

# **INTERCONNECTION AGREEMENT**

**by and between**

**WES-TEX TELECOMMUNICATIONS, INC.**

**and**

**SOUTHWESTERN BELL TELEPHONE COMPANY**

**TEXAS**

**October 8, 1999**

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## INTERCONNECTION AGREEMENT

This Interconnection Agreement (this "Agreement") is made between Southwestern Bell Telephone Company, a Missouri corporation ("SWBT") and Wes-Tex Telecommunications, Inc., a Delaware corporation, and its affiliates ("Wes-Tex") (collectively, the "Parties"). This Agreement shall be effective as of the date specified in Section 17.2 (the "Effective Date").

### RECITALS

Whereas, SWBT is a duly authorized common carrier engaged in providing telecommunications exchange and exchange access services in the State of Texas and Wes-Tex is a duly authorized common carrier engaged in providing commercial mobile radio services in the State of Texas;

Whereas, the Parties have agreed to connect their facilities and interchange traffic pursuant to the Telecommunications Act of 1996, the Texas Public Utility Regulatory Act of 1995 ("PURA'95") and other applicable state laws, as telecommunications carriers for the purpose of offering wireless to wireline or wireline to wireless communications service to their respective end users within each MTA in which they operate as provided herein;

NOW THEREFORE, in consideration of these premises and the mutual covenants and agreements hereinafter contained, SWBT and Wes-Tex hereby covenant and agree as follows:

#### 1. DEFINITIONS

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

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

"Affiliate" means, with respect to a Party, any corporation, partnership, limited liability company or other business entity (1) that owns an equity interest (whether or not controlling), directly or indirectly, in that party or (2) in which the Party owns, directly or indirectly, an equity

interest (whether or not controlling). For purposes of this Agreement, the Parties agree that neither CMT Partners nor Houston Cellular Telephone Company nor Galveston Cellular Telephone Company shall be deemed affiliates of Wes-Tex.

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

“Call Recording” means the process of retaining detailed information about a call, such as date and time placed, originating and terminating NPA/NXX, and call duration. It does not mean recording or listening to the content of calls.

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

“Collocation” means an arrangement whereby one party’s (the “Collocating Party”) facilities are terminated in its equipment necessary for interconnection or for access to Network Elements which has been installed and maintained at the premises of a second party (the “Housing Party”). Collocation may be “physical” or “virtual”. In “physical collocation”, the Collocating Party installs and maintain its own equipment in the Housing Party’s premises. In “virtual collocation”, the Housing Party installs and maintains the Collocating Party’s equipment in the Housing Party’s premises.

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

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

“Common Channel Signaling” or “CCS” means a method of digitally transmitting call set-up and network control data over a special signaling network fully separate from the public voice switched elements that carry the actual call.

“Connecting Facilities” means dedicated facilities either provided under this Agreement or separate contract used to connect Wes-Tex’s network and SWBT’s network for the purpose of interchanging traffic.

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

“End Office” means a local SWBT switching point at which SWBT end user station

loops are originated and terminated for purposes of interconnection to each other and to the network.

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

“Exchange Access” has the meaning given the term in the Act.

“FCC” means the Federal Communications Commission.

“Governmental Authority” means a local, state or federal court, commission, agency, legislative or regulatory body, or instrumentality.

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

“Interexchange Carriers” or “IXC” means a telecommunications service provider that provides the for-hire telecommunications service of connecting one exchange to another exchange.

“InterLATA” has the meaning given the term in the Act.

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

“IntraLATA Toll Traffic” means all intraLATA calls provided by a LEC other than traffic completed in the LEC’s local exchange boundary.

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

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

“Local Traffic” means, for the purposes of compensation, telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area (“MTA”).

“MTA” has the meaning given to the term in 47 CFR Section 24.202(A).

“Mobile Switching Center” or “MSC” means Wes-Tex’s facilities and related equipment used to route, transport and switch Wireless Calls to and from the public switched telephone



network.

“Network Element” has the meaning given the term in the Act.

“NPA/NXX” means the Numbering Plan Area (three digit area code) and the three digit central office code of a seven digit telephone number.

“NPA/NXX Number Block” means the 10,000 telephone number block, or parts thereof, associated with an NPA/NXX in the North American Numbering Plan.

“Party” means either SWBT or Wes-Tex, and “Parties” means SWBT and Wes-Tex.

“Point of Interconnection” or “POI” means a physical location where SWBT and Wes-Tex interconnect which establishes the technical interface and point(s) for operational division of responsibility.

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

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

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

“Synchronous Optical Network” or “SONET” means synchronous, electrical or optical channel connections between telecommunications carriers.

“Tandem” means the following:

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

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

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

“Termination” means the switching of Local Traffic at the terminating carrier’s end office switch, or cell site, and delivery of such traffic to the called party.

“Third Party Provider” shall mean any other facilities-based telecommunications carrier, including, without limitation, interexchange carriers, independent telephone companies, competitive local exchange carriers providing services over their own facilities or purchasing unbundled network elements from the incumbent LEC or CMRS providers. The term shall not mean resellers of a LEC’s local exchange services.

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

“Transport” or “Common Transport” means the delivery of traffic over an interoffice shared transmission path which carries traffic for a variety of carriers.

“Trunk Group” means a set of trunks of common routing, origin and destination, and which serve a like purpose or function.

“Trunk Side” means a Party’s connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, another SWBT or Wes-Tex switch. Trunk Side connections offer those transmission and signaling features appropriate for the connection of switching entities.

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

“Wireless Calls” means all calls originating from or terminating to the Wes-Tex network.

## 2. INTERCONNECTION

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

### 2.1 Interconnection Facilities

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

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

- 2.1.3 Type 2B: Facilities which provide a trunk side connection between Carrier's MSC and a SWBT end office. Type 2B facilities provide the capability to access only subscribers served by that end office.
- 2.1.4 Type S: Facilities provisioned to provide out of band signaling between SWBT STPs and Wes-Tex STPs.
- 2.1.5 Equal Access Facilities: One-way facilities which provide a trunk side connection between Wes-Tex MSC and a SWBT Access Tandem. Equal Access Trunks provide the capability to pass interexchange traffic to IXC's.
- 2.1.6 Miscellaneous Facilities: Facilities which provide for the transmission and routing of various types of traffic, such as, 800/888 traffic, 911/E911 traffic, Operator Services traffic and Directory Assistance traffic.
- 2.1.7 Wes-Tex shall provide SWBT with an annual forecast of intended mobile to land usage for each point of interconnection. For land to mobile traffic, SWBT shall determine the number of trunks needed to handle the estimated traffic. Type 1 and Type 2A facilities may be either one-way, or two-way (when both Parties agree to share the facility); Type 2B facilities are restricted to one-way mobile to land. For either one-way or two-way facilities, terms and conditions will apply and recurring and non-recurring charges will be paid by the Party requesting such facilities as specified in Section 7 of the applicable inter- or intra-state special access tariff. When both Parties agree to utilize a two-way facility, charges will be shared by the Parties on a proportional (percentage) basis as specified in Appendix PRICING. The Parties shall review actual billed minutes accrued on shared two-way facilities and modify, six months from the Effective Date and every six months thereafter, the percentages specified in Appendix PRICING.

## 2.2 Facility Locations

### 2.2.1 Technical Feasibility

- 2.2.1.1 As required by Section 251 of the Act, Wes-Tex may interconnect with SWBT's network at any technically feasible point. The Parties acknowledge for purposes of this requirement that the locations listed in Appendix DCO constitute technically feasible points of interconnection for Wes-Tex to pass traffic to SWBT for transport and termination by SWBT on its network or for transport to a Third Party Provider.
- 2.2.1.2 If Wes-Tex requires interconnection at a location not listed in Appendix DCO, then it shall submit a request pursuant to section 7.5.2.
- 2.2.1.3 The Parties recognize that SWBT, in its sole discretion, may remove a

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

#### 2.2.2 Per LATA Requirement

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

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

#### 2.3 Interconnection Methods Available to Wes-Tex

As set forth below, interconnection may be established by means of any, or any combination of (where technically feasible), the following options:

- 2.3.1 Where requested, and subject to mutually agreed upon terms, a physical network interface may be established between Wes-Tex and SWBT at one or more Tandem(s), as mutually agreed, using one-way or two-way Type 2A Connecting Facilities for termination of all Wireless Calls destined for any SWBT End Office that subtends one of SWBT's Tandems in the LATA; or
- 2.3.2 Wes-Tex may request that SWBT establish a direct MSC to End Office Connecting Facility where community of interest and traffic volumes between their networks reach sufficient levels to warrant such a direct connection. Wes-Tex shall use generally accepted traffic engineering guidelines in determining that such one-way MSC to End Office high usage Trunk Groups between their networks are appropriate.
- 2.3.3 To the extent technically feasible, the Parties may interconnect their networks

using Type S Interconnection for CCS ("SS7"). Wes-Tex may establish CCS interconnections either directly or through a third party. SWBT will make available to Wes-Tex access to SWBT's CCS network for the purpose of exchanging CCS call set up messages with SWBT.

#### 2.4 Additional Interconnection Methods Available to Wes-Tex

- 2.4.1 Wes-Tex may provide its own facilities and transport for the delivery of traffic from its network to SWBT's network. Alternatively, Wes-Tex may purchase an entrance facility and transport from a third party or from SWBT for the delivery of such traffic. Rates for entrance facilities and transport purchased from SWBT are specified in Section 7 of the applicable inter-or intra-state special access tariffs.
- 2.4.2 Wes-Tex may request virtual collocation from SWBT at the rates, terms and conditions specified in FCC No. 73, Section 25 and physical collocation as specified in applicable tariffs (or in the absence of applicable tariffs, on an individual case basis.). Alternatively, Wes-Tex may collocate at a SWBT facility with a third party with whom SWBT has already contracted for collocation. When Wes-Tex collocates at a SWBT facility, it shall provide for the transport of traffic from its network to the appropriate interconnection point on SWBT's network pursuant to section 2.4.1 above. SWBT shall provide collocation space to Wes-Tex only for equipment used for the purposes of interconnecting to SWBT's network. If Wes-Tex causes SWBT to build a collocation cage and then Wes-Tex does not use the facility (or all the facility), Wes-Tex shall reimburse SWBT as if Wes-Tex was using the entire facility.
- 2.4.3 Wes-Tex may request SONET Based Interconnection ("SBI") pursuant to SWBT's tariff terms and conditions in FCC No. 73, Section 30.
- 2.4.4 Wes-Tex and SWBT may share SWBT interconnection facilities at the rates specified in Section 7 of the applicable inter- or intra-state special access tariff. Charges will be shared by the Parties based on a proportional (percentage) basis as specified in Appendix PRICING.
- 2.4.5 Mid-span Meets. A Mid-Span Meet POI is a negotiated point of connection, limited to the interconnection of facilities between one SWBT Tandem or End Office switch and a Wes-Tex MSC. Mid-Span Meet POI shall be accomplished by the Parties through the negotiation of a separate agreement. The Parties agree to negotiate such agreement in good faith. The actual physical point of connection and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI. No recurring charges for facilities will be assessed by either Party.

