory body or a court.
- 11.5 The Parties recognize that an individual end user may simultaneously seek to become or be a customer of both Parties. Nothing in this Agreement is intended to

limit the ability of either Party to use customer specific information lawfully obtained from end users or sources other than the Discloser.

- 11.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.
- 11.7 No license is hereby granted under any patent, trademark, or copyright, nor is any such license implied solely by virtue of the disclosure of any Confidential Information.
- 11.8 Each Party agrees that the Discloser may be irreparably injured by a disclosure in breach of this Agreement by the Recipient or its representatives and the Discloser will be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach or threatened breach of the confidentiality provisions of this Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement, but will be in addition to all other remedies available at law or in equity.

12. PUBLICITY

- 12.1 The Parties agree not to use in any advertising or sales promotion, press release or other publicity matter any endorsement, direct or indirect quote, or picture implying endorsement by the other Party or any of its employees without such Party's prior written approval. The Parties will submit to each other for written approval, and obtain such approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied.
- 12.2 Neither Party will offer any services using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of the other Party or its affiliates without the other Party's written authorization.

13. DISPUTE RESOLUTION

13.1 Finality of Disputes

No claims shall be brought for disputes arising from this Agreement more than twenty-four (24) months from the date of occurrence which gives rise to the dispute, or the applicable statute of limitations, whichever is shorter.

13.2 Alternative to Litigation

The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or

an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim of \$25,000 or less, arising out of or relating to this Agreement or its breach.

13.2.1 Resolution of Disputes Between Parties to the Agreement

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. 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. Discussions and correspondence among the representatives for purposes of settlement are exempt from discovery and production and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

13.2.2 Arbitration

13.2.2.1 If the negotiations do not resolve the dispute within sixty (60) days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond, to a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories; demands to produce documents; requests for admission.

13.2.2.2 Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration. The arbitration shall be held in the state where the Parties interconnect. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties shall submit written briefs five days before the hearing. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings. The arbitrator has no authority to order punitive or consequential damages. The

times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

13.2.3 Costs

Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party for the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

14. INTERVENING LAW

- 14.1 This Agreement is entered into as a result of both private negotiation between the Parties, acting pursuant to the Act, PURA'95, and/or other applicable state laws or Commission rulings. If the actions of state or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction invalidate, modify, or stay the enforcement of laws or regulations that were the basis for a provision of the contract, the affected provision will be invalidated, modified, or stayed as required by action of the legislative body, court, or regulatory agency. In such event, the Parties shall expend diligent efforts to arrive at an agreement respecting the modifications to the Agreement required. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions will be resolved pursuant to any remedy available to the Parties under law; provided that the Parties may mutually agree to use the dispute resolution process provided for in this Agreement.
- 14.2 In the event a court or regulatory agency of competent jurisdiction should determine that modifications of this Agreement are required to bring the services being provided hereunder into compliance with the Act, the affected Party shall promptly give the other Party written notice of the modifications deemed required. Upon delivery of such notice, the Parties shall expend diligent efforts to arrive at an agreement respecting such modifications required, and if the Parties are unable to arrive at such agreement within sixty (60) days after such notice, either Party may seek any remedy available to it under law; provided that the Parties may mutually agree to invoke the dispute resolution process set forth in this Agreement.

15. SECTION 252 (i) OBLIGATIONS

If SWBT enters into an agreement approved by the Commission providing for Interconnection and Reciprocal Compensation with another Wireless Telecommunications Carrier in the State of Missouri (a "Third Party Agreement"), then Carrier shall have the option to avail itself of the terms and conditions of the

Third Party Agreement in its entirety, without picking and choosing less than all of the provisions of the Third Party Agreement, unless so required by subsequent applicable intervening law under Section 14. Carrier may request to renegotiate, at any time, this agreement in its entirety or any provision of this agreement. Carrier acknowledges that other agreements are or will be on file with the Commission and that such agreements are available to the public. If Carrier desires to avail itself of a Third Party Agreement, it shall provide SWBT written notice of such desire, and the Parties shall be deemed to have adopted the Third Party Agreement, in place of this Agreement, upon SWBT's receipt of Carrier's notice; provided, however, that Carrier may not avail itself of any Third Party Agreement if SWBT demonstrates to the Commission that SWBT would incur greater cost to provide Carrier the Third Party Agreement than SWBT incurs to provide such arrangements to the third party that is party to the Third Party Agreement. The Parties agree to make arrangements to pay one another retroactively based upon the adopted Third Party Agreement for the period from the adoption date of the adopted agreement to the date on which both Parties can implement changes in their respective billing systems or arrangements. The Parties agree that the implementation of changes to billing systems or arrangements will not exceed sixty (60) days from receipt of Carrier's notice by SWBT.

16. ACCESS TO RIGHTS OF WAY

The provisions concerning Carrier's access to and use of space on or within a pole, duct, conduit, or right-of-way owned or controlled by SWBT are set forth in Appendix POLES, CONDUIT, AND ROW to be negotiated and entered into by the Parties after the execution of this Agreement. At such time, the Appendix shall be deemed incorporated into and part of this Agreement. The Parties agree that the Appendix POLES, CONDUIT, AND ROW will be developed with 30 day of the effective date of this Agreement.

17. CERTIFICATION REQUIREMENTS

Carrier warrants that it has obtained all necessary jurisdictional certification required in those jurisdictions in which Carrier has ordered services pursuant to this Agreement. Upon request by any governmental entity, Carrier shall provide proof of certification to SWBT.

18. MISCELLANEOUS PROVISIONS

18.1 Effective Date

The Parties shall effectuate all the terms of this Agreement as of April 1, 1997 in conjunction with final approval of this Agreement by the relevant state Commission when it has determined that this Agreement is in compliance with

Section 252 of the Act; provided, however, the Parties agree to make arrangements to pay one another for the period from April 1, 1997 to the date on which both Parties can implement changes in their respective billing systems or arrangements. The Parties agree that the implementation of changes to billing systems or arrangements will not exceed sixty (60) days.

18.2 Term and Termination

18.2.1 SWBT and Carrier agree to interconnect pursuant to the terms defined in this Agreement for a term of one year from the effective date of this Agreement, and thereafter the Agreement shall continue in force and effect unless and until terminated as provided herein. Either Party may terminate this Agreement by providing written notice of termination to the other Party, such written notice to be provided at least sixty (60) days in advance of the date of termination; provided, however, that no such termination shall be effective prior to the date one year from the Effective Date of this Agreement. By mutual agreement, SWBT and Carrier may amend this Agreement in writing to modify its terms.

18.2.2 Either Party may terminate this Agreement upon thirty (30) days written notice of a material breach of this Agreement by the other Party to this Agreement, which material breach remains uncured for thirty (30) day period after written notice of the material breach by the non-breaching Party to the breaching Party.

18.3 Binding Effect

This Agreement will be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

18.4 Assignment

Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld; provided that either Party may assign its rights and delegate its benefits, and delegate its duties and obligations under this Agreement without the consent of the other Party to a 100 per cent owned affiliate of the assigning Party. Nothing in this section is intended to impair the right of either Party to utilize subcontractors.

18.5 Third Party Beneficiaries

This Agreement shall not provide any non-party with any remedy, claim, cause of action or other right.

18.6 Force Majeure

Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable commercial efforts to avoid or remove the cause of non-performance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

18.7 DISCLAIMER OF WARRANTIES

THE PARTIES MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO SERVICES PROVIDED HEREUNDER. ADDITIONALLY, THE PARTIES ASSUME NO RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER PARTY WHEN THIS DATA OR INFORMATION IS, ACCESSED AND/OR USED BY A THIRD PARTY.

18.8 Survival of Obligations

Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, Confidential Information, limitations on liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, will survive cancellation or termination thereof

18.9 Waiver

The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed

as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times in full force and effect.

18.10 Trademarks and Trade Names

Nothing in this Agreement will grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever, absent written consent of the other Party.

18.11 Taxes

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. Purchasing Party may be exempted from certain taxes if purchasing Party provides proper documentation, e.g., reseller certificate, from the appropriate taxing authority.

18.12 Relationship of the Parties

This Agreement shall not establish, be interpreted as establishing, or be used by either Party to establish or to represent their relationship as any form of agency, partnership or joint venture. Neither Party shall have any authority to bind the other or to act as an agent for the other unless written authority, separate from this Agreement, is provided. Nothing in the Agreement shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both of the Parties. Nothing herein shall be construed as making either Party responsible or liable for the obligations and undertakings of the other Party.

18.13 Services

Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.

18.14 Notices

In an event any notices are required to be sent under the terms of this Agreement, they shall be sent by registered mail, return receipt requested to:

To SWBT:
Director - Access Product Mgt.
One Bell Center, Rm. 7-Z- 1
St. Louis, MO 63101

To Carrier:
Director of Regulatory Affairs
2001 NW Sammamish Rd., #100
Issaquah, Washington 98207

24 Hour Network Management Contact:

For SWBT:
1-800-662-2163
1-800-982-7447
1-800-472-1175

For Carrier:
Michael O'Brien
Western Wireless Corporation
2001 NW Sammamish Rd., #100
Issaquah, Washington 98207
206-313-7793
206-313-5540 (fax)
800-626-1558

18.15 Expenses

Except as specifically set out in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

18.16 Headings

The headings in this Agreement are inserted for convenience and identification only and will not be considered in the interpretation of this Agreement.

18.17 Governing Law

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 the State of Missouri, except insofar as federal law may control any aspect of this Agreement, in which case federal law will govern. The Parties submit to personal jurisdiction in Jackson County, Missouri and waive any and all objections to such venue.

18.18 Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which will be deemed an original but all of which will together constitute but one and the same document.

18.19 Complete Terms

This Agreement together with its appendices and exhibits constitutes the entire agreement between the Parties and supersedes all prior discussions, representations or oral understandings reached between the Parties. Appendices and exhibits referred to herein are deemed attached hereto and incorporated by reference. Neither Party shall be bound by any amendment, modification or additional terms unless it is reduced to writing signed by an authorized representative of the Party sought to be bound.

If this Agreement is acceptable to Carrier and SWBT, both Parties will sign in the space provided below. This Agreement shall not bind Carrier and SWBT until executed by both parties.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION
AGREEMENT.

Sign:

Sign:

Gene DeJordy

STEPHEN M. CARTER

Print Name:

Print Name:

Director of Regulatory Affairs
Position/Title
Western Wireless Corporation

Vice President & General Manager
Position/Title
Southwestern Bell Telephone Company

April 10, 1997
Date:

April 8, 1997
Date:

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APPENDIX GSA

<u>State</u>	<u>Licensee</u>	<u>Licensed Area</u>	<u>Switch Locations in the State</u>
Missouri	GCC License Corporation	MO-9	Salina, KS

MISSOURI
APPENDIX PRICING

1.0 Mobile to Land Interconnection Rates Per Minute of Use

Type 2A	Type 1	Type 2B	Transiting
\$.01	\$.01	\$.004	\$.004

2.0 Land to Mobile Interconnection Rates Per Minute of Use

All Interconnection Types	Transiting
\$.01	\$.004

3.0 Carrier facilities will be provided at rates, terms, and conditions developed on an individual case basis.

4.0 Shared Facility (1)(2)

4.1 Shared Facility Factor - Carrier	.80
4.2 Shared Facility Factor - SWBT	.20

5.0 Inter MTA Traffic (2)

5.1 Inter MTA Traffic Factor

Land to Mobile: if less than 3% is reported then factor will be set at 0%, if greater than 3% then factor will be actual percentage reported

Mobile to Land: 0%

5.2 Inter MTA Rates (to be paid to SWBT by Carrier on applicable Inter MTA calls)

Land to Mobile (originating)	\$.023971
Mobile to Land (terminating)	\$.023971

(1) These factors represent the percentage of the facility rate that each Party will pay for each shared connecting facility.

(2) This is an interim factor agreed to by Carrier and SWBT. This factor is to be verified within six (6) months of the Effective Date of this Agreement.

MISSOURI

APPENDIX PRICING (Continued)

6.0 Directory Assistance

6.1 Directory Assistance Rates (1)

Per Call		\$.2975
Transport Per Call	0 - 1 mile	\$.0028
	>1 to 25 miles	\$.0060
	>25 to 50 miles	\$.0222
	>50 miles	\$.0351

6.2 Directory Assistance Call Completion (1)

6.2.2 Per Completed Call \$.20

6.2.3 Operator Service Circuits

In addition to the Per Call Rates, Carrier must establish facilities between the Carrier's MSC and SWBT's TOPS tandem. Prices can be found in Section 7 of the applicable interstate or intrastate Access Services Tariffs.

7.0 Area Wide Calling Plan (AWCP)

7.1 AWCP Rates Per Minute of Use

Local Switching		\$.008480
Local Transport		
	>1 to 25 miles	\$.0077
	>25 to 50 miles	\$.0162
	>50 miles	\$.0274
Carrier Common Line		\$.01

7.2 A nonrecurring charge of \$3958.50 applies to arrange a new AWCP NXX Code or to convert an existing NXX Code to an AWCP.

8.0 Signaling System 7 ("SS7") Transport

Rate per million octets	\$2.39
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- (1) If the Carrier chooses the Single Rate Option, then a rate of \$.50 shall apply for every DA call. With the Single Rate Option, DACC may be utilized by the Carrier's end user at no additional charge to the Carrier.

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MISSOURI

APPENDIX PRICING (Continued)

9.0	Selective Class of Call Screening	Per Month	Nonrecurring Charge
	Per BAN per month	\$40.75	\$370.00

10.0 Miscellaneous Nonrecurring Charges

Maintenance of Service

Basic Time	1st 1/2 hr. \$ 26.24	Ea. add'l. 1/2 hr. \$ 21.32
Overtime	1st 1/2 hr. \$ 31.65	Ea. add'l. 1/2 hr. \$ 26.73
Premium Time	1st 1/2 hr. \$ 31.65	Ea. add'l. 1/2 hr. \$ 26.73

Access Order Charge	Switched Services	\$ 17.00
	Special Services	\$ 14.00

Design Change \$ 32.96

Service Date Change \$ 14.77

ACNA Change \$ 22.00 per trunk group

BAN Change \$22.00 per BAN change

CKT ID Change \$ 22.00 per trunk group

Additional Engineering

Basic Time	1st 1/2 hr. \$ 34.59	Ea. add'l. 1/2 hr. \$ 24.97
Overtime	1st 1/2 hr. \$ 41.37	Ea. add'l. 1/2 hr. \$ 31.75

Additional Labor Rates

Installation

Basic Time	1st 1/2 hr. \$ 36.35	Ea. add'l. 1/2 hr. \$ 26.73
Overtime	1st 1/2 hr. \$ 41.77	Ea. add'l. 1/2 hr. \$ 32.15

Testing & Mtce.

Basic Time	1st 1/2 hr. \$ 30.93	Ea. add'l. 1/2 hr. \$ 21.23
Overtime	1st 1/2 hr. \$ 36.35	Ea. add'l. 1/2 hr. \$ 26.73

Supersede	Switched Services	\$ 17.00
	Special Services	\$ 14.00

MISSOURI

APPENDIX PRICING (Continued)

10.0 Miscellaneous Nonrecurring Charges (Continued)

Cancellation Charge	No. of business days from order application through the order cancellation multiplied by the average daily charge of the service ordered, plus the Access Order Charge.
Rollover Charges	A rollover is a Carrier initiated move that involves a change of a Point of Termination from an existing service within the same Carrier premises. The nonrecurring charge associated with the installation of that service applies when Carrier requests a rollover.
Conversion Charge	A nonrecurring charge of \$70.00 per end office applies when changing a Type 1 service arrangement to a Type 2A, where retranslations are required.

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APPENDIX DCO

This is the DCO Appendix.

This Appendix was created in Excel 5.0.

All Points of Interconnection (POIs) are listed in separate worksheets.

Appendix is available upon request as floppy diskette.

APPENDIX DCO
WESTERN WIRELESS POIs

MTSO	CLLI	ADDRESS	TELEPHONE
MTSO1		3119 Arnold, Avenue, Salina, KS. 67410	(913) 823-5074
MTSO2		4533 Enterprise Drive, Oklahoma City, OK. 73128	(405) 270-5600
MTSO3		25 Butterfield Trail, El Paso, TX. 79906	(915) 783-4000
MTSO4		1912 Warehouse Road, Midland, TX. 79703	(915) 520-0273
MTSO5		Metro Tower 1220-Broadway, Ste. 1703 Lubbock, TX. 79401	(806) 763-3253

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APPENDIX DCO
SWBT TANDEM POIs

LATA/SECTOR	VCOORD	HCOORD	CLLI	TYPE
520 - SIKESTON	7099	3220	SKSTMOGR04T	DMS100/200
520 - ST. LOUIS-JEFFERSON	6807	3490	STLSMO0501T	5ESS
520 - ST. LOUIS-LADUE	6818	3517	STLSMO2101T	5ESS
522 - SPRINGFIELD	7311	3833	SPFDMOTL02T	DMS200
524 - CHILLICOTHE	6820	4104	CHLCMOMI06T	DMS100/200
524 - KANSAS CITY	7049	4210	KSCYKSJO07T	DMS100/200
524 - KANSAS CITY	7207	4202	KSCYMO5503T	DMS100/200
524 - KIRKSVILLE	6674	3993	KKVLMOMO10T	DMS100/200
524 - MOBERLY	6817	3899	MBRLMOAM06T	5ESS
524 - ST. JOSEPH	6913	4301	STJSMODN03T	DMS100/200
526 - FAYETTEVILLE	7599	3872	FYVLARHI02T	DMS200
526 - FORT SMITH	7752	3855	FTSMARSU03T	DMS200
528 - JONESBORO	7388	3297	JNBOARMA02T	DMS100/200
528 - LITTLE ROCK	7721	3448	LTRKARFR02T	DMS200
530 - PINEBLUFF	7803	3358	PNBLARJE02T	DMS200
532 - DODGE CITY	7641	4958	DDCYKS0107T	DMS100/200
532 - HUTCHINSON	7453	4844	HTSNKS0207T	DMS100/200
532 - PARSONS	7422	4159	PRSSKSWA07T	DMS100/200
532 - WICHITA	7489	4520	WCHTKSBR07T	DMS200
534 - HAYS	7374	4932	HAYSKS1107T	DMS100/200
534 - SALINA	7275	4656	SALNKSTA07T	DMS100/200
534 - TOPEKA	7110	4379	TPKAKSJA07T	DMS100/200
536 - ALTUS	8230	4811	ALTSOKMA01T	5ESS
536 - ARDMORE	8180	4204	ARMROKMA01T	5ESS
536 - CLINTON	8030	4816	CLTNOKMA02T	DMS100/200
536 - DURANT	8165	4063	DRTNOKMA02T	DMS100/200
536 - ENID	7784	4507	ENIDOKMA02T	5ESS
536 - LAWTON	8176	4454	LWTNOKTB02T	DMS100/200
536 - OKLAHOMA CITY	7946	4372	OKCYOKCE13T	DMS200
536 - BARTLESVILLE	7589	4224	BRVLOKFE01T	DMS100/200
536 - TULSA	7708	4176	TULSOKTB03T	DMS100/200
540 - EL PASO	9231	5855	ELPSTXMA15T	DMS200
542 - MIDLAND	8934	4890	MDLDTXMU15T	DMS200
544 - LUBBOCK	8598	4962	LBCKTXPS15T	DMS100/200
546 - AMARILLO	8266	5075	AMRLTX0215T	DMS100/200
548 - WICHITA FALLS	8323	4412	WCFLTXNI04T	DMS100/200
550 - ABILENE	8698	4513	ABLNTXOR15T	DMS200
552 - DALLAS-RIVERSIDE	8437	4035	DLLSTXRI01T	5ESS
552 - DALLAS-TAYLOR	8432	4033	DLLSTXTA03T	4ESS
552 - FT. WORTH	8479	4123	FTWOTXED03T	DMS200
554 - LONGVIEW	8347	3861	LGVWTXPL03T	DMS200
556 - WACO	8705	3994	WACOTX0115T	DMS200
558 - AUSTIN	9004	3997	AUSTTXGR06T	DMS100/200
560 - HOUSTON	8947	3548	HSTNTX0801T	DMS200
560 - HOUSTON-JACKSON	8943	3540	HSTNTXJA04T	DMS200
560 - HUNTSVILLE	8758	3650	HNVITXHN02T	DMS100/200
560 - NACOGDOCHES	8816	3569	NCGDTXNC02T	DMS100/200
562 - BEAUMONT	8777	3344	BUMTTXTE03T	DMS100/200
564 - CORPUS CHRISTI	9477	3738	CRCHTXTU03T	DMS200

APPENDIX DCO
SWBT TANDEM PO's

566 - SAN ANTONIO	9225	4063	SNANTXCA03T	DMS200
568 - HARLINGEN	9819	3664	HLNNTXHG03T	DMS200

**APPENDIX DCO
SWBT KANSAS EO POIs**

CLLI	EXCHANGE	EQ TYPE	LATA	V-COORD	H-COORD	STREET ADDRESS
CFVLKS10DS0	COFFEYVILLE	DGTL/D100	532	7507	4190	214 W 10TH ST, COFFEYVILLE, KS 67337
CHNTKSSSDS0	CHANUTE	DGTL/D100	532	7367	4218	20 S STEUBEN, CHANUTE, KS 66720
CNCRKSBRDS0	CONCORDIA	DGTL/D1/2	534	7132	4722	1004 BROADWAY, CONCORDIA, KS 66901
DDCYKS01DS0	DODGE CITY	DGTL/D1/2	532	7641	4958	208 GUNSMOKE, DODGE CITY, KS 67801
EMPRKS08DS0	EMPORIA	DGTL/D100	532	7271	4394	28 W 8TH, EMPORIA, KS 66801
FTSCKS01DS0	FORT SCOTT	DGTL/D100	532	7285	4114	23 W 1ST, FORT SCOTT, KS 66701
GRCYKS07DS0	GARDEN CITY	DGTL/D100	532	7647	5112	409 N 7 ST, GARDEN CITY, KS 67846
GRTBKSSTDS0	GREAT BEND	DGTL/D100	532	7442	4803	1300 STONE ST, GREAT BEND, KS 67530
HAYSKS11DS0	HAYS	DGTL/D1/2	534	7374	4932	126 W 11TH, HAYS, KS 67601
HTSNKS02DS0	HUTCHINSON	DGTL/D1/2	532	7453	4644	101 E 2ND ST, HUTCHINSON, KS 67501
INDPKSMADS0	INDEPENDENCE	DGTL/D100	532	7475	4219	200 E MAPLE, INDEPENDENCE, KS 67301
KSCYKS10CG0	KC DREXEL	1SPC/1AAP	524	7028	4212	901 N 10TH, KANSAS CITY, KS 66101
KSCYKSBSDS0	KC BONNER SPRING	DGTL/5ES	524	7056	4246	163 NETTLETON, BONNER SPRINGS, KS 66011
KSCYKSCBDS0	KC CORPORATEWOOD	DGTL/5ES	524	7068	4203	8686 W COLLEGE, OVERLAND PARK, KS 66210
KSCYKSJOCG0	KC HEDRICK	1SPC/1AAP	524	7049	4210	7400 JOHNSON DR, MISSION, KS 66202
KSCYKSJODS0	KC HEDRICK	DGTL/D1/2	524	7049	4210	7400 JOHNSON DR, MISSION, KS 66202
KSCYKSLEDS0	KC LENEXA	DGTL/5ES	524	7067	4215	9400 PFLUMM RD, LENEXA, KS 66215
KSCYKSNACG0	KC DUPONT	1SPC/1AAP	524	7060	4201	9444 NALL ST, KANSAS CITY, KS 66207
KSCYKSOLDS0	KC OLATHE	DGTL/5ES	524	7086	4220	114 N WATER ST, OLATHE, KS 66061
KSCYKSPADS0	KC BETHEL	DGTL/5ES	524	7032	4228	6425 PARALLEL ST, KANSAS CITY, KS 66102
KSCYKSSHDS0	KC SHAWNEE	DGTL/5ES	524	7055	4220	6120 PFLUMM, KANSAS CITY, KS 66216
KSCYKSSTDS0	KC STANLEY	DGTL/D100	524	7082	4195	14969 METCALF, STANLEY, KS 66223
LBRLKS04DS1	LIBERAL	DGTL/D100	532	7839	5053	20 E 4 ST, LIBERAL, KS 67901
LVWOKS8SHDS0	LEAVENWORTH	DGTL/D100	524	7008	4273	615 SHAWNEE ST, LEAVENWORTH, KS 66048
LWRNKSVEDS0	LAWRENCE	DGTL/5ES	534	7097	4293	732 VERMONT ST, LAWRENCE, KS 66044
MNHTKSFADS0	MANHATTAN	DGTL/D100	534	7141	4522	1640 FAIRCHILD ST, MANHATTAN, KS 66502
MWTKNS05DS0	NEWTON	DGTL/D100	532	7418	4550	131 W 5TH ST, NEWTON, KS 67114
PRSSKSWADS0	PARSONS	DGTL/D1/2	532	7422	4159	1831 WASHINGTON ST, PARSONS, KS 67357
P8BGKSLODS0	PITTSBURG	DGTL/D100	532	7370	4078	611 N LOCUST, PITTSBURG, KS 66762
SALNKSTADS0	SALINA	DGTL/D1/2	534	7275	4656	137 S 7TH ST, SALINA, KS 67401
SALNKSTAD81	SALINA	DGTL/5ES	534	7275	4656	137 S 7TH ST, SALINA, KS 67401
TPKAKS37DS0	TOPEKA AMHERST	DGTL/D100	534	7120	4366	420 W 37TH, TOPEKA, KS 66611
TPKAKSFADS0	TOPEKA CRESTWOOD	DGTL/D100	534	7118	4378	1825 FAIRLAWN, TOPEKA, KS 66604
TPKAKSJACG0	TOPEKA CENTRAL	1SPC/1AAP	534	7110	4369	812 JACKSON, TOPEKA, KS 66612
TPKAKSJADS0	TOPEKA CENTRAL	DGTL/D1/2	534	7110	4369	812 JACKSON, TOPEKA, KS 66612
TPKAKSNOBS0	TOPEKA NORTH	DGTL/D100	534	7095	4374	635 NW 43RD, TOPEKA, KS 66617
WCHTKS47DS0	WC JACKSON	DGTL/5ES	532	7505	4513	400 E 47TH, WICHITA, KS 67216
WCHTKSAGDS0	WC AUGUSTA	DGTL/D100	532	7469	4462	1156 STATE, WICHITA, KS 67203
WCHTKSAHDS0	WC ROCK ROAD	DGTL/D100	532	7470	4510	8442 E 3RD ST NORTH, WICHITA, KS 67226

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APPENDIX DCO
SWBT KANSAS EO POIs

WCHTKSAMCG0	WC AMHERST	1SPC/1AAP	532	7489	4520	153 N TOPEKA, WICHITA, KS 67202
WCHTKSAMDS0	WC AMHERST	DGTL/D1/2	532	7489	4520	153 N TOPEKA, WICHITA, KS 67202
WCHTKSANDS0	WC ANDOVER	DGTL/D100	532	7479	4487	665 S 160TH E, WICHITA, KS 67230
WCHTKSBRDS0	WCHT TDM	DGTL/D1/2	532			154 N. BROADWAY, WICHITA KS 67202
WCHTKSCEDS0	WC PARKVIEW	DGTL/D100	532	7496	4541	10329 W CENTRAL, WICHITA, KS 67206
WCHTKSDEDS0	WC DERBY	DGTL/D100	532	7512	4499	1102 N BUCKNER, DERBY, KS 67037
WCHTKSKEDS0	WC KECHI	DGTL/D100	532	7464	4519	217 W KECHI RD, WICHITA, KS 67219
WCHTKSNWDS0	WC WHITEHALL	DGTL/D100	532	7492	4529	341 N W ST, WICHITA, KS 67203
WCHTKSOLCG0	WC MURRAY	1SPC/1AAP	532	7486	4511	118 S OLIVER, WICHITA, KS 67218

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APPENDIX DCO
SWBT MISSOURI EO POIs

