

AT&T Wholesale Agreement

**CMRS
INTERCONNECTION AGREEMENT**

Between

Nextel of California, Inc.

And

Pacific Bell

TABLE OF CONTENTS

	<u>Page No.</u>
1. DEFINITIONS _____	1
2. CMRS INTERCONNECTION FOR RECIPROCAL TRAFFIC EXCHANGE _____	6
3. COMPENSATION FOR LOCAL CMRS INTERCONNECTION _____	15
4. TRANSMISSION AND ROUTING OF EXCHANGE ACCESS SERVICE _____	25
5. INTERMTA TRAFFIC COMPENSATION _____	26
6. COLLOCATION _____	26
7. NONDISCRIMINATORY ACCESS TO POLES, DUCTS, CONDUITS AND RIGHTS OF WAY _____	26
8. NUMBERING _____	26
9. NUMBER PORTABILITY _____	27
10. TROUBLE REPORTING _____	27
11. CHANGE IN SERVICE ARRANGEMENTS _____	27
12. ALLOWANCES FOR TRUNK INTERRUPTIONS _____	28
13. NETWORK MANAGEMENT _____	28
14. LIABILITY AND INDEMNITY _____	29
15. PATENTS _____	29
16. RECORDS _____	30
17. TERM AND TERMINATION _____	30
18. REGULAR MEETING _____	32
19. DEPOSITS _____	32
20. CONFIDENTIALITY _____	32
21. NO WAIVER _____	33
22. NOTICE _____	33
23. ASSIGNMENT _____	35
24. AMENDMENTS, CHANGES, AND MODIFICATIONS _____	35
25. LAW GOVERNING AGREEMENT _____	35
26. INSOLVENCY _____	35
27. SEVERABILITY _____	36
28. THIRD PARTY BENEFICIARY _____	36
29. FORCE MAJEURE _____	36
30. MOST FAVORABLE TERMS AND CONDITIONS _____	36
31. CHANGES IN LAW _____	37
32. DISPUTE RESOLUTION _____	37
33. INTERVENING LAW _____	41
34. EFFECTIVE DATE _____	41
35. SUPERSEDURE _____	41
36. EXECUTION IN MULTIPLE PARTS _____	41
37. ENTIRE AGREEMENT _____	42

Attachment I

PRICING SCHEDULE FOR CMRS INTERCONNECTION
SERVICE ELEMENTS AND TRUNK TERMINATIONS

Attachment II

INTERCONNECTION EQUATIONS

CMRS INTERCONNECTION AGREEMENT

THIS AGREEMENT, dated _____, 1999 is by and between PACIFIC BELL, a California corporation, hereinafter referred to as "Pacific", and Nextel of California, Inc. a Delaware corporation, hereinafter referred to as "Carrier".

WHEREAS, Pacific is a duly authorized common carrier by wire and radio engaged in providing telecommunications service in the State of California; and

WHEREAS, Carrier holds authority from the Federal Communications Commission and has duly registered with the California Public Utilities Commission to provide Commercial Mobile Radio Services in the State of California; and

WHEREAS, Pacific and Carrier have agreed to connect their Facilities in the State of California and exchange traffic for the provision of two-way CMRS telecommunications service in accordance with the Telecommunications Act of 1996 ("1996 Act"); and

WHEREAS, the Parties seek to accomplish Interconnection in a technically and economically efficient manner in accordance with the requirements in the 1996 Act; and

WHEREAS, Section 251 of the 1996 Act mandates good faith negotiations between the incumbent Local Exchange Carrier and any Telecommunications Carrier requesting Interconnection, services, or network elements; and

WHEREAS, Pacific and Carrier wish to utilize this negotiation process;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, Pacific and Carrier hereby covenant and agree as follows:

1. DEFINITIONS

For purposes of this Agreement, including any and all Attachments, Exhibits, and Schedules hereto, and as used herein, the terms set forth below shall be defined as follows. The Parties acknowledge that terms may appear in this Agreement that are not defined and agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement:

- 1.1 "Access Tandem Switches" are switches that are used to connect and switch trunk circuits between and among Central Office Switches and other Telecommunications Carriers' switches for the purposes of providing local exchange and Switched Access Services.
- 1.2 "Act" means the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended by the Telecommunications Act of 1996, and as interpreted from time to time in the

duly authorized rules and regulations of the FCC or the Commission and as further interpreted in any judicial review of such rules and regulations.

- 1.3 "Affiliate" means any 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 definition, the term "own" means to own an equity interest (or the equivalent thereof) of more than ten percent (10%). Person shall mean any individual, partnership, corporation, company, limited liability company, association, or any other legal entity authorized to transact business in any state in the United States.
- 1.4 "Ancillary Services" are Directory Assistance, 411, 611, 911 ("N11"), Operator Services, the 700, 8YY, and 900 SAC Codes, Switched Access, and 976 service.
- 1.5 "Answer Supervision" means an off-hook supervisory signal of at least two (2) seconds in duration sent by Carrier to Pacific's serving End Office Switch on all completed calls after address signaling has been completed, or an off-hook signal of at least two (2) seconds in duration sent by Pacific to Carrier's Central Office after address signaling has been completed.
- 1.6 "Applicable Laws" means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, and approvals of any Governmental Authority, including without limitation those relating to the environment or health and safety.
- 1.7 "Authorized Services" means those Commercial Mobile Radio Services that Carrier may lawfully provide on an interconnected basis, pursuant to Sections 154, 303, and 332 of the Communications Act of 1934, as amended.
- 1.8 "Carrier's Service Area" is the geographic area(s) where the following Carrier entities are authorized by the FCC to provide two-way CMRS:
- 1.9 "Bellcore" means Telcordia Technologies, Inc.
- 1.10 "Calling Party Number" or "CPN" means a Common Channel Signaling parameter that refers to the number transmitted through the network identifying the calling party.
- 1.11 "Central Office", "Central Office Switch" or "CO" means a switching entity, including, but not limited to End Office Switches, Access Tandem Switches, MSCs, and combination End Office/Tandem Switches."
- 1.12 "CMRS Interconnection Trunks/Trunk Groups" means the trunk group used to connect Carrier's network with Pacific's network for the purpose of exchanging Local CMRS Calls.
- 1.13 "Commercial Mobile Radio Service" or "CMRS" is as defined by the FCC and the Commission.
- 1.14 "Commission" means the California Public Utilities Commission.

- 1.15 "Common Channel Signaling" or "CCS" means a method of digitally transmitting call set-up and network control data over a special network fully separate from the public switched network elements that carry the actual call. Signaling System 7 ("SS7") is the CCS network protocol presently used by Telecommunications Carriers.
- 1.16 "Completed Call" means a call that is delivered to or from Carrier's network and for which a connection is established after Answer Supervision.
- 1.17 "Control Office/NOC" means a center or office designated as a single point of contact for the maintenance of a Party's portion of CMRS Interconnection arrangements.
- 1.18 "Conversation MOU" means the minutes of use that both Parties' equipment is used for a Completed Call, measured from the receipt of Answer Supervision to the receipt of Disconnect Supervision.
- 1.19 "Cross Connection" means an intra-Wire Center channel connecting separate pieces of telecommunications equipment.
- 1.20 "Customer" means the end user purchaser of telecommunications services from Pacific or Carrier.
- 1.21 "Dedicated NXX Code" means a three-digit exchange prefix and associated 10,000 telephone number block assigned to Carrier's or Pacific's network.
- 1.22 "Disconnect Supervision" means an on-hook supervisory signal sent at the completion of a call.
- 1.23 "Digital Service - Level 1" or "DS-1" means a digital signal rate of 1.544 Megabits Per Second ("Mbps").
- 1.24 "Digital Service - Level 3" or "DS-3" means a digital signal rate of 44.736 Mbps.
- 1.25 "Effective Date" means the date described in Section 34 of this Agreement.
- 1.26 "End Office Switch" is a switch from which Pacific's Customers' Exchange Services are directly connected and offered.
- 1.27 "Equal Access Trunk" means an interconnection trunk used solely to deliver Switched Access Traffic, using Feature Group D protocols.
- 1.28 "Exchange Service" is as defined in the Act.
- 1.29 "Facility" or "Facilities" means the system of equipment and/or cable utilized to carry traffic that is exchanged hereunder between switching entities maintained by the Parties.
- 1.30 "FCC" means the Federal Communications Commission.

- 1.31 "Governmental Authority" means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.
- 1.32 "Interconnection" is as described in the Act.
- 1.33 "Interexchange Carrier", "IEC", or "IXC" means a provider of interexchange telecommunications services.
- 1.34 "InterMTA Traffic" means traffic to or from Carrier's network that originates in one MTA and terminates in another MTA.
- 1.35 "LATA" means Local Access and Transport Area, the boundaries of which are set forth in Pacific's tariffs.
- 1.36 "Local CMRS Calls," for the purpose of reciprocal compensation are CMRS calls that originate on either Party's network that are exchanged directly between the Parties and that, at the beginning of the call, originate and terminate within the same MTA.
- 1.37 "Local Exchange Carrier" or "LEC" is as defined in the Act.
- 1.38 "Local Exchange Routing Guide" or "LERG" means a Bellcore Reference Document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as network element and equipment designations.
- 1.39 "MTA" means "Major Trading Area", as defined by the FCC rules, Part 24, § 24.202(a).
- 1.40 "MSC" or "MTSO" means the Mobile Switching Center or Mobile Telecommunications Switching Office used by Carrier in performing, inter alia, originating and terminating functions for calls to or from Carrier's Customers.
- 1.41 "North American Numbering Plan" or "NANP" means the system of telephone numbering employed in the United States, Canada, and certain Caribbean countries.
- 1.42 "Numbering Plan Area" or "NPA" is referred to as an area code and the three digit indicator that is defined by the "A", "B" and "C" digits of each 10-digit telephone number within the NANP. Each NPA contains 800 available NXX Codes.
- 1.43 "Number Portability" is as defined in the Act.
- 1.44 "NXX", "NXX Code", or "Central Office Code" means the three digit switch entity indicator that is defined by the "D", "E", and "F" digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.
- 1.45 "Pacific's Service Area" means the geographic areas in the State of California where Pacific provides local exchange telecommunications services as an incumbent LEC.
- 1.46 "Party" means either Pacific or Carrier. "Parties" means both Pacific and Carrier.

- 1.47 "Permanent Number Portability" or "PNP" means a long-term solution to provide Number Portability for all customers and all providers consistent with the Act and implementing regulations.
- 1.48 "Point of Interconnection" or "POI" means the physical demarcation point between Pacific and Carrier. This point establishes the technical interface, the test point(s), and the point(s) for operational division of responsibility between Pacific's network and Carrier's network.
- 1.49 "Rate Center" means a specific geographic point and corresponding geographic area that have been identified by a LEC. NPA-NXX codes that have been assigned to the LEC for its provision of Exchange Services are associated with specific Rate Centers for the purpose of rating calls.
- 1.50 "Rating Point" means the vertical and horizontal ("V&H") coordinates associated with a particular NPA-NXX for rating purposes. The Rating Point need not be in the same location as the switching entity where a telephone number is homed or routed pursuant to the LERG, nor must it be located within the same Rate Center area, but it must be in the same LATA as to which traffic addressed to the relevant NPA is required by Pacific to be routed pursuant to the LERG.
- 1.51 "Routing Point" means the V&H coordinates that a Telecommunications Carrier has designated as the destination for traffic inbound to services provided by that Telecommunications Carrier that bear a certain NPA-NXX designation. The Routing Point need not be the same as the Rating Point, nor must it be located within the Rate Center area, but it must be in the same LATA as the NPA-NXX. Central Offices are Routing Points for traffic to end users identified by numbers drawn from NPA/NXX designations, as stated in the LERG. Where Carrier has not established Routing Points for its Dedicated NPA-NXX Codes in its own network, the Routing Point shall be the Pacific Access Tandem Switch where traffic to Pacific NXXs in the same NPA is homed.
- 1.52 "Service Access Code" or "SAC Code" is a non-geographic NPA typically associated with a specialized telecommunications service which may be provided across multiple geographic NPA areas; 500, Toll Free Service NPAs (8YY), 700, and 900 are examples of SAC Codes.
- 1.53 "Switched Access Service" means an offering of access to services or Facilities for the purpose of the origination or the termination of traffic from or to Exchange Service customers in a given area pursuant to a Switched Access tariff. Switched Access Services include: Feature Group A ("FGA"), Feature Group B ("FGB"), Feature Group D ("FGD"), Toll Free Service, and 900 access.
- 1.54 "Telecommunications Carrier" is as defined in the Act.
- 1.55 "Toll Free Service" means service provided with a dialing sequence that invokes toll-free, (i.e., 800-like) service processing. Toll Free Service includes calls to the Toll Free Service 8YY NPA SAC codes.

- 1.56 "Transit Traffic" means intermediate transport and switching of traffic between two parties, one of which is a Party to this Agreement and one of which is not, carried by the other Party to this Agreement that neither originates nor terminates that traffic on its network while acting as an intermediary.
- 1.57 "Trunk Side" refers to a Central Office Switch connection that is capable of, and has been programmed to treat the circuit as connecting to another switching entity, for example, another Central Office Switch. Trunk Side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.
- 1.58 "Type 1 CMRS Interconnection" or "Type 1" means Trunk Side Message Trunk CMRS Interconnection services, arrangements, and Facilities established between Carrier's switching entity and the trunk side (with line treatment) of Pacific's End Office Switch(es) as technically defined in Bellcore Technical Reference GR-145-CORE and TA-NPL-000912 and as provided in accordance with this Agreement.
- 1.59 "Type 2A CMRS Interconnection" or "Type 2A" means CMRS Interconnection services, arrangements, and Facilities established between Carrier's switching entity and Pacific's Access Tandem Switch(es) as technically defined in Bellcore Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.60 "Type 2B CMRS Interconnection" or "Type 2B" means CMRS Interconnection services, arrangements, and Facilities established between Carrier's switching entity and a Pacific designated End Office Switch as technically defined in Bellcore Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.61 "Wire Center" denotes a building or space within a building that serves as an aggregation point on a given carrier's network, where transmission Facilities and circuits are connected and switched. Pacific's Wire Center can also denote a building in which one or more Central Offices, used for the provision of Exchange Services and Switched Access Services, are located. However, for the purposes of collocation, Wire Center shall mean those points eligible for such connections as specified in FCC Docket No. 91-141, and rules adopted pursuant thereto.

2. CMRS INTERCONNECTION FOR RECIPROCAL TRAFFIC EXCHANGE

2.1. Technical Provisions. This section provides for the physical connection of the Facilities and equipment of Carrier and Pacific's networks within the State of California for the transmission and routing of land to mobile and mobile to land Exchange Services and Switched Access Services consistent with the requirements of 47 C.F.R. Part 51, § 51.305. Pacific and Carrier will physically connect their Facilities and exchange traffic originating from or terminating to Carrier's Customers over Carrier's network in connection with Carrier's

Authorized Services in accordance with the service, operating, and Facility arrangements set forth hereinafter.

2.1.1. CMRS Interconnection shall be available at the trunk side of a Pacific End Office Switch via Type 2B or Type 1 CMRS Interconnection; and at the trunk connection points for a Pacific Tandem Switch via Type 2A CMRS Interconnection. CMRS Interconnection shall also be provided at other technically feasible points in Pacific's network at the request of Carrier and subject to the negotiation of acceptable provisioning arrangements and compensation arrangements that will ensure the recovery of Pacific's costs of providing such Interconnection. The Parties will attach or incorporate as amendments to this Agreement technical descriptions, and if required, descriptions of associated compensation arrangements to cover any such additional interconnection. CMRS Interconnection with Pacific's Operator Assistance and 411 Directory Assistance shall be available at Pacific's End Office Switches via Type 1 CMRS Interconnection, and with NPA 555-1212 Directory Assistance shall be available at Pacific's Tandem Switches via Type 2A CMRS Interconnection.

2.1.2. Interconnection shall be provided at a level of quality equal to that which such Party provides to itself, a subsidiary, an Affiliate, or any other Telecommunications Carrier.

2.1.3. Interconnection Within Each LATA. Unless otherwise agreed herein, Carrier and Pacific will interconnect directly in each LATA in which they exchange Local CMRS Calls and Switched Access traffic.

2.1.4. Single POI Model for Interconnection Facilities. There will be a single physical network interface for each Interconnection Facility on which Carrier and Pacific interconnect in order to exchange Local CMRS Calls, which the Parties shall designate as a POI. This Agreement establishes the responsibilities on each side of the POIs, the Facilities to be established between the Parties' networks, and the appropriate compensation arrangements for exchange of Local CMRS Calls over those Facilities. Each Party shall be responsible for providing its own or leased transport Facilities to route calls to and from the POI. Carrier may construct its own transport Facilities used to route calls to and from the POI, it may purchase or lease from a third party these transport Facilities, or it may purchase these Facilities from Pacific.

2.1.5. CMRS Interconnection POI Options.

Carrier and Pacific shall mutually agree on a POI for each Facility utilized to carry traffic between their respective switches. A POI may be located at:

a) at the Pacific Wire Center where the CMRS Interconnection Trunks terminate,

b) at Carrier's switching entity where the CMRS Interconnection Trunks terminate, or

c) at another, mutually agreeable location.

2.1.6. Trunk Side Interconnection Options. As set forth below, CMRS Interconnection may be established by means of any, or any combination, of the following options:

- a. NON LATA-WIDE TRUNK SIDE TANDEM TERMINATION INTERCONNECTION AT ONE OR MORE PACIFIC ACCESS TANDEM SWITCHES IN THE LATA. A trunk group will be established between an Carrier switching entity and one or more Pacific Access Tandem Switches in a LATA using Type 2A CMRS Interconnection. Carrier shall only route to a Pacific Access Tandem Switch traffic destined for an NXX that subtends that Access Tandem Switch, as shown in the LERG;
- b. LATA-WIDE TRUNK SIDE ACCESS TANDEM TERMINATION INTERCONNECTION. This is a non-standard (non-LERG) additional routing service. Where requested, and subject to mutually agreed upon terms, a trunk group may be established between Carrier and Pacific at a single, Pacific-designated Access Tandem Switch in a LATA, using Type 2A CMRS Interconnection for termination of all Local CMRS Calls destined for any Pacific End Office Switch that subtends one of Pacific's Access Tandem Switches in that LATA. As of the Effective Date, the LATA-wide Access Tandem Switches are as follows:

LATA 1	SNFCCA2143T
LATA 2	RDNGCA0225T
LATA 5	LSANCA0470T
LATA 6	SNDGCA0291T

- c. END OFFICE TO MSC TRUNK SIDE INTERCONNECTION. The Parties may establish direct end office to MSC Interconnection using Type 2B or Type 1 CMRS Interconnection. The Parties will use generally accepted traffic engineering guidelines in determining when to establish such direct end office to

MSC trunk groups between their networks, where Facilities and equipment are available.

- d. In the event that Pacific deploys new Access Tandem Switches after the Effective Date, Pacific will provide Carrier with reasonable advance notice of such a change and Pacific will work cooperatively with Carrier to accomplish all necessary network changes.
- e. At any time after the Effective Date, Pacific may introduce new LATA-wide Access Tandem Switches in any part of its network:
 - i) For those LATAs that have multiple Access Tandem Switches, Pacific may do so by designating a different Access Tandem Switch (including a newly-opened Access Tandem Switch) as the LATA-wide Access Tandem Switch.
 - ii) For those LATAs that only have one Access Tandem Switch, Pacific may do so by opening a new Access Tandem Switch in that LATA and designating one of the Access Tandem Switches as the LATA-wide Access Tandem Switch.

In the event that Pacific designates any new LATA-wide Access Tandem Switches after the Effective Date, Pacific will waive all nonrecurring charges otherwise applicable to Carrier for moving existing trunks from the Access Tandem Switch at which Carrier received LATA-wide termination to the new LATA-wide Access Tandem Switch.

2.1.7. Sizing and Structure of CMRS Interconnection Facilities. The Parties will engineer and maintain the appropriate type of and sizing for Facilities according to mutual forecasts and sound engineering practice, as mutually agreed to by the Parties.

2.1.8. Ancillary Services Traffic. When delivering Ancillary Services traffic to Pacific, Carrier must use at least one (1) Type 1 Interconnection Facility in each LATA, dedicated solely for ancillary traffic, irrespective of the number of Pacific Access Tandem Switches or Type 2A CMRS Interconnections between Pacific and Carrier in that LATA.

2.1.9. Signaling Protocol. The Parties may interconnect their networks using CCS (SS7) in accordance with Attachment III. Where multi-frequency signaling is currently used, the Parties agree to use reasonable efforts to convert to CCS.

2.2. CMRS Interconnection Trunk Arrangement and Associated Signaling Interconnection.

2.2.1 Trunk Side CMRS Interconnection Terms. Using the Facilities and trunk arrangements described in Section 2.1 above, the Parties shall mutually terminate Local CMRS Calls originating on each other's networks, as described in this Section 2.2.

2.2.2 Unless a LATA-wide Termination option described above is deployed, Carrier shall only deliver terminating traffic over CMRS Interconnection Trunk Groups to a Pacific Access Tandem Switch for those publicly dialable NPA-NXX codes served by End Office Switches that directly subtend the Pacific Access Tandem Switch or those CMRS NXXs or other LEC or Carrier NXXs that directly subtend Pacific's Access Tandem Switch.

2.2.3 All terminating traffic delivered by Carrier:

i) to a non-LATA-wide Access Tandem Switch destined for NPA-NXX codes served by End Office Switches, CMRS MSCs, or other ILEC or CLEC switches that do not subtend that Access Tandem Switch; or

ii) to a LATA-wide Access Tandem Switch on a non-LATA-wide trunk group where the traffic is destined for NPA-NXX codes served by End Office Switches, CMRS MSCs, or other ILEC or CLEC switches that do not subtend that Access Tandem Switch

is misrouted. Pacific shall provide notice to Carrier pursuant to Section 22 of this Agreement and, where possible, shall provide verbal and written notice to the appropriate Carrier Network Manager through the Carrier Account Manager at Pacific that such misrouting has occurred. In the notice, Carrier shall be given thirty (30) days to cure such misrouting. In the event that Carrier does not cure the problem within the thirty (30) day period, Pacific shall bill and Carrier will pay, in addition to any other normal usage charges, a misroute surcharge for each call. This surcharge will be equal in amount to the rate for tandem switching and transport for the call set-up and duration of the misrouted call. In the event Carrier has not cured the problem within a sixty (60) day period following the first notice, the misroute surcharge will change to be equal to the rate for end office termination (equivalent to the Type 2B rate) from that point forward.

2.2.4 The Parties shall deliver all traffic destined to terminate on the other Party's network in accordance with the serving arrangements defined in the LERG except:

a) when Carrier uses the LATA-Wide Termination option described above, or

b) when Carrier's MSC serves NXX codes some of which home on a Pacific Access Tandem Switch and some of which home on a non-Pacific Access Tandem Switch. In this case all traffic from the Pacific Access Tandem Switch may be delivered over a direct trunk group to the Carrier MSC regardless of dialed NXX.

2.2.5 Where Carrier delivers miscellaneous calls (e.g., time, weather, Busy Line Verify/Interrupt, California 900, Mass Calling Codes) destined for Pacific, it shall deliver such traffic in accordance with the serving arrangements defined in the LERG.

N11 codes (i.e., 411, 611, 911) shall not be sent between the Parties' networks over Type 2A or Type 2B CMRS Interconnection Trunk Groups. When delivered to Pacific, Ancillary Services, including N11 codes, will be sent over Type 1 CMRS Interconnection Trunks. However, the Parties shall use reasonable efforts to reconfigure their networks, where possible, to route and bill. Ancillary Services traffic will be sent to Pacific through Pacific's Tandem Switches over Type 2A CMRS Interconnections or via separate interconnection to Pacific's Traffic Operator Position System ("TOPS") switches. This form of access will be available when the Parties successfully complete joint testing, where required, of the access configuration and cooperatively develop the necessary billing and provisioning systems and processes.

2.2.7 Carrier may provide its own Facilities or purchase Facilities from another carrier to connect its network with Pacific's E911/911 Access Tandem Switches. Alternatively, Carrier may purchase type 2C CMRS Interconnection Facilities from Pacific at rates found in Section 7 of Pacific's tariff Schedule 175-T.

Enhanced 911 Services, once required of Carrier, will, where applicable, be provided pursuant to existing tariff or be negotiated at that time and the terms and conditions for such services shall be described in a separate agreement or amendment to this Agreement, to be mutually agreed upon between Carrier and Pacific.

2.3. Transit Traffic

2.3.1. Pacific will deliver Transit Traffic to and from Carrier. In such a case, Pacific will charge a transit charge to the originating Telecommunications Carrier. Other than the transit charge, Pacific will not bill either the originating or terminating Telecommunications Carrier for transport and termination, which

shall be separately negotiated between the originating and terminating Telecommunications Carriers.

2.3.2. Carrier shall not route terminating traffic from an Interexchange Carrier destined for an End Office Switch in Pacific's network over CMRS Interconnection Trunks.

2.3.3 Carrier shall not route traffic to Pacific under this Agreement from a non-CMRS Telecommunications Carrier .

2.3.4. Where Pacific has in place direct Type 2A trunking to an Carrier MSC, Pacific will not deliver calls destined to terminate at that Carrier MSC via another Telecommunications Carrier's Tandem Switch.

2.3.5. Where Carrier's Dedicated NXX Codes subtend another Telecommunications Carrier's Tandem Switch, Pacific may establish trunking directly between Pacific's Tandem Switch and Carrier's MSC for the completion of all land-to-mobile calls destined to terminate to such NXXs.

2.4. Responsibilities of the Parties.

2.4.1. The Parties will continue to review engineering requirements on a semi-annual basis and establish forecasts for trunks and Facilities provided under this Agreement. New trunk groups will be implemented as dictated by engineering requirements.

2.4.2. The Parties shall share the overall coordination, installation, and maintenance responsibilities for CMRS Interconnection Trunks /Trunk Groups.

2.4.3. Carrier and Pacific shall:

- a. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians;
- b. Notify each other when there is any change affecting the service requested, including the due date;
- c. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure CMRS Interconnection Trunks/Trunk Groups are installed per the interconnection order, meet agreed upon acceptance test requirements, and are placed in service by the due date;
- d. Perform sectionalization to determine if a trouble is located in its Facility or its portion of the CMRS

Interconnection Trunks prior to referring the trouble to each other;

- e. Advise each other's Control Office/NOC if there is an equipment failure that may affect the CMRS Interconnection Trunks;
- f. Notify the other Party and obtain the other Party's consent (except in the case of an emergency that threatens the integrity of the network) prior to removing CMRS Interconnection Trunks from service;
- g. In provisioning situations, utilizing the contact names and numbers provided in the disconnect order;
- h. In maintenance situations, utilizing the trouble reporting number set forth below;
- i. Provide each other with a trouble reporting number that is readily accessible and available 24 hours/7 days a week (for Carrier, (888) 5-NEXTEL (888-563-9835); for Pacific, (800) 922-7742);
- j. Provide to each other test-line numbers and access to test lines; each Party will provide test lines that return answer supervision for every NPA/NXX that it opens.

2.4.4. Carrier agrees that it will not market to its Customers, hold itself out, enter into any agreement to provide, or encourage its Customers to use Facilities and services provided hereunder for the provision of services other than Carrier's Authorized Services. To the extent that Carrier seeks to use the interconnection arrangements provided herein to provide services other than two-way CMRS (e.g., paging and facilities-based landline service), the Parties shall separately negotiate and agree upon the terms and conditions for the exchange of such traffic.

2.5. Installation/Provisioning of Trunks.

2.5.1. Due dates for the installation or conversion of CMRS Interconnection Trunks covered by this Agreement shall be based on Pacific's standard Switched Access Service intervals or mutual agreement of the Parties in accordance with the availability of CMRS Interconnection Trunks and equipment.

2.5.2. Orders from Carrier to Pacific to establish, add, change, or disconnect Type 2A, Type 2B, or Type 1 CMRS Interconnection Trunks shall be processed by use of an Access Service Request ("ASR").

2.5.4. Pacific will contact the Carrier installation contact on CMRS Interconnection Trunk orders no later than the plant test date to begin performing installation work.

2.6. Trunk Servicing.

2.6.1. As discussed in this Agreement, both Parties will jointly manage the capacity of CMRS Interconnection Trunk Groups. Pacific's Circuit Provisioning Assignment Center ("CPAC") will send a Trunk Group Service Request ("TGSR") to Carrier to trigger changes Pacific desires to the CMRS Interconnection Trunk Groups based on Pacific's capacity assessment. Carrier will issue an ASR to Pacific's Wireless Interconnection Service Center;

- a. Within ten (10) business days after receipt of the TGSR, upon review of and in response to Pacific's TGSR; or
- b. At any time as a result of Carrier's own capacity management assessment, to begin the provisioning process.

2.6.2. Orders that comprise a major project that directly impacts the other Party may be submitted at the same time, and their implementation shall be jointly planned and coordinated. Major projects are those that require the coordination and execution of multiple orders or related activities between and among Pacific and Carrier work groups, including but not limited to the initial establishment of CMRS Interconnection Trunk Groups and service in an area, Designated NXX Code relocations, re-homes, Facility grooming, or major network rearrangements.

2.6.3. Carrier will be responsible for engineering and maintaining its network on its side of the POI. Pacific will be responsible for engineering and maintaining its network on its side of the POI.

2.7. Trunk Forecasting.

2.7.1. The Parties shall work towards the development of joint forecasting responsibilities for traffic exchange over CMRS Interconnection Trunk Groups. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated on a nondiscriminatory basis as Facilities and/or equipment are available. The Parties shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when Facilities are not available. Intercompany forecast information must be provided by the Parties to each other twice a year. The semi-annual forecasts shall include:

- a. Forecasted trunk quantities (which include measurements that reflect actual tandem and end office CMRS Interconnection Trunks and

tandem-subtending CMRS Interconnection end office equivalent trunk requirements) for two (2) years (current, and plus-1) by half year;

b. The use of Common Language Location Identifiers ("CLLI-MSG"), which are described in Bellcore documents BR 795-100-100 and BR 795-400-100;

c. A description of major network projects that affect the other Party. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by either Party that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.

2.7.2. If differences in semi-annual forecasts of the Parties vary significantly, the Parties shall meet, review and reconcile their forecasts.

2.7.3. If a trunk group is under seventy-five percent (75%) of centum call seconds (ccs) capacity on a monthly average basis for each month of any six (6) month period, and the trunk group in question is utilized to carry traffic originated by both Parties, either Party may contact the other to discuss resizing the trunk group. Neither Party will unreasonably refuse a request to resize the trunk group.

2.7.4. Each Party shall provide the other with a specific point of contact for planning, forecasting, and trunk servicing purposes.

2.8 Blended Rate

In the Parties' previous interconnection agreement, a blended rate was offered by Pacific. Pacific is not offering a blended rate in this Agreement for new Interconnection Trunk Groups, but is grandfathering such rate so that Carrier need not convert existing Facilities using blended rates as of the Effective Date. The grandfathered blended rate is as follows:

Blended Usage Rate for Type 2A (in addition to the Type 2A rates set forth in Section 3.1.2):

\$.0027 per Conversation MOU

3. COMPENSATION FOR LOCAL CMRS INTERCONNECTION

3.1. Compensation for Call Transport and Termination.

3.1.1 The Parties agree that the following rates are reciprocal for Local CMRS calls terminated both mobile-to-land and land-to-mobile.

- 3.1.1.a Where the Parties interconnect their networks using Type 2A interconnection, termination of Local CMRS Calls shall be at the Type 2A non-LATA-wide Access Tandem rate except for Section 3.1.1 b.
- 3.1.1.b The Type 2A LATA-wide rate shall apply to any Carrier traffic delivered to the designated Pacific LATA-wide Access Tandem on a trunk group designated by Carrier for the delivery of LATA-wide traffic. The Type 2A LATA-wide rate shall apply to any Pacific traffic delivered to an Carrier MSC on a trunk group designated by Pacific for the delivery of LATA-wide traffic. The foregoing designations of trunks apply only to traffic placed on such trunks and originated by the designating Party.
- 3.1.1.c Where Parties interconnect their respective networks utilizing Type 1 or Type 2B CMRS Interconnection, termination of Local CMRS Calls shall be at the respective Type 1 or Type 2B rate.

3.1.2 Local CMRS Calls.

3.1.2.1 Rates for Type 2A and Type 2B CMRS Interconnection. The following reciprocal rates (mobile-to-land and land-to-mobile) shall apply for Local CMRS Calls exchanged using Type 2A and Type 2B CMRS Interconnection. These rates are determined by the Interconnection Equations set forth in Attachment II. These rates are based on the CPUC final Open Access and Network Architecture Development ("OANAD") rate elements listed in Attachment II.