## 2.5 Interconnection Methods Available to SWBT

- 2.5.1 Wes-Tex locations listed in Appendix DCO constitute technically feasible points of interconnection. Wes-Tex shall provide for SWBT to pass traffic to Wes-Tex for transport and termination on Wes-Tex's network.
- 2.5.2 If SWBT requires interconnection at a location not listed in Appendix DCO, then it shall submit a request pursuant to section 7.5.2.
- 2.5.3 SWBT may provide its own facilities and transport for the delivery of traffic from its network to Wes-Tex's network. Alternatively, SWBT may purchase an entrance facility and transport from a third party or from Wes-Tex for the delivery of such traffic. Rates for entrance facilities and transport purchased from Wes-Tex are specified in Appendix PRICING.
- 2.5.4 SWBT may request virtual or physical collocation from Wes-Tex at the rates, terms and conditions mutually agreed upon by the Parties. Alternatively, SWBT may collocate at a Wes-Tex facility with a third party with whom Wes-Tex has already contracted for collocation. When SWBT collocates at a Wes-Tex facility, it shall provide for the transport of traffic from its network to the appropriate interconnection point on Wes-Tex's network pursuant to section 2.5.3 above.
- 2.5.5 SWBT may request SONET Based Interconnection ("SBI") pursuant to terms and conditions mutually agreed upon by the Parties.
- 2.5.6 Wes-Tex and SWBT may share Wes-Tex interconnection facilities at the rates specified in Appendix PRICING. Charges will be shared by the Parties based on a proportional (percentage) basis as specified in Appendix PRICING.
- 2.5.7 As set forth below, interconnection may be established by means of any, or any combination of, the following options:
  - 2.5.7.1 Where requested, and subject to mutually agreed upon terms, a physical network interface may be established between SWBT and Wes-Tex at one or more MSC(s), as mutually agreed, using one-way or two-way Type 2A Connecting Facilities for termination.
  - 2.5.7.2 To the extent technically feasible, the Parties may interconnect their networks using Type S Interconnection for CCS ("SS7"). SWBT may establish CCS interconnections either directly or through a third party. Wes-Tex will make available to SWBT access to Wes-Tex's CCS network for the purpose of exchanging CCS message with Wes-Tex.

2.5.8 Mid-span Meets. A Mid-Span Meet POI is a negotiated point of connection, limited to the interconnection of facilities between one SWBT Tandem or End Office switch and a Wes-Tex MSC. Mid-Span Meet POI shall be accomplished by the Parties through the negotiation of a separate agreement. The Parties agree to negotiate such agreement in good faith. The actual physical point of connection and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI. No recurring charges for facilities will be assessed by either Party.

## 2.6 Unbundled Network Elements

SWBT will offer Network Elements to Wes-Tex on an unbundled basis on rates, terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the Federal Act and applicable State regulations or orders for the provision by Wes-Tex of a wireless telecommunications service.

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

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

### 3.1 Basic Terms

#### 3.1.1 Mobile to Land Traffic

3.1.1.1 Wes-Tex shall be responsible for the delivery of traffic from its network to SWBT's network for the transport and termination of such traffic by SWBT to a SWBT end user or for delivery by SWBT to a Third Party Provider.

3.1.1.2 Unless Wes-Tex elects to provision its own facilities, SWBT shall provide the physical plant facilities that interconnect Wes-Tex's network with SWBT's network. SWBT shall provision mobile to land connecting facilities for Wes-Tex under the terms and conditions specified in Section 7 of the applicable inter- or intra-state access tariff.

#### 3.1.2 Land to Mobile Traffic

3.1.2.1 SWBT shall be responsible for the delivery of traffic from its network to the appropriate point of interconnection (within the serving wire center boundary of the end office in which the tandem, providing the Type 2A

interconnection is located, or within the serving wire center boundary of the end office providing the Type 1 interconnection) on its network for the transport and termination of such traffic by Wes-Tex to a Wes-Tex end user.

3.1.2.2 Unless SWBT elects to have Wes-Tex or a third party provision facilities, SWBT shall provide the physical plant facilities that interconnect SWBT's point of interconnection with Wes-Tex point of interconnection. SWBT shall be responsible for the physical plant facilities to the appropriate point of interconnection (within the serving wire center boundary of the end office in which the tandem, providing the Type 2A interconnection is located, or within the serving wire center boundary of the end office providing the Type 1 interconnection) on its network.

3.1.3 Traffic To Third Party Providers

Wes-Tex and SWBT shall compensate each other for traffic that transits their respective systems to any Third Party Provider, as specified in Appendix PRICING. The Parties agree to enter into their own agreements with Third Party Providers. SWBT agrees that it will not block traffic involving Third Party Providers with whom Wes-Tex has not reached agreement. In the event that Wes-Tex does send traffic through SWBT's network to a Third Party Provider with whom Wes-Tex does not have a traffic interchange agreement, then Wes-Tex agrees to indemnify SWBT for such traffic pursuant to Section 18 of this Contract.

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

4.1 Wes-Tex may order Equal Access Facilities for the exchange of traffic between Wes-Tex network and SWBT's network for switched access to/from IXC's, thus enabling Wes-Tex end users to access (or be accessible to) IXC's.

4.2 Wes-Tex shall provide SWBT the appropriate call data to allow SWBT to bill IXC's for Originating Access as mutually agreed to by the Parties under a separate agreement.

5. TRANSMISSION AND ROUTING OF OTHER TYPES OF TRAFFIC

This section 5 provides the terms for the exchange of 800/888 traffic, 911/E911 traffic,



Directory Assistance traffic and Operator Services traffic from an end user on Wes-Tex's network to SWBT's network. Miscellaneous (common) Facilities may be utilized for the routing of these types of traffic.

5.1 800/888 Traffic

Wes-Tex may order from SWBT Miscellaneous Facilities in order to deliver 800/888 traffic from a Wes-Tex end user to SWBT's network. Such Miscellaneous Facilities shall be used for the transmission and routing of 800/888 traffic to allow Wes-Tex's end users to send calls to SWBT for completion to IXC's, LEC's other than SWBT, or SWBT.

5.2 E911/911 Traffic

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

5.3 Directory Assistance

Wes-Tex may order from SWBT Miscellaneous Facilities in order to deliver Directory Assistance traffic from a Wes-Tex end user to SWBT's network. Such Miscellaneous Facilities shall be used for the transmission and routing of DA traffic.

5.4 DA Call Completion

Wes-Tex may order dedicated facilities from Wes-Tex MSC to SWBT's TOPS tandem for the transmission and routing of DACC traffic.

5.5 Operator Services

Wes-Tex may order from SWBT Miscellaneous Facilities in order to deliver Operator Services traffic from a Wes-Tex end user to SWBT's network. Such Miscellaneous Facilities shall be used for the transmission and routing of Operator Services traffic.

6. TECHNICAL REQUIREMENTS AND STANDARDS

- 6.1 Each interconnection facility provided by one Party to the other Party will meet applicable regulatory performance standards and be at least equal in quality and performance as that which either carrier provides to itself or another telecommunications carrier. A providing Party will provide the ordering Party with the providing Party's Technical Publications or other written descriptions of its interconnection facilities as

updated from time to time by the providing Party at its sole discretion to the extent consistent with the Act and subject to this section 6. Such publications will be shared between SWBT and Wes-Tex with the opportunity to comment by the ordering Party. The ordering Party may request, and the providing Party will provide, to the extent technically feasible, interconnection facilities that are superior or lessor in quality than the providing Party provides itself or another telecommunications carrier and such service will be requested pursuant to section 7.5.2.

- 6.2 The providing Party will provide its Technical Publications or other written description for each type of interconnection facility offered under this Agreement. The Technical Publication or other description for a type of facility will describe the features, functions and capabilities and a description of scheduled maintenance activity typically provided for the facility as of the time the document is provided to the ordering Party. The providing Party will provide additional information regarding a type of facility to the extent reasonably requested by the ordering Party.
- 6.3 Nothing in this Agreement will limit either Party's ability to modify its network through the incorporation of new equipment, software, or otherwise. Each Party will provide the other Party written notice of any such modifications in its network which will materially impact the other Party's service.
- 6.4 Neither Party will use any service provided under this Agreement in a manner that impairs the quality of service to other carriers or to either Party's subscribers. Either Party will provide the other Party notice of said impairment at the earliest practicable time.
- 6.5 Either Party's use of any facilities from the other Party or of its own equipment or that of a third party in conjunction with any of the other Party's facilities shall not materially interfere with or impair service over any facilities of the other Party, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any telecommunications carrier over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, a Party may discontinue or refuse service if the other Party violates this provision, provided that such termination of service will be limited to the interfering Party's use of a facility, where appropriate.

## 7. PROVISIONING

- 7.1 General Provisioning Requirements. Each Party shall provide provisioning services to the other as they do for other telecommunications carriers. SWBT represents that as of the Effective Date of this Agreement, its customer carrier service contact lines are available from 8:30 to 4:30 p.m. Monday through Friday for placing of orders (excluding

legal holidays, subject to Section 19). Wes-Tex represents that as of the Effective Date of this Agreement customer carrier service contact lines are available from 8:30 a.m. to 4:30 p.m. If the Parties for whatever reason change these hours, they shall provide the other Party reasonable notice of such change and agree to consider any requests the other may have for special hours of service.

