

Electronically Filed in TPUC Docket Room on April 13, 2020 at 3:35 p.m.

**BEFORE THE
TENNESSEE PUBLIC UTILITY COMMISSION**

AT&T TENNESSEE COMPLAINT)	
AGAINST CELLULAR SOUTH, INC.)	Docket No. 19-00099
DBA C SPIRE)	

**REBUTTAL TESTIMONY OF LEE PUCKET ON BEHALF OF
CELLULAR SOUTH, INC. DBA C SPIRE**

April 13, 2020

1 **REBUTTAL TESTIMONY OF LEE PUCKETT ON BEHALF OF**
2 **CELLULAR SOUTH, INC. DBA C SPIRE**

3
4 **Introduction**

5
6 **Q. Please state your name, business address, and occupation.**

7
8 A. My name is Lee Puckett and I am the Manager, Network Finance and, among
9 other things, I am in charge of interconnection for Cellular South, Inc. dba C Spire (“C
10 Spire”) and my business address is 1018 Highland Colony Parkway, Suite 300,
11 Ridgeland, Mississippi 39157.

12 **Q. Please briefly outline your educational background and related experience.**

13
14 A. I graduated from the University of Mississippi in 1992 with a Bachelor’s Degree
15 in Managerial Finance. I have been employed with C Spire since November 2008 and
16 since 2009 I have been in charge of interconnection/reciprocal compensation with other
17 telecommunications carriers on behalf of C Spire.

18 **Q. On whose behalf are you testifying?**

19
20 A. I am testifying on behalf of C Spire.

21 **Q. Have you testified in this proceeding previously?**

22 A. Yes. I submitted Direct Testimony in this proceeding on April 6, 2020.

23 **Q. What is the purpose of your testimony?**

24
25 A. To address certain issues raised in the Direct Testimony of Scott McPhee on
26 behalf of AT&T dated April 6, 2020 (the “McPhee Direct Testimony”).

27 **Q. What issue would you like to address first?**

28
29 A. Throughout the McPhee Direct Testimony Mr. McPhee makes the
30 disturbing allegation that C Spire never requested shared facility factors from AT&T
31 during the period from 2013 through September 2017 and furthermore, that C Spire did

1 this intentionally because it was in C Spire's financial best interest not to do so.¹ This is
2 patently false. I have personally requested the shared facility factors from AT&T
3 personnel numerous times during the period in question to no avail.² As noted by Mr.
4 McPhee AT&T apparently had personnel reassigned and this was an area that was either
5 intentionally or unintentionally overlooked by AT&T.³ Of course this ignores the fact
6 that AT&T obligated itself to provide the factors quarterly in that certain Letter
7 Agreement dated August 4, 2006.⁴ Furthermore, I deny that C Spire ever did anything
8 other than follow the express terms of the Interconnection Agreement between the parties
9 dated September 1, 2003, as amended (the "Agreement"). As noted in my Direct
10 Testimony, Section VI.A.4.a of the Agreement directed C Spire to use the latest available
11 actual shared facility factor when a new quarterly shared facility factor was not provided
12 and that is exactly what C Spire did.⁵

13 Furthermore, even if one conceded that AT&T landline originated traffic was
14 going down during the period at issue, it does not necessarily mean that AT&T's shared
15 facility factor would change by the same amount or at all because the factor is influenced
16 by the total amount of traffic being transmitted over the shared interconnection facilities.

¹ For one example of this allegation see McPhee Direct Testimony, p. 4. "Although C Spire could have asked AT&T for the missing factors, it did not, and instead it continued billing AT&T using the last factor AT&T had provided. Indeed, given that traditional AT&T originated local minutes of use have been in steady decline over the past several years as customers have moved to wireless and IP-based services, C Spire had a financial incentive to not ask for the missing factors."

² C Spire and AT&T generally had weekly teleconferences to discuss issues with C Spire's account with their AT&T account representatives. During these teleconferences I requested updated traffic percentages from AT&T. They were never delivered. The first such time they were delivered was immediately prior to AT&T filing its billing dispute. Please see email from Julie Ortiz attached hereto as Exhibit E which confirms that I had requested such traffic percentages and that they would be delivered by Julie Scherzer.

³ McPhee Direct Testimony, p. 4. "As a result of retirements and realignments of work responsibilities, the AT&T employee who was supposed to be providing the factors did not do so."

⁴ See Direct Testimony of Lee Puckett, April 6, 2020 (hereinafter, the "Puckett Direct Testimony"), p. 5. Please note there is a typo in the Puckett Direct Testimony on p. 5 where it refers to the "Letter Agreement dated August 4, 2007." This should be August 4, 2006.

⁵ Puckett Direct Testimony, p. 6, note 12.

1 As noted in my Direct Testimony, C Spire had moved all of its third party transit traffic
2 utilizing the shared interconnection facilities to Inteliquent, Inc.⁶ In other words a
3 number of competitive local exchange carriers and rural independent local exchange
4 carriers were not directly connected with C Spire and instead were indirectly
5 interconnected with C Spire through AT&T by the shared interconnection facilities at
6 issue here. Whenever a C Spire customer called one of those carrier customers C Spire
7 had to pay AT&T \$.002 per minute of traffic sent. The other carriers also pay AT&T per
8 minute for intermediary traffic they originate to C Spire. Inteliquent performs the same
9 function as AT&T with these carriers, i.e. it serves to indirectly interconnect C Spire with
10 these carriers. So when C Spire began routing intermediary traffic to these carriers
11 through Inteliquent rather than AT&T, this traffic was removed from the total traffic
12 being sent over the shared interconnection facilities at issue in this proceeding. Since the
13 total traffic transmitted over the shared interconnection facilities went down, then
14 AT&T's percentage of the traffic transmitted over the shared interconnection facilities
15 should go up all things being equal, not down as alleged by Mr. McPhee. Therefore, my
16 expectation was that AT&T share of the cost of the shared interconnection facilities
17 would go up after C Spire moved its intermediary traffic to Inteliquent. Contrary to Mr.
18 McPhee's assertion C Spire had a financial incentive to request the actual traffic figures
19 from AT&T during the period in question.

20 See Exhibit A attached hereto for further support for the proposition that AT&T's
21 percentage of shared facilities does not go only in one direction as alleged by AT&T, that
22 is down. Exhibit A compares the third quarter 2019 PLU factors provided by AT&T to
23 the second quarter 2017 PLU factors provided by AT&T. Interestingly, in the States of

⁶ Puckett Direct Testimony, p. 8.

1 Alabama, Mississippi, and Tennessee the PLU factor attributable to AT&T went up from
2 2017 to 2019 and not down further disputing the accuracy of Mr. McPhee's assertions of
3 what must have occurred during the period from 2013 until the second quarter of 2017.

4 **Q. What is C Spire's position regarding Mr. McPhee's allegation that C Spire**
5 **has never "questioned the accuracy" of the AT&T provided shared facility traffic**
6 **factors?**⁷

7 A. That is patently false. In the years prior to 2013, i.e. the last time AT&T provided
8 actual shared facility traffic figures to C Spire until 2017, from time to time C Spire
9 requested, and AT&T provided, the traffic data underlying their percentages so that C
10 Spire could verify those figures. Since this dispute arose C Spire has repeatedly asked for
11 the traffic data underlying the AT&T provided traffic percentages so that C Spire could
12 verify the AT&T provided traffic figures.⁸ AT&T has failed to provide such traffic data
13 and that is clearly a breach of the Agreement which requires that the PLU factor be
14 "auditable."⁹ It is also a breach of Section XIV.G of the Agreement which requires the
15 parties to provide each other with all necessary call information to ensure proper
16 billing.¹⁰ Even if Mr. McPhee's statement that no one had ever questioned the accuracy

⁷ McPhee Direct Testimony, p. 5.

⁸ See Correspondence between Brian Jones, Julie Scherzer, and Debbie Weber attached as Exhibit B for just one example of C Spire's request for underlying traffic data.

⁹ Agreement, Section VI.B.3

¹⁰ "The Parties will provide each other with the proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each Party to bill properly." Agreement, Section XIV.G.

1 of their figures were true, which it is not, is that really relevant?¹¹ C Spire wants to verify
2 them now and it has every right to do so under the Agreement and under applicable law.

3 **Q. Do you continue to believe the underlying traffic data is essential to**
4 **determine the accuracy of the AT&T provided shared traffic figures?**

5 Yes it is. This is highlighted by Chart 1 to the McPhee Direct Testimony. Chart 1 shows
6 that AT&T's shared facility factor should be 26.02% for the period for the first quarter of
7 2016. Chart 1 then goes on to show that AT&T's shared facility factor should be 8.15%
8 for the second quarter of 2016, a **319% drop in AT&T's shared facility factor in just**
9 **one quarter!**¹² I have been in this business a long time and it is simply not possible for
10 the shared facility factor to change by such a dramatic amount absent a network change
11 or outage or an intentional reclassification of traffic by AT&T. This is borne out by
12 Chart 1 if you look at the third quarter of 2016 through the second quarter of 2017 where
13 AT&T's own data only shows a variation between a low of 5.57% and a high of 6.52%
14 for the AT&T shared facility factor. If we look at Chart 2 of the McPhee Direct
15 Testimony we see that the total traffic sent over the shared interconnection facilities in
16 Tennessee increased from 6.4 million minutes during the fourth quarter of 2015 to 19.2
17 million minutes during the first quarter of 2016 while AT&T originated traffic remained
18 relatively flat. Clearly an extraneous event caused this because C Spire customers did not
19 experience a 300% increase in calls received during this period. In any event this clearly
20 highlights why C Spire would rationally question the veracity of the AT&T provided
21 traffic figures both then and now. This is particularly true given the steps C Spire has

¹¹ AT&T and C Spire have had a number of billing disputes over the years. Attached hereto as Exhibit C is evidence of one such dispute and C Spire's demand for underlying traffic data to support AT&T's billing percentages.

1 taken over the years to move third party transit traffic from these interconnection
2 facilities as previously noted herein and in my Direct Testimony.

3 **Q. Do you believe AT&T that they cannot provide the underlying traffic data?**

4 A. No. Their systems were able to do it historically and I don't see how they could
5 generate PLU factors without the underlying traffic data now. In fact, Mr. McPhee states
6 as much in his Direct Testimony: "[E]ach month the system captures the minutes of use
7 for AT&T-originated local traffic, C Spire traffic, and "intermediary traffic" (which is
8 traffic other carriers are directing to C Spire over the two-way facilities. That data, which
9 I will refer to as "input data," is used to calculate the shared facility factor."¹³ AT&T
10 admits it has the underlying traffic or "input data." AT&T is simply refusing to provide
11 that data to C Spire in breach of the Agreement.¹⁴ Of course this would be outside the
12 issue raised by AT&T's admission in discovery in this proceeding that it does not have
13 the "input data" to support their billing dispute.

14 I find it difficult, if not impossible, for C Spire or this Commission to determine if
15 the PLU factors provided by AT&T as the basis for its billing dispute are accurate
16 without the underlying traffic data. AT&T is asking C Spire and this Commission to
17 accept the accuracy of AT&T's PLU factors without giving C Spire the opportunity to
18 verify or disprove those PLU factors. As noted elsewhere herein and in my Direct
19 Testimony, there are a number of good reasons to question the veracity of those PLU
20 factors but without the underlying traffic data, which AT&T has refused to provide and
21 now says is no longer available, it is impossible to determine if those PLU factors are

¹³ McPhee Direct Testimony, p. 12.

¹⁴ Puckett Direct Testimony, p. 7 (citing requirement of the Agreement for the parties to retain auditable call records). Not to mention the fact that the Agreement provides that a billing dispute is not valid if the disputing party fails to provide support for the dispute. *See* Puckett Direct Testimony, p. 6 and note 13. *See also* Agreement, Section XIV.G.

1 accurate which directly impacts the amount owed for the shared interconnection facilities
2 by AT&T in a billing dispute properly brought under the terms of the Agreement (which
3 this one was not).

4 **Q. Mr. McPhee states in his direct testimony that “C Spire has acknowledged**
5 **that it never asked to review the input data since the Interconnection Agreement**
6 **began.”¹⁵ Is that true?**

7 A. No. Please see my Direct Testimony and this Rebuttal Testimony on this subject.

8 **Q. Mr. McPhee states that the Agreement does not place any limits on AT&T’s**
9 **ability go back in time and recalculate traffic figures and to dispute the charges**
10 **billed by C Spire. In your opinion is that true?**

11 A. No. There are a number of limits in the Agreement on AT&T’s ability to bring a
12 billing dispute. Please see the provisions of my Direct Testimony relevant to this issue.

13 **Q. Do you have anything further to add?**

14 A. Yes. In my Direct Testimony I questioned why, from a financial perspective,
15 AT&T Mobility (formerly known as New Cingular Wireless) would pay transit charges
16 to AT&T to deliver AT&T Mobility originated traffic over the shared interconnection
17 facilities and pay AT&T a per minute transit charge rather than send such traffic over
18 direct interconnection trunks with C Spire. Attached as Exhibit D hereto is what I believe
19 to be the current Interconnection Agreement between AT&T (formerly BellSouth
20 Telecommunications, Inc.) and AT&T Mobility. That agreement clearly states that
21 AT&T Mobility must pay AT&T a per minute charge of \$.003 for each minute of transit
22 traffic originated by AT&T Mobility and delivered via AT&T to a third party carrier such

¹⁵ Id., p. 13.

1 as C Spire.¹⁶ Assuming that fee is being paid by AT&T Mobility then they are paying
2 AT&T more for indirectly interconnecting with C Spire than it would cost them to
3 expand their direct interconnection facilities with C Spire.

4 **Q. Does this conclude your testimony?**

5 A. Yes.

¹⁶ See Section VIII.C. You will note that the terms of this agreement are substantially similar to the Agreement between AT&T and C Spire.

EXHIBIT A

8/11/17

Report : KXR#503 At&T Transaction Processing Center Page: 1
Region : BLS Reciprocal Compensation BLS PLF Mth Rpt Date: 10/29/19
YYYY/MM: 2019/07 2019/08 2019/09 Time: 09.57.08

ICO ID	ICO Name	PLF ID	Bell South Traffic	Total Traffic	PLF
AL6581	CELLULAR SOUTH		221,261	1,624,371	.1362
FL6581	CELLULAR SOUTH		2,113	126,656	.0167
MS6581	CELLULAR SOUTH		12,083,502	106,603,609	.1133
TN6581	CELLULAR SOUTH		359,956	4,936,582	.0729

4.79%
2.09%
8.35%
6.01%

Ex. A

EXHIBIT B

Ex. B

Ken Rogers

From: Brian Jones <bjones@cspire.com>
Sent: Tuesday, October 29, 2019 2:47 PM
To: WEBER, DEBORAH J; SCHERZER, JULIE A; Interconnect
Subject: RE: 3Q 2019 Percentages

Debbie,

Thanks for sending but how do we get to the details behind the traffic AT&T excluded from the traffic calculation?

Brian Jones | Sr. Vice President, Finance | C Spire
1018 Highland Colony Parkway | Suite 330 | Ridgeland, MS 39157
601.974.7231 **office** | 601.573.7231 **wireless** | 601.974.7316 **fax**
cspire.com

From: WEBER, DEBORAH J <dw9461@att.com>
Sent: Tuesday, October 29, 2019 1:28 PM
To: Brian Jones <bjones@cspire.com>; SCHERZER, JULIE A <js5742@att.com>; Interconnect <Interconnect@cspire.com>
Subject: RE: 3Q 2019 Percentages

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Brian,

Attached are the MOUs behind the percentages.

It is for Mississippi as we do not have any data for you in North Carolina. That was a typo.

Debbie Weber
Sr. Financial Analyst



AT&T Finance Billing Organization
740 N. Broadway, Room 04M331D, Milwaukee WI 53202
o 414.283.0987 | dw9461@att.com

Please keep your eyes on the road, not on your phone! Take the pledge...It Can Wait.

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From: Brian Jones [mailto:bjones@cspire.com]

Sent: Friday, October 18, 2019 9:46 AM

To: SCHERZER, JULIE A <js5742@att.com>; Interconnect <Interconnect@cspire.com>; WEBER, DEBORAH J <dw9461@att.com>

Subject: RE: 3Q 2019 Percentages

We'll just assume it's our great state of Mississippi and move on. We definitely feel the support of AT&T in accurate reporting seeing we have zero wireless business in North Carolina.

Regardless, when can I expect the details behind these numbers?

Thanks,
Brian

Brian Jones | Sr. Vice President, Finance | C Spire
1018 Highland Colony Parkway | Suite 330 | Ridgeland, MS 39157
601.974.7231 **office** | 601.573.7231 **wireless** | 601.974.7316 **fax**
cspire.com

From: SCHERZER, JULIE A <js5742@att.com>

Sent: Friday, October 18, 2019 9:42 AM

To: Brian Jones <bjones@cspire.com>; Interconnect <Interconnect@cspire.com>; WEBER, DEBORAH J <dw9461@att.com>

Cc: SCHERZER, JULIE A <js5742@att.com>

Subject: RE: 3Q 2019 Percentages

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Brian,

Is should have been NC here is an updated chart for your records.

QTR	STATE	CMRS	PLF
3Q	AL	CELLULAR SOUTH	14%
3Q	FL	CELLULAR SOUTH	2%
3Q	NC	CELLULAR SOUTH	11%
3Q	TN	CELLULAR SOUTH	7%

From: Brian Jones <bjones@cspire.com>

Sent: Friday, October 18, 2019 9:38 AM

To: SCHERZER, JULIE A <js5742@att.com>; Interconnect <Interconnect@cspire.com>; WEBER, DEBORAH J <dw9461@att.com>

Subject: RE: 3Q 2019 Percentages

Julie,

Is NS Nova Scotia or some other unnamed state in the union?

Can you please provide full details of how you calculated this traffic by carrier (originating and terminating)?

Thanks.

Brian Jones | Sr. Vice President, Finance | C Spire
1018 Highland Colony Parkway | Suite 330 | Ridgeland, MS 39157
601.974.7231 **office** | 601.573.7231 **wireless** | 601.974.7316 **fax**
cspire.com

From: SCHERZER, JULIE A <js5742@att.com>
Sent: Friday, October 18, 2019 9:25 AM
To: Interconnect <Interconnect@cspire.com>; WEBER, DEBORAH J <dw9461@att.com>
Cc: SCHERZER, JULIE A <js5742@att.com>
Subject: 3Q 2019 Percentages

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All,

Below are the 3Q 2019 percentages:

QTR	STATE	CMRS	PLF
3Q	AL	CELLULAR SOUTH	14%
3Q	FL	CELLULAR SOUTH	2%
3Q	NS	CELLULAR SOUTH	11%
3Q	TN	CELLULAR SOUTH	7%

Julie A. Scherzer
Lead Billing Ops Manager
Access Billing Management/FBO
722 N. Broadway, #04M248, Milwaukee, WI 53202
o. 414.270.3998 |js5742@att.com

Keep your eyes on the road, not on your phone.
Take the pledge...It Can Wait.



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Report : KXR#503 AT&T Transaction Processing Center Page: 1
 Region : BLS Reciprocal Compensation BLS PLF Mth Rpt Date: 10/29/19
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TN6581	CELLULAR SOUTH		359,956	4,936,582	.0729

EXHIBIT C

Ex. B

Cellular South, Inc.
125 South Congress St., Suite 1000
Jackson, Mississippi 39201

April 27, 2005

Mr. Ronald Moreira
Senior Analyst
BellSouth Telecommunications, Inc.
600 N. 19th Street, Room 3A1
Birmingham, Alabama 35203

Re: Second Quarter 2005 CMRS Reciprocal Compensation Invoicing
Percentage Notification Letter for BellSouth Originated Traffic

Dear Ron:

I am in receipt of your letter dated April 19, 2005 wherein you notify Cellular South, Inc. ("Cellular South") of the Second Quarter 2005 CMRS reciprocal compensation invoicing percentage for BellSouth Telecommunications, Inc. ("BellSouth") originated traffic pursuant to the terms of our Interconnection Agreement (the "Traffic Notice"). I found two items particularly interesting in the Traffic Notice. One, was that the traffic percentages for Alabama, Florida, Mississippi, and Tennessee have dropped precipitously since the First Quarter of 2005. In fact, the numbers you are reporting in the Traffic Notice have declined by from twenty to over forty percent in those states in one fiscal quarter. Suffice to say it is our position that there has been no such decline in BellSouth originated traffic subject to reciprocal compensation in the last quarter. Given the fact that BellSouth traffic originated to Cellular South has continually increased over the last few years we find this position particularly implausible.