- a) TYPE 2A (LATA-WIDE TERMINATION), based on the elements set forth in Attachment II:

\$0.008279 set-up per Completed Call,
and

\$0.004467 per Conversation MOU;

- b) TYPE 2A (NON-LATA-WIDE TERMINATION), based on the elements set forth in Attachment II:

\$0.008130 set-up per Completed Call,
and

\$0.004164 per Conversation MOU;

- c) TYPE 2B, based on the elements set forth in Attachment II:

\$0.007000 set-up per Completed Call,
and

\$0.001870 per Conversation MOU.

3.1.2.2 Rates for Type 1 CMRS Interconnection. The following rates shall apply to Type 1 CMRS Interconnection. The usage rates below shall not apply to Type 1 Connections dedicated to Ancillary Services. For these connections, only Tariff charges shall be applied to the Ancillary Services provided.

\$0.013965 set-up per Completed Call,
and

\$0.006990 per Conversation MOU.

3.1.2.3 Additional Interconnection Rates and Charges. The terms, conditions, rates, and charges for CMRS Service Elements, CMRS Trunks, and Special Access Connections are referenced in Attachment I to this Agreement.

3.1.3 Transit Calls.

3.1.3.1 An originating Party shall pay the following tandem transit rate when it uses the other Party's Access Tandem Switch ("the Tandeming Party") to originate a call to a third party Telecommunications Carrier:

\$0.001130 set-up per Completed Call,

and

\$0.000670 per Conversation MOU.

Until billing system conversion to allow the two part transit rate, A surrogate minute of use rate of \$.00124 per MOU shall be billed in lieu of the separated setup and duration charges.

3.1.3.4 The Parties agree that it is incumbent on the originating Party to establish billing arrangements directly with other third party Telecommunications Carriers to which it may originate traffic by means of arrangements provided by the Tandeming Party. In the event that Carrier does send traffic through Pacific's network to a third party Telecommunications Carrier with whom Carrier does not have a traffic interchange agreement, and such third party Telecommunications Carrier makes a claim against Pacific for compensation, Pacific will advise both Carrier and the third party Telecommunications Carrier that they need to

resolve the matter between themselves. If Pacific does so, then Carrier agrees to indemnify Pacific for any termination charges Pacific subsequently is ordered by a regulatory agency or court to pay such third party Telecommunications Carrier for such traffic. In the event of any such proceeding, Pacific agrees to allow Carrier to participate as a party.

3.1.3.5 If either Party originates a call destined for termination to the other Party, but delivers that call to the other Party through a switching entity of another Telecommunications Carrier, the terminating Party shall be entitled to charge transport and termination rates as set forth in Section 3.1.2, above. The originating Party shall also be responsible for paying tandem transit rates, if any are charged by another Telecommunications Carrier.

3.1.3.6 The terminating Party shall not charge the Tandeming Party for calls that are terminated to it via transit arrangements provided by the Tandeming Party.

3.1.3.7 When Carrier uses a Pacific Access Tandem Switch to transit a call to another LEC End Office Switch, and that LEC is a member of the California Toll Pool ("Pooling LEC"), Pacific will bill, and Carrier will pay to Pacific, the applicable Type 2A CMRS Interconnection rate set forth above in Section 3.1.2. Pacific will remit such revenues, minus revenues from transiting, to the California Toll Pool. When a Pooling LEC originates a call that terminates to one of Carrier's Designated NXXs, Carrier will bill, and Pacific will pay to Carrier, the same rate as if the call originated at a Pacific End Office Switch.

3.2. Other Terms for Reciprocal Call Transport and Termination.

3.2.1 Exclusions. Reciprocal Compensation shall apply solely to the transport and termination of Local CMRS Calls, and shall not apply to any other traffic or services, including without limitation:

- a. interMTA traffic
- b. Transiting Traffic except for pooling traffic as described in section 3.1.3.7 above
- c. traffic which neither originates nor terminates on Carrier's network;
- d. traffic which neither originates nor terminates on Pacific's network; an
- e. Paging Traffic (to be negotiated under a separate interconnection agreement).

3.2.2. The Parties agree that ESP/ISP traffic between them, if any, is presently de minimus. At such time as either Party can economically track and measure such traffic, such Party may remove such traffic from the calculation of reciprocal compensation between the Parties by providing to the other Party appropriate evidence of the existence of such traffic. Records will be retained of all such removed traffic. Upon the conclusion of FCC proceeding CC Docket No. 99-98, the compensation rate established in that proceeding applicable to ESP/ISP traffic (or, if no such rate is established in that proceeding, a compensation rate otherwise established pursuant to the requirements of such proceeding) shall be applied to all removed traffic as described above.

3.2.3 Measuring Calls as Local CMRS Calls. In order to measure whether traffic is Local CMRS Calls for purposes of calculating Reciprocal Compensation, the Parties agree as follows:

3.2.3.1 For Pacific, the origination or termination point of a call shall be the end office that serves, respectively, the calling or called party at the beginning of the call.

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

3.2.4 Billing And Recording.

3.2.4.1 a.) Pacific and Carrier shall each perform the necessary call recording and rating for its respective portions of an exchanged call in order to invoice the other Party.

b.) The Parties recognize that Carrier currently may not have the technical systems in place to measure and bill Pacific pursuant to Section 3 of this Agreement. Until Carrier has implemented systems that can correctly identify Pacific originated traffic terminating on Carriers network exclusive of traffic from other sources, which include but are not limited to, transiting traffic, ported number traffic, call forwarded traffic from a third party LEC, traffic originated by other carriers using partial Pacific Bell Number blocks e.g. Type 1 traffic, Inter-MTA traffic, and IXC handled traffic, a surrogate billing method shall be employed for land to mobile traffic as follows. Carrier shall bill Pacific, and Pacific agrees to pay Carrier pursuant to such bills, the charges due under this Section 3, based on Pacific's monthly bill to Carrier. The land to mobile Completed Call

setups and Conversation Time minutes of use shall be equal to the Traffic Factor multiplied by the mobile to land Completed Call setups and Conversation Time minutes of use.

- c.) The Traffic Factor will be 33% unless modified by mutual agreement of the Parties using the procedure in section 3.2.4.1.d. below. The modification shall be effective until the effective date of a subsequent modification by this same method becomes effective. Subsequent reviews may be requested by either Party at a minimum interval of six months after the previous review.
- d.) Carrier shall provide state-wide traffic data for Mobile to Land and Land to Mobile traffic exchanged between the parties for at least three consecutive months. Pacific will provide Mobile to Land transiting traffic data (includes all traffic terminated by third parties or delivered to IXC's) for the same time period. The data and any resulting factor calculation shall be reviewed by both parties. If neither party disputes such data and resulting factor, it shall take effect thirty days after the presentation of the study results. If either party disputes the data or factor calculation, the Parties shall employ the Dispute Resolution process in Section 31 to reach resolution. The final percentage calculation resulting from such Dispute Resolution process shall take effect thirty days after the presentation of the study results, unless the Parties agree on a later date.

3.2.4.2 The Parties agree that the invoices exchanged between them will contain the following information:

3.2.4.2.1 The invoices will include identification of the monthly bill period (from and through dates) and invoices will include all current charges, past due balance, adjustments, credits, late payment fees, payments, and a contact for billing inquiries.

3.2.4.2.2 The Parties will issue invoices for usage and Facilities. Usage charges will be billed in arrears based on the agreed upon rates set forth in Section 3.1.2 and 3.1.3 of the Agreement. Facility charges will be billed in advance from Pacific and will be based on the charges in Attachment I to the Agreement. Any fractional monthly charges and credits for Facilities incurred during the bill period may be reflected on the invoice for that bill period or the following bill period. Per unit rate elements (or rates), either in detail or combined, will be displayed on both Parties invoices for all charges (usage and/or facilities).

3.2.4.2.3 Carrier will bill Pacific by state, based on the terminating location of the call. Carrier will display the Common Language Location Identifier (CLLI) code(s) of the Point of Interconnection where the exchange of traffic between Pacific and Carrier takes place as well as the number of calls and Conversation MOUs for each inbound trunk route. Pacific will bill Carrier by the End Office/Tandem Switch, based on the terminating location of the call and will display and summarize the number of calls and Conversation MOUs, for each terminating office.

3.2.4.2.4 When Carrier uses the factor billing option in set for the in section 3.2.4.(b), Carrier shall use the Pacific invoice to identify the Pacific Bell (CLLI) codes from which the traffic is delivered to Carrier as well as the number of Call and Conversation MOUs for each inbound trunk route. All adjustment factors and resultant adjusted amounts shall be shown for each line item including, but not limited to the land to mobile adjustment factor from section 3.2.4.(b), the blended call set-up and duration factors, the adjusted call set-up and duration amounts, the applicable rate, amounts, etc.

3.2.4.2.5 The Parties will provide a remittance document with each invoice identifying: remittance address, invoice number and/or billing account number, summary of calls, Conversation MOUs and charges, amount due, and payment due date (at least thirty (30) days from the bill date/date of invoice).

3.2.4.2.6 Invoices between the Parties will be provided on paper and will be the primary bill, unless a mechanized format is mutually agreed upon and subsequently designated by both Parties as the primary bill.

3.2.4.2.7 Invoices will be based on Conversation MOUs for all completed calls and are measured in total conversation time seconds, which are totaled for the monthly billing cycle and then rounded up to the next whole minute.

3.2.5. The Parties agree to resolve any billing or record exchange disputes pursuant to the Dispute Resolution provisions set forth in Section 33 of this Agreement.

3.3. Terms and Compensation for Use of Facilities for Local CMRS Interconnection.

3.3.1. CMRS Interconnection Transport Arrangements.

The Parties will interconnect their networks using digital Facilities of at least DS-1 transmission rates, except for Type 1 CMRS Interconnection arrangements, where the DS-1 minimum will not be applicable.

3.3.2. CMRS Interconnection Transport Charges

3.3.2.1 Charges shall be determined by Pacific's tariff.

3.3.2.2 The compensation rate to Carrier for the transport of land to mobile traffic originating on Pacific's network will be \$.00050 per MOU unless modified by mutual agreement of the Parties using the procedure in section 3.3.2.2.1 below. The modification shall be effective until the effective date of a subsequent modification by this same method becomes effective. To determine the compensation owed Carrier, this rate shall be multiplied by the total land to mobile minutes of use that traverse shared use facilities provided by Carrier after transiting and IXC traffic have been removed and all exclusion factors have been applied.

3.3.2.2.1 The rate development method will consist of an analysis of individual facility utilization assessments. This method shall prorate facilities for multiple use and appropriate sparing. An average unit cost factor will be developed by weighting the different facility types based on their relative percentage of traffic carriage. This composite unit cost shall be divided by a reasonable average traffic factor per trunk to determine the per MOU unit rate. This rate can then be applied to the actual land to mobile Conversation MOUs originating on Pacific's network and terminating on Carrier's network.

3.3.2.3 Each Party reserves the right to discontinue the use of all, or a portion, of the other Party's transport network for delivering Local CMRS Calls in favor of an alternate, less costly transport solution.

3.3.2.4. The Parties will compensate one another for their proportionate use of any alternate transport provided under Section 3.3.2.3 above according to the same methods developed in Section 3.3.2.2.

3.3.2.5 The Parties agree to adjust the calculation method and rate under Section 3.3.2.2.1 above following significant changes affecting the network. This adjustment will take place no more than two (2) times in a calendar year.

3.3.2.6. Carrier and Pacific are presently interconnected at numerous points in each LATA throughout Pacific's Service Area. Each Party has provided the other with Interconnection at various reasonable points on its network in each LATA or tandem serving area. Having reviewed one another's network configurations, the Parties agree that their present network design

and resulting Interconnection arrangements, taken as a whole and on balance, impose a reasonable allocation of transport and switching costs upon each Party and constitute one form of reliable and economically efficient Interconnection.

3.3.2.7. The Parties agree that reliable and economically efficient Interconnections require, among other things, that Interconnection points between the Parties' networks be within reasonable proximity to each other, based on the joint planning and forecasting requirements, in order to keep transport costs balanced for the exchange of Local Traffic; and that routing flexibility be maintained, to allow the use of less costly shared or common transport within each Party's network to permit the use of the shortest available dedicated link between the Parties' networks for traffic exchange, consistent with LERG routing guidelines.

3.3.2.8 The parties therefore agree that they will not impose dedicated transport obligations on the other Party over interconnection facilities that exceed 50 miles. The parties further agree that the Type 1 interconnection method is not well suited for delivery of land to mobile traffic due to the routing restrictions imposed by the line treatment of the trunk. The parties agree therefore that they will avoid use of the Type 1 interconnection whenever possible, and when use of Type 1 is required, will not impose dedicated transport obligations that exceed 12 miles.

3.4. Charges and Payment.

3.4.1. Subject to the provisions of Section 3.4.6 below, each Party agrees to pay the other all rates and charges by the earlier of (i) the payment date, which may be set no earlier than thirty (30) days after the bill date, or (ii) the next bill date (i.e. the same date in the following month as the bill date). The undisputed portions of all bills are to be paid when due.

3.4.2. Usage-sensitive charges hereunder shall be billed monthly in arrears by both Parties.

3.4.3. All nonusage-sensitive monthly charges shall be billed by Pacific monthly in advance, except those charges due for the initial month, or a portion of the initial month during which new items are provided, will be included in the next bill rendered.

3.4.4. All interconnection Facilities charges owed to Carrier by Pacific under Section 3.3, above, shall be billed by Carrier to Pacific thirty (30) days following receipt by Carrier of Pacific's invoice.

3.4.5. Late Payment Charge. Bills will be considered past due thirty (30) days after the bill date or by the next bill date (i.e., same date as the bill date in the following month), whichever occurs first, and are payable in immediately available U.S. funds. If the amount billed is received by the billing Party after the payment due date or if any portion of the payment is received by the billing Party in funds which are not immediately available to the billing Party, then a late payment charge will apply to the unpaid balance. The late payment charge will be as set forth in Pacific's tariff Schedule 175-T, Section 2.4.1.

3.4.6 Billing Disputes. The billed Party has sixty (60) days after the receipt of the invoice to officially dispute, in writing, the charges which have been withheld from the billing Party. Such billing dispute will include specific invoice and dispute detail for the billing Party to be able to properly investigate the dispute. If the appropriate billing contacts are unable to resolve the dispute within sixty (60) days after receipt of the written billing dispute, the issue may be escalated to appropriate business representatives who will then have thirty (30) days to resolve the dispute. In the event that the billing dispute cannot be resolved by the appropriate business representatives, either Party may commence a dispute resolution in accordance with the Dispute Resolution provisions set forth in Section 32 of this Agreement.

3.4.7. Backbilling. Charges for all services provided pursuant to this Agreement may be billed by the billing Party for up to six (6) months after the initial date service was furnished. The billed Party may dispute such charges in accordance with Section 3.4.6 above.

3.4.8 Backcredits. Neither Party may request credit for any billing by the other Party pursuant to this Agreement more than six (6) months after the date of the bill on which the service or facility was billed. If the request for credit leads to a billing dispute, such dispute shall be in accordance with Section 3.4.6 above. This sub-section shall not apply to requests for credit when the true-ups are provided for in this Agreement.

3.4.9. Tariffed Services. Where charges specifically refer to tariffed charges, then those tariffed charges and those alone shall be deemed amended to conform to any authorized modifications that may hereafter occur to the tariff rates for such equivalent Facilities and arrangements. Such amendments shall become effective upon the effective date of tariff modifications. Pacific shall provide Carrier with notice, at the time of filing, of the filing of any such tariff modifications.

3.4.10. Surcharges and Surcredits. The rates and charges for Facilities and serving arrangements provided pursuant to this Agreement are subject to the applicable surcharges listed in Pacific's intrastate tariffs.

3.4.11. Taxes. Each Party may charge and collect from the other, as applicable, appropriate federal, state, and local taxes. Where the billed Party notifies the other and provides appropriate documentation of exemption, the billing Party will not collect such taxes. In the event of a dispute between the Parties as to the exempt status of the billed Party, the billing Party will continue to charge and collect and the billed Party will continue to pay the tax until the billed Party provides the billing Party with appropriate affirmative documentation of the exempt status.

3.5. Intercept Arrangements.

3.5.1. The Parties shall provide voice intercept recorded announcement and/or distinctive tone signals to the calling Party when a call is directed to a number within one (1) of its NXX Code(s) that has not been assigned to a customer.

3.5.2. When either Party's network is not able to complete a call because of a malfunction in the other's network or other equipment, the Parties will, when possible, either divert the call to an operator or provide a recorded announcement to the calling party advising that the call cannot be completed.

3.5.3. Wherever a call is directed to a voice intercept recorded announcement by the terminating Party, the terminating Party shall not provide Answer Supervision.

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

4.1 This Section 4 provides the terms and conditions for the exchange of traffic between Carrier's network and Pacific's network for Switched Access to IXCs, thus enabling Carrier end users to access IXCs for the transmission and routing of interMTA and interLATA calls.

4.2 IXC Traffic

4.2.1 Carrier may order Equal Access Trunks in order to provide for access to IXCs through Pacific's network.

4.2.2 Carrier may send traffic to IXCs via Pacific over Equal Access Trunks or Type 1 trunks.

4.2.3 Pacific may send traffic from IXCs to Carrier over CMRS Interconnection Trunks, Equal Access Trunks, or Type 1 trunks.

4.2.4 If traffic is handed from Pacific directly to an IXC, from Carrier directly to an IXC, from Carrier to an IXC via Equal Access trunks, or from an IXC directly to Pacific, access charges shall not apply to Carrier.

5. INTERMTA TRAFFIC COMPENSATION

5.1 For the purpose of compensation between Pacific and Carrier under this Agreement, InterMTA Traffic is subject to Pacific's Switched Access tariffs.

5.2 To the extent that such traffic cannot be measured, interMTA factors (mobile to land and land to mobile) will be developed by Carrier to determine the amount of InterMTA Traffic. Carrier will provide an analysis to Pacific, upon request, to explain the derivation of the percent interMTA factors.

6. COLLOCATION

Pacific will provide collocation to Carrier pursuant to Pacific's tariff or separate agreement, which will, upon Carrier's request, include any arrangement that both Parties agree is, or is specifically found by the Commission to be, a collocation arrangement and that is made available to any other CMRS provider. If Commission resolution is necessary, the Parties agree to cooperatively seek an expeditious resolution of any determination of whether a particular arrangement is a collocation arrangement.

7. NONDISCRIMINATORY ACCESS TO POLES, DUCTS, CONDUITS AND RIGHTS OF WAY

Pacific shall provide Carrier access to poles, ducts, conduits and rights of way it owns or controls on rates, terms and conditions consistent with Section 224 of the Act and the FCC's Rules.

8. NUMBERING

8.1 It shall be the responsibility of each Party to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Pacific nor Carrier shall charge each other for changes to switch routing software necessitated by the opening of NPA or NXX codes. If either Party is authorized to recover its costs for changes to switch routing software necessitated by the opening of NPA or NXX codes, the Parties shall reimburse each other's costs according to such authorization.

8.2 The Parties shall comply with Central Office Code Assignment Guidelines, as currently specified in INC 95-0407-008, in performing the electronic input of their respective number assignment information into the Routing Database System.

8.3 The Parties shall cooperate to reassign the routing V&H and the Common Language Location Identifier ("CLLI") of Dedicated NXX Codes from Pacific's Tandems to points within Carrier's network as designated by Carrier. Carrier agrees that it shall use best efforts to complete the reassignment of its Dedicated NXX Codes into its network. The Parties agree to cooperate in order to complete the transfer of all codes by March 31, 2001. Until an NXX code is reassigned, it will continue to be temporarily assigned to Pacific's network as shown in the LERG.

9. NUMBER PORTABILITY

9.1. The Parties agree to implement Permanent Number Portability ("PNP"), in compliance with FCC or Commission orders, within and between their networks as soon as technically feasible, but no later than the schedule established by the FCC or the Commission.

9.2. Each Party shall recover its costs for PNP in accordance with FCC or Commission orders.

9.3. Except as otherwise agreed between the Parties in writing, to the extent that a Party performs a query or is required to perform a query, that Party will perform its own queries or purchase this service from Pacific Bell or other third party providers for PNP calls on an N-1 basis, where N is the entity terminating the call to the user.

9.4. The Parties shall cooperate in conducting testing to ensure interconnectivity between their networks. Each Party shall inform the other of any network updates that may affect the other's network and shall, at the other's request, perform tests to validate the operation of the network. Prior to the date that PNP is implemented by both Parties, the Parties agree to cooperatively establish terms, conditions, and procedures for porting telephone numbers.

10. TROUBLE REPORTING

The Parties will cooperatively plan and implement coordinated repair procedures for the CMRS Interconnection Trunks and Facilities to ensure trouble reports are resolved in a timely and appropriate manner.

11. CHANGE IN SERVICE ARRANGEMENTS

Charges associated with changes in Carrier's Interconnection arrangements are in addition to other applicable charges. Change charges are as set forth in Pacific's Tariff Schedule Cal. PUC No. 175-T, Section 5.

12. ALLOWANCES FOR TRUNK INTERRUPTIONS

Carrier shall, upon request, be credited an amount for the period during which CMRS Interconnection Trunks are out of service due directly to a failure of Pacific's switching equipment. The terms of this section apply to the recurring CMRS Trunk Termination charges specified in Attachment I.

- a. For CMRS Interconnection Trunks, interruptions on a per line or trunk termination basis, no credit shall be allowed for an interruption of less than twenty-four (24) hours. Carrier shall be credited for an interruption of twenty-four (24) hours or more at the rate of one-thirtieth (1/30th) of the applicable monthly recurring rate.
- b. The interruption period starts when an out of service condition is reported to Pacific and ends when the trunks are restored to service. Claims for reimbursement under this Section must be made in writing within thirty (30) days of the occurrence and shall be payable within thirty (30) days of such notification. Credit allowances for interruption or for a series of interruptions shall not exceed the monthly recurring rate for the service interrupted in only one monthly billing period.
- c. No credit allowance will be made for: (i) interruptions caused by the Facilities used to provide CMRS Interconnection; (ii) interruptions where Carrier has released the trunk to Pacific for maintenance purposes, to make rearrangements, or for the implementation of an order for a change in the service during that time which was negotiated with Carrier prior to the release of this service; or (iii) an interruption or a series of interruptions resulting from a common cause for amounts less than one dollar (\$1.00).

13. NETWORK MANAGEMENT

13.1. Protective Controls. Any Party may use or request protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic to or from each other's network, when required to protect the public switched network from congestion due to Facility failures, switch congestion, or failure or focused overload. The Parties will immediately notify each other of any protective control action planned or executed.

13.2. Expansive Controls. Where the capability exists, originating or terminating traffic reroutes may be implemented by any Party to temporarily relieve network congestion due to Facility failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Expansive controls will only be used when the Parties mutually agree.

13.3. Mass Calling. The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, in order to prevent or mitigate the impact of these events on the public switched network.

13.4. Network Harm. Both Parties shall work cooperatively to prevent use of any service provided in this Agreement in any manner that interferes with third parties in the use of their

service, prevents third parties from using their service, impairs the quality of service to other carriers or to either Party's Customers, causes electrical hazards to either Party's personnel, damage to either Party's equipment, or malfunction of either Party's billing equipment.

13.5 High Volume Calling Trunk Groups. The Parties shall cooperate to establish separate trunk groups for the completion of calls to high volume Customers.

14. LIABILITY AND INDEMNITY

14.1. Neither Party assumes any liability for any act or omission of the other in the furnishing of its service to its Customers solely by virtue of entering into this Agreement.

14.2. Except as otherwise stated in this Section 14, and except for damages resulting from gross negligence or willful misconduct, the liability of each Party for damages arising out of delays in installation, maintenance, or restoration of Facilities, services, or arrangements or out of mistakes, omissions, interruptions, or errors or defects in transmission occurring in the course of exchanging traffic over the Facilities, services or arrangements described herein shall in no event exceed the amount of the allowance, if any, available under the applicable Tariff.

14.3. Each Party agrees to reimburse the other for damages to premises or equipment resulting from the installation, maintenance, or removal of Facilities, services, or arrangements, if caused by negligence or willful act of the reimbursing Party.

14.4. Each Party shall reimburse the other for any loss through theft of Facilities or services, by or through employees of the reimbursing Party while on the premises of the other.

14.5. The Parties shall cooperate with each other in the defense of any suit, claim, or demand by third persons against either or both of them arising out of the interconnection arrangements and exchange of traffic hereunder including, without limitation, Workers' Compensation claims, actions for infringement of copyright and/or unauthorized use of program material, libel and slander actions based on the content of communications.

14.6. Neither Party shall be required to reimburse the other for any claim or loss pursuant to this Section 14 where the amount in controversy is less than two hundred and fifty dollars (\$250.00).

14.7. Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

15. PATENTS

15.1. With respect to claims of patent infringement made by third persons, Pacific and Carrier shall defend, indemnify, protect and save harmless the other from and against all claims arising

out of the improper combining with or use by the indemnifying Party of any circuit, apparatus, system or method provided by that Party or its subscribers in connection with the Facilities, services or arrangements furnished under this Agreement.

15.2. No license under patents is granted by either Party to the other, or shall be implied or arise by estoppel with respect to any circuit, apparatus, system, or method used by either Party in connection with any Facilities, services, or arrangements furnished under this Agreement.

16. RECORDS

16.1. Each Party will keep adequate records of its operations and transactions under this Agreement and shall furnish to the other Party such information as may be reasonably required for the administration of this Agreement. Records required under this Agreement are subject to the confidentiality provisions of Section 20 of this Agreement.

16.2. The Parties shall, upon reasonable request, furnish copies or otherwise make available to each other the licenses and other Federal and, if applicable, State regulatory authorizations and its filed tariffs or other published schedules of charges pertaining to the traffic to be exchanged hereunder. In the event that Carrier possesses requisite authority, but the regulatory agency involved has not issued a formal document of authorization, Pacific shall accept, as satisfying the requirements of this provision, the notice granting authorization in the agency's official publication(s).

17. TERM AND TERMINATION

17.1 Except as provided herein, the Parties agree to interconnect pursuant to the terms defined in this Agreement until March 1, 2002.

17.2 After March 1, 2001, either Party may request negotiations between the Parties for new rates, terms, and conditions of the CMRS Interconnection arrangements. Such negotiations shall begin within thirty (30) days after delivery of such a request. Any resultant new CMRS interconnection agreement shall be effective when approved by the Commission or upon such other date as is agreed to by the Parties in the agreement itself.

17.3 This Agreement shall continue in effect until:

17.3.1 a regulatory or judicial body approves a negotiated new interconnection agreement between the Parties for the Service Areas covered by this Agreement;
or

17.3.2 an arbitrated new interconnection agreement between the Parties for the Service Areas covered by this Agreement becomes effective.

17.3.3 this Agreement is terminated in accordance with the terms of this Section 17.

17.4 The Parties agree that, except as otherwise provided in this Agreement, the rules and timeframes of Section 252 of the Act shall apply to any request for a new interconnection agreement initiated under Section 17.2. This includes arbitration by the Commission in the timeframes established in Section 252 of the Act.

17.4.1 If, for any reason, the Commission declines to arbitrate issues resulting from the negotiations, either party may petition the FCC to arbitrate such issues.

17.4.2 If, for any reason, the FCC declines to arbitrate issues resulting from the negotiations, either party may request binding commercial arbitration, which shall be governed by the rules of the American Arbitration Association, except as the Parties agree to modify such rules.

17.5 Notwithstanding any other provisions of this Agreement, this Agreement may be terminated at any time as mutually agreed upon by the Parties in writing.

17.6 Notwithstanding any other provisions of this Agreement, in the event Carrier intends to cease providing its Authorized Services, Carrier shall communicate this intent to Pacific in writing at least sixty (60) days prior to the time Carrier intends to cease providing its Authorized Services. If it sends such a communication, Carrier may terminate this Agreement as part of that same advance written notice, subject to payment for Facilities or arrangements provided or for costs incurred.

17.7 Violation Of or Refusal to Comply with Provisions of Agreement:

17.7.1 Either Party may provide thirty (30) days written notice to the other of repeated or willful material violation of, or refusal to comply with, the provisions of this Agreement.

17.7.2 If such material violation or refusal has continued uncured for thirty (30) days following receipt of such written notice by the defaulting Party, the other Party may terminate this Agreement on thirty (30) days written notice.

17.7.3 The terminating Party shall notify the FCC and the Commission and concurrently give the other Party written notice of the prospective date and time of discontinuance of service.

17.8 Immediate Termination:

17.8.1 This Agreement shall immediately terminate upon the permanent suspension, revocation, or termination by other means of either Party's authority to

provide services over its network and shall be suspended during periods of temporary suspension, revocation, or termination of such authority.

17.8.2 Notwithstanding such termination, the terminating Party shall notify in writing the Party who has lost its authority, not less than thirty (30) days prior to discontinuing the interconnection arrangements provided hereunder.

17.8.3 At such time the terminating Party will also notify in writing the FCC and the Commission of the prospective discontinuance.

17.9 Upon termination of this Agreement, the monthly charges payable under the Agreement shall be prorated to the date of termination, provided that the Facility or arrangement for which such charge is levied has been in service for more than one (1) month. Otherwise, the full monthly charge shall be due on termination, together with any applicable non-recurring charges.

17.10 If this Agreement is terminated for any reason and the Parties continue to provide services hereunder, then the terms and conditions contained herein shall continue to apply to such services until a new contract between the Parties is in place, unless otherwise agreed.

18. REGULAR MEETING

The Parties recognize that they share a goal of ensuring that their Customers receive the highest quality and most reliable service. To help achieve this goal, the Parties agree to meet every six (6) months, at the request of the other, to discuss procedures under this Agreement, and planned changes or enhancements of the Parties' respective networks.

19. DEPOSITS

Each Party ("Requesting Party") may, in order to safeguard its interests, require that the other Party, if it has a proven history of late payments or has not established credit, to make a deposit to be held by the Requesting Party as a guarantee of the payment of charges.

20. CONFIDENTIALITY

20.1. In light of the confidential nature of the non-public, proprietary information that may be developed and owned by the Parties during the term of this Agreement, or that may be used by the Parties, or their officers, employees, agents, or affiliates or their officers, employees, or agents, in the performance of their Customer obligations, each Party hereto will (and will not cause or permit any of its officers, employees or agents or its affiliates or their officers, employees or agents to do otherwise) receive and treat all confidential, proprietary, non-public information so developed, including without limitation, the systems, engineering and other technical data, forecasts, business records, correspondence, cost data, customer lists, estimates,

market surveys, traffic data, trade secrets and other trade information (the "Information") as confidential, and keep, file and store such Information together with any notes or other material incorporating or relating to the Information, in a manner consistent with its confidential nature. All such Information, except the types of Information specified in Section 20.2, shall be conspicuously marked as "Confidential."

20.2 Any information that (i) is now in or subsequently enters the public domain through means other than direct or indirect disclosure by any Party hereto in violation of the terms of this Agreement or by any other person or entity in violation of an obligation of confidentiality; (ii) is, with the exception of traffic information, already in the possession of the Party receiving such information free of any obligation of confidence to any Party; or (iii) is lawfully communicated to the Party receiving the information by a third party free of any confidential obligation, shall not constitute "Information" hereunder.

20.3 Any traffic or billing data provided by either Party to implement the terms of this Agreement shall be considered Confidential and shall be disclosed only to those persons who have a need to see the information to implement the terms of this contract. Neither Party shall permit traffic or billing data to be disclosed to any Affiliate or subsidiary corporation that provides services that compete with the other Party.

20.4 Notwithstanding the above, information required to be disclosed by a Party to a legislative, regulatory, or judicial body may be so disclosed; however, the Party so releasing information proprietary to the other Party shall notify that Party prior to the release of said information and if requested shall seek confidential status of said information with the requesting body.

21. NO WAIVER

21.1 The failure of either Party to insist upon performance of any of the terms and conditions of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment of any such terms, covenants, and conditions, but the same shall be and remain in full force and effect.

21.2 The Parties acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to any regulatory or judicial decisions.

22. NOTICE

22.1 Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally; on the date that is five business days after mailing if delivered by regular mail; or on the date stated on the receipt if delivered by any method of delivery resulting in a written receipt being provided by the recipient. Notice may also be provided by facsimile, which shall be effective on the next Business Day following the date of transmission as reflected in the facsimile confirmation sheet.