- 7.2 Each Party shall provide a single point of contact (the "Provisioning SPOC") for all ordering and provisioning contact and order flow involved in the purchase and provisioning of the Party's services.
- 7.3 SWBT and Wes-Tex acknowledge that the Order and Billing Forum is establishing uniform industry standards for Electronic Interfaces. Until such time as such standards have been developed by the Forum and agreed upon and implemented by SWBT and Wes-Tex the Parties shall cooperate with each other to establish mutually agreeable ordering and provisioning procedures for access to each other's systems and databases, including appropriate protections for CPNI.
- 7.4 Upon execution of this Agreement, the Parties shall establish and maintain a mutually agreeable escalation process through which service ordering and provisioning disputes can be escalated.
- 7.5 Specific Provisioning Process Requirements.

7.5.1 The Parties agree to provide written confirmation (an "Order Confirmation") within a time interval mutually agreed to by both Parties. The Order Confirmation must contain information regarding critical dates, circuit identification, trunk quantities and order number associated with the request.

7.5.2 All requests for (i) services not specifically enumerated in this Agreement, (ii) services covered by this Agreement for which facilities do not exist, or (iii) facilities, equipment or technologies not, in the providing Party's sole discretion, necessary to fulfill a request under this Agreement, shall be handled as Special Requests ordered without reference to SWBT tariffs and negotiated by the Parties.

The providing Party will provide the ordering Party with a good faith estimate of the costs of each component of such Special Request. Final charges and liabilities will be settled prior to installation of the services requested and will be handled under a separate contract. An ordering Party may cancel a Special Request at any time, but will pay the providing Party's reasonable and demonstrable costs of processing and for implementing the Special Request up to the date of cancellation.

7.5.3 A providing Party will perform pre-testing as per industry standards and will provide to the ordering Party verbally, all test and turn-up results regarding the Connecting Facilities and Network Elements ordered.

- 7.5.4 As soon as reasonably practicable, a providing Party shall attempt notification of any instances when the ordering Party's Due Dates are in jeopardy of not being met on any order for Connecting Facilities and Network Elements. The Parties shall negotiate a new committed Due Date for the order.
- 7.5.5 By the end of the order due date, the Parties will perform cooperative testing with each other (including trouble shooting to isolate any problems) to test Connecting Facilities and Network Elements purchased in order to identify any performance problems.
- 7.5.6 When ordering unbundled Network Elements, Wes-Tex may not specify a combination of elements on one order without specifically detailing the elements in the order.
- 7.6 Due Dates for the installation or conversion of Connecting Facilities and Network Elements covered by this Agreement shall be based on the providing Party's standard intervals, or mutual agreement of the Parties in accordance with the availability of local interconnection facilities and equipment.

## 8. TROUBLE REPORTING AND MAINTENANCE

### 8.1 Trouble Reporting.

- 8.1.1 In order to facilitate trouble reporting and to coordinate the repair of Connecting Facilities, Network Elements, or other interconnection arrangements provided by the Parties under this Agreement, the Parties have established a single point of contact for the state in which this Agreement applies (the "SWBT Interexchange Carrier Center" or "IECC" and the "Wes-Tex Network Operations Center" or "NOC"). The IECC and NOC will be staffed twenty-four hours per day, seven days per week. The Parties shall call the appropriate center to report trouble, to inquire as to the status of trouble tickets in process and to escalate trouble resolution. The Parties may also report troubles by using such automated trouble reporting systems as such systems become available and as mutually agreed upon by the Parties.
- 8.1.2 A Party may advise the providing Party of the critical nature of inoperative facilities or arrangements and the need for expedited clearance of the trouble. In such cases where a party has indicated the essential or critical need for restoration of the facilities, services or arrangements, the other Party shall use its best reasonable commercial efforts to expedite the clearance of trouble.
- 8.1.3 In order to escalate resolution of troubles in the facilities, services and

arrangements installed under this Agreement, the Parties shall follow the escalation procedures established in section 7.4.

## 8.2 Maintenance Procedures

8.2.1 The Parties shall provide each other with the same scheduled and non-scheduled maintenance for all Connecting Facilities and Network Elements provided under this Agreement that it currently provides for the maintenance of its own network. Where practicable, the Parties shall provide each other at least sixty (60) days' advance notice of any scheduled maintenance activity which may impact each other's end users.

8.2.2 The Parties agree to jointly develop a detailed description of, and implementation actions for, emergency restoration plans and disaster recovery plans, which shall be in place during the term of this Agreement.

8.2.3 The Parties agree to make a good faith effort to notify each other periodically regarding current status until such time as trouble has been cleared.

### 8.2.4 Maintenance Quality Standards

Maintenance quality standards shall be subject to review at least semi-annually and subject to modification upon mutual consent of the Parties.

8.2.5 The Parties agree to provide each other a monthly outage report (format to be mutually agreed upon) on reliability of interconnection facilities.

8.2.6 Each Party may request that the other Party provide a written report of the details behind major service outages.

## 9. CREDIT FOR INTERRUPTION OF SERVICE

9.1 In the event a Party's service is interrupted other than by the gross negligence or willful act of the providing Party, and remains out of order for eight normal working hours or longer after the providing Party has had access to the interrupted Party's premises, appropriate adjustment or refunds shall be made. The amount of adjustments or refund shall be determined on the basis of the known period of interruption, generally beginning from the time the service interruption is first reported. The refund shall be the pro rata part of that month's flat rate charges for the period of days and that portion of the service facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for service. When a service includes more than one communications path, the interruption allowance applies to the paths interrupted. For calculating credit allowances, every month is considered to have 30 days.

9.1.1 The amount of credit to a Party shall be an amount equal to a proration of charges

specified in Section 7 of the inter- or intra-state special access tariff for the period during which the facility affected by the interruption is out of service.

- 9.1.2 A credit shall not be applicable for any period during which the affected Party fails to afford access to the facilities furnished by the other Party for the purpose of investigating and clearing troubles.
- 9.2 A Party's liability, if any, for its gross negligence or willful misconduct is not limited by this contract. With respect to any other claim or suit for damages arising out of mistakes, omissions, interruptions, delays or errors, or defects in transmission, occurring in the course of furnishing service hereunder, a Party's liability, if any shall not exceed an amount equivalent to the proportionate charge to the other Party for the period of service for which such mistake, omission, interruption, delay or error, or defect in transmission or service occurs and continues. This liability shall be in addition to any amount otherwise be due to the Party under this contract as an allowance for interruptions. However, any such mistakes, omissions, interruptions, delays or errors, or defects in transmission or service which are caused or contributed to by the negligence or willful act of the affected Party or which arises from the use of affected Party-provided facilities or equipment shall not result in the imposition of any liability whatsoever upon the other Party.
- 9.3 When the lines of third party network providers and carriers are used in establishing connections not reached by a Party's lines, such Party is not liable for any act or omission of the other network provider or carrier.
- 9.4 Notwithstanding the above, in the event service is provided over facilities provisioned under separate contract, the terms and conditions of that separate contract will govern.
- 10. BILLING PROVISIONS
  - 10.1 Recording, Rating and Billing of Interchanged Traffic
    - 10.1.1 Measurement. Measurement of minutes of use over Connecting Facilities under this Agreement shall be in actual Conversation Time seconds. The total Conversation Time seconds over each individual facility will be totaled for the monthly billing cycle and then rounded up to the next whole minute.
    - 10.1.2 Billing and Call Recording. Each Party will record its terminating minutes of use including identification of the originating and terminating NXX for all intercompany calls. SWBT and Wes-Tex shall each perform the necessary Call Recording and rating for its respective portions of an interchanged call. Each Party shall be responsible for billing and collection from their respective end users. Each Party shall use procedures that record and measure actual usage for purposes of providing invoices to the other Party pursuant to this Agreement. When recording and measurement by a Party of actual usage is not reasonably

feasible, the Parties agree to mutually develop billing alternatives in lieu of actual usage recordings.

10.1.3 Invoices for Charges. Not later than thirty (30) days following the end of each monthly billing cycle, the Parties shall deliver to each other an invoice reflecting the charges due from the other Party for facilities and usage attributable to the month covered by such billing cycle. Facilities charges will be billed in advance for the following period. Usage charges will be billed in arrears for the preceding period. All invoices shall be due and payable within thirty (30) days following the invoice date, or the next bill date, whichever comes first.

10.1.4 Late Charges.

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

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

0.000657 per day, compounded daily and applied for each month or portion thereof that an outstanding balance remains.

10.1.5 Invoice Disputes. Either Party may request the other Party to verify the accuracy of amounts shown on invoices provided pursuant to this Agreement. The Party receiving the request shall provide information reasonably sufficient to verify its invoices within thirty (30) days after the request date. If the requesting Party still questions an amount shown on an invoice, then such Party may give written notice of commencement of the dispute resolution process in accordance with the terms of this Agreement.

10.1.6 Lost or Destroyed Usage Data: In the event that either Party's data is lost, damaged or destroyed and cannot be recovered, and this results in its inability to determine actual usage, the Parties shall agree upon an estimate of the amount of revenue lost based on the Party's average monthly usage in the preceding three (3) months in which data is available and shall use the agreed data for settlement of compensation among themselves.

## 11. VERIFICATION REVIEWS

11.1 Each Party will be responsible for the accuracy and quality of its data as submitted to the

other Party. Upon reasonable written notice, each Party or its authorized representative (providing such authorized representative does not have a conflict of interest related to other matters before one of the Parties) shall have the right to conduct a review and verification of the other Party to give assurances of compliance with the provisions of this Agreement. This includes on-site verification reviews at the other Party's or the Party's vendor locations.

- 11.2 Verification reviews may be conducted on a semi-annual basis. The review will consist of an examination and verification of data involving records, systems, procedures and other information related to the services performed by either Party as related to settlement charges or payments made in connection with this Agreement as determined by either Party to be reasonably required. Each Party, whether or not in connection with an on-site verification review, shall maintain reasonable records for a minimum of six (6) months and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement.
- 11.3 The Parties' right to access information for verification review purposes is limited to data not in excess of six (6) months in age. Once specific data has been reviewed and verified, it is unavailable for future reviews; provided however that any items not reconciled at the end of a review will be subject to a follow-up review effort; provided further that any retroactive adjustments required subsequent to previously reviewed and verified data will also be subject to follow-up review. Information of either Party involved with a verification review shall be subject to the confidentiality provisions of this Agreement.
- 11.4 The Party requesting a verification review shall fully bear its costs associated with conducting a review. The Party being reviewed will provide access to required information, as outlined in this section, at no charge to the reviewing Party. Should the reviewing Party request information or assistance beyond that reasonably required to conduct such a review, the Party being reviewed may, at its option, decline to comply with such request or may bill actual costs incurred in complying subsequent to the concurrence of the reviewing Party.