CLLI	EXCHANGE	EQ TYPE	LATA	V-COORD	H-COORD	STREET ADDRESS
BLSPMOCADS0	BLUE SPRINGS	DGTL/D100	524	7023	4148	300 S 15TH ST., BLUE SPRINGS, MO. 64015
CHFDMO52DSA	CHESTERFIELD	DGTL/5ES	520	6831	3545	16752 WILD HORSE CRK RD, CHFD, MO 63017
CHLCMOMIDS0	CHILLICOTHE	DGTL/D1/2	524	6820	4104	501 CHERRY, CHILLICOTHE, MO. 64601
CPGRMOEDDSA	CAPE GIRARDEAU	DGTL/5ES	520	7012	3252	800 BROADWAY, CAPE GIRARDEAU, MO 63701
CRTHMOFLDS0	CARTHAGE	DGTL/D100	522	7390	3993	225 W 6TH, CARTHAGE, MO 64836
ELDNMOEXDSA	ELDON	DGTL/5ES	520	7036	3825	104 S OAK, ELDON, MO 65026
FLRVMOGEDSA	FLAT RIVER	DGTL/5ES	520	6982	3458	222 W MAIN, FLAT RIVER, MO 63601
FNTNMO54DS0	FENTON	DGTL/5ES	520	6847	3508	200 MAIN, FENTON, MO 63026
FSTSMOYEDS0	FESTUS	DGTL/D100	520	6901	3474	120 N SECOND ST, FESTUS, MO 63028
HNBLMOACDSA	HANNIBAL	DGTL/D1/2	520	6688	3763	820 BROADWAY, HANNIBAL, MO 63041
HVTRMO67DSA	HVSTR HARVESTER	DGTL/D100	520	6816	3557	111 TOELLE, HARVESTER, MO 63303
JPLNMOMACG0	JOPLIN	1SPC/1AAP	522	7422	4018	8TH & PEARL, JOPLIN, MO. 64801
KKVLMOMODS0	KIRKSVILLE	DGTL/D1/2	524	6674	3993	216 E. WASHINGTON, KIRKSVILLE, MO. 63501
KSCYMO01DS0	KC BENTON	DGTL/5ES	524	7024	4195	1123 CLEVELAND, KANSAS CITY, MO. 64127
KSCYMO02CG0	KC HILAND	1SPC/1AAP	524	7044	4194	6213 HOLMES, KANSAS CITY, MO. 64110
KSCYMO04CG0	KC WABASH	1SPC/1AAP	524	7034	4193	3901 MONTGALL, KANSAS CITY, MO 64130
KSCYMO05CG0	KC WESTPORT	1SPC/1AAP	524	7036	4199	107 E. 39TH ST., KANSAS CITY, MO 64111
KSCYMO20DS0	KC NASHUA	DGTL/D100	524	6998	4215	100 E. BARRY ROAD, KANSAS CITY, MO 64155
KSCYMO21DS0	KC GLADSTONE	DGTL/5ES	524	7008	4205	5112 ANTIOCH, GLADSTONE, MISSOURI 64119
KSCYMO22CG0	KC INDEPENDENCE	1SPC/1AAP	524	7018	4177	215 N. SPRING, INDEPENDENCE, MO 64050
KSCYMO23DS0	KC PARKVILLE	DGTL/5ES	524	7008	4221	6407 N.W. ROANRIDGE, KC, MO 64152
KSCYMO24CG0	KC RAYTOWN	1SPC/1AAP	524	7036	4176	5828 MAYWOOD, RAYTOWN, MO 64133
KSCYMO25DS0	KC SOUTH	DGTL/5ES	524	7058	4178	5903 REDBRIDGE, KANSAS CITY, MO 64134
KSCYMO40DS0	KC BELTON	DGTL/5ES	524	7081	4170	612 WALNUT, BELTON, MO. 64012
KSCYMO41CG0	KC LEES SUMMIT	1SPC/1AAP	524	7050	4154	202 E. 3RD ST., LEES SUMMIT, MO. 64063
KSCYMO42DS0	KC LIBERTY	DGTL/5ES	524	6987	4190	140 N. GALLATIN, LIBERTY, MO 64068
KSCYMO44DS0	KC EAST INDEPEN	DGTL/5ES	524	7007	4168	GUDGELL & BUNDSCHUA, INDEP., MO. 64050
KSCYMO45DS0	KC SOUTH WILLOW	DGTL/5ES	524	7062	4188	11021 HOLMES, KANSAS CITY, MO. 64131
KSCYMO48DS0	KC INDEP SOUTH	DGTL/5ES	524	7027	4166	16880 E. 40 HWY, INDEP. MO. 64055
KSCYMO55DS0	KC MCGEE	DGTL/D1/2	524	7027	4202	1101 MCGEE, KANSAS CITY, MO. 64106
KSCYMO55DS1	KC MCGEE	DGTL/D100	524	7027	4202	1101 MCGEE, KANSAS CITY, MO. 64106
KSCYMO55DS3	KC MCGEE TDM	DGTL/5ES	524	7027	4202	1101 MCGEE, KANSAS CITY, MO. 64106
MBRLMOAMD80	MOBERLY	DGTL/5ES	524	6817	3899	225 W. COATES, MOBERLY, MO 65270
MNCHMO59CG0	MANCHESTER	1SPC/1AAP	520	6839	3532	200 MANCHESTER RD, MANCHESTER, MO 63011
MXVLMO60DSA	MAXVILLE	DGTL/5ES	520	6858	3494	1679 BIG BILL RD, MAXVILLE, MO 63128
PPBLMOSUDSA	POPLAR BLUFF	DGTL/5ES	520	7185	3335	601 VINE, POPLAR BLUFF, MO 63901
SKSTMOGRDSA	SIKESTON	DGTL/D1/2	520	7099	3220	121 E CENTER, SIKESTON, MO 63801
SPFDMOMCDS0	SPFD MCDANIEL	DGTL/D100	522	7311	3834	510 E. MCDANIEL, SPRINGFIELD, MO. 65806
SPFDMOMCDS1	SPFD MCDANIEL	DGTL/5ES	522	7311	3834	510 E. MCDANIEL, SPRINGFIELD, MO. 65806

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APPENDIX DCO
SWBT MISSOURI EO POIs

SPFDMOTLDS0	SPDF TDM	DGTL/D1/2	522			600 ST LOUIS, SPRINGFIELD MO
SPFDMOTUDS0	SPFD TUXEDO	DGTL/D100	522	7321	3826	3028 S. FREMONT, SPRINGFIELD, MO. 65806
STCHMO83DSA	ST CHARLES	DGTL/D100	520	6798	3542	402 N THIRD, ST CHARLES, MO 63301
STJSMODNDS0	ST JOSEPH DWTN	DGTL/D1/2	524	6913	4301	320 N.10TH ST., ST JOSEPH, MO. 64501
STLSMO01DSA	STL CHESTNUT	DGTL/D100	520	6807	3483	1010 PINE, ST LOUIS, MO 63101
STLSMO01DSC	STL CHESTNUT	DGTL/D100	520	6807	3483	1010 PINE, ST LOUIS, MO 63101
STLSMO02CG0	STL EVERGREEN	1SPC/1AAP	520	6801	3500	3710 HAMILTON, ST LOUIS, MO 63120
STLSMO03CG0	STL FLANDERS	1SPC/1AAP	520	6823	3493	5410 JANUARY, ST LOUIS, MO 63019
STLSMO04CG0	STL FOREST	1SPC/1AAP	520	6808	3497	5189 DELMAR, ST LOUIS, MO 63130
STLSMO0501T	STL JEFFERSON	DGTL/5ES	520	6 07	3490	3810 WASHINGTON, ST LOUIS, MO 63108
STLSMO05CG0	STL JEFFERSON	1SPC/1AAP	520	6807	3490	3810 WASHINGTON, ST LOUIS, MO 63108
STLSMO06CG0	STL MISSION	1SPC/1AAP	520	6819	3500	7216 LANHAM, ST LOUIS, MO 63143
STLSMO07CG0	STL PARKVIEW	1SPC/1AAP	520	6810	3502	6214 DELMAR, ST LOUIS, MO 63130
STLSMO07DSA	STL PARKVIEW	DGTL/D100	520	6810	3502	6214 DELMAR, ST LOUIS, MO 63130
STLSMO08CG0	STL PROSPECT	1SPC/1AAP	520	6814	3488	2317 S GRAND, ST LOUIS, MO 63104
STLSMO11DSA	STL MELROSE	DGTL/5ES	520	6829	3490	4325 WEBER RD, ST LOUIS, MO 63123
STLSMO20DSA	STL FERGUSON	DGTL/5ES	520	6792	3512	330 N FLORISSANT, FERGUSON, MO 63135
STLSMO2101T	STL LADUE	DGTL/5ES	520	6818	3517	135 N LINDBERGH, ST LOUIS, MO 63141
STLSMO21CG0	STL LADUE	1SPC/1AAP	520	6818	3517	135 N LINDBERGH, ST LOUIS, MO 63141
STLSMO21DS3	STL LADUE	DGTL/5ES	520	6818	3517	135 N LINDBERGH, ST LOUIS, MO 63141
STLSMO22CG0	STL MEHLVILLE	1SPC/1AAP	520	6842	3492	4321 LEMAY FERRY, MEHLVILLE, MO 63129
STLSMO23CG0	STL OVERLAND	1SPC/1AAP	520	6802	3517	3501 WOODSON RD, OVERLAND, MO 63114
STLSMO24CG0	STL RIVERVIEW	1SPC/1AAP	520	6787	3503	10024 DUKE DR, ST LOUIS, MO 63136
STLSMO25DSA	STL SAPPINGTON	DGTL/5ES	520	6839	3502	11640 GRAVOIS RD, SAPPINGTON, MO 63126
STLSMO26DSA	STL WEBSTER GR	DGTL/D100	520	6826	3505	5 W LOCKWOOD, WEBSTER GROVES, MO 63119
STLSMO27CG0	STL CREVE COEUR	1SPC/1AAP	520	6818	3532	12930 OLIVE ST RD, ST LOUIS, MO 63141
STLSMO40CG0	STL FLORISSANT	1SPC/1AAP	520	6784	3518	707 ST JOSEPH, FLORISSANT, MO 63031
STLSMO41CG0	STL KIRKWOOD	1SPC/1AAP	520	6831	3511	115 WEST ADAMS, KIRKWOOD, MO 63122
STLSMO42CG0	STL BRDGTN WEST	1SPC/1AAP	520	6800	3530	12397 ST CHAS ROCK RD, BDGTN, MO 63044
STLSMO43CG0	STL BRDGTN HZLWD	1SPC/1AAP	520	6793	3524	505 MCDONNELL BLVD, BRIDGETON, MO 63042
STLSMO45DSA	STL SPANISH LAKE	DGTL/5ES	520	6777	3504	1971 PARKER RD, SPANISH LK, MO 63033
VYPKMO84DS0	VALLEY PARK	DGTL/5ES	520	6844	3521	324 FOREST, VALLEY PARK, MO 63088

APPENDIX DCO
SWBT OKLAHOMA EO POIs

EXCHANGE	CLLI	TYPE	LATA	VCOORD	HCOORD	ADDRESS
ADA	ADA-OKMADS0	DGTL/5ES	536	8029	4176	110 W. 14TH, ADA, OK 74820
ALTUS	ALTSOKMADS0	DGTL/5ES	536	8230	4611	220 N. HUDSON, ALTUS, OK 73521
ARDMORE	ARMROKMADS0	DGTL/5ES	536	8180	4204	126 C ST. NW, ARDMORE, OK 73401
BRVL FEDERAL	BRVLOKFEDS0	DGTL/D1/2	538	7589	4224	119 E. 6TH ST., BARTLESVILLE, OK 74003
CHICKASHA	CHCKOKMADS0	DGTL/5ES	536	8058	4409	528 KANSAS, CHICKASHA, OK 73018
CLINTON	CLTNOKMADS2	DGTL/D1/2	536	8030	4616	820 AVANT, CLINTON, OK 73601
DUNCAN	DNCNOKMADS0	DGTL/5ES	536	8171	4369	201 S. 8TH, DUNCAN, OK 73533
DURANT	DRNTOKMADS2	DGTL/D1/2	536	816	4063	205 N. 6TH, DURANT, OK 74701
OC EDMOND	EDMDOKMACG0	1SPC/1AAP	536	7907	4381	14 E. FIRST, EDMOND, OK 73034
ENID	ENIDOKMADS0	DGTL/5ES	536	7784	4507	102 N. ADAMS, ENID, OK 73701
LAWTON	LWTNOKTBDS0	DGTL/D1/2	538	8178	4454	7 S. 17TH, LAWTON, OK 73501
MCALESTER	MCLSOKMADS0	DGTL/D100	538	7938	4039	332 E C ALBERT PKWY, MCALESTER, OK 74501
MUSKOGEE	MSKGOKMACG0	1SPC/1AAP	538	7747	4041	221 N. 5TH, MUSKOGEE, OK 74401
OC NORMAN	NRMNOKMACG0	1SPC/1AAP	538	7992	4340	101 S. WEBSTER, NORMAN, OK 73069
OC CENTRAL	OKCYOKCECG0	1SPC/1AAP	536	7948	4372	121 DEAN MCGEE, OKLAHOMA CITY, OK 73102
OC CENTRAL	OKCYOKCEDS0	DGTL/D1/2	536	7946	4372	121 DEAN MCGEE, OKLAHOMA CITY, OK 73102
OC GARFIELD	OKCYOKGADS0	DGTL/5ES	536	7939	4368	2220 N MISSOURI, OKLAHOMA CITY, OK 73111
OC MELROSE	OKCYOKMECG0	1SPC/1AAP	536	7954	4371	636 SW 31ST, OKLAHOMA CITY, OK 73109
OC MUTUAL	OKCYOKMUCG0	1SPC/1AAP	536	7959	4376	2845 SW 43RD, OKLAHOMA CITY, OK 73119
OC ORANGE	OKCYOKORDS0	DGTL/D100	538	7949	4360	3101 SE 29TH, OKLAHOMA CITY, OK 73119
OC PARKVIEW	OKCYOKPACG0	1SPC/1AAP	536	7934	4401	9615 N ROCKWELL, OKLAHOMA CITY, OK 73132
OC MIDWEST CITY	OKCYOKPEGC0	1SPC/1AAP	536	7944	4351	702 E RICKENBACKER, MIDWEST CY, OK 73110
OC MOORE WEST	OKCYOKPNDS0	DGTL/D100	536	7973	4367	PENN. AV & SW 119, MOORE, OK 73170
OC SKYLINE	OKCYOKSKDS1	DGTL/D100	536	7923	4387	1600 NW 122ND, OKLAHOMA CITY, OK 73114
OC SUNSET	OKCYOKSUDS0	DGTL/5ES	536	7950	4394	2205 N. ROCKWELL, BETHANY, OK 73008
OC MOORE SWIFT	OKCYOKSWDS0	DGTL/D100	536	7970	4357	300 SO BROADWAY, MOORE, OK 73160
OC UNIVERSITY	OKCYOKUNCG0	1SPC/1AAP	538	7942	4376	2301 N. OLIE, OKLAHOMA CITY, OK 73106
OC VICTOR	OKCYOKVICG0	1SPC/1AAP	538	7931	4381	7000 N. WESTERN, OKLAHOMA CITY, OK 73116
OC WINDSOR	OKCYOKWICG0	1SPC/1AAP	538	7948	4385	3701 NW 23RD, OKLAHOMA CITY, OK 73108
OKMULGEE	OKMLOKMADS0	DGTL/D100	538	7813	4130	212 W. 7TH, OKMULGEE, OK 74447
PONCA CITY	PNCYOKMADS0	DGTL/D100	536	7869	4400	115 E. CHESTNUT, PONCA CITY, OK 74601
SHAWNEE	SHWNOKMADS0	DGTL/5ES	538	7935	4263	521 N. BROADWAY, SHAWNEE, OK 74801
SALLISAW	SLSWOKMADS0	DGTL/D100	538	7764	3922	116 E. CHOCTAW, SALLISAW, OK 74955
STILLWATER	STWROKMADS0	DGTL/D100	538	7788	4348	514 S. MAIN, STILLWATER, OK 74074
THLQ GLENDALE	THLQOKMADS0	DGTL/D100	538	7685	3991	210 N. MUSKOGEE, TALEQUAH, OK 74484
TU NATIONAL	TULSOKNADS0	DGTL/D100	538	7711	4156	8321 E. 41 ST., TULSA, OK 74145
TU RIVERSIDE	TULSOKRIDS0	DGTL/D100	538	7716	4168	3601 S. LEWIS, TULSA, OK 74105
TU ELGIN	TULSOKTBDS0	DGTL/D100	538	7707	4173	509 S. DETROIT, TULSA, OK 74120
TU ELGIN	TULSOKTBDS1	DGTL/D100	538	7707	4173	509 S. DETROIT, TULSA, OK 74120

APPENDIX DCO
SWBT OKLAHOMA EO POIs

TU ELGIN	TULSOKTBDS1	DGTL/D100	538	7707	4173	509 S. DETROIT, TULSA, OK 74120
TU WOODCREST	TULSOKWODS0	DGTL/SES	538	7721	4157	5303 E. 71ST, TULSA, OK 74136
OC YUKON NORTH	YUKNOKMADS0	DGTL/SES	538	7954	4414	15 SOUTH 5TH ST., YUKON, OK 73099

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**APPENDIX DCO
SWBT TEXAS EO POLs**

EXCHANGE	CLLI	TYPE	LATA	VCOORD	HCOORD	ADDRESS
ABLN ORCHARD 672	ABLNTXORCG0	1SPC/1AAP	550	8698	4513	343 CEDAR, ABILENE, TX 79601
ABLN-ORCHARD	ABLNTXORDC5	DGTL/D1/2	550	8698	4513	343 CEDAR, ABILENE, TX 79601
ABLN OWEN 692	ABLNTXOWDS0	DGTL/5ES	550	8707	4519	2626 POST OAK RD, ABILENE, TX 79605
ALLEN	ALLNTXSADS0	DGTL/5ES	552	8364	4040	W FIRST ST, ALLEN, TX 75002
HSTN-ALVIN LVRPL	ALVNTXALCG0	1SPC/1AAP	560	8994	3487	209 S. HARDIE, ALVIN, TX 77511
AMRL TENTH 372	AMRLTX02CG0	1SPC/1AAP	546	8266	5075	113 W 10TH, AMARILLO, TX 79101
AMRL-TENTH	AMRLTX02DC5	DGTL/D1/2	546	8266	5075	113 W 10TH, AMARILLO, TX 79101
AMRL FLEETWOOD	AMRLTXFLDS0	DGTL/5ES	546	8274	5080	3326 WESTERN, AMARILLO, TX 79109
AUST EVERGREEN	AUSTTXEVDS0	DGTL/D100	558	9007	3984	650 BASTROP HWY., AUSTIN, TX 78741
AUST FAIRFAX 327	AUSTTXFADS0	DGTL/D100	558	9006	4012	5118 BEE CAVES RD., AUSTIN, TX 78756
AUST FIRESIDE345	AUSTTXFIDS0	DGTL/5ES	558	8984	4011	5501 SPICEWOODSPRINGS RD,AUSTIN,TX 78759
AUST GREENWOOD	AUSTTXGRCG0	1SPC/1AAP	558	9004	3997	120 W. NINTH, AUSTIN, TX 78701
AUST GREENWOOD	AUSTTXGRCG1	1SPC/1AAP	558	9004	3997	120 W. NINTH, AUSTIN, TX 78701
AUST-GREENWOOD	AUSTTXGRDS2	DGTL/D1/2	558	9004	3997	120 W. NINTH, AUSTIN, TX 78701
AUST-HICKORY	AUSTTXHIDS0	DGTL/5ES	558	9012	3997	201 CUMBERLAND, AUSTIN, TX 78704
AUST HOMESTEAD	AUSTTXHOCG0	1SPC/1AAP	558	8993	3999	817 N. LOOP, AUSTIN, TX 78704
AUST HOMESTEAD	AUSTTXHODS0	DGTL/5ES	558	8993	3999	817 N. LOOP, AUSTIN, TX 78704
AUST JOLLYVL 258	AUSTTXJOCG0	1SPC/1AAP	558	8973	4026	9401 ANDERSON MILL RD,ROUNDROCK,TX 78664
AUST LEANDER 259	AUSTTXLEDS0	DGTL/5ES	558	8949	4042	U.S. HWY 183 NO., LEANDER, TX 78641
AUST MANOR 272	AUSTTXMADS0	DGTL/5ES	558	8977	3970	#11 BURNET ST., MANOR, TX 78653
AUST MANCHACA282	AUSTTXMCDS0	DGTL/D100	558	9035	3999	101 W. FM1626, MANCHACA, TX 78652
AUST PFLUGERVILL	AUSTTXPFDS0	DGTL/5ES	558	8962	3990	103 S. FIRST, PFLUGERVILLE, TX 78660
AUST ROUND ROCK	AUSTTXRRDS0	DGTL/5ES	558	8952	4004	103 E. BAGDAD, ROUND ROCK, TX 78664
AUST TENNYSON838	AUSTTXTECG0	1SPC/1AAP	558	8978	3996	11409 N. LAMAR, AUSTIN, TX 78753
AUST TWINBROOK	AUSTTXTWDS0	DGTL/D100	558	9017	4009	5420 U.S. HWY 290 W., AUSTIN, TX 78745
AUST WALNUT 926	AUSTTXWADS0	DGTL/5ES	558	8994	3987	5607 SPRINGDALE RD., AUSTIN, TX 78723
BELTON 939	BETNTXBEDS0	DGTL/D100	558	8827	4010	318 MAIN, BELTON, TX 76513
BIG SPRING 263	BGSPTXBSDS0	DGTL/5ES	542	8847	4800	801 RUNNELS, BIG SPRING, TX 79720
BREHAM	BRHMTXBRDS0	DGTL/D100	560	8932	3752	206 N. BAYLOR, BREHAM, TX 77833
BASTROP 321	BSTRTXBSDS0	DGTL/D100	558	9007	3909	1107 WATER ST., BASTROP, TX 78602
BUMT-TERMINAL 83	BUMTTXTECG0	1SPC/1AAP	562	8777	3344	220 MAIN, BEAUMONT, TX 77701
BUMT-TERMINAL	BUMTTXTEDS0	DGTL/5ES	562	8777	3344	220 MAIN, BEAUMONT, TX 77701
BUMT-TERMINAL	BUMTTXTEDS1	DGTL/D1/2	562	8777	3344	220 MAIN, BEAUMONT, TX 77701
BUMT-TWINBROOK 8	BUMTTXTWDS0	DGTL/D100	562	8773	3355	4310 SINGLETON, BEAUMONT, TX 77708
BWVL-LINCOLN	BWVLTXLIDS0	DGTL/5ES	568	9861	3606	701 E. WASHINGTON, BROWNSVILLE, TX 78520
CLEBURNE	CLBNTXMIDS0	DGTL/5ES	552	8563	4102	111 N ROBINSON, CLEBURNE, TX 76031
CLEVELAND 592	CLEVTXCLDS0	DGTL/5ES	560	8801	3540	209 E. CROCKETT, CLEVELAND, TX 77327
CORPUSCALALEN241	CRCHTXCADS0	DGTL/D100	564	9481	3773	2902 MCKINZIE, CORPUS CHRISTI, TX 78410
CORPUSFLRBLUF937	CRCHTXFBDS0	DGTL/D100	564	9493	3709	1501 DEMA, CORPUS CHRISTI, TX 78418

APPENDIX DCO
SWBT TEXAS EO POIs

CORPUS TERMNL855	CRCHTXTECG0	1SPC/1AAP	564	9489	3735	4605 KOSTORYZ, CORPUS CHRISTI, TX 78415
CORPUS TULIP 882	CRCHTXTUCG0	1SPC/1AAP	564	9477	3738	406 N CARANCAHUA, CORPUS CHRISTI, TX 78401
CRCH-TULIP	CRCHTXTUDS0	DGTL/5ES	564	9477	3738	406 N CARANCAHUA, CORPUS CHRISTI, TX 78401
CORPUS WYMAN 991	CRCHTXWYDS0	DGTL/D100	564	9492	3724	1744 AIRLINE, CORPUS CHRISTI, TX 78412
CORSICANA	CRSCTXTRDS0	DGTL/D100	552	8551	3923	212 N 13TH ST, CORSICANA, TX 75110
CARTHAGE	CRHTXOXDS0	DGTL/5ES	554	8385	3564	317 W SABINE, CARTHAGE, TX 75633
DENISON	DESNTXHODS0	DGTL/5ES	552	8225	4071	600 W CRAWFORD, DENISON, TX 75020
DLLS-ADDISON 239	DLLSTXADCG0	1SPC/1AAP	552	8406	4048	5820 ALPHA RD, ADDISON, TX 75240
DLLS-ADDISON 239	DLLSTXADD0	DGTL/D100	552	8406	4048	5820 ALPHA RD, ADDISON, TX 75240
DLLS-CEDAR HILL	DLLSTXCHDS0	DGTL/5ES	552	8486	4046	610 W BELTLINE RD, CEDAR HILL, TX 75014
DLLS-DAVIS 321	DLLSTXDACG0	1SPC/1AAP	552	8422	4023	1255 TAVAROS, DALLAS, TX 75218
DLLS-DIAMOND 341	DLLSTXDICG0	1SPC/1AAP	552	8411	4029	9920 AUDELIA, DALLAS, TX 75238
DLLS-DANIELDALE	DLLSTXDND0	DGTL/5ES	552	8467	4027	9400 BLUE CREST, DALLAS, TX 75232
DLLS-DESOTO	DLLSTXDSDS0	DGTL/5ES	552	8482	4028	802 S HAMPTON, DESOTO, TX 75208
DLLS-DUNCANVILLE	DLLSTXDVCG0	1SPC/1AAP	552	8470	4043	200 S HASTINGS, DUNCANVILLE, TX 75116
DLLS-EMERSON	DLLSTXEMDS0	DGTL/5ES	552	8418	4040	8643 HILLCREST, DALLAS, TX 75225
DLLS-EVERGREEN	DLLSTXEVD0	DGTL/5ES	552	8431	4016	7611 MILITARY PKWY, DALLAS, TX 75227
DLLS-EXPRESS 391	DLLSTXEXDS0	DGTL/5ES	552	8441	4010	8120 ELAM RD, DALLAS, TX 75217
DLLS-FARMERS BRN	DLLSTXFBCG0	1SPC/1AAP	552	8414	4064	13303 DENTON, DALLAS, TX 75234
DLLS-FEDERAL 331	DLLSTXFEDS0	DGTL/5ES	552	8453	4043	2400 S WESTMORELAND, DALLAS, TX 75211
DLLS-FLEETWOOD	DLLSTXFLDS0	DGTL/5ES	552	8425	4049	8333 LEMMON AVE, DALLAS, TX 75209
DLLS-FRANKLIN	DLLSTXFRCG0	1SPC/1AAP	552	8453	4027	2007 E ANN ARBOR, DALLAS, TX 75216
DLLS-GR PRAIRIE	DLLSTXGPCG0	1SPC/1AAP	552	8458	4064	1423 SMALL ST, GRAND PRAIRIE, TX 75050
DLLS-HAMILTON	DLLSTXHACG0	1SPC/1AAP	552	8438	4030	2621 S HARWOOD, DALLAS, TX 75215
DLLS-HUTCHINS	DLLSTXHDS0	DGTL/5ES	552	8457	4009	MAIN & ATHENS, HUTCHINS, TX 75141
DLLS-LAKESIDE	DLLSTXLADS0	DGTL/5ES	552	8430	4039	4211 IRVING AVE, DALLAS, TX 75219
DLLS-LANCASTER	DLLSTXLNDS0	DGTL/5ES	552	8470	4015	601 PLEASANT RUN, LANCASTER, TX 75146
DLLS-MID CITIES	DLLSTXMCCG0	1SPC/1AAP	552	8463	4072	2513 SHERMAN, GRAND PRAIRIE, TX 75050
DLLS-MID CITIES	DLLSTXMCDS0	DGTL/5ES	552	8463	4072	2513 SHERMAN, GRAND PRAIRIE, TX 75050
DLLS-MELROSE	DLLSTXMECG0	1SPC/1AAP	552	8435	4050	760 W MOCKINGBIRD, DALLAS, TX 75247
DLLS-MELROSE	DLLSTXMECG1	1SPC/1AAP	552	8435	4050	760 W MOCKINGBIRD, DALLAS, TX 75247
DLLS-MESQUITE	DLLSTXMSDS0	DGTL/5ES	552	8425	4000	321 W KIMBROUGH, MESQUITE, TX 75149
DLLS-NO MESQUITE	DLLSTXNMCG0	1SPC/1AAP	552	8418	4011	2943 OATES DR, MESQUITE, TX 75150
DLLS-NORTH LAKE	DLLSTXNODS0	DGTL/5ES	552	8424	4069	625 E ROYAL LN, IRVING, TX 75062
DLLS-RENNER 248	DLLSTXRECG0	1SPC/1AAP	552	8397	4057	17451 DALLAS PKWY, DALLAS, TX 75287
DLLS-RIVERSIDE	DLLSTXRICG2	1SPC/1AAP	552	8437	4035	308 S AKARD, DALLAS, TX 75202
DLLS-RIVERSIDE	DLLSTXRIDS0	DGTL/5ES	552	8437	4035	308 S AKARD, DALLAS, TX 75202
DLLS-RICHARDSON	DLLSTXRNDS0	DGTL/5ES	552	8398	4037	200 E TYLER, RICHARDSON, TX 75081
DLLS-ROSS AVENUE	DLLSTXRODS0	DGTL/5ES	552	8435	4035	2404 ROSS AVE, DALLAS, TX 75201
DLLS-RYLIE 288	DLLSTXRYDS0	DGTL/5ES	552	8443	4000	11429 RAVENVIEW, DALLAS, TX 75253
DLLS-SEAGOVILLE	DLLSTXSEDS0	DGTL/5ES	552	8445	3982	106 E ADKINS, SEAGOVILLE, TX 75159