"Business Day" shall mean Monday through Friday, the Parties' respective holidays excepted. Any notice shall be delivered using one of the alternatives mentioned in this Section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this Section, except that notices to a Party's twenty-four (24) hour contact number shall be by telephone and/or facsimile and shall be deemed to have been received on the date transmitted.

To Carrier:

Bob Edgerly
Nextel Communications, Inc.
2003 Edmund Halley Drive
Reston, VA 20191
Phone: 703-433-8157
Fax No: 703-433-8102

To Telco:

Copy to:

Director - Wireless Marketing
311 S. Akard
Four Bell Plaza, Room 1820
Dallas, TX 75202
Tel #: 214-858-0571
Fax #: 214-858-0775

Keith Davis
208 S. Akard
One Bell Plaza, Room 2900
Dallas, TX 75202
Tel #: 214-464-8583
Fax #: 214-464-1138

Vice President-Network Providers	Vice President & General Counsel
Ameritech Information Ind. Services	Ameritech Information Ind. Services
350 North Orleans, Floor 5	350 North Orleans, Floor 5
Chicago, IL 60654	Chicago, IL 60654
Tel #: 312-335-6531	Tel #: 312-867-5578
Fax #: 312-335-2927	Fax #: 312-245-0254

22.2 Each Party agrees to inform the other of any name change or in its legal status in writing within thirty (30) days of the effective date of such change.

22.3. The complete list of Access Carrier Name Abbreviation (ACNA) codes covered by this Agreement is listed below. Any addition, deletion or change in name associated with these listed ACNA codes requires notice under this section. Notice must be received before orders can be processed under a new or changed ACNA code.

ACNA List: NXT

23. ASSIGNMENT

23.1. This Agreement may not be assigned by either Party without the prior written consent of the other, which shall not be unreasonably withheld.

23.2. Except as otherwise provided herein, this Agreement shall be binding on and shall inure to the benefit of Parties hereto and their respective successors and assigns.

24. AMENDMENTS, CHANGES, AND MODIFICATIONS

24.1. If either Party proposes to make any permanent changes in the arrangements provided for in this Agreement, or any Attachments, or any permanent change in its operations that would affect the other Party's operations or services once the Facilities, arrangements, apparatus, equipment, or any other item furnished by the Parties under this Agreement are installed, the changing Party shall give reasonable advance written notice to the other Party of such changes, advising when such changes will be made. All such changes shall be coordinated with the non-changing Party. Nothing in this Section shall affect the Parties' rights and obligations under this Agreement.

24.2. Subject to the provisions of Section 24.1. above, each Party shall be solely responsible, at its expense, for the overall design of its services and for any redesigning or rearrangement of its services that may be required because of changes in Facilities, operations or procedures of the other, minimum network protection criteria, or operating or maintenance characteristics of the Facilities.

24.3. No provision of this Agreement shall be deemed waived, amended, or modified by either Party, unless such waiver, amendment, or modification is in writing and signed by the authorized representatives of both Parties.

25. LAW GOVERNING AGREEMENT

This Agreement shall be governed by the laws of the State of California and applicable federal law.

26. INSOLVENCY

26.1. Either Party may terminate this Agreement by notice in writing effective upon mailing to the other Party in the event the other Party is insolvent, makes an assignment for the benefit of creditors, is unable to pay debts as they mature, files or has filed against it a petition in any court setting forth or alleging any of the foregoing or has a trustee or receiver or officer of the court appointed to control or supervise all or any substantial part of its assets or business. Such

termination shall be permitted only if adequate assurance cannot be provided in accordance with Section 26.2.

26.2. When the circumstances referred to in Section 26.1, above exist, either Party may in writing demand adequate assurance of due performance and, until said Party receives such assurance, the other Party may suspend any performance required under this Agreement. The adequacy of any assurance offered shall be determined according to commercial standards. After receipt of a justified demand, failure to provide within a reasonable time, not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Either Party may then exercise whatever legal rights they have available to them in light of said repudiation.

27. SEVERABILITY

In the event a portion of this Agreement is held to be unenforceable, that portion shall be severed from the Agreement and the remainder shall continue in full force; provided, however, that if the severing of a provision makes this Agreement in its entirety impossible to perform, the Agreement shall be terminated in accordance with the provisions of Section 17, above.

28. THIRD PARTY BENEFICIARY

This Agreement shall not provide any person not a Party to this Agreement with any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing without reference to this Agreement.

29. FORCE MAJEURE

29.1. Neither Party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its fault or negligence.

29.2. If any such force majeure condition occurs, the Party injured by the other's inability to perform may, in accordance with Section 17 above, elect to (a) terminate this Agreement, provided the condition has existed for ninety (90) days in a one hundred and twenty (120) day period; or (b) suspend this Agreement for the duration of the force majeure condition and resume performance under this Agreement once such force majeure condition ceases.

30. MOST FAVORABLE TERMS AND CONDITIONS

To the extent provided in Section 252(i) of the Act and related provisions of the FCC's rules and regulations, Pacific shall make available to Carrier for a reasonable period of time any interconnection, service, or network element provided under an agreement approved under

Section 252 of the Act to which Pacific is a Party upon Carrier's agreement to the same terms and conditions as those provided in that agreement.

31. CHANGES IN LAW

31.1. In the event that any final and nonappealable legislative, regulatory, judicial, or other legal action materially affects any material terms of this Agreement or any Attachment hereto, renders this Agreement or any Attachment hereto inoperable, creates any ambiguity or requirement for further amendment to this Agreement or any Attachment hereto, or adversely affects the ability of either Party to perform any material term of this Agreement, either Party may, on thirty (30) days written notice require that such Agreement, Attachment, or such terms thereof be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required or appropriate to reflect the results of such action.

31.2. Where Pacific's Service Area or Carrier's Service Area is modified after the Effective Date of this Agreement, the terms and conditions of this Agreement shall be modified to incorporate such modification, if requested by either Party.

31.3. Facilities and services shall not be used by either Party knowingly for any purpose or in any manner, directly or indirectly, in violation of any laws, or in violation of any approved tariffs, orders, regulations, or rules of the FCC, the Commission, or other governmental agency, or in aid of any unlawful act or undertaking. In addition, the Parties agree to amend this Agreement as necessary to comply with any change in law or legal requirements applicable to this Agreement or its Attachments.

31.4. This Agreement and the Attachments hereto shall be amended at the request of either Party to take into account changes in FCC or Commission decisions, tariffs, rules, and requirements, including changes resulting from judicial review of applicable regulatory decisions, that require amendment of this Agreement. This Agreement and the Attachments hereto and the rates, charges, terms, and conditions set forth herein and therein shall be amended from time to time to conform to such new or changed rates, charges, terms, and conditions as may subsequently be approved by the FCC or the Commission and that require amendment of this Agreement.

31.5. Wherever a tariffed rate is cited or quoted, it is understood that said cite incorporates any changes to said tariffs.

32. DISPUTE RESOLUTION

32.1 Timing for Dispute Resolution

Except as otherwise specifically provided for in this Agreement, no claims will be brought for disputes arising from this Agreement more than twenty four (24) months from the

date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

32.2 Alternative to Litigation

The Parties generally desire to resolve disputes arising out of this Agreement without court litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedure with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

32.3 Commencing Dispute Resolution

Dispute Resolution shall commence when one Party sends to the other Party a written notice of a controversy or claim arising out of or relating to this Agreement and specifying the exact nature, time and terms of the dispute. No Party may pursue any claim unless such written notice has first been given to the other Party.

32.4 Informal Resolution of Disputes

32.4.1 When such written notice has been given, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement.

32.4.2 The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives, but they shall use their best efforts to resolve the dispute within sixty (60) days.

32.4.3 Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations.

32.4.4 Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

32.5 Formal Dispute Resolution

32.5.1 If the Parties are unable to resolve the dispute through the informal procedure described above, then either Party may invoke the following formal Dispute Resolution procedures by submitting to the other Party a written demand for arbitration. Unless agreed upon by the Parties, formal dispute resolution

procedures described below, including arbitration or other procedures as appropriate, may be invoked no sooner than sixty (60) days after the date of the notice initiating dispute resolution under Section 32.3.

32.5.2 Claims Subject to Arbitration.

All claims will be subject to arbitration pursuant to Section 32.6 if, and only if, the claim is not settled through informal dispute resolution and both parties agree to arbitration. If both parties do not agree to arbitration, then either party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

32.6 Arbitration

32.6.1 Disputes subject to arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree.

32.6.2 Each arbitration will be held in San Francisco, California unless the Parties agree otherwise.

32.6.3 The arbitration hearing will be requested to commence within sixty (60) days of the demand for arbitration.

32.6.4 The arbitrator will control the scheduling so as to process the matter expeditiously.

32.6.5 The Parties may submit written briefs upon a schedule determined by the arbitrator.

32.6.6 The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings.

32.6.7 The arbitrator will have no authority to award punitive damages, exemplary damages, consequential damages, multiple damages, or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement.

32.6.8 The arbitrator shall be knowledgeable of telecommunications issues.

32.6.9 The arbitrator shall permit reasonable written discovery.

32.6.10 The times specified in this Section may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause.

32.6.11 Each Party will bear its own costs of these procedures, including attorneys' fees.

32.6.12 The Parties will equally split the fees of the arbitration and the arbitrator.

32.6.13 The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof.

32.6.14 Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

32.7 Resolution of Billing Disputes

The following provisions apply specifically to the resolution of billing disputes.

32.7.1 When a billing dispute is resolved in favor of the billed Party the following will occur within thirty (30) days:

32.7.1.1 Interest will be paid by the billing party on any amounts paid in excess of the amount found to be due according to the Dispute Resolution.

32.7.1.2 Payments made in excess of the amount found to be due according to the Dispute Resolution will be reimbursed by the billing Party.

32.7.2 When a billing dispute is resolved in favor of the billing Party, the following will occur within thirty (30) days:

32.7.2.1 Late payment charges will be paid by the disputing Party on any amount not paid that was found to be due according to the Dispute Resolution.

32.7.2.2 Any amounts not paid but found to be due according to the Dispute Resolution will be paid to the billing Party.

32.8 No Conflict. The Dispute Resolution procedures set forth in this Agreement are not intended to conflict with applicable requirements of the Act or the Commission with regard to procedures for the resolution of disputes arising out of this Agreement.

33. INTERVENING LAW

This Agreement is entered into as a result of private negotiation between the Parties. In the event that any of the rates, terms and/or conditions herein, or any of the laws or regulations that were the basis or rationale for such rates, terms and/or conditions in the Agreement, are invalidated, modified or stayed by any action of any state or federal regulatory or legislative bodies or courts of competent jurisdiction, including but not limited to any decision by the Eighth Circuit relating to any of the costing/pricing rules adopted by the FCC in its First Report and Order, In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996), upon review and remand from the United States Supreme Court, in AT&T Corp. v. Iowa Utilities Bd., 119 S. Ct. 721 (1999) or Ameritech v. FCC, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (U.S. 1999), the affected provision shall be immediately invalidated, modified, or stayed, consistent with the action of the legislative body, court, or regulatory agency upon the written request of either Party. In such event, the Parties shall expend diligent efforts to arrive at an agreement regarding the appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Without limiting the general applicability of the foregoing, the Parties acknowledge that on January 25, 1999, the United States Supreme Court issued its opinion in AT&T Corp. v. Iowa Utilities Bd., 119 S. Ct. 721 (1999) and on June 1, 1999, the United States Supreme Court issued its opinion in Ameritech v. FCC, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (U.S. 1999). The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decisions and any remand thereof, including its rights under this Intervening Law paragraph.

34. EFFECTIVE DATE

This Agreement shall become effective upon approval by the Commission.

35. SUPERSEDURE

This Agreement supersedes all prior agreements, interim agreements, letters of agreement, memorandums of understanding, and any other written documentation of agreements between the Parties hereto with respect to the subject matter hereof.

36. EXECUTION IN MULTIPLE PARTS

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

37. ENTIRE AGREEMENT

37.1 This Agreement shall constitute the entire agreement between Pacific and Carrier with respect to the subject matter hereof.

37.2 Relationship of Rates, Terms and Conditions. This Agreement (including all attachments hereto), and every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement (including all attachments hereto) that are legitimately related to such interconnection, service or network element; and all such rates, terms and conditions are incorporated by reference herein and as part of every interconnection, service and network element provided hereunder. Without limiting the general applicability of the foregoing, the following terms and conditions of the Agreement are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, network management, liability and indemnity, patents, records, term and termination, regular meeting, deposits, confidentiality, no waiver, notice, assignment, amendments, changes, and modifications, law governing agreement, insolvency, severability, third party beneficiary, force majeure, most favorable terms and conditions, changes in law, dispute resolution, intervening law, effective date, supercedure, execution in multiple parts, and entire agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below:

Pacific Bell

By SBC Telecommunications, Inc.,
its authorized agent

By:  _____
(Signature)

Larry Cooper
for President - Industry Markets

Date Signed: 2/25, 2000

Nextel of California, Inc.

By:  _____
(Signature)

Name: Nancy Carlson

Title: Director, Telco Management

Date Signed: 2/10, 2000

ATTACHMENT I
to
CMRS INTERCONNECTION AGREEMENT
between
PACIFIC BELL
and
NEXTEL OF CALIFORNIA, INC.

**PRICING SCHEDULE FOR CMRS INTERCONNECTION
SERVICE ELEMENTS AND TRUNK TERMINATIONS**

PRICING SCHEDULE FOR CMRS INTERCONNECTION SERVICE ELEMENTS, TRUNK TERMINATIONS

		Non-Recurring	
Element/Service	Monthly Recurring or Usage Rate	Initial Unit	Additional Unit (per unit)
CMRS INTERCONNECTION SERVICE ELEMENTS			
DID Number Block (per 100 Numbers)	\$0.41	\$250.00	\$64.00
Type 1 (TSMT) Analog Interface	\$1.50	\$202.33	\$202.33
Interoffice Mileage			
Fixed Rate per month	\$25.27	N/A	
Fixed Rate per mile, per month	\$1.86	N/A	
Type 1 (DID TSMT Trunk) Circuit Termination	\$18.31	N/A	
Operator Assistance	Pursuant to Cal. PUC No. A5		
Directory Assistance			
Via Type 1 using 411 dialing	Pursuant to Cal. PUC No. A5.5.7		
Via Type 2A using NPA 555-1212	Pursuant to Cal. PUC No. 175-T, Section 9.1		
Class of Call Screening	No Charge	N/A	
Billed Number Screening	No Charge	N/A	
Call Blocking	Pursuant to Cal. PUC No. A9.5.4E		
Preconditioning of DID Numbers	No Charge	\$102.00 per 20#'s	
Hunting	Pursuant to Cal. PUC A5.3.C(4)		
CMRS TRUNK TERMINATION CHARGES			
Type 1 (per trunk)	\$5.60	\$206.77	\$77.00
Type 2A and Type 2B (per DS-1 Termination)	\$23.02	\$856.00	\$553.00

ATTACHMENT II

to

CMRS INTERCONNECTION AGREEMENT

between

PACIFIC BELL

and

NEXTEL OF CALIFORNIA, INC.

INTERCONNECTION EQUATIONS

INTERCONNECTION EQUATIONS

I. TYPE 2A/LATA-WIDE TRUNK SIDE TANDEM INTERCONNECTION (For calls delivered to a designated LATA-Wide Tandem over a designated LATA-Wide Trunk Group)

Set-up (per Completed Call)	$LSS + TSS + f_2 * f_1 * TSS$
Duration:	$LSD + TSD + CTF + m * CTV + f_2 * (f_1 * (TSD + CTF + m * CTV))$

II. TYPE 2A/TRUNK SIDE TANDEM INTERCONNECTION AT EACH TANDEM IN A LATA

Set-up (per Completed Call):	$LSS + TSS$
Duration (per MOU):	$LSD + TSD + CTF + m * CTV$

III. TYPE 2B/END OFFICE - TO - MSC TRUNK SIDE INTERCONNECTION

Set-up (per Completed Call):	LSS
Duration (per MOU):	LSD

IV. Type 1 TSMT/DID

Set-up (per Completed Call):	$f_3 * (f_4 * LSS + (1 - f_4) * 2 * LSS) + (1 - f_3) * (f_5 * (2 * LSS + TSS) + (1 - f_5) * (2 * LSS + 2 * TSS))$
Duration (per MOU):	$f_3 * (f_4 * LSD + (1 - f_4) * (2 * LSD + STF + m * STV)) + (1 - f_3) * (f_5 * (2 * LSD + TSD + 2 * CTF + 2 * m * CTV) + (1 - f_5) * (2 * LSD + 2 * TSD + 3 * CTF + 3 * m * CTV))$

V. TRANSITING

Set-up (per Completed Call):	TSS
Duration (per MOU):	TSD

Interconnection Rate Elements & Factors

OANAD Rate Elements

(Interoffice Terminating)	
Local Switching Setup (LSS)	\$0.007000
Local Switching Duration (LSD)	\$0.001870
Tandem Switching Setup (TSS)	\$0.001130
Tandem Switching Duration (TSD)	\$0.000670
Common Transport Fixed per MOU (CTF)	\$0.001330
Common Transport Variable per MOU per mile (CTV)	\$0.000021

Factor Assumptions

f1 = % Term via Double Tandem (LATAwide)	20%
f2 = % Non-LERG Routed (LATAwide)	66%
f3 = % Term in Local Calling Scope (Type 1)	40%
f4 = % Term @ Type 1 Office (Type 1)	40%
f5 = % Term non-local via Single Tandem (Type 1)	40%
m = Average Transport miles	14

AMENDMENT _____
TO INTERCONNECTION AGREEMENT
FOR A WIRELES SYSTEM

by and between

PACIFIC BELL TELEPHONE COMPANY

AND

NEXTEL OF CALIFORNIA, INC.

This Amendment is entered into this _____ day of _____, 2002 by and between Pacific Bell Telephone Company ("Pacific") and Nextel of California, Inc. ("Carrier") (collectively, the "Parties").

WHEREAS, Pacific and Carrier (collectively, the "Parties") have entered into an Agreement known as "Interconnection Agreement for a Wireless System by and between Nextel of California, Inc. and Pacific Bell Telephone Company ("Interconnection Agreement"); and

WHEREAS, the Parties desire to amend, as set forth herein, the Interconnection Agreement, which is being filed for approval contemporaneously herewith;

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Telco and Carrier agree as follows:

1. Add Appendix-911 (Wireless).
2. Except as modified herein, the Agreement remains unchanged and the parties reaffirm the terms and provisions thereof as supplemented by this Amendment.
3. This Amendment shall become effective upon approval by the Commission.
4. This Amendment may be executed in multiple counterparts, each of which shall be considered an original and together shall constitute one document.

In witness whereof each Party has caused this Amendment to be executed by its duly authorized representative.

Nextel of California, Inc.

Pacific Bell Telephone Company
By SBC Telecommunications, Inc.
its authorized agent

By: _____

By: _____

Title: _____
(Print or Type)

Title: President-Industry Markets
(Print or Type)

Name: _____

Name: _____

Date: _____

Date: _____

AECN/OCN# _____

* On January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999) (and on remand *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000)) and on June 1, 1999, the United States Supreme Court issued its opinion in *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999). In addition, on July 18, 2000, the United States Court of Appeals for the Eighth Circuit issued its opinion in *Iowa Utilities Board v. FCC*, No. 96-3321, 2000 Lexis 17234 (July 18, 2000), which is the subject of a pending appeal before the Supreme Court. In addition, on November 5, 1999, the FCC issued its Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-96 (FCC 99-238), including the FCC's Supplemental Order issued *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, in CC Docket No. 96-98 (FCC 99-370) (rel. November 24, 1999), which is the subject of a pending request for reconsideration and a pending appeal. By executing this amendment, Pacific Bell Telephone Company does not waive any of its rights, remedies or arguments with respect to any such decisions or proceedings and any remands thereof, including its right to seek legal review or a stay of such decisions and its rights contained in the Interconnection Agreement. Nevada Bell Telephone Company further notes that on April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic* (the "ISP Intercarrier Compensation Order.") By executing this Amendment and carrying out the intercarrier compensation rates, terms and conditions herein, Pacific Bell Telephone Company does not waive any of its rights, and expressly reserves all of its rights, under the ISP Intercarrier Compensation Order, including but not limited to its right to exercise its option at any time in the future to invoke the Intervening Law or Change of Law provisions and to adopt on a date specified by Pacific Bell Telephone Company the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions.

APPENDIX – WIRELESS EMERGENCY NUMBER SERVICE ACCESS (E9-1-1)**TERMS AND CONDITIONS FOR PROVIDING WIRELESS EMERGENCY NUMBER SERVICE ACCESS (E9-1-1)****1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Wireless Emergency Number Service Access provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and Carrier.
- 1.2 Wireless Emergency Number Service Access (“ENSA”) is a service which enables Carrier’s use of **SBC-13STATE** 911 network service elements which **SBC-13STATE** uses in the provision of E911 Universal Emergency Number/ 911 Telecommunications Services, where **SBC-13STATE** is the 911 service provider. Universal Emergency Number/ 911 Telecommunications Service is purchased by E911 Customer from **SBC-13STATE**. Wireless ENSA makes available to Carrier only the service configuration purchased by the E911 Customer from **SBC-13STATE**. **SBC-13STATE** shall provide Wireless ENSA to Carrier as described in this Appendix, in each area in which (i) Carrier is authorized to provide CMRS and (ii) **SBC-13STATE** is the 911 service provider. The Federal Communications Commission has, in FCC Docket 94-102, ordered that providers of CMRS make available to their end users certain E9-1-1 services, and has established clear and certain deadlines and by which said service must be available. Wireless ENSA is compatible with Carrier’s Phase I and Phase II E911 obligations.
- 1.3 **SBC-13STATE** and Carrier agree that the E911 service is provided for the use of the E911 customer, and recognize the authority of the E911 customer to establish service configurations and grant final approval (or denial) of service configurations or modifications offered by **SBC-13STATE** and Carrier.
- 1.4 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company, Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.5 As used herein, **SBC-13STATE** means the applicable above listed ILEC doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.6 As used herein, **SBC-AMERITECH** means the applicable above listed ILEC doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

- 1.7 As used herein, **SBC-PACIFIC** means the applicable above listed ILEC doing business in California.
- 1.8 As used herein, **SBC-NEVADA** means the applicable above listed ILEC doing business in Nevada.
- 1.9 The prices at which **SBC-13STATE** agrees to provide Carrier with E911 Service are contained in the applicable Appendix Pricing and/or the applicable state access tariff where stated.

2. DEFINITIONS

- 2.1 "911 Call(s)" means a call made by an Carrier's Wireless Customer by dialing "911" (and, as necessary, pressing the "Send" or analogous transmitting button) on a Wireless Handset.
- 2.2 "Automatic Location Identification" or "ALI" means the necessary location data stored in the 911 SR/ALI Database which is sufficient to identify the tower and/or face from which a wireless call originates.
- 2.3 "Automatic Location Identification Database" or "ALI Database" means the emergency service (E911) database containing caller information. Caller information may include, but is not limited to, the carrier name, Call Back Number, and Cell Site/Sector Information.
- 2.4 "Automatic Number Identification" or "ANI" means a signaling parameter which refers to the number transmitted through a network identifying a pANI. With respect to 911 and E911, "ANI" means a feature by which the pANI is automatically forwarded to the 911 Selective Routing Switch and to the PSAP Customer Premise Equipment (CPE) for display.
- 2.5 "CAMA" means Centralized Automatic Message Accounting (MF signaling parameter).
- 2.6 "**Common Channel Signaling System 7 Trunk (CCS/SS7 Trunk or SS7 Signaling)**" means a trunk that uses Integrated Services Digital Network User Part (ISUP) signaling to transmit ANI from Carrier's switch to an **SBC-13STATE** 911 Selective Routing Tandem.
- 2.7 "Call Back Number" means the MIN or MDN, whichever is applicable, of an Carrier Wireless End User who has made a 911 Call, which may be used by the PSAP to call back the Carrier Wireless End User if a 911 Call is disconnected, to the extent that it is a valid, dialable number.

- 2.8 “Cell Sector” means a geographic area defined by Carrier (according to Carrier’s own radio frequency coverage data), and consisting of a certain portion or all of the total coverage area of a Cell Site.
- 2.9 “Cell Sector Identifier” means the unique alpha or alpha-numeric designation given to a Cell Sector that identifies that Cell Sector.
- 2.10 “Cell Site/Sector Information” means information that indicates to the receiver of the information the Cell Site location receiving a 911 Call made by an Carrier’s Wireless Customer, and which may also include additional information regarding a Cell Sector.
- 2.11 “Company Identifier” or “Company ID” means a three to five (3 to 5) character identifier chosen by the Carrier that distinguishes the entity providing dial tone to the End-User. The Company Identifier is maintained by NENA in a nationally accessible database.
- 2.12 “Database Management System” or “DBMS” means a system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing and/or Automatic Location Identification for 911 systems.
- 2.13 “Designated PSAP” means the PSAP designated to receive a 911 Call based upon the geographic location of the Cell Site. A “Default PSAP” is the PSAP designated to receive a 911 Call in the event the Selective Router is unable to determine the Designated PSAP. The Alternate PSAP is the PSAP that may receive a 911 Call in the event the Designated PSAP is unable to receive the 911 call.
- 2.14 “E911 Customer” means a municipality or other state or local government unit, or an authorized agent of one or more municipalities or other state or local government units to whom authority has been lawfully delegated to respond to public emergency telephone calls, at a minimum, for emergency police and fire services through the use of one telephone number, 911.
- 2.15 “E911 Service” means the functionality to route wireless 911 calls and the associated caller and/or location data of the wireless end user to the appropriate Public Safety Answering Point.
- 2.16 “E911 Trunk” means one-way terminating circuits which provide a trunk-side connection between Carrier’s MSC and **SBC-13STATE** 911 Tandem equipped to provide access to 911 services as technically defined in Bellcore Technical Reference GR145-CORE.
- 2.17 “E911 Universal Emergency Number Service” (also referred to as “Expanded 911 Service” or “Enhanced 911 Service”) or “E911 Service” means a telephone exchange communications service whereby a PSAP answers telephone calls placed by dialing

the number 911. E911 includes the service provided by the lines and equipment associated with the service arrangement for the answering, transferring, and dispatching of public emergency telephone calls dialed to 911. E911 provides completion of a call to 911 via dedicated trunks and includes Automatic Number Identification (ANI), Automatic Location Identification (ALI), and/or Selective Routing (SR).

- 2.18 "Emergency Services" means police, fire, ambulance, rescue, and medical services.
- 2.19 "Emergency Service Number" or "ESN" means a three to five digit number representing a unique combination of emergency service agencies (Law Enforcement, Fire, and Emergency Medical Service) designated to serve a specific cell site and/or cell sector within a particular geographical area. The ESN facilitates selective routing and selective transfer, if required, to the appropriate PSAP and the dispatching of the proper service agency(ies).
- 2.20 "Mobile Directory Number" or "MDN" means a 10-digit dialable directory number used to call a Wireless Handset.
- 2.21 "Mobile Identification Number" or "MIN" means a 10-digit number assigned to and stored in a Wireless Handset.
- 2.22 "National Emergency Number Association" or "NENA" means the not-for-profit corporation established in 1982 to further the goal of "One Nation-One Number". NENA is a networking source and promotes research, planning, and training. NENA strives to educate, set standards and provide certification programs, legislative representation and technical assistance for implementing and managing 911 systems.
- 2.23 "Public Safety Answering Point" or "PSAP" means an answering location for 911 calls originating in a given area. The E911 Customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs answer calls; secondary PSAPs receive calls on a transfer basis. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.
- 2.24 "Pseudo Automatic Number Identification (pANI)" is a 10-digit telephone number used to support routing of wireless 911 calls. It is used to identify the Cell site and/or cell sector from which the call originates, and is used to link the ALI record with the caller's MDN.
- 2.25 "Selective Routing" or "SR" means an E911 feature that routes an E911 call from a 911 Selective Routing Switch to the designated Primary PSAP based upon the pANI associated with the originating cell site and/or cell sector.

- 2.26 “Wireless Handset” means the wireless equipment used by a wireless end user to originate wireless calls or to receive wireless calls.

3. **SBC-13STATE RESPONSIBILITIES**

- 3.1 **SBC-13STATE** shall provide and maintain such equipment at the E911 SR and the DBMS as is necessary to perform the E911 services set forth herein when **SBC-13STATE** is the 911 service provider. **SBC-13STATE** shall provide 911 Service to Carrier in areas where Carrier is licensed to provide service and **SBC-13STATE** is the 911 service provider. This shall include the following:

3.2 Call Routing

- 3.2.1 Carrier will transport 911 calls from each Carrier MSC to the SR office of the E911 system, where **SBC-13STATE** is the 911 network service provider.
- 3.2.2 **SBC-13STATE** will switch 911 calls through the SR to the designated primary PSAP or to designated alternate locations, according to routing criteria specified by the PSAP. Alternate PSAPs not subscribing to the appropriate wireless service shall not receive all features associated with the primary wireless PSAP.
- 3.2.3 **SBC-13STATE** will forward the Call Back Number it receives from Carrier and the associated 911 Address Location Identification (ALI) to the PSAP for display, where **SBC-13STATE** is the ALI Database Provider.

3.3 Facilities and Trunking

- 3.3.1 **SBC-13STATE** shall provide and maintain sufficient dedicated E911 circuits from **SBC-13STATE**'s SR's to the PSAP, according to provisions of the applicable state tariff and documented specifications of the E911 Customer.
- 3.3.2 After receiving Carrier's order, **SBC-13STATE** will provide, and Carrier agrees to pay for, transport facilities required for 911 trunk termination.. Except as provided in Section 8.1, transport facilities shall be governed by the applicable **SBC-13STATE** access tariff. Additionally, when diverse facilities are requested by Carrier, **SBC-13STATE** will provide such diversity where technically feasible, at standard tariff rates.
- 3.3.3 **SBC-13STATE** and Carrier will cooperate to promptly test all trunks and facilities between Carrier's network and the **SBC-13STATE** SR(s).
- 3.3.4 **SBC-13STATE** will be responsible for the coordination and restoration of all 911 network maintenance problems to Carrier's facility meet point.

3.4 Database

- 3.4.1 Where **SBC-13STATE** is the 911 Database Provider, **SBC-13STATE** shall store the Carrier's ALI records in the electronic data processing database for the E911 DBMS.
- 3.4.2 Where **SBC-13STATE** is the 911 Database Provider, **SBC-13STATE** shall coordinate access to the **SBC-13STATE** E911 DBMS for the initial loading and updating of Carrier ALI Records.
- 3.4.3 Where **SBC-13STATE** is the 911 Database Provider, **SBC-13STATE**'s ALI database shall accept electronically transmitted files that are based upon NENA standards.
- 3.4.4 Where **SBC-13STATE** is the 911 Database Provider, **SBC-13STATE** will load Carrier's ALI Records in the E911 DBMS. **SBC-13STATE** will then provide Carrier an error and status report. This report will be provided in accordance with the methods and procedures described in the documentation to be provided to the Carrier by **SBC-13STATE**.

4. CARRIER RESPONSIBILITIES

4.1 Call Routing

- 4.1.1 Carrier will route 911 calls from Carrier's MSC to the **SBC-13STATE** SR office of the E911 system, where **SBC-13STATE** is the 911 network service provider.
- 4.1.2 Carrier will forward the Mobile Dialing Number (MDN) of the party calling 911 to the **SBC-13STATE** 911 SR, depending upon the Network Service Configuration.
- 4.1.3 Carrier will forward the pANI associated with the cell site/sector from which a 911 call originated to the **SBC-13STATE** 911 SR, depending upon the Network Service Configuration.

4.2 Facilities and Trunking

- 4.2.1 Where specified by the E911 Customer, Carrier shall provide or order from **SBC-13STATE**, transport and trunk termination to each **SBC-13STATE** 911 Selective Router that serves the areas in which Carrier is licensed to and will provide CMRS service.
- 4.2.2 Carrier acknowledges that its End Users in a single local calling scope may be served by different SRs and Carrier shall be responsible for providing facilities to route 911 calls from its End Users to the proper E911 SR.