## 12. NUMBERING ISSUES

### 12.1 Access to Numbering Resources

Wes-Tex shall have access to numbering resources in the same fashion and cost as they are provided to other Telecommunications Carriers, according to Central Office Code (NXX) Assignment Guidelines. Wes-Tex may either pay SWBT the sum of \$350 per NXX in exchange for SWBT's input of required data necessary to update the Local Exchange Routing Guide ("LERG") on Wes-Tex's behalf, or Wes-Tex may perform its own LERG updates at its own cost. SWBT shall not be liable for any losses or damages arising out of errors, defects, or failures associated with the input of Wes-Tex's data into



the LERG other than direct damages; provided, however, that Wes-Tex's direct damages shall not exceed the amount of the charges paid to SWBT by Wes-Tex for LERG input under this Agreement. Only to the extent that Wes-Tex provides incorrect information to SWBT, Wes-Tex agrees to defend, indemnify and hold harmless SWBT from any and all losses, damages, or other liabilities, including attorneys' fees, that it may incur as a result of claims, demands, or other suits brought by any party that may arise out of the data submitted and/or the input of that data into the LERG by SWBT. Wes-Tex shall defend against all end user claims just as if Wes-Tex had performed its own input into the LERG.

- 12.2 Wes-Tex and SWBT shall apply the same NPA/NXX Code relinquishment and conservation guidelines to the other Party according to Central Office Code (NXX) Guidelines.

- 12.3 Local Dialing Parity and IntraLATA Toll Dialing Parity

SWBT agrees that local dialing parity will be available to Wes-Tex in accordance with the Act. SWBT agrees to make intraLATA toll dialing parity available in accordance with Section 271(e) of the Act.

13. ACCESS TO RIGHTS OF WAY

SWBT will provide Wes-Tex nondiscriminatory access to poles, ducts, conduits, and rights-of-way on rates, terms, and conditions that are consistent with the Federal Telecommunications Act, and the Pole Attachment Act, 47 U.S.C. Section 224. SWBT has prepared a Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way so as to comply with the Pole Attachment Act and applicable rules, regulations and commission orders, including prior rulings of the Texas Commission in interconnection arbitration proceedings. A copy of SWBT's Master Agreement for the state of Texas is attached hereto as Appendix POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY. Wes-Tex may execute the Master Agreement as a stand alone agreement or as an integral part of this interconnection Agreement. SWBT will continue to negotiate specific contract language with Wes-Tex if Wes-Tex elects to execute the Master Agreement on an interim basis only.

14. CHARGES FOR THE INTERCHANGE OF TRAFFIC

For purposes of this section, the determination of the location of the origination and termination points of a call shall be made by referencing the V and H Coordinates of the originating/terminating SWBT NPA/NXX (End Office) and the V and H Coordinates of the geographic location of Wes-Tex's originating or terminating Cell Site.

- 14.1 Compensation for Local Traffic

The Parties shall provide each other symmetrical, Reciprocal Compensation for the transport and termination of Local Traffic (i.e., telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the MTA) at the rates specified in Appendix PRICING. SWBT shall compensate Wes-Tex for the transport and termination of Local Traffic originating on SWBT's network; Wes-Tex shall compensate SWBT for the transport and termination of Local Traffic originating on Wes-Tex network.

14.1.1 Exclusions: Compensation for Local Traffic as described above shall not apply to any other traffic or services, including without limitation interMTA traffic; Transiting Traffic; traffic which neither originates nor terminates on Carrier's network; Area Wide Calling Plan traffic; and Paging Traffic.

#### 14.2 InterMTA Traffic

For the interchange of interMTA traffic (i.e., for traffic that originates in one MTA and terminates in another), rates shall apply as follows:

14.2.1 For mobile to land interMTA traffic, Wes-Tex shall pay SWBT the interMTA rates specified in Appendix Pricing. The Parties agree that any rate changes associated with interstate switched access services will flow through to the interMTA rates specified in Appendix Pricing.

14.2.2 When land to mobile interMTA traffic is less than 3% of the total land to mobile traffic, no compensation shall be due to either party by the other. When land to mobile interMTA traffic exceeds 3%, Wes-Tex agrees to compensate SWBT at the interMTA rates specified in Appendix Pricing for the actual percentage of traffic (including the initial 3%). The Parties agree that any rate changes associated with interstate switched access services will flow through to the interMTA rates specified in Appendix Pricing. Wes-Tex makes this agreement without waiving argument in the future as to appropriate treatment of land to mobile interMTA traffic.

#### 14.2.3 InterMTA Factor

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

##### 14.2.3.1 Examples

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

14.2.3.1.1 When a SWBT end user calls a Wes-Tex end user (a land to mobile call), SWBT delivers the call to Wes-Tex and Wes-Tex transports the call across MTA boundaries (directly, or through an IXC where SWBT is not receiving access charges from the IXC), access charges shall apply to Wes-Tex only if the total land to mobile interMTA traffic exceeds 3% in accordance with Section 14.2.2. ("Originating Interstate Switched Access")

14.2.3.1.2 When a Wes-Tex end user calls a SWBT end user (a mobile to land call), the call crosses MTA boundaries, and Wes-Tex transports the call across MTA boundaries, access charges shall apply to Wes-Tex ("Terminating Interstate Switched Access").

#### 14.2.4 Limitation

If traffic is handed from SWBT directly to an IXC, or from an IXC directly to SWBT, access charges shall not apply to Wes-Tex

### 14.3 True Up

#### 14.3.1 Local termination and transit rates

Upon completion of Texas PUC Docket 16226, and any ancillary proceedings that may arise from that proceeding, the applicable results shall be incorporated into the calculation of the rates to be charged for local termination and transit under this Agreement. The Type 1 and 2A rate under this Agreement shall be the sum of the rate elements for tandem switching, transport and end office switching established in the pending proceeding, as adjusted by the routing factors outlined in the Appendix Pricing. This formula for calculation, including the routing factors, of the Type 1, 2A, 2B and transit rates shall be as specified in the Appendix Pricing.

#### 14.3.2.

Subject to this paragraph, the change in rate shall take effect when the order adopted by the Commission setting the permanent rate elements in Docket 16226

becomes final and appealable. Further, the new rate shall be applied retroactively to the traffic exchanged between the Parties from and after the date this Agreement is signed by the Parties. The retroactive application of the rate shall be accomplished in one lump sum payment due 60 days after the order becomes final. The only circumstance under which application of new rates and true-up will be postponed is if SWBT appeals the Commission's order setting rate elements, and obtains an injunction or a stay. In such event, the true-up will occur at the culmination of any appeal on which the injunctive relief is premised. In that event, the ultimate result of the appeal shall be incorporated into the local termination and transit rates applicable under this Agreement, both prospectively and retroactively back to the effective date of this Agreement. If injunctive relief is neither sought nor obtained by SWBT, the true-up shall occur irrespective of the status of any appeals of the order.

#### 14.3.3

Other changes. In addition to any injunctive relief associated with an appeal of the Commission proceeding setting rates for AT&T and others, the Parties recognize that the law applicable to the local termination and transit rates established by this Agreement may change in the future due to changes in legislation or agency proceedings or rules. To the extent the Parties can agree that those changes are applicable to the rates established by this Agreement, the effect of the changes may be incorporated into the rates either prospectively, or retrospectively and prospectively, as the applicable change shall require.

#### 14.4 Other Services. The charges for the following Other Services provided by SWBT to Wes-Tex are set forth below.

14.4.1 911 and Enhanced 911: SWBT shall make its network available to Wes-Tex for the termination of 911 calls at the same rate as for other telecommunications carriers. Enhanced 911 services, once required of Wes-Tex will be negotiated at that time and the terms and conditions for such services shall be described in a separate agreement to be mutually agreed upon between the Parties.

14.4.2 Intrastate Directory Assistance: Intrastate directory assistance shall be provided to Wes-Tex at the rates specified in Appendix PRICING.

14.4.3 Call Completion: At Wes-Tex's request, in connection with the provision of directory assistance service, SWBT will provide caller optional directory assistance call completion service at the rates specified in Appendix PRICING. Local interconnection rates apply for the duration of automatically completed calls.

14.4.4 Billed Number Screening: Billed Number Screening shall be available to prevent billing of inward calls to Wes-Tex on a received-collect or third-number basis. There are no charges associated with this service.

14.4.5 Operator-Assisted Calls: SWBT shall make its network available to Wes-Tex for operator-assisted calls, including "0+" and "0-" calls. SWBT shall collect whatever information is required to complete and provide billing data for such operator-assisted calls.

14.4.6 Signaling: SWBT will provide at Wes-Tex's request, Signaling System 7 ("SS7") in order to allow out of band signaling in conjunction with the exchange of traffic between the Parties' respective networks. When SWBT provides SS7 services directly to Wes-Tex SWBT shall provide such services at the rate specified in Appendix PRICING. This rate is for the use of SWBT's STP in the provisioning of mobile to land traffic. Charges for STP Access Links and Port Terminations used to connect Wes-Tex's STP and SWBT's STP shall be shared by the Parties based on the proportional (percentage) basis as specified in Appendix PRICING and at rates specified in Section 23 of FCC Tariff No. 73.

#### 14.4.7 Area Wide Calling Plan

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

14.4.7.1 Subscribing to the AWCP, Wes-Tex agrees to incur a per minute of use charge for all land to mobile calls, which terminate outside of the local calling scope of the SWBT local exchange, as defined by the Intrastate Local Exchange Tariff, serving the SWBT end user who originated the call.

14.4.7.2 The charges for this service are as specified in Appendix PRICING. Mileage charges shall be calculated or measured using the V&H coordinates method. Mileage will be determined by calculating the airline distance from the calling party's end office to the Wes-Tex point of interconnection.