The second interesting item in the Traffic Notice was the fact that BellSouth, for the first time, is reporting BellSouth originated traffic subject to reciprocal compensation in Georgia, Kentucky, Louisiana, North Carolina, and South Carolina. This begs the question as to what has changed in the last fiscal quarter to enable BellSouth to accurately measure such traffic?

Please regard this letter as Cellular South's formal written request for traffic information supporting the figures set forth in the Traffic Notice. Please provide me with such information by May 13, 2005. In the event that BellSouth refuses to supply Cellular South with traffic information supporting the figures set forth in the Traffic Notice by that date, Cellular South intends to pursue any and all remedies it has under the terms of its Interconnection Agreement with BellSouth.

Please feel free to contact me with any questions.

Respectfully yours,

Brian Jones

Cc: BellSouth Legal Department
Randy Ham
Carson Hughes
Sherry Stegall
Ben Pace
Ken Rogers, Esq.
Chuck McBride, Esq.

EXHIBIT D

Ex. D

By and Between

BellSouth Telecommunications, Inc.

And

New Cingular Wireless PCS, LLC

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XXXII.	Compliance with Applicable Law
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Attachments:	
A	Affiliates
B	Rates
C	Meet Point Billing

AGREEMENT

THIS AGREEMENT is made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia Corporation, and New Cingular Wireless PCS, LLC, ("Cingular Wireless"), a Delaware limited liability company, for itself and on behalf of those entities listed in Attachment A ("CMRS License Holders") which entities Cingular Wireless hereby represents it has authority to bind hereunder (all collectively referred to as "Carrier") and shall be deemed effective as of June 10, 2005, (the "Effective Date"). This Agreement may refer to either BellSouth or Carrier or both as a "Party" or "Parties."

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Carrier is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and

WHEREAS, the Parties wish to interconnect their facilities and exchange traffic for the purposes of fulfilling their obligations pursuant to sections 251 and 252 of the Telecommunications Act of 1996 and to replace any and all other prior agreements, both written and oral;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, BellSouth and Carrier agree as follows:

Definitions

A. Affiliate is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or equivalent thereof) of more than 10 percent.

B. Commission is defined as the appropriate regulatory agency in each state of BellSouth's nine state region: Alabama, Florida, Georgia,

Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

C. Local Traffic is defined for purposes of reciprocal compensation under this Agreement as: (1) any telephone call that originates on the network of Carrier within a Major Trading Area ("MTA") and terminates on the network of BellSouth in the same MTA and within the Local Access and Transport Area ("LATA") in which the call is handed off from Carrier to BellSouth, and (2) any telephone call that originates on the network of BellSouth that is handed off directly to Carrier in BellSouth's service territory and in the same LATA in which the call originates, and terminates on the network of Carrier in the MTA in which the call is handed off from BellSouth to Carrier. For purposes of this Agreement, LATA shall have the same definition as that contained in the Telecommunications Act of 1996, and MTA shall have the same definition as that contained in the FCC's rules. Traffic delivered to or received from an interexchange carrier is not Local Traffic.

D. Local Interconnection is defined as the delivery of Local Traffic to be terminated on each Party's local network so that end users of either Party have the ability to reach end users of the other Party without the use of any access code or substantial delay in the processing of the call.

E. Non-Local Traffic is defined as all traffic that is not Local Traffic or access services, as described in Section VI of this Agreement

F. Point of Interconnection (POI) is defined as the physical geographic location(s), within BellSouth's service area within a LATA, at which the Parties terminate interconnection facilities for the origination and/or termination of traffic. This point establishes the technical interface, the test point(s), and the point(s) for operational division of responsibility between BellSouth's network and Carrier's network.

G. Telecommunications Act of 1996 ("Act") means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et. seq.).

H. Third Party Carrier is any telecommunications carrier other than Carrier or BellSouth.

I. Transit Traffic is traffic originating on Carrier's network that is routed to BellSouth for delivery to a Third Party Carrier's network, or traffic originating on a Third Party Carrier's network that is routed to BellSouth for delivery to Carrier's network. All local or toll traffic from a Third Party

Carrier not originated on the BellSouth network by BellSouth but delivered by BellSouth to Carrier is considered Transit Traffic.

J. Type 1 Interconnection is a line side connection between a BellSouth end office and a Carrier's POI and provides the capability to access all BellSouth end offices within the LATA. Type 1 Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as it may be amended or replaced from time to time.

K. Type 2A Interconnection is either one-way or two-way connection that provides a trunk side connection between a BellSouth tandem switch and a Carrier's POI and provides access to all BellSouth end offices and Third Party Carriers subtending the BellSouth tandem. Type 2A Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as it may be amended or replaced from time to time.

L. Type 2B Interconnections are one-way or two-way connections that provide a high usage route between a BellSouth end office and a Carrier's POI and provide access to all BellSouth NXX codes homed in that specific end office and are provided in conjunction with Type 2A Interconnection. Type 2B Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as it may be amended or replaced from time to time.

I. Purpose

The Parties have entered into this Agreement consistent with all applicable federal, state and local statutes, rules and regulations in effect as of the date of its execution. The access and interconnection obligations contained herein enable Carrier to provide CMRS in those areas where it is authorized to provide such services within the nine state region of BellSouth.

II. Term of the Agreement

A. The term of this Agreement shall be three years, beginning on the Effective Date and shall apply to the BellSouth territory in the state(s) of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Notwithstanding any prior agreement of the Parties, the rates, terms and conditions of this Agreement shall not be applied retroactively prior to the Effective Date.

B. The Parties agree that by no earlier than one hundred and eighty (180) days prior to the expiration of this Agreement, either party may request negotiation of a successor agreement by written notice to the other Party. The date of this notice will be the starting point for the negotiation window under section 252 of the Act. If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in this Section B, the Parties are unable to negotiate new terms, conditions and prices for a subsequent agreement (Subsequent Agreement), either Party may petition the Commission to establish appropriate terms, conditions and prices for the Subsequent Agreement pursuant to 47 U.S.C. 252.

C. If, as of the expiration of this Agreement, a Subsequent Agreement has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties may continue to negotiate a Subsequent Agreement or arbitrate disputed issues to reach a Subsequent Agreement as set forth in Section B above, and the terms of such Subsequent Agreement shall be effective as of the effective date as stated in the Subsequent Agreement.

D. Notwithstanding the foregoing, in the event that as of the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement and no arbitration proceeding has been filed in accordance with Section B above, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services (excluding usage components in this Agreement) to Carrier pursuant to the terms, conditions and rates set forth in BellSouth's General Subscriber Services Tariff, Section A35 and Section A16, Transit Traffic Service or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended from time to time. In the event that BellSouth terminates this Agreement and BellSouth provides services as stated above, the Parties may continue to negotiate a Subsequent Agreement, and the terms of such Subsequent Agreement shall be effective as of the date of execution.

III. Carrier/Affiliate License

Carrier agrees to complete the information required in Attachment A, for all states covered by this Agreement prior to BellSouth executing this Agreement. Carrier shall provide BellSouth notice in writing of any changes, additions or deletions to the information listed in Attachment A to the Agreement when a change occurs in any state covered by this Agreement and within thirty (30) days of such notice the Parties shall amend this Agreement with such changes,

additions or deletions. No such change shall be binding on BellSouth until the Agreement is amended to change, include or delete the information, as appropriate.

IV. Methods of Network Interconnection

A. By mutual agreement of the Parties, trunk group arrangements between Carrier and BellSouth shall be established in accordance with subsection C below. Each Party will use commercially reasonable efforts to construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency.

B. The following methods of network interconnection are available for the provisioning of CMRS Interconnection Service. Such CMRS Interconnection Service and associated methods of network interconnection are available only within BellSouth's franchised service territory.

C. There are three methods of interconnecting facilities: (1) interconnection via facilities owned, provisioned and/or provided by either Party to the other Party; (2) physical collocation; and (3) virtual collocation where physical collocation is not practical for technical reasons or because of space limitations. Type 1, Type 2A and Type 2B interconnection arrangements shall be purchased from BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended. Rates, terms and conditions for both virtual and physical collocation may be provided in a separate collocation agreement or tariff.

D. The Parties will accept and provide any of the preceding methods of interconnection. Reciprocal connectivity shall be established to at least one BellSouth tandem within every LATA Carrier desires to serve, or Carrier may elect to interconnect directly at an end office for interconnection to BellSouth end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 ("SS7") connectivity is required at each interconnection point after Carrier implements SS7 capability within its own network. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The Parties' facilities shall provide the

necessary on-hook, off-hook answer and disconnect supervision and shall hand off calling party number ID when technically feasible. In the event a Party interconnects via the purchase of facilities and/or services from the other Party, the appropriate intrastate tariff, as amended from time to time, will apply. In the event that such facilities are used for two-way interconnection, the appropriate recurring charges for such facilities will be shared by the Parties based upon percentages of traffic on such facilities.

E. Nothing herein shall prevent Carrier from utilizing existing collocation facilities for local interconnection; provided, however, that if Carrier orders new facilities for interconnection or rearranges any facilities presently used for its alternate access business in order to use such facilities for local interconnection hereunder and a BellSouth charge is applicable thereto, BellSouth shall only charge Carrier the lower of the interstate or intrastate tariffed rate or promotional rate.

F. When the Parties provide an access service connection between an Interexchange Carrier ("IXC") and each other, each Party will provide its own access services to the IXC. If access charges are billed, each Party will bill its own access service rates to the IXC.

G. The ordering and provision of all services purchased from BellSouth by Carrier shall be as set forth in the BellSouth Telecommunications Wireless Customer Guide as that guide is amended by BellSouth from time to time during the term of this Agreement. This guide may be found, as of the effective date of this agreement, at the following URL: <http://www.interconnection.bellsouth.com/>.

V. Interconnection Trunk Group Options

A. One-Way Trunk Group Arrangement

If the Parties mutually agree upon a one-way trunking arrangement, the following will apply:

BellSouth will provide and bear the cost of a one-way trunk group to provide for the delivery of Local Traffic from BellSouth to Carrier's POI within BellSouth's service territory and within the LATA, and Carrier will provide and bear the cost of trunk group's for the delivery of Carrier's originated Local Traffic and for the receipt and delivery of Transit Traffic to each BellSouth tandem and end office at which the Parties interconnect.

B. Two-Way Trunk Group Arrangement

If the Parties mutually agree upon a two-way trunking arrangement, the following will apply:

BellSouth and Carrier will share the cost of the two-way trunk group carrying both Parties' traffic proportionally when purchased via the General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended from time to time. BellSouth will bear the cost of the two-way trunk group for the portion of the facility utilized for the delivery of BellSouth originated Local Traffic to Carrier's POI within BellSouth's service territory and within the LATA (calculated based on the number of minutes of traffic identified as BellSouth's divided by the total minutes of use on the facility), and Carrier will provide and bear the cost of the two-way trunk group for all other traffic, including Transit Traffic.

C. If the Parties cannot agree upon a trunk group arrangement, BellSouth will provide and bear the cost of a one-way trunk group to provide for the delivery of Local Traffic from BellSouth to Carrier's POI within BellSouth's service territory and within the LATA. Carrier will provide and bear the cost of one-way or two-way trunk group(s) for the delivery of all Carrier's originated traffic, and also the delivery and receipt of Transit Traffic.

VI. Compensation and Billing

A. Local Traffic Compensation

Each Party will pay the other for terminating its Local Traffic on the other's network at the Local Interconnection rates as set forth in Attachment B1.1. These rates are reciprocal for mobile-to-land and land-to-mobile calls.

1. Local Traffic Measurement

a. To the extent that Carrier has recording capability, but recording limitations prohibit Carrier's ability to determine the amount of BellSouth originated Local Traffic terminated to Carrier over two-way multi-use facilities, then upon Carrier's written request to the Invoice Payment Center (IPC), BellSouth will provide to Carrier on a quarterly basis the percent of total terminating traffic to Carrier that was originated by BellSouth. Such percent will be used by Carrier to bill BellSouth for the BellSouth Local Traffic for the following quarter.

b. To the extent that Carrier has no recording capability and cannot determine the amount of BellSouth originated traffic terminated to Carrier for reciprocal billing, BellSouth will provide to Carrier the percent of terminating traffic originated by BellSouth based on BellSouth's usage billed to Carrier.

c. BellSouth shall utilize actual traffic measurements as defined in Section VIII below, if available, to classify and bill Carrier for Carrier's originated Local Traffic terminating to BellSouth. If BellSouth is unable to measure actual traffic, BellSouth shall apply the default percentage for local traffic to classify and bill traffic in accordance with Section VIII.

2. The Parties' traffic on BellSouth's interLATA Extended Area Service (EAS) routes shall be considered Local Traffic and compensation for the termination of such traffic shall be pursuant to the terms of this section. EAS routes are those exchanges within a Basic Local Calling Area, as defined in Section A3 of BellSouth's General Subscriber Services Tariff.

B. Compensation For Facilities

1. Where one-way trunking is used, each Party will be solely responsible for the recurring and non-recurring cost of its facility up to the POI.

a. Where the Parties elect to utilize one-way trunking, transit traffic will be sent over a separate trunk group, in which case, Carrier will bear the cost for two-way interconnection facilities utilized for the delivery and receipt of Transit Traffic.

2. Where two-way trunking is mutually agreed upon, the Parties agree to share proportionately in the recurring costs of two-way interconnection facilities purchased via the General Subscriber Services Tariff, Section and Section 16, Transit Traffic Service, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended from time to time.

a. To determine the amount of compensation due to Carrier for interconnection facilities with two-way trunking for the transport of Local Traffic originating on BellSouth's network and terminating on Carrier's network, Carrier will utilize the prior month's undisputed Local Traffic usage billed

by BellSouth and Carrier to develop the percent of BellSouth originated Local Traffic.

b. BellSouth will bill Carrier for the entire cost of the facility. Carrier will then apply the BellSouth originated percent against the Local Traffic portion of the two-way interconnection facility charges billed by BellSouth to Carrier. Carrier will invoice BellSouth on a monthly basis the proportionate cost for the facilities utilized by BellSouth.

c. Carrier will bear the cost for two-way interconnection facilities utilized for the delivery and receipt of Transit Traffic.

C. Billing Charges

1. The charges for Local Interconnection shall be billed monthly and payment for services provided is due on or before the next bill date.
2. Charges for terminating traffic will be based upon the actual conversation minutes of use (MOUs) measured from receipt of answer supervision to receipt of disconnect supervision, with such time accumulated at the end of the billing period and rounded up to the next whole minute.

D. Billing Disputes

1. Billing disputes shall be handled pursuant to the terms of this section.
 - a. Each Party agrees to notify the other Party in writing upon the discovery of a billing dispute. Notification of disputed charges must be provided within one (1) year from the time the charge was billed. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the notification date. If the Parties are unable within the sixty (60) day period to reach resolution, then the aggrieved Parties may pursue dispute resolution in accordance with the terms of this Agreement.
 - b. For purposes of this Section, a billing dispute means a dispute of a specific amount of money actually billed by either Party. The dispute must be clearly explained by the disputing Party and supported by written documentation, which clearly shows the basis for disputing charges. A

billing dispute will not include the refusal to pay all or part of a bill or bills when no written documentation is provided to support the dispute, nor shall a billing dispute include the refusal to pay other amounts owed by the billed Party until the dispute is resolved. Claims by the billed Party for damages of any kind will not be considered a billing dispute for purposes of this Section. Once the billing dispute is resolved, the disputing Party will make immediate payment of any of the disputed amount owed to the billing Party or the billing Party shall have the right to pursue normal treatment procedures. Any credits due to the disputing Party pursuant to the billing dispute will be applied to the disputing Party's account by the billing Party immediately upon resolution of the dispute. If a billing dispute is resolved in the disputing Party's favor upon resolution of the dispute any late payment charges charged to the disputed monies will be credited.

c. If a Party disputes a charge and does not pay such charge by the payment due date, or if a payment or any portion of a payment is received by either Party after the payment due date, or if a payment or any portion of a payment is received in funds that are not immediately available to the other Party, then a late payment charge shall be assessed.

E. Late Payment Charges

Late payment charges shall be 1.5% per month for charges billed pursuant to this Agreement. For bills rendered by either Party for payment, the late payment charge for both Parties shall be applied to any portion of the payment not received by the billing Party on or before the payment due date.

F. Unbilled Charges

All charges under this Agreement shall be billed within one (1) year from the time the charge was incurred, previously unbilled charges more than one (1) year old shall not be billed by either Party.

VII. Deposit Policy

When purchasing services from BellSouth, Carrier will be required to complete the BellSouth Credit Profile and provide information regarding credit

worthiness. Based on the results of the credit analysis, BellSouth reserves the right to secure the account with a suitable form of security deposit. Such security deposit shall take the form of cash, an Irrevocable Letter of Credit (BellSouth form), Surety Bond (BellSouth form) or, in BellSouth's sole discretion, some other form of security proposed by carrier. Any such security deposit shall in no way release Carrier from its obligation to make complete and timely payments of its bill. Such security shall be required prior to the inauguration of service. If, in the sole opinion of BellSouth, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the level of security, BellSouth reserves the right to request additional security and/or file a Uniform Commercial Code (UCC-1) security interest in Carrier's accounts receivable and proceeds. Interest on a security deposit, if provided in cash, shall accrue and be paid in accordance with the terms in the appropriate BellSouth tariff. Security deposits collected under this Section shall not exceed two months' estimated billing. In the event Carrier fails to remit to BellSouth any deposit requested pursuant to this Section, service to Carrier may be terminated and any security deposits will be applied to Carrier's account(s).

VIII. Non-Local Traffic Interconnection and Compensation

A. For terminating its Non-Local Traffic on the other Party's network, each Party will pay either the access charges described in paragraph (B) hereunder or the transit charges described in paragraph (C) hereunder, as appropriate.

B. For originating and terminating intrastate or interstate interMTA Non-Local Traffic, each Party shall pay the other BellSouth's intrastate or interstate, as appropriate, switched network access service rate elements on a per minute of use basis, which are set out in BellSouth's Intrastate Access Services Tariff or BellSouth's Interstate Access Services Tariff as those tariffs may be amended from time to time during the term of this Agreement.

C. If Non-Local Traffic originated by Carrier is delivered by BellSouth for termination to the network of a Third Party Carrier, then BellSouth will bill Carrier and Carrier shall pay a \$0.0024 per minute transit charge beginning on the Effective Date of this Agreement until August 31, 2005, and increasing to \$0.003 beginning on September 1, 2005 for the remainder of the Agreement for such Transit Traffic ("Transit Charge") in addition to any charges that BellSouth may be obligated to pay to the Third Party Carrier ("Third Party Termination Charges"). Third Party Termination Charges may change during the term of this Agreement, and the appropriate rate shall be the rate in effect when the traffic is

terminated. BellSouth shall not deliver Transit Traffic to Carrier for termination to a Third Party Carrier and, therefore, Carrier shall not bill BellSouth any transit charges. Traffic not originated by BellSouth transiting BellSouth's network to Carrier is not Local Traffic and Carrier shall not bill BellSouth for such Transit Traffic transiting BellSouth's network. In addition, Traffic received by BellSouth from an interexchange carrier for delivery to Carrier is not Local Traffic and Carrier shall not bill BellSouth for such traffic. Except for Type 1 originated Transit Traffic, Carrier shall deliver its originated Transit Traffic to a BellSouth tandem and not to a BellSouth end office.

D. Where technically possible, BellSouth shall periodically measure actual traffic measurements and shall apply such measurements to classify and bill traffic in each of the categories shown in subsection E. below. BellSouth may conduct periodic reviews of Carriers' actual traffic measurements and shall subsequently update the percentages for the aforementioned categories accordingly.

E. For Carriers that have not exchanged traffic with BellSouth under a previous CMRS interconnection agreement or for traffic categories that are not technically feasible to measure, the associated default traffic classification percentages set forth in this subsection will be used until such time actual traffic patterns have been measured:

Carrier originated traffic to BellSouth

Local Traffic - 60%
Non-Local InterMTA InterState Traffic- 3%
Non-Local InterMTA IntraState Traffic- 3%
Non-Local Transit Only Traffic- 27.2%
Non-Local Transit Plus Third Party Termination Traffic - 6.8%

BellSouth originated traffic to Carrier

Local Traffic - 99%
Non-Local InterMTA InterState Traffic - .5%
Non-Local InterMTA IntraState Traffic - .5%

F. For Carriers that have elected to exchange traffic with BellSouth on Type 1 facilities only, the Parties may agree upon a surrogate method of classifying and billing such traffic, taking into consideration territory served (e.g., MTA boundaries, LATA boundaries and state boundaries) and traffic routing of the Parties, and such method shall replace the default percentages set forth above.