- 4.2.3 Carrier shall provide a minimum of two (2) one-way outgoing trunk(s) dedicated for originating 911 emergency service calls from the Carrier's MSC to each SBC-13STATE 911 Selective Router, where applicable. Where SS7 connectivity is available and required by the applicable PSAP, the Parties agree to implement CCStrunks rather than CAMA (MF) trunks.
- 4.2.4 Customer is responsible for appropriate diverse facilities if required by applicable State Commission rules and regulations or if required by other governmental, municipal, or regulatory authority with jurisdiction over 911 services.
- 4.2.5 Carrier shall engineer its 911 trunks to maintain a minimum P.01 grade of service as specified by NENA standards.
- 4.2.6 Carrier shall monitor its 911 circuits for the purpose of determining originating network traffic volumes. If Carrier's traffic study indicates that additional circuits are needed to meet the current level of 911 call volumes, Carrier shall request additional circuits from SBC-13STATE.
- 4.2.7 Carrier will cooperate with SBC-13STATE to promptly test all 911 trunks and facilities between Carrier's network and the SBC-13STATE 911 Selective Router(s) to assure proper functioning of 911 service. Carrier agrees that it will not pass live 911 traffic until successful testing is completed by both parties.
- 4.2.8 Carrier is responsible for the isolation, coordination and restoration of all 911 network maintenance problems to Carrier's facility meet point. Carrier is responsible for advising SBC-13STATE of the circuit identification and the fact that the circuit is a 911 circuit when notifying SBC-13STATE of a failure or outage. The Parties agree to work cooperatively and expeditiously to resolve any 911 outage. SBC-13STATE will refer network trouble to Carrier if no defect is found in SBC-13STATE's 911 network. The Parties agree that 911 network problem resolution will be managed expeditiously at all times.
- 4.3 Database
- 4.3.1 Once E911 trunking has been established and tested between Carrier's MSC and all appropriate SR, Carrier or its representatives shall be responsible for providing Carrier's ALI Records to SBC-13STATE, where SBC-13STATE is the 911 Database Provider, for inclusion in SBC-13STATE's DBMS on a timely basis.

- 4.3.2 Carrier or its agent shall provide initial and ongoing updates of Carrier's ALI Records that are in electronic format based upon established NENA standards.
- 4.3.3 Carrier shall adopt use of a Company ID on all Carrier ALI Records in accordance with NENA standards. The Company ID is used to identify the tone provider.
- 4.3.4 Carrier is responsible for providing updates to SBC-13STATE ALI database; in addition, Carrier is responsible for correcting any errors that may occur during the entry of their data to the SBC-13STATE 911 DBMS.
- 4.3.5 The Carrier shall be responsible for any additional database charges incurred by the Carrier or its third party agent for errors in SBC-13STATE ALI database.
- 4.3.6 Carrier shall be solely responsible for providing test records and conducting call-through testing on all new licensed areas.

4.4 Other

- 4.4.1 Carrier is responsible for collecting from its End Users and remitting to the appropriate municipality or other governmental entity any applicable 911 surcharges assessed on the local service provider and/or End Users by any municipality or other governmental entity within whose boundaries the Carrier provides CMRS.

5. RESPONSIBILITIES OF BOTH PARTIES

- 5.1 Jointly coordinate the provisioning of transport capacity sufficient to route originating 911 calls from the Carrier's MSC to the designated SBC-13STATE 911 Selective Router(s).

6. METHODS AND PRACTICES

- 6.1 With respect to all matters covered by this Appendix, each Party will comply with all of the following to the extent that they apply to E911 Service: (i) all FCC and applicable state Commission rules and regulations, (ii) any requirements imposed by any Governmental Authority other than a Commission, (iii) the terms and conditions of SBC-13STATE's applicable state access tariff(s) and (iv) the principles expressed in the recommended standards published by NENA.

7. CONTINGENCY

- 7.1 The terms and conditions of this Appendix represent a negotiated plan for providing E911 Service.
- 7.2 The Parties agree that the E911 Service is provided for the use of the E911 Customer, and recognize the authority of the E911 Customer to establish service specifications and grant final approval (or denial) of service configurations offered by **SBC-13STATE** and Carrier.

8. BASIS OF COMPENSATION

- 8.1 Rates for access to E911 Services are set forth in Appendix Pricing are interim rates, and are effective only until final rates are approved by the Commission and tariffed, where applicable. If the final rates are tariffed, such final tariffed rates shall automatically supersede the interim rates on a going forward basis. If the final rates are not required to be tariffed, the Parties agree to amend Appendix Pricing to incorporate the final rates consistent with the Commission order.
- 8.2 Charges for E911 Service shall begin on the completion date of trunk and facility orders.

9. LIABILITY

- 9.1 **SBC-13STATE**'s liability and potential damages, if any, for its gross negligence, recklessness or intentional misconduct, is not limited by any provision of this Appendix. **SBC-13STATE** shall not be liable to Carrier, its End Users or its E911 calling parties or any other parties or persons for any Loss arising out of the provision of E911 Service or any errors, interruptions, defects, failures or malfunctions of E911 Service, including any and all equipment and data processing systems associated therewith. Damages arising out of such interruptions, defects, failures or malfunctions of the system after **SBC-13STATE** has been notified and has had reasonable time to repair, shall in no event exceed an amount equivalent to any charges made for the service affected for the period following notice from Carrier until service is restored.
- 9.2 Carrier's liability and potential damages, if any, for its gross negligence, recklessness or intentional misconduct is not limited by any provision of this Appendix. In the event Carrier provides E911 Service to **SBC-13STATE**, Carrier shall not be liable to **SBC-13STATE**, its End Users or its E911 calling parties or any other parties or persons for any Loss arising out of the provision of E911 Service or any errors, interruptions, defects, failures or malfunctions of E911 Service, including any and all equipment and data processing systems associated therewith. Damages arising out of such interruptions, defects, failures or malfunctions of the system after Carrier has been notified and has had reasonable time to repair, shall in no event exceed an amount equivalent to any charges made for the service affected for the period following notice from **SBC-13STATE** until service is restored.

- 9.3 Carrier agrees to release, indemnify, defend and hold harmless **SBC-13STATE** from any and all Loss arising out of **SBC-13STATE**'s provision of E911 Service hereunder or out of Carrier's End Users' use of the E911 Service, whether suffered, made, instituted or asserted by Carrier, its End Users, or by any other parties or persons, for any personal injury or death of any person or persons, or for any loss, damage or destruction of any property, whether owned by Carrier, its End Users or others, unless the act or omission proximately causing the Loss constitutes gross negligence, recklessness or intentional misconduct of **SBC-13STATE**.
- 9.4 Carrier also agrees to release, indemnify, defend and hold harmless **SBC-13STATE** from any and all Loss involving an allegation of the infringement or invasion of the right of privacy or confidentiality of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of the E911 Service features and the equipment associated therewith, including by not limited to the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing E911 Service provided hereunder, unless the act or omission proximately causing the Loss constitutes the gross negligence, recklessness or intentional misconduct of **SBC-13STATE**.

10. MUTUALITY

- 10.1 Carrier agrees that to the extent it offers the type of services covered by this Appendix to any company, that should **SBC-13STATE** request such services, Carrier will provide such services to **SBC-13STATE** under terms and conditions comparable to the terms and conditions contained in this Appendix.

11. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 11.1 This Agreement (including all attachments hereto), and every interconnection, service and network element provided hereunder, is subject to all rates, terms and conditions contained in this Agreement (including all attachments hereto) that are legitimately related to such interconnection, service or network element; and all such rates, terms and conditions are incorporated by reference herein and as part of every interconnection, service and network element provided hereunder. Without limiting the general applicability of the foregoing, the Terms and Termination provisions of this Agreement are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder.

EXHIBIT I**MISSOURI PRICING – W911**

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 85.00	Under development
Non-Recurring	\$ 170.00	Under development

Facility rates can be found in the State Special Access Tariff.

OKLAHOMA PRICING – W911

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 33.22	Under development
Non-Recurring	\$ 110.00	Under development

Facility rates can be found in the State Special Access Tariff.

KANSAS PRICING – W911

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 22.86	Under development
Non-Recurring	\$ 312.00	Under development

Facility rates can be found in the State Special Access Tariff.

ARKANSAS PRICING – W911

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 22.86	Under development
Non-Recurring	\$ 312.00	Under development

Facility rates can be found in the State Special Access Tariff.

TEXAS PRICING – W911

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 39.00	MTG1X
Non-Recurring	\$ 165.00	MTG1X

Facility rates can be found in the State Special Access Tariff.

CALIFORNIA PRICING – W911

Trunk Charge per Trunk:		<u>USOC</u>
Monthly	\$ 23.02	WSBUN
Non-Recurring		
Initial	\$ 856.00	WSBUN
Additional	553.00	WSBUN

Facility rates can be found in the State Special Access Tariff.

ILLINOIS PRICING – W911

911 Service Establishment Charge – per SR		<u>USOC</u>
Non-Recurring	\$ 18,913.00	1ZZHR
DS1 Charge		
Monthly	\$ 301.00	1ZZHS
Non-Recurring	\$ 422.00	1ZZHS

MICHIGAN PRICING – W911

911 Service Establishment Charge – per SR		<u>USOC</u>
Non-Recurring	\$ 17,761.00	1ZZHR
DS1 Charge		
Monthly	\$ 301.00	1ZZHS
Non-Recurring	\$ 422.00	1ZZHS

INDIANA PRICING – W911

911 Service Establishment Charge – per SR		<u>USOC</u>
Non-Recurring	\$ 13,467.00	1ZZHR
DS1 Charge		
Monthly	\$ 301.00	1ZZHS
Non-Recurring	\$ 422.00	1ZZHS

WISCONSIN PRICING – W911

911 Service Establishment Charge – per SR		<u>USOC</u>
Non-Recurring	\$ 27,088.00	1ZZHR
DS1 Charge		
Monthly	\$ 301.00	1ZZHS
Non-Recurring	\$ 422.00	1ZZHS

OHIO PRICING – W911

911 Service Establishment Charge – per SR		<u>USOC</u>
Non-Recurring	\$ 16,633.00	1ZZHR
DS1 Charge		
Monthly	\$ 301.00	1ZZHS
Non-Recurring	\$ 422.00	1ZZHS

AMENDMENT
TO THE CMRS INTERCONNECTION AGREEMENT
BETWEEN
SBC PACIFIC BELL TELEPHONE COMPANY AND
NEXTEL OF CALIFORNIA, INC.

WHEREAS, SBC PACIFIC BELL TELEPHONE COMPANY ("PACIFIC")*, formerly Pacific Bell, and Nextel of California, Inc. (individually, "Party," and collectively, the "Parties") entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing; and

WHEREAS, on May 16, 2002, the California Public Utilities Commission ("Commission") adopted D.02-05-042, establishing among other things interim monthly recurring prices for unbundled switching ("Decision");

WHEREAS, the Commission ordered that all interconnection agreements between Pacific and other carriers be amended to reflect the reduced switching prices;

WHEREAS, the reduced prices are interim pending the Commission's decision on final unbundled switching rates and are subject to adjustment from May 16, 2002 through the date of adoption of final prices; and,

WHEREAS, pursuant to the Commission's Decision this amendment ("Amendment") shall become effective thirty (30) days after filing.

NOW, THEREFORE, the Parties agree as follows:

- I. Appendix Pricing (*i.e.*, the Pricing Schedule for CMRS Interconnection, including transport and termination rates) shall be amended to reflect the interim unbundled switching rates; a component of the call set up and duration rates for Type 2A, Type 2B, and Type 1 (and Type 2A LATA Wide, if applicable) traffic, by amending the call set up and duration rates as set forth in Attachment A, which is attached hereto and incorporated herein.
- II. The prices for unbundled switching set forth in Attachment A shall be effective as of May 16, 2002.
- III. Pacific shall make billing adjustments in accordance with ordering paragraphs 4 and 5 of the Commission's Decision, D.02-05-042.
- IV. The Parties agree that executing this Amendment shall not in any way prohibit, limit, or otherwise affect, or act as a waiver by, either Party from pursuing of any of its rights, remedies or arguments with respect to any such rate changes, including but not limited to

any Commission decisions, orders, or proceedings leading thereto and any remands thereof or any other related decisions or proceedings, including the right of each Party to seek legal review or a stay of any such, decisions, orders, or otherwise. Such rights, remedies, and arguments are expressly reserved by each Party.

- V. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT, and such terms are hereby incorporated by reference and the Parties hereby reaffirm the terms and provisions thereof.
- VI. This Amendment is effective only for the term of the Agreement.
- VII. This Amendment shall be filed with and shall be subject to approval by the Commission.
- VIII. This Amendment is dated July 19, 2002.

* On January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366 (1999) (and on remand *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000) and *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999) and on appeal to and remand by the United States Supreme Court, *Verizon v. FCC*, et. al, 535 U.S. ___ (2002)). The Parties acknowledge that on May 24, 2002, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *United States Telecom Association, et. al v. FCC*, No. 00-101, in which the Court granted the petitions for review of the Federal Communications Commission's ("FCC") Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (FCC 99-238) ("the UNE Remand Order") and the FCC's Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (FCC 99-355) (rel. December 9, 1999) ("the Line Sharing Order"), specifically vacated the Line Sharing Order, and remanded both these orders to the FCC for further consideration in accordance with the decision. In addition, on November 24, 1999, the FCC issued its Supplemental Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, (FCC 99-370) and on June 2, 2000, its Supplemental Order Clarification, (FCC 00-183), in CC Docket 96-98. By executing this Amendment, PACIFIC does not waive any of its rights, remedies or arguments with respect to any such decisions or proceedings and any remands thereof, including its right to seek legal review or a stay of such decisions and its rights contained in the Interconnection Agreement. The Parties further acknowledge that on April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, *In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-carrier Compensation for ISP-bound Traffic* (the "ISP Inter-carrier Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002). By executing this Amendment and carrying out the inter-carrier compensation rates, terms and conditions herein, PACIFIC does not waive any of its rights, and expressly reserves all of its rights, under the ISP Inter-carrier Compensation Order, or any other regulatory, legislative or judicial action, including but not limited to its right to exercise its option at any time in the future to invoke the Intervening Law or Change of Law provisions and to adopt on a date specified by PACIFIC the FCC ISP terminating compensation plan, after which date ISP-bound traffic will be subject to the FCC's prescribed terminating compensation rates, and other terms and conditions.

Attachment A:**California CMRS Interconnection**

Type 2A		
	Setup	\$0.002376
	Duration	\$0.002335
Type 2B		
	Setup	\$0.002142
	Duration	\$0.000572
Type 1		
	Setup	\$0.004166
	Duration	\$0.004092
Type 2A LATA Wide /1/		
	Setup	\$0.002407
	Duration	\$0.002568

/1/ Type 2A LATA Wide rates are only offered to those Wireless Carriers that have Type 2A LATA Wide rates in their current wireless agreement.

**AMENDMENT TO
THE CMRS INTERCONNECTION AGREEMENT
BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
CARRIER**

WHEREAS, PACIFIC BELL TELEPHONE COMPANY¹ d/b/a SBC CALIFORNIA ("SBC California"), and Carrier ("Carrier") (collectively, the "Parties" as referenced in Attachment B) entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing; and

WHEREAS, on September 19, 2002, the California Public Utilities Commission ("Commission") issued D. 02-09-049 adopting rate changes for certain Unbundled Network Elements ("UNEs") by increasing the shared and common cost markup percentage from 19% to 21% of the monthly recurring and the nonrecurring UNE costs and removing 13% from the expense portion of the monthly recurring UNE costs; and

WHEREAS, the implementation of the rate changes was stayed pending resolution of the actual adjustment amount (see, D. 03-07-023, Finding of Fact 2); and

WHEREAS, on July 10, 2003 ("Decision Effective Date"), the Commission issued D. 03-07-023 ("Decision") implementing the UNE recurring and nonrecurring rate changes adopted in D. 02-09-049 for certain UNEs and which, pursuant to the Decision, are deemed to have become effective on September 19, 2002 ("Rate Effective Date"); and

WHEREAS, the Decision ordered SBC California to file amendments to any interconnection agreements between itself and other carriers that contain UNE rates impacted by the Decision to implement the new recurring UNE rates ("Recurring UNE Rates") and nonrecurring UNE rates ("Nonrecurring UNE Rates") for those UNEs set forth in the Decision; and

WHEREAS, in the Decision, the Commission ordered SBC California to calculate the appropriate billing adjustments owed to or by interconnecting carriers and to ensure that these adjustments are reflected on SBC California's bills for the Recurring UNE Rates and Nonrecurring UNE Rates within sixty (60) days of the of the Decision Effective Date; and

WHEREAS, as set forth in Attachment A to the Decision, the Recurring UNE Rates for the Statewide Average Basic and Assured 2-wire Analog Loop and the Deaveraged Basic and Assured 2-wire Analog Loop (collectively "Loops"), and the Recurring UNE Rates for unbundled Switching, including Port, Switch Features, and Switch Usage (collectively "Switching"), are interim pending the Commission's decision on final rates and, therefore, will be subject to true-up retroactive to September 19, 2002 upon the effective date of the Commission's decision establishing final rates in CPUC Proceeding A.01-02-024 et seq.; and

WHEREAS, the only effect of the Decision on the underlying Agreement is the recalculation of reciprocal compensation rates due to the change of the Switching element rates used in calculating the reciprocal compensation rate in the underlying Agreement; and

WHEREAS, pursuant to Resolution ALJ-181, this filing will become effective, absent rejection of the advice letter by the Commission, thirty (30) days after the filing date of the advice letter to which this Amendment is appended ("Amendment Effective Date")².

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

² Notwithstanding anything to the contrary in the Agreement (including, as applicable, this Amendment and any other Amendments to the Agreement ("Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting Carrier") after the effective date of a particular rate change, that rate change shall only apply prospectively beginning from the date that the MFN provisions becomes effective between SBC California and the Adopting Carrier following the Commission's order approving the Adopting Carriers Section 252(i) adoption or, the date such Agreement is deemed approved by

NOW, THEREFORE, the Parties agree as follows:

- I. The adjusted reciprocal compensation rates, which include Switching Recurring UNE Rates as element rates, are set forth in Attachment A to this Amendment and incorporated herein by this reference, and shall hereby replace the reciprocal compensation rates, including monthly Recurring UNE Rate of Switching, in the underlying Agreement, subject to the other terms and conditions set forth herein. Such reciprocal compensation rates are interim, subject to true-up, pending the Commission's decision on final rates, as more specifically set forth in Paragraph II below.
- II. The interim reciprocal compensation rates, which include Switching Recurring UNE Rates as element rates, set forth in Attachment A will automatically terminate and be replaced with readjusted reciprocal compensation rates that are calculated based on the final Switching Recurring UNE Rates as of the effective date of a final decision by the Commission approving final Switching Recurring UNE Rates in CPUC Proceeding No. A. 01-02-024/A.01-02-035, *et. seq* (the Commission's UNE Reexamination proceeding for Pacific Bell Telephone Company), subject to any appeals and associated review. Upon the Commission's establishment of final Switching Recurring UNE Rates in Commission Proceeding No. A.01-02-024 *et. seq.*, the interim reciprocal compensation rates set forth in Attachment A shall be subject to retroactive true-up back to September 19, 2002.
- III. In accordance with the Decision, SBC California will calculate the appropriate billing adjustments owed to or by Carrier from the Decision Effective Date, back to the Rate Effective Date for the Reciprocal Compensation Rates which include Switching Recurring Rates as element rates, and will ensure that those adjustments are reflected on SBC California's bills within sixty (60) days of the Decision Effective Date.
- IV. To the extent any Switching Recurring Rates utilized in the underlying Agreement differ from the Switching Recurring UNE rates on which the new Recurring Switching UNE Rates in D. 03-07-023 were based, the rate(s) set forth in the Agreement shall continue to apply without change.
- V. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, its rights under the United States Supreme Court's opinion in *Verizon v. FCC, et al*, 535 U.S. 467 (2002); the D.C. Circuit's decision in *United States Telecom Association, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002); the FCC's Triennial Review Order, adopted on February 20, 2003; and/or the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
- VI. The Parties acknowledge and agree that the rates set forth in this Amendment are each legitimately related to, conditioned on, and in consideration for, every other term and condition in this Amendment.
- VII. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- VIII. This Amendment shall be filed with and shall be subject to approval by the Commission and shall become effective as to Carrier and SBC California on the Amendment Effective Date; provided, however, as to Carrier and SBC California, the rates contained herein shall be applied in accordance with Paragraphs I-III above, subject to Footnote 1, where applicable).

operation of law ("Section 252(i) Effective Date"), and that rate change would not in any manner apply retroactively prior to the Section 252(i) Effective Date.

Attachment A:**California CMRS Interconnection**

Type 2A		
	Setup	\$0.002310
	Duration	\$0.002230
Type 2B		
	Setup	\$0.002080
	Duration	\$0.000550
Type 1		
	Setup	\$0.004048
	Duration	\$0.003910
Type 2A LATA Wide /1/		
	Setup	\$0.002340
	Duration	\$0.002452

/1/ Type 2A LATA Wide rates are only offered to those Wireless Carriers that have Type 2A LATA Wide rates in their current wireless agreement.

**AMENDMENT TO
INTERCONNECTION AGREEMENT
BY AND BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
NEXTEL OF CALIFORNIA, INC.**

Pacific Bell Telephone Company¹ d/b/a SBC California as the Incumbent Local Exchange Carrier in California, (hereafter, "ILEC") and Nextel of California, Inc. as a Competitive Local Exchange Carrier ("CLEC"), an Independent Local Exchange Carrier ("Independent") or Commercial Mobile Radio Service ("CMRS") provider in California, (referred to as "CARRIER"), in order to amend, modify and supersede any affected provisions of their Interconnection Agreement with ILEC in California ("Interconnection Agreement"), hereby execute this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC's Interim ISP Terminating Compensation Plan)("Amendment"). CLEC and Independent are also referred to as a "LEC."

1.0 Scope of Amendment

- 1.1 On or about July 11, 2003 ILEC made an offer to all telecommunications carriers in the state of California (the "Offer") to exchange traffic on and after August 1, 2003 under Section 251(b)(5) of the Act pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan of the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) ("FCC ISP Compensation Order") which was remanded but not vacated in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002).
- 1.2 The purpose of this Amendment is to include in CARRIER's Interconnection Agreement the rates, terms and conditions of the FCC's interim ISP terminating compensation plan for the exchange of ISP-bound traffic lawfully compensable under the FCC ISP Compensation Order ("ISP-bound Traffic") and traffic lawfully compensable under Section 251(b)(5) ("Section 251(b)(5) Traffic").
- 1.3 This Amendment is intended to supercede any and all contract sections, appendices, attachments, rate schedules, or other portions of the underlying Interconnection Agreement that set forth rates, terms and conditions for the terminating compensation for ISP-bound Traffic and Section 251(b)(5) Traffic exchanged between ILEC and CARRIER. Any inconsistencies between the provisions of this Amendment and provisions of the underlying Interconnection Agreement shall be governed by the provisions of this Amendment.

2.0 Rates, Terms and Conditions of FCC's Interim Terminating Compensation Plan for ISP-Bound Traffic and Section 251(b)(5) Traffic

- 2.1 ILEC and CARRIER hereby agree that the following rates, terms and conditions shall apply to all ISP-bound Traffic and all Section 251(b)(5) Traffic exchanged between the Parties on and after the date this Amendment becomes effective pursuant to Section 4.1 of this Amendment.
- 2.2 Reciprocal Compensation Rate Schedule for ISP-bound Traffic and Section 251(b)(5) Traffic:
 - 2.2.1 The rates, terms, conditions in this section apply only to the termination of ISP-bound Traffic and Section 251(b)(5) Traffic, and ISP-bound Traffic is subject to the growth caps and new local market restrictions stated in Sections 2.3 and 2.4 below. Notwithstanding anything contrary in this Amendment, the growth caps in Section 2.3 and the rebuttable presumption in Section 2.6 only apply to LECs.
 - 2.2.2 The Parties agree to compensate each other for such ISP-bound Traffic and Section 251(b)(5) Traffic at a rate of \$.0007 per minute of use.

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

- 2.2.3 Payment of Reciprocal Compensation will not vary according to whether the traffic is routed through a tandem switch or directly to an end office switch. Where the terminating party utilizes a hierarchical or two-tier switching network, the Parties agree that the payment of these rates in no way modifies, alters, or otherwise affects any requirements to establish Direct End Office Trunking, or otherwise avoids the applicable provisions of the Interconnection Agreement and industry standards for interconnection, trunking, Calling Party Number (CPN) signaling, call transport, and switch usage recordation.

2.3 ISP-bound Traffic Minutes Growth Cap

- 2.3.1 On a calendar year basis, as set forth below, LEC and ILEC agree to cap overall compensable California ISP-bound Traffic minutes of use in the future based upon the 1st Quarter 2001 ISP-bound Traffic minutes for which LEC was entitled to compensation under its California Interconnection Agreement(s) in existence for the 1st Quarter of 2001, on the following schedule.

Calendar Year 2001	1st Quarter 2001 compensable ISP-bound minutes, times 4, times 1.10
Calendar Year 2002	Year 2001 compensable ISP-bound minutes, times 1.10
Calendar Year 2003	Year 2002 compensable ISP-bound minutes
Calendar Year 2004 and on	Year 2002 compensable ISP-bound minutes

Notwithstanding anything contrary herein, in Calendar Year 2003, LEC and ILEC agree that ISP-bound Traffic exchanged between LEC and ILEC during the entire period from January 1, 2003 until December 31, 2003 shall be counted towards determining whether LEC has exceeded the growth caps for Calendar Year 2003.

- 2.3.2 ISP-bound Traffic minutes that exceed the applied growth cap will be Bill and Keep. "Bill and Keep" refers to an arrangement in which neither of two interconnecting Parties charges the other for terminating traffic that originates on the other network; instead, each Party recovers from its end-users the cost of both originating traffic that it delivers to the other Party and terminating traffic that it receives from the other Party.

2.4 Bill and Keep for ISP-bound Traffic in New Markets

- 2.4.1 In the event CARRIER and ILEC have not previously exchanged ISP-bound Traffic in any one or more California LATAs prior to April 18, 2001, Bill and Keep will be the reciprocal compensation arrangement for all ISP-bound Traffic between CARRIER and ILEC for the remaining term of this Agreement in any such California LATAs.
- 2.4.2 In the event CARRIER and ILEC have previously exchanged traffic in an California LATA prior to April 18, 2001, the Parties agree that they shall only compensate each other for completing ISP-bound Traffic exchanged in that California LATA, and that any ISP-bound Traffic in other California LATAs shall be Bill and Keep for the remaining term of this Agreement.
- 2.4.3 Wherever Bill and Keep is the traffic termination arrangement between CARRIER and ILEC, both Parties shall segregate the Bill and Keep traffic from other compensable local traffic either (a) by excluding the Bill and Keep minutes of use from other compensable minutes of use in the monthly billing invoices, or (b) by any other means mutually agreed upon by the Parties.

- 2.5 The Growth Cap and New Market Bill and Keep arrangement applies only to ISP-bound Traffic, and does not include Transit traffic, Optional Calling Area traffic, IntraLATA Interexchange traffic, or InterLATA Interexchange traffic.

2.6 ISP-bound Traffic Rebuttable Presumption

In accordance with Paragraph 79 of the FCC's ISP Compensation Order, LEC and ILEC agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-bound Traffic exchanged between LEC and ILEC exceeding a 3:1 terminating to originating ratio is presumed to be ISP-bound Traffic subject to the compensation and growth cap terms in this Section 2.0. Either party has the right to rebut the 3:1 ISP presumption by identifying the actual ISP-bound Traffic by any means mutually agreed by the Parties, or by

any method approved by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission agrees that such Party has rebutted the presumption, the methodology and/or means approved by the Commission for use in determining the ratio shall be utilized by the Parties as of the date of the Commission approval and, in addition, shall be utilized to determine the appropriate true-up as described below. During the pendency of any such proceedings to rebut the presumption, ILEC and SBC California will remain obligated to pay the presumptive rates (reciprocal compensation rates for traffic below a 3:1 ratio, the rates set forth in Section 2.2.2 for traffic above the ratio) subject to a true-up upon the conclusion of such proceedings. Such true-up shall be retroactive back to the date a Party first sought appropriate relief from the Commission.

3.0 Reservation of Rights

- 3.1 ILEC and CARRIER agree that nothing in this Amendment is meant to affect or determine the appropriate treatment of Voice Over Internet Protocol (VOIP) traffic under this or future Interconnection Agreements. The Parties further agree that this Amendment shall not be construed against either party as a "meeting of the minds" that VOIP traffic is or is not local traffic subject to reciprocal compensation. By entering into the Amendment, both Parties reserve the right to advocate their respective positions before state or federal commissions whether in bilateral complaint dockets, arbitrations under Section 252 of the Act, commission established rulemaking dockets, or before any judicial or legislative body.

4.0 Miscellaneous

- 4.1 If this Amendment is executed by CARRIER and such executed amendment is received by ILEC on or before August 23, 2003, this Amendment will be effective as of August 1, 2003, subject to any necessary state commission approval; provided, however, the rates will not be implemented in ILEC's billing system until after any necessary state commission approval, at which time the rates billed by the Parties beginning on August 1, 2003 will be subject to a true-up. If this Amendment is executed by CARRIER but such executed amendment is not received by ILEC until after August 23, 2003, this Amendment will become effective ten (10) days following the date such Amendment is approved or is deemed to have been approved by the applicable state commission.
- 4.2 This Amendment is coterminous with the underlying Interconnection Agreement and does not extend the term or change the termination provisions of the underlying Interconnection Agreement.
- 4.3 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING INTERCONNECTION AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- 4.4 Every rate, term and condition of this Amendment is legitimately related to the other rates, terms and conditions in this Amendment. Without limiting the general applicability of the foregoing, the change of law provisions of the underlying Interconnection Agreement, including but not limited to the "Intervening Law" or "Change of Law" or "Regulatory Change" section of the General Terms and Conditions of the Interconnection Agreement and as modified in this Amendment, are specifically agreed by the Parties to be legitimately related to, and inextricably intertwined with this the other rates, terms and conditions of this Amendment.
- 4.5 In entering into this Amendment, the Parties acknowledge and agree that neither Party is waiving any of its rights, remedies or arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof, including but not limited to its rights under the United States Supreme Court's opinion in *Verizon v. FCC*, et al, 535 U.S. 467 (2002); the D.C. Circuit's decision in *United States Telecom Association, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("USTA decision"); the FCC's Triennial Review Order, adopted on February 20, 2003, on remand from the USTA decision and pursuant to the FCC's Notice of Proposed Rulemaking, *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (FCC 01-361) (rel. Dec. 20, 2001); the FCC's Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 1760 (FCC 99-370) (rel. Nov. 24, 1999), including its Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002); or the Public Utilities Act of Illinois, which was amended on May 9, 2003 to add Sections 13-408 and 13-

409, 220 ILCS 5/13-408 and 13-409, and enacted into law ("Illinois Law"). The Illinois Law establishes a specific method for setting certain UNE rates in Illinois, mandates that the Illinois Commerce Commission ("ICC") apply the method and determine the rates ("ICC Rates"), and expressly deems all interconnection agreements to be amended to contain the ICC Rates immediately upon the ICC's announcement of such adjusted rates, without further action. Rather, in entering into this Amendment, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings and the Illinois Law, including but not limited to its right to dispute whether any UNEs and/or UNE combinations identified in the Agreement and this Amendment must be provided under Sections 251(c)(3) and 251(d) of the Act, and under this Agreement. Notwithstanding anything to the contrary in this Agreement and in addition to fully reserving its other rights, the Parties acknowledge and agree that SBC California has exercised its option to adopt the FCC ISP terminating compensation plan ("FCC Plan") in California and as of the date of that election by SBC California, the FCC Plan shall apply to this Agreement, as more specifically provided for in this Amendment. In the event that a state or federal regulatory or legislative body or a court of competent jurisdiction, in any proceeding, finds, rules and/or otherwise orders that any of the UNEs and/or UNE combinations provided for under this Agreement and this Amendment do not meet the necessary and impair standards set forth in Section 251(d)(2) of the Act, the affected provision will be immediately invalidated, modified or stayed as required to effectuate the subject order upon written request of either Party ("Written Notice"). In addition, to the extent this Agreement is in effect in Illinois, the Parties agree that any ICC orders implementing the Illinois Law, including, without limitation, the ICC Rates, shall automatically apply to this Agreement (for the state of Illinois only) as of the effective date of any such order(s) upon Written Notice, and as soon as practical thereafter, SBC Illinois shall begin billing the ICC Rates; provided, however, the Parties acknowledge and agree that no later than sixty (60) days from the Written Notice, the Parties will execute a conforming Amendment to this Agreement so that the Agreement accurately reflects the ICC Rates and SBC Illinois will issue any adjustments, as needed, to reflect that the ICC Rates became effective between the Parties as of the effective date of the applicable ICC order(s). With respect to all other Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications required to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement.