14.4.7.3 AWCP will be provisioned using a SWBT provided dedicated one-way land to mobile Type 2A Connecting Facility established solely for the completion of AWCP calls, at no charge to Wes-Tex

14.4.7.4 No AWCP usage charges will apply for calls which originate and terminate within the local calling scope of the SWBT local exchange, where Wes-Tex and SWBT interconnect for the provisioning of this service.

14.4.7.5 Wes-Tex agrees not to charge SWBT for transport and termination of any call associated with an AWCP, when the call is terminated outside of the local calling scope of the SWBT local exchange serving the SWBT end user who originated the call.

14.5 The Parties disagree concerning the proper basis for intercarrier compensation relating to ESP/ISP traffic. The Parties agree that such 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, but shall not be applied to any traffic exchanged prior to the date for which ESP/ISP traffic was first removed pursuant to this provision.

## 15. PAYMENT AND COLLECTION OF TAXES

This Section 15 applies only to taxes or other governmental assessments which may become due with respect to resold services or with respect to the provision of Unbundled Network Elements pursuant to Section 2.6. The payment and collection of taxes and other governmental assessments on services and facilities other than those on the provision of Unbundled Network Elements or on services provided for resale shall be governed by applicable law.

15.1 With respect to purchases of services or facilities for resale or with respect to purchase of Unbundled Network Elements pursuant to Section 2.6 of this Agreement, if any Federal, State or Local government tax, fee, surcharge, or other tax-like charge (a "Tax") is required or permitted by the applicable law or ordinance to be collected from a purchasing Party by the providing Party, then (subject to the purchasing Party's rights under Section 15.4 and 15.5), (i) the providing Party will bill the purchasing party for such Tax, as a separately stated item, (ii) the purchasing Party will timely remit the amount billed to the providing Party, and (iii) the providing Party will remit the collected Tax to the applicable taxing authority.

15.2 If the applicable law excludes or exempts a purchase of services under this Agreement from a Tax, and if the applicable law also provides an exemption procedure, such as an exemption certificate requirement, then, subject to this Section 15, if the purchasing Party complies with the exemption procedure, the providing Party will not collect the Tax during the effective period of the exemption.

- 15.3 If the applicable law excludes or excepts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect the Tax if the purchasing Party furnishes the providing Party with a letter signed by an officer of the purchasing Party claiming an exemption and identifying the applicable law which allows the exemption.
- 15.4 If the providing Party does not collect a Tax because the purchasing Party asserts that it is not responsible for the tax, or is otherwise excepted from the obligation to pay the Tax, and the purchasing Party is later determined to be wrong in that assertion by a court or other governmental body with jurisdiction of the subject matter, then, as between the providing Party and the purchasing Party, the purchasing Party will be liable for the uncollected Tax and any interest or penalty due or assessed on the uncollected Tax by the applicable taxing authority or governmental entity.
- 15.5 With respect to any Tax or Tax controversy covered by this Section 15, the purchasing Party will be entitled to contest, pursuant to applicable law, and at its own expense any Tax that it is alleged to be obligated to pay. Without limiting the generality of the foregoing, the purchasing Party particularly reserves the right to assert any right it may deem itself to have under the Act, Section 252(c), or to contest the proposition that the allocation of the proposed Tax burden by the providing party to the purchasing Party is unlawful. The purchasing Party will be entitled to the benefit of any refund or recovery resulting from a contest of the Tax. The providing Party will cooperate in any such contest.
- 15.6 If either Party is audited by a taxing authority or other governmental entity the other Party agrees to cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner.
16. MOST FAVORED NATIONS CLAUSE; CONTRACTUAL CHANGES, MODIFICATIONS AND AMENDMENTS
- 16.1 Section 252(i) Obligations

SWBT shall make available any agreement for interconnection, services, or network elements between SWBT and a wireless carrier in the State of Texas (which agreement is either negotiated or arbitrated pursuant to the FTA) (a "Third Party Agreement"). Wes-Tex shall have the option to avail itself of the rates, terms and conditions of the Third Party Agreement in its entirety without picking and choosing less than all of the provisions of the agreement. Provided however, that if the FCC is sustained on permitting pick and choose, SWBT shall amend this Agreement to allow Wes-Tex to avail itself of the differing rates, terms or conditions in accordance with the effective rules of the FCC. If Wes-Tex desires to avail itself of a Third Party Agreement, it shall provide SWBT written notice of such desire, and the Parties shall be deemed to have

adopted the Third Party Agreement, in place of this Agreement, thirty (30) days following SWBT's receipt of Wes-Tex's notice.

17. TERM, TERMINATION AND EFFECTIVE DATE

- 17.1 Term: This Agreement shall be in effect until June 26, 1999<sup>1</sup>, and shall be automatically renewed for successive six-month terms unless either Party notifies the other in writing, at its sole discretion, of its intention to terminate this Agreement at least sixty (60) days prior to the end of the initial term or any successive terms or this Agreement is otherwise terminated in accordance with the terms hereof. If the Parties cannot agree on substitute terms and conditions within the sixty (60) day period, either Party may initiate negotiations and ultimately, arbitration pursuant to the timelines and other requirements of the Act. In the event that such notice to terminate is given, the terms of this Agreement shall govern while Parties attempt to negotiate substitute terms and conditions (including during any arbitration proceeding). Notwithstanding the foregoing, this Agreement may be terminated at any time by the mutual written consent of Wes-Tex and SWBT. If for whatever reason this Agreement is terminated, the Parties shall maintain interconnections.

17.2 Effective Date

The Parties shall effectuate all the terms of this Agreement within 30 days upon final approval of this Agreement by the relevant state Commission when it has determined that this Agreement is in compliance with Section 252 of the Act; provided, however, the Parties agree to make arrangements to pay one another for the period from the date of signing of this Agreement to the date on which both parties can implement changes in their respective billing system, not to exceed sixty days, and going forward consistent with this agreement.

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

18. LIABILITY AND INDEMNITY

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

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<sup>1</sup> This agreement is based upon the previously approved agreement between SWBT and AT&T Wireless and therefore shall terminate concurrently with the underlying AT&T Wireless agreement. The underlying agreement was approved by the Public Utility Commission of Texas on June 26, 1997 for an initial term of two (2) years which expired on June 26, 1999. The underlying agreement remains in effect as of the Execution Date of this agreement.



- 18.2 To the extent not prohibited by law or inconsistent with the other terms of this Agreement, each Party shall indemnify the other Party and hold it harmless against any loss, costs (including, but not limited to reasonable attorneys fees and costs at trial and on appeal, if any), claims, injury, or liability relating to any third-party claim arising out of any act or omission of the indemnifying Party, or its employees, officers, agents, servants, or contractors in connection with the indemnifying party's performance under this Agreement, breach of any applicable law, rule or regulation, for actual or alleged infringement of any patent, trademark copyright, service mark, trade name, trade secret or intellectual property right, now known or later developed, or for failure to perform under this Agreement, regardless of the form or action ("Claims"). The indemnifying Party under this section shall defend any legal proceeding brought against the other Party, either individually or jointly with the indemnified Party, arising out of or relating to any such Claim.
- 18.3 The indemnified Party shall notify the other Party promptly, in writing, of any Claims, legal proceedings, or demands for which the other Party is responsible under this section and shall cooperate in every reasonable way to facilitate the defense or settlement of such Claims. The indemnifying Party shall not be liable under this section for settlement by the indemnified Party of any Claim, legal proceeding, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the Claim, legal proceeding, or demand tendered to it in writing, and has failed to assume such defense within thirty (30) days after defense is tendered to it by the indemnified Party. In the event of such a failure to assume the defense, the indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the indemnifying Party, though such settlement may have been made by the indemnified Party without approval of the indemnifying Party, it being the Parties' intent that no settlement involving a nonmonetary concession by the indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the indemnifying Party.
- 18.4 To the extent described below, each Party also agrees to indemnify and save the other Party harmless from Claims, legal proceedings or demands that may be made by persons furnished by the indemnifying Party or by any of its subcontractors, under worker's compensation laws or similar statutes. The indemnified Party agrees to notify the indemnifying Party promptly, in writing, of any Claims, demands or legal proceedings for which it is claimed that the indemnifying Party is responsible and to cooperate in every reasonable way to facilitate defense or settlement of Claims. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof, provided that there is no liability by the indemnified Party.
- 18.5 OSHA Requirements

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

18.6 NO CONSEQUENTIAL DAMAGES

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

18.7 Each Party agrees to reimburse the other for damage to premises or equipment resulting from the installation, maintenance or removal of facilities, services or arrangements if caused by other than normal wear and tear and if caused by negligence or willful misconduct of the indemnifying Party.

18.8 Except as otherwise provided in this Agreement, each of the remedies provided under this Agreement is cumulative and is in addition to any remedies that may be available at law or in equity.

18.9 Limitation of Liability

With respect to any claim or suit for damages arising out of mistakes, omissions, defects in transmission, interruptions, failures, delays or errors occurring in the course of

furnishing any service hereunder, the liability of the Party furnishing the affected service, if any, shall not exceed an amount equivalent to the proportionate charge to the other Party for the period of that particular service during which such mistake, omission, defect in transmission, interruption, failures, delay or error occurs and continues. No such limitation of liability shall apply, however, if the cause of the claim is due to the gross negligence or willful misconduct of the Party furnishing the service.

- 18.10 Wes-Tex understands that it is responsible for obtaining any license or right-to-use agreement associated with a network element purchase from SWBT, and further agrees to provide SWBT, prior to using any such network elements, with either: (1) a copy of the applicable license or right-to-use agreement (or letter from the licensor attesting as such); or (2) an affidavit signed by Wes-Tex attesting to the acquisition of any known and necessary licensing and right-to-use agreements.

SWBT agrees to provide a list of all known and necessary licenses or right-to-use agreements applicable to the subject network element(s) within seven days of a request for such a list by Wes-Tex. SWBT agrees to use its best efforts to facilitate the obtaining of any necessary license or right-to-use agreement. In the event such an agreement is not forthcoming for a network element ordered by Wes-Tex the parties commit to negotiate in good faith for the provision of alternative elements or services which shall be equivalent to or superior to the elements for which Wes-Tex is unable to obtain such license or agreement.