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DLLS-TAYLOR	DLLSTXTA04T	DGTL/D1/2	552	8432	4033	4211 BRYAN ST, DALLAS, TX 75204
DLLS-TAYLOR 821	DLLSTXTADS0	DGTL/5ES	552	8432	4033	4211 BRYAN ST, DALLAS, TX 75204
DLLS-WHITEHALL	DLLSTXWHCG0	1SPC/1AAP	552	8445	4036	200 W NINTH, DALLAS, TX 75208
EDINBURG 383	EDBGTXEBCG0	1SPC/1AAP	568	9831	3759	201 W. MAHL, EDINBURG, TX 78539
EAGLE PASS-PROSP	EGPSTXEPDS0	DGTL/D100	566	9505	4370	416 MONROE, EAGLE PASS, TX 78852
ELPS-EAST	ELPSTXEADS0	DGTL/D100	540	9222	5652	3103 AURORA, EL PASO, TX 79930
ELPS-HACIENDA	ELPSTXHADS0	DGTL/D100	540	9225	5630	7945 PARRAL, EL PASO, TX 79915
ELPS MAIN 532	ELPSTXMACG0	1SPC/1AAP	540	9231	5655	500 TEXAS ST RM 318, EL PASO, TX 79901
ELPS-MCCOMBS	ELPSTXMSDS0	DGTL/5ES	540	9191	5652	5845 SEAN HAGGERTY DR, EL PASO, TX 79934
ELPS NO EAST 751	ELPSTXNECG0	1SPC/1AAP	540	9204	5651	5001 HONDO PASS, EL PASO, TX 79924
ELPS-NORTH	ELPSTXNODS0	DGTL/5ES	540	9220	5676	100 SUNSET, EL PASO, TX 79922
ELPS SO EAST 779	ELPSTXSECG0	1SPC/1AAP	540	9225	5643	6045 GRIEMS CT, EL PASO, TX 79905
ELPS SANDHILLS	ELPSTXSHDS0	DGTL/5ES	540	9219	5617	2851 N ZARAGOSA, EL PASO, TX 79936
ELPS YSLETA 858	ELPSTXYSDS0	DGTL/5ES	540	9237	5618	520 IVEY, EL PASO, TX 79927
ENNIS	ENNSTXTRDS0	DGTL/D100	552	8515	3968	208 W CROCKETT, ENNIS, TX 75119
FREEPORT	FRPTTXFRDS0	DGTL/5ES	560	9096	3468	1021 W. BROAD, FREEPORT, TX 77541
FRISCO-ESSEX 377	FRSCTXESDS0	DGTL/5ES	552	8364	4069	208 S 5TH ST, FRISCO, TX 75034
FTWO-ARLNGTN SO	FTWOTXARCG0	1SPC/1AAP	552	8480	4080	4801 MATLOCK RD, ARLINGTON, TX 76018
FTWO-ATLAS	FTWOTXATCG0	1SPC/1AAP	552	8458	4108	3412 BOOTH CALLOWAY, FT WORTH, TX 76118
FTWO-WEDGEWOOD	FTWOTXAXCG0	1SPC/1AAP	552	8501	4127	4420 WEDGEMONT CIR, FT WORTH, TX 76133
FTWO-BENBROOK	FTWOTXBBDS0	DGTL/5ES	552	8505	4141	1020 COZBY SOUTH ST, FT WORTH, TX 76126
FTWO-BURLESON	FTWOTXBNDSD0	DGTL/5ES	552	8520	4105	206 W RENFRO, BURLESON, TX 76028
FTWO-MANSFIELD	FTWOTXBRDS0	DGTL/D100	552	8503	4076	216 SMITH ST, MANSFIELD, TX 76063
FTWO-NO RICHLAND	FTWOTXBUCG0	1SPC/1AAP	552	8451	4116	6636 WATAUGA RD, WATAUGA, TX 76148
FTWO-CROWLEY	FTWOTXBYDS0	DGTL/5ES	552	8518	4118	308 W PECAN, CROWLEY, TX 76036
FTWO-SAGINAW	FTWOTXCEDS0	DGTL/D100	552	8458	4134	1611 WATAUGA RD, FT WORTH, TX 76131
FTWO-WESTLAND	FTWOTXCIDS0	DGTL/5ES	552	8494	4147	3309 ALEMEDA, FT WORTH, TX 76116
FTWO-CENTREPORT	FTWOTXCPDS0	DGTL/D100	552	8445	4082	4255 AMON CARTER, FT WORTH, TX 76155
FTWO-ARLNGTN CR	FTWOTXCRCG1	1SPC/1AAP	552	8487	4084	312 W ABRAM, ARLINGTON, TX 76010
FTWO-ARLNGTN CR	FTWOTXCRDS0	DGTL/D100	552	8487	4084	312 W ABRAM, ARLINGTON, TX 76010
FTWO-EDGECLIFF	FTWOTXECCG0	1SPC/1AAP	552	8505	4110	7220 S FREEWAY, FT WORTH, TX 76134
FTWO-EDISON	FTWOTXED03T	DGTL/D1/2	552	8479	4122	1116 HOUSTON, FT WORTH, TX 76102
FTWO-EDISON	FTWOTXEDCG0	1SPC/1AAP	552	8479	4122	1116 HOUSTON, FT WORTH, TX 76102
FTWO-EDISON	FTWOTXEDCG1	1SPC/1AAP	552	8479	4122	1116 HOUSTON, FT WORTH, TX 76102
FTWO-EDISON	FTWOTXEDDS0	DGTL/D100	552	8479	4122	1116 HOUSTON, FT WORTH, TX 76102
FTWO-EDISON	FTWOTXEDDS3	DGTL/5ES	552	8479	4122	1116 HOUSTON, FT WORTH, TX 76102
FTWO-EULESS	FTWOTXEUCG0	1SPC/1AAP	552	8445	4088	108 ROSS AVE, EULESS, TX 76040
FTWO-GLENDALE	FTWOTXGLCG0	1SPC/1AAP	552	8475	4105	6000 CLAIG ST, FT WORTH, TX 76112
FTWO-JEFFERSON	FTWOTXJECG0	1SPC/1AAP	552	8480	4113	3228 AVENUE G, FT WORTH, TX 76105
FTWO-KENNEDALE	FTWOTXKECG0	1SPC/1AAP	552	8492	4097	500 CHITWOOD, KENNEDALE, TX 76060
FTWO-LAKE WORTH	FTWOTXLWDS0	DGTL/D100	552	8474	4146	6724 TELEPHONE RD, FT WORTH, TX 76135

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FTWO-MARKET	FTWOTXMADS0	DGTL/D100	552	8474	4132	2401 CHESTNUT, FT WORTH, TX 76106
FTWO-PERSHING	FTWOTXPECG0	1SPC/1AAP	552	8487	4135	5400 PERSHING, FT WORTH, TX 76107
FTWO-TERMINAL	FTWOTXTEDS0	DGTL/D100	552	8471	4119	1128 EAGLE DR, FT WORTH, TX 76111
FTWO-WALNUT	FTWOTXWACG0	1SPC/1AAP	552	8488	4121	1414 W BOWIE, FT WORTH, TX 76110
FTWO-WH SETTLEMNT	FTWOTXWSDS0	DGTL/5ES	552	8486	4146	8228 WHITE SETTLEMENT, FTWORTH, TX 76108
GLTN-SHERWOOD	GLTNTXSHDS0	DGTL/D100	560	8892	3402	2102 59TH ST, GALVESTON, TX 77550
GLTN-SOUTHFIELD	GLTNTXSOCCG0	1SPC/1AAP	560	8885	3397	822 ROSENBERG, GALVESTON, TX 77550
GREENVILLE	GNVLTXLDS0	DGTL/D100	552	8317	3949	2702 WESLEY, GREENVILLE, TX 75401
GRANBURY	GRBYTXRADS0	DGTL/5ES	552	8572	4178	319 W BLUFF, GRANBURY, TX 76048
GAINESVILLE	GSVLTXHODS0	DGTL/5ES	552	8091	4162	203 E BROADWAY, GAINESVILLE, TX 76240
HUNTSVILLE	HNVITXHNDSD0	DGTL/D1/2	560	8758	3650	1014 13TH ST, HUNTSVILLE, TX 77340
HARLINGEN 423	HRLNTXHGCCG0	1SPC/1AAP	568	9819	3684	401 E VAN BUREN, HARLINGEN, TX 78550
HSTN-NATIONAL	HSTNTX0801T	DGTL/D100	560	8870	3642	3303 WESLAYAN, HOUSTON, TX 77027
HSTN-ALDINE 412	HSTNTXADCG0	1SPC/1AAP	560	8908	3542	11630 HARTLEY, HOUSTON, TX 77093
HSTN-AIRLINE 445	HSTNTXAIDS0	DGTL/D100	560	8912	3560	1214 BLUEBELL RD, HOUSTON, TX 77038
HSTN-ALIEF 485	HSTNTXALDS0	DGTL/5ES	560	8970	3570	9304 KIRKWOOD, HOUSTON, TX 77036
HSTN-APOLLO 480	HSTNTXAPCG0	1SPC/1AAP	560	8959	3480	623 EL DORADO, HOUSTON, TX 77058
HSTN-BAMMEL 440	HSTNTXBACG0	1SPC/1AAP	560	8903	3577	12835 VETERANS MEMORIAL, HOUSTON, TX 77014
HSTN-BARKER 492	HSTNTXBRCG0	1SPC/1AAP	560	8955	3595	214 RENNIE RD, KATY, TX 77450
HSTN-BUFFALO 493	HSTNTXBUDS0	DGTL/5ES	560	8958	3577	2101 DAIRY ASHFORD, HOUSTON, TX 77077
HSTN-BLUE RDGE W	HSTNTXBWCG0	1SPC/1AAP	560	8980	3542	6302 MCHARD, HOUSTON, TX 77053
HSTN-CAPITOL 220	HSTNTXCACG1	1SPC/1AAP	560	8938	3536	1121 CAPITOL, HOUSTON, TX 77002
HSTN-CAPITOL 220	HSTNTXCACG2	1SPC/1AAP	560	8938	3536	1121 CAPITOL, HOUSTON, TX 77002
HSTN-CLAY 650	HSTNTXCLCG1	1SPC/1AAP	560	8938	3537	1200 CLAY, HOUSTON, TX 77002
HSTN-CLAY 650	HSTNTXCLCG2	1SPC/1AAP	560	8938	3537	1200 CLAY, HOUSTON, TX 77002
HSTN-CLAY 650	HSTNTXCLDS0	DGTL/5ES	560	8938	3537	1200 CLAY, HOUSTON, TX 77002
HSTN-DEER PARK 4	HSTNTXDPCG0	1SPC/1AAP	560	8929	3490	418 CENTER, DEERPARK, TX 77536
HSTN-E HOUSTON 4	HSTNTXENCG0	1SPC/1AAP	560	8904	3522	10201 JOHN RALSTON RD, HOUSTON, TX 77044
HSTN-FAIRBANKS 4	HSTNTXFACG0	1SPC/1AAP	560	8930	3572	14101 ASTON, HOUSTON, TX 77040
HSTN-FRIENDSWOOD	HSTNTXFRCG0	1SPC/1AAP	560	8969	3489	106 EDGEWOOD AVE, FRIENDSWOOD, TX 77546
HSTN-GLENDALE 45	HSTNTXGLCG0	1SPC/1AAP	560	8922	3509	1245 DWIGHT, HOUSTON, TX 77015
HSTN-GREENSPOINT	HSTNTXGPDS0	DGTL/5ES	560	8904	3564	839 W. GREENS ROAD, HOUSTON, TX 77067
HSTN-GREENWOOD 4	HSTNTXGRCG0	1SPC/1AAP	560	8935	3508	207 S. MUNGER, PASADENA, TX 77502
HSTN-HOMESTEAD 4	HSTNTXHOCG1	1SPC/1AAP	560	8942	3568	1015 BADE, HOUSTON, TX 77055
HSTN-HUDSON 941	HSTNTXHUDS0	DGTL/D100	560	8947	3504	510 ARKANSAS, HOUSTON, TX 77055
HSTN-IDLEWOOD 43	HSTNTXIDCG0	1SPC/1AAP	560	8971	3533	13806 ALMEDA SCHOOL RD, HOUSTON, TX 77047
HSTN-JACKSON 520	HSTNTXJACG0	1SPC/1AAP	560	8943	3540	1308 RICHMOND, HOUSTON, TX 77008
HSTN-JACKSON 520	HSTNTXJACG2	1SPC/1AAP	560	8943	3540	1308 RICHMOND, HOUSTON, TX 77008
HSTN-JACKSON 520	HSTNTXJADS1	DGTL/D100	560	8943	3540	1308 RICHMOND, HOUSTON, TX 77008
HSTN-LANGHAM CRK	HSTNTXLACG0	1SPC/1AAP	560	8938	3602	16715 FM529, HOUSTON, TX 77040
HSTN-LAPORTE 470	HSTNTXLPDS0	DGTL/D100	560	8929	3470	502 W. POLK, LA PORTE, TX 77571

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HSTN-MANVEL 489	HSTNTXMADS0	DGTL/D100	560	8988	3512	7023 DEL BELLO RD, HOUSTON, TX 77578
HSTN-MED CENTER	HSTNTXMCDSD0	DGTL/5ES	560	8952	3539	7380 FANNIN, HOUSTON, TX 77030
HSTN-MISSION 641	HSTNTXMICG0	1SPC/1AAP	560	8945	3519	7347 JOPLIN, HOUSTON, TX 77016
HSTN-MOHAWK 660	HSTNTXMOCG0	1SPC/1AAP	560	8952	3546	4068 BELLAIRE BLVD., HOUSTON, TX 77025
HSTN-MOHAWK 660	HSTNTXMOCG1	1SPC/1AAP	560	8952	3546	4068 BELLAIRE BLVD., HOUSTON, TX 77025
HSTN-NATIONAL 62	HSTNTXNACG0	1SPC/1AAP	560	8946	3550	2310 WEST LANE, HOUSTON, TX 77027
HSTN-NATIONAL 62	HSTNTXNACG1	1SPC/1AAP	560	8946	3550	2310 WEST LANE, HOUSTON, TX 77027
HSTN-NATIONAL 62	HSTNTXNADSD0	DGTL/5ES	560	8946	3550	2310 WEST LANE, HOUSTON, TX 77027
HSTN-NEPTUNE 831	HSTNTXNECG0	1SPC/1AAP	560	8915	3533	8733 HOMESTEAD, HOUSTON, TX 77016
HSTN-ORCHARD 671	HSTNTXORCG0	1SPC/1AAP	560	8927	3526	510 CROWN, HOUSTON, TX 77020
HSTN-OVERLAND 68	HSTNTXOVCG0	1SPC/1AAP	560	8930	3560	4112 MANGUM RD., HOUSTON, TX 77092
HSTN-OXFORD 691	HSTNTXOXCG0	1SPC/1AAP	560	8921	3544	710 BERRY RD., HOUSTON, TX 77022
HSTN-PARKVIEW 72	HSTNTXPACG0	1SPC/1AAP	560	8965	3547	11342 RICECREST, HOUSTON, TX 77035
HSTN-PRESCOTT 77	HSTNTXPRCG0	1SPC/1AAP	560	8963	3558	8803 BRAE ACRES, HOUSTON, TX 77036
HSTN-PRESCOTT 77	HSTNTXPRCG1	1SPC/1AAP	560	8963	3558	8803 BRAE ACRES, HOUSTON, TX 77036
HSTN-REPUBLIC 73	HSTNTXRECG0	1SPC/1AAP	560	8954	3526	8301 JUTLAND, HOUSTON, TX 77033
HSTN-RIVERSIDE 7	HSTNTXRIDS0	DGTL/D100	560	8949	3533	3247 YELLOWSTONE, HOUSTON, TX 77021
HSTN-SATSUMA 469	HSTNTXSACG0	1SPC/1AAP	560	8917	3590	11239 JONES RD, HOUSTON, TX 77070
HSTN-SUNSET 780	HSTNTXSUDSD0	DGTL/5ES	560	8952	3563	2538 FONDREN RD, HOUSTON, TX 77042
HSTN-UNDERWOOD 8	HSTNTXUNCG0	1SPC/1AAP	560	8933	3545	750 HEIGHTS BLVD, HOUSTON, TX 77007
HSTN-WALNUT 921	HSTNTXWACG0	1SPC/1AAP	560	8936	3525	6745 HARRISBURG, HOUSTON, TX 77011
HSTN-WESTFIELD 4	HSTNTXWECG0	1SPC/1AAP	560	8892	3556	18407 ALDINE WESTFIELD, HOUSTON, TX 77073
HSTN-ELLINGTON W	HSTNTXWLCG0	1SPC/1AAP	560	8954	3496	12603 CONKLIN LN, HOUSTON, TX 77034
HSTN-WYDOWN 991	HSTNTXWYDS0	DGTL/D100	560	8959	3513	7402 ALMEDA GENOA, HOUSTON, TX 77034
JSPR-DUDLEY 384	JSPRTXDUDSD0	DGTL/D100	562	8603	3399	231 E MILAM ST, JASPER, TX 75951
KINGSVILLE 592	KGVLTXXKVDSD0	DGTL/D100	564	9566	3801	330 E. KING, KINGSVILLE, TX 78363
LAREDO 722	LARDTXLADSD0	DGTL/5ES	566	9680	4098	902 SAN EDUARDO, LARDEO, TX 78040
LBCK-FRANKFORD	LBCKTXFRDS0	DGTL/D100	544	8619	4971	5711 98TH ST, LUBBOCK, TX 79424
LBCK-PARKVIEW	LBCKTXPADSD0	DGTL/5ES	544	8611	4957	AVE P & 82ND STREET, LUBBOCK, TX 79408
LBCK-PORTER 8HER	LBCKTXPSCG0	1SPC/1AAP	544	8598	4962	1420 BROADWAY FLR.1, LUBBOCK, TX 79401
LBCK-PORTER 8HER	LBCKTXPSDC5	DGTL/D1/2	544	8598	4962	1420 BROADWAY FLR.1, LUBBOCK, TX 79401
LBCK-PORTER 8HER	LBCKTXPSD81	DGTL/5ES	544	8598	4962	1420 BROADWAY FLR.1, LUBBOCK, TX 79401
LBCK-SWIFT	LBCKTXSWCG0	1SPC/1AAP	544	8605	4970	4402 34TH ST, LUBBOCK, TX 79401
LGWW-GREGGTON	LGVWTXGRDS0	DGTL/5ES	554	8349	3671	105 E NIBLICK, LONGVIEW, TX 75604
LGWW-MILTON	LGVWTXMIDSD0	DGTL/5ES	554	8363	3641	RT3 FM 2963, LONGVIEW, TX 75604
LGWW-PLAZA	LGVWTXPLD3T	DGTL/D1/2	554	8347	3661	214 E WHALEY, LONGVIEW, TX 75601
LGWW-PLAZA	LGVWTXPLCG0	1SPC/1AAP	554	8347	3661	214 E WHALEY, LONGVIEW, TX 75601
MCALLENMURRAY688	MCALTXMUCG0	1SPC/1AAP	568	9655	3763	721 BEECH, MC ALLEN, TX 78501
MCKN-LINDEN	MCKNTXLIDSD0	DGTL/5ES	552	8340	4038	307 W KENTUCKY, MCKINNEY, TX 75069
MDLD-MUTUAL	MDLDTXMU15T	DGTL/D1/2	542	8934	4890	410 W MISSOURI, MIDLAND, TX 79701
MDLD-MUTUAL	MDLDTXMUDSD0	DGTL/5ES	542	8934	4890	410 W MISSOURI, MIDLAND, TX 79701

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MDLD-OXFORD	MDLDTXOXDS0	DGTL/D100	542	8940	4898	305 N MIDLAND, MIDLAND, TX 79703
MT PLEASANT 572	MNPLTXPADS0	DGTL/D100	554	8232	3756	407 N VAN BUREN, MT PLEASANT, TX 75445
MARSHALL	MRSHTXWEDS0	DGTL/5ES	554	8311	3602	216 N BOLIVAR, MARSHALL, TX 75670
MISSION 585	MSSNTXMIDS0	DGTL/D100	568	9861	3781	920 MILLER, MISSION, TX 78572
NEWBRAUNFELS 625	NBRNTXNBCG0	1SPC/1AAP	566	9145	4018	210 E SAN ANTONIO, NEWBRAUNFELS, TX 78130
NACOGDOCHES 560	NCGDTXNCDS0	DGTL/D1/2	560	8518	3569	227 MIMMS ST., NACOGDOCHES, TX 75961
NEDERLAND	NDLDTXNDOS0	DGTL/D100	562	8789	3316	844 NEDERLAND AVE., NEDERLAND, TX 77627
ODSS-EMERSON	ODSSTXEMDS0	DGTL/D100	542	8875	4932	3801 DAWN, ODESSA, TX 79762
ODSS-LINCOLN	ODSSTXLICG0	1SPC/1AAP	542	8983	4931	301 W 7TH RM 220, ODESSA, TX 79762
ORANGE 882	ORNGTXORDS0	DGTL/D100	562	8746	3281	704 ELM, ORANGE, TX 77630
PAMPA	PAMPTXPPDS0	DGTL/5ES	546	8148	4952	310 N BALLARD, PAMPA, TX 79065
PARIS SUNSET	PARSTXSUDS0	DGTL/5ES	552	8173	3897	121 2ND ST NE, PARIS, TX 75460
PHARR 787	PHRRTXPHCG0	1SPC/1AAP	568	9854	3754	224 CAGE, PHARR, TX 78577
PLAINVIEW	PLVWTXPVDS0	DGTL/D100	544	8465	4981	916 DENVER ST, PLAINVIEW, TX 79003
HSTN-PINEHURST 2	PNHRTXPNDS0	DGTL/5ES	560	8878	3627	35439 FM149, PINEHURST, TX 77362
PTAR-YUKON 982	PTARTXYUDS0	DGTL/D100	582	8802	3296	840 MARSHALL, PORT ARTHUR, TX 77640
ROCKPORT 729	RCPTTXRPDS0	DGTL/D100	584	9406	3693	215 N. PEARL, ROCKPORT, TX 78382
FTWO-ROANOKE	RONKTXWODS0	DGTL/D100	552	8423	4128	PINE & RUSK, ROANOKE, TX 76262
HSTN-RICH-ROSEBG	RSBGTXRRDS0	DGTL/5ES	580	8008	3596	1110 LOUISE, ROSENBERG, TX 77471
SEGUINFRANKLN379	SGINTXSGDS0	DGTL/D100	568	9161	3981	403 S. RIVER, SEGUIN, TX 78155
SA BABCOCK 696	SNANTXBACG0	1SPC/1AAP	566	9209	4088	10525 HUEBNER RD, SAN ANTONIO, TX 78240
SA CAPITOL 221	SNANTXCACG0	1SPC/1AAP	566	9225	4062	105AUDITORIUMCIRCLE, SANANTONIO, TX 78205
SA CAPITOL 221	SNANTXCACG1	1SPC/1AAP	566	9225	4062	105AUDITORIUMCIRCLE, SANANTONIO, TX 78205
SA CAPITOL 221	SNANTXCADS2	DGTL/5ES	566	9225	4062	105AUDITORIUMCIRCLE, SANANTONIO, TX 78205
SA CULEBRA 684	SNANTXCUCG0	1SPC/1AAP	566	9223	4092	5612 GRISSOM RD., SAN ANTONIO, TX 78250
SA CULEBRA 684	SNANTXCUDS0	DGTL/D100	566	9223	4092	5612 GRISSOM RD., SAN ANTONIO, TX 78250
SA DIAMOND 342	SNANTXDICG0	1SPC/1AAP	566	9209	4076	103 ADOBE, SAN ANTONIO, TX 78213
SA EDISON 333	SNANTXEDDS0	DGTL/D100	566	9228	4044	4530 SINCLAIR RD, SAN ANTONIO, TX 78222
SA FRATT 655	SNANTXFRCG0	1SPC/1AAP	568	9198	4052	5311 SHERRI ANN, SAN ANTONIO, TX 78233
SA FRATT 655	SNANTXFRDS0	DGTL/D100	568	9198	4052	5311 SHERRI ANN, SAN ANTONIO, TX 78233
SA GENERAL432	SNANTXGECG0	1SPC/1AAP	568	9229	4075	142 N GEN MCMULLEN, SAN ANTONIO, TX 78237
SA LACKLAND 674	SNANTXLADS0	DGTL/D100	566	9242	4090	103 PILAR, SAN ANTONIO, TX 78227
SA LEHIGH 532	SNANTXLECG0	1SPC/1AAP	566	9230	4059	103 GROVE AVE, SAN ANTONIO, TX 78210
SNAN-MARTINEZ	SNANTXMADS0	DGTL/D100	566	9215	4045	1427 ACKERMANN RD, SAN ANTONIO, TX 78219
SA MEDCENTER 962	SNANTXMCDS0	DGTL/5ES	566	9215	4088	4849 VON SCHEEL DR, SANANTONIO, TX 78229
SA PERSHING 732	SNANTXPECG0	1SPC/1AAP	566	9221	4070	110 WARNER, SAN ANTONIO, TX 78201
SA SHAVANO 492	SNANTXSLDS0	DGTL/D100	568	9198	4088	15806NWMILITARYHWY, SANANTONIO, TX 78231
SA TAYLOR 822	SNANTXTACG0	1SPC/1AAP	566	9213	4062	5441 BROADWAY, SAN ANTONIO, TX 78209
SA UNIV CITY658	SNANTXUCDS0	DGTL/D100	566	9187	4037	201 W LINDBERG, UNIVERSAL CITY, TX 78148
SA WALNUT 922	SNANTXWACG0	1SPC/1AAP	566	9240	4063	302 W. MAYFIELD, SAN ANTONIO, TX 78221
SNAN-WETMORE	SNANTXWEDS0	DGTL/5ES	568	9180	4073	17219 HWY. 281 N., SAN ANTONIO, TX 78232

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APPENDIX DCO
SWBT TEXAS EO POIs

HSTN-SPRING-NOR	SPRNTXNODS0	DGTL/5ES	560	8864	3585	114 ROBINSON RD, SPRING, TX 77373
HSTN-SPRING-SOU	SPRNTXSOCG0	1SPC/1AAP	560	8879	3576	1522 SPRING CYPRESS RD, SPRING, TX 77373
HSTN-TOM KLEIN 2	TBLTXXKLCG0	1SPC/1AAP	560	8892	3592	7638 SPRING CYPRESS RD, SPRING, TX 77379
HSTN-TOMBALL 255	TBLTXXBDS0	DGTL/5ES	560	8889	3609	212 W. COMMERCE, TOMBALL, TX 77375
TMPL DOWNTOWN773	TMPLTXDNCG0	1SPC/1AAP	556	8812	3992	117 N. FIRST, TEMPLE, TX 76501
TERRELL 563	TRRLTXJODS0	DGTL/D100	552	8410	3943	210 N ROCKWALL, TERRELL, TX 75160
TXCY-TEXAS CITY	TXCYTXCDS0	DGTL/5ES	560	8975	3424	622 FIFTH AVE N, TEXAS CITY, TX 77590
TYLER-LYRIX	TYLRTXLYCG0	1SPC/1AAP	554	8417	3744	611 W ELM, TYLER, TX 75802
TYLER-SOUTH	TYLRTXSODS0	DGTL/D100	554	8428	3740	400 RICE RD, TYLER, TX 75707
VICTORIA 573	VCTATXVICG0	1SPC/1AAP	564	9246	3747	807 N. EAST, VICTORIA, TX 77901
WACO WASHINGTON	WACOTX01CG0	1SPC/1AAP	556	8705	3994	925 WASHINGTON, WACO, TX 76693
WACO WASHINGTON	WACOTX01DS1	DGTL/5ES	556	8705	3994	925 WASHINGTON, WACO, TX 76693
WACO PRESCOTT	WACOTXPRDS0	DGTL/D100	556	8717	4001	620 OWEN LN., WACO, TX 76710
WACO SWIFT	WACOTXSWDS0	DGTL/D100	556	8695	3992	2525 MONTROSE, WACO, TX 76705
WCFL-CALLFIELD	WCFLTXXCFG0	1SPC/1AAP	548	8335	4419	4010 CALLFIELD, WICHITA FALLS, TX 76301
WCFL-CALLFIELD	WCFLTXXCFRS1	DGTL/5ES	548	8335	4419	4010 CALLFIELD, WICHITA FALLS, TX 76301
WCFL-LAMAR	WCFLTXXNICG0	1SPC/1AAP	548	8323	4412	812 NINTH ST, WICHITA FALLS, TX 76301
WCFL-LAMAR	WCFLTXXNIDS2	DGTL/5ES	548	8323	4412	812 NINTH ST, WICHITA FALLS, TX 76301
WEATHERFORD	WTFRTXLYDS0	DGTL/5ES	552	8508	4206	117 W COLUMBIA, WEATHERFORD, TX 76086
WAXAHACHIE 837	WXHCTXWEDS0	DGTL/D100	552	8517	4011	306 W ROGERS, WAXAHACHIE, TX 75165

Agreement No. _____

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

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.

[] 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 transmissions media which may be attached to or 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-entenable 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 Missouri.