IN WITNESS WHEREOF, this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC Interim Terminating Compensation Plan) to the Interconnection Agreement was exchanged in triplicate on this 20th day of Aug., 2003, by SBC California, signing by and through its duly authorized representative, and CARRIER, signing by and through its duly authorized representative.

Nextel of California, Inc.

**Pacific Bell Telephone Company d/b/a SBC California
by SBC Telecommunications, Inc., its authorized agent**

Signature: [Signature]

Signature: [Signature]

Name: Alancy Carlsen
(Print or Type)

Name: Mike Auinbauh
(Print or Type)

Title: Sr. Director - Telco Mgmt.
(Print or Type)

Title: For/ President - Industry Markets

Date: August 12, 2003

Date: AUG 20 2003

FACILITIES-BASED OCN # 6232

ACNA NXT

**AMENDMENT TO
CELLULAR/PCS INTERCONNECTION AGREEMENT
BY AND BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
NEXTEL OF CALIFORNIA, INC.**

This Amendment is entered into this 14th day of sept, 2004 by and between Pacific Bell Telephone Company d/b/a SBC California¹ ("Telco") and Nextel of California, Inc. ("Carrier") (collectively, the "Parties").

WHEREAS, Telco and Carrier (collectively, the "Parties") have entered into an Agreement known as "Cellular/PCS Interconnection Agreement by and between Nextel of California, Inc. and Pacific Bell Telephone Company d/b/a SBC California" effective in California ("Interconnection Agreement"); and

WHEREAS, the Parties desire to amend, as set forth herein, the Interconnection Agreement;

NOW THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Telco and Carrier agree as follows:

1. Add the Stand-Alone Agreement for Access to SBC's Structure (Poles, Conduits, and Rights of Ways), the Appendix 1 (Rates) Structure Access Standalone and the Guidelines for Access to SBC Communications and Operating Companies Structure, and attached hereto, as an appendix to the Interconnection Agreement.

2. This Amendment shall be filed with and is subject to approval by the State Commission and shall become effective ten days following approval by such Commission or the date this Amendment is deemed to have been approved by such Commission.

3. This Amendment shall not modify or extend the Effective Date or Term of the Agreement but rather shall be coterminous with the underlying Interconnection Agreement.

4. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING INTERCONNECTION AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

5. In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36), and the FCC's Biennial Review Proceeding; the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including any amendments to this Agreement), SBC California has no obligation to provide unbundled network elements (UNEs) to Carrier and shall have no obligation to provide UNEs beyond those that may be required by the Act, if any, including the lawful and effective FCC rules and associated FCC and judicial orders. Further, neither Party will argue or take the position before any state or federal regulatory commission or court that any provisions set forth in this Agreement and this Amendment constitute an agreement or waiver relating to the appropriate routing, treatment and

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

compensation for Voice Over Internet Protocol traffic and/or traffic utilizing in whole or part Internet Protocol technology; rather, each Party expressly reserves any rights, remedies, and arguments they may have as to such issues including but not limited, to any rights each may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (rel. April 21, 2004). Notwithstanding anything to the contrary in the Agreement and this Amendment and except to the extent that SBC California has adopted the FCC ISP terminating compensation plan ("FCC Plan") in California, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to SBC California's right to exercise its option at any time to adopt on a date specified by SBC California the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this 14th day of Sept, 2004, by Telco, signing by and through its duly authorized representative, and Carrier, signing by and through its duly authorized representative.

Nextel of California, Inc.

Pacific Bell Telephone Company d/b/a SBC California
by SBC Telecommunications, Inc., its authorized agent

Signature: M. Ojert

Signature: M. Auinbauh

Name: Magnus Ojert
(Print or Type)

Name: Mike Auinbauh
(Print or Type)

Title: VP of Site Development
(Print or Type) + Logistics

Title: For/ Senior Vice President –Industry Markets
& Diversified Businesses

Date: 8/30/04

Date: 9-14-04

OCN # _____

ACNA _____

STAND-ALONE AGREEMENT FOR ACCESS
TO SBC CALIFORNIA'S STRUCTURE
(POLES, CONDUITS, AND RIGHTS OF WAYS)

TABLE OF CONTENTS

1. INTRODUCTION.....	3
2. DEFINITIONS.....	4
3. SCOPE OF AGREEMENT.....	5
4. EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION	5
5. GENERAL PROVISIONS	6
6. DISCLAIMER OF WARRANTIES	7
7. DISPUTE RESOLUTION	7
8. INDEMNIFICATION	7
9. LIABILITIES AND LIMITATIONS OF LIABILITY.....	10
10. INSURANCE.....	10
11. ASSIGNMENT OF RIGHTS.....	11
12. TERMINATION OF AGREEMENT OR OCCUPANCY PERMITS; REMEDIES FOR BREACHES	13
13. FAILURE TO ENFORCE	14
14. CONFIDENTIALITY OF INFORMATION.....	14
15. ACCESS TO RIGHTS-OF-WAY.....	15
16. SPECIFICATIONS.....	16
17. ACCESS TO RECORDS	16
18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS	17
19. POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS.....	17
20. ISSUANCE OF OCCUPANCY PERMITS (INCLUDING MAKE-READY WORK).....	18
21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES	19
22. USE AND ROUTINE MAINTENANCE OF ATTACHING PARTY'S FACILITIES	19
23. MODIFICATION OF ATTACHING PARTY'S FACILITIES.....	20
24. REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES	20
25. EMERGENCY REPAIRS AND POLE REPLACEMENTS.....	20
26. INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES.....	22
27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS	22
28. REMOVAL OF ATTACHING PARTY'S FACILITIES	23
29. RATES, FEES, CHARGES, AND BILLING.....	24
30. PERFORMANCE AND PAYMENT BONDS.....	25
31. NOTICES	25
32. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS.....	26

13-STATE STRUCTURE ACCESS AGREEMENT TO POLES, CONDUITS, AND RIGHTS-OF-WAY

This Agreement dated _____, 2004, is made by and between the "Parties," identified as Pacific Bell Telephone Company d/b/a SBC California¹, hereinafter referred to as defined below, and Nextel of California, Inc., a Delaware corporation, hereinafter referred to as "Attaching Party".

This Agreement shall apply to the state of California.

1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Rights of Way (ROW), Conduits and Poles provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and Attaching Party.
- 1.2 **SBC Communications Inc. (SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.3 **SBC-2STATE** - As used herein, **SBC-2STATE** means **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in California and Nevada.
- 1.4 **SBC-13STATE** - As used herein, **SBC-13STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE**, **SBC-2STATE** and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.
- 1.5 **SBC CALIFORNIA** - As used herein, **SBC CALIFORNIA** means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.
- 1.6 **SBC CONNECTICUT** - As used herein, **SBC CONNECTICUT** means The Southern New England Telephone Company d/b/a SBC Connecticut, the applicable above listed ILEC doing business in Connecticut.
- 1.7 **SBC MIDWEST REGION 5-STATE** - As used herein, **SBC MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.
- 1.8 **SBC NEVADA** - As used herein, **SBC NEVADA** means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.
- 1.9 **SBC SOUTHWEST REGION 5-STATE** - As used herein, **SBC SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma and Texas.

2. DEFINITIONS

- 2.1 Definitions in general. As used in this Agreement, the terms defined in this article shall have the meanings set forth below in Sections 2.1 to 2.14 except as the context otherwise requires.
- 2.2 Conduit. The term "conduit" refers to tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. As used in this Agreement, the term "conduit" refers only to conduit structures (including ducts, manholes and handholes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other **SBC-13STATE** structures (such as huts and cabinets) which branch off from or are connected to **SBC-13STATE**'s conduit.
- 2.3 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Agreement, the term "conduit system" does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other **SBC-13STATE** structures (such as huts and cabinets) which branch off from or are connected to **SBC-13STATE**'s conduit.
- 2.4 Duct. The term "duct" refers to a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other equipment. As used in this Agreement, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels, but does not include cables and other telecommunications equipment located within such ducts.
- 2.5 Handhole. The term "handhole" refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Agreement, the term "handhole" refers only to handholes which are part of **SBC-13STATE**'s conduit system and does not refer to handholes which provide access to buried cables not housed within **SBC-13STATE** ducts or conduits. As used in this Agreement, the term "handhole" refers only to handhole structures owned or controlled by **SBC-13STATE** and does not include cables and other telecommunications equipment located within handhole structures.
- 2.6 Occupancy Permit. The term "occupancy permit" refers to a written instrument confirming that **SBC-13STATE** has granted the structure access request of Attaching Party or a third party for access to pole, duct, conduit, or right-of-way space.
- 2.7 Maintenance Duct. The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) 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 **SBC-13STATE** 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.
- 2.8 Make-ready work. The term "make-ready work" refers to all work performed or to be performed to prepare **SBC-13STATE**'s poles, ducts, conduits, rights-of-way, and related facilities for the requested occupancy or attachment of Attaching Party's facilities.
- 2.9 Manhole. The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in ducts or conduits which are parts of **SBC-13STATE**'s conduit system. As used in this Agreement, the term "manhole" does not include cables and other telecommunications equipment located within manhole structures.
- 2.10 Other User. The term "Other User" refers to entities, other than the Attaching Party, with facilities on an **SBC-13STATE** pole, duct, conduit or right-of-way to which the Attaching Party has obtained access. Other Users may include **SBC-13STATE**, other attaching parties, municipalities or other governmental entities, and electric utilities (which may own interests in **SBC-13STATE**'s poles, ducts, conduits or rights-of-ways).

- 2.11 Overlashing. The term "Overlashing" refers to the practice of placing an additional cable by lashing such cable with spinning wire over an existing cable and strand.
- 2.12 Pole. The term "pole" refers to poles (and associated anchors) which are owned or controlled by **SBC-13STATE** and does not include cables and other telecommunications equipment attached to pole structures.
- 2.13 Rights-of-way. The term "rights-of-way" refers to **SBC-13STATE** owned or controlled legal rights to pass over or through property of another party and used by **SBC-13STATE** for its telecommunications distribution system. For purposes of this Agreement, "rights-of-way" includes property owned by **SBC-13STATE** and used by **SBC-13STATE** for its telecommunications distribution facilities. Rights-of-way does not include:
- 2.13.1 cables and other telecommunications equipment buried or located on such rights-of-way,
 - 2.13.2 public rights of way (which are owned by and subject to the control of governmental entities), or
 - 2.13.3 any space which is owned and controlled by a third-party property owner and occupied by **SBC-13STATE** with permission from such owner rather than as a matter of legal right.
- 2.14 Structure. The term "Structure" refers collectively to poles, ducts, conduits and rights-of-way.

3. SCOPE OF AGREEMENT

- 3.1 This Agreement establishes the rates, terms, conditions, and procedures by which **SBC-13STATE** shall provide non-discriminatory access to **SBC-13STATE**'s Structure. Separate tariffs, appendix, or agreements shall govern Attaching Party's access, if any, to the following facilities, which require special security, technical, and construction arrangements outside the scope of this Agreement:
- 3.1.1 **SBC-13STATE**'s central office vaults and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from **SBC-13STATE**'s central offices;
 - 3.1.2 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;
 - 3.1.3 ducts and conduits located within buildings owned by **SBC-13STATE**; and
 - 3.1.4 ducts, conduits, equipment rooms, and similar spaces located in space leased by **SBC-13STATE** from third-party property owners for purposes other than to house cables and other equipment in active service as part of **SBC-13STATE**'s network distribution operations.
- 3.2 No Transfer of Property Rights to Attaching Party. Nothing contained in this Agreement, or any occupancy permit subject to this Agreement, shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other.
- 3.3 No Effect on **SBC-13STATE**'s Right to Abandon, Convey or Transfer Structure. Nothing contained in this Agreement, or any occupancy permit subject to this Agreement, shall in any way affect **SBC-13STATE**'s right to abandon, convey, or transfer to any other person or entity **SBC-13STATE**'s interest in any of **SBC-13STATE**'s Structure. **SBC-13STATE** shall give Attaching Party at least 60 days written notice prior to abandoning, conveying, or transferring any Structure to which Attaching Party has already attached its facilities, or any Structure on which Attaching Party has already been assigned space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.

4. EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION

- 4.1 Effective Date. This Agreement shall be effective as of the _____ day of _____, 2004, or, if this Agreement has been entered into as an appendix, attachment, or exhibit to an interconnection agreement

between the parties, the date of approval by the State Commission of the interconnection agreement, whichever date first occurs (hereinafter, the, "Effective Date").

- 4.2 Initial Term. Unless sooner terminated as herein provided, the initial term of this Agreement (hereinafter, the "Initial Term") shall run from the effective date until the fifth anniversary date following the Effective Date. In the event this Agreement is entered into as a part of an Interconnection Agreement, this Agreement shall terminate upon the termination of the Interconnection Agreement of which this is apart.
- 4.3 Automatic Renewal. Unless sooner terminated as herein provided, this Agreement shall be automatically renewed for successive one (1) year terms (each a "Renewal Term") beginning on the first day following the expiration of the Initial Term and, thereafter, on the anniversary date of each Renewal Term thereafter.
- 4.4 Elective Termination. Either party may terminate this Agreement by giving the other party at least six months prior written notice as provided in this section; provided, however **SBC-13STATE** may not terminate this Agreement for the sole purpose of increasing any rates, charges or fees in a manner inconsistent with or amounts not permissible under the applicable federal or state statutes, regulations and orders of such federal or state regulatory commissions or agencies, or courts having jurisdiction over the regulation, review and authorization of such rates, charges or fees. The notice of termination shall state the effective date of termination, which date shall be no earlier than the last to occur of the following dates: the last day of the current Term of this Agreement or six months after the date the notice is given.
- 4.5 Elective Termination by **SBC-13STATE**. Attaching Party shall, within 60 days after the effective date of the elective termination by **SBC-13STATE**, either initiate negotiations for continued access to **SBC-13STATE**'s poles, ducts, conduits, and rights-of-way or remove its facilities in accordance with the provisions of Section 28 of this Agreement.
- 4.6 Effect of Elective Termination. Elective termination of this Agreement by Attaching Party, as permitted under Section 4 of this Agreement, shall not affect Attaching Party's liabilities and obligations incurred under this Agreement prior to the effective date of termination and shall not entitle Attaching Party to the refund of any advance payment made to **SBC-13STATE** under this Agreement. Elective termination of this Agreement by **SBC-13STATE** shall not affect **SBC-13STATE**'s obligations to afford access to **SBC-13STATE**'s poles, ducts, conduits, and rights-of-way owned or controlled by **SBC-13STATE** as required by the Pole Attachment Act, the Telecommunications Act of 1996, and other applicable laws, regulations, and commission orders.

5. GENERAL PROVISIONS

- 5.1 Entire Agreement. This Agreement, together with the interconnection agreement, if any, of which this Agreement is a part, and the Guidelines for Access to **SBC-13STATE** Structure, attached hereto and incorporated herein by reference, sets forth the entire understanding and agreement of the parties.
- 5.2 Prior Agreements Superseded. This Agreement supersedes all prior agreements and understandings, whether written or oral, between Attaching Party and **SBC-13STATE** relating to the placement and maintenance of Attaching Party's facilities on and within **SBC-13STATE**'s poles, ducts, and conduits within this State.
- 5.3 Amendments Shall Be in Writing. Except as otherwise specifically provided to the contrary by other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.
- 5.4 Survival of Obligations. Any liabilities or obligations of either party for acts or omissions prior to the termination of this Agreement, any obligations of either party under provisions of this Agreement relating to confidential and proprietary information, indemnification, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, will survive the termination of this Agreement.
- 5.5 Multiple Counterparts. This Agreement may be executed in multiple counterparts.

- 5.6 Effect on Licenses or Occupancy Permits Issued Under Prior Agreements. All currently effective pole attachment and conduit occupancy permits granted to Attaching Party shall, on the effective date of this Agreement, be subject to the rates, terms, conditions, and procedures set forth in this Agreement.
- 5.7 Force Majeure. Except as otherwise specifically provided in this Agreement, neither party will be liable for any delay or failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, disputes, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the party claiming excusable delay or other failure to perform; provided, however, that Force Majeure will not include acts of any governmental authority relating to environmental, health, or safety conditions at work locations. If any Force Majeure condition occurs, the party whose performance fails or is delayed because of such Force Majeure condition will give prompt notice to the other party, and, upon cessation of such Force Majeure condition, will give like notice and commence performance hereunder as promptly as reasonably practicable.
- 5.8 Severability. If any article, section, subsection, or other provision or portion of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement as to either party, the invalidity of such provision shall not render this entire Agreement unenforceable and this Agreement shall be administered as if it did not contain the invalid provision.
- 5.9 Choice of Law. Except to the extent that federal law controls any aspect of this Agreement, the validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of the State in which the relevant **SBC-13STATE** poles, ducts and conduit are located, applied without regard to the provisions of this State's laws relating to conflicts-of-laws.
- 5.10 Changes in the Law. The parties agree to negotiate in good faith changes to this Agreement to conform to changes applicable law pertaining to access to poles, ducts, conduits and rights-of-way, including the Pole Attachment Act.
- 5.11 The parties shall at all times observe and comply with, and the provisions of this Agreement are subject to, all applicable federal, state, and local laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.

6. DISCLAIMER OF WARRANTIES

SBC-13STATE MAKES NO REPRESENTATIONS AND DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, THAT **SBC-13STATE**'S POLES, DUCTS, CONDUITS AND WARRANTIES ARE SUITABLE FOR THE ATTACHING PARTY'S INTENDED USES OR ARE FREE FROM DEFECTS. THE ATTACHING PARTY SHALL IN EVERY INSTANCE BE RESPONSIBLE TO DETERMINE THE ADEQUACY OF **SBC-13STATE**'S POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY FOR THE ATTACHING PARTY'S INTENDED USE.

7. DISPUTE RESOLUTION

- 7.1 In the event that a dispute arises under this agreement pertaining to the rights of the parties relating to **SBC-13STATE**'s poles, ducts, conduits and rights-of-way in one or more of the states identified in the preamble of the agreement, the dispute resolution provisions of the relevant Interconnection Agreement between the respective operating affiliates of **SBC-13STATE** and Attaching Party shall apply to disputes under this agreement.

8. INDEMNIFICATION

- 8.1 Definitions. The term "Claims" as used in Section 8 shall mean any suit, claim, demand, loss, damage, liability, fee, fine, penalty, or expense, of every kind and character.

- 8.2 Indemnities Excluded. Except as otherwise specifically provided in this article, neither party (as an "indemnifying party") shall be required to indemnify or defend the other party (as an "indemnified party") against, or hold the indemnified party harmless from, any Claims arising out of:
- 8.2.1 any breach by the indemnified party of any provision of this Agreement or any breach by the indemnified party of the parties' interconnection agreement, if any;
 - 8.2.2 the violation of any law by any employee of the indemnified party or other person acting on the indemnified party's behalf;
 - 8.2.3 willful or intentional misconduct or gross negligence committed by any employee of the indemnified party or by any other person acting on the indemnified party's behalf; or
 - 8.2.4 any negligent act or acts committed by any employee of the indemnified party or other person acting on the indemnified party's behalf, if such negligent act or acts are the sole producing cause of the injury, loss, or damage giving rise to the Claim for which indemnity is requested.
- 8.3 Workplace Injuries. Except as expressly provided in this Agreement to the contrary, each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any injury, loss, or damage suffered by any person, which arises out of or in connection with the personal injury or death of any employee of the indemnifying party (or other person acting on the indemnifying party's behalf) if such injury or death results, in whole or in part, from any occurrence or condition on, within, or in the vicinity of SBC-13STATE's Structure.
- 8.4 Other Claims Brought Against Either Party by Employees and Other Persons Acting on the Other Party's Behalf. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3 above) made, brought, or sought against the indemnified party by any employee, contractor, or subcontractor of the indemnifying party or by any other person acting on the indemnifying party's behalf.
- 8.5 THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.3-8.4 SHALL ARISE EVEN IF THE INJURY, SICKNESS, DISEASE, OR DEATH WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.
- 8.6 Claims Brought Against Either Party by Vendors, Suppliers and Customers of the Other Party. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3, or other claims subject to Section 8.4) made, brought, or sought against the indemnified party by any vendor, supplier, or customer of the indemnifying party.
- 8.7 Injuries to Third Parties and Third party Property Owners Resulting from the Parties' Conduct. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with the personal injury or death of any third party or physical damage to real or personal property owned by a third party, arising, in whole or in part, out of or in connection with the conduct of employees of the indemnifying party or other persons acting on the indemnifying party's behalf.
- 8.8 Indemnification for Environmental Claims.
- 8.8.1 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the violation or breach, by any employee of the indemnifying party or other person acting on the indemnifying party's behalf, of
 - 8.8.1.1 any federal, state, or local environmental statute, rule, regulation, ordinance, or other law or
 - 8.8.1.2 any provision or requirement of this Agreement dealing with hazardous substances or protection of the environment.
 - 8.8.2 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any

person or property, or to the environment, arising out of or in connection with the release or discharge, onto any public or private property, of any hazardous substances, regardless of the source of such hazardous substances, by any employee of the indemnifying party, or by any person acting on the indemnifying party's behalf, while present on, within, or in the vicinity of any **SBC-13STATE** pole, duct, conduit, or right-of-way.

- 8.8.3 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the removal or disposal of any hazardous substances by the indemnifying party or by any person acting on the indemnifying party's behalf, or arising out of or in connection with the subsequent storage, processing or other handling of such hazardous substances by any person or entity after they have been removed by the indemnifying party or persons acting on the indemnifying party's behalf from the site of any **SBC-13STATE** pole, duct, conduit, or right-of-way.
- 8.8.4 Except as otherwise specifically provided in this section, neither party shall be required to indemnify or defend the other party against, or hold the other party harmless from any Claims for which the other party may be liable under any federal, state, or local environmental statute, rule, regulation, ordinance, or other law.
- 8.9 Miscellaneous Claims. Attaching Party shall indemnify, on request defend, and hold **SBC-13STATE** harmless from any and all Claims, of every kind and character, made, brought, or sought against **SBC-13STATE** by any person or entity, arising out of or in connection with the subject matter of this Agreement and based on either:
- 8.9.1 claims for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on **SBC-13STATE** due to the placement or presence of Attaching Party's facilities on or within **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way; or
- 8.9.2 claims based on the violation by Attaching Party of any third party's intellectual property rights, including but not limited to claims for copyright infringement, patent infringement, or unauthorized use or transmission of television or radio broadcast programs or other program material.
- 8.10 Attaching Party's General Indemnity Obligations to **SBC-13STATE**. This section applies only in those situations not expressly covered by Sections 8.3-8.9 and does not apply to any Claims resulting from Attaching Party's enforcement of its rights against **SBC-13STATE** pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, and subject to the exclusions set forth in Section 8.2, Attaching Party shall indemnify, on request defend, and hold **SBC-13STATE** harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with Attaching Party's access to or use of **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way, Attaching Party's performance of any acts authorized under this Agreement, or the presence or activities of Attaching Party's employees or other personnel acting on Attaching Party's behalf on, within, or in the vicinity of **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way.
- 8.11 **SBC-13STATE**'s General Indemnity Obligations to Attaching Party. This section applies only in those situations not expressly covered by Sections 8.3-8.9 and does not apply to any Claims resulting from **SBC-13STATE**'s enforcement of its rights against Attaching Party pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, **SBC-13STATE** shall indemnify, on request defend, and hold Attaching Party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with **SBC-13STATE**'s access to or use of **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way, **SBC-13STATE**'s performance of any acts authorized under this Agreement, or the presence or activities of **SBC-13STATE**'s employees or other

personnel acting on **SBC-13STATE**'s behalf on, within, or in the vicinity of **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way.

9. LIABILITIES AND LIMITATIONS OF LIABILITY

- 9.1 EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION LIMITS EACH PARTY'S LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OR OMISSIONS OF SUCH PARTY BUT DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INTENTIONAL MISCONDUCT.
- 9.2 SBC-13STATE Not Liable to Attaching Party for Acts of Third Parties or Acts of God. By affording Attaching Party access to **SBC-13STATE** Structure **SBC-13STATE** does not warrant, guarantee, or insure the uninterrupted use of such facilities by Attaching Party. Attaching Party assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Attaching Party's facilities attached to **SBC-13STATE**'s poles or placed in **SBC-13STATE**'s Structure and **SBC-13STATE** shall not be liable to Attaching Party for any damages to Attaching Party's facilities. In no event shall **SBC-13STATE** be liable to Attaching Party under this Agreement for any death of person or injury, loss, or damage resulting from the acts or omissions of (1) any Other User or any person acting on behalf of an Other User, (2) any governmental body or governmental employee, (3) any third-party property owner or persons acting on behalf of such property owner, or (4) any permit, invitee, trespasser, or other person present at the site or in the vicinity of any **SBC-13STATE** pole, duct, conduit, or right-of-way in any capacity other than as a **SBC-13STATE** employee or person acting on **SBC-13STATE**'s behalf. In no event shall **SBC-13STATE** be liable to Attaching Party under this Agreement for injuries, losses, or damages resulting from acts of God (including but not limited to storms, floods, fires, and earthquakes), wars, civil disturbances, espionage or other criminal acts committed by persons or entities not acting on **SBC-13STATE**'s behalf, cable cuts by persons other than **SBC-13STATE**'s employees or persons acting on **SBC-13STATE**'s behalf, or other causes beyond **SBC-13STATE**'s control which occur at sites subject to this Agreement.
- 9.3 Damage to Facilities. Each party shall exercise due care to avoid damaging the facilities of the other or of Other Users and hereby assumes all responsibility for any and all loss from damage caused by the party and persons acting on the party's behalf. A party shall make an immediate report to the other of the occurrence of any damage and hereby agrees to reimburse the other party, and/or Other Users for any property damaged caused by the party or persons acting on the party's behalf.
- 9.4 No Limitations of Liability in Contravention of Federal or State Law. Nothing contained in this article shall be construed as exempting either party from any liability, or limiting such party's liability, in contravention of federal law or in contravention of the laws of the State in which the relevant **SBC-13STATE** poles, conduits and ducts are located.

10. INSURANCE

- 10.1 At all times in which the Attaching Party has attachments to **SBC-13STATE** poles, or is occupying **SBC-13STATE** conduit or right-of-way, Attaching Party shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set for below. Such insurance and coverage shall not only cover the Attaching Party, but it must cover all contractors, subcontractors and/or any other person acting on Attaching Party's behalf, that are providing services under this Agreement.
- 10.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Agreement and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily

Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$1,000,000 for Bodily Injury by disease-each employee.

- 10.1.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit, with a \$4,000,000 umbrella; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$4,000,000 umbrella and with a \$1,000,000 each occurrence sub-limit for Products/Completed Operations.
- 10.1.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired and non-owned vehicles.
- 10.2 Attaching Party agrees to name **SBC-13STATE** as an Additional Insured on the Commercial General Liability policy and Commercial Automobile Liability Policy.
- 10.3 **SBC-13STATE** agrees to accept the Attaching Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
 - 10.3.1 Workers' Compensation and Employers Liability: Attaching Party submit to **SBC-13STATE** its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Agreement or the employer's state of hire; and
 - 10.3.2 Automobile liability: Attaching Party shall submit to **SBC-13STATE** a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Agreement; and
 - 10.3.3 General liability: Attaching Party must provide evidence acceptable to **SBC-13STATE** that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.
- 10.4 All insurance required in accordance with this section must be in effect before **SBC-13STATE** will issue pole attachment or conduit occupancy permits under this Agreement.
- 10.5 Attaching Party agrees to provide **SBC-13STATE** with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein.

11. ASSIGNMENT OF RIGHTS

- 11.1 Assignment Permitted. Neither party may assign or otherwise transfer its rights or obligations under this Agreement except as provided in this section.
 - 11.1.1 **SBC-13STATE** may assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement, without Attaching Party's consent, to any entity controlling, controlled by, or under common control with **SBC-13STATE** or which acquires or succeeds to ownership of substantially all of **SBC-13STATE**'s assets.
 - 11.1.2 Attaching Party may assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement, without **SBC-13STATE**'s consent, to any entity controlling, controlled by, or under common control with Attaching Party; provided, however, Attaching Party may not assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement to an unaffiliated third party which acquires or succeeds to ownership of substantially all of Attaching Party's assets without **SBC-13STATE**'s consent, which consent shall not be unreasonably withheld, conditioned or delayed.

- 11.1.2 Overlapping of Attaching Party's facilities on **SBC-13STATE** poles by a third party will be allowed under the following conditions:
- 11.1.2.1 The Overlapping entity must enter into an agreement with **SBC-13STATE** for access to **SBC-13STATE** Structures and abide by the terms and conditions of such an Occupancy Permit.
 - 11.1.2.2 The Overlapping entity must obtain written approval from the Attaching Party and provide a copy to **SBC-13STATE** prior to submitting a request for access to structure.
 - 11.1.2.3 The Overlapping party must submit a written request for access to structure, and indicate on the request that the request is for Overlapping of an existing attachment of the Attaching Party.
 - 11.1.2.4 The Overlapping entity is responsible for paying the fees for Overlapping in APPENDIX I and/or APPENDIX PRICING, which are separate and in addition to the fees paid by the Attaching Party.
- 11.1.3 Attaching Party may, ancillary to a bona fide loan transaction between Attaching Party and any lender, and without **SBC-13STATE**'s consent, grant security interests or make collateral assignments in substantially all of Attaching Party's assets, including Attaching Party's rights under this Agreement, subject to the express terms of this Agreement. In the event Attaching Party's lender, in the bona fide exercise of its rights as a secured lender, forecloses on its security interest or arranges for a third party to acquire Attaching Party's assets through public or private sale or through an Agreement with Attaching Party, Attaching Party's lender or the third party acquiring Attaching Party's rights under this Agreement shall assume all outstanding obligations of Attaching Party under the Agreement and provide proof satisfactory to **SBC-13STATE** that such lender or third party has complied or will comply with all requirements established under this Agreement. Notwithstanding any provisions of this Agreement to the contrary, such foreclosure by Attaching Party's lender or acquisition of assets by such third party shall not constitute a breach of this Agreement and, upon such foreclosure or acquisition, Attaching Party's lender or such third party shall succeed to all rights and remedies of Attaching Party under this Agreement (other than those rights and remedies, if any, which have not been transferred and, if Attaching Party is a debtor under the Federal Bankruptcy Code, those rights, if any, which remain a part of the debtor's estate notwithstanding an attempted foreclosure or transfer) and to all duties and obligations of Attaching Party under the Agreement, including liability to **SBC-13STATE** for any act, omission, default, or obligation that arose or occurred under the Agreement prior to the date on which such lender or third party succeeds to the rights of Attaching Party under the Agreement, as applicable.
- 11.1.4 No assignment or transfer by Attaching Party of rights under this Agreement, occupancy permit subject to this Agreement, or authorizations granted under this Agreement shall be effective until Attaching Party, its successors, and assigns have complied with the provisions of this article, secured **SBC-13STATE**'s prior written consent to the assignment or transfer, if necessary, and given **SBC-13STATE** notice of the assignment or transfer pursuant to Section 11.1.2.
- 11.1.5 Notwithstanding any thing to the contrary contained in this Agreement, Attaching Party may assign, mortgage, pledge, hypothecate or otherwise transfer, with 30 days advance written notice, its interest in this Agreement to any financing entity, or agent of any financing entity to whom Attaching Party (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.
- 11.2 Incorporations, Mergers, Acquisitions, and Other Changes in Attaching Party's Legal Identity. When the legal identity or status of Attaching Party changes, whether by incorporation, reincorporation, merger, acquisition, or otherwise, such change shall be treated as an assignment subject to the provisions of this article.

- 11.3 Assignment Shall Not Relieve Attaching Party of Prior Obligations. Except as otherwise expressly agreed by **SBC-13STATE** in writing, no assignment permitted by **SBC-13STATE** under this Agreement shall relieve Attaching Party of any obligations arising under or in connection with this Agreement, including but not limited to indemnity obligations under Section 8 of this Agreement or the interconnection agreement, if any.
- 11.4 Satisfaction of Existing Obligations and Assumption of Contingent Liabilities. Except as otherwise provided in Section 11.1.3 above, **SBC-13STATE** may condition its approval of any requested assignment or transfer on the assignee's or successor's payment or satisfaction of all outstanding obligations of Attaching Party under this Agreement and the assignee's or successor's assumption of any liabilities, or contingent liabilities, of Attaching Party arising out of or in connection with this Agreement, which approval shall not be unreasonably withheld or delayed.
- 11.5 Sub-Permits Prohibited. Nothing contained in this Agreement shall be construed as granting Attaching Party the right to sublease, sublicense, or otherwise transfer any rights under this Agreement or occupancy permits subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Attaching Party shall not allow third party to attach or place facilities to or in pole or conduit space occupied by or assigned to Attaching Party or to utilize such space.