Both Wes-Tex and SWBT agree to defend at the other's request, to indemnify and hold each other harmless, together with each of its officers, directors, employees, and agents (each, an "Indemnitee") against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment, or settlement of any nature or kind, known or unknown, liquidated or applicable to the subject network element(s) within seven days of a request for such a list by Wes-Tex. SWBT agrees to use its best efforts to facilitate the obtaining of any necessary license or right-to-use agreement. In the event such an agreement is not forthcoming for a network element ordered by Wes-Tex the parties commit to negotiate in good faith for the provision of alternative elements or services which shall be equivalent to or superior to the element for which Wes-Tex is unable to obtain such license or agreement.

19. EXCUSABLE DELAYS (FORCE MAJEURE CONDITIONS)

Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation, strikes, slowdowns, picketing or boycotts; or delays caused by the

other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause of non-performance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

## 20. CONFIDENTIALITY AND PROPRIETARY INFORMATION

- 20.1 For the purposes of this Agreement, confidential information ("Confidential Information") means all information of a Party (the "Discloser") or another party whose information the Discloser has in its possession under obligations of confidentiality, in whatever form transmitted, relating to business plans or operations, network design, systems and procedures and/or the sale, purchase and use of services, and end user specific information, which is disclosed by the Discloser or its affiliates to the other Party (the "Recipient") or its affiliates. The Recipient agrees (i) to use Confidential Information only for the purpose of performing under this Agreement, (ii) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (iii) to safeguard it from unauthorized use or disclosure using at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third-party agent or consultant, such disclosure must be agreed to in writing by the Discloser, and the agent or consultant must have executed a written agreement of nondisclosure and nonuse comparable in scope to the terms of this section.
- 20.2 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.
- 20.3 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information if directed to so by Discloser except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement; the Recipient shall certify destruction by written letter to the Discloser. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it will notify such other Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information.
- 20.4 The Recipient shall have no obligation to safeguard Confidential Information: (i) which

was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (ii) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (iii) after it is rightfully acquired by the Recipient free of restrictions on its disclosure; or (iv) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, or in an action to enforce its rights under this Agreement, so long as, in the absence of an applicable protective order, the Discloser has been promptly notified by the Recipient and so long as the Recipient undertakes all lawful measures to avoid disclosing such information until Discloser has had reasonable time to negotiate a protective order with any such mediator, arbitrator, state or regulatory body or a court, and complies with any protective order that covers the Confidential Information.

- 20.5 The Parties recognize that an individual end user may simultaneously seek to become or be an end user of both Parties. Nothing in this Agreement is intended to limit the ability of either Party to use end user specific information lawfully obtained from end users or sources other than the Discloser.
- 20.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.
- 20.7 Except as otherwise expressly provided elsewhere in this Agreement, no license is hereby granted under any patent, trademark, or copyright, nor is any such license implied solely by virtue of the disclosure of any Confidential Information.
- 20.8 Each Party agrees that the Discloser may be irreparably injured by a disclosure in breach of this Agreement by the Recipient or its representatives and the Discloser will be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach or threatened breach of the confidentiality provisions of this Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement, but will be in addition to all other remedies available at law or in equity.
- 20.9 The terms and conditions of the Mutual Confidentiality and Nondisclosure Agreement entered into by the Parties on November 6, 1996 shall continue in full force and effect, notwithstanding this section.
- 21. PUBLICITY
  - 21.1 The Parties agree not to use in any advertising or sales promotion, press release or other publicity matter any endorsement, direct or indirect quote, or picture implying endorsement by the other Party or any of its employees without such Party's prior written approval. The Parties will submit to each other for written approval, prior to publication,

all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied.

- 21.2 Neither Party will offer any services using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of the other Party or its affiliates without the other Party's written authorization.

22. TRADEMARKS AND TRADE NAMES

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

23. LAW ENFORCEMENT AND CIVIL PROCESS

SWBT and Wes-Tex shall handle law enforcement requests as follows:

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

24.2.1 All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the person or persons or entity may require. All section titles, headings or captions contained in this Agreement are for convenience only and shall not in any way limit or otherwise affect the meaning or interpretation of any of the terms hereof.

24.2.2 This Agreement is the joint work product of representatives of SWBT and West-Tex. For convenience, it has been drafted in final form by one of the Parties; accordingly, in the event of ambiguities, no inferences will be drawn against either Party solely on the basis of authorship or drafting of this Agreement.

### 24.3 Waiver

The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times in full force and effect.

## 25. REGULATORY JURISDICTION/INTERVENING LAW

25.1 This Agreement is entered into as a result of both private negotiation between the Parties and arbitration by the Commission, acting pursuant to the Act, PURA 95 and/or the Commission's Substantive Rules. Subject to the terms and conditions delineated in Section 14 of this Agreement, if the actions of the state or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction invalidate, modify, or stay the enforcement of laws or regulations that were the basis for a provision of the contract required by the Arbitration Award approved by the PUC, the affected provision will be invalidated, modified, or stayed as required by action of the legislative body, court, or regulatory agency. In such event, the Parties shall expend diligent efforts to arrive at an agreement respecting the modifications to the Agreement required. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions will be resolved pursuant to any remedy available under law provided that the Parties may mutually agree to use the dispute resolution process provided for in this Agreement.

25.2 In the event a court or regulatory agency of competent jurisdiction should determine that modifications of this Agreement are required to bring the services being provided hereunder into compliance with the Act, the affected Party shall promptly give the other Party written notice of the modifications deemed required. Upon delivery of such notice, the Parties shall expend diligent efforts to arrive at an agreement respecting such modifications required, and if the Parties are unable to arrive at such agreement within sixty (60) days after such notice, either Party may seek any remedy available to it under law provided the Parties may mutually agree to invoke the dispute resolution process set

forth in this Agreement.

26. LAW GOVERNING AGREEMENT/COMPLIANCE WITH LAWS

26.1 This Agreement shall be governed by the laws of the State of Texas, except insofar as federal law may control any aspect of this Agreement in which case federal law will control.

26.2 Each Party warrants that it has obtained all necessary jurisdictional certification and licenses required in those jurisdictions in which either Party has ordered services pursuant to this Agreement.

26.3 The Parties shall be responsible for obtaining and keeping in effect all Federal Communications Commission, state regulatory commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement. The Parties shall reasonably cooperate with each other in obtaining and maintaining any required approvals.

27. LIMITATION OF ACTION

No arbitration demand or other judicial or administrative action, regardless of form, arising out of the transaction(s) under this Agreement may be brought by either Party more than two (2) years after the cause of action arises.

28. ARBITRATION

28.1 Alternative to Litigation

The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim of \$25,000 or less, arising out of or relating to this Agreement or its breach.

28.1.1 Resolution of Disputes Between Parties to the Agreement

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The Parties intend that these negotiations be conducted by nonlawyer, business representatives. The location, form, frequency, duration and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for



purposes of settlement are exempt from discovery and production and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

#### 28.1.2 Arbitration

28.1.2.1 If the negotiations do not resolve the dispute within sixty (60) days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond, to a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories; demands to produce documents; requests for admission. Not less than fourteen (14) days prior to the arbitration hearing, the Parties shall exchange witness and exhibit lists. Each Party is also entitled to take the oral deposition of one representative of the other Party.

28.1.2.2 Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration. The arbitration shall be held in the state in which the cause of action or dispute arose. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties shall submit written briefs five days before the hearing. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings. The arbitrator has no authority to order punitive or consequential damages. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

#### 28.1.3 Costs

Each Party shall bear its own costs of these procedures, and shall equally split the fees of the arbitration and the arbitrator; provided, however, that the arbitrator may assign costs to the Party demanding arbitration upon a finding that such Party

brought a frivolous cause of action or claim. A Party seeking discovery shall reimburse the responding Party for the costs of production of documents (including search time and reproduction costs).

29. ASSIGNMENT/SUCCESSORS

29.1 Neither this Agreement nor any interest of the Parties hereunder, nor the use of any of the facilities furnished by the Parties hereunder, may be assigned or in any manner transferred by either Party without the prior written consent of the other. An assignment by either Party to a parent, subsidiary or an affiliate of that Party shall not be considered an assignment requiring prior approval under this Agreement.

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

30. SEVERANCE

In the event any provisions of this Agreement shall be held to be invalid, illegal and/or unenforceable, those provisions shall be severed from the Agreement and the remainder of this Agreement shall be unimpaired and continue in full force and effect; 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 this Agreement.

31. COLLECTION COSTS AND COSTS OF LEGAL ACTION

Subject to the provisions of this Agreement, if either Party successfully pursues (or defends against) any collection activities against (or by) the other Party for unpaid service charges or prevails in any legal or equitable action (excluding arbitration) for any alleged violation of this Agreement, the prevailing Party, at the discretion of the judge, shall be reimbursed all or a portion of the costs of the collection or legal activities, including reasonable attorneys' fees and any related court and other costs.

32. THIRD-PARTY BENEFICIARIES

This Agreement shall not provide any person not a party, assignee or successor 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.

33. RELATIONSHIP OF THE PARTIES

This Agreement shall not establish, be interpreted as establishing, or be used by either Party to establish or to represent their relationship as any form of agency, partnership or joint venture. Neither Party shall have any authority to bind the other or to act as an agent for the other unless written authority, separate from this Agreement, is provided.

Nothing in the Agreement shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both of the Parties. Nothing herein shall be construed as making either Party responsible or liable for the obligations and undertakings of the other Party.

34. NOTICES

- 34.1 Unless otherwise specifically provided herein, any notices or other communications required or permitted to be given or delivered under this Agreement (other than trouble reports and notices of interruption) shall be in writing and shall be delivered in one of the following manners: (1) by hand, (2) by overnight delivery service, (3) by deposit in the United States mail, postage prepaid, or (4) by confirmed facsimile transmission with a copy also sent by overnight delivery or by mail as provided above, return receipt requested, addressed as follows:

WES-TEX:  
Wes-Tex Telecommunications, Inc.  
Attn: J.R. Wilson, Manager  
West Loop 214  
Stanton, TX 79782  
FAX: (915) 756-2693

SWBT:  
Southwestern Bell Tele. Co.  
Attn: Director - Wireless & Payphone  
Marketing  
Four Bell Plaza, Rm. 1820  
St. Dallas, TX 75202  
FAX: (214) 858-0571

- 34.2 Any such notice or other communication shall be deemed to be given when received. Any Party may specify a different address by notifying the other Party in writing of such different address in the manner provided in this section.