IX. Access To Poles, Ducts, Conduits, and Rights of Way

BellSouth will provide nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by BellSouth pursuant to 47 U.S.C § 224, as amended by the Act, pursuant to terms and conditions of a license agreement negotiated with BellSouth.

X. Access to 911/E911 Emergency Network

A. BellSouth and Carrier recognize that 911 and E911 services were designed and implemented primarily as methods of providing emergency services to fixed location subscribers. While BellSouth and Carrier recognize the need to provide "911-like" service to mobile subscribers, both Parties recognize that current technological restrictions prevent an exact duplication of the services provided to fixed location customers. BellSouth will route "911-like" calls received from Carrier to the emergency agency designated by Carrier for such calls. Carrier will provide the information necessary to BellSouth so that each call may be properly routed and contain as much pertinent information as is technically feasible.

B. BellSouth and Carrier recognize that the technology and regulatory requirements for the provision of "911-like" service by CMRS carriers are evolving and agree to modify or supplement the foregoing in order to incorporate industry accepted or regulatory mandated technical improvements to comply with applicable regulatory requirements.

XI. Access to Telephone Numbers

Carrier is responsible for interfacing with the North American Numbering Plan administrator for all matters dealing with dedicated NXXs. BellSouth will cooperate with Carrier in the provision of shared NXXs where BellSouth is the service provider.

XII. Wireless Local Number Portability

Wireless Local Number Portability (WLNP) is a method by which a subscriber may change service providers and/or service but retain and transfer their local telephone number. FCC Report and Order 95-116 mandated the implementation of Local Number Portability - Service Provider Portability (LNP-

SPP) for both Local Exchange Carriers (LEC) and Commercial Mobile Radio Services (CMRS) providers.

BellSouth will provide access to the PNP database at rates, terms and conditions as set forth on BellSouth's website:
<http://interconnection.bellsouth.com/products/wlnp/index.html>.

XIII. Access to Signaling and Signaling Databases

A. SS7 Connectivity Provided by BellSouth. BellSouth will offer to Carrier use of its signaling network and signaling databases at BellSouth's published tariffed rates. Signaling functionality will be available with both A-link and B-link connectivity.

B. Where interconnection is provided by BellSouth via B-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall not bill an STP port charge nor shall BellSouth pay a port charge; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge and shall pay usage billed by the Carrier at rates not to exceed those charged by BellSouth; 3) SS7 Link - BellSouth will bill its tariffed charges for only two links of each quad ordered. Application of these charges in this manner is designed to reflect the reciprocal use of the Parties' signaling networks. Where interconnection is via A-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall bill its tariffed STP port charge but shall not pay a termination charge at the Carrier's end office; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge but shall not pay for any usage; 3) SS7 Link - BellSouth shall bill its tariffed charges for each link in the A-link pair but shall not pay the Carrier for any portion of those links.

C. SS7 Connectivity Through a Third Party Provider. A Carrier may obtain SS7 signaling from a Third-Party Provider of SS7 Signaling, for connecting to BellSouth's SS7 systems. Such connections shall meet generally accepted industry technical standards (i.e., Telcordia's GR-246 CORE, Specifications of Signaling System Number 7). In such instances, each Party is responsible for its own SS7 signaling therefore, neither Party will bill the other charges associated with SS7 signaling messages, connections and terminations.

XIV. Network Design and Management

A. The Parties will work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. BellSouth will provide public notice of changes in the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

B. The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria.

C. The Parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls to alleviate or prevent network congestion.

1. Network Congestion - When BellSouth notifies Carrier that capacity issues at any BellSouth tandem, including but not limited to port capacity and processing capacity, require Carrier to add interconnection facilities to additional BellSouth tandems or to BellSouth end offices, the Parties agree to joint planning sessions through which the Parties will develop mutually acceptable plan(s) to alleviate such tandem capacity problems. Such mutually agreed to plans may include BellSouth providing the necessary transport facilities past the tandem for Carrier to provide Type 2B interconnection and waiving the charges for such facilities from the tandem to the end office provided however that Carrier agrees to compensate BellSouth for the necessary interconnections facilities to the POI.

2. Tandem Traffic Volume – Where multiple BellSouth tandems exist within a LATA, and where either Party has the capability to measure the amount of traffic between Carrier's switch and an interconnected BellSouth tandem, then in the event that the amount of traffic delivered to end offices that sub-tend another specific BellSouth tandem in the same LATA exceeds two DS1's (624,000 minutes of use) level of traffic per month for two consecutive months, then Carrier shall install and retain interconnection trunks to such tandem, in addition to the existing BellSouth tandem interconnection(s).

3. End Office Traffic Volume – Where either Party has the capability to measure the amount of traffic between Carrier's switch and a specific BellSouth end office, in the event that the amount of

traffic Carrier delivers to that end office exceeds one DS3's (6 million minutes of use) level of traffic per month for two consecutive months, then Carrier shall install and retain Type 2B interconnection trunks to such end office.

D. Interconnection reconfigurations will have to be considered individually as to the application of a charge. Notwithstanding the foregoing, the Parties do intend to charge non-recurring fees for any additions to, or added capacity to, any facility or trunk purchased. Parties who initiate SS7 STP changes may be charged authorized non-recurring fees from the appropriate tariffs.

E. The Parties will provide Common Channel Signaling (CCS) information to one another, where available and technically feasible, in conjunction with all traffic in order to enable full interoperability of CLASS features and functions except for call return. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored, and the Parties agree to cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between the respective networks.

F. For network expansion, the Parties will review engineering requirements on a periodic basis and establish forecasts for trunk utilization as required by Section IV of this Agreement. New trunk groups will be implemented as stated by engineering requirements for both Parties.

G. The Parties will provide each other with the proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each Party to bill properly.

XV. Auditing Procedures

Upon thirty (30) days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic between the Parties. The Parties will retain billing information for a minimum of nine months from which the actual percentages of use, as described in Section VIII, can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the Party being audited.

Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. The applicable percentages shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit.

XVI. Liability and Indemnification

A. In the event that Carrier consists of two (2) or more separate entities as set forth in this Agreement and/or any Amendment hereto, all such entities shall be jointly and severally liable for the obligations of Carrier under this Agreement.

B. Neither Party shall be liable to the other for any act or omission of any other telecommunications company providing a portion of a service under this Agreement.

C. Neither Party is liable for damages to the other Party's terminal location, Point of Interface (POI), equipment, nor customer's premises resulting from the furnishing of a service, including but not limited to the installation and removal of equipment and associated wiring, unless the damage is caused by a Party's negligence or willful misconduct.

D. Except for any indemnification obligations of the Parties hereunder, each Party's liability to the other for any claim, loss claim, injury, liability or expense including reasonable attorneys' fees relating to or arising from any cause whatsoever, whether based in contract negligence or other tort, strict liability or otherwise, relating to the performance of this Agreement shall not exceed a credit for the actual cost of the services or functions not performed or improperly performed.

E. A Party may, in its sole discretion, provide in its tariffs and contracts with its Customer and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by applicable law, such Party shall not be liable to Customer or third Party for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs

a loss as a result thereof, such Party shall, except to the extent caused by the other Party's negligence or willful misconduct, indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

F. Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. This limitation of liability applies regardless of whether the Parties knew of the possibility that such damages could result. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

G. Neither Party assumes liability for the accuracy of the data provided to it by the other Party.

H. To the extent any specific provision of this Agreement purports to impose liability, or limitation of liability, on either Party different from or in conflict with the liability or limitation of liability set forth in this Section, then with respect to any facts or circumstances covered by such specific provisions, the liability or limitation of liability contained in such specific provision shall apply.

I. Except to the extent damages are caused by the indemnified Party's gross negligence or willful misconduct, the Party providing services here under, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the content of the receiving Party's own communications.

J. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE

OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE,
ARISING FROM COURSE OF PERFORMANCE, COURSE OF
DEALING, OR FROM USAGES OF TRADE.

L. The obligations of the Parties contained within this section XVI shall survive the expiration of this Agreement.

XVII. Intellectual Property Rights and Indemnification

A. No License. Except as expressly set forth in Section XVII.B, no patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. The Parties are strictly prohibited from any use, including but not limited to, in the selling, marketing, promoting or advertising of telecommunications services, of any name, service mark, logo or trademark (collectively, the "Marks") of the other Party. The Marks include those Marks owned directly by a Party or its Affiliate(s) and those Marks that a Party has a legal and valid license to use. The Parties acknowledge that they are separate and distinct and that each provides a separate and distinct service and agree that neither Party may, expressly or impliedly, state, advertise or market that it is or offers the same service as the other Party or engage in any other activity that may result in a likelihood of confusion between its own service and the service of the other Party.

B. Ownership of Intellectual Property. Any intellectual property that originates from or is developed by a Party shall remain the exclusive property of that Party. Except for a limited, non-assignable, non-exclusive, non-transferable license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right, now or hereafter owned, controlled or licensable by a Party, is granted to the other Party. Neither shall it be implied nor arise by estoppel. Any trademark, copyright or other proprietary notices appearing in association with the use of any facilities or equipment (including software) shall remain on the documentation, material, product, service, equipment or software. It is the responsibility of each Party to ensure at no additional cost to the other Party that it has obtained any necessary licenses in relation to intellectual property of third Parties used in its network that may be required to enable the other Party to use any facilities or equipment (including software), to receive any service, or to perform its respective obligations under this Agreement. It is the responsibility of each Party to ensure at no additional cost to the other

Party that it has obtained any necessary licenses in relation to intellectual property of third parties used in its network that may be required to enable the other Party to use any facilities or equipment (including software), to receive any service, or to perform its respective obligations under this Agreement.

C. Intellectual Property Remedies.

1. Indemnification. The Party providing a service pursuant to this Agreement will defend the Party receiving such service or data provided as a result of such service against claims of infringement arising solely from the use by the receiving Party of such service in the manner contemplated under this Agreement and will indemnify the receiving Party for any damages awarded based solely on such claims in accordance with Section XVI, preceding.
2. Exception to Obligations. Neither Party's obligations under this Section shall apply to the extent the infringement is caused by: (i) modification of the facilities or equipment (including software) by the indemnitee; (ii) use by the indemnitee of the facilities or equipment (including software) in combination with equipment or facilities (including software) not provided or authorized by the indemnitor, provided the facilities or equipment (including software) would not be infringing if used alone; (iii) conformance to specifications of the indemnitee which would necessarily result in infringement; or (iv) continued use by the indemnitee of the affected facilities or equipment (including software) after being placed on notice to discontinue use as set forth herein.
3. Exclusive Remedy. The foregoing shall constitute the Parties' sole and exclusive remedies and obligations with respect to a third party claim of intellectual property infringement arising out of the conduct of business under this Agreement.
4. Dispute Resolution. Any claim arising under Section XVII.A and XVII.B shall be excluded from the dispute resolution procedures set forth in Section XXI, and shall be brought in a court of competent jurisdiction.

XVIII. Modification of Agreement

- A.** BellSouth shall make available, pursuant to 47 USC § 252 and 47 C.F.R. § 51.809, to Carrier in its entirety any agreement filed and approved

pursuant to 47 USC § 252. The adopted agreement shall apply to the same states as such other agreement. The term of the adopted agreement shall expire on the same date as set forth in the agreement that was adopted.

B. If Carrier changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of Carrier to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.

C. No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.

D. Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).

E. In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of Carrier or BellSouth to perform any material terms of this Agreement, Carrier or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be in accordance with Section XXI.

XIX. Taxes and Fees

A. Definition: For purposes of this section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) which are imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefor.

B. Taxes And Fees Imposed Directly On Either Providing Party Or Purchasing Party.

1. Taxes and fees imposed on the providing Party, which are neither permitted nor required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.

2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

C. Taxes And Fees Imposed On Purchasing Party But Collected And Remitted By Providing Party.

1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party shall have the right, at its own expense, to contest the same in good faith, in its own name or on the providing Party's behalf. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the governmental authority.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.

6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority; such notice to be provided at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

8. The Purchasing Party shall have the right, at its own expense, to claim a refund or credit, in its own name or on the Providing Party's behalf, of any such tax or fee that it determines to have paid in error, and the Purchasing Party shall be entitled to any recovery thereof.

D. Taxes And Fees Imposed On Providing Party But Passed On To Purchasing Party.

1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing,

the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis of any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes or fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.

6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but

in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

E. Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

XX. Treatment of Proprietary and Confidential Information

A. It may be necessary for BellSouth and Carrier, each as the "Discloser," to provide to the other Party, as "Recipient," certain proprietary and confidential information (including trade secret information) including but not limited to technical, financial, marketing, staffing and business plans and information, strategic information, proposals, request for proposals, specifications, drawings, maps, prices, costs, costing methodologies, procedures, processes, business systems, software programs, techniques, customer account data, call detail records and like information (collectively the "Information"). All such Information conveyed in writing or other tangible form shall be clearly marked with a confidential or proprietary legend. Information conveyed orally by the Discloser to Recipient shall be designated as proprietary and confidential at the time of such oral conveyance, shall be reduced to writing by the Discloser within forty-five (45) days thereafter, and shall be clearly marked with a confidential or proprietary legend.

B. Use and Protection of Information. Recipient agrees to protect such Information of the Discloser provided to Recipient from whatever source from distribution, disclosure or dissemination to anyone except employees of Recipient (and its Affiliates) with a need to know such Information solely in conjunction with Recipient's analysis of the Information and for no other purpose except as authorized herein or as otherwise authorized in writing by the Discloser. Recipient will not make any copies of the Information inspected by it except to the extent that electronic Information is distributed consistent with this paragraph.

C. Exceptions. Recipient will not have an obligation to protect any portion of the Information which:

- (a) is made publicly available by the Discloser or lawfully by a nonparty to this Agreement;
- (b) is lawfully obtained by Recipient

from any source other than Discloser; (c) is previously known to Recipient without an obligation to keep it confidential; or (d) is released from the terms of this Agreement by Discloser upon written notice to Recipient.

D. Recipient agrees to use the Information solely for the purposes of negotiations pursuant to 47 U.S.C. 251 or in performing its obligations under this Agreement and for no other entity or purpose, except as may be otherwise agreed to in writing by the Parties. Nothing herein shall prohibit Recipient from providing information requested by the Federal Communications Commission or a state regulatory agency with jurisdiction over this matter, or to support a request for arbitration or an allegation of failure to negotiate in good faith.

E. Recipient agrees not to publish or use the Information for any advertising, sales promotions, press releases, or publicity matters that refer either directly or indirectly to the Information or to the Discloser or any of its affiliates.

F. The disclosure of Information neither grants nor implies any license to the Recipient under any trademark, patent, copyright, or application, which is now or may hereafter be owned by the Discloser.

G. Survival of Confidentiality Obligations. The Parties' rights and obligations under this Section XX shall survive and continue in effect until two (2) years after the expiration or termination date of this Agreement with regard to all Information exchanged during the term of this Agreement. Thereafter, the Parties' rights and obligations hereunder survive and continue in effect with respect to any Information that is a trade secret under applicable law.

XXI. Force Majeure

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Carrier, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from

performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided, however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease.

XXII. Resolution of Disputes

Except as otherwise stated in this Agreement, if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the Parties will initially refer the issue to the appropriate company representatives. If the issue is not resolved, either Party may petition the Commission for a resolution of the dispute. However, each Party reserves the right to seek judicial review of any ruling made by the Commission concerning this Agreement.

XXIII. Waivers

Any failure or delay by either Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

XXVI. Assignment

Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate of the Party without the consent of the other Party. The assigning Party shall provide thirty (30) days written notice of such assignment to the other Party. The Parties shall work cooperatively to amend this Agreement to reflect such assignments and to implement any changes required due to such assignment. Such assignment shall be effective upon Amendment of this Agreement as provided for in the preceding sentence. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations. Notwithstanding anything to the contrary in this Section, Carrier shall not assign this Agreement to any Affiliate or non-affiliated entity unless either (1) Carrier pays all bills, past due and current, under this

Agreement, or (2) Carrier's assignee expressly assumes liability for payment of such bills.

XXV. Severability

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, in any respect under any statute, regulatory requirement, or rule of law, then such provisions shall be considered inoperative to the extent of such invalidity, illegality or unenforceability, and the Parties shall negotiate in good faith to reformulate such invalid, illegal or unenforceable provision to as closely reflect the original intent of the Parties as possible, consistent with applicable law, and to effectuate such remaining provisions hereof as may be valid without defeating the original intent of such provisions.

XXVI. Survival

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 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, shall survive expiration or termination thereof.

XXVII. Governing Law

Where applicable, this Agreement shall be governed by, and construed in accordance with federal and state substantive telecommunications law, including rules and regulations of the FCC and the appropriate state regulatory commission. In all other respects, this Agreement shall be governed by and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

XXVIII. Arm's Length Negotiations

This Agreement was executed after arm's length negotiations between the undersigned Parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all Parties. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

XXIX. Filing of Agreement

Upon execution of this Agreement, BellSouth shall file it with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, BellSouth shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by BellSouth.

XXX. Notices

A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person, via overnight mail, or given by postage prepaid mail or email if an email address is listed below, addressed to:

**BellSouth Telecommunications,
Inc.**

675 W. Peachtree St. N.E.
Suite 4300
Atlanta, Georgia 30375
Attn: Legal Dept. "Wireless "
Attorney
Fax number: 404-614-4054

New Cingular Wireless PCS, LLC

5565 Glenridge Connector
Suite 15206
Atlanta, GA 30342
ATTN: Senior Interconnection
Manager
Fax number: 404-236-6262
Contact number: 404-236-6490
Email: Bill.Brown@cingular.com

And:

Assistant Director-Wireless
Interconnection
600 N. 19th Street
Eighth Floor
Birmingham, Alabama 35203
Fax number: 205-321-4702

Copy to:

Cingular Wireless
16331 NE 72nd Way (RTC 1)
Redmond, WA 98052
ATTN: Legal - Interconnection

or at such other address as the intended recipient previously shall have designated by written notice to the other Party.

B. Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business

day after the fifth day, after it was deposited in the mails; and by overnight mail, the day after being sent.

C. Notwithstanding the foregoing, BellSouth may provide Carrier notice via Internet posting of changes to business processes and policies, notices of new service offerings, and changes to service offerings not requiring an amendment to this Agreement and any other information of general applicability.

XXXI. Headings of No Force or Effect

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

XXXII. Multiple Counterparts

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

XXXIII. Compliance with Applicable Law

Each Party shall comply at its own expense with applicable law.

XXXIV. Entire Agreement

This Agreement and its Attachments, attached hereto and incorporated herein by this reference, all of which, when taken together, are intended to constitute one indivisible agreement. This Agreement sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them. Any orders placed under a prior agreement(s) between the Parties shall be governed by the terms of this Agreement as of the Effective Date, and each Party acknowledges and agrees that any and all amounts and obligations owed under prior agreements between the Parties shall be due and owing under this Agreement and be governed by the terms and conditions of this Agreement as if such services were provisioned or requested under this Agreement. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement.

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or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby. In the event of any conflict between the term(s) of this Agreement and those of an applicable tariff, the terms of this Agreement shall control.

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Section XXXIV. Signature Page

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written below.

BellSouth Telecommunications, Inc.