12. TERMINATION OF AGREEMENT OR OCCUPANCY PERMITS; REMEDIES FOR BREACHES

- 12.1 Termination Due to Non-Use of Facilities or Loss of Required Authority. This Agreement and all occupancy permits subject to this Agreement shall terminate if Attaching Party ceases to have authority to do business or ceases to do business in the State where the relevant **SBC-13STATE** poles, ducts and conduits are located, ceases to have authority to provide or ceases to provide cable television services in the State where the relevant **SBC-13STATE** poles, ducts and conduits are located (if Attaching Party is cable television system having access to **SBC-13STATE**'s poles, ducts, conduits or rights-of-way solely to provide cable television service), ceases to have authority to provide or ceases to provide telecommunications services in the State where the relevant **SBC-13STATE** plant facilities are located (if Attaching Party is a telecommunications carrier which does not also have authority to provide cable television service in this State), or ceases to make active use of **SBC-13STATE**'s poles, ducts, conduits, and rights-of-way.
- 12.2 Individual occupancy permits subject to this Agreement shall terminate if (a) Attaching Party ceases to utilize the pole attachment or conduit or right of way space subject to such occupancy permit or (b) Attaching Party's permission to use or have access to particular poles, ducts, conduits, or rights-of-way has been revoked, denied, or terminated, or local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access.
- 12.3 Limitation, Termination, or Refusal of Access for Certain Material Breaches. Attaching Party's access to **SBC-13STATE**'s Structure shall not materially interfere with or impair service over any facilities of **SBC-13STATE** or any Other User, cause material damage to **SBC-13STATE**'s plant or the plant of any Other User, impair the privacy of communications carried over the facilities of **SBC-13STATE** or any Other User, or create serious hazards to the health or safety of any persons working on, within, or in the vicinity of **SBC-13STATE**'s poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, **SBC-13STATE** may limit, terminate or refuse access if Attaching Party violates this provision.
- 12.4 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Agreement by either party, the aggrieved party may give written notice of such claimed breach.
- 12.5 The complaining party shall not be entitled to pursue any remedies available under this Agreement or relevant law unless such notice is given, and
- 12.5.1 the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or

12.5.2 the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure.

- 12.6 Remedies for Breach. Subject to the provisions of this article, either party may terminate this Agreement in the event of a material breach by the other party or exercise any other legal or equitable right, which such party may have to enforce the provisions of this Agreement. In any action based on an alleged breach of this Agreement, the prevailing party shall be entitled to recover all costs and expenses incurred by such party, including but not limited to, reasonable attorneys' fees.

13. FAILURE TO ENFORCE

- 13.1 No Waiver. The failure by either party to take action to enforce compliance with any of the terms or conditions of this Agreement, to give notice of any breach, or to terminate this Agreement or any occupancy permit or authorization subject to this Agreement shall not constitute a waiver or relinquishment of any term or condition of this Agreement, a waiver or relinquishment of the right to give notice of breach, or waiver or relinquishment of any right to terminate this Agreement.

14. CONFIDENTIALITY OF INFORMATION

- 14.1 Information Provided by Attaching Party to SBC-13STATE. Except as otherwise specifically provided in this Agreement, all company-specific and customer-specific information submitted by Attaching Party to **SBC-13STATE** in connection with this Agreement (including but not limited to information submitted in connection with Attaching Party's applications for occupancy permit shall be deemed to be "confidential" or "proprietary" information of Attaching Party and shall be subject to the terms set forth in this article. Confidential or proprietary information specifically includes information or knowledge related to Attaching Party's review of records regarding a particular market area, or relating to assignment of space to Attaching Party in a particular market area, and further includes knowledge or information about the timing of Attaching Party's request for or review of records or its inquiry about **SBC-13STATE** facilities. This article does not limit the use by **SBC-13STATE** of aggregate information relating to the occupancy and use of **SBC-13STATE**'s Structure by firms other than **SBC-13STATE** (that is, information submitted by Attaching Party and aggregated by **SBC-13STATE** in a manner that does not directly or indirectly identify Attaching Party).
- 14.2 Access Limited to Persons with a Need to Know. Confidential or proprietary information provided by Attaching Party to **SBC-13STATE** in connection with this Agreement shall not be disclosed to, shared with, or accessed by any person or persons other than those who have a need to know such information for the limited purposes set forth in this Section 14.
- 14.3 Permitted Uses of Attaching Party's Confidential Information. Notwithstanding the provisions of Sections 14.1 and 14.2 above, **SBC-13STATE** and persons acting on **SBC-13STATE**'s behalf may utilize Attaching Party's confidential or proprietary information for the following purposes:
- 14.3.1 posting information, as necessary, to **SBC-13STATE**'s outside plant records;
 - 14.3.2 placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing **SBC-13STATE**'s Structure and any **SBC-13STATE** facilities located on, within, or in the vicinity of such Structure;
 - 14.3.3 performing **SBC-13STATE**'s obligations under this Agreement and similar agreements with third parties;
 - 14.3.4 determining which of **SBC-13STATE**'s Structure are (or may in the future be) available for **SBC-13STATE**'s own use, and making planning, engineering, construction, and budgeting decisions relating to **SBC-13STATE**'s Structure;
 - 14.3.5 preparing cost studies;
 - 14.3.6 responding to regulatory requests for information;

- 14.3.7 maintaining **SBC-13STATE**'s financial accounting records; and
- 14.3.8 complying with other legal requirements relating to Structure.
- 14.4 Defense of Claims. In the event of a dispute between **SBC-13STATE** and any person or entity, including Attaching Party, concerning **SBC-13STATE**'s performance of this Agreement, satisfaction of obligations under similar agreements with third parties, compliance with the Pole Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, **SBC-13STATE** may utilize confidential or proprietary information submitted by Attaching Party in connection with this Agreement as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court orders, or reasonable discovery requests; provided, however, that **SBC-13STATE** shall not disclose Attaching Party's proprietary or confidential information without first, at **SBC-13STATE**'s option:
- 14.4.1 obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Attaching Party's information;
- 14.4.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or
- 14.4.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.
- 14.5 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding **SBC-13STATE** from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that **SBC-13STATE** shall not disclose Attaching Party's proprietary or confidential information without first, at **SBC-13STATE**'s option:
- 14.5.1 obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Attaching Party's information;
- 14.4.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or
- 14.5.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

15. ACCESS TO RIGHTS-OF-WAY

- 15.1 To the extent **SBC-13STATE** has the authority to do so, **SBC-13STATE** grants Attaching Party a right to use any right-of-way for **SBC-13STATE** poles, ducts, or conduits to which Attaching Party may attach its facilities for the purposes of constructing, operating and maintaining such Attaching Party's facilities on **SBC-13STATE**'s poles, ducts or conduits. Notwithstanding the foregoing, Attaching Party shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the **SBC-13STATE** pole, duct or conduit to which Attaching Party seeks to attach its facilities. Attaching Party shall furnish proof of any such easement, right of way, license, permit, permission, certification, or franchise within thirty (30) days of request by **SBC-13STATE**. **SBC-13STATE** does not warrant the validity or apportionability of any rights it may hold to place facilities on private property.
- 15.2 Private Rights-of-Way Not Owned or Controlled by Either Party. Neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third parties, which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. 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.

- 15.3 Access to Rights-of-Way Generally. At locations where SBC-13STATE has access to third-party property pursuant to non-exclusive rights-of-way, SBC-13STATE shall not interfere with Attaching Party's negotiations with third-party property owners for similar access or with Attaching Party's access to such property pursuant to easements or other rights-of-ways obtained by Attaching Party from the property owner. At locations where SBC-13STATE has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, SBC-13STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Attaching Party on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits SBC-13STATE to provide such access, and provided further that SBC-13STATE's charges for such access shall include Attaching Party's pro rata portion of the charges, if any, paid by SBC-13STATE to obtain the right-of-way, plus any other documented legal, administrative, and engineering costs incurred by SBC-13STATE in obtaining the right-of-way and processing Attaching Party's request for access.

16. SPECIFICATIONS

- 16.1 Compliance with Requirements, Specifications, and Standards. Attaching Party's facilities attached to SBC-13STATE's poles or occupying space in SBC-13STATE's ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement and the Administrative Guide.
- 16.2 Published Standards. Attaching Party's 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:
- 16.2.1 the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";
 - 16.2.2 the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");
 - 16.2.3 the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");
 - 16.2.4 California Public Utility Commission's General Orders 95 and 128 for attachments to Pacific Bell Telephone Company poles, ducts, conduits and rights of way; and,
 - 16.2.5 the SBC-13STATE Structure Access Guidelines
- 16.3 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of SBC-13STATE's manholes and access to SBC-13STATE's conduit system.
- 16.3.1 Attaching Party will notify SBC-13STATE not less than 5 business days in advance before entering SBC-13STATE's conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.
 - 16.3.2 An authorized employee or representative of SBC-13STATE may be present any time when Attaching Party or personnel acting on Attaching Party's behalf enter or perform work within SBC-13STATE's conduit system. Attaching Party shall reimburse SBC-13STATE for costs associated with the presence of SBC-13STATE's authorized employee or representative.
 - 16.3.3 Each party must obtain any necessary authorization from appropriate authorities to open manholes.

17. ACCESS TO RECORDS

- 17.1 SBC-13STATE will, upon request and at the expense of the Attaching Party, provide Attaching Party access to and copies of redacted maps, records and additional information relating to the location, capacity and utilization of SBC-13STATE's Structure. Upon request, SBC-13STATE will meet with the Attaching

Party to clarify matters relating to maps, records or additional information. SBC-13STATE does not warrant the accuracy or completeness of information on any maps or records.

- 17.2 Maps, records or information are and remain the proprietary property of SBC-13STATE, are provided to the Attaching Party solely for the purpose of enabling the Attaching Party to obtain access to SBC-13STATE's Structure, and may not be resold, reproduced or disseminated by the Attaching Party, unless required for purpose of compliance with applicable federal or state laws, regulations, commission orders or orders of courts of competent jurisdiction.
- 17.3 SBC-13STATE will provide information currently available on the SBC-13STATE's maps and/or records regarding:
 - 17.3.1 the location of Structure and street addresses for manholes and poles as shown on SBC-13STATE's maps;
 - 17.3.2 the footage between manholes or lateral ducts lengths, as shown on SBC-13STATE's maps;
 - 17.3.3 the footage between poles, if shown on SBC-13STATE's maps;
 - 17.3.4 the total capacity of the Structure
 - 17.3.5 the existing utilization of the Structure.
- 17.4 SBC-13STATE will not acquire additional information or provide information in formats other than that in which it currently exists and is maintained by SBC-13STATE.
- 17.5 SBC-13STATE will expunge any confidential or proprietary information from its maps and records prior to providing access to the same to the Attaching Party.

18. APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS

- 18.1 Occupancy Permits Required. Attaching Party shall apply in writing for and receive an occupancy permit before attaching facilities to specified SBC-13STATE poles or placing facilities within specified SBC-13STATE ducts, conduits, or rights-of-way.
- 18.2 Structure Access Request Form. To apply for an occupancy permit under this Agreement, Attaching Party shall submit to SBC-13STATE the appropriate SBC-13STATE request forms. Attaching Party shall promptly withdraw or amend its request if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific SBC-13STATE Structure.
- 18.3 Make-Ready Survey. A Make-Ready survey must be completed by SBC-13STATE or the Attaching Party before an occupancy permit is issued. The primary purposes of the make ready survey will be to enable SBC-13STATE to
 - 18.3.1 confirm or determine the modifications, capacity expansion, and make-ready work, if any, necessary to accommodate Attaching Party's attachment of facilities to SBC-13STATE structures;
 - 18.3.2 plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare SBC-13STATE's poles, ducts, conduits, rights-of-way, and associated facilities for Attaching Party's proposed attachments or occupancy; and
 - 18.3.3 estimate the costs associated with such facilities modification, capacity expansion, or make-ready work.
- 18.4 Application Fee. Attaching party to remit with each application an upfront advanced payment to cover the initial costs of verification, engineering and processing of each application in the amount of \$500.00.

19. POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

- 19.1 Selection of Space. SBC-13STATE will select or approve the Attaching Party's selection of the space Applicant will occupy on SBC-13STATE's poles or in SBC-13STATE's conduit systems. Maintenance ducts

shall not be considered available for Attaching Party's use except as specifically provided elsewhere in this Agreement. Where required by law or franchise agreement, ducts and attachment space on poles reserved for municipal use shall not be considered available for the Attaching Party's use. All other ducts, inner ducts, space on poles or space in rights-of-ways which are not assigned or occupied shall be deemed available for use by SBC-13STATE, Attaching Party, and other parties entitled to access under applicable law.

19.2 Pole, Duct, and Conduit Space Assignments.

19.2.1 After Attaching Party's application for a pole attachment or conduit occupancy permit has been approved by SBC-13STATE, the pole, duct, and conduit space selected and/or approved by SBC-13STATE in such application will be assigned to Attaching Party for a pre-occupancy period not to exceed twelve (12) months.

19.2.2 SBC CALIFORNIA: The pole, duct, and conduit space selected and/or approved by SBC-13STATE in such application will be assigned to Attaching Party for a pre-occupancy period not to exceed nine (9) months in SBC CALIFORNIA only as detailed by the California Public Utility Commission.

19.2.3 SBC-13STATE may assign space to itself by making appropriate entries in the same records used to log assignments to Attaching Party and third parties. If SBC-13STATE assigns pole, duct, or conduit space to itself, such assignment will automatically lapse 12 months after the date the assignment has been entered into the appropriate SBC-13STATE record if SBC-13STATE has not occupied such assigned space within such 12 month period.

19.2.4 SBC CALIFORNIA: Space assignment is 9 months in California.

19.2.5 Notices and applications including assignment requests will be date-and time-stamped on receipt.

20. **ISSUANCE OF OCCUPANCY PERMITS (INCLUDING MAKE-READY WORK)**

20.1 Response Within 45 Days. Within 45 days of Attaching Party's submission of a request for access to SBC-13STATE Structure, SBC-13STATE shall provide a written response to the application. The response shall state whether the request is being granted or denied, and if the request is denied, provide the reasons why the request is being denied. If denial of access is proposed, SBC-13STATE will meet with the Attaching Party and explore in good faith reasonable alternatives to accommodate the proposed attachment. The Attaching Party must request such meeting within ten (10) business days of receipt of a notice of denial. SBC-13STATE will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.

20.2 If access is granted the response will further advise Attaching Party in writing of:

20.2.1 what modifications, capacity expansions, or make-ready work, if any, will be required to prepare SBC-13STATE's Structure, and

20.2.2 an estimate of charges for such modifications, capacity expansions, or make-ready work.

20.3 Make-ready Work. If it is determined that make ready work will be necessary to accommodate Attaching Party's facilities, Attaching Party shall have 45 days (the "acceptance period") to either

20.3.1 submit payment for the estimate authorizing SBC-13STATE or its contractor to complete the make-ready work; or

20.3.2 advise SBC-13STATE of its willingness to perform the proposed make-ready work itself if permissible in the application area.

20.4 Make-ready work performed by Attaching Party, or by an authorized contractor selected by Attaching Party, shall be performed in accordance with SBC-13STATE's specifications and in accordance with the same standards and practices which would be followed if such work were being performed by SBC-13STATE or SBC-13STATE's contractors. Neither Attaching Party nor authorized contractors selected by Attaching

Party shall conduct such work in any manner, which degrades the integrity of SBC-13STATE's Structures or interferes with any existing use of SBC-13STATE's facilities or the facilities of any Other User.

- 20.5 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. Attaching Party shall make arrangements with the Other Users with facilities attached to SBC-13STATE's poles or occupying space in SBC-13STATE's conduit system regarding reimbursement for any expenses incurred by the Other Users in transferring or rearranging the Other Users' facilities to accommodate the attachment or placement of Attaching Party's facilities to or in SBC-13STATE's poles, ducts, conduits and rights of ways.
- 20.6 Reimbursement for the Creation or Use of Additional Capacity. If any additional capacity is created as a result of make-ready work performed to accommodate Attaching Party's facilities, Attaching Party shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any fees subsequently paid to SBC-13STATE for the use of such additional capacity. If SBC-13STATE utilizes additional space or capacity created at Attaching Party's expense, SBC-13STATE will reimburse Attaching Party on a pro-rata basis for SBC-13STATE's share, if any, of Attaching Party's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. SBC-13STATE will notify the Attaching Party if any entity, including SBC-13STATE, attaches facilities to additional capacity on SBC-13STATE's Structure created at the Attaching Party's expense. SBC-13STATE shall not be required to collect or remit any such amounts to Attaching Party, to resolve or adjudicate disputes over reimbursement between Attaching Party and Other Users.
- 20.7 If Attaching Party utilizes space or capacity on any SBC-13STATE Structure created at SBC-13STATE's expense after February of 1996, the Attaching Party will reimburse Attaching Party on a pro-rata basis for the Attaching Party's share, if any, of SBC-13STATE's capacity creation costs.
- 20.8 Occupancy Permit and Attachment. After all required make-ready work is completed, SBC-13STATE will issue an occupancy permit confirming that Attaching Party may attach specified facilities to SBC-13STATE's Structure.
- 20.9 The Attaching Party must occupy the assigned space within a period not to exceed twelve (12) months from the issuance of the occupancy permit. If the Attaching Party does not occupy the assigned space within the twelve (12) month period, the Occupancy Permit will lapse and the space will be considered available for use by SBC-13STATE or Other User.
- *SBC CALIFORNIA only: Space assignment shall not exceed nine (9) months in California.
- 20.10 The Attaching Party's obligation to pay semiannual pole attachment or conduit occupancy fees will commence on the date the Occupancy Permit is provided by SBC-13STATE to the Attaching Party.

21. CONSTRUCTION OF ATTACHING PARTY'S FACILITIES

- 21.1 Responsibility for Attaching and Placing Facilities. The Attaching Party shall be responsible for the actual attachment of its facilities to SBC-13STATE's poles and the placement of such facilities in SBC-13STATE's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.
- 21.2 Construction Schedule. After the issuance of an occupancy permit, Attaching Party shall provide SBC-13STATE with a construction schedule and thereafter keep SBC-13STATE informed of anticipated changes in the construction schedule.

22. USE AND ROUTINE MAINTENANCE OF ATTACHING PARTY'S FACILITIES

- 22.1 Routine Maintenance of Attaching Party's Facilities. Each occupancy permit subject to this Agreement authorizes Attaching Party to engage in routine maintenance of facilities located on or within SBC-13STATE's poles, ducts, and conduits. Routine maintenance does not include the replacement or modification of Attaching Party's facilities in any manner, which results in Attaching Party's facilities differing

substantially in size, weight, or physical characteristics from the facilities described in Attaching Party's occupancy permit.

- 22.2 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities. Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by **SBC-13STATE**. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify **SBC-13STATE** of such use and must either vacate the maintenance duct within 30 days or, with **SBC-13STATE**'s consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.

23. MODIFICATION OF ATTACHING PARTY'S FACILITIES

- 23.1 Notification of Planned Modifications. Attaching Party shall notify **SBC-13STATE** in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities already attached to a **SBC-13STATE** Structure. The notice shall contain sufficient information to enable **SBC-13STATE** to determine whether the proposed addition, relocation, replacement, or modification is within the scope of Attaching Party's present occupancy permit or requires a new or amended occupancy permit.
- 23.2 Replacement of Facilities and Overlashing Additional Cables. Attaching Party may replace existing facilities with new facilities occupying the same **SBC-13STATE** Structure, and may overlash additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

24. REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES

- 24.1 Required Rearrangement of Attaching Party's Facilities. Attaching Party agrees that Attaching Party will cooperate with **SBC-13STATE** and other users in making rearrangements to **SBC-13STATE** Structure as may be necessary, and that costs incurred by Attaching Party in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with then applicable law.
- 24.2 Whenever feasible, **SBC-13STATE** shall give Attaching Party not less than 30 days prior written notice of the need for Attaching Party to rearrange its facilities pursuant to this section. The notice shall state the date by which such rearrangements are to be completed. Attaching Party shall complete such rearrangements within the time prescribed in the notice. If Attaching Party does not rearrange facilities within noted time, **SBC-13STATE** will rearrange at Attaching Party's expense.

25. EMERGENCY REPAIRS AND POLE REPLACEMENTS

- 25.1 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.
- 25.1.1 Nothing contained in this Agreement shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- 25.1.2 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 **SBC-**

13STATE within 12 hours of the current business day (or first business day following a non-business day) that such entity is entering the **SBC-13STATE** conduit system and using the maintenance duct for emergency restoration 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, as defined in Section 2.7, 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 be assigned to the user of the duct and an occupancy permit issued.

- 25.1.3 The Attaching Party shall either vacate the maintenance duct within 30 days or, with **SBC-13STATE**'s consent, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner-duct, a suitable replacement inner-duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance ducts. Entities not vacating the maintenance duct must provide an immediate maintenance duct at the entity's cost.
- 25.2 Designation of Emergency Repair Coordinators and Other Information. For each **SBC-13STATE** construction district, Attaching Party shall provide **SBC-13STATE** with the emergency contact number of Attaching Party's designated point of contact for coordinating the handling of emergency repairs of Attaching Party's facilities and shall thereafter notify **SBC-13STATE** of changes to such information.
- 25.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, **SBC-13STATE**, Attaching Party, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.
- 25.3.1 Emergency service restoration work requirements shall take precedence over other work operations.
- 25.3.2 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- 25.3.3 **SBC-13STATE** shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by **SBC-13STATE** on a nondiscriminatory basis in accordance with the principles set forth in this section.
- 25.4 Emergency Pole Replacements.
- 25.4.1 When emergency pole replacements are required, **SBC-13STATE** shall promptly make a good faith effort to contact Attaching Party to notify Attaching Party of the emergency and to determine whether Attaching Party will respond to the emergency in a timely manner.
- 25.4.2 If notified by **SBC-13STATE** that an emergency exists which will require the replacement of a pole, Attaching Party shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an **SBC-13STATE** replacement pole, the transfer shall be in accordance with **SBC-13STATE**'s placement instructions.
- 25.4.3 If Attaching Party is unable to respond to the emergency situation immediately, Attaching Party shall so advise **SBC-13STATE** and thereby authorize **SBC-13STATE** (or any Other User sharing the pole

with **SBC-13STATE**) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on Attaching Party's behalf.

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

25.5.1 Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.

25.5.2 Attaching Party shall reimburse **SBC-13STATE** for the costs incurred by **SBC-13STATE** for work performed by **SBC-13STATE** on Attaching Party's behalf in accordance with the provisions of this article.

26. INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES

26.1 Post-Construction Inspections. **SBC-13STATE** will, at the Attaching Party's expense, conduct a post-construction inspection of the Attaching Party's attachment of facilities to **SBC-13STATE**'s Structures for the purpose of determining the conformance of the attachments to the occupancy permit. **SBC-13STATE** will provide the Attaching Party advance written notice of proposed date and time of the post-construction inspection. The Attaching Party may accompany **SBC-13STATE** on the post-construction inspection.

26.2 Right to Make Periodic or Spot Inspections. **SBC-13STATE** shall have the right, but not the obligation, to make periodic or spot inspections of all facilities attached to **SBC-13STATE**'s Structure. These inspections will not be made more often than once every 2 years unless in **SBC-13STATE**'s judgement such inspections are required for reasons involving safety or because of an alleged violation of the terms of this Agreement.

26.3 If Attaching Party's facilities are in compliance with this Agreement, there will be no charges incurred by the Attaching Party for the periodic or spot inspection. If Attaching Party's facilities are not in compliance with this Agreement, **SBC-13STATE** may charge Attaching Party for the inspection. The costs of Periodic Inspections will be paid by those Attaching Parties with 2% or greater of their attachments in violation. The amount paid by the Attaching Party shall be the percentage that their violations bear to the total violations of all Attaching Parties found during the inspection.

26.4 If the inspection reflects that Attaching Party's facilities are not in compliance with the terms of this Agreement, Attaching Party shall bring its facilities into compliance within 30 days after being notified of such noncompliance. If any make ready or modification work to **SBC-13STATE**'s Structures is required to bring Attaching Party's facilities into compliance, the Attaching Party shall provide notice to **SBC-13STATE** 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.

27. TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

27.1 Facilities to Be Marked. Attaching Party shall tag or otherwise mark all of Attaching Party's facilities placed on or in **SBC-13STATE**'s Structure in a manner sufficient to identify the facilities as those belonging to the Attaching Party.

27.2 Removal of Untagged Facilities. **SBC-13STATE** may, without notice to any person or entity, remove from **SBC-13STATE**'s poles or any part of **SBC-13STATE**'s conduit system the Attaching Party's facilities, if **SBC-13STATE** determines that such facilities are not the subject of a current occupancy permit and are not otherwise lawfully present on **SBC-13STATE**'s poles or in **SBC-13STATE**'s conduit system.

27.3 Notice to Attaching Party. If any of Attaching Party's facilities for which no occupancy permit is presently in effect are found attached to **SBC-13STATE**'s poles or anchors or within any part of **SBC-13STATE**'s conduit system, **SBC-13STATE**, without prejudice to other rights or remedies available to **SBC-13STATE**

under this Agreement, and without prejudice to any rights or remedies which may exist independent of this Agreement, shall send a written notice to Attaching Party advising Attaching Party that no occupancy permit is presently in effect with respect to the facilities and that Attaching Party must, within 30 days, respond to the notice as provided in Section 27.6 of this Agreement.

- 27.4 Attaching Party's Response. Within 60 days after receiving a notice under Section 27.3 of this Agreement, Attaching Party shall acknowledge receipt of the notice and submit to SBC-13STATE, in writing, an application for a new or amended occupancy permit with respect to such facilities.
- 27.5 Approval of Request and Retroactive Charges. If SBC-13STATE approves Attaching Party's application for a new or amended occupancy permit, Attaching Party shall be liable to SBC-13STATE for all fees and charges associated with the unauthorized attachments as specified in Section 27.6 of this Agreement. The issuance of a new or amended occupancy permit as provided by this article shall not operate retroactively or constitute a waiver by SBC-13STATE of any of its rights or privileges under this Agreement or otherwise.
- 27.6 Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from SBC-13STATE's poles, conduit system or rights of way or until a new or amended occupancy permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if Attaching Party and its predecessors had continuously complied with all applicable SBC-13STATE licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. In addition, the Attaching Party shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date Attaching Party is notified by SBC-13STATE of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Attaching Party shall rearrange or remove its unauthorized facilities at SBC-13STATE's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to SBC-13STATE or another Other User, and shall pay SBC-13STATE for all costs incurred by SBC-13STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Attaching Party's unauthorized facilities.
- 27.7 Removal of Unauthorized Attachments. If Attaching Party does not obtain a new or amended occupancy permit with respect to unauthorized facilities within the specified period of time, SBC-13STATE shall by written notice advise Attaching Party to remove its unauthorized facilities not less than 60 days from the date of notice and Attaching Party 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, SBC-13STATE may, at SBC-13STATE's option, remove Attaching Party's facilities at Attaching Party's expense.
- 27.8 No Ratification of Unpermitted Attachments or Unauthorized Use of SBC-13STATE's Facilities. No act or failure to act by SBC-13STATE with regard to any unauthorized attachment or occupancy or unauthorized use of SBC-13STATE's Structure shall be deemed to constitute a ratification by SBC-13STATE of the unauthorized attachment or occupancy or use, nor shall the payment by Attaching Party of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Attaching Party from liability for any trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

28. REMOVAL OF ATTACHING PARTY'S FACILITIES

- 28.1 When Applicant no longer intends to occupy space on a SBC-13STATE pole or in a SBC-13STATE duct or conduit, Applicant will provide written notification to SBC-13STATE that it wishes to terminate the occupancy permit with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Applicant's facilities, the occupancy permit shall terminate and the space shall be available for reassignment.
- 28.1.1 Attaching Party shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from SBC-13STATE's Structure.

- 28.1.2 Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to **SBC-13STATE**'s manholes.
- 28.1.3 Applicant shall be solely responsible for the removal of its own facilities from **SBC-13STATE**'s Structure.
- 28.2 At **SBC-13STATE**'s request, Attaching Party shall remove from **SBC-13STATE**'s Structure any of Attaching Party's facilities, which are no longer in active use. Upon request, the Attaching Party will provide proof satisfactory to **SBC-13STATE** that an Attaching Party's facility is in active service. Attaching Party shall not abandon any of its facilities by leaving such facilities on or in **SBC-13STATE**'s Structure.
- 28.3 Removal Following Termination of Occupancy permit. Attaching Party shall remove its facilities from **SBC-13STATE**'s poles, ducts, conduits, or rights-of-way within 60 days after termination of the occupancy permit.
- 28.4 Removal Following Replacement of Facilities. Attaching Party shall remove facilities no longer in service from **SBC-13STATE**'s Structures within 60 days after the date Attaching Party replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit.
- 28.5 Removal to Avoid Forfeiture. If the presence of Attaching Party's facilities on or in **SBC-13STATE**'s Structure would cause a forfeiture of the rights of **SBC-13STATE** to occupy the property where such Structure is located, **SBC-13STATE** will promptly notify Attaching Party in writing and Attaching Party shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. **SBC-13STATE** will give Attaching Party not less than 60 days from the date of notice to remove Attaching Party's facilities unless prior removal is required to prevent the forfeiture of **SBC-13STATE**'s rights. At Attaching Party's request, the parties will engage in good faith negotiations with each other, with Other Users, and with third-party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Attaching Party's facilities.
- 28.6 Removal of Facilities by **SBC-13STATE**; Notice of Intent to Remove. If Attaching Party fails to remove its facilities from **SBC-13STATE**'s Structure in accordance with the provisions of Sections 28.1-28.5 of this Agreement, **SBC-13STATE** may remove such facilities and store them at Attaching Party's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Attaching Party for any injury, loss, or damage resulting from such actions. **SBC-13STATE** shall give Attaching Party not less than 60 days prior written notice of its intent to remove Attaching Party's facilities pursuant to this section.
- 28.7 Removal of Facilities by **SBC-13STATE**. If **SBC-13STATE** removes any of Attaching Party's facilities pursuant to this article, Attaching Party shall reimburse **SBC-13STATE** for **SBC-13STATE**'s costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

29. RATES, FEES, CHARGES, AND BILLING

- 29.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees outlined in this Agreement will be set forth in APPENDIX I of the Stand-Alone Agreement. All rates, charges and fees shall be subject to all applicable federal and state laws, rules, regulations, and commission orders.
- 29.2 Changes to Rates, Charges and Fees. Subject to applicable federal and state laws, rules, regulations and orders, **SBC-13STATE** shall have the right to change the rates, charges and fees outlined in this Agreement. **SBC-13STATE** will provide the Attaching Party 60 days written notice, advising the Attaching Party of the specific changes being made and the effective date of the change. If the changes outlined in the notice are not acceptable to the Attaching Party, Attaching Party may either (1) seek renegotiation of this Agreement, (2) terminate this Agreement, or (3) seek relief through the dispute resolution process in the General Terms and Conditions of this Agreement.

- 29.3 Wireless Carriers. Antenna attachments which render space on adjacent poles no longer useable or the creation of any additional guying/anchoring will be billed to the attaching party. This payment does not provide access on these adjacent poles to the attaching party or permit them to make further attachments without prior written approval from SBC-California.

30. PERFORMANCE AND PAYMENT BONDS

- 30.1 Bond May Be Required. **SBC-13STATE** may require Attaching Party, authorized contractors, and other persons acting on Attaching Party's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of the Attaching Party's obligations arising out of or in connection with this Agreement.
- 30.1.1 If a bond or similar form of assurance is required of Attaching Party, an authorized contractor, or other person acting on Attaching Party's behalf, Attaching Party shall promptly submit to **SBC-13STATE** adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be cancelled, changed or materially altered without first providing **SBC-13STATE** 60 days written notice.
- 30.2 Payment and Performance Bonds in Favor of Contractors and Subcontractors. Attaching Party shall be responsible for paying all employees, contractors, subcontractors, mechanics, materialmen and other persons or entities performing work or providing materials in connection with Attaching Party's performance under this Agreement. In the event any lien, claim or demand is made on **SBC-13STATE** by any such employee, contractor, subcontractor, mechanic, materialman, or other person or entity providing such materials or performing such work, **SBC-13STATE** may require, in addition to any security provided under Section 30.1 of this Agreement, that Attaching Party execute payment or performance bonds, or provide such other security, as **SBC-13STATE** may deem reasonable or necessary to protect **SBC-13STATE** from any such lien, claim or demand.