3.42 State Commission. The term "State Commission" refers to the Missouri Public Service 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

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October 17, 1997

VIA FEDERAL EXPRESS

Mr. Cecil Wright
Executive Secretary
Missouri Public Service Commission
301 W. High Street, Suite 530
Jefferson City, MO 65101

FILED
OCT 20 1997
MISSOURI
PUBLIC SERVICE COMMISSION

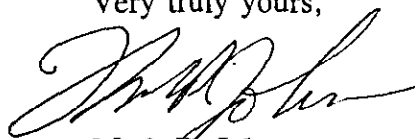
RE: *In the Matter of Joint Application of Southwestern Bell Telephone Company and Western Wireless Corporation for Approval of Interconnection Agreement Under the Telecommunications Act of 1996*
Case No. TO-98-12

Dear Mr. Wright:

Pursuant to the Commission's Order Approving Interconnection Agreement, please find enclosed one copy of the Agreement for Interconnection and Reciprocal Compensation by and between Western Wireless Corporation and Southwestern Bell Telephone Company, in the referenced proceeding. I have enclosed an additional copy of the interconnection agreement and would ask that you please return same to me in the enclosed envelope stamped "filed".

If you need any additional information, please give me a call.

Very truly yours,



Mark P. Johnson

MPJ/rgf

Enclosures

cc: All Parties of Record (w/o encl.)

9047142

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.

- (d) Each party must obtain any necessary authorization from appropriate authorities to open manholes for such party's own conduit work and operations therein.
- (e) Applicant shall reimburse SWBT for costs associated with the presence of construction inspectors only as specified in APPENDIX I and only as permitted by applicable laws, rules, regulations, and commission orders. SWBT shall not charge Applicant for more than one such construction inspector per site at any given time.
- (f) If the presence of SWBT personnel at the site is requested by Applicant or, in Applicant's opinion, is integral to successful completion of the work, Applicant shall pay the costs of having such personnel present.

6.12 OSHA Compliance. The parties agree that:

- (a) facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, and rights-of-way shall be constructed, placed, maintained, repaired, and removed in accordance with the Occupational Safety and Health Act (OSHA) and all rules and regulations promulgated thereunder;
- (b) all persons acting on such party's behalf shall, when working on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, comply with OSHA and all rules and regulations thereunder; and
- (c) Applicant shall establish appropriate procedures and controls to assure compliance with all requirements of this section.

6.13 Hazardous Substances. Applicant acknowledges that, from time to time, hazardous substances (as defined in Section 3.19 of this Agreement) may enter SWBT's conduit system and accumulate in manholes or other conduit facilities and that hazardous substances may be present at other sites where SWBT's poles, ducts, conduits, or rights-of-way are located.

- (a) Applicant may, at its expense, perform such inspections and tests at the site of any pole, duct, conduit, or right-of-way occupied by or assigned to Applicant as Applicant may deem necessary to determine the presence at such sites of hazardous substances. SWBT will assist Applicant, at

Applicant's request and expense, in the performance of such inspections and tests.

- (b) SWBT makes no representations to Applicant or personnel performing work on Applicant's behalf that SWBT's poles, ducts, conduits, or rights-of-way will be free from hazardous substances at any particular time. Before entering a manhole or performing any work within or in the vicinity of SWBT's conduit system or any other site subject to access under this Agreement, Applicant or personnel acting on Applicant's behalf shall independently determine, to their satisfaction, whether such hazardous substances are present and conduct their work operations accordingly.
- (c) Each party shall promptly notify the other of hazardous substances known by such party to be present on, within or in the vicinity of poles, ducts, conduits, or rights-of-way occupied by or assigned to Applicant pursuant to this Agreement if, in the sole judgment of such party, such hazardous substances create a serious danger to (1) the health or safety of personnel working within or in the vicinity of the conduit or (2) the physical condition of the other party's facilities placed or to be placed within the conduit.
- (d) Nothing contained in this Agreement (including but not limited to the acknowledgments and representations set forth in this section) shall relieve either party from its responsibility to comply with all applicable environmental laws or its responsibility for any liability arising out of such party's failure to comply with such laws. Nothing contained in this Agreement shall be construed as relieving SWBT of liability for hazardous substances present at any site subject to this Agreement or as relieving either party of liability for introducing hazardous substances to the site or causing or contributing to the release of any such substances. Failure to comply with the requirements of this section may, however, be considered in determining issues relating to negligence, causation of injury, and comparative responsibility for injuries to persons, property, and the environment.

6.14 Compliance with Environmental Laws and Regulations. Applicant and SWBT agree to comply with the following provisions relating to compliance with environmental laws and regulations.

- (a) Facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, and rights-of-way following the effective date of this Agreement shall be constructed, placed, maintained, repaired, and removed in accordance with all applicable federal, state, and local environmental statutes, ordinances, rules, regulations, and other laws.

- (b) All persons acting on Applicant's or SWBT's behalf, including but not limited to the parties' employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations. Applicant and personnel acting on Applicant's behalf are expected to be familiar with their obligations under environmental laws such as the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Toxic Substance Control Act (15 U.S.C. §§ 2601-2629), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), and the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j).
- (c) The parties shall each establish appropriate procedures and controls to assure compliance with all requirements of this section.
- (d) From and after the effective date of this Agreement, neither party nor personnel acting on either party's behalf shall discharge or release hazardous substances onto or from the site of any SWBT pole, duct, conduit, or right-of-way. Neither Applicant nor SWBT nor personnel acting on either party's behalf shall discharge water or any other substance from any SWBT manhole or other conduit facility onto public or private property, including but not limited to any storm water drainage system, without first determining that such discharge would not violate any environmental law, create any environmental risk or hazard, or damage the property of any person. Applicant will be expected to test such water or substance for hazardous substances in accordance with then-applicable SWBT standards and practices.
- (e) Applicant and SWBT and all personnel performing work on Applicant's or SWBT's behalf shall, when working on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, comply with such additional standards, practices, and requirements as SWBT may from time to time adopt to comply with environmental laws, provided that such standards are communicated in writing to Applicant at least 60 days in advance of Applicant's work.

6.15 Compliance with Other Governmental Requirements (Including Aeronautical Navigation Safeguards). Facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, and rights-of-way shall be constructed, placed, maintained, repaired, and removed in accordance with the ordinances, rules, and regulations of any governing body having jurisdiction of the subject matter (including but not limited to any valid ordinances, rules, and regulations requiring permits, certificates, licenses or the like). Applicant and SWBT shall comply with all statutes, ordinances, rules, regulations, and other laws

requiring the marking and lighting of aerial wires, cables, and other structures to ensure that such wires, cables, and structures are not a hazard to aeronautical navigation.

6.16 Differences in Specifications. To the extent that there may be differences in the specifications, the most stringent specification will apply except as otherwise specifically provided by SWBT in writing. Applicant will consult with SWBT when Applicant is uncertain as to which specification is to be followed.

6.17 Responsibility for the Condition of Facilities. Each party will be responsible at all times for the condition of its facilities (including but not limited to those extending from SWBT's poles, ducts, conduits, or rights-of-way directly to any other location) and for its compliance with the requirements and specifications of this article and all applicable laws, rules, regulations, and ordinances.

ARTICLE 7: PRIMARY POINTS OF CONTACT, ACCESS TO RECORDS, AND PRE-OCCUPANCY INSPECTIONS

7.01 Designation of Primary Points of Contact. Each party will, at the request of the other party, designate a primary point of contact to facilitate communications between the parties and the timely processing of Applicant's applications for access to SWBT's poles, ducts, conduits, and rights-of-way located within this State. Designations of primary points of contact will be made by written notices including the name, title, address, phone number, and fax number of the person designated as the primary point of contact; provided, however, that unless and until a different designation is made, SWBT's primary point of contact shall be the Utility Liaison Supervisor identified in APPENDIX VIII. Designation of primary points of contact pursuant to this section will not affect notice requirements or other legal requirements set forth in other provisions of this Agreement.

7.02 Determinations by Applicant of Suitability and Availability. Applicant shall make its own, independent assessment of the suitability of SWBT's poles, ducts, conduits, and rights-of-way for Applicant's intended purposes.

7.03 Access to Records Relating to SWBT's Poles, Ducts, Conduits, and Rights-of-Way. This section establishes procedures through which certain records and information relating to SWBT's poles, ducts, conduits, and rights-of-way will be made available to Applicant for planning and other purposes. Access to such records and information will be conditioned on Applicant's execution of a nondisclosure agreement equivalent in substance to the Nondisclosure Agreement attached to this Agreement as APPENDIX V or such other nondisclosure agreement as shall be mutually acceptable to the parties, and no person acting on Applicant's behalf will be granted access to such records and information without first signing such a nondisclosure agreement. Applicant will reimburse SWBT for all reasonable costs incurred by SWBT in granting Applicant's requests for access to records and information under this section.

- (a) Applicant may, at any time after the effective date of this Agreement, request permission to inspect SWBT's pole and conduit maps and records, cable plat maps, and other plant location records, if any, recording or logging assignments of pole, duct, and conduit space. Applicant will be permitted to examine these records during regular business hours at a location where copies of such records are maintained or at such other location as may be mutually agreed upon by the parties. Access to such maps and records will be by appointment only, and SWBT will make such maps and records available for inspection by Applicant on two business days advance notice; provided, however, that Applicant will, as a courtesy, when feasible, provide SWBT with 10 business days advance notice of its intent to examine such records.
- (b) The access described in subsection (a) shall include the right to make copies, at Applicant's expense, except for cable plat maps, which shall be made available for inspection only. In all instances, such access shall include the ability to take notes and make drawings with references to those maps and records. No references to cable counts or circuit information may be included in any such copies, notes, or drawings. With respect to other cable-specific or customer-specific information, Applicant's copies, notes, or drawings may include only such information as needed for bona fide engineering and construction purposes (e.g., proposing cable consolidations and identifying plant discrepancies) and not for sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities. Applicant's copies, notes, and drawings may include estimates regarding the physical characteristics (such as size and weight) of cables when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of SWBT's poles, ducts, conduits, and rights-of-way for Applicant's intended uses.
- (c) SWBT will provide Applicant the best information available from SWBT's current pole and conduit maps and records, cable plat maps, and other outside plant and construction records. SWBT represents that such records reflect approximate geographical locations of the facilities depicted and may not accurately reflect information such as:
- (1) the exact location of the facilities depicted;
 - (2) the physical size, characteristics, or condition of the facilities depicted;
 - (3) the ducts or inner ducts presently occupied, assigned, or available within any particular conduit segment or manhole;

- (4) the arrangement of facilities attached to a pole, the position of facilities suspended between poles or their relationship to each other and to the ground, or the positioning of cables and other facilities housed within ducts, conduits, manholes or other portions of SWBT's conduit system; and
- (5) other information which must be assessed before it can be determined that space is available on or in a pole, duct, or conduit for the attachment or occupancy of Applicant's facilities or that the poles, ducts, or conduits depicted are suitable for Applicant's intended use.

7.04 Pre-occupancy Inspection of Poles, Ducts, Conduits, and Rights-of-Way.

Applicant shall be permitted to view and inspect specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis as provided in this section.

- (a) After the effective date of this Agreement, Applicant may view specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis. Nothing contained in this section shall preclude Applicant from visually inspecting SWBT's poles, ducts, conduits, or rights-of-way from any vantage point lawfully accessible to Applicant without SWBT's permission.
- (b) Applicant shall not enter any SWBT manhole for the purpose of performing a pre-occupancy inspection without complying with all applicable requirements set forth in Article 6 of this Agreement, including but not limited to the provisions of Section 6.11 relating to the opening of manholes.

ARTICLE 8: POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

8.01 Selection of Space. Applicant will select the space Applicant will occupy on SWBT's poles or in SWBT's conduit systems. Applicant's selections will be based on the same criteria SWBT applies to itself. To enable Applicant to make such selections in accordance with SWBT's criteria, SWBT will provide Applicant information about the network guidelines and engineering protocols used by SWBT in determining the placement of facilities on SWBT's poles and in SWBT's conduit systems. In conduit systems owned or controlled by SWBT, maintenance ducts (as defined in Section 3.25) shall not be considered available for Applicant's use except as specifically provided elsewhere in this Agreement. All other ducts, inner ducts, sub-ducts, and partitioned conduits which are not assigned or occupied shall be deemed available for use by SWBT, Applicant, and third parties entitled to access under the Pole Attachment Act.

8.02 Pole, Duct, and Conduit Space Assignments. Pole, duct, and conduit space selected by Applicant will be assigned to Applicant as provided in this section.

Information received by SWBT in connection with this section shall be subject to the provisions of Article 28 of this Agreement (Confidentiality of Information).

- (a) After Applicant's application for a pole attachment or conduit occupancy license has been received by SWBT, the pole, duct, and conduit space selected by Applicant in such application will be assigned to Applicant for a pre-occupancy period not to exceed 12 months. The assignment (and date and time of assignment) will be logged and recorded in the appropriate SWBT records. If such space has been provisionally assigned to Applicant as authorized below in subsection (b), the 12-month pre-occupancy assignment period will begin on the date the provisional assignment is recorded in SWBT's records or the date of SWBT's receipt of Applicant's notice of intent to occupy under subsection (b), whichever date first occurs.
- (b) SWBT shall, within 60 days after the effective date of this Agreement, adopt interim procedures which will enable pole, duct, and conduit space to be provisionally assigned to Applicant and other applicants prior to the submission of formal applications required pursuant to Section 9.02 of this Agreement. Where indicated below, the interim procedures will apply to the assignment of space to SWBT as well as to Applicant and other applicants. SWBT may, on 60 days advance notice to Applicant, revise such interim procedures if such procedures prove to be unworkable, in which event Applicant may challenge SWBT's decision in accordance with procedures available to Applicant under applicable federal and state laws and regulations. The procedures will enable Applicant and other applicants, by written notice, to advise SWBT of their intent to occupy unassigned space which appears, from SWBT's records, to be available for assignment. Upon receipt of such notice, SWBT shall date-and-time stamp the notice and provisionally assign the space selected by Applicant or such other applicant by logging and recording the assignment (and date and time of assignment) in the appropriate SWBT records, which records will be available for inspection as provided in Section 7.03 of this Agreement. Space provisionally assigned to Applicant or such other applicant will not be available for assignment to any other person or entity, including SWBT. Notwithstanding such provisional assignment, Applicant shall not occupy such space without first obtaining a license, except as provided in Section 8.03. The following additional requirements shall apply.
 - (1) Before giving SWBT notice of its intent to occupy unassigned space, Applicant shall make a good faith determination that it actually plans to occupy such space. The assignment process shall not be used by either party for the purpose of holding or reserving space which such party does not plan to use or for the purpose of precluding SWBT or

any other person or entity from utilizing or having access to SWBT's poles, ducts, conduits, or rights-of-way.

- (2) With respect to unassigned conduit occupancy space, the notice must include all information required to enable SWBT and joint users, including other persons or entities which may from time to time seek space in the same ducts and conduits, to determine the specific space which Applicant desires to occupy. The notice must, therefore, include, at a minimum, the following information:
 - (i) the specific conduit sections, and each manhole, to be occupied;
 - (ii) the number of ducts, and number of inner ducts, to be occupied by Applicant within each conduit section;
 - (iii) the physical size (diameter) of the cables to be placed in such duct, if known, or the maximum and minimum sizes of the cables which may be placed if more than one size cable is being considered for the space to be occupied;
 - (iv) the anticipated use by Applicant of any infrequent construction techniques and connectivity solutions authorized under Section 6.03 to avoid high or unusual expenditures;
 - (v) Applicant's best estimates of the dates when Applicant plans to begin and complete construction at the sites specified in the notice;
 - (vi) if applicable, a conspicuous statement that Applicant intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Agreement; and
 - (vii) if applicable, a conspicuous statement, as required by Section 5.06 of this Agreement, that the notice pertains to a building entrance or building distribution duct or conduit or other space within a building.
- (3) With respect to unassigned pole space, such notice must include all information required to enable SWBT and other joint users, including other persons or entities seeking space on the same poles, to determine the specific space which Applicant desires to occupy. The notice must, therefore, include, at a minimum, the following information:
 - (i) the specific poles to be occupied;

- (ii) the specific space on each pole to be occupied, including the height (distance from the ground) of the attachment and the side (road or field) where the attachment is to be made;
 - (iii) the anticipated number and types of cables to be attached, together with the anticipated physical size (diameter) and weight (weight per foot) of such cables, and the anticipated number and types of strands, if any, to be used to support the cables, such information to be sufficient to give notice to SWBT and other joint users of the remaining space on the pole available and what facilities modification, capacity expansion, or make-ready work may be required of subsequent applicants as a result of the provisional assignment of space to Applicant;
 - (iv) the anticipated use by Applicant of any infrequent construction techniques and connectivity solutions authorized under Section 6.03 to avoid high or unusual expenditures;
 - (v) Applicant's best estimates of the dates when Applicant plans to begin and complete construction at the sites specified in the notice; and
 - (vi) if applicable, a conspicuous statement that Applicant intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Agreement.
- (4) No later than 30 days after giving such notice, Applicant shall file an application under Section 9.02 or the provisional assignment will lapse.
- (5) As stated in Section 7.03(c), SWBT does not represent that its records accurately reflect the information necessary to enable Applicant to rely upon a records-based assignment process. SWBT shall have no duty to verify that space provisionally assigned pursuant to this subsection is actually available.
- (c) Assignments made prior to the issuance of a license will be provisional assignments and will be subject to modification if it is subsequently determined that the space selected by or assigned to Applicant is already occupied or that a different assignment is required to comply with SWBT's standards for assigning pole, duct, and conduit occupancy space.

- (d) Applicant's obligation to pay semiannual pole attachment or conduit occupancy fees will commence from the date of assignment or provisional assignment, as logged and recorded in the appropriate SWBT records.
- (e) During the 12-month assignment period following the date space is assigned to Applicant and entered into the appropriate SWBT record, SWBT shall not occupy or use such space without Applicant's permission, shall not assign such space to any party other than Applicant, and shall not knowingly permit any party other than Applicant to occupy or use such space without Applicant's permission except as otherwise specifically provided in this Agreement. The assignment to Applicant will automatically lapse 12 months after the date the assignment has been entered into the appropriate SWBT record if Applicant has not occupied such assigned space within such 12-month period; provided, however, that if Applicant's failure to occupy the space within such 12-month period results from SWBT's failure to perform make-ready work on schedule, the parties shall negotiate a single extension of the assignment period, which extension shall not extend the assignment period beyond three months from the date of completion of SWBT's make-ready work; and, provided further, that if Applicant can demonstrate that its failure to occupy the space within such 12-month period results from the actions of SWBT or third parties other than persons acting on Applicant's behalf, or from acts of God, the assignment may be extended for a period no longer than three months from the date Applicant is first able to commence construction activities at the site involved. Assignments to third parties shall be subject to the same rules applicable to Applicant under this subsection. Extensions permitted under this subsection must be requested in writing before expiration of the original 12-month period and shall be recorded on the appropriate SWBT records available for inspection under Section 7.03.
- (f) SWBT may assign space to itself by making appropriate entries in the same records used to log assignments to Applicant and third parties. If SWBT assigns pole, duct, or conduit space to itself, such assignment will automatically lapse 12 months after the date the assignment has been entered into the appropriate SWBT record if SWBT has not occupied such assigned space within such 12-month period; provided, however, that if SWBT's failure to occupy the space within such 12-month period results from the actions of Applicant or third parties other than persons acting on SWBT's behalf, or from acts of God, SWBT's assignment may be extended for a period no longer than three months from the date SWBT is able to commence construction at the site involved. Extensions permitted under this subsection must be recorded before expiration of the

original 12-month period on the appropriate SWBT records available for inspection under Section 7.03.

- (g) If facilities modifications, capacity expansions, or other make-ready work are required due to the assignment of space to either party under this section, the party to whom such space has been assigned will reimburse the person or entity incurring the costs for such facilities modifications, capacity expansions, or make-ready work if the party to whom such space has been assigned fails to occupy the assigned space within the 12-month assignment period or any extension thereof.
- (h) Except as provided in subsections (e)-(f) above, assignments shall not be extended, renewed, or sequentially repeated in any manner (other than by actual occupancy) that enables Applicant, SWBT, or any joint user to preclude access by others to unused pole attachment or conduit occupancy space for any period greater than 12 months after the date of initial assignment.
- (i) At Applicant's election, Applicant may file an application for access which specifically requests that the space sought by Applicant not be assigned to Applicant immediately and not be recorded immediately in the SWBT records available for inspection by other telecommunications carriers, cable television systems, or other providers of telecommunications services under Section 7.03 of this Agreement. In that event, the space sought by Applicant will not be assigned to Applicant and will remain available for assignment to others without restriction until such time as such space is formally assigned to Applicant in accordance with Applicant's written instructions and the assignment is recorded in the records available for inspection under Section 7.03. The assignment shall be made no later than the date of issuance to Applicant of a license confirming that Applicant has the right to occupy the space described in the license. In the event that Applicant elects to proceed under this subsection, Applicant's obligation to pay pole attachment and conduit occupancy fees shall not commence until the date the assignment is recorded in the appropriate SWBT records and Applicant shall bear the risks that (1) the space sought by Applicant will be assigned to and occupied by another person or entity or (2) circumstances will occur which may require that SWBT reevaluate Applicant's application and repeat the field inspection portion of the pre-license survey at Applicant's expense.
- (j) Notices and applications including assignment requests will be date- and time-stamped on receipt. Because space will be selected and further assignments made based on entries logged and recorded in the appropriate SWBT records, the date and time of assignment will be the

date and time when the assignment is recorded rather than the date and time of receipt of the application or notice requesting such assignment. Although SWBT's clerical personnel will promptly process assignment requests included in applications and notices transmitted to SWBT by mail, courier, fax, or other transmission media, SWBT shall not be liable for any failure by Applicant to obtain the space desired by Applicant due to delay in logging assignment requests. Applicant acknowledges that, to maximize the probability that Applicant will be assigned the space Applicant desires, Applicant should, when possible, submit applications and notices including assignment requests in person to SWBT at the site where the applicable records are maintained and should countersign the entry reflecting the assignment and time of assignment.

8.03 Immediate Occupancy. SWBT shall, within 60 days after the effective date of this Agreement, adopt interim procedures which will provide Applicant the ability to attach or place facilities on or in SWBT's poles, ducts, conduits, and rights-of-way on an immediate basis when such space is available for Applicant's use and no make-ready work or infrequent construction techniques or connectivity solutions are required. SWBT may, on 60 days advance notice to Applicant, revise or terminate such interim procedures if they prove to be unworkable, in which event Applicant may seek renegotiation of this Agreement or challenge SWBT's decision in accordance with procedures available to Applicant under applicable federal and state laws, regulations, and commission orders. The special procedures established under this section shall supplement, rather than replace, the regular assignment and licensing procedures set forth in Articles 8-10 of this Agreement, are intended to be used only under special circumstances (e.g., when the regular procedures allow insufficient time to meet customer service commitments or resolve non-routine construction or network contingencies), shall not be used on a routine basis, and shall be consistent with subsections (a)-(f) below.

- (a) Upon giving SWBT the notice required by this subsection, Applicant may immediately occupy space assigned or provisionally assigned to Applicant pursuant to Section 8.02 of this Agreement. The notice shall be contained in either a notice of intent to occupy as provided in Section 8.02(b) or a license application under Section 9.02. Applicant shall not give such notice or occupy such space without first reviewing SWBT's records and determining that the records reflect that the space sought is available.
- (b) Applicant shall not occupy space which has not been assigned or provisionally assigned to Applicant. The assignment must be recorded on the appropriate SWBT records, as provided in Section 8.02, prior to Applicant's occupancy. If Applicant subsequently determines that the records are inaccurate and that the space assigned to Applicant is not available, or that the space assigned is not suitable for Applicant's intended use, Applicant shall, within one business day, notify SWBT in

writing that it no longer intends to occupy the space earlier assigned and is releasing the assignment. Except as otherwise provided in this subsection, Applicant shall not occupy other space on the pole or in the duct or conduit without first obtaining an assignment or provisional assignment of the space which Applicant will occupy. To avoid high or unusual expenditures resulting from unanticipated conditions at the site, Applicant may occupy space not assigned to Applicant subject to the following terms and conditions.

- (1) Applicant may occupy the next available space shown on SWBT's records as available at the time of Applicant's last review of the records. Applicant shall not knowingly occupy space occupied by or assigned to SWBT or any third party without consent of the party to whom the space has been assigned.
- (2) Within one business day after occupying such space, Applicant shall submit to SWBT a written notice of intent to occupy or an application for the space occupied showing the reason for Applicant's use of the space occupied.
- (3) Applicant shall bear the risk that space occupied by Applicant pursuant to this section was assigned to SWBT or a third party during the period between Applicant's last review of the records and Applicant's occupancy of such space. After occupying space not previously assigned to Applicant, Applicant shall review the records and promptly notify the affected party if Applicant determines that it has occupied space assigned to such party. At the request of the party to whom such space has been assigned, Applicant shall, within 24 hours, or within such other period of time mutually agreed to by the parties affected, remove its facilities from the space in question if the parties affected cannot reach an acceptable alternative solution. SWBT and Applicant anticipate that all parties affected will act in good faith to work out acceptable solutions and that the parties affected will not insist on strict adherence to the 24-hour removal requirement unless there is a legitimate business need for compelling removal within such time period.
- (4) SWBT shall be entitled to recover from Applicant actual costs, if any, directly incurred by SWBT as a result of Applicant's decision under this subsection to occupy space subject to a valid prior assignment to SWBT. Applicant shall indemnify, on request defend, and save SWBT harmless from any injury, loss, damage, liability, or claim asserted against SWBT by any third party resulting from Applicant's decision under this subsection to occupy space assigned to such third party.

- (c) Nothing in this section authorizes Applicant to place its facilities on or in any pole, duct, or conduit space already occupied by the facilities of SWBT or a third party, even if the presence of such facilities is not reflected on SWBT's records.
- (d) Nothing in this section authorizes Applicant, without first obtaining SWBT's written authorization, to (1) place its facilities on any pole or in any duct or conduit that requires make-ready work (other than third-party make-ready work arranged directly by Applicant) or (2) utilize any infrequent construction technique or connectivity solution described in Section 6.03.
- (e) If Applicant has not done so already, within 24 hours after occupying space pursuant to this section, Applicant will submit to SWBT an application for the space occupied as provided in Section 9.02 of this Agreement. The application may be submitted by fax.
- (f) Applicant will bear all risks resulting from the possibility that assigned space which appears from the records to be available is not available or in suitable condition to be used by Applicant and shall indemnify, on request defend, and hold SWBT harmless from any injury, loss, damage, claim, or liability (including but not limited to third-party claims) resulting from Applicant's occupancy of space in violation of this section.

ARTICLE 9: APPLICATIONS AND PRE-LICENSE SURVEYS

9.01 Licenses Required. Except as otherwise specifically permitted in this Agreement, Applicant shall apply in writing for and receive a license before attaching facilities to specified SWBT poles or placing facilities within specified SWBT ducts, conduits, manholes, or handholes. License applications and information received by SWBT in connection with such applications shall be subject to the provisions of Article 28 of this Agreement (Confidentiality of Information).

9.02 Application Form. To apply for a pole attachment or conduit occupancy license under this Agreement, Applicant shall submit to SWBT two signed copies of the appropriate application forms. SWBT represents that the forms specified in subsections (a)-(b) are forms in use prior to the effective date of this Agreement and that SWBT is in the process of revising such forms to conform to the provisions of this Agreement and to streamline the application process. The parties therefore agree that the forms specified in subsections (a) and (b) will be interim forms only. SWBT reserves the right to change the format and content of these forms upon 60 days written notice to Applicant.

- (a) To apply for a pole attachment license, Applicant shall submit to SWBT two signed copies of SWBT's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9433 ("Pole Attachments"). An application for a pole attachment license will

not be complete or subject to processing by SWBT until these forms have been submitted to SWBT; provided, however, that such forms will be deemed to be substantially complete if they contain the information specified in subsections (c)-(h) below, as applicable. Copies of Forms SW-9433 and SW-9434 are attached to this Agreement as parts of APPENDIX III.