By: 

Name: Randy J. Ham

Title: Assistant Director –
Wireless Interconnection

Date: 6/10/05

New Cingular Wireless PCS, LLC

By: 

Name: Michael F. VanWeelden

Title: Director - SCM Network

Date: 6-2-05

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Attachment A

AFFILIATES

LICENSE HOLDER(S)

CORPORATE ENTITIES

ATTACHMENT A

The entities covered by this agreement are New Cingular Wireless PCS, LLC:

Alabama:

Decatur RSA Limited Partnership;
Orange Licenses Holding, LLC
Blue Licenses Holding, LLC

Florida:

Orlando SMSA Limited Partnership;
Jacksonville MSA Limited Partnership;
Florida RSA No. 2B (Indian River) Limited Partnership
Orange Licenses Holding, LLC
Blue Licenses Holding, LLC
Sarasota Cellular Telephone Company
Melbourne Cellular Telephone Company
Bradenton Cellular Partnership
Ocala Cellular Telephone Company

Georgia:

Northeastern Georgia RSA Limited Partnership;
Georgia RSA No. 3 Limited Partnership;
Orange Licenses Holding, LLC
Blue Licenses Holding, LLC

Kentucky:

Orange Licenses Holding, LLC
Blue Licenses Holding, LLC
Cincinnati SMSA Limited Partnership

Louisiana:

Orange Licenses Holding, LLC
Blue Licenses Holding, LLC
Lafayette MSA Limited Partnership;
Acadiana Cellular General Partnership;
Louisiana MSA Limited Partnership;
Louisiana RSA No. 8 Limited Partnership;
Houma-Thibodaux Cellular Partnership

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Mississippi:

Orange Licenses Holding, LLC
Blue Licenses Holding, LLC

South Carolina:

Chattanooga MSA Limited Partnership

Tennessee:

Chattanooga MSA Limited Partnership;
Orange Licenses Holding, LLC
Blue Licenses Holding, LLC

ATTACHMENT B

RATES

CMRS Local Interconnection Rates

B1.1 (Per Minute of Use)

	TYPE 1 End Office Switched		Type 2A Tandem Switched		Type 2B Dedicated End Office
All BellSouth States					
Beginning on the Effective Date of this Agreement for the term of the Agreement	\$0.0007		\$0.0007		\$0.0007

B1.2

Mobile originated IntraMTA traffic over Type 1, Type 2A and Type 2B trunks, which terminate at BellSouth Tandems (Local or Access) and/or BellSouth End Offices, without recording capability, may be billed as follows:

Carrier will be billed on monthly basis a surrogate usage rate, on a per voice grade trunk basis, for mobile originated Traffic completed over one-way outward or two-way trunks. Surrogate Usage for IntraMTA mobile originated Traffic, which terminates in BellSouth's local service area, shall be billed at a per voice grade trunk level rate as follows:

Monthly Surrogate Usage Rates (per voice grade trunk level)

	TYPE 1 End Office Switched		Type 2A Tandem Switched		Type 2B Dedicated End Office
All BellSouth States					
Beginning on the Effective Date of this Agreement for the term of the Agreement	\$9.10		\$9.10		\$6.30

ATTACHMENT C
Meet Point Billing Option

- A.** Meet Point Billing (MPB), as supported by Multiple Exchange Carrier Access Billing (MECAB) guidelines, shall mean the exchange of billing data relating to jointly provided switched access calls and Transit Traffic at the tandem level but shall only apply to the following Third Party Carriers – 1) Interexchange Carriers (IXC), 2) Rural Incumbent Local Exchange Carriers (R-ILEC, ICO, or ITC), 3) Competitive Local Exchange Carriers (CLEC), or 4) Commercial Mobile Radio Services (CMRS) Providers uniquely identified in the Electronic Message Interface (EMI) 1101 call records in either the Carrier Identification Code (CIC) or Operating Company Number (OCN) fields which are, respectively, fields 45 thru 49 and 167 thru 170 of the EMI record.
- B.** For purposes of MPB, any reference to Third Party Carriers shall include only those entities set forth in the preceding paragraph. MECAB refers to the document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of Switched Access Traffic and Transit Traffic at the tandem level provided by two or more telecommunications carriers. Subject to Carrier providing all necessary information, BellSouth agrees to participate in MPB for Switched Access Traffic (as described in BellSouth's Tariffs) and Transit Traffic when both the originating and terminating parties participate in MPB with BellSouth. BellSouth shall pass Electronic Message Interface (EMI) 1101 call records to Carrier at no charge. Depending on the delivery medium selected by Carrier, appropriate charges for that delivery medium will be applied. Notwithstanding the foregoing, for purposes of MPB, where either or both of the originating or terminating carrier of Transit Traffic does not have MPB capability or refuses to participate in MPB with respect to such Transit Traffic, Section VII C will apply and this Attachment C shall not apply to Carrier with respect to such Third Party Carrier. In such event, Carrier shall be responsible for all costs and charges incurred by BellSouth under this Attachment C.

- C. Information required from carriers participating in MPB with BellSouth includes, but is not limited to:
- (i) Regional Accounting Office code (RAO)
 - (ii) Operating Company Number (OCN) per state for each entity to be billed. If an OCN is not available for each billed entity, BellSouth will only render a bill to Carrier.
 - (iii) a unique Access Carrier Name Abbreviation (ACNA)
 - (iv) Percent Interstate Usage
 - (v) Percent Local Usage
 - (vi) 800 Service Percent Interstate Usage or default of 50%
 - (vii) Billing Interconnection Percentage
 - (viii) Screening Telephone Number (STN) from Carrier's dedicated NXX associated with each Trunk Group subscribed to.

D. A default Billing Interconnection Percentage (BIP) of **0% BellSouth** and **100% Carrier** will be used if Carrier does not file with NECA to establish a BIP other than default. Carrier must support MPB for all Switched Access Traffic and Transit Traffic, at the tandem level, in accordance with Mechanized MECAB guidelines. The Parties acknowledge that the exchange of 1150 records will not be required.

E. MPB will be provided for Switched Access Traffic and Transit Traffic at the tandem level only. NPA/NXX codes for MPB must be associated with a point of interconnection POI with a Common Language Location Identification (CLLI) that sub-tends a BellSouth tandem has a rate center and that sub-tends the same BellSouth tandem and physically resides within BellSouth's franchised service area. Parties utilizing MPB must subscribe to tandem level interconnections with BellSouth and must deliver all Transit Traffic to BellSouth over such tandem level interconnections. Additionally, exchange of records will necessitate both the originating and terminating networks to subscribe to dedicated NXX codes, which can be identified as belonging to the originating and terminating network. NPA/NXX codes are presented in the Local Exchange Routing Guide (LERG) in association with a specific switch CLLI. Under national programming rules associated with Carrier Access Billing Systems (CABS), each CLLI is associated with a single rate center. Additionally, (i) if the Carrier has Type 2A and Non-Type 2A NPA/NXX codes associated with a single CLLI or, (ii) if the Type 2A NPA/NXX code or CLLI home on a non-BellSouth SHA "00" tandem or are in a disassociated LATA, then those NPA/NXX codes and CLLI codes will not be included in MPB, and Switched Access Traffic and Transit Traffic associated with those NPA/NXX codes will continue to be billed in accordance with the provisions of Section VIII C. When converting to

MPB, if Carrier has NPA/NXX codes with more than a single rate center terminating to a given CLLI, Carrier must provide BellSouth with information stating which BellSouth rate center will be associated with NPA/NXX. If Carrier does not provide the rate center, BellSouth will determine the BellSouth rate center that will be applied to the CLLI. MPB is not available when the tandem at which the Parties have interconnected does not have the capability to measure actual traffic.

F. In a MPB environment, when Carrier utilizes services provided by BellSouth that are necessary to deliver certain types of calls (e.g. Local Number Portability queries and 800 Data Base queries), Carrier will be billed applicable charges as set forth in BellSouth's federal or state access tariffs, as appropriate. In the alternative, Carrier may perform the appropriate database queries prior to delivery of such traffic to BellSouth.

G. Participation in MPB is outside the reciprocal compensation requirements of this Agreement. Under MPB, Carrier will compensate BellSouth at the rate set forth in Section VIII.C. of this Agreement for Carrier originated Transit Traffic. Meet Point Billing to IXCs for jointly provided switched access traffic will be consistent with the most current MECAB billing guidelines.

H. Exchange of records will begin no earlier than ninety (90) days from the later of the date the contract is signed or the date that all necessary information as defined in Section C of this Attachment is provided. Once Carrier sets up MPB arrangements for Transit Traffic, Transit Traffic will be subject to only the \$0.0024 per minute Transit charge (or such other rate ordered by the state) beginning on the Effective Date of this Agreement until August 31, 2005, and increasing to \$0.003 beginning on September 1, 2005 for the remainder of the Agreement, and Third Party Termination Charges shall not apply. Notwithstanding the foregoing, in the event Carrier utilizes BellSouth's network to deliver Transit Traffic to a Third Party Carrier that does not accept traffic from BellSouth as Transit Traffic and has not, or will not, agree to MPB arrangements with Carrier for such Transit Traffic, BellSouth shall have the right to bill and collect from Carrier any amounts BellSouth pays to the Third Party Carrier for termination of Carrier's Transit Traffic. MPB as described in this Attachment C assumes Carrier will enter into interconnection or traffic exchange agreements with Third Party Carriers who terminate traffic originated by Carrier. Carrier will be liable to BellSouth for any charges, costs and fees BellSouth may incur for delivering Carrier's Transit Traffic.

I. Notwithstanding anything to the contrary in this Agreement, including Section VIII and this Attachment C, to the extent Carrier and BellSouth are parties to any settlement agreement relating to the exchange of Transit Traffic from Carrier to any independent telephone company, the Parties shall comply with the compensation provisions of such settlement agreement during the term thereof, as well as with any

provisions of this Agreement that are not in conflict with such settlement agreement. Upon expiration of any such settlement agreement, the terms of this Attachment C and the compensation payable hereunder shall control.

E

E-FILED 11/22/2016
2005-AD-400

AMENDMENT

BETWEEN

**BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA,
AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA,
AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA
AND AT&T TENNESSEE**

AND

NEW CINGULAR WIRELESS PCS, LLC



Signature: eSigned - Sheila Paananen

Name: eSigned - Sheila Paananen
 (Print or Type)

AT&T Nat'l Access Mgmt Lead Carrier Relations Mgr

Title: _____
 (Print or Type)

Date: 25 Oct 2016

New Cingular Wireless PCS, LLC

Signature: eSigned - William A. Bockelman

Name: eSigned - William A. Bockelman
 (Print or Type)

Title: Director
 (Print or Type)

Date: 25 Oct 2016

BellSouth Telecommunications, LLC d/b/a AT&T
 ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T
 KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI,
 AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA
 and AT&T TENNESSEE by AT&T Services, Inc., its
 authorized agent

State	OCN
ALABAMA	6214
FLORIDA	6214
GEORGIA	6214
KENTUCKY	6214
LOUISIANA	6214
MISSISSIPPI	6214
NORTH CAROLINA	6214
SOUTH CAROLINA	6214
TENNESSEE	6214

Description	ACNA Code(s)
ACNA(s)	IUW

**AMENDMENT TO THE AGREEMENT
BETWEEN
NEW CINGULAR WIRELESS PCS, LLC
AND
BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA, AT&T FLORIDA, AT&T
GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA,
AT&T SOUTH CAROLINA AND AT&T TENNESSEE**

This Amendment (the "Amendment") amends the Two-Way CMRS Interconnection Agreement by and between BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA and AT&T TENNESSEE ("AT&T") and New Cingular Wireless PCS, LLC on behalf of itself and its Commercial Mobile Radio Service Affiliates listed in Attachment A ("CMRS Provider"). AT&T and CMRS Provider are hereinafter referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, AT&T and New Cingular Wireless PCS, LLC are parties to a Two-Way CMRS Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1996 for Commercial Mobile Radio Service (CMRS), dated June 10, 2005 and as subsequently amended (the "Agreement"); and

WHEREAS, AT&T and Cricket Communications, LLC are parties to a Two-Way CMRS Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1996 for Commercial Mobile Radio Service (CMRS), dated January 29, 2016; and

WHEREAS, the Parties agree to terminate the Agreement between Cricket Communications, LLC and AT&T; and

WHEREAS, the Parties agree to replace Attachment A of the Agreement with Exhibit A; and

WHEREAS, the Parties agree to add Structure Access as an Attachment to the Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. This Amendment is composed of the foregoing recitals, the terms and conditions, contained within, all of which are hereby incorporated in this Amendment by this reference and constitute a part of this Amendment.
2. The Parties agree to terminate the Agreement between Cricket Communications, LLC and AT&T.
3. The Parties agree to replace Attachment A in its entirety with Exhibit A (Attachment A to the Agreement) attached hereto.
4. The Parties agree that the terms and conditions set forth in the Structure Access Attachment, Exhibit B attached, hereto shall be incorporated into the Agreement, and the provisions of Exhibit B shall apply to Structure Access for Poles, Conduits, and Rights of Way.
5. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda, and Exhibits to the Agreement), this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Amendment.
6. In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.

7. This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement, but rather, shall be coterminous with such Agreement.
8. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
9. This Amendment shall be filed with and is subject to approval by the State Commission and shall become effective ten (10) days following approval by such Commission.

Exhibit A
Attachment A

New Cingular's Commercial Mobile Radio Service Affiliates:

ACADIANA CELLULAR GENERAL PARTNERSHIP

Galveston Cellular Telephone Co

AT&T Mobility Wireless Operations Holdings Inc.

CHATTANOOGA MSA LIMITED PARTNERSHIP

CINGULAR WIRELESS OF TEXAS RSA #11 LIMITED PARTNERSHIP

CINGULAR WIRELESS OF TEXAS RSA #16 LIMITED PARTNERSHIP

Cricket Wireless, LLC

Cricket Wireless LLC d/b/a Cricket Wireless Illinois LLC

FLORIDA RSA NO. 2B (INDIAN RIVER) LIMITED PARTNERSHIP

HOUMA-THIBODAUX CELLULAR PARTNERSHIP

LAFAYETTE MSA LIMITED PARTNERSHIP

Lake Mobility LLC

LOUISIANA RSA NO. 7 CELLULAR GENERAL PARTNERSHIP

LOUISIANA RSA NO. 8 LIMITED PARTNERSHIP

LUBBOCK SMSA LIMITED PARTNERSHIP

MADISON SMSA LIMITED PARTNERSHIP

MILWAUKEE SMSA LIMITED PARTNERSHIP

MISSOURI RSA 11/12 LIMITED PARTNERSHIP

MISSOURI RSA 8 LIMITED PARTNERSHIP

MISSOURI RSA 9B1 LIMITED PARTNERSHIP

NEW CINGULAR WIRELESS PCS, LLC

NORTHEASTERN GEORGIA RSA LIMITED PARTNERSHIP

Ohio RSA 2 Limited Partnership -

Ohio RSA 5 Limited Partnership

September 26, 2016

Exhibit A
Attachment A

Ohio RSA 6 Limited Partnership
Oklahoma City SMSA Limited Partnership
Oklahoma Independent RSA 7 Partnership
OKLAHOMA RSA 3 LIMITED PARTNERSHIP
OKLAHOMA RSA 9 LIMITED PARTNERSHIP
ORLANDO SMSA LIMITED PARTNERSHIP
Santa Barbara Cellular Systems, Ltd.
TEXAS RSA 18 LIMITED PARTNERSHIP
TEXAS RSA 19 LIMITED PARTNERSHIP
TEXAS RSA 20B1 LIMITED PARTNERSHIP
TEXAS RSA 6 LIMITED PARTNERSHIP
TEXAS RSA 7B1 LIMITED PARTNERSHIP
TEXAS RSA 9B1 LIMITED PARTNERSHIP
Texas RSA No. 2 Limited Partnership
TOPEKA SMSA LIMITED PARTNERSHIP
Tide Mobility LLC

September 26, 2016

EXHIBIT B

ATTACHMENT –

STRUCTURE ACCESS

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1.0 Introduction

1.1 This Attachment 03 - Structure Access ("Appendix") sets forth the rates, terms, conditions, and procedures by which AT&T-21STATE shall provide non-discriminatory access to AT&T-21STATE-owned Poles, Ducts, Conduit, and ROW. Separate tariffs or agreements shall govern WSP's access, if any, to the following facilities which, if allowed, would require special security, technical, and construction arrangements outside the scope of this Appendix:

- 1.1.1 AT&T-21STATE's central office vaults and Ducts and Conduits which serve no purpose other than to provide a means of entry to and exit from AT&T-21STATE's central offices;
- 1.1.2 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;
- 1.1.3 Ducts and Conduits located within buildings owned or leased by AT&T-21STATE; and
- 1.1.4 Ducts, Conduits, equipment rooms, and similar spaces located in space leased by AT&T-21STATE from third party property owners for purposes other than to house cables and other equipment in active service as part of AT&T-21STATE's network distribution operations.

1.2 Prior Agreements Superseded. This Appendix supersedes all prior agreements and understandings, whether written or oral, between WSP and AT&T-21STATE relating to the placement and maintenance of WSP's Facilities on and within AT&T-21STATE's Poles, Ducts, and Conduits, and ROW within the states covered by this Attachment.

2.0 Definitions

- 2.1 "Application" means the process of requesting a License to place Facilities in or on AT&T-21STATE-owned Conduit, Ducts, or Poles.
- 2.2 "Assigned", when used with respect to AT&T-21STATE-owned Conduits, Ducts or Poles, means any space in such Conduit or Duct or on such Pole that is occupied, or scheduled to be utilized pursuant to an Application deemed complete, by an entity authorized by AT&T-21STATE to use such space.
- 2.3 "Attaching Party" means any Party with an existing or prospective physical facility Attachment on or in any AT&T-21STATE structure.
- 2.4 "Attachment" as used herein means the physical connection of cable, wire, or equipment to AT&T-21STATE's Poles, Ducts, or Conduit.
- 2.5 "Authorized Contractor" refers to any contractor included on a list of contractors provided by AT&T-21STATE and which, subject to WSP's direction, control and the requirements and policies in each state, performs Facilities modification, Make-Ready Surveys or Make-Ready Work which would ordinarily be performed by AT&T-21STATE or persons acting on AT&T-21STATE's behalf. AT&T-21STATE shall make available and keep an up-to-date list of contractors it authorizes to perform Make-Ready Surveys and Make-Ready Work in the communications space on its Poles in cases where AT&T-21STATE has failed to meet deadlines specified in Section 6.
 - 2.5.1 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 AT&T-21STATE and is an Authorized Contractor only in those AT&T-21STATE construction districts specified by AT&T-21STATE.
 - 2.5.2 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 a single AT&T-21STATE construction district constitute approval of such Authorized Contractor for the area served by a different AT&T-21STATE 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 AT&T-21STATE construction districts in which the work is to be performed.
- 2.6 "Available" when used with respect to Conduit or Duct space or Poles, means any usable space in such Conduit or

Duct or on such Pole not assigned to a specific entity, including AT&T-21STATE, at the applicable time.

- 2.7 "Conduit(s)" means a structure containing one or more Ducts, usually placed underground or on bridges, in which cables or wires may be installed. As used in this Appendix, 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, and other AT&T-21STATE structures (such as huts and cabinets) which branch off from or are connected to AT&T-21STATE's Conduit.
- 2.8 "Conduit System" means any combination of Ducts, Conduits, Manholes, and Handholes joined to form an integrated whole. In this Appendix, the term refers to Conduit Systems owned or controlled by AT&T-21STATE.
- 2.9 "Cost(s)" means the amounts AT&T-21STATE bills WSP for specific work performed, and shall be (a) the actual charges made by subcontractors to AT&T-21STATE for work and/or, (b) if the work was performed by AT&T-21STATE employees, it shall be actual costs for all services provided by AT&T-21STATE, including, but not limited to labor, engineering, and any associated administrative or professional services, as applicable, calculated on an individual case basis, along with any directly attributable material expenditures.
- 2.10 "Duct(s)" means a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other Facilities. As used in this Appendix, the term Duct includes innerducts created by subdividing a Duct into smaller channels, but does not include cables and other telecommunications equipment located within such Ducts.
- 2.11 "Facilities" refer to any property or equipment, including but not limited to cables, used in the provision of Telecommunications Services.
- 2.12 "Handholes" means an enclosure, usually below ground level, used for the purpose of installing, operating, and maintaining Facilities in a Conduit. A Handhole is too small to permit personnel to physically enter. As used in this Appendix, the term "Handhole" refers only to Handholes, which are part of AT&T-21STATE's Conduit System, and does not refer to handholes which provide access to buried cables not housed within AT&T-21STATE Ducts or Conduits. As used in this Appendix, the term "Handhole" refers only to Handhole structures owned or controlled by AT&T-21STATE and does not include cables and other telecommunications equipment located within handhole structures.
- 2.13 "License(s)" means any License issued pursuant to this Appendix by AT&T-21STATE.
- 2.14 "Maintenance Duct(s)" generally refers to a full-sized Duct (typically three inches in diameter or larger), and may include an innerduct, for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term "Maintenance Duct" does not include Ducts and Conduits extending from an AT&T-21STATE Manhole to customer premises. When only one usable full-sized Duct remains in a Conduit section, that Duct shall be deemed to be the Maintenance Duct. AT&T-21STATE may elect to reserve an innerduct, in addition to the full-sized duct, for restoration purposes, dependent on the specific circumstances in a Conduit run. Such reservations shall be communicated, as necessary, when responding to applications for access.
- 2.15 "Make-Ready Survey" means all work and activities performed or to be performed to determine whether there is adequate capacity on a Pole or in a Conduit or Conduit System (including Manholes and Handholes) to accommodate WSP's Facilities and to determine what Make-Ready Work, if any, is required to prepare the Pole, Conduit or Conduit System to accommodate WSP's Facilities.
- 2.16 "Make-Ready Work" means all work performed or to be performed to prepare AT&T-21STATE's Conduit System, Poles or related Facilities for the requested Attachment of WSP's Facilities. Make-Ready Work includes, but is not limited to, clearing obstructions (e.g., by rodding Ducts to ensure clear passage), and the rearrangement, transfer, replacement, and removal of existing Facilities on a Pole or in a Conduit System where such work is required solely to accommodate WSP's Facilities and not to meet AT&T-21STATE's business needs or convenience. Make-Ready Work may require "dig ups" of existing Facilities and may include the repair, enlargement or modification of AT&T-21STATE's Structure or the performance of other work required to make AT&T-21STATE's Structure usable for the initial placement of WSP's Facilities.
- 2.17 "Manhole" means an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron or concrete Manhole cover, which personnel may enter and use for the purpose of installing, operating, and

maintaining Facilities in a Conduit. As used in this Appendix, the term "Manhole" does not include cables and other telecommunications equipment located within manhole structures.