31. NOTICES

- 31.1 Notices to Attaching Party. All written notices required to be given to a party shall be delivered or mailed to the party's duly authorized agent or attorney, as designated in this section.
- 31.1.1 Such notice may be delivered to the party's duly authorized agent or attorney in person or by agent or courier-receipted delivery.
- 31.1.2 Such notice may be mailed to the party's duly authorized agent or attorney by registered or certified mail, return receipt requested. When notice is given by mail, such notice shall be complete upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and control of the United States Postal Service and shall be deemed to have been given three days after the date of deposit.
- 31.1.3 Notices to a party shall be sent to the authorized agent or attorney designated below:

NOTICE CONTACT	ATTACHING PARTY	SBC-LEC CONTACT
NAME/TITLE	Bob Edgerly	Contract Management ATTN: Notices Manager
STREET ADDRESS	2001 Edmund Halley Drive	311 S. Akard, 9th Floor Four SBC Plaza
CITY, STATE, ZIP CODE	Reston, VA 20191	Dallas, TX 75202-5398
TELEPHONE NUMBER	703-264-4949	214-464-1933
FACSIMILE NUMBER	703-264-4246	214-464-2006

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

32. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

APPENDIX 1 (RATES)
STRUCTURE ACCESS STAND-ALONE
5/23/2002

STATE	Service	Rate Elements	USOCs	Recurring Rate	Nonrecurring Rate	First	Nonrecurring Rate Additional
CA	Poles and Duct (Structure)		Poles (\$/attachment/yr.)*	\$4.28			
			Per Foot Conduit Occupancy Fees				
			Full Duct (\$/ft/yr.)	\$0.94			
			Half Duct (\$/ft/yr)	\$0.47			
			Contract Administration Fee			\$125.00	
			Administrative Record-Keeping Fee			\$125.00	

* For (1) each one foot of usable space, or fraction thereof, occupied and (2) each additional one foot of space, or fraction thereof, rendered unusable by the attachment's presence.

GUIDELINES FOR ACCESS TO SBC COMMUNICATIONS INC. and OPERATING COMPANIES STRUCTURE

This document details the policy and guidelines which govern the process by which Attaching Parties gain access to poles, ducts, conduit, and rights-of-way (Structure) which is owned or controlled by SBC Communication and SBC Operating Companies hereafter referred to as SBC – 13STATE.

TABLE OF CONTENTS

1. APPLICABILITY OF GUIDELINES	3
2. DEFINITIONS	3
3. PRIMARY POINTS OF CONTACT	4
4. GENERAL POLICIES	4
5. PROCESS FOR GAINING ACCESS TO SBC STRUCTURE	6
6. STRUCTURE MODIFICATIONS WHICH ADD CAPACITY	11
7. CONSTRUCTION AND INSTALLATION	11
8. EMERGENCY ACCESS TO STRUCTURES	13
9. FEES	14
10. RELOCATION OF ATTACHING PARTIES' FACILITIES	14
11. UNAUTHORIZED ATTACHMENTS	15
12. CHANGES TO GUIDELINES	15
13. NOTICES	15
APPENDIX 1 - PRIMARY POINTS OF CONTACT	16

1. APPLICABILITY OF GUIDELINES

1.1 General

- 1.1.1 These guidelines are issued to provide operating procedures for parties attaching to SBC Communications Inc. (SBC) Structure.
- 1.1.2 **SBC Communications Inc. (SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.1.3 **SBC-2STATE** - As used herein, **SBC-2STATE** means **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in California and Nevada.
- 1.1.4 **SBC-13STATE** - As used herein, **SBC-13STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE**, **SBC-2STATE** and **SBC SNET** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.1.5 **SBC CALIFORNIA** - As used herein, **SBC CALIFORNIA** means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.
- 1.1.6 **SBC MIDWEST REGION 5-STATE** - As used herein, **SBC MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.1.7 **SBC NEVADA** - As used herein, **SBC NEVADA** means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.
- 1.1.8 **SBC CONNECTICUT** - As used herein, **SBC CONNECTICUT** means The Southern New England Telephone Company, the applicable above listed ILEC doing business in Connecticut.
- 1.1.9 **SBC SOUTHWEST REGION 5-STATE** - As used herein, **SBC SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.1.10 These guidelines apply to all parties, including SBC affiliates who attach to SBC structure.

1.2 Limitation

In the event of any conflict or difference between the provisions of these guidelines and any federal or state rules, regulations, and tariffs or provisions of any legally executed interconnection, license or other agreement of the Company, the provisions of the rules, regulations, tariffs or agreements shall apply. State requirements may vary, and the Guidelines should be reviewed in conjunction with state tariffs, where the latter exist.

2. DEFINITIONS

- 2.1 **Authorized Contractor**- Contractors who are mutually approved by both Attaching Party and SBC.
- 2.2 **Attaching Party** - Parties authorized by SBC to attach facilities to SBC structure. Primary Points of Contact will provide specifics for each geographic area as outlined in Appendix 1 to these guidelines.
- 2.3 **Conduit** - Tubes or structures which are owned or controlled by SBC which contains one or more ducts and/or innerducts used to enclose cables, wires, and associated transmission equipment. The term

"conduit" refers only to the conduit structures (including ducts, manholes, and hand holes) and space within those structures, and it does not include:

- 2.3.1 Cables and other telecommunications equipment located within conduit structures
 - 2.3.2 Controlled environmental vaults
 - 2.3.3 Telephone equipment closets
 - 2.3.4 Remote terminals
 - 2.3.5 Cross-connect cabinets, panels or boxes
 - 2.3.6 Equipment cabinets
 - 2.3.7 Pedestals, or terminals
 - 2.3.8 Any other infrastructure used by SBC, which branches off from or is connected to conduit structures.
- 2.4 **Make-Ready Survey** - A physical check of Structure to determine availability of space for placing the Attaching Party's facilities.
- 2.5 **Make-Ready Work** - Any work necessary to prepare Structure for attachment or occupancy by an Attaching Party.
- 2.6 **Poles** - Poles refers only to poles (and associated anchors) which are owned, jointly owned, or controlled by SBC and does not include cables and other telecommunications equipment attached to a pole.
- 2.7 **Rights-of-Way** - 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. Rights-of-way may run under, on, or above public or private property (including air space above public or private property) and may include the right to use defined space in buildings, building complexes or other locations.
- 2.8 **Structure** - Refers to the poles, ducts, conduit, and rights-of-way that are owned or controlled by SBC.
- 2.9 **Universal Maintenance Spare** – A full sized duct typically 3 inches or larger which may be used, on a short-term basis, for maintenance, repair, or emergency restoration activities. In those locations where there is not a full-sized duct, SBC will designate an inner duct, if one is available.

3. PRIMARY POINTS OF CONTACT

SBC has established several Primary Points of Contact depending on where an Attaching Party will want to attach to SBC structure. The Points of Contact for each geographic region of SBC are outlined in Appendix 1 of these guidelines. A Primary Point of Contact will administer access to SBC structure by:

- 3.1 Answering Attaching Party questions
- 3.2 Processing and coordinating Information Access Requests
- 3.3 Processing and coordinating Structure Access requests, including coordination of Make Ready Survey and Make Ready activities
- 3.4 Issuing Occupancy Permits

4. GENERAL POLICIES

- 4.1 Priority Queue
 - 4.1.1 The priority for right of access to existing capacity in SBC Structure will be determined by the actual time that a valid Structure Access Request is received by the SBC Primary Point of Contact. The Attaching Party should contact the Structure Access Manager for the status of the request. The requirements for a valid Structure Access Request are outlined in Section 5.2 of these guidelines.
 - 4.1.2 To maintain position in the queue it is strongly recommended that attaching parties follow each and every step as stated within these guidelines. Not doing so could render the request incomplete thereby losing position in the queue.

- 4.1.3 Changes in Structure Access Requests may only be deemed a new request and result in a new date being established for the priority queue when such changes result in different routes, e.g., addition of poles or conduit.

4.2 Universal Maintenance Spare

- 4.2.1 The universal maintenance spare may be used by all Attaching Parties with Attachments in the conduit section for maintenance and emergency use.
- 4.2.2 Access to a universal maintenance spare for maintenance purposes must be requested through the SBC Primary Point of Contact 5 days in advance of proposed work.
- 4.2.3 Any party utilizing a universal maintenance spare must vacate it or provide an equivalent spare within 30 days. An additional 30 days may be requested in unique or special circumstances.
- 4.2.4 For emergency use of the maintenance spare, refer to section 8.

4.3 Available Capacity

4.3.1 Ducts and Conduit

- 4.3.1.1 Unoccupied duct and/or innerduct space is assumed available for use by an Attaching Party, excluding the ducts and/or innerducts reserved for the universal maintenance spare, municipal use, or which are subject to a prior request.
- 4.3.1.2 Based on the information from Structure Records, and the completed Make Ready Survey, SBC will determine if the requested access to SBC Structure can be provided to the Attaching Party.

4.3.2 Poles

Available pole capacity is unoccupied, useable space on a pole. This excludes space which is subject to a prior request.

4.3.3 Not in Service

Ducts or innerducts with Attachments that have not been in service for any continuous period of 12 months will be considered vacant and useable by SBC or other Attaching Parties. SBC will notify the current attachment owner a minimum of sixty (60) days prior to the removal of their facilities. SBC or new Attaching Party will not be able to place their facilities until the current owner has been notified. After the 60-day notice has expired, SBC may remove the facilities at the current attachment owner's expense.

4.3.4 Requirements to build Structure

If Attaching Party requests access to an SBC right-of-way where SBC has no existing Structure, SBC shall not be required to construct new poles, conduits or ducts, or to bury cable for Attaching Party. However, if SBC desires to extend its own attachments, SBC may construct structure to accommodate Attaching Party's attachments.

4.4 No Available Capacity

- 4.4.1 If, after taking reasonable steps (including review of the following alternatives: modification of existing attachments or replacement of poles, where such modifications and/or replacements are not precluded on the basis of safety, reliability or engineering concerns), SBC cannot accommodate the Attaching Party's request due to capacity, safety, reliability or engineering concerns, the SBC Primary Point of Contact will provide a detailed, written response. The response will outline the reasons why the request cannot be accommodated within forty-five (45) days of submitting a valid Structure Access Request, or as otherwise negotiated. The Attaching Party has ten (10) business days to request a meeting.
- 4.4.2 If additional information is discovered while performing Make Ready Work that prohibits SBC from accommodating the Attaching Party's request, the SBC Primary Point of Contact will provide a

detailed, written response within forty-five (45) days after discovery outlining the reasons why the request can no longer be accommodated.

- 4.4.3 If an Attaching Party's request cannot be accommodated for any reason, SBC will meet with the Attaching Party, at their written request, and explore reasonable alternatives to accommodate the proposed attachment. SBC will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.

4.5 Capacity Reservation

- 4.5.1 No party, including SBC, will be allowed to reserve space in or on SBC's Structure for future needs.

4.5.1.1 SBC or attaching party must occupy their assigned space within a period not to exceed twelve (12) months. If SBC or attaching party does not occupy their assigned space within the twelve (12) month period, it will be considered a reservation of space, the assignment will be removed and the space will become available for use by SBC or another Attaching Party.

4.5.1.2 The (12) twelve-month period shall begin at issuance of the Occupancy Permit.

4.5.1.3 **SBC CALIFORNIA ONLY:** The reservation of space and/or assignment shall not exceed a timeframe of nine (9) months as outlined by the California Public Utility Commission.

4.6 Location of Attachments

4.6.1 Ducts and Conduit

4.6.1.1 With approval, the preferred entrances and exits of SBC's conduit system for Attaching Parties will be at established openings. These openings are building entrances, points at which cable enters the SBC's underground conduit facilities, stubbed-off ducts and preformed manhole lateral knockouts.

4.6.1.2 If the preferred entrances or exits are not available, entrance to an SBC manhole may be created by core boring the manhole wall, unless such engineered access to the manhole is denied by SBC for reasons of safety, reliability or uniformly applied engineering principles.

4.6.2 Poles

Pole attachments will be placed in the space on the pole designated for communications use. This space is generally located below electric supply circuits and excludes the neutral space between the electrical and communication space.

4.6.3 Selection

SBC will select or approve the location for all attachments on poles, in ducts and conduit, and in rights-of-way. The selection or approval will be based on safety, reliability or general engineering principles.

4.7 Franchises, Permits and Consents

Attaching Party shall secure any necessary franchises, permits or consents from federal, state, county or municipal authorities and from the owners of private property, to construct and operate its Attachments at the location of the SBC Structure it uses.

5. PROCESS FOR GAINING ACCESS TO SBC STRUCTURE

Following are the major process steps that an Attaching Party should follow in order to gain access to SBC Structure. However, following this process does not guarantee that SBC will be able to accommodate the Attaching Party's request.

- Information Access
- Structure Access Request
- Make Ready Survey

- Make Ready Work
- Occupancy Permit
- Construction of Attaching Party facilities

5.1 Information Access

In order to determine where Structure exists and what might be available for use, an Attaching Party will have access to SBC's Structure Records.

5.1.1 Limitations:

- 5.1.1.1 In all instances the information made available will be that which is currently on the records. SBC will not create additional information or gather information not currently on the records. SBC will not provide information in formats other than that in which it currently exists.
- 5.1.1.2 In the event the records do not exist, it shall be the responsibility of the surveying party to obtain and provide field information to SBC. The information required from the Attaching Party will be restricted to that which is necessary to process the request and will not be used for any reason other than processing the request.
- 5.1.1.3 Proprietary information will not be made available for review by attaching parties.
- 5.1.1.4 The apparent availability of structure on records does not guarantee the actual availability or structural integrity of any structure. Upon request by Attaching Party, SBC will meet with the Attaching Party to clarify matters relating to maps, records or other record information.
- 5.1.1.5 A signed non-disclosure agreement must be on file before SBC will make available any and all records.

5.1.2 Access Process

An Attaching Party may request access to SBC Structure Records in one of three ways. Contact SBC Primary Point of Contact to:

5.1.2.1 Request to view SBC structure records

- 5.1.2.1.1 The attaching party must give at least forty-eight (48) hours advance notice
- 5.1.2.1.2 All record inspections may require supervision and are restricted to specific work areas
- 5.1.2.1.3 Inspections are restricted to Monday through Friday, 9am to 4pm
- 5.1.2.1.4 Due to security reasons, not all areas can accommodate this type of request

5.1.2.2 Request Copies of SBC Structure Records

- 5.1.2.2.1 The request must be in writing and signed by an authorized agent of the attaching party
- 5.1.2.2.2 Attaching Party will clearly identify the route including beginning and ending points
- 5.1.2.2.3 SBC can not accommodate requests where the proposed path is not clearly defined.

5.1.2.3 Request to have SBC perform a records check

SBC may perform the records check and inform the Attaching Party of the results at the Attaching Party's expense.

5.2 Structure Access Request

- 5.2.1 To officially request access to SBC Structure, an Attaching Party will submit a Structure Access Request to the SBC Primary Point of Contact. Appropriate forms (poles, conduit, or rights-of-way) are available from the SBC Primary Point of Contact.

- 5.2.2 To be a valid Structure Access request that qualifies for the priority queue as referred to in Section 4.1 and qualifies to start the clock for response time intervals, the request must have:
 - 5.2.2.1 sufficient, clear information to identify the specific Structure for which access is desired
 - 5.2.2.2 details that will specify what make ready survey activity is needed
 - 5.2.2.3 any required prepayment fees and/or billing authorizations
- 5.2.3 A sketch identifying the entire area involved must be submitted with the Structure Access request. The sketch must clearly identify:
 - 5.2.3.1 State, municipality and street names
 - 5.2.3.2 Primary and subsequent placement paths proposed by Attaching Party
 - 5.2.3.3 Identify the type of structure being requested (poles, conduit or right-of-way)
 - 5.2.3.4 Identify the type, size and quantities of equipment proposed
 - 5.2.3.5 Identify the locations of splices, cable loops, cable coils and ancillary equipment
 - 5.2.3.6 Identify manhole locations, manhole numbers, and/or pole tag identification (if pole tag number is not available the closest physical address will be required. i.e. Rear 1314 Elm Street)
 - 5.2.3.7 Attaching Party point of contact information
- 5.2.4 If Attaching Party contemplates the need to submit more than 10 structure requests within any 45-day period with respect to poles, ducts, conduits, and rights-of-way within the territory of any single SBC construction district, Attaching Party shall give SBC advance notice as promptly as is reasonably practicable, and the Parties will negotiate a mutually agreeable response time.
 - 5.2.4.1 No more than 300 poles shall be the subject of any single pole structure access request.
 - 5.2.4.2 No more than 20 manholes shall be the subject of any single conduit structure access request.
- 5.3 Make Ready Survey
 - 5.3.1 General

A Make Ready Survey detailing the work that will be necessary to accommodate an Attaching Party's facilities must be conducted before SBC can respond to the request for access. All parties currently attached to the SBC structure must be notified, where ordered by a commission and allowed to participate in the survey if desired. The make ready survey does not guarantee structure integrity or that there will be available capacity to accommodate Attaching Party's request. A make ready survey may be performed by SBC at the Attaching Party's expense or the Attaching Party may perform the make ready survey if permissible in the application area. Attaching Party will not be allowed to perform a make ready survey that is required to be performed by SBC pursuant to SBC's collective bargaining agreements, work rules, and/or policies, where applicable.
 - 5.3.2 Make Ready Survey Performed by SBC
 - 5.3.2.1 Attaching Party is encouraged to accompany SBC during the make ready survey in order to help clarify the results.
 - 5.3.2.2 If Attaching Party requests to accompany SBC during the make ready survey, SBC will notify Attaching Party within 48 hours of the survey.
 - 5.3.2.3 SBC will notify current Attaching Parties (if required) of surveys that result in make ready work required accommodating Attaching Party's request.
 - 5.3.2.4 If the results of the survey indicate that SBC needs to perform make ready work; Attaching Party must remit the advance payment, within 45 days after receipt in order to maintain their

position in the priority queue. Refer to Section 9 for additional information on advance payment.

5.3.2.5 If SBC and Attaching Party cannot mutually agree upon reasonable intervals, the Attaching Party may request to perform the make ready survey.

5.3.3 Make Ready Survey Performed by Attaching Party

5.3.3.1 Attaching party must notify SBC of its desire to perform the make ready survey.

5.3.3.2 Except as otherwise noted, Attaching Party or a mutually agreed upon contractor may perform the make ready survey.

5.3.3.3 The Attaching Party may request SBC to accompany Attaching Party during the make ready survey.

5.3.3.4 Attaching Party shall notify SBC within 48 hours prior to the start of the survey (regardless of SBC participation or not).

5.3.3.5 All standards and conditions specified in section 7 must be followed.

5.3.3.6 All municipal requirements e.g. traffic control, must be followed.

5.3.3.7 SBC may verify the results of the make ready survey and, if necessary, make changes and/or additions to the survey.

5.3.3.8 SBC will require Attaching Party to provide Pole Loading information as part of the Make-Ready Survey in order to ensure the time lines are met. Failure to do so may result in rendering the request incomplete thereby losing position in the queue. Attaching Party will not be required to furnish any data that will provide future benefit to other Attaching Parties, including SBC, without compensation.

5.3.3.9 If results of the survey indicate that SBC must perform make ready work; Attaching Party must return the advance payment for Make Ready work within 45 days after receipt in order to maintain their position in the priority queue.

5.4 Make Ready Work

5.4.1 Make Ready work includes, but is not limited to the following:

5.4.1.1 Duct and Conduit:

5.4.1.1.1 verifying the integrity of the SBC conduit/innerduct (rodding).

5.4.1.1.2 making innerduct assignments

5.4.1.1.3 tagging innerduct

5.4.1.1.4 core boring manhole walls

5.4.1.1.5 placing innerduct couplers

5.4.1.1.6 repairing or clearing broken or blocked conduit

5.4.1.1.7 placing innerduct

5.4.1.1.8 constructing additional conduit

5.4.1.1.9 rebuilding or replacing manholes

5.4.1.2 Poles:

5.4.1.2.1 raise or lower attachments

5.4.1.2.2 place brackets

5.4.1.2.3 place anchors and guys

5.4.1.2.4 replace poles

5.4.1.2.5 tagging cables

5.4.2 Completion of Make Ready work

5.4.2.1 If performed by SBC, make-ready work to accommodate Attaching Party's facilities shall be included in the normal work load schedule of SBC with construction responsibilities in the geographic areas where the relevant poles or conduit systems are located and shall not be entitled to priority, advancement, or preference over other work to be performed by SBC in the ordinary course of SBC's business.

5.4.2.2 No Make Ready work will be performed until receipt of advanced payment.

5.4.2.3 Make ready work required for the initial placing of an Attaching Party's facilities shall be performed by SBC, Attaching Party, or SBC approved contractor.

5.4.2.4 All standards and conditions specified in Section 7 will be followed.

5.4.2.5 The Attaching Party will not be allowed to perform any Make Ready work that is required to be performed by SBC employees pursuant to SBC collective bargaining agreements, work rules and policies.

5.4.2.6 SBC will not be responsible for make ready work delays caused by the Attaching Party, other owners, and/or occupants, or any other circumstance beyond the control of SBC.

5.4.3 Inspections of Attaching Party's Facilities

5.4.3.1 SBC has the right, but not the obligation, to make post-construction and periodic inspections (of any part or all) of Attaching Party's facilities attached to or in SBC structure. Periodic inspections of the entire plant of the Attaching Party will not be made more often than once every two- (2) years unless in SBC's judgement such inspections are required for reasons involving safety or because of an alleged violation of the terms of these guidelines. Where reasonably practicable to do so, SBC will provide prior written notice to Attaching Parties of periodic inspections.

5.4.3.2 The costs of inspections made during construction and/or the initial Post-Construction Survey shall be paid by the Attaching Party.

5.4.3.3 The costs of periodic inspections will be paid by those Attaching Parties with 2% or greater of their attachments in violation. The amount paid by the Attaching Party shall be the percentage that their violations bear to the total violations of all Attaching Parties found in the inspection.

5.5 Right-of-Way

5.5.1 Availability

SBC shall make available, to the extent it may lawfully do so, access to poles, ducts, conduits and rights-of-way along SBC's distribution network that are owned or controlled by SBC (individually and collectively, Structure) for the placement of Attaching Party's attachments.

5.5.2 Accessibility

The availability of SBC Structure for Attaching Party's attachments is subject to and dependent upon all rights, privileges, franchises or authorities granted by governmental entities with jurisdiction, existing and future agreements with other persons, all interests in property granted by persons or entities public or private, and applicable law, and all terms, conditions and limitations of any or all of the foregoing, by which SBC owns and controls structure or interests therein.

5.6 Occupancy Permit

5.6.1 After successful completion of all Make Ready work associated with a Structure Request (including Make Ready work by other Attaching Parties), the SBC Primary Point of Contact will issue an Occupancy Permit to the requesting Attaching Party.

5.6.2 The Occupancy Permit shall expire if:

- 5.6.2.1 the Attaching Party has not occupied the structure within twelve (12) months from the date the Occupancy Permit is granted. In SBC CALIFORNIA, the timeframe is nine (9) months.
- 5.6.2.2 the Attaching Party's franchise, consent or other authorization from federal, state, county or municipal entities or private property owners is terminated.
- 5.6.2.3 the Attaching Party fails to comply with any material term or condition of these guidelines and does not correct such noncompliance within sixty (60) days after receipt of notice thereof from SBC.
- 5.6.2.4 SBC ceases to have the right or authority to maintain its structure, or any part thereof, to which the Attaching Party has attachments.
- 5.6.3 If the Attaching Party surrenders its permit for any reason (including forfeiture under the terms of these guidelines), but fails to remove its Attachments from the Structure within sixty (60) days after the event requiring the surrender of such permit, SBC shall remove the Attaching Party's attachments at the Attaching Party's expense.
- 5.6.4 Structure rental rates will apply from the date the Occupancy Permit is issued and until written notice of termination of use.

6. STRUCTURE MODIFICATIONS WHICH ADD CAPACITY

Part of the Make Ready Work pursuant to a Structure Access Request may include modifications to SBC structure which add capacity.

6.1 Notification of Modifications

If a Structure Access Request results in SBC making modifications that add capacity to SBC Structure, SBC shall notify all parties currently attached to the structure within five (5) business days of completing the field survey. These parties will have sixty (60) days to indicate if they wish to participate in the modification.

6.2 Costs of Modifications to SBC Structure

All parties who participate in modifications adding capacity to SBC structure shall share in the cost of such modifications and will gain a proportional vested interest in the modification. All modifications to SBC's structure will be owned by SBC.

6.3 Future Use of Added Structure Capacity

6.3.1 If any Party submits a new Structure Access Request and is assigned to use the modified Structure capacity, SBC will notify all parties with a vested interest in the added capacity within sixty (60) days of the request. Each participating party will be responsible to collect their proportionate share of the modification value from the party seeking attachment to the modified structure. SBC is not and will not be responsible for collecting any modification costs except for SBC.

6.3.2 If there were no maintenance spare ducts prior to the modification work and the construction creates new duct that can become maintenance spares, such duct will be so designated for all future use.

7. CONSTRUCTION AND INSTALLATION

7.1 General

The following guidelines must be adhered to whenever an Attaching Party or its contractors are working in, on or near SBC Structure.

- 7.1.1 SBC may have a designated representative on the job whenever Attaching Party or its contractors are working in ducts, conduit or SBC manholes.
- 7.1.2 When Attaching Party is going to perform installation, make ready work, or routine maintenance work, SBC must be notified 5 business days in advance of Attaching Party's start date to provide a representative.

- 7.1.3 Attaching Party is responsible for all actions of Attaching Party workers or contractors
- 7.1.4 Attaching Party workers or contractors must be fully trained and it is the Attaching Party's responsibility to insure they follow all applicable safety rules and construction standards.
- 7.1.5 Attaching Party will be solely responsible at its own expense for the proper handling, storage, transport, treatment, disposal and use of all Hazardous Substances by Attaching Party and its contractors and agents. "Hazardous Substances" include those substances (i) included within the definition of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste or pollutant or contaminant under any Applicable Law and (ii) listed by any governmental agency as a hazardous substance.
- 7.1.6 When Attaching Party is allowed to perform Make Ready Survey or Make Ready work, Attaching Party may subcontract the work with contractors approved by SBC. Approval of such subcontractors by SBC shall be based on the same criteria it uses in approving contractors for its own purposes. If desired, attaching party may request approval of their contractor, or request SBC approved contractor.
- 7.1.7 The SBC representative shall have full authority, but not responsibility, to stop any work operations that do not conform to the applicable rules and standards
- 7.1.8 Attaching Party shall be responsible to obtain any and all work or construction permits necessary to perform Attaching Party's work.
- 7.2 Rebuild, Rehabilitation and Upgrades

All rebuilds, rehabilitation and upgrades of Attaching Parties existing facilities require an SBC issued Occupancy Permit (see section 5.6), in order to ensure that safety, reliability and engineering standards are met.
- 7.3 Overlashing

Attaching Parties are required to provide the SBC Primary Point of Contact written notice of their plans to overlash to their existing facilities on SBC structure. Notice shall include:

 - 7.3.1 Location of structure being overlash
 - 7.3.2 Identification of all necessary make ready work to accommodate overlash
 - 7.3.3 Warranty that the poles are within loading specifications and meet all specifications in section 7.3 after work is completed.
 - 7.3.4 Third Party Overlashing

All third party overlashing must follow the above overlashing guidelines. In addition, the Attaching Party whose attachment is overlashed is responsible for any make ready survey and make ready work charges applicable to the third party overlashing. In SWBT, SNET and SBC CALIFORNIA, an SBC Occupancy Permit must be obtained for the overlashing.
- 7.4 Safety

Any party working on or in SBC Structure must comply with the provisions of the Federal Occupational Safety and Health Act of 1970 (OSHA), as amended, and with any rules and regulations under such Acts, as well as any other applicable federal, state, county and local laws, regulations and codes. The SBC representative assigned to the job shall have authority, but not the responsibility, to enforce all safety rules.
- 7.5 Methods And Procedures

Attaching Party's attachments shall be placed and maintained in accordance with the requirements and specifications of the latest editions of the:

 - 7.5.1 National Electrical Code (NEC)
 - 7.5.2 National Electrical Safety Code (NESC),

- 7.5.3 Telcordia - Blue Book , Manual of Construction Procedures, (SR-14212) call Telcordia Customer Service - (800)521-2673 to order Blue Book
- 7.5.4 SBC-Pacific follows California Public Utility Commission General Orders 95 and 128.
- 7.5.5 State specific construction standards and procedures.
 - 7.5.5.1 Attaching Party shall, if requested by SBC to do so, place a pull mandrel (slug) through all or any specified part of the duct that was occupied by Attaching Party.
 - 7.5.5.2 Attaching Party shall be solely responsible for the removal of its own facilities from SBC's poles, ducts, conduits, and rights-of-way and for (1) paying all persons and entities which provide materials, labor, access to real or personal property, or other goods or services in connection with the removal of Attaching Party's facilities from SBC's poles, ducts, conduits, or rights-of-way and (2) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of SBC's poles, ducts, conduits, or rights-of-way.
 - 7.5.5.3 When Attaching Party no longer intends to occupy space on a SBC pole or in a SBC duct or conduit, Attaching Party will provide written notification to SBC 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 Attaching Party's facilities, the license shall terminate and the space shall be available for reassignment.

8. EMERGENCY ACCESS TO STRUCTURES

8.1 Discovery and Notification

- 8.1.1 SBC will grant emergency access to its structure based on non-discriminatory priority restoral of 911, police, fire, hospitals, disaster recovery and other communication services involved with public safety and emergency services. Secondary priority will be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified.
- 8.1.2 The first communication provider on site will assess the damage and, as best as possible without detailed investigation, determine if the damage is limited to their facilities or if other Carriers and services are involved.
- 8.1.3 Each Attaching Party involved in restoration will notify the SBC primary point of contact within 12 hours of accessing SBC structure for emergency restoral purposes. The notice will include quantity of emergency and non-emergency services involved and an estimated completion time.

8.2 Notice to Other Attaching Party

- 8.2.1 SBC will attempt to identify other Attaching Party from cable records or identifications tags on cables in manholes or on poles.
- 8.2.2 Restoration will begin, by priority, immediately after assessment of the damage has been made. Any Attaching Party not responding to individual trouble alerts or SBC contact attempts will be considered in the restoration plan after identifying themselves as participants. SBC assumes no responsibility for lack of or incorrect identification information of any Attaching Party.

8.3 Use Of Maintenance Spare Structure

- 8.3.1 Maintenance spare structure will be used to restore the highest priority first. Vacation of the maintenance spare structure will be executed as soon as possible to allow access by succeeding Attaching Party.
- 8.3.2 All Attaching Parties will conduct prioritization and vacation of maintenance spare facilities in an expeditious, safe and professional manner.

8.3.3 Attaching Party not vacating the maintenance spare structure must provide an immediate like-for-like replacement at their cost, which will immediately be owned and managed by SBC as a replacement maintenance spare structure.

8.3.4 Existing spare structure may be used for restoration purposes providing the structure is returned to an operational spare status after restoration work is complete. Any spare structure not returned will be included in the active leased inventory of the Attaching Party using the spare structure. Like-for-like replacement of a spare structure will be considered as a returned operational spare structure.

8.4 Costs for Restoral

Each Attaching Party will be responsible for their own costs incurred during restoral. Any dispute or concern of responsibility of cost will not interfere with service restoral.

9. FEES

9.1 Cost Recovery

9.1.1 Attaching Party shall reimburse SBC for all costs incurred by SBC associated with an Attaching Party's information request, Make Ready Survey, Make Ready work, and inspection work whether or not access is granted. Charges may be on an actual cost basis or unit costs.

9.1.2 Upon completion of the Make Ready Survey, SBC will send the Attaching Party an advance payment cost estimate consisting of the calculated fixed charge or the estimated amount to be adjusted upon completion of work.