35. COMPLETE TERMS

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

36. SURVIVAL

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in their behalf on the dates set forth below.<sup>2</sup>

THIS AGREEMENT CONTAINS A BINDING ARBITRATION AGREEMENT.

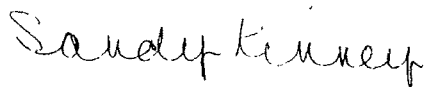


BY: J.R. Wilson

Title: Manager

Date: 10-15-99

BY:



Title: President - Industry Markets



Date:

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<sup>2</sup> This Agreement is based on an approved contract previously entered into by Southwestern Bell Telephone Company and AT&T Wireless. Thus, notwithstanding language in the body of the Agreement or any attachments thereto, rates, terms, and conditions of this Agreement shall only apply after the Effective Date of this Agreement.

## Appendix Local Number Portability

### Activity

1. LRN Software installed and functioning (Switch Vendor)
2. Determine provider of LNP database
- 3 Identify Service Provider ID (SPID); Carrier must have a single SPID per Region
4. Obtain new NXXs and update LERG
- 5 Create LRN per switch
6. Register/certify with region's NPAC
7. Make arrangements for OS, DA, DL
8. Make arrangements for 911/E911
- 9 Contact your LEC Account Manager to: (a) schedule LNP training, (b) gain name and telephone number of testing single point of contact (SPOC) and (c) review SS7
10. Attend training
11. Schedule and complete LNP testing
12. Become knowledgeable of NANC flow

### Resource

Switch Vendor

Lockheed Martin  
[www.npac.com](http://www.npac.com) Code  
Administrator

Lockheed Martin  
[www.npac.com](http://www.npac.com)

Account Manager

LEC SPOC  
[www.fcc.org/ccb/Nanc](http://www.fcc.org/ccb/Nanc)

TEXAS  
APPENDIX PRICING

Usage Charges

1.0 Rates

1.1 Interim Rates

1.1.1 For an interim period, that is, from the date of execution of this Interconnection Agreement until the date identified in paragraph 1.2.4 below, the mutual, reciprocal rate for transport and termination of mobile to land and land to mobile local traffic shall be \$.009 per minute of use for Type 2A and Type I interconnections and \$.004 per minute of use for Type 2B interconnections between the Parties. The rate for Transiting Traffic shall be \$.003 per minute of use, regardless of the type of interconnection between the Parties.

1.1.2 The interim rates established under paragraph 1.1 shall be subject to the true-up provisions of Section 14 of the Interconnection Agreement.

1.2 Revised Rates

1.2.1 If the conditions of Section 14.3.2 of the Interconnection Agreement are satisfied during calendar year 1997, the prices from the proceedings referenced in Section 14.3.2 of the Interconnection Agreement for the network functions end office switching, tandem switching, and transport' shall be multiplied by the following factors, and the results shall be summed to arrive at a revised combined mutual and reciprocal rate for transport and termination of traffic between the Parties via Type 2A and Type I interconnections.

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The transport price for Zone C shall be used in all cases to which this Appendix applies.

1.2. 1. 1 End office switching factor - 1.016806

1.2.1.2 Tandem switching factor - 0.961221

1. 2.1.3 Transport factor - 1.33831

1.2.2 If the conditions of Section 14.3.2 of the Interconnection Agreement are satisfied during calendar year 1997, the reciprocal rate for transport and termination of traffic between the Parties via Type 2B interconnections shall be the product of the end office switching price from the proceedings referenced in Section 14.3.2 of the Interconnection Agreement multiplied by the end office switching factor - 1. 0 16806.

1.2.3 The rate for Transiting Traffic between the parties, regardless of the type of interconnection between the Parties, shall remain set at \$0.003 per minute of the use throughout 1997 and shall not be subject to the true-up requirement of subparagraph 1.2.4.

1.2.4 The revised rates developed pursuant to this subparagraph 1.2 shall apply to traffic exchanged in the first full billing period which begins after the Commission's order becomes final and appealable, and shall be billed prospectively thereafter. Provided, however, if revised rates are implemented for the first time pursuant to paragraph 1.3, then the revised rates developed pursuant to paragraph 1.3 shall apply instead of rates developed pursuant to paragraph 1.2 The first applied revised rates (under either paragraph 1.2 or paragraph 1.3, not both) shall be applied retroactively to all traffic exchanged between the Parties since the date of execution of this Interconnection Agreement. Payment of amounts due under the revised, retroactively applicable rates shall be made in one lump sum, due 60 days after the Commission's order becomes final.

### **1.3 Revised Factor Study and Further Revised Rates**

1. 3. 1 Prior to June 1, 1997, SWBT and other CMRS providers formed a joint working group. The task assigned to the working group was to develop a comparison, in which all Parties involved have confidence, of the usage of the SWBT network and its individual end office, transport, and tandem switching functions by CMRS providers and by competitive local exchange carriers (CLECs) respectively, with a purpose to develop factors to replace those identified in subparagraph 1.2 for use in developing transport, termination and transit rates. The work of the joint working group shall be completed by December 1, 1997.

1.3.2 The working group should consider the following issues related to their task:

1.3.2.1 A statistically valid sampling methodology for both CMRS I originated and CLEC originated traffic.

1.3.2.2 Whether or not it makes a difference if the CMRS is connected to one or more than one tandem in the local exchange.

1.3.2.3 Other items which may affect the results or the validity of the study.

1.3.3 The factors produced by the joint working group shall be used to develop revised rates. The revised rates shall become effective on the later of the date on which the conditions of Sections 14.3.2 of the Interconnection Agreement have been satisfied on January 1, 1998. The revised combined rate for transport and termination of local traffic using Type I and Type 2A connections shall be developed using the end office switching, tandem switching and transport prices from the proceeding referenced in Section 14.3.2 of the Interconnection Agreement, and applicable factors. The rate for Transiting Traffic shall be the sum of the transport and tandem switching prices from the proceeding referenced in Section 14. 3.2 of the Interconnection Agreement multiplied by the applicable factors.

## 2.0 InterMT A Traffic

### 2.1 InterMTA Rates

2.1.1 InterMTA Rate to be paid to SWBT by Wes-Tex on interMTA Mobile to Land calls:

\$.022463

2.1.2 InterMTA Rate to be paid to SWBT by Wes-Tex on interMTA Land to Mobile calls only if and when the total percentage of Land to Mobile interMTA calls exceed 3%:

\$.022463

### 2.2 InterMTA Traffic Factor

2%

### 2.3 Transiting Traffic Factor

5%



.0 Directory Assistance

3.1 Directory Assistance Per Call Price

Per Call	\$ .25
Transport Per Call	
0- 1 mile	\$ .0026
>1 to 8 miles	\$ .0055
>8 to 16 miles	\$ .0061
>16 to 25 miles	\$ .0065
>25 to 50 miles	\$ .0104
>50 to 100 miles	\$ .0148
>100 miles	\$ .0222

3.2 Directory Assistance Call Completion

3.2.2 Per Completed Call \$ .20

3.2.3 Operator Service Circuits

In addition to the Per Call Rates, Wes-Tex must establish facilities between the Wes-Tex MSC and SWBT's TOPS tandem. Prices can be found in Section 7 of Interstate/Intrastate Access Service Tariff.

4.0 Area Wide Calling Plan

4.1 AWCP per MOU

Local Switching \$ .008759

Local Transport

0- 1 mile	\$ .0067
>1 to 25 miles	\$ .0085
>25 miles	\$ .0221
Carrier Common Line	\$ .0263

4.2 A nonrecurring charge of \$5810.00 applies to arrange anew AWCP NXX Code or to convert an existing NXX code to an AWCP.

5.0 Signaling System 7("SS7")

Use of SWBT's STP  
Rate per million octets

\$2.39

6.0 For purposes of allocating appropriate SWBT nonrecurring and recurring facilities charges, the presumed traffic split, subject to semi-annual review and possible adjustment shall be 70% mobile to land and 30% land to mobile. These factors represent the percentage of the facility rates that each party will pay for each shared Interconnection Facility.

7.0 Wes-Tex Provided Connecting Facility Rates

To be provided when available on an individual case basis, once a bona fide request for such an arrangement is received by Wes-Tex from SWBT.

8.0 Miscellaneous Nonrecurring Charges

Maintenance of Service

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

Access Order Charge	Switched	\$17.00
	Special	\$14.00

Design Change \$32.96

Service Date Change \$14.77

ACNA Change	\$22.00 per trunk group
BAN Change	\$22.00 per billing account number

CKT ID Change	\$22.00 per trunk group
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Additional Engineering

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

Additional Labor Rates

Installation Basic Time	1st 1/2 hr	\$36.35	Ea. add'l 1/2 hr.	\$26.73
Installation Overtime	1st 1/2 hr	\$41.77	Ea. add'l 1/2 hr.	\$32.15
Testing & Mtce. Basic Time	1st 1/2 hr.	\$30.93	Ea. add'l 1/2 hr.	\$21.32
Testing & Mtce. Overtime	1st 1/2 hr.	\$36.35	Ea. add'l 1/2 hr.	\$26.73

Supersede

Switched	\$17.00
Special	\$14.00

Cancellation Charge No. of business days from order application through the order cancellation multiplied by the average daily charge of the service ordered, plus the access order charge

Rollover Charges A rollover is a Wes-Tex initiated move that involves a change of a Point of Termination from an existing service within the same Wes-Tex premises. The nonrecurring charge associated with the installation of that service applies when Wes-Tex requests a rollover.

Wes-Tex and SWBT agree that the rates shown below shall; be substituted for the corresponding rates shown in Paragraph 1 and 2 preceding of this appendix, and shall be those observed and enforced from and after March 5, 1998 and that the rates shown below for transport and termination of Local Traffic and for Transiting Traffic shall form the basis for the true up required by Paragraph 14.3 of the Interconnection Agreement.