- (b) To apply for a conduit occupancy license, Applicant shall submit to SWBT two signed copies of SWBT's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9435 ("Conduit Occupancy"). An application for a conduit occupancy license will not be complete or subject to processing by SWBT until these forms have been submitted to SWBT; provided, however, that such forms will be deemed to be substantially complete if they contain the information specified in subsections (c)-(h) below, as applicable. Copies of Forms SW-9434 and SW-9435 are attached to this Agreement as parts of APPENDIX III.
- (c) Each application for a license under this Agreement shall include, at a minimum, the following information:
 - (1) the poles, ducts, and conduits (including all manholes) along Applicant's proposed route to or within which Applicant desires to attach or place its facilities;
 - (2) a description of the facilities to be attached to SWBT's poles and a description of the facilities to be placed within each component of SWBT's conduit system (including but not limited to ducts, conduits, manholes, and handholes) along the proposed route;
 - (3) for poles, the proposed points of attachment;
 - (4) for building entrance or building distribution ducts or conduits or other space within a building, a conspicuous statement, as required by Section 5.06 of this Agreement, that the application pertains to a building entrance or building distribution duct or conduit or other space within a building;
 - (5) if applicable, a conspicuous notation that the space requested is not to be assigned (or billed) to Applicant until SWBT has received Applicant's written instruction to make such assignment or issued a license authorizing Applicant to occupy the space requested; and

- (6) if applicable, a conspicuous statement that Applicant intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Agreement.
- (d) Facilities descriptions which apply to multiple pole attachments or conduit occupancies need only be described once on any form. Facilities descriptions shall include, at a minimum, the following information:
 - (1) the number and types of cables, including the physical size (diameter) and weight (weight per foot);
 - (2) the number and types of strands, if any, which will be used to support the cables, including the rated holding capacity expressed in thousand pound increments (e.g., 2.2M) of such strands; and
 - (3) sufficient information to identify and describe the physical characteristics (size, dimensions, and weight) of apparatus enclosures and other facilities to be attached to SWBT's poles or placed in SWBT's conduit system.
- (e) When it appears to Applicant that facilities modification, capacity expansion, or make-ready work may be required to accommodate Applicant's access requests, Applicant shall describe the facilities modification, capacity expansion, or make-ready work which Applicant proposes. Applicant shall also describe its plans, if any, to use any infrequent construction technique or connectivity solution authorized under Section 6.03 to avoid high or unusual expenditures and state its reasons for the use of such technique or solution.
- (f) Applicant acknowledges that the poles along a particular pole line or route may include poles owned by firms (such as electric utilities) other than SWBT, that it may be necessary for SWBT to rearrange its facilities or perform other make-ready work on poles other than poles it owns or controls in order to accommodate Applicant's request for access to SWBT's poles and that, at the time an application is submitted, it may be difficult for Applicant to determine with certainty whether a particular pole is owned or controlled by SWBT or by another entity. Accordingly, the application shall, to the extent feasible, identify all poles utilized by SWBT (without regard to ownership) along Applicant's proposed route.
- (g) Each application for a license under this Agreement shall be accompanied by a construction schedule showing Applicant's projected dates for beginning and completing construction at the sites specified in the application. Information on this schedule may be used by SWBT's engineering and outside plant construction personnel in scheduling work

required to process Applicant's applications and scheduling such capacity expansions, make-ready work, and facilities modifications, if any, as may be necessary to accommodate Applicant's facilities.

- (h) Applicant may include multiple cables in a single license application and may provide multiple services (e.g., CATV and non-CATV services) under the same cable sheath or jacket. When both CATV and non-CATV services are provided under the same cable sheath or jacket, or CATV and non-CATV services are provided using different cables attached or lashed to the same strand or otherwise occupying the same space on a pole or the same duct or inner duct within a conduit, Applicant will so advise SWBT and SWBT shall, if permitted by law, adjust its charges to enable SWBT to charge Applicant the rate applicable to telecommunications carriers rather than the rate applicable to cable television systems solely to provide cable service.

9.03 Cooperation in the Application Process. The orderly processing of applications submitted by Applicant and other firms seeking access to SWBT's poles, ducts, conduits, and rights-of-way requires good faith cooperation and coordination between SWBT's personnel and personnel acting on behalf of Applicant and other firms seeking access. The parties therefore agree to the following transitional procedures which will remain in effect during the term of this Agreement unless earlier modified by mutual agreement of the parties.

- (a) Before submitting a formal written application for access to SWBT's poles, ducts, conduits, and rights-of-way, the firm submitting the application shall make a good faith determination that it actually plans to attach facilities to or place facilities within the poles, ducts, conduits, or rights-of-way specified in the application. Applications shall not be submitted for the purpose of holding or reserving space which the applicant does not plan to use or for the purpose of precluding SWBT or any other provider of telecommunications or cable television services from using such poles, ducts, conduits, or rights-of-way.
- (b) Applicant shall only submit applications for access to poles, ducts, conduits, and rights-of-way which it plans to use within one year following the date access is granted and shall use its best efforts to submit applications in an orderly manner in accordance with Applicant's needs. If Applicant contemplates the need to submit more than 10 applications within any 45-day period with respect to poles, ducts, conduits, and rights-of-way within the territory of any single SWBT construction district, Applicant shall give SWBT advance notice as promptly as is reasonably practicable.

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- (c) No more than 300 poles shall be the subject of any single pole attachment license application.
- (d) No more than 20 manholes shall be the subject of any single conduit occupancy license application.

9.04 Applicant's Priorities. When Applicant has multiple applications on file within a single SWBT construction district, Applicant shall, at SWBT's request, designate its desired priority of completion of pre-license surveys, facilities modifications, capacity expansions, and make-ready work with respect to all such applications.

9.05 Pre-license Survey. A pre-license survey (including a review of records and field inspection, if necessary) will be completed by SWBT after Applicant has submitted its written license application as specified in Section 9.02 of this Agreement. SWBT shall not, without due cause and justification, repeat pre-occupancy survey work performed by Applicant.

- (a) The field inspection portion of the pre-license survey, which includes the visual inspection of existing pole and conduit facilities, shall be performed by SWBT or its authorized representative. Primary purposes of the field inspection will be to enable SWBT to (1) confirm or determine the facilities modification, capacity expansion, and make-ready work, if any, necessary to accommodate Applicant's facilities; (2) plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare SWBT's poles, ducts, conduits, rights-of-way, and associated facilities for Applicant's proposed attachments or occupancy; and (3) estimate the costs associated with such facilities modification, capacity expansion, or make-ready work. SWBT may dispense with the field inspection if it appears that the information necessary to process Applicant's license application is already available from existing sources, including the application forms and such other information as may be available to SWBT. If Applicant, pursuant to Section 8.03, has occupied the space requested before the issuance of a license, a post-installation inspection of Applicant's facilities may be performed, in place of the field inspection portion of the pre-license survey, to determine whether such facilities are in compliance with the specifications of Article 6 and other provisions of this Agreement. In performing such inspection, SWBT will not, without due cause and justification, repeat pre-occupancy survey work performed by Applicant.
- (b) The administrative processing portion of the pre-license survey (which includes processing the application and reviewing records) will be performed by SWBT.

- (c) Before performing any portion of the pre-license survey, SWBT shall obtain Applicant's written authorization to perform such work. Authorization may be given, when possible, when the application is submitted. No authorization shall be required for post-installation inspections of Applicant's facilities when installation has occurred, pursuant to Section 8.03, before the issuance of a license.

ARTICLE 10: ISSUANCE AND DENIAL OF LICENSES (INCLUDING FACILITIES MODIFICATIONS, CAPACITY EXPANSIONS, AND MAKE-READY WORK

10.01 Response Within 45 Days. Within 45 days of Applicant's submission of a license application pursuant to Section 9.02 of this Agreement, or within such other period of time as may be mutually agreed upon in writing by the parties, SWBT shall respond to the application. The response shall state whether the application is being granted or denied. If denial is anticipated, or if SWBT personnel involved in the processing of Applicant's request for access become aware of hazardous substances at the site requested by Applicant, SWBT shall promptly advise Applicant and shall, at Applicant's request, discuss alternatives to denial and issues associated with the presence of such hazardous substances. Additional state-specific response and notice requirements, if any, shall be addressed by an addendum to this Agreement.

- (a) If access is granted, SWBT shall, no later than 45 days after Applicant's submission of the license application, further advise Applicant in writing (1) what facilities modifications, capacity expansions, or make-ready work, if any, will be required to prepare SWBT's pole or conduit facilities, (2) provide Applicant an estimate of charges for such facilities modifications, capacity expansions, or make-ready work and (3) disclose to Applicant any hazardous substances known by SWBT to be present at the site.
- (b) SWBT may take into account issues of capacity, safety, reliability, and engineering when considering requests for access, provided the assessment of such factors is done in a nondiscriminatory manner. If access is denied, SWBT shall confirm the denial in writing by the 45th day after the receipt by SWBT of Applicant's completed application. A denial of access shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how such evidence and information relates to a denial of access for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. If Applicant in its completed application sets forth in writing specific proposals for expanding capacity, the denial statement shall specifically address such proposals.

- (c) Applicant agrees that if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific poles, ducts, or conduit facilities, Applicant shall promptly withdraw or amend its application, thereby minimizing the administrative burdens on SWBT of processing and responding to the application.
- (d) Notwithstanding the 45-day deadline, SWBT will, pursuant to Section 8.03 of this Agreement, make available to Applicant for immediate occupancy any pole, duct, or conduit space which is not currently assigned, not designated as a maintenance duct, and not subject to applicable make-ready requirements.
- (e) If SWBT fails to respond in writing within 30 days of SWBT's documented receipt of a license application pursuant to Section 9.02 of this Agreement, or within such other period of time as may be mutually agreed upon in writing by the parties, Applicant may by written notice inquire whether SWBT intends to deny Applicant's request for access. After such notice has been given and receipt by SWBT of a properly submitted license application has been confirmed, SWBT's failure to respond in writing within 15 days after receipt of the notice shall be deemed to constitute approval of the request for access. In such event, Applicant shall be entitled to occupy the space requested without the formality of a license; provided, however, that nothing contained in this subsection shall authorize Applicant to occupy space already occupied or subject to a prior valid space assignment to SWBT or any third-party; and provided further that nothing in this subsection authorizes Applicant, without first obtaining SWBT's written authorization, to (1) place its facilities on any pole or in any duct or conduit that requires make-ready work (other than third-party make-ready work arranged directly by Applicant) or (2) utilize any infrequent construction technique or connectivity solution described in Section 6.03.

10.02 Obligation to Construct or Modify Facilities: Capacity Expansions. SWBT may grant access subject to Applicant's approval of such make-ready work (including facilities modifications) as may be required to expand capacity to accommodate Applicant's request, in which event Applicant shall either accept such conditions, initiate good faith negotiations to explore other potential accommodations, or withdraw its request for access. If SWBT does not offer to expand capacity and denies Applicant's request for access, SWBT shall promptly notify Applicant of such determination. SWBT shall not deny Applicant's request for access on lack of capacity grounds when capacity can be expanded as provided in this section and in Section 6.03 (infrequent construction techniques and connectivity solutions).

- (a) At Applicant's request, SWBT will replace, expand, or modify its poles and conduit system, or otherwise expand the capacity of such facilities to

accommodate the placement of Applicant's facilities; provided, however, that such modifications shall be consistent with the capacity, safety, reliability, and engineering considerations which SWBT would apply to itself if the work were performed for SWBT's own benefit. Outside plant facilities modifications and capacity expansions contemplated by this subsection include, but are not limited to, installation of inner duct, cable consolidations and the removal of cables that are retired or inactive (dead). Except as otherwise specifically provided in this section, SWBT may recover from Applicant the costs of facilities modifications and capacity expansions to make space available for Applicant's facilities and charges for such modifications and expansions shall be determined and billed as provided in APPENDIX I of this Agreement.

- (b) SWBT will, at its own expense, install inner duct in SWBT's conduit system as necessary to make space available for Applicant's facilities. Inner duct installations to accommodate Applicant's facilities will be performed by SWBT within the same time intervals which would apply if SWBT were performing such installations for itself. If SWBT's intervals for beginning or completing inner duct installation do not meet Applicant's needs, Applicant may arrange for the inner duct installation to be performed by an authorized contractor selected by Applicant from a list, jointly developed and maintained by the parties, of contractors mutually approved as qualified to perform inner duct installations. Applicant may install the inner duct itself if Applicant is on the list of mutually approved contractors at the time the work is performed. When inner duct is installed in SWBT's conduit system by Applicant or an authorized contractor selected by Applicant, SWBT will provide the inner-ducting materials to be installed and Applicant shall bear all other installation expenses. Applicant shall give SWBT sufficient advance notice of the materials needed to enable SWBT to provide such materials to Applicant on a timely basis. Applicant shall return all unused materials, including unused inner duct and reels, to SWBT or purchase them from SWBT. Inner duct installed by Applicant or an authorized contractor selected by Applicant shall be installed in accordance with SWBT's specifications and in accordance with the same standards and practices which would be followed if the inner duct were being installed by SWBT or SWBT's contractors. Applicant shall indemnify, on request defend, and hold SWBT harmless for any injuries, losses, damages, claims, or liabilities directly resulting from the installation of inner duct by Applicant or any authorized contractor selected by Applicant under this subsection. Applicant shall not, without SWBT's prior written approval, arrange for inner duct installation to be performed by subcontractors who are not authorized contractors.

- (c) SWBT shall, at its expense, remove cables that are retired or inactive (dead) to free-up requested duct and pole space, provided that such removal is reasonably feasible (i.e., cable pulls easily without incident). If a section of cable is "frozen" in a duct and would require excavation to remove, Applicant may, at its option, request that SWBT excavate the obstruction or, in the alternative, arrange for excavation of the obstruction to be performed by an authorized contractor selected by Applicant from a list, jointly developed and maintained by the parties, of contractors mutually approved as qualified to perform such excavations. Applicant may excavate the obstruction itself if Applicant is on the list of mutually approved contractors at the time the work is performed. Such excavations will be at Applicant's expense. Removal of the remainder of the cable will be at SWBT's expense. Excavation work performed by Applicant or an authorized contractor selected by Applicant shall be performed in accordance with SWBT's specifications and in accordance with the same standards and practices which would be followed if such excavation work were being performed by SWBT or SWBT's contractors. Neither Applicant nor any authorized contractor selected by Applicant to perform excavation work under this subsection shall conduct facility excavation activities in any manner which jeopardizes or degrades the integrity of SWBT's structures or interferes with any existing use of the facilities. Applicant shall indemnify, on request defend, and hold SWBT harmless for any injuries, losses, damages, claims, or liabilities directly resulting from the performance of excavation work by Applicant or any authorized contractor selected by Applicant under this subsection. Applicant shall not, without SWBT's prior written approval, arrange for excavation work to be performed under this subsection by subcontractors who are not qualified contractors.

10.03 Issuance of Licenses and Immediate Access When No Make-ready Work is Required. If, on the basis of Applicant's representations or SWBT's field inspection, if any, SWBT determines that no make-ready work is necessary to accommodate Applicant's facilities, SWBT will issue a license without performing make-ready work and pole attachment or conduit occupancy space will be made available to Applicant for immediate occupancy. Immediate occupancy prior to the issuance of a license shall be governed by Section 8.03.

10.04 Make-ready Work. If SWBT determines that make-ready work will be necessary to accommodate Applicant's facilities, SWBT shall promptly notify Applicant of the make-ready work proposed to enable the accommodation of Applicant's facilities.

- (a) The notice shall be given in writing no later than 45 days after the receipt by SWBT of Applicant's completed application pursuant to Section 9.02 of this Agreement or within such other period of time as may be mutually agreed upon in writing by the parties.

- (b) The notice will include SWBT's estimate of make-ready charges, which estimate shall be stated on SWBT Form SW-9434 ("Access Application and Make-Ready Authorization"), a copy of which is attached hereto as part of APPENDIX III.
- (c) Applicant shall have 20 days (the "acceptance period") after receiving SWBT's estimate of make-ready charges to authorize completion of the make-ready work proposed by SWBT or to advise SWBT of its willingness to perform the proposed make-ready work itself. If Applicant advises SWBT that it is willing to perform the make-ready work proposed by SWBT in accordance with a design approved by SWBT, and SWBT's specifications, SWBT will not, without due cause and justification, refuse to accept Applicant's offer to perform the work. Authorization shall be accomplished by Applicant's signing the estimate and returning it to SWBT within the 20-day acceptance period.
- (d) Within the 20-day acceptance period, the parties may negotiate modifications of the make-ready work to be performed. If the parties reach agreement through negotiation, a new estimate shall be prepared and authorization shall be accomplished by Applicant's signing the revised estimate and returning it to SWBT within the original 20-day acceptance period, or within such period of time as may be mutually agreed upon by the parties.
- (e) If Applicant does not sign and return the estimate within the 20-day acceptance period, or within such other period of time as may be mutually agreed upon in writing by the parties, Applicant shall notify SWBT in writing by the 20th day whether Applicant is withdrawing its application, electing to perform the make-ready work itself as provided in subsection (c) or electing to treat SWBT's make-ready requirements as a denial of access.
 - (1) If no such notice is given by the 20th day, or such later date as may be mutually agreed upon by the parties, SWBT shall contact Applicant to determine whether Applicant intends to withdraw its application. Applicant shall be deemed to have withdrawn its application if, in response to SWBT's inquiry, Applicant does not immediately sign and return the estimate to SWBT.
 - (2) If Applicant timely notifies SWBT that it is electing to treat SWBT's make-ready requirements as a denial of access, SWBT shall, within 20 days after receiving the notice, provide Applicant with a written statement explaining its decision to grant access only if the specified make-ready work is performed. The statement shall be specific, shall

include all relevant evidence and information supporting SWBT's decision to grant access only if the specified make-ready work is performed, and shall explain how such evidence and information relates to SWBT's decision for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. The statement shall also set forth the basis for SWBT's make-ready proposals and specifically address SWBT's rationale for rejecting Applicant's alternative written proposals, if any.

10.05 Performance of Make-ready Work. Except as otherwise specifically provided in Section 10.02 and in this section, make-ready work shall be performed by SWBT or by contractors, subcontractors, or other persons acting on SWBT's behalf and shall be performed by SWBT in accordance with the same time intervals which would be applicable if SWBT were performing the work for itself.

- (a) Applicant and SWBT will mutually establish and maintain for each SWBT construction district lists of authorized contractors which may be selected by Applicant to perform make-ready work when SWBT's interval for beginning or completing such make-ready work does not meet Applicant's needs. At Applicant's request, Applicant will be included on such lists upon Applicant's demonstrating that (1) its personnel are qualified to perform such work in accordance with SWBT's specifications and (2) Applicant meets the financial responsibility (insurance and bonding) requirements generally applicable to contractors, subcontractors, and other vendors performing the same or similar work on SWBT's behalf or the self-insurance requirements of Section 23.02.
- (b) If SWBT's interval for beginning or completing make-ready work does not meet Applicant's needs, Applicant may (1) perform the make-ready work itself, if Applicant is on the applicable list of authorized contractors at the time the work is to be performed or (2) arrange for the work to be performed by an authorized contractor selected by Applicant from the applicable list of authorized contractors. Subject to the availability of personnel, Applicant may also request that SWBT perform the work on an expedited basis; provided, however, that make-ready work will not be performed on an expedited basis unless Applicant first approves any overtime or premium rates or charges associated with performance of the work on an expedited basis.
- (c) From time to time, additional contractors, subcontractors or other vendors may be jointly approved by Applicant and SWBT to perform specific make-ready work in the event that the work load exceeds the capacity of the authorized contractors on the approved list to perform the make-ready work in a timely manner.

- (d) Make-ready work performed by Applicant, by an authorized contractor selected by Applicant, or by a contractor, subcontractor, or other vendor jointly approved by the parties under subsection (c) shall be performed in accordance with SWBT's specifications and in accordance with the same standards and practices which would be followed if such excavation work were being performed by SWBT or SWBT's contractors. Neither Applicant nor authorized contractors selected by Applicant to perform make-ready work under this section shall conduct such work in any manner which jeopardizes or degrades the integrity of SWBT's structures or interferes with any existing use of SWBT's facilities. Applicant and any authorized contractor selected by Applicant to perform make-ready work shall indemnify, on request defend, and hold SWBT harmless from any and all injuries, losses, damages, claims, or liabilities directly resulting from their activities under this section.
- (e) Nothing contained in this section authorizes Applicant, any authorized contractor selected by Applicant, or any other person acting on Applicant's behalf to consolidate SWBT's cables.

10.06 Multiple Applications. Applications shall be processed on a first-come, first-served basis. Applications filed on the same date shall be treated as having been filed simultaneously and shall be processed accordingly.

10.07 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. Applicant shall make arrangements with the owners of other facilities attached to SWBT's poles or occupying space in SWBT's conduit system regarding reimbursement for any expenses incurred by them in transferring or rearranging their facilities to accommodate the attachment or placement of Applicant's facilities to or in SWBT's poles, ducts, and conduits.

10.08 Reimbursement for the Creation or Use of Additional Capacity. As a result of facilities modification, capacity expansion, or other make-ready work performed to accommodate Applicant's facilities, additional capacity may become available on SWBT's poles or in its conduit system. In such event, Applicant shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any pole attachment or conduit occupancy fees subsequently paid to SWBT for the use of such additional capacity. SWBT shall, however, establish procedures for giving Applicant notice of the subsequent use by SWBT or third parties of additional space or capacity created at Applicant's expense. If SWBT utilizes additional space or capacity created at Applicant's expense, SWBT will reimburse Applicant on a pro-rata basis for SWBT's share, if any, of Applicant's capacity expansion costs, to the extent reimbursement is required by the Pole Attachment Act and applicable rules, regulations, and commission orders. If any third party later utilizes any such additional space or capacity, SWBT shall, at the request of Applicant or such third party, provide such information as may be

available to SWBT to assist Applicant and such third party in determining the amount, if any, which such third party may owe Applicant as its pro-rata share of Applicant's capacity expansion costs. Nothing contained in this section shall be construed as conferring or imposing on SWBT any right or duty to determine the amounts owing by a third party to Applicant, to collect or remit any such amounts to Applicant, to resolve or adjudicate disputes over reimbursement between Applicant and third parties, to deny a third party access to SWBT's poles, ducts, conduits, or rights-of-way due to such third party's failure to satisfy Applicant's reimbursement demands, or to take any other action to enforce Applicant's reimbursement rights against any third party. In like manner, for additional capacity created by SWBT from and after the date of enactment of the Telecommunications Act of 1996, SWBT shall be entitled to recover from Applicant and third parties, to the full extent permitted by law, their pro-rata shares of such capacity expansion costs incurred by SWBT. To the extent that either party seeks to avail itself of this cost-saving mechanism, such party shall be responsible for maintaining adequate records documenting the costs subject to reimbursement, including but not limited to costs incurred for facilities modification and capacity expansion work performed directly by such party or contractors performing work on such party's behalf.

10.09 License and Attachment. After all required make-ready work is completed, SWBT will issue a license confirming that Applicant may attach specified facilities to SWBT's poles or place specified facilities in SWBT's conduit system. Applicant shall have access to attach or place only those facilities specifically described in licenses subject to this Agreement, and no others, except as otherwise specifically provided in (a) Sections 8.03 and 12.03 or other provisions of this Agreement, (b) any other written agreement between the parties providing for such access, or (c) the provisions of any applicable tariffs or commission orders.

ARTICLE 11: CONSTRUCTION OF APPLICANT'S FACILITIES

11.01 Responsibility for Attaching and Placing Facilities. Each party shall be responsible for the actual attachment of its own facilities to SWBT's poles and the placement of such facilities in SWBT's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities. In this regard, each party and its contractors shall be solely responsible for (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and attachment of its facilities and (b) directing the activities of all personnel acting on such party's behalf while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way.

11.02 Construction Schedule. After the issuance of a license, Applicant shall provide SWBT with an updated construction schedule and thereafter keep SWBT informed of anticipated changes in the construction schedule. Construction schedules received by SWBT shall be subject to the provisions of Article 28 of this Agreement

(Confidentiality of Information). Construction schedules required by this section shall include, at a minimum, the following information:

- (a) the name, title, business address, and business telephone number of the manager responsible for construction of the facilities;
- (b) the names of each contractor and subcontractor which will be involved in the construction activities;
- (c) the estimated dates when construction will begin and end; and
- (d) the approximate dates when Applicant or personnel working on Applicant's behalf will be performing construction work in connection with the attachment of Applicant's facilities to SWBT's poles or the placement of Applicant's facilities in any part of SWBT's conduit system.

ARTICLE 12: USE AND ROUTINE MAINTENANCE OF APPLICANT'S FACILITIES

12.01 Use of Applicant's Facilities. Each license subject to this Agreement authorizes Applicant to have access to Applicant's facilities on or within SWBT's poles, ducts, and conduits as needed for the purpose of serving Applicant's customers.

12.02 Routine Maintenance of Applicant's Facilities. Each license subject to this Agreement authorizes Applicant to engage in routine maintenance of facilities located on or within SWBT's poles, ducts, and conduits. Routine maintenance does not include the replacement or modification of Applicant's facilities in any manner which results in Applicant's facilities differing substantially in size, weight, or physical characteristics from the facilities described in Applicant's license.

12.03 Installation of Drive Rings and J-Hooks. Applicant may install drive rings and J-hooks on SWBT's poles for the attachment of drop wires as specified in this section.

- (a) Drive rings and J-hooks may be installed as specified in pole attachment licenses issued to Applicant.
- (b) If attachment space has already been licensed to Applicant on a given SWBT pole, Applicant may install drive rings and J-hooks within the space assigned to Applicant (typically six inches above and six inches below Applicant's point of attachment on the pole if the point of attachment is in the center of the space assigned to Applicant) without applying for or obtaining a new or amended license. No additional attachment charges shall apply with respect to drive rings and J-hooks installed in Applicant's licensed attachment space.

- (c) Applicant's first choice for placement of drive rings and J-hooks shall be the licensed attachment space assigned to Applicant as provided in subsection (b) above; provided, however, that if attachment space already licensed to Applicant on a given SWBT pole is not adequate for Applicant's drive rings or J-hooks, Applicant may, when necessary, and without applying for or obtaining a new or amended license, install such drive rings and J-hooks above or below Applicant's licensed attachment space as described in subsection (b) above. No additional attachment charges shall apply with respect to drive rings and J-hooks installed outside Applicant's licensed attachment space as permitted in this subsection.
- (d) If Applicant has not already been licensed attachment space on a given SWBT pole, Applicant may, when necessary, install drive rings and J-hooks to unassigned space on such pole without first obtaining a license for such attachment and shall, promptly following such installation, notify SWBT of the attachment. Such notification shall be made on a form to be developed by SWBT for this purpose and shall constitute an application for a license. Such application may be conditionally granted without a pre-license survey or other inquiry by SWBT, and SWBT shall not be required to process the application, log the attachment as an assignment in its outside plant records, or issue a permanent license for the attachment unless specifically requested by Applicant to do so; provided, however, that a conditionally granted application under this subsection shall be subject to revocation if it is subsequently determined that such attachment has been made in violation of subsection (e) of this section or other provisions of this Agreement. Drive-rings and J-hooks installed pursuant to this subsection are pole attachments and charges for such attachments shall be determined in accordance with the Pole Attachment Act and applicable rules, regulations, and commission orders.
- (e) Notwithstanding the provisions of subsections (c)-(d) above, Applicant may not install drive rings and J-hooks in space assigned to SWBT or another joint user without the approval of SWBT or such other joint user and may not install drive rings and J-hooks in unassigned space in any manner which will block or preclude the subsequent occupancy or use of space by SWBT or other joint users. If the presence of Applicant's facilities in space not assigned to Applicant will block or preclude the use of assigned or otherwise assignable space by SWBT or other joint users, Applicant shall, on SWBT's request, promptly relocate the facilities in order to accommodate the facilities of other users and shall bear all expenses associated with such relocation.
- (f) SWBT may not install drive rings or J-hooks in space assigned to Applicant without Applicant's approval and shall, at Applicant's request,

and at SWBT's expense, promptly relocate or, if necessary, remove, any drive rings or J-hooks installed in violation of this subsection. If SWBT drive rings or J-hooks have been installed in space subsequently assigned to Applicant, or if the presence of SWBT drive rings or J-hooks blocks or precludes the use of otherwise assignable space on SWBT's poles, SWBT shall, at Applicant's request, relocate such facilities, if it is feasible to do so, as make-ready work.

- (g) Applicant shall, at the request of SWBT or another joint user, at Applicant's expense, promptly relocate or, if necessary, remove any drive rings and J-hooks placed on SWBT's poles other than as permitted in this section.

12.04 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities.

Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any person or entity (including but not limited to SWBT, Applicant, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by SWBT. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify SWBT of such use and must either vacate the maintenance duct within 30 days or, with SWBT's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.

12.05 Responsibility for Maintenance of Facilities. Each party shall be solely responsible for maintaining its own facilities and (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the maintenance of such party's facilities and (b) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way.

12.06 Information Concerning the Maintenance of Applicant's Facilities. Promptly after the issuance of a license, Applicant shall provide SWBT with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of Applicant's facilities and shall thereafter notify SWBT of changes to such information. The manager responsible for routine maintenance of Applicant's facilities shall, on SWBT's request, identify any contractor, subcontractor, or other person performing maintenance activities on Applicant's behalf at a specified site.

ARTICLE 13: MODIFICATION OF APPLICANT'S FACILITIES

13.01 Notification of Planned Modifications. Applicant shall notify SWBT in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities already attached to a SWBT pole or located in any SWBT duct or conduit. The notice shall contain sufficient information to enable SWBT to determine whether the proposed addition, relocation, replacement, or modification is within the scope of Applicant's present license or requires a new or amended license. No notice shall be required for such routine modifications as the installation or placement of drive rings or J-hooks, terminals, and other ancillary apparatus routinely used in providing service to customers, having no effect on the structural integrity of SWBT's poles, ducts, or conduits, and having no effect on the ability of SWBT or joint users to use or have access to SWBT's poles, ducts, conduits, or rights-of-way.