9.1.3 An advance payment cost estimate will be sent to the Attaching Party and payment is required before SBC will issue an occupancy permit. The advance payment cost estimate will be based on the Attaching Party's application for access. Attaching Party will be required to pay the advance payment cost estimate within 45 days after receipt to maintain their position in the priority queue. If SBC determines that the initial advance payment cost estimate will not cover the costs, an adjusted cost estimate will be sent to the Attaching Party. Attaching Party shall pay the adjusted advance payment cost estimate within 45 days after receipt to maintain its position in the priority queue. If, after the work is completed, it is determined that the advance payment cost estimate or the adjusted advance payment cost estimate were too high, the balance will be trued-up to the Attaching Party, where applicable and a refund issued.

9.1.4 Attaching Party may also be required to pay other owners and/or Attaching Parties for work to be completed by them to accommodate a structure access request.

9.2 Attachment Rental Fees

In addition to the above associated costs, the Attaching Party will be required to pay all applicable attachment rental fees. Attaching Parties will be billed in advance on a semi-annual basis, typically in January and July of each year. The attachment rates are for a period of one year from January 1 through December 31. Attaching Parties will be given written notice prior to any rate changes.

10. RELOCATION OF ATTACHING PARTIES' FACILITIES

10.1 If SBC is required by a governmental entity, court or Commission to move, replace or change the location, alignment or grade of its conduits or poles, each Party shall bear its own expenses of relocating its own equipment and facilities.

10.2 SBC may also request Attaching Parties to move their facilities at other times in order to make room for additional facilities on the structure. In these cases the expenses for transfer of facilities will be borne by the party for whom the request is made.

10.3 Attaching Parties will transfer all facilities within 30 days of notification from SBC that the structure is ready for the transfer. In all cases, if the Attaching Party fails to make the transfer within 30 days, SBC may make the transfer at the owner's expense.

11. UNAUTHORIZED ATTACHMENTS

- 11.1 If unauthorized attachments on or in SBC Structure, which includes poles conduits and ducts, are discovered, SBC will provide written notice to the owner of the unauthorized attachment. The owner must, within 30 days of receiving such notice:
 - 11.1.1 Immediately prepare and submit a Structure Access Request for the attachments
 - 11.1.2 pay a penalty in the amount of five (5) times the annual attachment and occupancy fees after the expiration of the initial thirty (30) day notice.
 - 11.1.3 correct any violations of placement standards or pay the cost for such corrections
 - 11.1.4 pay for SBC expenses to administer and record the attachments
- 11.2 If the owner of the unauthorized attachments fails to pay the attachment fee, fails to submit the necessary Structure Access Request, or fails to make the necessary standards corrections within the designated time intervals,
- 11.3 SBC shall have the right to remove such unauthorized attachments from SBC's Structure at the owner's expense.
- 11.4 SBC-CALIFORNIA
 - SBC CALIFORNIA will charge, automatically, a penalty of \$500.00 per violation. For purposes of applying the \$500.00 penalty, each unauthorized pole attachment shall constitute a separate violation.

12. CHANGES TO GUIDELINES

- 12.1 SBC reserves the right to change and update these Guidelines for Access to SBC Structure.
- 12.2 The SBC Primary Point of Contact shall provide notice of any change in the Guidelines to all Attaching Parties and the Public Utilities Commission of Ohio. No change shall be effective until the date specified in the notice of change, which shall be at least sixty (60) days from the date of the notice.

13. NOTICES

- 13.1 Any notice to be given to either Party under this Agreement shall be sent by
 - 13.1.1 certified mail, return receipt requested
 - 13.1.2 overnight mail
 - 13.1.3 facsimile with a confirmation, followed by an original sent by regular US mail or overnight mail
 - 13.1.4 or other methods mutually agreed upon
- 13.2 Notices to SBC shall be sent to the appropriate SBC Primary Point of Contact. The Primary Points of Contact are listed in Appendix 1 to these guidelines.
- 13.3 Any change of address, either by SBC or the Attaching Party, shall be handled in the above-prescribed manner.

APPENDIX 1 - PRIMARY POINTS OF CONTACT

- **Arkansas (Includes Missouri Area Code 417)**
Structure Access Manager
1111 W Capitol Ave.
Room 525
Little Rock, Ark 72201
(501) 373-6301
- **California**
Los Angeles & Ventura Counties
Structure Access Manager
1409 Van Owen Street, Room 105A
Van Nuys, CA 91405
(818) 373-5947
(818) 373-8537

Orange, San Diego, Imperial, Riverside and Bernardino Counties
Structure Access Manager
4220 Arizona Street, Room 100
San Diego, CA 92104
(619) 574-4252
(619) 574-4253

Northern & Central California (except North and South Bay)
Structure Access Manager
3675 T Street, Room 170
Sacramento, CA
(916) 453-7043

South Bay (South San Francisco to San Jose to Fremont)
Structure Access Manager
3475 B North 1st Street, Room 250
San Jose, CA 95134
(408) 493-7066
(408) 493-7119

North Bay (San Francisco, Hayward North to Livermore)
Structure Access Manager
3401 Crow Canyon Road, Suite 2000
San Ramon, CA 94583
(925) 823-1212
- **Connecticut**
Structure Access Manager
1441 North Colony Road
Meriden, CT 06450
(203) 238-5620
- **Illinois, Indiana, Michigan, Ohio, Wisconsin**
Structure Access Manager
23500 Northwestern Highway, Room E230
Southfield, Michigan 48075
(888)395-ASAC (2722)

- **Kansas (Includes Missouri Area Code 816)**
Structure Access Manager
500 E 8th St.
Room 690
Kansas City, Mo. 64106
(816) 275-1640
- **Missouri (Includes Area Code 314, 557, 573, 636, 660)**
Structure Access Manager
12930 Olive Blvd
2nd Floor
Creve Coeur, Mo. 63141
(314) 275-0083
- **Nevada**
Structure Access Manager
645 E. Plumb Ln
Reno, Nevada 89502
(775) 333-3850
- **Oklahoma**
Structure Access Manager
5305 E 71st St
Floor 1
Tulsa, OK 74136
(918) 596-6873
- **Texas**
Structure Access Manager
11930 Airline, Room 105
Houston, TX 77037
(281) 878-5500

**AMENDMENT
TO THE INTERCONNECTION AGREEMENT
BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
NEXTEL OF CALIFORNIA, INC.**

WHEREAS, Pacific Bell Telephone Company¹ d/b/a SBC California ("SBC California"), and Nextel of California, Inc. ("Carrier") entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing;

WHEREAS, on September 23, 2004, the California Public Utilities Commission ("CPUC") issued D.04-09-063 ("Decision") adopting certain final monthly recurring rates for network elements;

WHEREAS, the only rates in the Agreement impacted by the Decision are the rates set forth in Attachment 1 to this Amendment;

WHEREAS, the CPUC Rates adopted in the Decision are effective as of September 23, 2004 ("Rate Effective Date");

WHEREAS, the Decision orders SBC California to file amendments to all interconnection agreements between itself and other carriers to replace the existing rates in the Agreement with the final CPUC Rates set forth on Attachment 1 to this Amendment;

WHEREAS, the Decision orders SBC California to make all billing adjustments necessary to reflect the CPUC Rates as set forth on Attachment 1 to this Amendment on SBC California's bills within sixty (60) days of the Rate Effective Date;

WHEREAS, pursuant to its prior decisions in D.02-05-042 and D.02-09-052, the CPUC established certain interim monthly recurring rates;

WHEREAS, pursuant to D.03-07-23, the CPUC modified certain UNE rates, including the interim monthly recurring rates effective as of September 19, 2002;

WHEREAS, the Decision orders SBC California to adjust any interim monthly recurring rates Carrier was billed and paid to SBC California under its Agreement as a result of the CPUC's prior decisions in D.02-05-042, D.02-09-052 and D.03-07-23 ("Prior Decisions") to reflect the final CPUC Rates and calculate any billing adjustments within ninety (90) days of the Rate Effective Date; and

WHEREAS, pursuant to Resolution ALJ-181, Rule 6.3, this filing will become effective thirty (30) days after the filing date of the advice letter to which this Amendment is appended ("Amendment Effective Date"), absent rejection of the advice letter by the CPUC.²

NOW, THEREFORE, the Parties agree as follows:

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

² Notwithstanding anything to the contrary in the Agreement (including without limitation this Amendment and any other Amendments to the Agreement (collectively the "Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting Carrier") the rates contained in this Agreement shall only apply prospectively as to the Adopting Carrier beginning from the date the adopted provisions become effective between SBC California and the Adopting Carrier following the date the CPUC approves or is deemed to have approved the Adopting Carrier's Section 252(i) adoption as between SBC California and the Adopting Carrier ("Section 252(i) Effective Date"). The Adopting Carrier shall not be entitled to any retroactive application and/or true-up of rates under this Agreement as to any time period prior to the Section 252(i) Effective Date.

- I. The recurring CPUC Rates in Attachment 1 hereby replace and supersede the corresponding monthly recurring rates in the underlying Agreement, subject to the other terms and conditions set forth herein. These CPUC Rates are effective on the Rate Effective Date.
- II. All rates in the Agreement that not changed by Attachment 1 remain unchanged. The Parties understand and agree that the CPUC Rates are being incorporated into the Agreement solely to effectuate the rate changes ordered in the Decision.
- III. In accordance with Ordering Paragraph 3 of the Decision, SBC California shall make all billing adjustments within sixty (60) days from the Rate Effective Date necessary to ensure the Rate Effective Date is reflected on Carrier's bills on a prospective basis as to any corresponding rates Carrier was billed and paid to SBC California under the Agreement. By implementing the billing adjustments neither Party waives, but instead expressly reserves, in addition to rights reserved in Paragraphs VI and VII, below, all of its rights, remedies, and arguments with respect to the FCC's *Order and Notice of Proposed Rulemaking, In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-179 (rel. Aug. 20, 2004).
- IV. In accordance with Ordering Paragraph 4 of the Decision, within ninety (90) days of the Rate Effective Date, SBC California will calculate the appropriate billing adjustments owed to or by Carrier, if any, from the Rate Effective Date back to the dates of the Prior Decisions to replace any interim rates Carrier was billed and paid to SBC California under its Agreement.
- V. The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachment 1 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide Carrier with the necessary terms and conditions to enable Carrier to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, Carrier must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time Carrier seeks such amendment.
- VI. This Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to the Decision or any issue or subject addressed or implicated therein, or from raising and pursuing its rights and abilities with respect to the Decision or any issue or subject addressed or implicated therein, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing.
- VII. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the 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, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003); and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

- VIII. The Parties acknowledge and agree that each CPUC Rate set forth on Attachment 1 to this Amendment is legitimately related to the associated individual interconnection, network element and service arrangements contained in the Agreement.
- IX. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED.
- X. This Amendment shall be filed with and shall be subject to approval by the Commission and shall become effective the later of: (i) the date the Agreement became effective between Carrier and SBC California; or (ii) the Amendment Effective Date; provided, however, as to Carrier and SBC California, the rates contained herein shall be applied in accordance with Paragraphs I-V above, subject to Footnote 2, where applicable.

Attachment 1:**California CMRS Interconnection**

Transiting		
	Setup	\$0.001562
	Duration	\$0.000461

- /1/ The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachment 1 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide Carrier with the necessary terms and conditions to enable Carrier to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, Carrier must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time Carrier seeks such amendment.

**AMENDMENT
TO THE INTERCONNECTION AGREEMENT
BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
NEXTLINK OF CALIFORNIA, INC.**

WHEREAS, Pacific Bell Telephone Company¹ d/b/a SBC California ("SBC California"), and Nextlink of California, Inc. ("CARRIER") entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing;

WHEREAS, on September 19, 2002, the California Public Utilities Commission ("Commission") issued D. 02-09-049 adopting rate changes for certain Network Elements by increasing the shared and common cost markup percentage from 19% to 21% of the monthly recurring and the non-recurring Network Element costs and removing 13% from the expense portion of the monthly recurring Network Element costs;

WHEREAS, on July 10, 2003 the Commission issued D. 03-07-023 implementing the recurring and nonrecurring Network Element rate changes adopted in D. 02-09-049 for certain Network Elements and which, pursuant to the Decision, were deemed to have become effective on September 19, 2002;

WHEREAS, on September 23, 2004, the Commission issued D. 04-09-063 adopting final monthly recurring for certain Network Elements rates;

WHEREAS, the retroactive application of the rate changes was stayed pending resolution of the actual adjustment amount;

WHEREAS, on March 17, 2005, the Commission issued D. 05-03-026 ("Decision") reducing on a prospective basis, the shared and common cost markup percentage from 21% to 19% of the monthly recurring and non-recurring cost resulting in new recurring and non-recurring rates for Network Elements ("CPUC Rates");

WHEREAS, the CPUC Rates adopted in the Decision are effective as of March 17, 2005;

WHEREAS, within ninety (90) days of the March 17, 2005, SBC California will make all billing system adjustments necessary to reflect the CPUC Rates set forth on Attachment 1 to this Amendment;

WHEREAS, the only effect of the Decision on the underlying Agreement is the recalculation of reciprocal compensation rates due to the change of the reciprocal compensation switching element rates used in calculating the reciprocal compensation rate in the underlying Agreement; and

WHEREAS, pursuant to Resolution ALJ-181, Rule 6.3, this filing will become effective thirty (30) days after the filing date of the advice letter to which this Amendment is appended ("Amendment Effective Date"), absent rejection of the advice letter by the CPUC.²

NOW, THEREFORE, the Parties agree as follows:

The recurring and non-recurring CPUC Rates set forth on Attachment 1, which are incorporated into this Amendment by this reference hereby replace and supersede the corresponding monthly recurring and non-recurring rates in the underlying Agreement, subject to the other terms and conditions set forth herein. These CPUC Rates are effective on March 17, 2005; ("Rate Effective Date").

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

²Notwithstanding anything to the contrary in the Agreement (including without limitation this Amendment and any other Amendments to the Agreement (collectively the "Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting Carrier") the rates contained in this Agreement shall only apply prospectively as to the Adopting Carrier beginning from the date the adopted provisions become effective between SBC California and the Adopting Carrier, which shall not be earlier than the date the CPUC approves or is deemed to have approved the Adopting Carrier's Section 252(i) adoption as between SBC California and the Adopting Carrier ("Section 252(i) Effective Date"). The Adopting Carrier shall not be entitled to any retroactive application and/or true-up of rates under this Agreement as to any time period prior to the Section 252(i) Effective Date.

All rates in the Agreement not changed by Attachment 1 remain unchanged. The Parties understand and agree that the rates in Attachment 1 are being incorporated into the Agreement solely to effectuate the rate changes ordered in the Decision.

- I. Within ninety (90) days of the March 17, 2005, SBC California will make all billing system adjustments for those CPUC Rates in Attachment 1 necessary to ensure the Rate Effective Dates are reflected on Carrier's bills on a prospective basis as to any corresponding rates Carrier was billed and paid to SBC California under the Agreement. By implementing the billing adjustments neither Party waives, but instead expressly reserves, in addition to rights reserved in Paragraphs IV and V, below, all of its rights, remedies, and arguments with respect to the FCC's Order on Remand (FCC 04-290), *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-179 ("TRO Remand Order") (rel. Feb. 4, 2005).
- III. To the extent the parties have agreed to any rate(s) in their underlying Agreement that differ(s) from the rates in D. 03-07-023 and D. 04-09-063, the rate(s)) set forth in the Agreement shall continue to apply without change.
- IV. The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachment 1 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide Carrier with the necessary terms and conditions to enable Carrier to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, Carrier must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time Carrier seeks such amendment.
- V. This Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to the Decision or any issue or subject addressed or implicated therein, or from raising and pursuing its rights and abilities with respect to the Decision or any issue or subject addressed or implicated therein, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing.
- VI. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the 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, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
- VII. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED.

VIII. This Amendment shall be filed with and shall be subject to approval by the Commission and shall become effective the later of: (i) the date the Agreement became effective between Carrier and SBC California; or (ii) the Amendment Effective Date.

Attachment A

California CMRS Interconnection

Transiting		
	Setup	\$0.001536
	Duration	\$0.000453

- /1/ The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachment 1 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide Carrier with the necessary terms and conditions to enable Carrier to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, Carrier must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time Carrier seeks such amendment.

**AMENDMENT
TO THE INTERCONNECTION AGREEMENT
BETWEEN
PACIFIC BELL TELEPHONE COMPANY d/b/a SBC CALIFORNIA
AND
CARRIER**

WHEREAS, Pacific Bell Telephone Company¹ d/b/a SBC California ("SBC California") and **CARRIER** ("CARRIER") entered into an Agreement relating to local interconnection ("Agreement") and which permits the Parties to mutually amend the Agreement in writing;

WHEREAS, on September 23, 2004, the California Public Utilities Commission ("Commission") issued D. 04-09-063 adopting final monthly recurring for certain Network Elements rates, including the tandem switching rates;

WHEREAS, D. 04-09-063 contained an error in the Tandem Switching Set Up Per Completed Message rate in Appendices A, B and C of that decision;

WHEREAS, on March 17, 2005, the Commission issued D. 05-03-026 ("Decision") modifying the monthly recurring and non-recurring cost resulting in new recurring and non-recurring rates for Network Elements, including the Tandem Switching Set Up Per Completed Message rate;

WHEREAS, on May 26, 2005, the Commission issued D. 05-05-031 correcting the unbundled Tandem Switching Set Up Per Completed Message rate;

WHEREAS, the Parties filed an amendment conforming the Agreement to D. 05-03-026 and which amendment ("Amendment D. 05-03-026") included the Tandem Switching Set Up Per Completed Message Rates;

WHEREAS, the Tandem Switching Set Up Per Completed Message rates are effective as of May 26, 2005;

WHEREAS, the Parties are filing this amendment ("Amendment") to correct the unbundled Tandem Switching Set Up Per Completed Message rate, set forth in the Amendment D. 05-03-026;

WHEREAS, within ninety (90) days of the May 26, 2005, SBC California will make any billing system changes necessary to reflect the corrected Tandem Switching Set Up Per Completed Message in Attachment A to this Amendment; and

WHEREAS, pursuant to Resolution ALJ-181, Rule 6.3, this filing will become effective thirty (30) days after the filing date of the advice letter to which this Amendment is appended ("Amendment Effective Date"), absent rejection of the advice letter by the CPUC.²

NOW, THEREFORE, the Parties agree as follows:

- I. The Tandem Switching Setup Per Message Rate set forth on Attachment A which is incorporated into this Amendment by this reference hereby replace and supersede the corresponding rates in the underlying Agreement, subject to the other terms and conditions set forth herein.
- II. All rates in the Agreement not changed by Attachment A remain unchanged.

¹ Pacific Bell Telephone Company, a California corporation, f/k/a SBC Pacific Bell Telephone Company, is now doing business in California as SBC California.

²Notwithstanding anything to the contrary in the Agreement (including without limitation this Amendment and any other Amendments to the Agreement (collectively the "Agreement")), in the event that any other telecommunications carrier should adopt provisions in the Agreement pursuant to Section 252(i) of the Act ("Adopting CARRIER") the rates contained in this Agreement shall only apply prospectively as to the Adopting CARRIER beginning from the date the adopted provisions become effective between SBC California and the Adopting CARRIER, which shall not be earlier than the date the CPUC approves or is deemed to have approved the Adopting CARRIER's Section 252(i) adoption as between SBC California and the Adopting CARRIER ("Section 252(i) Effective Date"). The Adopting CARRIER shall not be entitled to any retroactive application and/or true-up of rates under this Agreement as to any time period prior to the Section 252(i) Effective Date.

- III. Within ninety (90) days of May 26, 2005, SBC California will make all billing system changes necessary to ensure the Rate Effective Dates are reflected on CARRIER's bills on a prospective basis as to any corresponding rates CARRIER was billed and paid to SBC California under the Agreement.
- IV. The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachments 1 and 2 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide CARRIER with the necessary terms and conditions to enable CARRIER to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, CARRIER must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time CARRIER seeks such amendment.
- V. This Amendment does not in any way prohibit, limit, or otherwise affect either Party from taking any position with respect to the Decision or any issue or subject addressed or implicated therein, or from raising and pursuing its rights and abilities with respect to the Decision or any issue or subject addressed or implicated therein, or any legislative, regulatory, administrative or judicial action with respect to any of the foregoing.
- VI. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the 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, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
- VII. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED.
- VIII. This Amendment shall be filed with and shall be subject to approval by the Commission and shall become effective the later of: (i) the date the Agreement became effective between CARRIER and SBC California or (ii) the Amendment Effective Date.

Attachment A
California CMRS Interconnection

Transiting		
	Setup	\$0.000629
	Duration	\$0.000453

- /1/ The rates in this Amendment only apply to the extent such network element(s), product(s) and/or service(s) are required by the terms of this Agreement. To the extent the underlying Agreement does not contain terms and conditions associated with the network element(s), product(s) and/or service(s) listed on Attachment 1 to this Amendment, this Amendment, which concerns only rates, creates no right to order such network element(s), product(s) and/or service(s), as it does not provide Carrier with the necessary terms and conditions to enable Carrier to obtain and/or order such network element(s), product(s) and/or service(s). Specifically, without limitation, if this Agreement or any Amendments provide that a network element(s), product(s) or service(s) is no longer required or is subject to being no longer required, the rates in this Amendment shall not apply, nor shall the inclusion of the rates in this Amendment create a right to the network element(s), product(s) or service(s) inconsistent with the Agreement, including any Amendments. Rather, Carrier must negotiate a separate amendment incorporating the appropriate terms and conditions into the underlying Agreement before ordering and/or obtaining any such network element(s), product(s) and/or service(s) that SBC California is required to offer under Section 251(c)(3) of the Federal Telecommunications Act, as set forth in applicable FCC rules in effect at the time Carrier seeks such amendment.

AT&T Wholesale Amendment

**AMENDMENT TO THE CMRS INTERCONNECTION AGREEMENT
BETWEEN
ROYAL STREET COMMUNICATIONS, LLC
AND
PACIFIC BELL TELEPHONE COMPANY d/b/a AT&T CALIFORNIA**

This Amendment (the "Amendment") amends the CMRS Interconnection Agreement by and between Pacific Bell Telephone Company, d/b/a AT&T California¹ ("AT&T California"), and Royal Street Communications, LLC ("Royal Street") in the State of California.

WHEREAS, AT&T California and ("Royal Street") are parties to a Two-Way CMRS Interconnection Agreement, under Sections 251 and 252 of the Telecommunications Act of 1996, for Commercial Mobile Radio Service ("CMRS"), effective December 19, 2009, and as subsequently amended (the "Agreement"); and

WHEREAS, pursuant to the Certificate of Amendment filed by Royal Street Communications, LLC with the Secretary of State of Delaware, Royal Street changed its name to MetroPCS Networks, LLC. MetroPCS Networks, LLC owns and controls one hundred percent (100%) of MetroPCS Networks California, LLC. MetroPCS Networks California, LLC is the registered FCC wireless license holder;

WHEREAS, AT&T California and MetroPCS Networks California, LLC are referred to individually herein as a "Party," and collectively, as the "Parties;"

WHEREAS, the Parties desire to amend the Agreement to replace Royal Street Communications, LLC as a party to the Agreement with MetroPCS Networks California, LLC, the registered FCC wireless license holder; and,

WHEREAS, the Parties desire to delete the Notice information for Carrier in the Agreement and replace it with contact information for MetroPCS Networks California, LLC as set forth herein;

WHEREAS, the Parties desire to amend the Agreement to establish a Usage Reduction Factor for usage billing purposes;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree to amend the Agreement as follows:

1. The Agreement is hereby amended to reflect the name change from Royal Street Communications, LLC to MetroPCS Networks California, LLC ("Carrier").
2. AT&T California shall reflect the name change from Royal Street Communications, LLC to MetroPCS Networks California, LLC only for the main billing account (header card) for each of the accounts previously billed to Royal Street Communications, LLC. AT&T California shall not be obligated, whether under this Amendment or otherwise, to make any other changes to AT&T California's records with respect to those accounts, including to the services and items provided and/or billed there under or under the Agreement. Without limiting the foregoing, MetroPCS Networks California, LLC affirms, represents and warrants that the OCN for those accounts shall not change from that previously used by Royal Street Communications, LLC with AT&T California for those accounts and the services and items provided and/or billed there under or under the Agreement.

¹ Pacific Bell Telephone Company, a California corporation, is now doing business in California as "AT&T California."

3. Once this Amendment is effective, MetroPCS Networks California, LLC shall operate in AT&T California under the MetroPCS Networks California, LLC name for those accounts. Such operation shall include, by way of example only, submitting orders under MetroPCS Networks California, LLC, and labeling (including re-labeling) equipment and facilities with MetroPCS Networks California, LLC.
4. MetroPCS Networks California, LLC is responsible for the applicable service order processing/administration charges and/or nonrecurring charges for each service order it submits, and for service orders submitted on its behalf by AT&T California, to update billing accounts and End User records.
5. The Notice contact information for Carrier in Section 22 of the Agreement is deleted and hereby replaced with the following contact information for MetroPCS Networks California, LLC:

ATTN: Carrier Relations
MetroPCS Networks California, LLC
2250 Lakeside Blvd.
Richardson, TX 75082
Fax: (469) 330-4735

6. Section 3.2.4.1 e.), "Billing And Recording", shall be added as a new section to the Agreement:

Section 3.2.4.1 e.) Notwithstanding anything to the contrary in Sections 3.2.4.1 a. through d.), and due to certain usage recording limitations, the Parties may mutually agree to a Usage Reduction Factor that will reflect the monthly amount of AT&T California-originated/Carrier-terminated Local CMRS Calls Minutes of Use (MOUs) to be deducted from the Carrier measured AT&T California -originated/Carrier-terminated Local CMRS Calls Minutes of Use (MOUs) prior to being billed to AT&T California by Carrier.

The Usage Reduction Factor will be utilized as follows: Carrier measured state-wide AT&T California-originated/Carrier-terminated Local CMRS Calls Minutes of Use (MOUs) multiplied by (1 minus the Usage Reduction Factor) equals the Local CMRS Calls MOUs to be billed by Carrier to AT&T California and paid by AT&T California on a monthly basis. This MOU reduction process shall be clearly reflected on the Carrier bill summary page each month. By written request, either Party may request a renegotiation of the Usage Reduction Factor. Once a revised Usage Reduction Factor is mutually agreed upon by the Parties, the new Usage Reduction Factor will be applied beginning on the first day of the first month/year following the month/year the written request was dated. If agreement on a new Usage Reduction Factor cannot be reached by the Parties within two (2) months of the written request, the process identified in Sections 3.2.4.1 a. through d.) shall apply effective with the date of the written request.

7. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
8. 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.
9. This Amendment shall not modify or extend the Term of the underlying Agreement, but, rather, shall be coterminous with such Agreement.

10. This Amendment shall be filed with, and is subject to approval by the California Public Utilities Commission and shall become effective ten (10) days after approval by the Commission.

MetroPCS Networks California, LLC

**Pacific Bell Telephone Company, d/b/a AT&T California, by
 AT&T Services, Inc., its authorized agent**

Signature: Christine Kornezay

Signature: Patrick Doherty

Name: CHRISTINE KORNEZAY
 (Print or Type)

Name: Patrick Doherty
 (Print or Type)

Title: SVP, CONTROLLER
 (Print or Type)

Title: Director - Regulatory
 (Print or Type)

Date: 6-14-2011

Date: JUN 16 2011

<u>State</u>	<u>OCN</u>	<u>ACNA</u>
CALIFORNIA	899D	RYU

AT&T Wholesale Amendment

**AMENDMENT TO THE AGREEMENT
BETWEEN
METROPCS NETWORKS CALIFORNIA, LLC
AND
PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA**

This Amendment (the "Amendment") amends the Interconnection Agreement by and between Pacific Bell Telephone Company d/b/a AT&T California, hereinafter referred to as "AT&T", previously referred to as "Pacific Bell", "Pacific", "SBC California", "Telco", "ILEC" and MetroPCS Networks California, LLC ("Carrier"), previously referred to as "Royal Street Communications, LLC", "Royal Street", "WSP", "Commercial Mobile Radio Service" provider, "CMRS provider". AT&T and Carrier are hereinafter referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, AT&T and Carrier are parties to a Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1996 for Commercial Mobile Radio Service (CMRS), approved July 19, 2006 and as subsequently amended (the "Agreement"); and

WHEREAS, pursuant to the Report and Order and Further Notice of Proposed Rulemaking issued by the Federal Communications Commission ("FCC") on November 18, 2011 (FCC 11-161), and as amended by the FCC on December 23, 2011 (FCC 11-189), the Parties desire to amend the Agreement to establish bill-and-keep as the compensation arrangement for IntraMTA Traffic exchanged between the Parties.

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

1. The Parties agree to replace Section 31.1 of the General Terms and Conditions, "Changes in Law", with the following language:

31. Changes in Law

31.1 This Agreement is the result of negotiations between the Parties and may incorporate certain provisions that resulted from arbitration by the appropriate state Commission(s). In entering into this Agreement and any Amendments to such Agreement and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s) which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and/or otherwise affects the rights or obligations of either Party that are addressed by this Agreement, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party in accordance with Section 22 above. With respect to any written notices hereunder, the Parties shall have sixty (60) days from the written notice to attempt to reach agreement on appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications within sixty (60) days from the written notice, any disputes between the Parties concerning such actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement.



2. The Parties agree to include the following definition of IntraMTA Traffic:

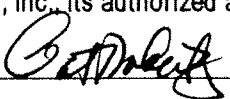
“IntraMTA Traffic” means traffic which, at the beginning of the call, originates and terminates within the same MTA and is exchanged between the End User, end user, Customer or customer of AT&T and the Carrier’s End User, end user, Customer or customer. All references to Local Traffic, local traffic, Local CMRS, Local CMRS Call, Local CMRS call, and/or Section 251(b)(5) Traffic in the Agreement are hereby replaced by the term “IntraMTA Traffic”.

3. Effective July 1, 2012, the Parties shall implement bill-and-keep for IntraMTA Traffic exchanged between the Parties over Type 2A, Type 2B or Type 1 interconnection trunks and facilities. Specifically, neither Party shall compensate the other Party for IntraMTA Traffic exchanged between the Parties.
4. In accordance with the schedule in FCC Order 11-161, effective July 1, 2012, for terminating intrastate or interstate InterMTA Traffic, i.e. non-IntraMTA Traffic, Carrier shall pay a blended rate that consists of the average of AT&T’s intrastate and interstate rates for the switched network access service rate elements, on a per minute of use basis, which are set forth in each, AT&T ’s Intrastate Access Services Tariff, and Interstate Access Services Tariff, as those tariffs may be amended from time to time. This provision does not apply to transit traffic.
5. The Parties agree to replace the rate for Section 251(b)(5) Traffic per minute of use for Type 2A, Type 1 and Type 2B in Pricing Schedule for CMRS Interconnection Service Elements, Trunk Terminations of the Agreement with the rates contained in Exhibit A attached hereto. IntraMTA Traffic will continue to be referenced as Section 251(b)(5) Calls Transport and Termination in Exhibit A. In all other respects the Pricing Schedule for CMRS Interconnection Service Elements, Trunk Terminations shall remain the same.
6. The Parties agree that the terms and conditions of this Agreement shall apply only to CMRS traffic that, at the beginning of the call, originates from or terminates to a wireless handset via the Carrier.
7. There shall be no retroactive application of any provision of this Amendment prior to the Effective Date of an adopting Carrier’s 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. 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.
10. This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement, but rather, shall be coterminous with such Agreement.
11. Pursuant to Resolution ALJ 181, this filing will become effective, absent rejection of the Advice Letter by the Commission, upon thirty days after the filing date of the Advice Letter to which this Amendment is appended (“Amendment Effective Date”).

MetroPCS Networks California, LLC

Pacific Bell Telephone Company d/b/a AT&T California by
AT&T Services, Inc., its authorized agent.

Signature: 

Signature: 

Name: Chris King
(Print or Type)

Name: Patrick Doherty
(Print or Type)

Title: Manager, Carrier Relations
(Print or Type)

Title: Director - Regulatory
(Print or Type)

Date: 1-21-2013

Date: 1-28-13

PRICING SHEET

EXHIBIT A
 MetroPCS Networks California /AT&T
 Appendix Pricing

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non- Recurring Charge (NRC) First	Non- Recurring Charge (NRC) Additional	Per Unit
W2	CA	Local Interconnection (Call Transport and Termination)	Section 251(b)(5) Calls Transport and Termination - Type 2A				\$0.00			MOU
W2	CA	Local Interconnection (Call Transport and Termination)	Section 251(b)(5) Calls Transport and Termination - Type 2E				\$0.00			MOU
W2	CA	Local Interconnection (Call Transport and Termination)	Section 251(b)(5) Calls Transport and Termination - Type 1				\$0.00			MOU