- 2.18 "Overlashing" refers to the practice of placing an additional communications cable by lashing such cable with spinning wire over an existing cable and strand on Poles.
- 2.19 "Pole" means utility poles but only includes those utility poles owned or controlled by AT&T-21STATE, and does not include cables and other telecommunications equipment attached to pole structures or utility poles with respect to which AT&T-21STATE has no legal authority to permit Attachments by other persons or entities.
- 2.20 "Pole Attachment Act" and "Pole Attachment Act of 1978" means those provisions of the Act, as amended, now codified as 47 U.S.C. § 224.
- 2.21 "Right(s) of Way (ROW)" means the right to use the land or other property of another party to place Poles, Conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property). For purposes of this Appendix, "ROW" refers to property owned or controlled by AT&T-21STATE and used by AT&T-21STATE for its telecommunications distribution Facilities. ROW does not include:
 - 2.21.1 cables and other telecommunications equipment buried or located on such ROW; or
 - 2.21.2 public ROW (which are owned by and subject to the control of governmental entities); or
 - 2.21.3 any space which is owned and controlled by a third party property owner and occupied by AT&T-21STATE with permission from such owner rather than as a matter of legal right.
- 2.22 "Routine Inspection" refers to inspections that are planned and scheduled by AT&T-21STATE, for the purpose of inspecting the Facilities of WSP and others, including AT&T-21STATE, on AT&T-21STATE Structure.
- 2.23 "Sheath" or "Sheathing" means an outer covering containing communications wires, fibers, or other communications media.
- 2.24 "Spot Inspection" refers to spontaneous inspections done by AT&T-21STATE, which may be initiated, at AT&T-21STATE's discretion, for the purpose of ensuring safety and compliance with AT&T-21STATE standards on specific Structure.
- 2.25 "Structure" refers collectively to Poles, Ducts and Conduits.

3.0 General Provisions

3.1 Undertaking of AT&T-21STATE:

- 3.1.1 AT&T-21STATE shall provide WSP with equal and nondiscriminatory access to Structure on terms and conditions consistent with obligations under the Pole Attachment Act or, in the case of reverse pre-emption by a state, the applicable state laws and regulations. Further, AT&T-21STATE shall not withhold or delay assignment of such space to WSP unless such space has been Assigned.

3.2 Attachments Authorized by this Appendix:

- 3.2.1 AT&T-21STATE shall issue one or more Licenses to WSP authorizing WSP to attach Facilities to AT&T-21STATE's owned or controlled Poles and to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW under the terms and conditions set forth in this Appendix.
- 3.2.2 Unless otherwise provided herein, authority to attach Facilities to AT&T-21STATE's owned or controlled Poles, to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW shall be granted only in individual Licenses granted under this Appendix and the placement or use of such Facilities shall be determined in accordance with such Licenses and procedures established in this Appendix.
- 3.2.3 WSP agrees that its Attachment of Facilities to AT&T-21STATE's owned or controlled Poles, owned or controlled Conduits, Ducts or ROW shall take place pursuant to the licensing procedures set forth herein, and AT&T-21STATE agrees that it shall not unreasonably withhold or delay issuance of such Licenses.
- 3.2.4 WSP may not sublease or otherwise authorize any third party to use any part of AT&T-21STATE Structure

licensed to WSP under this Appendix, except that WSP may lease its own Facilities to third parties. Notwithstanding the above, WSP may permit third parties to overlash to existing WSP Attachments on AT&T-21STATE's Pole(s), without approval from, but with proper advance notification to, AT&T-21STATE. However, prior to the actual Overlashing by a third party, such third party must execute its own distinct Pole Attachment agreement with AT&T-21STATE.

- 3.2.5 WSP warrants that any Overlashing the WSP conducts or permits (via a third party or contractor) shall meet the following requirements: (1) the Overlashing complies with the standards referenced in Section 4.0 below of this Appendix; (2) WSP has computed the pole loading with the additional overlashed Facility, and the Pole will not be overloaded with the addition of the overlashed Facility; and (3) WSP has determined that no Make-Ready is necessary to accommodate the overlashed Facility, or will ensure that any Make-Ready necessary will be conducted before the Overlashing occurs. WSP agrees to indemnify AT&T-21STATE should any of the warranties be breached.

3.3 Licenses:

- 3.3.1 Subject to the terms and conditions set forth in this Appendix, AT&T-21STATE shall issue to WSP one or more Licenses authorizing WSP to place or attach Facilities in or to specified Structure owned or controlled by AT&T-21STATE on a "first-come, first-served" basis. In the event that existing Structure capacity is insufficient to satisfy WSP's Application, AT&T-21STATE shall include reasonable alternatives in the Make-Ready Estimate provided as described in Section 6.8 below. AT&T-21STATE shall have the right to designate the location and manner in which WSP's Facilities will enter and exit AT&T-21STATE's Conduit System and the specific location and manner of installation for any associated equipment which is permitted by AT&T-21STATE to occupy the Structure.

3.4 Access and Use of ROW:

- 3.4.1 To the extent AT&T-21STATE has the authority, AT&T-21STATE grants WSP a right to use any ROW for AT&T-21STATE Poles, Ducts, or Conduits to which WSP may attach its Facilities for the purposes of constructing, operating and maintaining such WSP's Facilities on AT&T-21STATE's Poles, Ducts or Conduits. Notwithstanding the foregoing, WSP shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, ROW, license, permit, permission, certification or franchise to construct, operate and/or maintain its Facilities on private and public property at the location of the AT&T-21STATE Pole, Duct or Conduit to which WSP seeks to attach its Facilities. WSP shall furnish proof of any such easement, ROW, license, permit, permission, certification, or franchise within thirty (30) calendar days of request by AT&T-21STATE. AT&T-21STATE does not warrant the validity or apportionability of any rights it may hold to place Facilities on private property.
- 3.4.2 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 ROW. 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.
- 3.4.2.1 At locations where AT&T-21STATE has access to third party property pursuant to non-exclusive ROW, AT&T-21STATE shall not interfere with WSP's negotiations with third party property owners for similar access; nor with WSP's access to such property pursuant to easements or other ROW obtained by WSP from the property owner. At locations where AT&T-21STATE has obtained exclusive ROW from third party property owners or otherwise controls the ROW, AT&T-21STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to WSP on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits AT&T-21STATE to provide such access, and provided further that if AT&T-21STATE has available space that it shares with WSP in AT&T-21STATE non-aerial ROW or easements (e.g., for cabinets placed on or underground), which have not been accounted for in rates determined in accordance with the Pole Attachment Act (e.g., aerial, linear ROW for pole lines are so accounted for), AT&T-21STATE shall include in a one-time billing WSP's pro rata portion of the charges, if any, paid by AT&T-21STATE to obtain such non-aerial

ROW or easements, plus any other documented legal, administrative, and engineering costs incurred by AT&T-21STATE in obtaining such ROW or easements and processing WSP's requests for such access.

- 3.4.2.2 Except to the extent necessary to meet the requirements of the Act, neither this Appendix nor any License granted hereunder shall constitute a conveyance or assignment of any of either Party's rights to use any public or private ROW, and nothing contained in this Appendix or in any License granted hereunder shall be construed as conferring on one Party any right to interfere with the other Party's access to any such public or private ROW.

3.5 No Effect on AT&T-21STATE's Right to Convey Property:

- 3.5.1 Nothing contained in this Appendix or in any License issued hereunder shall in any way affect the right of AT&T-21STATE to convey to any other person or entity any interest in real or personal property, including any Poles, Conduit or Ducts to or in which WSP has attached or placed Facilities pursuant to Licenses issued under this Appendix provided however that AT&T-21STATE shall give WSP reasonable advance written Notice of such intent to convey.
- 3.5.2 Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to WSP. AT&T-21STATE shall have the right to grant, renew and extend rights and privileges to others not Parties to this Agreement, by contract or otherwise, to use any Pole or Conduit System covered by this Appendix and WSP's rights hereunder.

3.6 No Effect on AT&T-21STATE's Rights to Manage its Own Facilities:

- 3.6.1 This Appendix shall not be construed as limiting or interfering with AT&T-21STATE's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:
- 3.6.1.1 To locate, relocate, move, replace, modify, maintain, and operate AT&T-21STATE's own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or any of AT&T-21STATE's Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which AT&T-21STATE deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or
- 3.6.1.2 enter into new agreements or arrangements with other persons or entities permitting them to attach or place their Facilities to or in AT&T-21STATE's Poles, Conduits or Ducts; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not substantially interfere with WSP's Attachment, or ROW provided by Licenses issued pursuant to this Appendix.

3.7 No Effect on WSP's Rights to Manage its Own Facilities:

- 3.7.1 This Appendix shall not be construed as limiting or interfering with WSP's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:
- 3.7.1.1 To locate, relocate, move, replace, modify, maintain, and operate its own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or its Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which WSP deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or
- 3.7.1.2 To enter into new agreements or arrangements with other persons or entities permitting WSP to attach or place its Facilities to or in such other persons' or entities' Poles, Conduits or Ducts, or ROW; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not conflict with WSP's obligations under Licenses issued pursuant to this Appendix.

3.8 No Right to Interfere with Facilities of Others:

- 3.8.1 The provisions of this Appendix or any License issued hereunder shall not be construed as authorizing either Party to rearrange or interfere in any way with any of the other Party's Facilities, with the Facilities of other persons or entities, or with the use of or access to such Facilities by such other Party or such other persons or entities, except to the extent expressly provided by the provisions of this Appendix or any License issued hereunder or by the Act or other applicable laws, rules or regulations.
- 3.8.2 WSP acknowledges that the Facilities of persons or entities other than AT&T-21STATE and WSP may be attached to or occupy AT&T-21STATE's Poles, Conduits, Ducts and ROW.
- 3.8.3 AT&T-21STATE shall not attach, or give permission to any third parties to attach Facilities to existing WSP Facilities without WSP's prior written consent. If AT&T-21STATE becomes aware of any such unauthorized Attachment to WSP Facilities, AT&T-21STATE shall use its best efforts to rectify the situation as soon as practicable.
- 3.8.4 With respect to the Structure occupied by WSP or the subject of an Application for Attachment by WSP, AT&T-21STATE will give to WSP sixty (60) calendar days written Notice for Conduit extensions or reinforcements, Pole line extensions, Pole replacements, or of AT&T-21STATE's intention not to maintain or use any existing Pole(s) or Conduit.
- 3.8.4.1 Where AT&T-21STATE elects to abandon or remove AT&T-21STATE Facilities, the Pole(s) or Conduit will be offered to existing occupants on a first-in, first-right to maintain basis. The first existing occupant electing to exercise this option will be required to execute the appropriate agreement with AT&T-21STATE to purchase and transfer ownership from AT&T-21STATE to that existing occupant, subject to then-existing Licenses pertaining to such Pole(s) or Conduit. If none of the existing occupants elects to maintain such Pole(s) or Conduit, all occupants will be required to remove their existing Facilities within ninety (90) calendar days of written Notice from AT&T-21STATE.
- 3.8.4.2 If an emergency or provisions of an applicable joint use agreement require AT&T-21STATE to construct, reconstruct, expand or replace Poles, Conduits or Ducts owned or controlled by AT&T-21STATE and either occupied by WSP or the subject of an Application for Attachment by WSP, AT&T-21STATE will notify WSP as soon as reasonably practicable of such proposed construction, reconstruction, expansion or replacement to enable WSP, if it so desires, to request that a Pole, Conduit or Duct of greater height or capacity be utilized to accommodate an anticipated Facility need of WSP.
- 3.8.5 Upon request and at WSP's expense, AT&T-21STATE shall remove any retired cable from Conduit Systems to allow for the efficient use of Conduit space within a reasonable period of time. AT&T-21STATE retains salvage rights on any cable removed. In order to safeguard its Structure and Facilities, AT&T-21STATE reserves the right to remove retired cables and is under no obligation to allow WSP the right to remove such cables. Based on sound engineering judgment, there may be situations where it would neither be feasible nor practical to remove retired cables.
- 3.9 Assignment of Space:
- 3.9.1 Assignment of space on Poles, in Conduits or Ducts and within ROW will be made pursuant to Licenses granted by AT&T-21STATE and in compliance with all applicable engineering and safety standards, as identified in Section 4 below. When an increase in capacity or strength of a Pole or Conduit is practical and necessary to fulfill WSP's request, AT&T-21STATE will propose such a modification as Make-Ready, and WSP will be responsible for the actual Costs associated with the modification in exchange for approval of the applicable License.
- 4.0 Requirements and Specifications**
- 4.1 Industry-recognized standards are incorporated below by reference. WSP agrees that its 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, regulations, specifications, and standards:
- 4.1.1 the Blue Book Manual of Construction Procedures, Special Report SR-1421, published by Telcordia

Technologies, f/k/a Bell Communications Research, Inc. ("BellCore"), and sometimes referred to as the "Blue Book";

- 4.1.2 the National Electrical Code (NEC), published by the National Fire Protection Association;
 - 4.1.3 the current version of the National Electrical Safety Code (NESC), published by the Institute of Electrical and Electronic Engineers, Inc.;
 - 4.1.4 the California Public Utility Commission's General Orders 95 and 128 for Attachments to AT&T-21STATE Poles, Ducts, and Conduits that exist in the State of California; and
 - 4.1.5 the AT&T Structure Access Guidelines.
- 4.2 Changes in Industry-Recognized Standards:
- 4.2.1 WSP agrees to rearrange its Facilities in accordance with changes in the standards published in the publications specified in Section 4.1 above of this Appendix if required by law to do so or upon the mutual agreement of the Parties.
- 4.3 Additional Electrical Design Specifications:
- 4.3.1 WSP agrees that, in addition to specifications and requirements referred to in Section 4.1 above, WSP's Facilities placed in AT&T-21STATE's Conduit System shall meet all of the following electrical design specifications:
 - 4.3.1.1 No Facility shall be placed in AT&T-21STATE's Conduit System in violation of FCC regulations.
 - 4.3.1.2 WSP's Facilities carrying more than 50 volts AC rms (root mean square) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded Sheath or shield.
 - 4.3.1.3 No coaxial cable of WSP shall occupy a Conduit System containing AT&T-21STATE's cable unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.
 - 4.3.1.4 WSP's coaxial cable may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half (1/2) ampere and where such cable has two (2) 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 micro-amperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.
 - 4.3.1.5 Neither Party shall circumvent the other Party's corrosion mitigation measures. Each Party's new Facilities shall be compatible with the other Party's Facilities so as not to damage any Facilities of the other Party by corrosion or other chemical reaction.
- 4.4 Additional Physical Design Specifications:
- 4.4.1 WSP's Facilities placed in AT&T-21STATE's Conduit System must meet all of the following physical design specifications:
 - 4.4.1.1 Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in AT&T-21STATE's Conduit or Ducts.
 - 4.4.1.2 The integrity of AT&T-21STATE's Conduit System and overall safety of AT&T-21STATE's personnel and other personnel working in AT&T-21STATE's Conduit System requires that "dielectric cable" be placed when WSP's cable Facility utilizes an alternative Duct or route that is shared in the same trench by any current-carrying Facility of a power utility.
 - 4.4.1.3 New construction splices in WSP's fiber optic and twisted pair cables shall be located in Manholes, pull boxes or Handholes.
- 4.5 Additional Specifications Applicable to Connections:
- 4.5.1 The following specifications apply to connections of WSP's Conduit to AT&T-21STATE's Conduit System:

4.5.1.1 WSP will be permitted to connect its Conduit or Duct only at an AT&T-21STATE Manhole. No Attachment will be made by entering or breaking into Conduit between Manholes. All necessary work to install WSP Facilities will be performed by WSP or its contractor at WSP's expense. In no event shall WSP or its contractor "core bore" or make any other modification to AT&T-21STATE Manhole(s) without the prior written approval of AT&T-21STATE.

4.5.1.2 If WSP constructs or utilizes a Duct connected to AT&T-21STATE's Manhole, the Duct and all connections between that Duct and AT&T-21STATE's Manhole shall be sealed, to the extent practicable, to prevent the entry of gases or liquids into AT&T-21STATE's Conduit System. If WSP'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 from the building into AT&T-21STATE's Conduit System.

4.6 Requirements Relating to Personnel, Equipment, Material, and Construction Procedures Generally:

4.6.1 Duct clearing, rodding or modifications required to grant WSP access to AT&T-21STATE's Conduit Systems may be performed by AT&T-21STATE at WSP's expense at charges which represent AT&T-21STATE's actual Costs. Alternatively (at WSP's option) such work may be performed by an Authorized Contractor. The Parties acknowledge that WSP, its contractors, and other persons acting on WSP's behalf will perform work for WSP (e.g., splicing WSP's Facilities) within AT&T-21STATE's Conduit System. WSP represents and warrants that neither WSP nor any person acting on WSP's behalf shall permit any person to climb or work on any of AT&T-21STATE's Poles or to enter AT&T-21STATE's Manholes or work within AT&T-21STATE's Conduit System unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to Pole or the Conduit Systems and to perform the work safely.

4.6.2 Rodding or clearing of Ducts in AT&T-21STATE's Conduit System shall be done only when specific authorization for such work has been obtained in advance from AT&T-21STATE. The Parties agree that such rodding or clearing shall be performed according to existing industry standards and practices. WSP may contract with AT&T-21STATE for performance of such work or, at WSP's option, with an Authorized Contractor.

4.6.3 Personnel performing work on AT&T-21STATE's or WSP's behalf in AT&T-21STATE's Conduit System shall not climb on, step on, or otherwise disturb the other Party's or any third party's cables, air pipes, equipment, or other Facilities located in any Manhole or other part of AT&T-21STATE's Conduit System.

4.6.4 All of WSP's Facilities shall be firmly secured and supported in accordance with industry standards as referred to in Section 4.1 above.

4.6.5 Identification of Facilities in Conduit/Manholes and on Poles:

4.6.5.1 WSP's Facilities shall be plainly identified inside each Manhole and/or on each Pole with WSP's name firmly affixed via permanent tags that meet standards set by AT&T-21STATE for its own Facilities.

4.6.6 Manhole pumping and purging required in order to allow WSP's work operations to proceed shall be performed in compliance with industry standards and all regulations and standards established by the United States Environmental Protection Agency or by any applicable state or local environmental regulators.

4.6.7 Any leak detection liquid or device used by WSP or personnel performing work on WSP's Facilities within AT&T-21STATE's Conduit System shall be of a type approved by AT&T-21STATE or compliant with industry-recognized standards as referenced in Section 4.1 above.

4.6.8 When WSP, or personnel performing work on WSP's behalf, are working within or in the vicinity of any part of AT&T-21STATE's Poles or Conduit System which is located within, under, over, or adjacent to streets, highways, alleys or other traveled ROW, WSP and all personnel performing work on WSP's behalf shall follow procedures which WSP deems appropriate for the protection of persons and property. WSP shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. WSP will provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers and property from danger. AT&T-21STATE shall have no

responsibility for the safety of personnel performing work on WSP's behalf, for the safety of bystanders, or for ensuring that all operations conform to current Occupational Safety and Health Administration (OSHA) regulations and all other governmental rules, ordinances or statutes. AT&T-21STATE reserves the right to suspend WSP's activities on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System if, in AT&T-21STATE's reasonable judgment, any hazardous condition arises due to the activity (including both acts and omissions) of WSP or any personnel performing work on WSP's behalf, which suspension shall cease when the condition has been rectified.