13.02 New or Amended License Required. A new or amended license will be required if the proposed addition, relocation, replacement, or modification:

- (a) requires that Applicant occupy additional space on SWBT's poles (except on a temporary basis in the event of an emergency);
- (b) requires that Applicant occupy additional space (other than space in the maintenance duct in accordance with Sections 12.04, 13.03, and 15.02 of this Agreement) in any SWBT duct or conduit except on a temporary basis in the event of an emergency;
- (c) results in the facilities attached to SWBT's poles or placed in SWBT's ducts or conduits being different from those described as authorized attachments in Applicant's present application, current license, notice of intent to occupy, or license application and supplemental documentation submitted to SWBT (e.g., different duct or size increase causing a need to recalculate storm loadings, guying, or pole class); or
- (d) requires additional holding capacity on a permanent basis.

13.03 Use of Maintenance Duct in Connection with Facility Modifications and Replacements. Non-emergency access to the maintenance duct in connection with facilities modifications and replacements shall be subject to the provisions of Section 12.04 of this Agreement.

13.04 Replacement of Facilities and Spinning/Overlashing Additional Cables. Applicant may replace existing facilities with new facilities occupying the same pole, duct, or conduit space, and may spin or overlash additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

13.05 Streamlined Procedures for the Issuance of Amended Licenses. SWBT may streamline procedures for the issuance of amended licenses with respect to proposed additions, relocations, replacements, or modifications of Applicant's facilities when it appears to SWBT that the proposed additions, relocations, replacements, or modifications will not require make-ready work by SWBT, will not interfere with SWBT's use of its poles, conduit systems, or facilities attached or connected thereto or contained therein, and will not interfere with the use of existing facilities attached or connected thereto or contained therein by joint users.

ARTICLE 14: REQUIRED REARRANGEMENTS OF APPLICANT'S FACILITIES

14.01 Notice of Planned Modifications. The parties acknowledge that the Pole Attachment Act recites in part that "Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment." The parties further acknowledge that the FCC, in the First Interconnection Order in CC Docket No. 96-98, recites that "... absent a private agreement establishing notification procedures, written notification of a modification must be provided to parties holding attachments on the facility to be modified at least 60 days prior to the commencement of the physical modification itself." This article is intended by the parties to alter the above-described notification requirements only as provided in Section 14.02(b) below.

14.02 Required Rearrangement of Applicant's Facilities. Applicant acknowledges that, from time to time, it may be necessary or desirable for SWBT to rearrange facilities on or within its poles or conduit systems, change out poles, add poles to a pole line, relocate or reconstruct poles, pole lines, conduit segments, or conduit runs, enlarge manholes, reinforce conduit, or otherwise modify poles, pole lines, or portions of its conduit system and that such changes may be necessitated by SWBT's own business needs or by factors outside of SWBT's control, such as the decision by a municipality to widen streets or the decision by a third party to seek access to SWBT's poles, ducts, conduits, or rights-of-way.

(a) Applicant agrees that Applicant will cooperate with SWBT and joint users in making such rearrangements as may be necessary to enable such changes to be made and that costs incurred by Applicant in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with then applicable statutes, rules, regulations, and commission orders, including the Pole Attachment Act, rules, regulations, and commission orders thereunder.

(b) Whenever feasible, SWBT shall give Applicant not less than 60 days prior written notice of the need for Applicant to rearrange its facilities

pursuant to this section. The notice shall state the date by which such rearrangements are to be completed. Applicant shall complete such rearrangements within the time prescribed in the notice; provided, however, that the date of removal may be extended upon request by Applicant, which request will not be unreasonably refused by SWBT, if Applicant advises SWBT of the reason for the need for the extension and proposes a reasonable completion date. SWBT may request that such modification be made within a shorter period of time, in which event Applicant shall not refuse to comply such request without due cause and justification. In determining due cause and justification, the following factors, among others, may be considered:

- (1) the circumstances under which the rearrangements are sought (e.g., street-widening project, request by a competing provider for access);
 - (2) the timeliness of SWBT's request to Applicant;
 - (3) the nature and number of rearrangements sought;
 - (4) the impact on the ability of the parties and joint users to meet customer service needs; and
 - (5) risks of service interruption to customers of the parties and joint users.
- (c) Nothing contained in this article shall preclude Applicant from advising SWBT, within 60 days from the date of the notice, of its desire to add to or modify its existing attachment.

ARTICLE 15: EMERGENCY REPAIRS AND POLE REPLACEMENTS

15.01 Applicability. The parties acknowledge that in the event of an emergency, services provided by the parties and joint users to their respective customers may be interrupted, that it may not be possible for all service providers with facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, or rights-of-way to restore service to all customers at the same time, that disputes may arise between the parties concerning the manner in which emergency repairs shall be made, that it is essential that decisions be made quickly, and that it is highly desirable that all service providers utilizing SWBT's poles, ducts, conduits, and rights-of-way enter into appropriate arrangements relating to emergency repairs and service restoration. In the absence of prearranged agreements, it is expected that disputes will be immediately resolved at the site by the affected parties present based upon the criteria set forth in Section 15.05 of this Agreement. The provisions of this article shall apply in the absence of more comprehensive agreements relating to emergency repairs.

15.02 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.

- (a) Nothing contained in this Agreement shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- (b) Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any person or entity (including but not limited to SWBT, Applicant, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located; provided, however, that a person or entity using the maintenance duct for emergency repair activities shall immediately notify SWBT of such use and must either vacate the maintenance duct within 30 days or, with SWBT's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. The parties agree not to exceed 30 days' use except in unusual emergencies that may require longer than 30 days to rectify.
- (c) If necessary, other unoccupied ducts or inner ducts may be used on a short-term basis when the maintenance duct is unavailable. Any such use shall be subject to the same rules applicable to the maintenance duct and shall be subject to the rights of any party or joint user to whom such duct or inner duct has been assigned.

15.03 Designation of Emergency Repair Coordinators and Other Information. For each SWBT construction district, Applicant shall provide SWBT with the emergency contact number of Applicant's designated point of contact for coordinating the handling of emergency repairs of Applicant's facilities and shall thereafter notify SWBT of changes to such information.

15.04 Reporting of Conditions Requiring Emergency Repairs. As a courtesy, each party shall endeavor to notify the other party at the earliest practicable opportunity after discovering any condition on or in any of SWBT's poles, ducts, conduits, or rights-of-way requiring emergency repairs to the other party's facilities.

15.05 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, SWBT, Applicant, and other affected parties shall coordinate repair and other

work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.

- (a) Emergency service restoration work requirements shall take precedence over other work operations.
- (b) Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- (c) SWBT shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by SWBT on a nondiscriminatory basis in accordance with the principles set forth in this section.

15.06 Unilateral Corrective Action. When either party reasonably believes that, due to the condition of the other party's facilities placed on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, there is an immediate or imminent threat to the safety or health of employees or any other person, to the physical integrity or functioning of either party, or either party's ability to meet its service obligations, either party may unilaterally perform such limited corrective work as may be necessary to prevent or mitigate against the injury threatened. For example, if facilities of the other party have become detached or partially detached from a pole, or detached or partially detached from supporting racks or wall supports within a manhole, either party may reattach them as provided in this section but shall not be obligated to do so.

- (a) Before performing any corrective work involving facilities of the other party, SWBT or Applicant shall first attempt to notify the other party. After such notice has been given, the parties shall coordinate corrective work.
- (b) When an emergency situation exists such that advance notice and coordination are not practicable, either party may perform corrective

work without first giving notice to the other party and shall promptly notify the other party of the corrective work performed and the reason why notice was not given.

15.07 Emergency Pole Replacements. Applicant will cooperate fully with SWBT when emergency pole replacements are required.

- (a) When emergency pole replacements are required, SWBT shall promptly make a good faith effort to contact Applicant to notify Applicant of the emergency and to determine whether Applicant will respond to the emergency in a timely manner.
- (b) If notified by SWBT that an emergency exists which will require the replacement of a pole, Applicant shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to a SWBT replacement pole, the transfer shall be in accordance with SWBT's placement instructions.
- (c) If Applicant is unable to respond to the emergency situation immediately, Applicant shall so advise SWBT and thereby authorize SWBT (or any joint user sharing the pole with SWBT) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on Applicant's behalf.

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

- (a) Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.
- (b) Applicant shall reimburse SWBT for the costs incurred by SWBT for work performed by SWBT on Applicant's behalf in accordance with the provisions of this article; provided, however, that when the costs incurred by SWBT are for work performed in part for Applicant and in part for SWBT and third parties, Applicant shall only reimburse SWBT for Applicant's share of the costs.

ARTICLE 16: INSPECTION BY SWBT OF APPLICANT'S FACILITIES

16.01 SWBT's Right to Make Periodic or Spot Inspections. SWBT shall have the right, but not the duty, to make periodic or spot inspections at any time of any or all

facilities attached to SWBT's poles or placed within SWBT's poles, ducts, conduits, or rights-of-way. Inspections of Applicant's facilities may be conducted for the purpose of determining whether facilities attached to SWBT's poles or placed in SWBT's conduit system are in compliance with the terms of this Agreement and conform to licenses subject to this Agreement. Charges for inspections shall be allocated among all parties benefiting from the inspection in accordance with the Pole Attachment Act and applicable rules, regulations, and commission orders. When an inspection is conducted for the specific purpose of auditing or investigating Applicant's compliance with this Agreement, SWBT may charge Applicant for inspection expenses only if the inspection reflects that Applicant is in substantial noncompliance with the terms of this Agreement. If the inspection reflects that Applicant's facilities are not in compliance with the terms of this Agreement, Applicant shall bring its facilities into compliance promptly after being notified of such noncompliance and shall notify SWBT in writing when the facilities have been brought into compliance.

16.02 Report of Inspection Results. SWBT will provide Applicant the results of any inspection of Applicant's facilities performed under Section 16.01 of this Agreement.

16.03 Post-installation Inspections. This article does not apply to post-installation inspections performed as part of a pre-license survey in those cases when Applicant has occupied space on or in SWBT's poles, ducts, conduits, or rights-of-way prior to the issuance of a license pursuant to Section 8.03 of this Agreement.

ARTICLE 17: TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

17.01 Facilities to Be Marked. Applicant shall tag or otherwise mark all of Applicant's facilities placed on or in SWBT's poles, ducts, conduits, and rights-of-way in a manner sufficient to identify the facilities as Applicant's facilities.

17.02 Removal of Untagged Facilities. Subject to the provisions of subsections (a)-(d) of this section, SWBT may, without notice to any person or entity, remove from SWBT's poles or any part of SWBT's conduit system any untagged or unmarked facilities, including any such facilities owned or used by Applicant, if SWBT determines that such facilities are not the subject of a current license authorizing their continued attachment to SWBT's poles or occupancy of SWBT's conduit system and are not otherwise lawfully present on SWBT's poles or in SWBT's conduit system.

- (a) Before removing any such untagged or unmarked facilities, SWBT shall first attempt to determine whether the facilities are being used by Applicant or any other firm, are authorized by any license subject to this Agreement, or are otherwise lawfully present on SWBT's poles or in SWBT's conduit system.

- (b) SWBT shall not remove untagged or unmarked facilities which are thought to be operational without first making reasonable efforts to (1) determine the identity of the owner or other person or entity thought to be responsible for the facilities and (2) give advance written notice to such person or entity.
- (c) If the facilities appear to be facilities of Applicant described in a current license or application subject to this Agreement, or if the facilities appear to be facilities of Applicant otherwise lawfully present on SWBT's poles or in SWBT's conduit system, SWBT shall give written notice to Applicant requesting Applicant to tag or mark the facilities within 60 days and Applicant shall either tag the facilities within the 60-day period, advise SWBT in writing of its schedule for tagging the facilities, or notify SWBT in writing that it disclaims ownership of or responsibility for the facilities. If Applicant disclaims ownership of or responsibility for the facilities, Applicant shall disclose to SWBT the identity of the owner or other person or entity, if any, thought by Applicant to be responsible for the facilities.
- (d) If the facilities appear to be facilities used by Applicant but not subject to a current license granted under this Agreement, the provisions of Sections 17.05-17.12 shall apply.

17.03 Verification That Presently Attached Facilities Are Subject to Existing Licenses. Applicant warrants and represents that, to the best of its information and belief, all facilities presently owned or used by Applicant and attached to SWBT's poles or occupying space within any part of SWBT's conduit system in this State have been disclosed to SWBT and are subject to current licenses or are otherwise lawfully present on or in SWBT's poles, ducts, and conduits. If Applicant determines that any such facilities are not the subject of current licenses, Applicant shall so advise SWBT and promptly apply for licenses for such facilities or remove the facilities from SWBT's poles or conduits. Nothing contained in this section shall be construed as requiring Applicant to make a field audit of its existing facilities to confirm the licensing status of its facilities as a prerequisite to entering into this Agreement.

17.04 Updating of Plant Location Records. Applicant shall furnish SWBT, upon request, with such information as may from time to time be necessary for SWBT to correct and update SWBT's pole and conduit maps and records, cable plat maps, and other plant location records recording or logging assignments of pole, duct, and conduit space.

17.05 Notice to Applicant. If any of Applicant's facilities for which no license is presently in effect are found attached to SWBT's poles or anchors or within any part of SWBT's conduit system, SWBT, without prejudice to other rights or remedies available to SWBT under this Agreement, and without prejudice to any rights or remedies which

may exist independent of this Agreement, shall send a written notice to Applicant advising Applicant that no license is presently in effect with respect to the facilities and that Applicant must, within 60 days, respond to the notice as provided in Section 17.06 of this Agreement.

17.06 Applicant's Response. Within 60 days after receiving a notice under Section 17.05 of this Agreement, Applicant shall acknowledge receipt of the notice and submit to SWBT, in writing, either:

- (a) a denial or disclaimer of ownership or other interest in the facilities, together with an explanation of the factual and claimed legal basis for such denial or disclaimer;
- (b) a statement that the facilities are the subject of a current license, together with an explanation of the factual and claimed legal basis for Applicant's assertion that the facilities are currently licensed, or a statement that no license is required, and an explanation of the factual and claimed legal basis for that assertion; or
- (c) an application for a new or amended license with respect to such facilities, together with a full and complete explanation of the circumstances under which such facilities were attached to, placed within, or allowed to remain on or in SWBT's poles or any part of SWBT's conduit system. Such explanation shall include, at a minimum, the following:
 - (1) the date (or estimated date) when such facilities were attached to SWBT's poles or placed in SWBT's conduit system, and the factual basis supporting Applicant's selection of such date (or estimated date); and
 - (2) the factual basis for Applicant's assertion, if any, that decisions to attach, place or allow the facilities to remain on or in SWBT's poles or conduit system were made in good faith and without intent to circumvent SWBT's pole attachment or conduit occupancy licensing requirements.

17.07 Denial or Disclaimer of Ownership or Other Interest. Applicant's submission to SWBT of a denial or disclaimer of ownership or other interest in the facilities shall constitute Applicant's waiver of any objection Applicant may have to SWBT's removal of the facilities. Submission of such a denial or disclaimer shall not be construed as an agreement by Applicant to pay any charges associated with removal of the facilities and shall be deemed to be a denial of any such responsibility; provided, however, that nothing contained in this section shall prohibit SWBT from invoking the dispute resolution process

or filing suit, in a court of competent jurisdiction, to establish that Applicant is liable to SWBT for the costs of removal notwithstanding its denial or disclaimer.

17.08 Review by SWBT of Licensing Status. Within 15 business days after receiving Applicant's statement that the facilities are the subject of a current license or that no license is required, SWBT shall review Applicant's explanation of the factual and claimed legal basis for Applicant's assertions and shall advise Applicant, in writing, whether it agrees or disagrees with Applicant's assertions. If SWBT agrees with Applicant's assertions, the parties may amend the applicable license and no further action shall be required of Applicant. If SWBT does not accept Applicant's position, Applicant shall, within 15 business days, apply for a new or amended license as provided by Section 17.06(c) of this Agreement.

17.09 Approval of License and Retroactive Charges. If SWBT approves Applicant's application for a new or amended license, Applicant shall be liable to SWBT for all fees and charges associated with the unauthorized attachments as specified in Section 17.10 of this Agreement. The issuance of a new or amended license as provided by this article shall not operate retroactively or constitute a waiver by SWBT of any of its rights or privileges under this Agreement or otherwise.

17.10 Fees and Charges. This section applies to fees and charges with respect to Applicant's facilities placed on or in SWBT pole, duct, or conduit space which has not been assigned to Applicant. Applicant shall be liable to SWBT for all fees and charges associated with any such unauthorized pole attachments or conduit occupancy for which it is responsible. Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from SWBT's poles or conduit system and shall include, but not be limited to, all fees and charges which would have been due and payable if Applicant and its predecessors had continuously complied with all applicable SWBT licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. The parties shall engage in good faith discussions to reach a mutually agreed determination as to the amount due and owing. In some cases, it may be impractical, unduly difficult, or uneconomical to determine the actual amount of fees which would have been due and payable if all licensing requirements had been met. Therefore, if the parties, through good faith discussions fail to reach agreement on the amount due and owing, and if the amount due and owing cannot be determined due to Applicant's inability to provide the information required to determine the correct amount, the amount owing with respect to each unauthorized attachment or occupancy shall be equal to three times the annual attachment and occupancy fees in effect on the date Applicant is notified by SWBT of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Applicant shall rearrange or remove its unauthorized facilities at SWBT's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to SWBT or another joint user, and shall pay SWBT for all costs incurred by SWBT in connection with any

facilities rearrangements, modifications, or replacements necessitated as a result of the presence of Applicant's unauthorized facilities.

17.11 Removal of Unauthorized Attachments. If Applicant does not apply for a new or amended pole attachment license with respect to unauthorized facilities within the specified period of time, or if such application is received and specifically disapproved, SWBT shall by written notice request to Applicant to remove its unauthorized facilities not less than 60 days from the date of notice and Applicant shall remove the facilities within the time specified in the notice; provided, however, that SWBT may request Applicant to remove such facilities at an earlier date if such earlier removal is necessary for reasons beyond SWBT's control. If the facilities have not been removed within the time specified in the notice, SWBT may, at SWBT's option, remove Applicant's facilities at Applicant's expense.

17.12 No Ratification of Unlicensed Attachments or Unauthorized Use of SWBT's Facilities. No act or failure to act by SWBT with regard to any unlicensed attachment or occupancy or unauthorized use of SWBT's facilities shall be deemed to constitute a ratification by SWBT of the unlicensed attachment or occupancy or unauthorized use, nor shall the payment by Applicant of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Applicant from civil or criminal liability for any deliberate trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

ARTICLE 18: REMOVAL OF APPLICANT'S FACILITIES

18.01 Responsibility for Removing Facilities. Applicant shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from SWBT's poles, ducts, conduits, and rights-of-way. Such removals shall be performed in accordance with the provisions of this article.

- (a) When practicable, Applicant shall give SWBT at least 30 days' advance notice in writing of its intent to remove facilities from any part of SWBT's conduit system and the proposed method of removal. The notice shall include the locations of the facilities to be removed, the name and telephone number of the manager responsible for removal of the facilities, and the estimated dates when removal of the facilities will begin and end.
- (b) Applicant shall, if requested by SWBT to do so, place a pull mandrel (slug) through all or any specified part of the duct which was occupied by Applicant.
- (c) Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to SWBT's manholes (if SWBT would itself plug the ducts

under the same circumstances) in accordance with the standards set by SWBT for its own operations, provided that such standards have been communicated in writing to Applicant at least 60 days in advance of the removal of Applicant's facilities.

- (d) Applicant shall be solely responsible for the removal of its own facilities from SWBT's poles, ducts, conduits, and rights-of-way and for (1) paying all persons and entities which provide materials, labor, access to real or personal property, or other goods or services in connection with the removal of Applicant's facilities from SWBT's poles, ducts, conduits, or rights-of-way and (2) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.
- (e) When Applicant no longer intends to occupy space on a SWBT pole or in a SWBT duct or conduit, Applicant will provide written notification to SWBT that it wishes to terminate the license with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Applicant's facilities, the license shall terminate and the space shall be available for reassignment.

18.02 Removal of Facilities Not in Active Use. At SWBT's request, Applicant shall remove from SWBT's poles, ducts, conduits, and rights-of-way any of Applicant's facilities which are no longer in active use; provided, however, that Applicant shall not be required to remove such facilities when due cause and justification exists for allowing them to remain in place. Applicant shall not be required to remove retired or inactive (dead) cables that have been overlashed by other facilities which remain in active use unless removal expenses are paid by the person or entity requesting removal of such facilities. Applicant shall not be required to remove cables that would require excavation to remove unless the person or entity requesting removal of such cables bears the expenses of such excavation in a manner analogous to the provisions of Section 10.02(c) of this Agreement. Applicant shall not abandon any of its facilities by leaving them on SWBT's poles, in SWBT's ducts, conduits, or rights-of-way, at any location where they may block or obstruct access to SWBT's poles or any part of SWBT's conduit system, or on any public or private property (other than property owned or controlled by Applicant) in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

18.03 Removal Following Termination of License. Applicant shall remove its facilities from SWBT's poles, ducts, conduits, or rights-of-way within 60 days, or within such other period of time as shall be mutually agreeable to the parties, after termination of the license authorizing the attachment of such facilities to SWBT's poles or the placement of such facilities in SWBT's ducts, conduits, or rights-of-way.

18.04 Removal Following Replacement of Facilities. Applicant shall remove facilities no longer in service from SWBT's poles or conduit system within 60 days, or

within such other period of time as shall be mutually agreeable to the parties, after the date Applicant replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit; provided, however, that removal of facilities from the maintenance duct shall be governed by Sections 12.04, 13.03, and 15.02 of this Agreement and not by this section.

18.05 Removal to Avoid Forfeiture. If the presence of Applicant's facilities on SWBT's poles or in SWBT's ducts, conduits, or rights-of-way would cause a forfeiture of the rights of SWBT to occupy the property where such pole, duct, conduit, or right-of-way is located, SWBT will promptly notify Applicant in writing and Applicant shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. SWBT will give Applicant not less than 60 days from the date of notice to remove Applicant's facilities unless prior removal is required to prevent the forfeiture of SWBT's rights. At Applicant's request, the parties will engage in good faith negotiations with each other, with joint users, and with third-party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Applicant's facilities in the face of a threatened forfeiture.

18.06 Notice of Completion of Removal Activities. Applicant shall give written notice to SWBT stating the date on which the removal of its facilities from SWBT's poles, ducts, conduits, and rights-of-way has been completed. Charges shall continue to accrue with respect to such facilities until Applicant's facilities have been removed, pull mandrels (slugs) have been pulled if required by Section 18.01(b) of this Agreement, Applicant has plugged all previously occupied ducts at the entrances to SWBT's manholes as required by Section 18.01(c) of this Agreement, and the notice required by this section has been given.

18.07 Removal of Facilities by SWBT; Notice of Intent to Remove. If Applicant fails to remove its facilities from SWBT's poles, ducts, or conduits in accordance with the provisions of Sections 18.01-18.06 of this Agreement, SWBT may remove such facilities and store them at Applicant's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Applicant for any injury, loss, or damage resulting from such actions. SWBT shall give Applicant not less than 60 days prior written notice of its intent to remove Applicant's facilities pursuant to this section. The notice shall state:

- (a) the date when SWBT plans to commence removal of Applicant's facilities, and that Applicant may remove the facilities at Applicant's sole cost and expense at any time before the date specified;
- (b) SWBT's plans with respect to disposition of the facilities removed; and
- (c) that Applicant's failure to remove the facilities or make alternative arrangements with SWBT for removal and disposition of the facilities

shall constitute an abandonment of the facilities and of any interest therein.

18.08 Removal of Facilities by SWBT. If SWBT removes any of Applicant's facilities pursuant to this article, Applicant shall reimburse SWBT for SWBT's costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

18.09 Reattachment or Subsequent Attachment Following Removal. After Applicant's facilities have been properly removed pursuant to the provisions of this article, neither the removed facilities nor replacement facilities shall be attached to SWBT's poles or placed in SWBT's conduit system until Applicant has first submitted new applications for the facilities and complied with the provisions of this Agreement.

ARTICLE 19: RATES, FEES, CHARGES, AND BILLING

19.01 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees set forth in this Agreement, including rates, charges and fees set forth in APPENDIX I (Schedule of Rates, Fees, and Charges), shall be subject to all applicable federal and state laws, rules, regulations, and commission orders, including but not limited to (a) the Pole Attachment Act and rules, regulations, and commission orders issued thereunder and (b) applicable orders of the State Commission in interconnection arbitration proceedings.

19.02 Schedule of Rates, Fees, and Charges. SWBT's current schedule of rates, fees, and charges is attached to this Agreement as APPENDIX I and incorporated herein as an integral part of this Agreement.

19.03 Pole Attachment and Conduit Occupancy Fees. Until such time as the FCC authorizes the charging of different rates to cable television systems and telecommunications carriers, SWBT's annual rates for access to poles, ducts, conduits, and rights-of-way shall be the same for cable television systems and telecommunications carriers. For all attachments to SWBT's poles and occupancy of SWBT's ducts and conduits, Applicant will pay SWBT's semiannual pole attachment and conduit occupancy fees as specified in APPENDIX I. Pole attachment and conduit occupancy fees shall be assessed and billed with respect to (a) occupied space whether or not subject to a current license and (b) assigned space as well as occupied space. Fees for pole attachments shall be based on the number of Applicant's pole attachments as of the date of billing by SWBT and shall be calculated in accordance with applicable FCC rules, regulations, and orders. Fees for conduit occupancy shall be based on the number of duct feet occupied by or assigned to Applicant as of the date of billing by SWBT and shall be calculated in accordance with applicable FCC rules, regulations, and orders.

19.04 Billing for and Payment of Pole Attachment and Conduit Occupancy Fees. Pole Attachment and conduit occupancy fees under this Agreement and licenses subject to this Agreement shall be payable semiannually in advance.

- (a) Bills shall be submitted to Applicant for two semiannual billing periods, the first period including charges for the months of January through June and the second including charges for the months of July through December.
- (b) Charges associated with newly licensed pole attachments and conduit occupancy shall be prorated on a daily basis and billed with the next semiannual bill.
- (c) Charges shall be adjusted and retroactively prorated on a daily basis following the removal of Applicant's facilities (in accordance with Article 18) and shall be retroactively adjusted as a credit on the next semiannual bill.

19.05 Application Fees. SWBT does not currently charge application fees for individual license applications or assignment requests under this Agreement. SWBT does, however, impose charges, on a case-by case basis, for work performed in processing applications for access and preparing SWBT's poles, ducts, conduits, and rights-of-way to accommodate the facilities of parties seeking access.

19.06 Charges for Pre-license Survey Work. Subject to applicable commission orders, Applicant will pay SWBT's charges for pre-license survey work associated with the processing of Applicant's request for access. SWBT's pre-license survey charges are not set on a fixed fee basis and will vary from case-to-case depending on such factors as the number and location of the poles, ducts, conduits, and rights-of-way subject to Applicant's access request, the completeness and quality of information submitted by the Applicant in its application, the nature of the facilities to be placed by Applicant, and the nature and extent of facilities modification, capacity expansion, and make-ready work proposed by Applicant.

19.07 Charges for Facilities Modifications, Capacity Expansions, and Make-ready Work. Subject to applicable commission orders, Applicant will pay SWBT's charges for facilities modification, capacity expansion, and make-ready work performed by SWBT, or by persons acting on SWBT's behalf, as provided in other provisions of this Agreement and APPENDIX I.

19.08 Contract Administration Fee. Subject to applicable commission orders, SWBT may charge Applicant a one-time contract administration fee as provided in APPENDIX I. This fee, if applicable, shall be assessed for work performed in the initial processing of this Agreement and shall be non-refundable upon acceptance of this Agreement by SWBT.

19.09 Administrative Record-keeping Fees. Subject to applicable commission orders, SWBT may charge Applicant cost-based administrative record-keeping fees (e.g., fees associated with records and billing changes resulting from the sale, consolidation, or other transfer of Applicant's business or facilities, name changes, and the like) as provided in APPENDIX I.

19.10 Charges for Work Performed by SWBT Employees. Except as otherwise specifically required by applicable commission orders, SWBT's charges to Applicant for work performed by SWBT employees pursuant to this Agreement shall be computed by multiplying the fully loaded hourly rates for such employees times the number of hours required to perform the work. Disputes over SWBT's charges for work performed by SWBT employees, including disputes between the parties concerning the number of hours required to perform the work, shall be subject to the dispute resolution procedures of Article 30. Notwithstanding the execution of this Agreement, Applicant shall have the right to challenge the methodology utilized by SWBT to determine hourly rates for SWBT employees at any time in any forum having jurisdiction over the subject matter.

19.11 Due Date for Payment, Interest on Past Due Invoices, Remedies for Non-payment, and Procedures for Disputing Charges. 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. Applicant will pay each such bill or invoice on or before the stated due date. 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.

- (a) Interest on past due bills and invoices shall accrue at the rate of 12% per annum, or the maximum rate allowed by law, whichever is less.
- (b) Applicant's failure to pay SWBT's fees and charges shall be grounds for terminating this Agreement and licenses subject to this Agreement.
- (c) If Applicant fails to pay, when due, any fees or charges billed to Applicant under this Agreement, and any portion of such fees or charges remains unpaid more than 15 calendar days after the due date, SWBT may send Applicant a written notice advising Applicant that this Agreement, or specified licenses subject to this Agreement, may be terminated if such fees or charges are not paid within 15 calendar days after the date of the notice. Applicant must remit to SWBT all such unpaid fees or charges, whether disputed or undisputed, within 15 days after the date of the notice. If Applicant pays disputed fees under protest, and it is later determined that such fees or any portion thereof should be refunded, the portion of fees to be refunded shall be refunded

with interest at the rate of 12% per annum or the maximum rate allowed by law, whichever is less.

- (d) Applicant may dispute any fees or charges billed by SWBT to Applicant under this Agreement by invoking the dispute resolution procedures set forth in Article 30 of this Agreement.
- (e) If Applicant does not dispute such fees or charges and any portion of such undisputed fees or charges remains unpaid 30 calendar days after the date of the notice, SWBT may, to the extent permitted by the Pole Attachment Act and applicable rules, regulations, and commission orders, terminate this Agreement and licenses subject to this Agreement, suspend the processing of pending applications for access to SWBT's poles, ducts, conduits, and rights-of-way located in this State, and refuse to accept further applications for access until such undisputed fees or charges, together with accrued interest thereon, have been paid in full.

19.12 Modification of Rates, Fees and Charges. Subject to applicable federal and state laws, rules, regulations, and commission orders, SWBT shall have the right to modify all rates, charges and fees set forth in this Agreement, including but not limited to those listed in APPENDIX I, as provided in this section.

- (a) Upon written notice to Applicant, SWBT may change, on a going-forward basis, the amounts of any rates, fees or charges assessed under this Agreement. Pole attachment and conduit occupancy rates shall not be increased more than once annually.
 - (1) The notice shall state the effective date of the changes, which, in the event of a rate increase, shall be no earlier than the 60th day after the notice is given.
 - (2) The changes shall be effective on the effective date stated in the notice unless stayed or prohibited by a court or agency of competent jurisdiction.
 - (3) The changes shall be reflected on the first semiannual bill issued on or after the effective date specified in the notice.
- (b) If the rates, fees and charges set forth in the notice are not acceptable to Applicant, Applicant may, notwithstanding any other provisions of this Agreement, at Applicant's option (1) seek the renegotiation of this Agreement, (2) terminate this Agreement, or (3) seek relief through the dispute resolution process or before a court or agency of competent jurisdiction.

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19.15 Disputes Over Charging Methodologies. The parties acknowledge that the Pole Attachment Act grants the FCC regulatory authority over the rates, terms, and conditions of access to poles, ducts, conduits, and rights-of-way. The parties further acknowledge that, as of the date of this Agreement, this State has not elected to assume reverse preemptive regulatory authority over such rates, terms, and conditions by certifying to the FCC that it has made such election. Accordingly, complaints concerning and challenges to SWBT's charging methodologies shall be brought, in the first instance, before the FCC in accordance with FCC procedural rules unless this State elects to preempt FCC regulation of pole attachment rates, terms, and conditions of access; provided, however, that nothing contained in this section shall be construed as affecting the right of either party to seek relief from any court or agency of competent jurisdiction in connection with the negotiation, arbitration, and approval of interconnection agreements under 47 U.S.C. § 252.

ARTICLE 20: PERFORMANCE AND PAYMENT BONDS

20.01 Bond May Be Required. SWBT may require Applicant, authorized contractors, and other persons acting on Applicant's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of their respective obligations arising out of or in connection with this Agreement only as provided in subsections (a)-(b) of this section and Section 20.02. Bonds shall not be required for entities meeting all self-insurance requirements of Section 23.02 of this Agreement.

- (a) If Applicant elects to perform make-ready or facilities modification work under Section 6.08(c) or Sections 10.02-10.05 of this Agreement, SWBT may require Applicant, authorized contractors, and other persons acting on Applicant's behalf to execute bonds equivalent to those which would be required by SWBT if the work had been performed by contractors, subcontractors, or other persons selected directly by SWBT. No bonds shall be required of Applicant, authorized contractors, or other persons acting on Applicant's behalf except in those situations where a bond would be required if the work were being performed on SWBT's behalf.
- (b) No other bond shall be required of Applicant to secure obligations arising under this Agreement in the absence of due cause and justification.
- (c) If a bond or similar form of assurance is required of Applicant, an authorized contractor, or other person acting on Applicant's behalf, Applicant shall promptly submit to SWBT, upon request, adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be cancelled, changed or materially altered without first providing SWBT 60 days written notice.

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- (d) SWBT may communicate directly with the issuer of any bond required by SWBT pursuant to this section to verify the terms of the bond, to confirm that the bond remains in force, and to make demand on the issuer for payment or performance of any obligations secured by the bond.

20.02 Payment and Performance Bonds in Favor of Contractors and Subcontractors. Applicant shall be responsible for paying all employees, contractors, subcontractors, mechanics, materialmen and other persons or entities performing work or providing materials in connection with (a) the performance of facilities modification, capacity expansion, or make-ready work by Applicant, authorized contractors, or other persons acting on Applicant's behalf under Sections 6.08(c) and 10.02-10.05 of this Agreement or (b) the construction, attachment, use, inspection, maintenance, repair, rearrangement, modification, and removal of any of Applicant's facilities attached or to be attached to SWBT's poles or placed or to be placed within SWBT's ducts, conduits, or rights-of-way. In the event any claim or demand is made on SWBT by any such employee, contractor, subcontractor, mechanic, materialman, or other person or entity providing such materials or performing such work, SWBT may require, in addition to any security provided under Section 20.01 of this Agreement, that Applicant execute payment or performance bonds, or provide such other security, as SWBT may deem reasonable or necessary to protect SWBT from any such claim or demand.

ARTICLE 21: INDEMNIFICATION

21.01 Risks Associated with Outside Plant Operations. The parties acknowledge that SWBT's outside plant facilities include thousands of miles of pole lines, conduits, and rights-of-way located on public and private property throughout SWBT's service area, that SWBT cannot control or continuously monitor activities that occur at these sites, and that the risks associated with outside plant operations and facilities are not similar to the risks associated with operations occurring inside SWBT's central offices and other secure SWBT buildings and structures. The parties further acknowledge that the presence of multiple firms on or in poles, ducts, conduits, and rights-of-way owned or controlled by SWBT requires that liability risks be fairly allocated between the parties and that it is the parties' intent to allocate such risks in a just, reasonable, and nondiscriminatory manner which addresses known risks associated with the outside plant environment and activities and conditions at outside plant locations.

21.02 Control of Premises. Applicant acknowledges that its employees and other persons acting on Applicant's behalf, and employees of joint users and other persons acting on behalf of joint users, will be present, without supervision or control by SWBT, and in many cases without SWBT's knowledge, on, within, and in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. During those times when Applicant's employees and personnel are present at such sites, Applicant shall be deemed, for the purpose of allocating liabilities between the parties, to be an independent contractor in control of the premises except as otherwise provided in this section. Although SWBT inspectors may be present at the site of work being performed by Applicant or persons

acting on Applicant's behalf, such inspectors shall have no authority to direct Applicant or personnel acting on Applicant's behalf concerning the method or manner by which the work is to be performed, and the presence of a SWBT inspector shall not result in SWBT's being deemed to be in control of the premises. When both parties are present and performing work operations at a site subject to this section, SWBT and Applicant shall be deemed to be jointly in control of the premises. When poles, ducts, conduits, or rights-of-way occupy property owned by third parties, neither party shall be deemed to be in control of the premises, except as otherwise provided by law, at times when such party's work operations are not in progress. Work operations shall be considered to be in progress from the time work commences until such work is completed whether or not employees of a party or persons acting on such party's behalf are actually present at the site.

21.03 INDEMNITY AGAINST AND LIMITATIONS OF LIABILITY WITH RESPECT TO CERTAIN NEGLIGENT ACTS AND OMISSIONS. THIS ARTICLE INCLUDES PROVISIONS INDEMNIFYING EACH PARTY FROM LIABILITIES ARISING OUT OF OR IN CONNECTION WITH CERTAIN NEGLIGENT ACTS AND OMISSIONS OF SUCH PARTY. THIS ARTICLE ALSO INCLUDES PROVISIONS LIMITING THE LIABILITIES OF EACH PARTY ARISING OUT OF OR IN CONNECTION WITH CERTAIN NEGLIGENT ACTS AND OMISSIONS OF SUCH PARTY.

21.04 Indemnities Excluded. Except as otherwise specifically provided in this article, neither party (as an "indemnifying party") shall be required to indemnify or defend the other party (as an "indemnified party") against, or hold the indemnified party harmless from, any suit, claim, demand, loss, damage, liability, fine, penalty, or expense arising out of:

- (a) any breach by the indemnified party of any provision of this Agreement or any breach by the indemnified party of the parties' interconnection agreement, if any;
- (b) the violation of any law by any employee of the indemnified party or other person acting on the indemnified party's behalf;
- (c) willful or intentional misconduct or gross negligence committed by any employee of the indemnified party or by any other person acting on the indemnified party's behalf; or
- (d) any negligent act or acts committed by any employee of the indemnified party or other person acting on the indemnified party's behalf, if such negligent act or acts are the sole producing cause of the injury, loss, or damage giving rise to the suit, claim, demand, loss, damage, liability, fine, penalty, or expense for which indemnity is requested.

21.05 Workplace Injuries. The parties acknowledge that injuries may occur at sites where work is being performed by or for either party and that primary responsibility for preventing workplace injuries shall be placed on the party controlling work operations at the site. Workplace injuries may result from any of variety of causes, including but not limited to electrocution associated with contact with electric power lines on poles or use of defective equipment, falls from poles resulting from the negligence of the injured person or co-workers or due to the existence of unsafe conditions on or in the vicinity of the pole, cave-ins and other accidents at excavation sites, explosion of combustible gases within or in the vicinity of a conduit system, exposure to hazardous substances or noxious gases at the site, acts of God, and acts and omissions of third parties over whom neither party has control. Except as expressly provided in this Agreement to the contrary, each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, or expenses of every kind and character, on account of or in connection with any injury, loss, or damage suffered by any person, which arises out of or in connection with the personal injury or death of any employee of the indemnifying party (or other person acting on the indemnifying party's behalf) if such injury or death results, in whole or in part, from any occurrence or condition on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way; provided, however, that Applicant's indemnification duties under this section shall arise only if the person injured is present at such site in connection with the performance or anticipated performance of any act required or permitted to be performed by Applicant or by persons acting on Applicant's behalf pursuant to this Agreement. Indemnities provided by this section shall be subject to the exclusions set forth in Section 21.04 and include but are not limited to indemnities arising out of or in connection with claims arising from or in any way connected with any injury, sickness, disease, or death of any employee of the indemnifying party or any person acting on the indemnifying party's behalf attributable or allegedly attributable to occurrences or conditions on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way. EXCEPT AS PROVIDED ABOVE IN SUBSECTIONS 21.04(c)-(d), THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION SHALL ARISE EVEN IF THE INJURY, SICKNESS, DISEASE, OR DEATH WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.

21.06 Other Claims Brought Against Either Party by Employees and Other Persons Acting on the Other Party's Behalf. Nothing contained in this Agreement shall create any contractual liability or other liability on the part of either party to any employee, contractor, or subcontractor of the other party or any other person acting on the other party's behalf. Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, or expenses of every kind and character (other than workplace injury claims subject to Section 21.05 above) made, brought, or sought against the indemnified party by any employee, contractor, or subcontractor of the indemnifying party or by any other person acting on the indemnifying party's behalf; provided, however, that this section shall apply only to suits, claims, demands, losses, damages, liabilities, or expenses related to the subject

matter of this Agreement. Indemnities provided by this section shall be subject to the exclusions set forth in Section 21.04 and include but are not limited to indemnities arising out of or in connection with claims arising from or in any way connected with the employment relationship or other claimed relationship between the indemnifying party and the employee, contractor, subcontractor, or other person acting on the indemnifying party's behalf; claims arising out of disputes over payments due or allegedly due to any employee, contractor, subcontractor, or other person acting on the indemnifying party's behalf; and claims arising out of other contract disputes between the indemnifying party and the employee, contractor, subcontractor, or other person acting on the indemnifying party's behalf. EXCEPT AS PROVIDED ABOVE IN SUBSECTIONS 21.04(c)-(d), THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION SHALL ARISE EVEN IF THE INJURY, LOSS, OR DAMAGE GIVING RISE TO THE INDEMNIFICATION CLAIM WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.

21.07 Claims Brought Against Either Party by Vendors, Suppliers, Customers, and other Persons in Privity of Contract with the Other Party. The parties acknowledge that neither party controls the contractual relationships between the other party and vendors, suppliers, customers, and other persons in privity of contract with the other party and that nothing contained in this Agreement shall create any contractual or other liability of either party to any vendor, supplier, customer, or other person or entity in privity of contract with the other party. Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, or expenses of every kind and character, made, brought, or sought against the indemnified party by any vendor, supplier, or customer of the indemnifying party or by any other person or entity in privity with the indemnifying party; provided, however, that this section shall apply only to suits, claims, demands, losses, damages, liabilities, or expenses related to the subject matter of this Agreement or Applicant's use of SWBT's poles, ducts, conduits, or rights-of-way. The indemnifying party may not, as a defense to any obligations of the indemnifying party under this section, assert that the indemnified party's claims against the indemnifying party are barred by any tariff or contract limitation of liability applicable to the indemnifying party's vendor, supplier, or customer or to such other person in privity of contract with the indemnifying party. Indemnities provided by this section shall be subject to the exclusions set forth in Section 21.04 and include but are not limited to indemnities for claims against either party arising out of or in connection with the failure by the other party to meet its obligations (including but not limited to contract and tariff obligations) to such other party's customers and suppliers. EXCEPT AS PROVIDED ABOVE IN SUBSECTIONS 21.04(c)-(d), THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION SHALL ARISE EVEN IF THE INJURY, LOSS, OR DAMAGE GIVING RISE TO THE INDEMNIFICATION CLAIM WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.

21.08 Claims Brought Against Either Party by Such Party's Own Employees, Contractors, Subcontractors, or Other Persons Acting on Such Party's Behalf, and Claims

Brought Against Either Party by Such Party's Own Vendors, Suppliers, Customers, or Other Persons in Privity of Contract with Such Party. Neither party shall be entitled to indemnity, contribution, or subrogation from or by the other party with respect to any suits, claims, demands, losses, damages, liabilities, or expenses, of any kind or character, made, brought, or sought against such party by any employee, contractor, or subcontractor of such party, by any other person acting on behalf of such party, by any vendor, supplier, or customer of such party, or by any other person or entity in privity of contract with such party, if such suit, claim, demand, loss, damage, liability, or expense arises directly out of or in connection with the subject matter of this Agreement or the use by Applicant of SWBT's poles, ducts, conduits, or rights-of-way. Indemnities excluded by this section include, but are not limited to, indemnities for claims against either party arising out of or in connection with employment-related disputes between either party and its employees; claims against either party by contractors, subcontractors, and suppliers performing work or supplying materials to SWBT sites at the request of such party; and other failures by either party to meet its obligations (including but not limited to contract and tariff obligations) to such party's own customers and suppliers. THE INDEMNIFICATION EXCLUSIONS OF THIS SECTION SHALL APPLY EVEN IF THE INJURY, LOSS, OR DAMAGE GIVING RISE TO THE INDEMNIFICATION CLAIM WAS ATTRIBUTABLE IN PART TO THE NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFYING PARTY BUT SHALL NOT APPLY IF THE INJURY, LOSS, OR DAMAGE GIVING RISE TO THE INDEMNIFICATION CLAIM AROSE FROM WILLFUL OR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE COMMITTED BY ANY EMPLOYEE OF THE INDEMNIFYING PARTY OR ANY OTHER PERSON ACTING ON THE INDEMNIFYING PARTY'S BEHALF OR AROSE FROM ANY NEGLIGENT ACT OR ACTS COMMITTED BY ANY EMPLOYEE OF THE INDEMNIFYING PARTY OR OTHER PERSON ACTING ON THE INDEMNIFYING PARTY'S BEHALF, IF SUCH NEGLIGENT ACT OR ACTS ARE THE SOLE PRODUCING CAUSE OF THE INJURY, LOSS, OR DAMAGE GIVING RISE TO THE SUIT, CLAIM, DEMAND, LOSS, DAMAGE, LIABILITY, FINE, PENALTY, OR EXPENSE FOR WHICH INDEMNITY IS REQUESTED.

21.09 Injuries to Third Parties and Third-party Property Owners Resulting from the Parties' Conduct. Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, or expenses, of every kind and character, on account of or in connection with the personal injury or death of any third party or physical damage to real or personal property owned by a third party, arising, in whole or in part, out of or in connection with the conduct of employees of the indemnifying party or other persons acting on the indemnifying party's behalf while such employees or other persons are present on, within, or in the vicinity of any SWBT pole, duct, conduit, or right-of-way in connection with the performance or anticipated performance of any act required or authorized to be performed pursuant to this Agreement. Indemnities provided by this section shall be subject to the exclusions set forth in Section 21.04 and include but are not limited to indemnities arising out of or in connection with personal injury, death, and property damage claims by third

parties based on willful or intentional misconduct and negligent acts and omissions of the indemnifying party.

21.10 Indemnification for Environmental Claims. The parties acknowledge that hazardous substances may be present on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way; that employees and other persons acting on the parties' behalf working on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way should be familiar with environmental laws and environmental concerns which arise in outside plant contexts; that all such employees and other persons should be prepared to recognize and deal with environmental contingencies existing at specific sites; and that liabilities associated with environmental claims arising out of or in connection with the subject matter of this Agreement shall be allocated between the parties as set forth in this section.

- (a) Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, or expenses, of every kind and character, on account of or in connection with any injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the violation or breach, by any employee of the indemnifying party or other person acting on the indemnifying party's behalf, of (1) any federal, state, or local environmental statute, rule, regulation, ordinance, or other law or (2) any provision or requirement of this Agreement dealing with hazardous substances or protection of the environment.
- (b) Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, or expenses, of every kind and character, on account of or in connection with any injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the release or discharge, onto any public or private property, of any hazardous substances, regardless of the source of such hazardous substances, by any employee of the indemnifying party, or by any person acting on the indemnifying party's behalf, while present on, within, or in the vicinity of any SWBT pole, duct, conduit, or right-of-way. Indemnities provided by this subsection include but are not limited to indemnities arising out of or in connection with the release or discharge of water and other substances from SWBT's manholes or other conduit facilities.
- (c) Each party shall indemnify, on request defend, and hold the other party harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, or expenses, of every kind and character, on account of or in connection with any injury, loss, or damage to any person or property, or to the environment, arising out of or in connection

with the removal or disposal of any hazardous substances by the indemnifying party or by any person acting on the indemnifying party's behalf, or arising out of or in connection with the subsequent storage, processing or other handling of such hazardous substances by any person or entity after they have been removed by the indemnifying party or persons acting on the indemnifying party's behalf from the site of any SWBT pole, duct, conduit, or right-of-way. For the purposes of this subsection, any person or entity removing or disposing of hazardous substances at the request of the indemnifying party or at the request of any person acting on the indemnifying party's behalf, and any person or entity subsequently receiving, storing, processing, or otherwise handling such hazardous substances shall be considered to be a person acting on the indemnifying party's behalf.

- (d) Except as otherwise specifically provided in this section, neither party shall be required to indemnify or defend the other party against, or hold the other party harmless from any loss, damage, claim, demand, suit, liability, fine, penalty or expense for which the other party may be liable under any federal, state, or local environmental statute, rule, regulation, ordinance, or other law.

21.11 Miscellaneous Claims. Applicant shall indemnify, on request defend, and hold SWBT harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, and expenses, of every kind and character, made, brought, or sought against SWBT by any person or entity, arising out of or in connection with the subject matter of this Agreement and based on either:

- (a) claims for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on SWBT due to the placement or presence of Applicant's facilities on or within SWBT's poles, ducts, conduits, or rights-of-way; or
- (b) claims based on the violation by Applicant of any third party's intellectual property rights, including but not limited to claims for copyright infringement, patent infringement, or unauthorized use or transmission of television or radio broadcast programs or other program material.

21.12 Applicant's General Indemnity Obligations to SWBT. This section applies only in those situations not expressly covered by Sections 21.05-21.11 and does not apply to any suit, claim, demand, loss, damage, or expense resulting from Applicant's enforcement of its rights against SWBT pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, and subject to the exclusions set forth in Section 21.04, Applicant shall indemnify, on request defend, and hold SWBT harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, and expenses, of every

kind and character, on account of or in connection with any injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with Applicant's access to or use of SWBT's poles, ducts, conduits, or rights-of-way, Applicant's performance of any acts authorized under this Agreement, or the presence or activities of Applicant's employees or other personnel acting on Applicant's behalf on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

21.13 SWBT's General Indemnity Obligations to Applicant. This section applies only in those situations not expressly covered by Sections 21.05-21.10 and does not apply to any suit, claim, demand, loss, damage, or expense resulting from SWBT's enforcement of its rights against Applicant pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, SWBT shall indemnify, on request defend, and hold Applicant harmless from any and all suits, claims, demands, losses, damages, liabilities, fines, penalties, and expenses, of every kind and character, on account of or in connection with any injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with SWBT's access to or use of SWBT's poles, ducts, conduits, or rights-of-way, SWBT's performance of any acts authorized under this Agreement, or the presence or activities of SWBT's employees or other personnel acting on SWBT's behalf on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

21.14 No Rights, Claims, Causes of Action, or Remedies for the Benefit of Third Parties. Nothing contained in this article is intended to create any rights, claims, causes of action, or remedies for the benefit of any third party.

21.15 Assertion of Limitation of Liability Defenses. Each party shall diligently assert the limitation of liability provisions of any applicable tariff or contract in any case involving injury, loss, or damage to any customer of such party for which the other party is not exempt from indemnification liabilities to the indemnified party under this Agreement.

21.16 Indemnity Liabilities Not Subject to Article 22 Limitations of Liability. Indemnity liabilities under this article shall not be subject to Article 22 limitations of liability.

21.17 Defense of Suits. Upon request by the indemnified party, the indemnifying party shall defend any suit brought against the indemnified party for any injury, loss, or damage subject to indemnification under this Agreement. The indemnified party shall notify the indemnifying party promptly in writing of any written claims, lawsuits, or demands for which the indemnifying party may be responsible under this Agreement. The indemnified party shall cooperate in every reasonable way to facilitate defense or settlement. The indemnifying party shall have the right to control and conduct the defense and settlement of any action or claim subject to consultation of the indemnified party. The indemnifying party shall not be responsible for any settlement unless the indemnifying

party approved such settlement in advance and agrees to be bound by the settlement agreement.

ARTICLE 22: LIABILITIES AND LIMITATIONS OF LIABILITY

22.01 LIMITATIONS OF LIABILITY WITH RESPECT TO NEGLIGENT ACTS AND OMISSIONS. THIS ARTICLE INCLUDES PROVISIONS LIMITING THE LIABILITIES OF EACH PARTY ARISING OUT OF OR IN CONNECTION WITH CERTAIN NEGLIGENT ACTS AND OMISSIONS OF SUCH PARTY.

22.02 LIMITATIONS OF LIABILITY IN GENERAL. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTIONS 21.16 AND 22.05, NEITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DAMAGES ATTRIBUTABLE, IN WHOLE OR IN PART, TO ANY NEGLIGENT ACT OR OMISSION IN THE PERFORMANCE OF THIS AGREEMENT, WHETHER ARISING IN CONTRACT OR TORT, SHALL EXCEED IN THE AGGREGATE FOR ANY CALENDAR YEAR THE GREATER OF \$250,000, OR THE TOTAL AMOUNT CHARGED BY SWBT TO APPLICANT UNDER THIS AGREEMENT FOR THE CALENDAR YEARS WHEN THE ACTS OR OMISSIONS GIVING RISE TO LIABILITY OCCURRED. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS LIMITING EITHER PARTY'S LIABILITY FOR ACTS OR OMISSIONS CONSTITUTING WILLFUL OR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE BY SUCH PARTY.

22.03 EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION LIMITS EACH PARTY'S LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OR OMISSIONS OF SUCH PARTY BUT DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INTENTIONAL MISCONDUCT.

22.04 SWBT Not Liable to Applicant for Acts of Third Parties or Acts of God. By affording Applicant access to poles, ducts, conduits, and rights-of-way owned or controlled by SWBT, SWBT does not warrant, guarantee, or insure the uninterrupted use of such facilities by Applicant. Except as specifically provided in Section 22.05 of this Agreement, Applicant assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Applicant's facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, or rights-of-way, and SWBT shall not be liable to

Applicant for any damages to Applicant's facilities other than as provided in Section 22.05. In no event shall SWBT be liable to Applicant under this Agreement for any injury, loss, or damage resulting from the acts or omissions of (1) any joint user or any person acting on a joint user's behalf, (2) any governmental body or governmental employee, (3) any third-party property owner or persons acting on behalf of such property owner, or (4) any licensee, invitee, trespasser, or other person present at the site or in the vicinity of any SWBT pole, duct, conduit, or right-of-way in any capacity other than as a SWBT employee or person acting on SWBT's behalf. In no event shall SWBT be liable to Applicant under this Agreement for injuries, losses, or damages resulting from acts of God (including but not limited to storms, floods, fires, and earthquakes), wars, civil disturbances, espionage or other criminal acts committed by persons or entities not acting on SWBT's behalf, cable cuts by persons other than SWBT's employees or persons acting on SWBT's behalf, or other causes beyond SWBT's control which occur at sites subject to this Agreement.

22.05 Damage to Facilities. Except as otherwise specifically provided in this section, neither party shall be liable to the other party for any injury, loss, or damage (or for the direct or indirect consequences of any such injury, loss, or damage) to such other party's facilities attached to SWBT's poles or placed within or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.

- (a) Each party (the "responsible party"), and persons acting on behalf of the responsible party, shall exercise due care to avoid damaging the facilities of the other party (the "injured party"). In the event such damage occurs, the responsible party or persons acting on behalf of the responsible party shall immediately report such damages to the injured party, and the injured party shall promptly make such arrangements as may be necessary to restore service to its customers using the facilities affected.
- (b) The responsible party shall reimburse the injured party for the actual costs incurred by the injured party for repair of facilities damaged by the willful misconduct, grossly negligent acts, grossly negligent omissions, and negligent acts (but not negligent omissions other than grossly negligent omissions) of employees of the responsible party.
- (c) The responsible party shall reimburse the injured party for the actual costs incurred by the injured party for repair of facilities damaged by the willful misconduct, grossly negligent acts or omissions, and negligent acts (but not negligent omissions other than grossly negligent omissions) of independent contractors acting on the responsible party's behalf, provided, however, that the injured party shall be limited to recovery of those costs which cannot be recovered from the independent contractor causing the damage. The responsible party shall not be liable to the injured party under this section until the injured party's claims against the

independent contractor causing the damage have been adjudicated or settled and the amount of the injured party's claim against the responsible party is determinable.

- (d) NEITHER PARTY SHALL BE REQUIRED BY THIS SECTION TO REIMBURSE THE OTHER PARTY FOR COSTS INCURRED AS A RESULT OF NEGLIGENT OMISSIONS OTHER THAN GROSSLY NEGLIGENT OMISSIONS COVERED BY SUBSECTIONS (c)-(d) OF THIS SECTION.
- (e) THIS SECTION LIMITS, BUT DOES NOT EXCLUDE, THE RESPONSIBLE PARTY'S LIABILITY TO THE INJURED PARTY FOR DAMAGES CAUSED BY NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OF THE RESPONSIBLE PARTY AND PERSONS ACTING ON THE RESPONSIBLE PARTY'S BEHALF.

22.06 No Limitations of Liability in Contravention of Federal or State Law.

Nothing contained in this article shall be construed as exempting either party from any liability, or limiting such party's liability, in contravention of federal law or in contravention of the laws of this State.

22.07 Claims Against Third Parties. Nothing contained in this article shall be construed as requiring either party to forego any claims that such party may have against third parties, including but not limited to contractors, subcontractors, or persons (other than the other party's employees) acting on the other party's behalf.

ARTICLE 23: INSURANCE

23.01 Insurance Required. Applicant shall comply with the insurance requirements specified in this section.

- (a) Unless Applicant has provided proof of self-insurance as permitted in Section 23.02 below, Applicant shall obtain and maintain in full force and effect, for so long as this Agreement remains in effect, insurance policies specified in APPENDIX IV of this Agreement. Each policy shall name SWBT as an additional insured and shall include provisions requiring the insurer to give SWBT notice of any lapse, cancellation, or termination of the policy or any modification to the policy affecting SWBT's rights under the policy, including but not limited to any decrease in coverage or increase in deductibles.
- (b) Except as provided in this subsection, exclusions from coverage or deductibles, other than those expressly permitted in APPENDIX IV, must be approved in writing by SWBT. For authorized contractors and

other contractors performing work on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way on Applicant's behalf, exclusions from coverage or deductibles, other than those expressly permitted in APPENDIX IV, must be approved in writing by Applicant.