- 4.6.9 Smoking or the use of any open flame is prohibited in AT&T-21STATE's Manholes, in any other portion of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole entrance; provided that this provision will not prohibit the use of spark producing tools, including, but not limited to, electric drills and fusion splicers.
- 4.6.10 Artificial lighting, when required, will be provided by WSP. Only explosion-proof lighting fixtures shall be used.
- 4.6.11 WSP will abide by any laws, regulations or ordinances regarding the use of spark-producing tools, equipment or devices in AT&T-21STATE's Manholes, in any other portions of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole opening. This includes, but is not limited to, such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like.

4.7 Opening of Manholes:

- 4.7.1 The following requirements apply to the opening of AT&T-21STATE's Manholes and the authority of AT&T-21STATE personnel present when work on WSP's behalf is being performed within or in the vicinity of AT&T-21STATE's Conduit System.

- 4.7.1.1 AT&T-21STATE's Manholes shall be opened only as permitted by AT&T-21STATE's authorized employees or agents following notification by WSP, which permission shall not be unreasonably denied or delayed.

- 4.7.1.2 WSP shall notify AT&T-21STATE at least five (5) Business Days in advance of any routine work operation requiring entry into any of AT&T-21STATE's Manholes.

- 4.7.1.3 WSP shall be responsible for obtaining any necessary authorization from appropriate authorities to open Manholes for Conduit work operations therein.

- 4.7.1.4 AT&T-21STATE may monitor, at WSP's expense, the activities of WSP or WSP's authorized contractor or agent, as may involve AT&T-21STATE's Manholes or Conduit System and the placement of WSP's Facilities in AT&T-21STATE's Manholes.

- 4.7.1.5 AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of WSP's work at the work site. The presence of AT&T-21STATE's authorized employee or agent at the work site shall not relieve WSP, or personnel performing work on WSP's behalf, of their responsibility to conduct all work operations within AT&T-21STATE's Conduit System in a safe and workmanlike manner.

- 4.7.1.6 Although AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of WSP's work at the work site, AT&T-21STATE's employee or agent shall have the authority to suspend WSP's work operations within AT&T-21STATE's Conduit System if, in the reasonable discretion of such AT&T-21STATE employee or agent, it appears that any hazardous conditions arise or any unsafe practices are being followed by WSP or personnel performing work on WSP's behalf.

4.8 OSHA Compliance-Notice to AT&T-21STATE of Unsafe Conditions:

- 4.8.1 WSP agrees that:

- 4.8.1.1 Its Facilities shall be constructed, placed, maintained, repaired, and removed in accordance with OSHA's rules and regulations promulgated thereunder.

- 4.8.1.2 All persons acting on WSP's behalf, including but not limited to WSP's employees, agents, contractors, and subcontractors shall, when working on or within AT&T-21STATE's Poles or Conduit System, comply with OSHA and all rules and regulations thereunder.
- 4.8.1.3 WSP shall establish appropriate procedures and controls to assure compliance with all requirements of this Section.
- 4.8.1.4 WSP (and any Person Acting on WSP's Behalf) may report unsafe conditions on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System to AT&T-21STATE.
- 4.9 WSP acknowledges that some of AT&T-21STATE's Conduit was fabricated from asbestos-containing materials. Such Conduit is generally marked with a designation of "C Fiber Cement Conduit", "Transite", or "Johns-Manville". Until proven otherwise, WSP will presume that all Conduits not fabricated of plastic, tile, or wood are asbestos-containing and will handle pursuant to all applicable regulations relating to worker safety and protection of the environment.
- 4.10 Compliance with Environmental Laws and Regulations: AT&T-21STATE makes no representations to WSP or personnel performing work on WSP's behalf that AT&T-21STATE's Conduit System or any specific portions thereof will be free from environmental contaminants at any particular time. WSP agrees to establish appropriate procedures and controls to assure compliance with all applicable environmental laws and regulations including, but not limited to:
 - 4.10.1 WSP's Facilities 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, including but not limited to the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 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).
 - 4.10.2 All persons acting on WSP's behalf, including but not limited to WSP's employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of AT&T-21STATE's Poles or Conduit System, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations.
 - 4.10.3 Neither WSP nor personnel performing work on WSP's behalf shall discharge water or any other substance from any AT&T-21STATE Manhole or other Conduit Facility onto public or private property, including any storm water drainage system, without first testing such water or substance for contaminants in accordance with industry standards and practices and determining that such discharge would not violate any environmental law, create any environmental risk or hazard, or damage the property of any person. No such waste material shall be deposited on AT&T-21STATE premises for storage or disposal.
- 4.11 Compliance with Other Governmental Requirements:
 - 4.11.1 WSP agrees that its Facilities attached to AT&T-21STATE's Structure shall be constructed, placed, maintained, and removed in accordance with the ordinances, rules, and regulations of any governing body having jurisdiction of the subject matter. WSP 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. WSP shall establish appropriate procedures and controls to assure such compliance by all persons acting on WSP's behalf, including but not limited to, WSP's employees, agents, contractors, and subcontractors.
- 4.12 Differences in Standards or Specifications:
 - 4.12.1 To the extent that there may be differences in any applicable standards or specifications referred to in Section 4.1 above, the most stringent standard or specification shall apply.
- 4.13 WSP Solely Responsible for the Condition of Its Facilities:
 - 4.13.1 WSP shall be responsible at all times for the condition of its Facilities and its compliance with the requirements, specifications, rules, regulations, ordinances, and laws specified above. AT&T-21STATE may, however, conduct such inspections and audits of its Poles and Conduit System as AT&T-21STATE determines reasonable or necessary. Such inspection and audits shall be conducted as outlined in Section

13 of this Appendix.

- 4.14 Observed safety hazards or imminent Facility failure conditions of another party shall be reported to the affected party where such party can be readily identified.

5.0 Additional WSP Responsibilities

5.1 Third Party Property Owners

- 5.1.1 Licenses granted under this Appendix authorize WSP to place Facilities in, or attach Facilities to, Poles, Conduits and Ducts owned or controlled by AT&T-21STATE, but do not affect the rights of landowners to control terms and conditions of access to their property.

5.1.1.1 WSP agrees that neither WSP, nor any persons acting on WSP's behalf, including but not limited to WSP's employees, agents, contractors, and subcontractors, shall engage in any conduct which damages public or private property in the vicinity of AT&T-21STATE's Poles or Conduit System, interferes in any way with the use or enjoyment of 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 or failure to remove WSP's Facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to give notice to others of unsafe conditions on the premises while work performed on WSP's behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).

5.2 Lawful Purposes:

- 5.2.1 All Facilities placed by WSP in AT&T-21STATE's Conduit and Ducts or on AT&T-21STATE's Poles must serve a lawful purpose and the uses made of WSP's Facilities must comply with all applicable federal, state, and local laws and with all federal, state, and local regulatory rules, regulations, and requirements. In this regard, WSP shall not utilize any Facilities occupying or attached to AT&T-21STATE's Conduits, Ducts or Poles for the purpose of providing any services which it is not authorized by law to provide or for the purpose of enabling any other person or entity to provide any such services.

6.0 Facilities and Licenses

6.1 Licenses Required:

- 6.1.1 Before placing any Facilities in AT&T-21STATE's Conduits or Ducts or attaching any Facilities to AT&T-21STATE's Poles, WSP must first apply for and receive a written License from AT&T-21STATE.

6.2 Provision of Records and Information to WSP:

- 6.2.1 AT&T-21STATE will, upon request and at the expense of the WSP, provide WSP access, in AT&T-21STATE engineering offices for viewing only, to copies of redacted maps, records and additional information relating to the location, capacity and utilization of AT&T-21STATE's Structure. Upon request, AT&T-21STATE will meet with the WSP to clarify matters relating to maps, records or additional information. The Costs, which are to be paid by WSP, associated with viewing copies of AT&T-21STATE records are on an individual case basis. The total Costs are associated with map preparation, viewing and assistance and will be on a time, including all applicable overheads, and material basis. Upon request, AT&T-21STATE may provide to WSP an estimate of charges associated with viewing the records. Prior to viewing the records, WSP shall pay the estimated charges. If such records review is not in conjunction with a specific Application, subsequent to WSP viewing records, AT&T-21STATE shall true up the estimate, as compared to actual Costs, and issue either a refund or an additional invoice to WSP.
- 6.2.2 Maps, records and information are and remain the proprietary property of AT&T-21STATE, are provided for the WSP's review solely for enabling the WSP to obtain access to AT&T-21STATE's Structure, and may not be resold, reproduced or disseminated by the WSP.
- 6.2.3 AT&T-21STATE may provide for viewing only, if available, information currently on AT&T-21STATE's maps and/or records regarding:

- 6.2.3.1 the location of Structure and street addresses for Manholes and Poles as shown on AT&T-21STATE's records;
- 6.2.3.2 the footage between Manholes or lateral Ducts' lengths, as shown on AT&T-21STATE's records;
- 6.2.3.3 the footage between Poles, if shown on AT&T-21STATE's records;
- 6.2.3.4 the total capacity of the Structure; and/or
- 6.2.3.5 the existing utilization of the Structure.
- 6.2.4 No Warranty of Record Information:
 - 6.2.4.1 WSP acknowledges that records and information provided by AT&T-21STATE pursuant to this Section 6.2 above may not reflect actual field conditions and that physical inspection is necessary to verify presence and condition of outside plant Facilities and ROW. In providing such records and information for review, AT&T-21STATE assumes no liability to WSP or any third party for errors/omissions contained therein.
- 6.3 Structure Access Request Form ("Application"): To apply for a License under this Appendix, WSP shall submit to AT&T-21STATE the appropriate AT&T-21STATE Application and either a route map specifically indicating WSP desired route or engineered drawings. WSP shall provide sufficient information to locate the proposed Structure and identify/describe the physical characteristics (size, dimensions, and weight) of its Facilities to be attached to AT&T-21STATE's Poles or placed in AT&T-21STATE's Conduit System, so that AT&T-21STATE can perform the Make-Ready Survey. WSP shall promptly withdraw or amend its request if, at any time prior to the forty-fifth (45th) day, it has determined that it no longer seeks access to specific AT&T-21STATE Structure, provided that WSP shall still be responsible for any Costs attributable to the request.
- 6.4 Cooperation in the Application Process: The orderly processing of Applications submitted by WSP and other parties seeking access to AT&T-21STATE's Structure requires good faith cooperation and coordination between AT&T-21STATE's personnel and personnel acting on behalf of WSP and other parties seeking access. The Parties therefore agree to the following procedures which shall remain in effect during the term of this Appendix unless earlier modified by mutual agreement of the Parties.
 - 6.4.1 Before submitting a formal written Application for access to AT&T-21STATE's Structure, WSP shall make a good faith determination that it actually plans to attach Facilities to or place Facilities within the Poles, Ducts, Conduits, or ROW specified in the Application. Applications shall not be submitted for the purpose of holding or reserving space which WSP does not plan to use or for the purpose of precluding AT&T-21STATE or any other provider of telecommunications services from using such Structure.
 - 6.4.2 No more than twenty (20) Manholes shall be the subject of any single License Application.
 - 6.4.3 Each Application shall designate an employee as WSP's single point of contact for any and all purposes of that Application under this Section, including, but not limited to, processing Licenses and providing records and information. WSP may at any time designate a new point of contact by giving written notice of such change while the Application is open.
 - 6.4.4 All Applications, including those submitted by third parties, will be processed on a first-come, first-served basis.
 - 6.4.5 When WSP has multiple Applications on file with AT&T-21STATE, WSP may designate, if desired, its priority of completion of Surveys and Make-Ready Work with respect to all such Applications.
- 6.5 Make-Ready Survey ("Survey"). A Survey must be completed by AT&T-21STATE within forty-five (45) calendar days of receipt of a complete Application from the WSP, subject to the requirements and policies in each state. In the case of large requests, as defined in Section 6.10.2, AT&T-21STATE shall respond within sixty (60) calendar days of receipt of a complete Application. An inaccurate or incomplete Application will stop the Survey clock until the information is corrected or completed by WSP and resubmitted to AT&T-21STATE.
 - 6.5.1 AT&T-21STATE will provide WSP an estimate of the Costs to perform the Survey upon receipt of an Application. After receipt of a complete Application and WSP's payment of the estimated Survey Costs,

AT&T-21STATE will schedule the Survey. If WSP gives its prior written consent in writing, the determination of Duct availability may include the rodding of Ducts at WSP's expense.

- 6.5.2 The primary purposes of the Survey will be to enable AT&T-21STATE to:
- 6.5.2.1 Determine whether and where Attachment is feasible based on capacity, safety, reliability, and generally applicable engineering purposes;
 - 6.5.2.2 confirm or determine the modifications, capacity expansion (*i.e.*, taller or stronger Pole), and Make-Ready Work, if any, necessary to accommodate WSP's Attachment of Facilities to AT&T-21STATE Structure;
 - 6.5.2.3 plan and engineer the Facilities modification, capacity expansion (*i.e.*, taller or stronger Pole), and Make-Ready Work, if any, required to prepare AT&T-21STATE's Structure and associated Facilities for WSP's proposed Attachments;
 - 6.5.2.4 if applicable, identify the owner of the Pole; and
 - 6.5.2.5 respond to WSP within the required timeframe with the preceding information.
- 6.6 Assignment of Conduit, Duct and Pole Space: AT&T-21STATE will select, or approve the WSP's selection of, the space WSP will occupy on AT&T-21STATE's Poles or in AT&T's Conduit Systems. Maintenance Ducts shall not be considered Available for WSP's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, Ducts and attachment space on Poles reserved for municipal use shall not be considered Available for the WSP's use. All other Ducts, innerducts, space on Poles or space in ROW, which are not Assigned or occupied, shall be deemed Available for AT&T-21STATE, WSP, and other parties entitled to access under applicable law. AT&T-21STATE shall assign such space as follows, following completion of the Survey:
- 6.6.1 After WSP's Application for Attachment has been approved by AT&T-21STATE, the Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to WSP for a pre-occupancy period not to exceed twelve (12) months, with the following exception:
 - 6.6.1.1 State of California. The Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to WSP for a pre-occupancy period not to exceed nine (9) months as detailed by the California Public Utility Commission.
 - 6.6.2 AT&T-21STATE may assign space to itself by making appropriate entries in the same records used to log assignments to WSP and third parties. If AT&T-21STATE assigns Pole, Duct, or Conduit space to itself, such assignment will automatically lapse twelve (12) months (nine (9) months in California) after the date the assignment has been entered into the appropriate AT&T-21STATE record, if AT&T-21STATE has not occupied such assigned space within such twelve (12) or nine (9) month period.
 - 6.6.3 Notwithstanding anything to the contrary, prior to the expiration of the twelve (12) or nine (9) month period, WSP may submit a request for an extension of time based on a thorough explanation of delays outside the WSP's control. AT&T-21STATE shall carefully consider the circumstances of any specific request and will not unreasonably withhold or deny an extension. This extension process shall also apply to assignments of space associated with AT&T-21STATE's own Facility deployments.
- 6.7 No Make-Ready Work Required:
- 6.7.1 If AT&T-21STATE determines that no Make-Ready Work is required to accommodate WSP's proposed Attachment(s), AT&T-21STATE shall approve such Application after the determination has been made that no Make-Ready Work is required. In addition, AT&T-21STATE shall true up the billing, by comparing estimated to actual Costs, associated with an Application and issue either an invoice for the additional Costs or refund for the overpayment. Within fourteen (14) calendar days of receipt of payment, AT&T-21STATE shall issue the License.
- 6.8 Make-Ready Work Required ("Estimate"):
- 6.8.1 If Make-Ready Work is determined to be necessary during the Survey phase, AT&T-21STATE shall provide to WSP an Estimate of charges for such Make-Ready Work, as it directly relates to AT&T-21STATE-owned

Facilities (i.e. Pole replacements and subsequent transfer of AT&T-21STATE cable or AT&T-21STATE cable rearrangements), within fourteen (14) calendar days of providing the response required by Section 6.5, or in the case where the WSP selected an Authorized Contractor for the Survey, within fourteen (14) calendar days of receipt by AT&T-21STATE of such Survey result. Furthermore, an invoice for the actual Survey Costs shall be submitted to WSP for payment.

- 6.8.2 In addition, AT&T-21STATE shall provide a description of Make-Ready Work required of other parties to accommodate WSP's proposed Attachment(s). WSP shall be responsible for negotiating with the other parties the cost for such Make-Ready Work and subsequent payment by WSP, as identified in Section 6.9.4 below.
- 6.8.3 AT&T-21STATE may withdraw an outstanding Estimate of charges to perform Make-Ready Work beginning fourteen (14) calendar days after the Estimate is presented.
- 6.8.4 WSP may accept a valid Estimate and make payment any time after receipt of an Estimate but before the Estimate is withdrawn. WSP's acceptance of Estimate shall also constitute WSP's agreement to pay any additional Cost-based charges as described in Section 6.9.2 for completed Make-Ready Work.
- 6.9 Make-Ready Work. Upon receipt of payment specified in Section 6.8.4, AT&T-21STATE shall notify, immediately and in writing, WSP and all known parties that may be affected by the Make-Ready required for WSP's Attachment(s).
- 6.9.1 The notice shall:
- 6.9.1.1 Specify the location and type of Make-Ready to be performed;
- 6.9.1.2 Except for Conduit and Ducts, set a date for completion of Make-Ready no later than sixty (60) calendar days after notification is sent (or one hundred five (105) calendar days in the case of larger orders as specified in Section 6.10), which may later be extended by fifteen (15) calendar days if Make-Ready required by other parties is not complete and AT&T-21STATE elects to exercise its right of control;
- 6.9.1.3 State that any entity with an existing Attachment may modify the Attachment consistent with the specified Make-Ready before the date set for completion;
- 6.9.1.4 Except for Conduit and Ducts, state that AT&T-21STATE may assert its right to fifteen (15) additional calendar days to complete Make-Ready should another party fail to complete such within the prescribed timeframe;
- 6.9.1.5 State that if Make-Ready is not completed by the completion date set by AT&T-21STATE, WSP may utilize an Authorized Contractor to complete the specified Make-Ready;
- 6.9.1.6 For Conduit and Ducts, set a date for completion of Make-Ready based upon the amount and complexity of work required; and
- 6.9.1.7 State the name, telephone number, and e-mail address of a person to contact for more information about the Make-Ready procedure.
- 6.9.2 Make-Ready Work performed by AT&T-21STATE shall be completed in accordance with the timelines in this Section, as applicable. Upon completion of such Make-Ready Work, the actual Make-Ready Costs shall be trued up through comparison to estimated Make-Ready Costs. The result will include either an additional bill, payable by WSP, for the amount that the actual Make-Ready Costs exceeded the estimated Make-Ready Costs or a refund, to WSP, of the amount that the estimated Make-Ready Costs exceeded the actual Make-Ready Costs.
- 6.9.3 Make-Ready Work performed by WSP, or by an Authorized Contractor selected by WSP, shall be performed in accordance with AT&T-21STATE's specifications and in accordance with the same standards and practices followed by AT&T-21STATE or AT&T-21STATE's contractors. Neither WSP nor Authorized Contractors selected by WSP shall conduct such work in any manner which degrades the integrity of AT&T-21STATE's Structures or interferes with any existing use of AT&T-21STATE's Facilities or the Facilities of any other party. Following completion of the Make-Ready Work by WSP or the Authorized Contractor

selected by WSP, WSP shall notify AT&T-21STATE of such completion.

- 6.9.4 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. While AT&T-21STATE shall be responsible for notifying other parties pursuant to this section, WSP shall make arrangements with other parties regarding reimbursement for any expenses incurred by other parties in transferring or rearranging their respective Facilities to accommodate the Attachment or placement of WSP's Facilities to or in AT&T-21STATE's Structure, as well as scheduling the rearrangement of those parties' Facilities.
- 6.10 Timelines Applicable to Pole Attachment Requests. The following timelines shall apply:
- 6.10.1 AT&T-21STATE shall apply the timeline described in Sections 6.5, 6.8, and 6.9 for Applications for Pole Attachment up to the lesser of 300 Poles or 0.5 percent of AT&T-21STATE's Poles in a state.
- 6.10.2 AT&T-21STATE may add fifteen (15) calendar days to the Survey period described in Section 6.5 and forty-five (45) calendar days to the Make-Ready period described in Section 6.9 when Applications exceed the limits described in Section 6.10.1 but are smaller than the lesser of 3,000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.3 AT&T-21STATE shall negotiate in good faith the timing when the Applications for Pole Attachment exceed the lesser of 3000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.4 AT&T-21STATE may aggregate the number of Poles on multiple Applications from WSP as a single Application for the purposes of determining the appropriate timeline for the active Applications within a rolling thirty (30) day window.
- 6.10.5 In the state of California only: Make-Ready Work performed by AT&T must be completed within thirty (30) business days of receipt of advanced payment from the Attaching Party, provided that such a timeframe is not inconsistent with applicable legal, safety and reliability requirements. For all requests with more than 500 poles or 5 miles of conduit, the timeline for information requests, as well as Surveys and Make-Ready Work completed by AT&T, shall be negotiated by the Parties in order to establish a mutually satisfactory timeframe.
- 6.11 Deviation by AT&T-21STATE. AT&T-21STATE may deviate from the time limits specified in this Section 6 as described below.
- 6.11.1 AT&T-21STATE shall not be required to offer an Estimate before the Parties have executed an agreement specifying the rates, terms, and conditions of Attachment.
- 6.11.2 During performance of Make-Ready Work, for good and sufficient cause that renders it infeasible to complete such work within the prescribed timeframe, AT&T-21STATE may deviate. If so, AT&T-21STATE shall immediately notify, in writing, WSP and other affected entities with existing Attachments on the affected Poles, and shall include the reason for and date and duration of the deviation. AT&T-21STATE shall deviate from the time limits specified in this Section 6 for a period no longer than necessary and shall resume Make-Ready performance without discrimination when it returns to routine operations.
- 6.12 Deviation by WSP. Allowable deviations by WSP with respect to this Section 6:
- 6.12.1 If AT&T-21STATE fails to respond as specified in Section 6.5, WSP may, as specified in the same section, hire an Authorized Contractor to complete the Survey.
- 6.12.2 When Make-Ready is not complete by the date specified by Section 6.9.1.2, With exceptions outlined in Section 6.12.2.1 below WSP may hire an Authorized Contractor to complete such Make-Ready, except as stated below:
- 6.12.2.1 Any Make-Ready Work involving the rearrangement or transfer of AT&T-21STATE Facilities in AT&T-21STATE wire center areas where AT&T-21STATE employs members of the International Brotherhood of Electrical Workers System Council T-9 ("IBEW T-9") or Communication Workers of America District 3 ("CWA-3") shall be excluded from the Authorized Contractor Make-Ready provision with respect to any Attachments on Poles owned by AT&T-21STATE. IBEW T-9 workers are employed by AT&T-21STATE in portions of Illinois and northern Indiana. CWA-3 workers are employed by AT&T-21STATE in all AT&T-21STATE wire centers.

- 6.12.3 When Make-Ready is not complete by the date specified by Section 6.9.1.2 and is excluded from the Authorized Contractor process based upon Section 6.12.2, AT&T-21STATE and WSP will work together to reach an equitable solution for both Parties.
- 6.12.4 If WSP hires an Authorized Contractor for purposes of completing Make-Ready Work or Surveys, it shall choose from among AT&T-21STATE's list of Authorized Contractors. In those instances, WSP shall provide AT&T-21STATE with a reasonable opportunity for an AT&T-21STATE representative to accompany and consult with the Authorized Contractor and WSP.
- 6.13 Replacement of Facilities:
- 6.13.1 If WSP desires to place additional cables in Conduits or Ducts already occupied, or to replace existing Facilities with new Facilities substantially different from those described in Licenses in effect, WSP must apply for and acquire a new License specifically describing the physical size, weight and jacket material of the cable to be placed in AT&T-21STATE's Conduits and Ducts or the physical size, weight, and jacket type of cables and the size and weight of apparatus enclosures and other Facilities to be attached to AT&T-21STATE Poles.
- 7.0 Issuance of Licenses**
- 7.1 Obligation to Issue Licenses:
- 7.1.1 AT&T-21STATE shall issue a License to WSP pursuant to this Section. AT&T-21STATE and WSP acknowledge that each Application for a License shall be evaluated on an individual basis. Nothing contained in this section shall be construed as abridging any independent Attachment rights which WSP may have under the provisions of any applicable federal or state laws or regulations governing access to AT&T-21STATE's Poles, Conduits and Ducts, to the extent the same are not inconsistent with the Act. WSP acknowledges the following regarding multiple Applications:
- 7.1.2 That multiple parties including AT&T-21STATE may seek to make Attachments to AT&T-21STATE's Structure at or about the same time.
- 7.1.3 That the Make-Ready Work required to prepare AT&T-21STATE's Facilities to accommodate multiple applicants may differ from the Make-Ready Work required to accommodate a single applicant.
- 7.1.4 That issues relating to the proper apportionment of Costs arise in multi-applicant situations that do not arise in single applicant situations.
- 7.1.5 That cooperation and negotiations between all applicants and AT&T-21STATE may be necessary to resolve disputes involving multiple Applications for permission to place Facilities in/on the same Pole, Conduit, Duct, or ROW.
- 7.2 License:
- 7.2.1 When the requirements of either Section 6.7 or 6.9, as applicable, have been satisfied, AT&T-21STATE will execute and return a signed authorization to WSP, as appropriate, authorizing WSP to attach or place the specified Facilities on AT&T-21STATE's Poles or in AT&T-21STATE's Conduit or Ducts.
- 7.2.2 Each License issued under this Appendix shall authorize WSP to attach to AT&T-21STATE's Poles or place or maintain in AT&T-21STATE's Conduit or Ducts only those Facilities specifically described in the License, and no others.
- 7.2.3 Except as expressly stated to the contrary in individual Licenses issued hereunder, each License issued pursuant to this Appendix shall incorporate all terms and conditions of this Appendix, whether or not such terms or conditions are expressly incorporated by reference on the face of the License itself.
- 8.0 Construction of WSP's Facilities**
- 8.1 Construction Schedule:
- 8.1.1 Promptly after the issuance of a License permitting WSP to attach Facilities to AT&T-21STATE's Poles or place Facilities in AT&T-21STATE's Conduit or Ducts, WSP shall provide AT&T-21STATE with a

construction schedule and shall thereafter keep AT&T-21STATE informed of significant anticipated changes in the construction schedule.

8.1.2 Construction schedules required by this Section shall include, at a minimum, the following information:

8.1.2.1 The name, title, business address, and business telephone number of the manager responsible for construction of the Facilities;

8.1.2.2 The names of each contractor and subcontractor who will be involved in the construction activities;

8.1.2.3 The estimated dates when construction will begin and end; and

8.1.2.4 The approximate dates when WSP or persons acting on WSP's behalf will be performing construction work in connection with the placement of WSP's Facilities in AT&T-21STATE's Conduit or Ducts.

8.2 Additional Pre-construction Procedures for Facilities Placed in Conduit System:

8.2.1 In addition to the requirements referenced and stated in Section 4.0 above, the following procedures shall apply before WSP places Facilities in AT&T-21STATE's Conduit System:

8.2.1.1 AT&T-21STATE shall designate the particular Duct or Ducts or innerducts (if Available) to be occupied by WSP's Facilities, the location and manner in which WSP's Facilities will enter and exit AT&T-21STATE's Conduit System, and the specific location and manner of installation of any associated equipment which is permitted by AT&T-21STATE to occupy the Conduit System. WSP may not occupy a Duct other than the specified Duct without the express written consent of AT&T-21STATE. AT&T-21STATE shall provide to WSP space in Manholes for racking and storage of up to fifty (50) feet of cable, provided space is available.

8.3 Responsibility for Constructing or Placing Facilities:

8.3.1 AT&T-21STATE shall have no obligation to construct any Facilities for WSP or to attach WSP's Facilities to, or place WSP's Facilities in, AT&T-21STATE's Poles or Conduit System, except as may be necessary to facilitate the interconnection of unbundled network elements or except to the extent expressly provided in this Section, any License issued hereunder, or by the Telecommunications Act or any other applicable law.

8.4 WSP Responsible for Constructing, Attaching and Placing Facilities:

8.4.1 Except where otherwise mutually agreed by WSP and AT&T-21STATE, WSP shall be responsible for constructing its own Facilities and attaching those Facilities to, or placing them in, AT&T-21STATE's Poles, Conduit or Ducts at WSP's sole Cost and expense. WSP 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 the construction and placement of WSP's Facilities and for directing the activities of all persons acting on WSP's behalf while they are physically present on AT&T-21STATE's Pole, in any part of AT&T-21STATE's Conduit System or in the vicinity of AT&T-21STATE's Poles or Conduit System.

8.5 Compliance with Applicable Standards, Health and Safety Requirements, and Other Legal Requirements:

8.5.1 WSP shall construct its Facilities in accordance with the provisions of this section and all Licenses issued hereunder.

8.5.2 WSP shall construct, attach and place its Facilities in compliance with all Requirements and Specifications set forth above in this Appendix.

8.5.3 WSP shall satisfy all Legal Requirements set forth in this Appendix.

8.5.4 WSP shall not permit any person acting on WSP's behalf to perform any work on AT&T-21STATE's Poles nor within AT&T-21STATE's Conduit System without first verifying, to the extent practicable, on each date when such work is to be performed, that the condition of the Pole or Conduit System is suitable for the work to be performed. If WSP or any person working on WSP's behalf determines that the condition of the Pole or Conduit System is not suitable for the work to be performed, WSP shall notify AT&T-21STATE of the condition of the Pole or Conduit System in question and shall not proceed with construction activities until

WSP is satisfied that the work can be safely performed.

8.6 Construction Notification:

8.6.1 If requested to do so, WSP shall provide AT&T-21STATE with information to reasonably assure AT&T-21STATE that construction has been performed in accordance with all applicable standards and requirements.

8.7 Points for Attachment:

8.7.1 AT&T-21STATE shall specify the point of attachment at each Pole to be occupied by WSP's Facilities, and such WSP's Facilities shall be attached above AT&T-21STATE's Facilities. When the Facilities of more than one applicant are involved, AT&T-21STATE will attempt, to the extent practicable, to designate the same relative position on each Pole for each applicant's Facilities.

8.8 WSP power supply units shall be located in accordance with the specifications and standards referenced in Section 4.0 above.

8.9 AT&T-21STATE will evaluate and approve in its sole discretion, on an individual case basis, the location of certain pole-mounted equipment, such as cabinets, amplifiers and wireless equipment including, but not limited to, antennas. The approval and location of such Attachments are dependent upon factors including, but not limited to, climbing space requirements and the types of existing Attachments.

8.10 WSP shall hold AT&T-21STATE harmless and indemnify AT&T-21STATE for damages to itself or third parties in accordance with the General Terms and Conditions of this Agreement, which result from the operation or maintenance of WSP's Attachments, including, but not limited to, power supplies, antennas, cabinets and wireless equipment.

8.11 Completion of WSP Construction:

8.11.1 For each WSP Attachment within AT&T-21STATE Structure, WSP will provide to AT&T-21STATE (within twenty (20) calendar days of WSP construction-complete date) a complete set of actual placement drawings for posting to AT&T-21STATE records.

9.0 Use and Routine Maintenance of WSP's Facilities

9.1 Use of WSP's Facilities:

9.1.1 Each License granted under this Section authorizes WSP to have access to WSP's Facilities on or in AT&T-21STATE's Poles, Conduits and Ducts as needed for the purpose of serving WSP's End Users.

9.2 Routine Maintenance of WSP's Facilities:

9.2.1 Each License granted under this section authorizes WSP to engage in routine maintenance of WSP's Facilities located on or in AT&T-21STATE's Poles, Conduits, Ducts and ROW pursuant to such License. WSP shall give reasonable written notice to the affected public authority or private landowner as appropriate before commencing any construction, installation, or maintenance of its Attachments or making any material alterations thereto. WSP shall give reasonable notification to AT&T-21STATE before performing any work, whether or not of a routine nature, in AT&T-21STATE's Conduit System.

9.3 WSP Responsible for Maintenance of WSP's Facilities:

9.3.1 WSP shall maintain its Facilities in accordance with the provisions of this Section (including but not limited to all requirements set forth in this Appendix) and all Licenses issued hereunder. WSP 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 the maintenance of WSP's Facilities and for directing the activities of all persons acting on WSP's behalf while they are physically present on AT&T-21STATE's Poles, within AT&T-21STATE's Conduit System or in the immediate vicinity of such Poles or Conduit System.

9.4 AT&T-21STATE Is Not Responsible for Maintaining WSP's Facilities:

- 9.4.1 AT&T-21STATE shall have no obligation to maintain any Facilities which WSP has attached or connected to, or placed in, AT&T-21STATE's Poles, Conduits, Ducts or any portion of AT&T-21STATE's Conduit System, except to the extent expressly provided by the provisions of this Section or any License issued hereunder, or by the Act or other applicable laws, rules or regulations.

9.5 Information Concerning the Maintenance of WSP's Facilities:

- 9.5.1 Promptly after the issuance of a License permitting WSP to attach Facilities to, or place Facilities in AT&T-21STATE's Poles, Conduits or Ducts, WSP shall provide AT&T-21STATE with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of WSP's Facilities, and shall thereafter notify AT&T-21STATE of changes to such information. The manager responsible for routine maintenance of WSP's Facilities shall, on AT&T-21STATE's request, identify any contractor, subcontractor, or other person performing maintenance activities on WSP's behalf at a specified site and shall, on AT&T-21STATE's request, provide such additional documentation relating to the maintenance of WSP's Facilities as reasonably necessary to demonstrate that WSP and all persons acting on WSP's behalf are complying with the requirements of this Appendix and Licenses issued hereunder.

9.6 Identification of Personnel Authorized to Have Access to WSP's Facilities:

- 9.6.1 All personnel authorized to have access to WSP's Facilities shall, while working on AT&T-21STATE's Poles, in its Conduit System or Ducts or in the vicinity of such Poles, Ducts or Conduit Systems, carry with them suitable identification and shall, upon the request of any AT&T-21STATE employee, produce such identification.

10.0 **Modification and Replacement of WSP's Facilities**

10.1 Notification of Planned Modification or Replacement of Facilities:

- 10.1.1 WSP shall, when practicable, notify AT&T-21STATE in writing at least sixty (60) calendar days before adding to, relocating, replacing or otherwise modifying its Facilities attached to an AT&T-21STATE Pole or located in any AT&T-21STATE Conduit or Duct. Notification shall contain sufficient information to enable AT&T-21STATE to determine whether the proposed addition, relocation, replacement, or modification is permitted under WSP's present License or requires a new or amended License.

10.2 New or Amended License Required:

- 10.2.1 A new or amended License will be required if the proposed addition, relocation, replacement, or modification:
- 10.2.1.1 Requires that WSP use additional space on AT&T-21STATE's Poles or in its Conduits or Ducts (including, but not limited to, any additional Ducts, innerducts, or substantial space in any Handhole or Manhole) on either a temporary or permanent basis; or
- 10.2.1.2 Results in the size or location of WSP's Facilities on AT&T-21STATE's Poles or in its Conduit or Ducts being appreciably different from those described and authorized in WSP's present License (e.g., different Duct or size increase causing a need to re-calculate storm loadings, guying, or Pole class).

11.0 **Rearrangement of Facilities at the Request of Another**

11.1 Rearrangement of WSP's Facilities at AT&T-21STATE's Request:

- 11.1.1 WSP acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto and that such changes may be necessitated by AT&T-21STATE's business needs. WSP agrees that in such cases WSP will, upon AT&T-21STATE's request, and at AT&T-21STATE's expense, but at no Cost to WSP, participate with AT&T-21STATE in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.
- 11.1.2 WSP acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained

therein or connected thereto and that such changes may be necessitated by a third party's request for access to AT&T-21STATE's Structure. WSP agrees that in such instances WSP will, upon AT&T-21STATE's request, and at such third party's expense, but at no Cost to WSP, participate with AT&T-21STATE and third party in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.

- 11.1.3 WSP acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto as a result of an order by a municipality or other governmental authority. WSP shall, upon AT&T-21STATE's request, participate with AT&T-21STATE (and other WSPs) in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement and pay its proportionate share of any costs of such relocation, reconstruction, or modification that are not reimbursed by such municipality or governmental authority.
- 11.1.4 WSP shall make all rearrangements or transfers of its Facilities within such period of time as is jointly deemed reasonable by the Parties based on the amount of rearrangements necessary, a desire to minimize chances for service interruption or Facility-based service denial to a WSP End User and any requirements of the Act or federal or state laws or regulations with regard to any such rearrangement or transfer.
- 11.1.5 If WSP fails to make the required rearrangements or transfers within the time prescribed or within such extended periods of time as may be granted by AT&T-21STATE in writing, AT&T-21STATE may perform such rearrangements or transfers with written notification to WSP, and WSP shall reimburse AT&T-21STATE for actual Costs and expenses incurred by AT&T-21STATE in connection with the rearrangement or transfers of WSP's Facilities; provided, however, that nothing contained in this Appendix or any License issued hereunder shall be construed as requiring WSP to bear any expenses which, under the Act or other applicable federal or state laws or regulations, are to be allocated to persons or entities other than WSP; and provided further, however, that WSP shall have no responsibility for rearrangement costs and expenses relating to rearrangements performed for the purpose of meeting AT&T-21STATE's business needs.

12.0 Emergency Repairs and Pole Replacements

12.1 Responsibility for Emergency Repairs; Access to Maintenance Duct:

- 12.1.1 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.
- 12.1.2 Nothing contained in this Appendix 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 Attaching Parties.
- 12.1.3 Maintenance Ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with Facilities in the Conduit section in which the Maintenance Duct is located; provided, however, that an entity using the Maintenance Duct for emergency repair activities will notify AT&T-21STATE within twelve (12) hours of the current Business Day (or first Business Day following a non-business day) that such entity is entering the AT&T-21STATE Conduit system and using the Maintenance Duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance Ducts will be used to restore the highest priority services, first. Existing spare Ducts may be used for restoration purposes providing the spare Ducts are restored after restoration work is complete. Any spare Ducts not returned will be included to be assigned to the user of the Duct and a License issued.
- 12.1.4 WSP shall either vacate the Maintenance Duct within thirty (30) calendar days or, with AT&T-21STATE's consent, rearrange its Facilities to ensure that at least one full-sized replacement Maintenance Duct (or, if the designated Maintenance Duct was an innerduct, a suitable replacement innerduct) is available for use by all occupants in the Conduit section within thirty (30) calendar days after WSP occupies the Maintenance Ducts. If WSP fails to vacate the Maintenance Duct as described above, AT&T-21STATE may install a Maintenance Conduit at WSP's expense.

12.2 Designation of Emergency Repair Coordinators and Other Information:

12.2.1 For each AT&T-21STATE construction district, WSP shall provide AT&T-21STATE with the emergency contact number of WSP's designated point of contact for coordinating the handling of emergency repairs of WSP's Facilities and shall thereafter notify AT&T-21STATE of changes to such information.

12.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations:

12.3.1 When notice and coordination are practicable, AT&T-21STATE, WSP, 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 principles described in Sections 12.3.2 through 12.3.4.

12.3.2 Emergency service restoration work requirements shall take precedence over other work operations.

12.3.3 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security, 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. 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.

12.3.4 AT&T-21STATE 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 consensus provided, however, that these decisions shall be made by AT&T-21STATE on a nondiscriminatory basis in accordance with the principles set forth in this section.

12.4 Emergency Pole Replacements

12.4.1 When emergency Pole replacements are required, AT&T-21STATE shall promptly make a good faith effort to contact WSP to notify WSP of the emergency and to determine whether WSP will respond to the emergency in a timely manner.

12.4.2 If notified by AT&T-21STATE that an emergency exists which will require the replacement of a Pole, WSP shall transfer its Facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an AT&T-21STATE replacement Pole, the transfer shall be in accordance with AT&T-21STATE's placement instructions.

12.4.3 If WSP is unable to respond to the emergency situation immediately, WSP shall so advise AT&T-21STATE and thereby authorize AT&T-21STATE (or any Attaching Party sharing the Pole with AT&T-21STATE) to perform such emergency-necessitated transfers (and associated Facilities rearrangements) on WSP's behalf at the WSP's expense.

12.5 Expenses Associated with Emergency Repairs:

12.5.1 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 section.

12.5.2 Each Party shall be solely responsible for paying all persons and entities that 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.

12.5.3 WSP shall reimburse AT&T-21STATE for the Costs incurred by AT&T-21STATE for work performed by AT&T-21STATE on WSP's behalf in accordance with the provisions of this section.