- (c) Authorized contractors and other contractors performing work on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way on Applicant's behalf shall be required to meet the same insurance requirements applicable to contractors performing similar work on SWBT's behalf. Applicant shall be responsible for securing compliance by its contractors with this requirement and shall be liable to SWBT for any damages resulting from its failure to do so.
- (d) Self-insurance shall be permitted for persons and entities (including but not limited to Applicant and authorized contractors) meeting the self-insurance requirements set forth in Section 23.02.

23.02 Proof of Insurance or Self-insurance. Proof of insurance or self-insurance shall be made pursuant to the provisions of this section.

- (a) Applicant shall submit to SWBT adequate proof (as determined by SWBT) that the companies insuring Applicant are providing all coverages required by this Agreement. Applicant's insurers shall provide SWBT with certifications that required coverages will not be cancelled, changed or materially altered (e.g., by increasing deductibles or altering exclusions from coverage) except after 30 days written notice to SWBT.
- (b) SWBT will accept certified proof of a person or entity's qualification as a self-insurer for Workers' Compensation and Employers Liability, where self-insurance is permitted, upon receipt of a current copy of a Certificate of Authority to Self-insure issued by the Workers' Compensation Commission of this State. SWBT will accept self-insurance by a person or entity in lieu of other Commercial General Liability and Automobile Liability Coverage if such person or entity warrants that its net worth, as shown by its most recent audited financial statement with no negative notes, is at least 10 times the minimum liability limits set forth in APPENDIX IV and SWBT is satisfied that such entity will be able to meet its liability obligations under this Agreement.
- (c) Applicant shall be responsible for determining whether contractors and other persons present on Applicant's behalf on, within, and in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way meet the self-insurance requirements of this subsection. Applicant may accept certified proof of any such person's or entity's qualification as a self-insurer for Workers' Compensation and Employers Liability, where self-insurance is

permitted, upon receipt of a current copy of a Certificate of Authority to Self-insure issued by the Workers' Compensation Commission of this State. Applicant may accept proof of self-insurance by a person or entity in lieu of other Commercial General Liability and Automobile Liability Coverage if such person or entity warrants that its net worth, as shown by its most recent audited financial statement with no negative notes, is at least 10 times the minimum liability limits set forth in APPENDIX IV and Applicant is satisfied that such entity will be able to meet its liability obligations with respect to activities performed on, within, and in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way.

23.03 Licensing Contingent on Proof of Insurance. All insurance required in accordance with APPENDIX IV, or self-insurance as permitted in Section 23.02, must be in effect before SWBT will issue pole attachment or conduit occupancy licenses under this Agreement and shall remain in force until all of Applicant's facilities have been removed from SWBT's poles, ducts, conduits, and rights-of-way.

23.04 Failure to Obtain or Maintain Coverage. Applicant's failure to obtain and maintain the required levels and types of insurance coverage required under this Agreement shall be grounds for termination of this Agreement and licenses subject to this Agreement. If an insurance carrier shall at any time notify Applicant or SWBT that any policy or policies of insurance required under this Agreement will be cancelled or changed in any manner which will result in Applicant's failure to meet the requirements of this Agreement, SWBT may terminate this Agreement and all licenses subject to this Agreement not less than 60 days after giving Applicant written notice of its intention to do so, and such termination shall be effective on the termination date specified in the notice unless Applicant has obtained (or made arrangements satisfactory to SWBT to obtain) the required coverage from another source. In the alternative, SWBT may, in its sole discretion, elect to take such action as may be necessary to keep such policy in effect with the required coverages.

ARTICLE 24: ASSIGNMENT OF RIGHTS

24.01 Assignment Permitted. Neither party may assign or otherwise transfer its rights or obligations under this Agreement except as provided in this section.

- (a) SWBT may assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement, without Applicant's consent, to any entity controlling, controlled by, or under common control with SWBT or which acquires or succeeds to ownership of substantially all of SWBT's assets.
- (b) Applicant may assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement, without SWBT's consent, to: any telecommunications carrier or cable system operator which (1) is

entitled to access to SWBT's poles, ducts, conduits, and rights-of-way under the Pole Attachment Act and (2) controls, is controlled by, or is under common control with Applicant or acquires and succeeds to ownership of substantially all of Applicant's assets; provided, however, that such assignment shall not be effective until Applicant has given SWBT written notice of the assignment pursuant to Section 24.03 and guaranteed the performance of Applicant's assignee or successor. Applicant's assignee or successor shall assume all outstanding obligations of Applicant under this Agreement, including but not limited to all liabilities and contingent liabilities of Applicant arising out of or in connection with this Agreement.

- (c) Applicant may, ancillary to a bona fide loan transaction between Applicant and any lender, and without SWBT's consent, grant security interests or make collateral assignments in substantially all of Applicant's assets, including Applicant's rights under this Agreement, subject to the express terms of this Agreement. In the event Applicant's lender, in the bona fide exercise of its rights as a secured lender, forecloses on its security interest or arranges for a third party to acquire Applicant's assets through public or private sale or through an Agreement with Applicant, Applicant's lender or the third party acquiring Applicant's rights under this Agreement shall assume all outstanding obligations of Applicant under the agreement and provide proof satisfactory to SWBT that such lender or third party has complied or will comply with all requirements established under this Agreement. Notwithstanding any provisions of this Agreement to the contrary, such foreclosure by Applicant's lender or acquisition of assets by such third party shall not constitute a breach of this Agreement and, upon such foreclosure or acquisition, Applicant's lender or such third party shall succeed to all rights and remedies of Applicant under this Agreement (other than those rights and remedies, if any, which have not been transferred and, if Applicant is a debtor under the Federal Bankruptcy Code, those rights, if any, which remain a part of the debtor's estate notwithstanding an attempted foreclosure or transfer) and to all duties and obligations of Applicant under the Agreement, including liability to SWBT for any act, omission, default, or obligation that arose or occurred under the Agreement prior to the date on which such lender or third party succeeds to the rights of Applicant under the Agreement, as applicable.

- (1) In the event Applicant or Applicant's lender requests that SWBT, in connection with a bona fide loan transaction between Applicant and Applicant's lender, sign any additional consents, or make other accommodations to protect such lender's interest, Applicant or Applicant's lender shall reimburse SWBT for all expenses incurred by SWBT in connection with such requests and accommodations,

including but not limited to in-house or outside legal expenses incurred by SWBT in processing the request.

- (2) In the event Applicant or Applicant's lender desires that SWBT provide notices to Applicant's lender or permit Applicant's lender, in the event of a breach, to cure any default or termination event if Applicant fails to do so, Applicant shall notify SWBT's authorized agent, as designated in Article 29 of this Agreement, that such notices may be sent to Applicant's lender as well to Applicant. Nothing contained in this subsection shall be construed as imposing any duty on SWBT in favor of Applicant's lender, and this section shall not be construed to provide Applicant's lender or any other third parties with any rights, claims, causes of action of any kind. Applicant waives any and all claims or causes of action, of every kind and character, past, present, or future, arising out of or in connection with the giving of any notice to Applicant's lender pursuant to this section or any failure to give such notice.
- (d) Either party may assign or transfer rights or obligations under this Agreement on such terms and conditions as are mutually acceptable to the other party and with such other party's prior written consent, which consent may be withheld only for due cause and justification.
- (e) No assignment or transfer by Applicant of rights under this Agreement, licenses subject to this Agreement, or authorizations granted under this Agreement shall be effective until Applicant, its successors, and assigns have complied with the provisions of this article, secured SWBT's prior written consent to the assignment or transfer, if necessary, and given SWBT notice of the assignment or transfer pursuant to Section 24.03.
- (f) Except as otherwise expressly provided in this article, neither this Agreement, nor any licenses or authorizations subject to this Agreement, shall inure to the benefit of Applicant's successors or assigns without SWBT's prior written consent.

24.02 Incorporations, Mergers, Acquisitions, and Other Changes in Applicant's Legal Identity. When the legal identity or status of Applicant changes, whether by incorporation, reincorporation, merger, acquisition, or otherwise, such change shall be treated as an assignment subject to the provisions of this article.

24.03 Notice of Assignment. Applicant shall provide SWBT with 60 days advance notice in writing of any assignment.

24.04 Assignment Shall Not Relieve Applicant of Prior Obligations. Except as otherwise expressly agreed by SWBT in writing, no assignment permitted by SWBT under

this Agreement shall relieve Applicant of any obligations arising under or in 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 _____, 199_, 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.

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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

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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

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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,

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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.

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APPENDIX I
SCHEDULE OF RATES, FEES AND CHARGES (MISSOURI) -- PAGE 1 OF 5

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 (1997 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>

APPENDIX I
SCHEDULE OF FEES AND CHARGES (MISSOURI) -- PAGE 2 OF 5

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 (1997 Rates)

<u>Semiannual Per Foot Conduit Occupancy Fees</u>	<u>Annual</u>	<u>Semiannual</u>
Full duct/duct foot (cable service only)	<u>\$ 0.40/ft</u>	<u>\$ 0.20/ft</u>
Full duct/duct foot (telecommunications carriers)	<u>\$ 0.40/ft</u>	<u>\$ 0.20/ft</u>
Full duct/duct foot (other)	<u>\$ N/A</u>	<u>\$ N/A</u>
Half duct/duct foot (cable service only)*	<u>\$ 0.20/ft</u>	<u>\$ 0.10/ft</u>
Half duct/duct foot (telecommunications carriers)*	<u>\$ 0.20/ft</u>	<u>\$ 0.10/ft</u>
Half duct/duct foot (other)*	<u>\$ N/A</u>	<u>\$ N/A</u>

*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.

APPENDIX I
SCHEDULE OF FEES AND CHARGES (MISSOURI) -- PAGE 3 OF 5

- 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

APPENDIX I
SCHEDULE OF FEES AND CHARGES (MISSOURI) -- PAGE 4 OF 5

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.

APPENDIX I
SCHEDULE OF FEES AND CHARGES (MISSOURI) -- PAGE 5 OF 5

- 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.

**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: _____

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:

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



Retention Period: Active, Plus 5 Years

FIRM'S NAME: _____

AGREEMENT No.: _____

APPLICATION No.: _____

Pole Attachments

PAGE ____ OF ____

☐ Provisional, Records Based Assignment

TYPE _____

☐ Pre-Occupancy Survey

(CATV, Telecom, Other)

Item #	Record #	Pole #	Ownership SWBT or Power	Street Address	Proposed Attachment Height	Guy Rqd Y or N	Make Ready Work Y or N	Make Ready Description	Pole Mtd Apparatus Height
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									
TOTAL									
Number of Cables _____					Other Notes: _____				
Weight/ft. and Size/O.D. _____									
Number and Types of Strands _____									

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SIGNED: _____

Date: _____

Time: _____

SIGNED: _____
Applicant's Representative

SW9433
POLE ATTACHMENTS
FORM INSTRUCTIONS

Form SW9433 may be used for the following two purposes, Provisional, Records Based Assignment or as the Pre-Occupancy Survey. The applicant may complete the SW9433 and submit this to SWBT while reviewing the records and make a Provisional, Records Based Assignment. The applicant will also use this form when making the Pre-Occupancy Survey as a reference sheet of information required for acquiring pole attachment space.

REQUIRED INFORMATION FOR PROVISIONAL, RECORDS BASED ASSIGNMENT

FIRM'S NAME: Name of firm requesting pole attachment space.

AGREEMENT No.: Number obtained from the Master Agreement Number.

APPLICATION No.: Will be provided by applicant in sequential ascending order.

[] **Provisional, Records Based Assignment:** Applicable when an applicant elects to a Provisional, Records Based Assignment. The form will be signed and dated at the bottom by both the applicant and the SWBT representative. A copy will be provided to the applicant and the original will be maintained by SWBT.

Type: The applicant states that they are a CATV, a Telecommunications Carrier or a firm other than the aforementioned two.

Record #: The SWBT paper record or the SWBT mechanized record number.

Pole #: Applicant will supply the pole number either from the SWBT Records or from a field visit.

Ownership: Applicant will determine and post the ownership of the pole by marking S for SWBT or P for Power Company based on SWBT's records.

Street Address: Applicant will provide street address or geographical reference point of the pole.

Proposed Attachment Height: Applicant will provide the proposed attachment height in feet and inches on the pole.

Guy Req'd: Not required for Provisional, Records Based assignment.

Make Ready Work: Not required for Provisional, Records Based assignment.

Make Ready Description: Not required for Provisional, Records Based assignment.

Pole Mntd Apparatus Height: Not required for Provisional, Records Based assignment.

Weight/per ft. and Size/O.D.: Applicant will provide.

Number and Types of Strands: Applicant will provide the number and types of strands.

Other Notes: Any other notes relevant to the request including any infrequent construction techniques.

Date: The date the Provisional, Records Based Assignment was made.

Time: The time the Provisional, Records Based Assignment was made.

Signed (Applicant's Representative): Applicant's Representative signs that the Provisional, Records Based Assignment was made.

Signed (SWBT Representative): SWBT's Representative signs that the Provisional, Records Based Assignment was made.

REQUIRED INFORMATION FOR PRE-OCCUPANCY SURVEY

FIRM'S NAME: Name of firm requesting pole attachment space.

AGREEMENT No.: Number obtained from the Master Agreement Number.

APPLICATION No.: Will be provided by SWBT.

[] **Pre-Occupancy Survey:** This would be checked when this form is being used as a Pre-Occupancy Survey. The form would be completed in its entirety and signed by the applicant and submitted to SWBT for review in obtaining pole attachment space.

Type: The applicant states that they are a CATV, a Telecommunications Carrier or a firm other than the aforementioned two.

Record #: The SWBT paper record or mechanized record number.

Pole #: Applicant will supply the pole number either from the SWBT Records or from a field visit.

Ownership: Applicant will determine and post the ownership of the pole by marking S for SWBT or P for Power Company.

Street Address: Applicant will provide street address or geographical reference point of the pole.

Proposed Attachment Height: Applicant will provide the proposed attachment height in feet and inches on the pole.

Guy Rq'd: Applicant will state if a guy is required. (Yes or No).

Make Ready Work: Applicant will state if make ready work is required. (Yes or No)

Make Ready Description: Applicant will give description of make ready work required.

Pole Mntd Apparatus Height: Applicant will state any proposed apparatus that would be placed on the pole. (Terminal, etc.)

Number of Cables: Applicant will state the number of cables that will be placed on the pole.

Weight/per ft. and Size/O.D.: Applicant will provide.

Number and Types of Strands: Applicant will provide the number and types of strands.

Other Notes: Any other notes relevant to the request including any infrequent construction techniques.

Date: The date the Pre-Occupancy Survey was submitted to SWBT.

Time: The time the Pre-Occupancy Survey was submitted to SWBT.

Signed (Applicant's Representative): Applicant's Representative signs when Pre-Occupancy Survey was submitted to SWBT.

Signed (SWBT Representative): SWBT's Representative signs when Pre-Occupancy Survey was submitted to SWBT.



Southwestern Bell Telephone

Access Application and Make-Ready Authorization

(Request for Access to Poles, Ducts, Conduit)

Retention Period: Active, plus 5 years

Name of Applicant: _____

Agreement No. _____

Application No. _____

Provisional Assignment

As specified in the attached documents, and in accordance with the terms and conditions of the Master Agreement between SWBT and Applicant, application is hereby made for a provisional assignment of space in anticipation of a nonexclusive license of communication facilities to access the quantity of SWBT facilities indicated below:

_____ SWBT poles _____ Feet SWBT Whole Duct _____ Feet SWBT Innerduct

Applicant desires immediate assignment of space and acknowledges that the effective date is _____. Applicant agrees to provide an application for assignment/access/occupancy of the assigned space within 30 days from the date of the assignment, or forfeit the assignment.

Provisional Assignment Expiration Date: _____

Assignment/Access/Occupancy

As specified in the attached documents, and in accordance with the terms and conditions of the Master Agreement between SWBT and Applicant, application is hereby made for occupancy of space through a nonexclusive license of communication facilities to access the quantity of SWBT facilities indicated below:

_____ SWBT poles _____ Feet SWBT Whole Duct _____ Feet SWBT Innerduct

Applicant authorizes SWBT to perform the required pre-licensing survey including any field inspections required to evaluate capacity, safety, reliability, and engineering standards; and to determine the cost, if any, of required modifications or make-ready work.

Effective Date: _____ Assignment Expiration Date: _____

Applicant's Estimated Construction Start Date: _____

Applicant's Estimated Construction Completion Date: _____

Authorized by Applicant: _____
Signature Title

Date: _____

Make-Ready Work

Estimated Costs	Hours	Rate	Total
Constr. Labor	_____ x	\$ _____	\$ _____
Material	xxx x	\$ xxx	\$ _____
Engr. Design	_____ x	\$ _____	\$ _____
Total			\$ _____

Estimated SWBT Completion Date

☐ No Make-Ready Work Required. ☐ No Make-Ready Work Required under 8.03(a).

☐ Make-Ready Work will be completed by applicant's authorized contractor.

☐ I authorize SWBT to complete the required make-ready work. Costs will be based upon actual costs incurred by SWBT.

Applicant's Signature

Title

Date: _____

License No. _____

Authorized by SWBT: _____

Signature

Title

Date: _____

☐ Official File Copy, if Checked in Red

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SW-8434
(Rev. 3-87)

SW-9434
ACCESS APPLICATION and MAKE-READY AUTHORIZATION
FORM INSTRUCTIONS

Form SW-9434 is used to request access to poles, ducts, and conduit; to transmit notice of Provisional Assignments; and to provide other information required in the access process.

REQUIRED INFORMATION

NAME OF APPLICANT. Name of firm requesting space on poles or in conduit.

AGREEMENT NO. Number obtained from the Master Agreement Number.

APPLICANT NO. Will be provided by applicant in sequential ascending order.

Provisional Assignment Box Data

"attached documents" Copies of the Assignment Of Space Logs showing the applicant's entries for the requested space or completed Forms SW-9433 or SW-9435 if appropriate. Assignment is not official until the required data is entered in the Assignment Of Space Log.

_____ **SWBT poles** The number of poles for which space is requested.

_____ **Feet SWBT Whole Duct** The accumulated Center-to-Center measurements for the Whole Duct to be occupied. To be used **only for cables too large in diameter** (Typically copper conductor cables.) to fit in SWBT standard innerduct.

_____ **Feet SWBT Innerduct** The accumulated Center-to-Center measurements for the innerduct to be occupied.

Effective date is date entered in Assignment Of Space Log

Provisional Assignment Expiration Date: 30 calendar days from the date entered in the Assignment of Space Log (i.e., Date Application must be submitted to hold the assignment of space.)

Assignment/Access/Occupancy Box Data

"attached documents" Completed Forms SW-9433 and/or SW-9435.

_____ **SWBT poles** The number of poles to be accessed.

_____ **Feet SWBT Whole Duct** The accumulated Center-to-Center measurements for the Whole Duct to be occupied. To be used **only for cables too large in diameter** (Typically copper conductor cables.) to fit in SWBT standard innerduct.

_____ **Feet SWBT Innerduct** The accumulated Center-to-Center measurements for the innerduct to be occupied.

Effective date is date entered in Assignment Of Space Log

Assignment Expiration Date: 12 months from the date entered in the Assignment of Space Log (Data facilities must be placed to avoid forfeiture of assigned space.)

SW-9434
ACCESS APPLICATION and MAKE-READY AUTHORIZATION
FORM INSTRUCTIONS

Applicant's Estimated Construction Start Date: Current "best estimate" of the date project construction will begin. "ASAP" is not an acceptable date.

Applicant's Estimated Construction Completion Date: Current **"best estimate"** of the date placements and splicing will be completed. "ASAP" is not an acceptable date.

Authorized by Applicant: Signature and Title of the Applicant's representative authorizing the request for access and payment (if any) of related SWBT engineering charges in connection with such access.

Date: Date of authorization by Applicant's representative.

MAKE-READY WORK Box Data

Estimated costs: SWBT will calculate data for Construction Labor, Material, and Engineering Design hours and summarize the TOTAL estimated SWBT Make-Ready Costs.

Estimated SWBT Completion Date SWBT Engineering will provide the estimated completion date of SWBT Make-Ready Work based upon current scheduling loads.

[] No Make-Ready Work Required. Applicant should check this box if it has determined that fully code/specifications-complaint access can be granted without any work or modifications by SWBT or other parties. If inner duct must be placed, box should not be checked.

[] No Make-Ready work Required under 8.03(a). Applicant should check this box only if this Application is being submitted under the provisions described in 8.03(a) Immediate Occupancy.

[] Make-Ready Work will be completed by Applicant's authorized contractor. If Applicant plans to utilize a mutually approved *authorized contractor* to perform all the Make-Ready work, this box only should be checked.

[] I authorize SWBT to complete the required make-ready work.... If applicant wants SWBT to perform all the Make-Ready Work, this box only should be checked.

If some Make-Ready work must be done by SWBT and some will be done by the Applicant's *authorized contractor*, the last two boxes should be checked. A detailed description of the work to be done by SWBT must be included.

Applicant's Signature, Title and Date: _____

If the *No Make-Ready Work Required* box is checked by Applicant, Applicant's Signature confirms the accuracy of the current Applicant construction schedule.

If the *No Make-Ready Work Required under 8.03(a)* box is checked, Applicant confirms Immediate Occupancy procedures have been followed.

If *Make-Ready Work will be completed by Applicant's Authorized contractor* is checked, Applicant's signature concurs with any changes in proposed Make-Ready work identified by SWBT and confirms the accuracy of the current schedule.

If SWBT will perform any Make-Ready Work, Applicant's signature authorizes payment to SWBT of actual cost to perform the required make-ready work.

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LICENSE NO. _____ **Authorized by SWBT:** The SWBT State ULS will authorize, date, and issue the License No. on the SW-9434 which becomes the Applicant's License For Access.



Retention Period: Active, Plus 5 Years

FIRM'S NAME: _____

AGREEMENT No.: _____

APPLICATION No.: _____

Conduit Occupancy

☐ Provisional, Records Based Assignment

☐ Pre-Occupancy Survey

PAGE _____ OF _____

TYPE _____

(CATV, Telecom, Other)

Item #	Oper. #	Record #	Manhole #	Street Address	Distance To Next Manhole (Ctr to Ctr)	Proposed Duct or Innerduct	Make Ready Work Y or N	Make Ready Description
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
TOTAL								
Number of Cables _____				Splice Information Manhole # _____, Details _____				
Size of Cable (O.D. inches) _____				Splice Information Manhole # _____, Details _____				
				Slack Loop Info. Manhole # _____, Details _____				
				Slack Loop Info. Manhole # _____, Details _____				

Date: _____

Time: _____

SIGNED: _____

SIGNED: _____

Applicant's Representative

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SW9435
CONDUIT OCCUPANCY
FORM INSTRUCTIONS

Form SW9435 may be used for the following two purposes, Provisional, Records Based Assignment or as the Pre-Occupancy Survey. The applicant may complete the SW9435 and submit this to SWBT while reviewing the records and make a Provisional, Records Based Assignment. The applicant will also use this form when making the Pre-Occupancy Survey as a reference sheet of information required for acquiring duct and/or inner duct space.

REQUIRED INFORMATION FOR PROVISIONAL, RECORDS BASED ASSIGNMENT

FIRM'S NAME: Name of firm requesting conduit space.

AGREEMENT No.: Number obtained from the Master Agreement Number.

APPLICATION No. Will be provided by applicant in sequential ascending order.

[] **Provisional, Records Based Assignment:** Applicable when an applicant would make a Provisional, Records Based Assignment. The form will be signed and dated at the bottom by both the applicant and the SWBT representative. A copy will be provided to the applicant and the original will be maintained by SWBT.

Type: Applicant indicates that they are a CATV, a Telecommunications Carrier or a firm other than the aforementioned two.

Record #: This would refer to either the SWBT paper record or the SWBT mechanized record number.

Manhole #: Applicant will supply each manhole number.

Street Address: Applicant will provide street address of the manhole, if applicable.

Proposed Duct or Inner duct: Applicant will state the number of ducts and/or inner ducts.

Make Ready Work: Not required for Provisional, Records Based assignment.

Make Ready Description: Not required for Provisional, Records Based assignment.

Number of Cables: Applicant will enter the number of cables.

Size of Cable (O.D. Inches): Applicant will enter size of cable.

Splice Information Manhole #: Not required for Provisional, Records Based assignment.

Details: Not required for Provisional, Records Based assignment.

Slack Loop Info. Manhole #: Not required for Provisional, Records Based assignment.

Details: Not required for Provisional, Records Based assignment.

Date: The date the Provisional, Records Based Assignment was made.

Time: The time the Provisional, Records Based Assignment was made.

Signed (Applicant's Representative): Applicant's Representative signs that the Provisional, Records Based Assignment was made.

Signed (SWBT Representative): SWBT's Representative signs that the Provisional, Records Based Assignment was made.

REQUIRED INFORMATION FOR PRE-OCCUPANCY SURVEY

FIRM'S NAME: Name of firm requesting conduit space.

AGREEMENT No.: Number obtained from the Master Agreement Number.

APPLICATION No.: Will be provided by applicant in sequential ascending order.

☐ Pre-Occupancy Survey: Applicable when this form is being used as a Pre-Occupancy Survey. The form would be completed in its entirety by the applicant and submitted to SWBT for review in obtaining conduit space.

Type: Applicant indicates that they are a CATV, a Telecommunications Carrier or a firm other than the aforementioned two.

Oper. #: Applicant will provide the operation number when required. The same operation number may very well be referenced on an attached map.

Record #: This would refer to either the SWBT paper record or the SWBT mechanized record number.

Manhole #: Applicant will supply each manhole number.

Street Address: Applicant will provide street address of the manhole, if applicable.

Distance to Manhole: Applicant will state the distance from manhole to manhole in feet.

Proposed Duct or Inner duct: Applicant will state the number of ducts and/or inner ducts.

Make Ready Work: Applicant will state if make ready work is required. (Yes or No)

Make Ready Description: Applicant will give description of make ready work required.

Number of Cables: Applicant will indicate the number of cables.

Size of Cable (O.D. Inches): Applicant will indicate size of cable.

Splice Information Manhole #: Applicant will enter any relevant splice information.

Details: Applicant will provide any relevant details regarding splice information.

Slack Loop Info. Manhole #: Applicant will provide.

Details: Applicant will provide any relevant Slack Loop Information.

Date: The date the Pre-Occupancy Survey was submitted to SWBT.

Time: The time the Pre-Occupancy Survey was submitted to SWBT.

Signed (Applicant's Representative): Applicant's Representative signs when Pre-Occupancy Survey was submitted to SWBT.

Signed (SWBT Representative): SWBT's Representative signs when Pre-Occupancy Survey was submitted to SWBT.

**APPENDIX IV
INSURANCE REQUIREMENTS (MISSOURI) -- PAGE 1 OF 4**

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

APPENDIX IV
INSURANCE REQUIREMENTS (MISSOURI) -- PAGE 2 OF 4

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

APPENDIX IV
INSURANCE REQUIREMENTS (MISSOURI) -- PAGE 3 OF 4

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:

APPENDIX IV
INSURANCE REQUIREMENTS (MISSOURI) -- PAGE 4 OF 4

"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.

APPENDIX V
NONDISCLOSURE AGREEMENT (MISSOURI) -- PAGE 1 OF 4

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

This Nondisclosure Agreement, effective as of the ____ day of _____, 19__, 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

APPENDIX V
NONDISCLOSURE AGREEMENT (MISSOURI) -- PAGE 2 OF 4

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

APPENDIX V
NONDISCLOSURE AGREEMENT (MISSOURI) -- PAGE 3 OF 4

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.

APPENDIX V
NONDISCLOSURE AGREEMENT (MISSOURI) -- PAGE 4 OF 4

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.

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

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**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:

**APPENDIX VII
NOTICES TO SWBT (MISSOURI) -- PAGE 1 OF 3**

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

**APPENDIX VI
NOTICES TO SWBT (MISSOURI) -- PAGE 2 OF 3**

- 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
- 15.06(a) Notification of performing corrective work on emergency repair.
(advanced notice)

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

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.

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 two Utility Liaison Supervisors for Missouri. One serves the geographic areas served by the 417 and 816 area codes, including Kansas City, Missouri. The other serves the geographic areas served by the 314 and 573 area codes, including St. Louis, Missouri. The Utility Liaison Supervisors for Missouri are named below.

Notices to the Utility Liaison Supervisor for the 417 and 816 area codes should be addressed as follows:

Name: Wayne White

Title: Utility Liaison Supervisor

Firm: Southwestern Bell Telephone Company

Address: 500 E. 8th, Room 598

City/State/Zip: Kansas City, Missouri 64106

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

Name: Daniel Goodwin

Title: Utility Liaison Supervisor

Firm: Southwestern Bell Telephone Company

Address: 12930 Olive Street Road, Floor 2

City/State/Zip: Creve Couer, Missouri 63141