13.0 Inspection by AT&T-21STATE of WSP's Facilities

- 13.1 AT&T-21STATE may monitor, at WSP's expense, the entrance and exit of WSP's Facilities into/from AT&T-21STATE's Manholes and the placement of WSP's Facilities in AT&T-21STATE's Manholes.
- 13.2 Post-Construction Inspections:
- 13.2.1 AT&T-21STATE will, at WSP's expense, conduct a post-construction inspection of WSP's attachment of Facilities to AT&T-21STATE's Structure for the purpose of determining the conformance of the Attachments to the License. AT&T-21STATE will endeavor to notify WSP of proposed date and time prior to the post-construction inspection. The WSP may accompany AT&T-21STATE on the post-construction inspection. Findings of nonconformance shall be communicated to WSP by AT&T-21STATE as soon as practical.
- 13.3 Routine or Spot Inspections:
- 13.3.1 AT&T-21STATE shall have the right, but not the obligation, to make Routine or Spot inspections of all Facilities attached to AT&T-21STATE's Structure to help ensure compliance with the terms and conditions of the respective agreements.
- 13.3.2 AT&T-21STATE will give WSP advance written notification of Routine Inspections involving WSP Facilities, and WSP shall have the right to have a representative attend such inspections at WSP's sole expense. However, Spot Inspections by their very nature are performed without such advance notice.
- 13.3.3 If WSP's Facilities are in compliance with this Appendix, there will be no charges incurred by WSP for the Routine or Spot Inspection. If WSP's Facilities are not in compliance with this Appendix, AT&T-21STATE may charge WSP for the inspection. The amount paid by WSP shall be the amount applicable to the particular item of Structure with the noncompliant Attachment.
- 13.4 If, pursuant to a post-construction, Routine or Spot Inspection, AT&T-21STATE determines that WSP's Facilities or any part thereof have not been placed or maintained or are not being used in accordance with the requirements of this Agreement, AT&T-21STATE may send notice to WSP specifying the alleged noncompliance. WSP agrees to acknowledge receipt of the notice as soon as practicable. If WSP does not dispute AT&T-21STATE's assertion that such Facilities are not in compliance, WSP agrees to provide AT&T-21STATE with a schedule for bringing such Facilities into compliance, to bring the Facilities into compliance within a reasonable time, and to notify AT&T-21STATE when the Facilities have been brought into compliance.
- 13.5 WSP shall bring its noncompliant Facilities into compliance within thirty (30) calendar days after being notified of such noncompliance. If any Make-Ready or modification work to AT&T-21STATE's Structure is required to bring WSP's Facilities into compliance, WSP shall provide notice to AT&T-21STATE and the Make-Ready Work or modification will be treated in the same fashion as Make-Ready Work or modifications for a new request for attachment. If the violation creates a hazardous condition, Facilities must be brought into compliance upon notification.
- 13.6 Disputes over Alleged Noncompliance:
- 13.6.1 If WSP disputes AT&T-21STATE's assertion that WSP's Facilities are not in compliance, WSP shall notify AT&T-21STATE in writing of the basis for WSP's objection to the assertion that its Facilities are noncompliant.
- 13.7 Neither the act of inspection by AT&T-21STATE of WSP's Facilities nor any failure to inspect such Facilities shall operate to impose on AT&T-21STATE any liability of any kind whatsoever or to relieve WSP of any responsibility, obligations or liability under this Section or otherwise existing.
- 13.8 Failure to Bring Facilities into Compliance:
- 13.8.1 If WSP has not brought the Facilities into compliance within a reasonable time or provided AT&T-21STATE with proof sufficient to persuade AT&T-21STATE that AT&T-21STATE erred in asserting that the Facilities were not in compliance, AT&T-21STATE may, at its option and WSP's expense, take such non-service affecting steps as may be required to bring WSP's Facilities into compliance, including but not limited to correcting any conditions which do not meet the specifications of this Appendix.
- 13.9 Correction of Conditions by AT&T-21STATE:
- 13.9.1 If AT&T-21STATE elects to bring WSP's Facilities into compliance, the provisions of this Section shall apply.

- 13.9.2 AT&T-21STATE will, whenever practicable, notify WSP in writing before performing such work. The written notice shall describe the nature of the work to be performed and AT&T-21STATE's schedule for performing the work.
- 13.9.3 If WSP's Facilities have become detached or partially detached from supporting racks or wall supports located within an AT&T-21STATE Manhole, AT&T-21STATE may, at WSP's expense, reattach them but shall not be obligated to do so. If AT&T-21STATE does not reattach WSP's Facilities, AT&T-21STATE shall endeavor to arrange with WSP for the reattachment of any Facilities affected.
- 13.9.4 AT&T-21STATE shall, as soon as practicable after performing the work, advise WSP in writing of the work performed or action taken. Upon receiving such notice, WSP shall inspect the Facilities and take such steps as WSP may deem necessary to ensure that the Facilities meet WSP's performance requirements.
- 13.9.5 WSP to Bear Expenses:
- 13.9.5.1 WSP shall bear all expenses arising out of or in connection with any work performed to bring WSP's Facilities into compliance with this Section; provided, however that nothing contained in this Section or any License issued hereunder shall be construed as requiring WSP to bear any expenses which, under applicable federal or state laws or regulations, must be borne by persons or entities other than WSP.
- 13.9.6 AT&T-21STATE shall have the right, upon thirty (30) calendar days' notice to WSP, to determine the total number and exact location of WSP's Attachments on AT&T-21STATE Poles and/or Conduit through a physical Survey conducted by AT&T-21STATE or its agents. WSP shall have the right to participate in the Survey. The costs incurred by AT&T-21STATE to conduct the physical inventory shall be shared proportionately with AT&T-21STATE by WSP. If the Attachments of third parties are included in the inventory, all parties, including WSP, shall share proportionately in the costs with AT&T-21STATE.
- 14.0 Unauthorized Attachment or Utilization of AT&T-21STATE's Facilities**
- 14.1 Notice to WSP:
- 14.1.1 If any of WSP's Facilities for which no License is presently in effect are found attached to AT&T-21STATE's Poles or within any part of AT&T-21STATE's Conduit System, AT&T-21STATE, without prejudice to other rights or remedies available to AT&T-21STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Appendix, shall send a written notice to WSP advising WSP that no License is presently in effect with respect to the Facilities. Within thirty (30) calendar days after receiving a notice, WSP shall acknowledge receipt of the notice by submitting to AT&T-21STATE, in writing, an Application for a new or amended License with respect to such Facilities.
- 14.2 Approval of Request and Retroactive Charges:
- 14.2.1 If AT&T-21STATE approves WSP's Application for a new or amended License, WSP shall be liable to AT&T-21STATE for all fees and charges associated with the unauthorized Attachment(s). The issuance of a new or amended License as provided by this Section shall not operate retroactively or constitute a waiver by AT&T-21STATE of any of its rights or privileges under this Appendix or otherwise.
- 14.2.2 Attachment fees and charges shall continue to accrue until the unauthorized Facilities are removed from AT&T-21STATE's Poles, Conduit System or ROW or until a new or amended License is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if WSP and its predecessors had continuously complied with all applicable AT&T-21STATE licensing requirements. Such fees and charges shall be due and payable thirty (30) calendar days after the date of the bill or invoice stating such fees and charges. In addition, WSP shall be liable for an unauthorized Attachment fee as specified in Section 16 of this Appendix. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, WSP shall rearrange or remove its unauthorized Facilities at AT&T-21STATE's request to comply with applicable placement standards, shall remove its Facilities from any space occupied by or assigned to AT&T-21STATE or another party, and shall pay AT&T-21STATE for all Costs incurred by AT&T-21STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of WSP's unauthorized Facilities.

14.3 Removal of Unauthorized Attachments:

14.3.1 If WSP does not obtain a new or amended License with respect to unauthorized Facilities within the specified period of time, AT&T-21STATE shall by written notice advise WSP to remove its unauthorized Facilities not less than sixty (60) calendar days from the date of notice and WSP shall remove the Facilities within the time specified in the notice. If the Facilities have not been removed within the time specified in the notice, AT&T-21STATE may, at AT&T-21STATE's option, remove WSP's Facilities at WSP's expense.

14.4 No Ratification of Unpermitted Attachments or Unauthorized Use of AT&T-21STATE's Facilities:

14.4.1 No act or failure to act by AT&T-21STATE with regard to any unauthorized Attachment or unauthorized use of AT&T-21STATE's Structure shall be deemed to constitute a ratification by AT&T-21STATE of the unauthorized Attachment or use, nor shall the payment by WSP of fees and charges for unauthorized Attachments exonerate WSP from liability for any trespass or other illegal or wrongful conduct in connection with the unauthorized placement or use of such Facilities.

15.0 Removal of WSP's Facilities

15.1 When WSP no longer intends to occupy space on an AT&T-21STATE Pole or in an AT&T-21STATE Duct or Conduit, WSP will provide written notification to AT&T-21STATE 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 WSP's Facilities, the License shall terminate and the space shall be available for reassignment.

15.1.1 WSP shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its Facilities from AT&T-21STATE's Structure, including compliance with industry standard requirements.

15.1.2 Except as otherwise agreed upon in writing by the Parties, WSP must, after removing its Facilities, plug all previously occupied Ducts at the entrances to AT&T-21STATE's Manholes.

15.1.3 WSP shall be solely responsible for the removal of its own Facilities from AT&T-21STATE's Structure.

15.2 At AT&T-21STATE's request, WSP shall remove from AT&T-21STATE's Structure any of WSP's Facilities which are no longer in active use. Upon request, WSP will provide proof satisfactory to AT&T-21STATE that WSP's Facility is in active service. WSP shall not abandon any of its Facilities by leaving such Facilities on or in AT&T-21STATE's Structure.

15.3 Removal Following Termination of License:

15.3.1 WSP shall remove its Facilities from AT&T-21STATE's Poles, Ducts, Conduits, or ROW within thirty (30) calendar days after termination of the License.

15.4 Removal Following Replacement of Facilities:

15.4.1 WSP shall remove Facilities no longer in service from AT&T-21STATE's Structures within thirty (30) calendar days after the date WSP replaces existing Facilities on a Pole or in a Conduit with substitute Facilities on the same Pole or in the same Conduit.

15.5 Removal to Avoid Forfeiture:

15.5.1 If the presence of WSP's Facilities on or in AT&T-21STATE's Structure would cause a forfeiture of the rights of AT&T-21STATE to occupy the property where such Structure is located, AT&T-21STATE will promptly notify WSP in writing and WSP shall not, without due cause and justification, refuse to remove its Facilities within such time as may be required to prevent such forfeiture. AT&T-21STATE will give WSP not less than thirty (30) calendar days from the date of notice to remove WSP's Facilities unless prior removal is required to prevent the forfeiture of AT&T-21STATE's rights. At WSP's request, the Parties will engage in good faith negotiations with each other, with other parties, and with third party property owners and cooperatively take such other steps as may be necessary to avoid the removal of WSP's Facilities.

15.6 Removal of Facilities by AT&T-21STATE; Notice of Intent to Remove:

15.6.1 If WSP fails to remove its Facilities from AT&T-21STATE's Structure in accordance with the provisions of Sections 15.1-15.5 of this Appendix, AT&T-21STATE may remove such Facilities and store them at WSP's

expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to WSP for any injury, loss, or damage resulting from such actions. AT&T-21STATE shall give WSP not less than thirty (30) calendar days' prior written notice of its intent to remove WSP's Facilities pursuant to this Section.

15.7 Removal of Facilities by AT&T-21STATE:

15.7.1 If AT&T-21STATE removes any of WSP's Facilities pursuant to this Section, WSP shall reimburse AT&T-21STATE for AT&T-21STATE's Costs in connection with the removal, storage, delivery, or other disposition of the removed Facilities.

16.0 Rates, Fees, Charges and Billing

16.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders:

16.1.1 All rates, charges and fees outlined in this Appendix will be modified from time to time pursuant to Section 16.3 and made available on AT&T's CLEC Online or prime access web site.

16.2 WSP agrees that in the event WSP fails to pay an amount due and payable within the period of time set forth for payment interest shall accrue on the unpaid balance thereof at the rate of 1 ½% per month for each month from the expiration of such period until payment is received by AT&T-21STATE or the maximum interest rate permitted by law, whichever is the lesser amount.

16.3 Changes to Rates, Charges and Fees:

At its option and subject to applicable federal and state laws, rules, regulations and orders, AT&T-21STATE shall have the right to change the rates, charges and fees outlined in this Appendix. Notice of changes in rates, charges, and fees, and their effective date, will be communicated to WSPs by posting an Accessible Letter to the AT&T CLEC Online and/or prime access websites sixty (60) calendar days before the specific changes being made.

16.4 For all states that have not established their own unauthorized Attachment fees, the following shall apply:

16.4.1 Upon AT&T-21STATE's discovery of unauthorized Attachments in a joint audit or WSP's self-report of unauthorized Attachments and written notice of said unauthorized Attachments (including location), WSP shall pay AT&T-21STATE the back-rent, including interest, that would have been due for these Attachments, plus an additional amount of five (5) times the annual rent per Attachment for each unauthorized Attachment.

16.4.2 If WSP declines to participate in an inspection, by providing the locations of its existing Attachments, and AT&T-21STATE discovers an unauthorized Attachment by WSP, AT&T-21STATE will also be entitled to invoice WSP a sanction of one hundred dollars (\$100) for each such unauthorized Attachment that is discovered.

16.4.3 Amounts for unauthorized Attachments will be invoiced by AT&T-21STATE and WSP shall pay the invoice in full within thirty (30) days of the invoice date.

16.4.4 WSP can avoid the one hundred dollar (\$100) sanction by submitting a plan of correction within sixty (60) calendar days of receiving written notice or invoice from AT&T-21STATE and correcting any safety violations within one hundred eighty (180) calendar days.

16.5 In the state of California, each individual unauthorized Attachment shall be assessed a five hundred dollar (\$500) penalty in addition to all other costs which are part of Attaching Party's responsibility.

17.0 Indemnification

17.1 In addition to the Indemnification clauses in the General Terms & Conditions to this Agreement, the following shall apply to this Appendix:

17.1.1 AT&T-21STATE shall exercise precaution to avoid damaging the Facilities of WSP and shall make an immediate report to WSP of the occurrence of any such damage caused by its employees, agents or

contractors. AT&T-21STATE agrees to reimburse WSP for all reasonable Costs incurred by WSP for the physical repair of such Facilities damaged by the negligence of AT&T-21STATE, its employees, agents, contractors, subcontractors or invitees. However, AT&T-21STATE shall not be liable to WSP for any interruption of WSP's service or for interference with the operation of WSP's Facilities, or for any special, indirect, or consequential damages arising in any manner, including AT&T-21STATE's negligence, out of the use of Pole(s) or Conduit Systems or AT&T-21STATE's actions or omissions in regard thereto and WSP shall indemnify and save harmless AT&T-21STATE from and against any and all claims, demands, causes of action, costs and reasonable attorneys' fees with respect to such special, indirect or consequential damages.

- 17.1.2 WSP shall exercise precaution to avoid damaging the Facilities of AT&T-21STATE and of others attached to Pole(s) or occupying a Conduit System and shall make an immediate report to the Owner of the occurrence of any such damage caused by WSP's employees, agents or contractors. WSP agrees to reimburse AT&T-21STATE for all reasonable Costs incurred by AT&T-21STATE for the physical repair of such Facilities damaged by the negligence of WSP.
- 17.1.3 WSP shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of action, damages and Costs, including reasonable attorneys' fees through appeals incurred by AT&T-21STATE, and other parties attached to AT&T-21STATE's Structure, as a result of acts by the WSP, its employees, agents or contractors, including but not limited to the Costs of relocating Pole(s) or Conduit Systems resulting from a loss of ROW or property owner consents and/or the Costs of defending those rights and/or consents.
- 17.1.4 The WSP shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of actions and Costs, including reasonable attorneys' fees, through appeals for damages to property and injury or death to persons, including but not limited to payments under any Worker's Compensation Law or under any plan for employee's disability and death benefits, caused by, arising from, incident to, connected with or growing out of the erection, rearrangement, maintenance, presence, use or removal of WSP's Facilities, or by their proximity to the Facilities of all parties attached to a Pole or placed in a Conduit System, or by any act or omission of the WSP's employees, agents or contractors in the vicinity of AT&T-21STATE's Pole(s) or Conduit System.
- 17.1.5 The WSP shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees, and agents, and other parties attached to AT&T-21STATE's Structure from any and all claims, demands, causes of action and Costs, including attorneys' fees through appeals, which arise directly or indirectly from the construction and operation of WSP's Facilities, including but not limited to taxes, special charges by others, claims and demands for damages or loss from infringement of copyrights, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material, and from and against all claims, demands and Costs, including attorneys' fees through appeals for infringement of patents with respect to the construction, maintenance, use and operation of WSP's Facilities in combination with Pole(s), Conduit Systems or otherwise.
- 17.1.6 WSP shall promptly advise AT&T-21STATE of all claims relating to damage of property or injury to or death of persons, arising or alleged to have arisen in any manner, directly or indirectly, by the erection, maintenance, repair, replacement, presence, use or removal of the WSP's Facilities. WSP shall promptly notify AT&T-21STATE in writing of any suits or causes of action which may involve AT&T-21STATE and, upon the request of AT&T-21STATE copies of all relevant accident reports and statements made to WSP's insurer by WSP or others shall be furnished promptly to AT&T-21STATE.

18.0 Radio Frequency Requirements for Any Wireless Attachments

- 18.1 WSP is solely responsible for the radio frequency ("RF") emissions emitted by its equipment and will comply with all Federal Communications Commission (FCC) regulations regarding RF exposure limitations. To the extent required by FCC rules and any applicable state rules, WSP shall install appropriate signage to notify workers and the public of

the potential for exposure to RF emissions.

- 18.2 WSP is under a duty and obligation in connection with the operation of its own Facilities, now existing or in the future, to protect against RF interference to the RF signals of any other party legally utilizing AT&T Structure, as applicable, as may emanate or arise. WSP shall endeavor to correct any interference to the RF signals of any other party legally utilizing AT&T Structure, created by its RF emissions. In the event AT&T-21STATE's operations interfere with WSP's RF signals, AT&T-21STATE and WSP shall cooperate to stop such interference.
- 18.3 WSP shall install a power cut-off switch on every AT&T-21STATE Pole to which it has attached Facilities that can emit RF energy. AT&T-21STATE's authorized field personnel will contact the WSP's designated point of contact not less than 24 hours in advance to inform the WSP of the need for a temporary power shut-down. In the event of an unplanned power outage or other unplanned cut-off of power, or an emergency, the power-down will be with such advance notice as may be practicable. In all instances, once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform WSP as soon as possible that power has been restored.
- 18.4 Emergency After Hours Contact Information. WSP shall provide emergency after hours contact information to AT&T-21STATE. WSP shall be required to include signage which indicates WSP's emergency contact information and NESC-required information.
- 18.5 Installation and Upkeep of Sign(s). WSP is responsible for the installation and upkeep of its sign(s) on each Pole. The signage will be placed so that it is clearly visible to workers who climb the Pole or ascend by mechanical means. The sign(s) will contain the information approved for such signs by the FCC or applicable state agency, or in the absence of such standards, the information commonly used in the industry for such sign(s).

EXHIBIT E

From: [ORTIZ, JULIE](#)
To: [Lee Puckett](#)
Subject: FW: 11/8 notes CSpire
Date: Wednesday, November 8, 2017 3:38:48 PM
Attachments: [image001.png](#)

Q Bills on alternative media....CD vs FTP.

Still receiving bills from a FL end user. Will engage Customer Care/Rhonda Smith.

Kathy Gardiner dispute lists. FU Rhonda Smith.... Provide Lee a copy of disputes....

From: ORTIZ, JULIE

Sent: Wednesday, November 01, 2017 4:26 PM

To: ORTIZ, JULIE <jo9348@att.com>

Subject: 11/1 notes CSpire

Lee, reciprocal wireless charges. Debra Weber has now alledged a dispute. Linda is in correspondence with him and is now not paying his compensation due to the dispute. I've offered to be copied. Scherzer, Julie is emailing....notifications.

Frontaine is working with Sam and Lee will let me know if Sam needs anything re:colo space.

Alan discussed ASE contract pricing of 10-25% savings. Red line should come from CSpire & he will engage to assist them if they have issues.

Meg had no issues.

Lee to submit dispute for Intelliquent orders that weren't put on the correct contract/BAN.

Julie Ortiz

AT&T Partner Solutions

571 382-0907 direct

877 854-1570, participant code, 5061988#



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