Wes-Tex and SWBT agree that the Usage rates for the transport and termination of Local and Transiting Traffic in Paragraph 1 preceding shall be replaced with:

1.0 Usage rates for the transport and termination of Local and Transiting

1.1 Mobile to land interconnection Rates Per Minute of Use

Type 2a	Type 1	Type 2B	Transiting
\$0.002790	\$0.002790	\$0.001843	\$0.000947

1.2 Land to mobile Interconnection Rates Per Minute of Use

All Interconnection Types	Transiting
\$0.002790	\$0.000947

Wes-Tex and SWBT agree that the rates in Paragraph 2, preceding, shall be replaced with:

2.0 InterMTA Traffic

2.1 InterMTA Rates

2.1.1 InterMTA Rate to be paid to SWBT by Wes-Tex on mobile to land calls, per minute of use:

\$.022463

2.1.2 InterMTA Rate to be paid to SWBT by Wes-Tex on land to mobile calls only if and when the total percentage of land to mobile interMTA calls exceed 3%, per minute of use:

## Appendix Directory Listings

### Directory Listings

- A. Wes-Tex shall have the option to obtain directory listings for Wes-Tex's end user customers in the directory of Wes-Tex's choice under the following terms and conditions:
- 1) SWBT will handle Wes-Tex's request to list Wes-Tex end users by providing a foreign listing at the tariffed price in Texas of \$1.45 per month for each listing.
  - 2) The SWBT tariffed rate will apply to Wes-Tex on behalf of its end users.
  - 3) The Parties acknowledge that the rates are tariffed rates, and not necessarily indicative of TELRIC costs. In doing so, Wes-Tex specifically does not waive its rights to seek different cost based rates following the termination of this Agreement. The provision of foreign listings at tariffed rates is only an interim accommodation to Wes-Tex and its end user customers at this point in time.
  - 4) The term foreign is only to denote that the listing does not belong to a SWBT wireline subscriber whose number would normally be listed in the particular directory where the listing will appear.
  - 5) SWBT will designate a single service center to handle Wes-Tex's Texas requests and permit Wes-Tex to order the listing in lieu of the end user.
  - 6) All foreign listings will be grouped and billed on one special bill to Wes-Tex.
  - 7) In placing orders, Wes-Tex will provide to SWBT the following information: the customer's name and address as it should appear in the directory, the name of the directory where the listing should appear, and if the listing is to appear as an "indent" under the customers' SWBT wireline residence or business listing (only applicable if customer has and intends to retain an existing wireline residence or business listing), the business or residential telephone number. In any case, any listings for fixed wireless customers will be able to have an address associated with the customer. Wes-Tex will provide to SWBT a contact person to contact regarding the order. The orders will be faxed to SWBT's designated service center.

## Appendix Local Number Portability

### PORTING OF NUMBERS

- A. The Parties agree to port numbers between their respective networks under the conditions outlined below and applicable to the Carrier's number portability capable switch(es) identified in Attachment 1.
- B. The following terms as used in this agreement are defined as indicated
- (1) Service Location<sup>3</sup> - Fixed physical geographical location where service is delivered. In a wireline or wireline equivalent context, this would be where the loop plant is terminated in the Network Interface Device (NID).
  - (2) Rate Center - A Rate Center is a uniquely defined geographical location within an exchange area (or a location outside the exchange area) for which mileage measurements are determined for the application of intrastate and interstate toll tariffs.<sup>4</sup> LEC Rate Center boundaries, as listed in the Local Exchange Routing Guide, shall be used.
- C. Carrier will assign the telephone numbers to its fixed location wireless service customers such that the customer's Service Location is within the same Rate Center assigned to the NPA-NXX of the telephone number.
- D. Carrier's customers subscribing to Carrier's fixed location wireless service will not be allowed to change or move their Service Location to a different Rate Center and retain their telephone number.
- E. Customers may port between LEC and Carrier's number portability switch(es) as long as the customers are not changing their Service Location to a point outside the Rate Center in which the NPA-NXX of their telephone number is assigned.
- F. Difference in Porting Provisioning Intervals. The Parties agree that the interval for porting numbers under this Agreement will be a maximum of 3 (three) days from receipt of the Firm Order Completion (FOC) from the carrier that is to port the number.
- G. No Roaming. Roaming is defined as terminal mobility outside the metropolitan statistical area (MSA). The service for which Carrier seeks number portability is a fixed location wireless service utilizing PCS spectrum. Therefore, there will not be a roaming component of the service. --
- H. Use of Local Service Request. The Parties will use LEC's Local Service Request (LSR) process to request porting.
- I. Carrier will notify LEC, in writing, of each new NPA-NXX, including associated Rate Center, for which it plans to offer its fixed location wireless service. Carrier will follow the Southwest Region Network Operations Team NPA-NXX code opening process for each of its NPA-NXX codes

<sup>3</sup> Any change in the fixed geographical location will be considered a move or change in Service Location.

<sup>4</sup> The Rate Center definition is taken from Section 1, General Information, of the Local Exchange Routing Guide (LERG). The LERG definition has been modified to include intrastate toll tariffs in addition to interstate tariffs. Section 6 of the LERG lists the rate center names, the rating vertical and horizontal codes, the localities to which the rate centers apply, and other cross-reference information.

## Appendix Local Number Portability

associated with its number portability capable switch(es) (Attachment 1).

- J. Both working and reserved telephone numbers will be returned to the DONOR Service Provider when the customer's service is disconnected or discontinued.
- K. Prior to initiating number portability, Carrier will ensure that it has performed tasks listed in the attached Local Number Portability (LNP) Checklist (see Attachment 2).
- L. Each Party will designate a single point of contact (SPOC) to schedule and perform recommended intercompany testing. These tests will be performed during a mutually agreed time frame and must meet the recommended guidelines set forth by the Southwest Region Network Operations Team for porting.
- M. Each Party will abide by the NANC and Southwest Region Network Operations Team's LNP processes and policies.

### QUERY SERVICE FOR PERMANENT NUMBER PORTABILITY (PNP)

LEC will provide Local Number Portability ("LNP"; also referred to in the Tariff as "Service Provider Number Portability" or "SPNP") to Carrier pursuant to the LNP-related rights and obligations established by pertinent law, and by the FCC, in accordance with FCC Tariff No.73 ("the Tariff"), which is incorporated herein to the extent pertinent to LNP, and as provided herein. LEC intends to comply with FCC orders approving its tariff containing charges for performance of LNP queries, including any true-up to retroactive rates if ordered.

## Appendix Local Number Portability

### ATTACHMENT 1

Carrier's Switch (CLLI)

DLLSTXTLCM2

Rate Center

Dallas

NPA-NXX

21~306

### ATTACHMENT 2

**Local Number Portability (LNP) Pre-Initiation Checklist**



## Appendix E911 - Fixed Wireless Service

This Appendix E911 sets forth the terms and conditions under which SWBT will provide Wes-Tex connection to E911 Universal Emergency Number Service, on a wireline basis for switches designated in the LNP Addendum, for those Wes-Tex end users choosing to obtain fixed wireless service. This Appendix does not in any way affect or amend the 911 service that is currently provided to Wes-Tex's general wireless customers. The E911 Universal Emergency Number Service described in this Appendix is in addition to the existing general 911 service.

### I. DEFINITIONS

- A) As used herein and for the purposes of this Appendix the following terms will have the meanings set forth below:
- 1) E911 Universal Emergency Number Service (also referred to as Expanded 911 Service or Enhanced 911 Service) - A telephone exchange communication service whereby a PSAP designated by the E911 Universal Emergency Number Service Customer may receive and answer telephone calls placed by dialing 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.
  - 2) E911 Universal Emergency Number Service Customer - A municipality or other state or local governmental 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 the minimum, for emergency police and fire service through the use of one telephone number, 911.
  - 3) Public Safety Answering Point (PSAP) - An answering location for 911 calls originating in a given area. The E911 Universal Emergency Number Service Customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first; secondary PSAPs receive calls on a transfer basis only. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.
  - 4) Centralized Automatic Message Accounting (CAMA) Trunk - A trunk capable of transmitting Automatic Number Identification (ANI) associated with E911 calls from a switch to the E911 Network.
  - 5) Automatic Number Identification (ANI) - A feature that automatically forwards the telephone number of the calling party to the E911 Control Office (E911 Tandem Switch or Selective Router) from which it is switched to the PSAP and is displayed at an attendant position console.
  - 6) Automatic Location Identification (ALI) -name, street address, class of service, information associated with the calling party (identified by ANI) to the PSAP for display. A feature that forwards the and other pre-determined party's telephone number.
  - 7) Selective Routing (SR) - A telecommunications feature that provides the capability to selectively route a 911 call to the designated primary PSAP based upon the identified

## Appendix E911 - Fixed Wireless Service

number of the calling party.

- 8) Database Management System (DBMS) - A system of manual procedures computer programs used to create, store and update the data required for SR and ALI service features of E911 Universal Emergency Number Service.
- 9) ALI Database - A database which stores information associated with end user customers' telephone numbers.

### II. RESPONSIBILITIES

- A) Since Wes-Tex is employing its wireless system on a fixed location basis in connection with the service, it differs slightly from the arrangement employed by wireline CLECs who normally use this system. Wireless systems traditionally provide information to a PSAP that identifies only the cell site carrying the call, rather than the caller's fixed location. Accordingly, Wes-Tex will ensure that each of its fixed wireless service telephone numbers has a fixed location listed in the ALI Database and that Wes-Tex's network is properly set up to pass ANI that will provide the PSAP the information it needs to associate that information in the ALI Database with the telephone number or ANI passed to it.
- B) SWBT shall provide and maintain equipment at the E911 Control Office and the DBMS as is necessary to perform E911 Universal Emergency Number Service in connection with Wes-Tex's fixed wireless service set forth herein. SWBT shall also be responsible for the following:
  - 1) When requested by Wes-Tex, transporting the E911 calls from the interconnection point with Wes-Tex facilities connecting Wes-Tex's switches listed in Exhibit-I (attached hereto and made a part hereof) to the Control Offices of the E911 System.
  - 2) Switching the E911 calls through the E911 Control Office(s) to the designated primary PSAP or to designated alternate locations, according to routing criteria specified by the E911 Universal Emergency Number Service Customer.
  - 3) Storing the names, addresses, and associated telephone numbers from Wes-Tex's end users involved in the fixed wireless service in the electronic data processing database for the E911 DBMS. Wes-Tex is responsible for downloading and updating this information.
  - 4) Transmission of ANI and ALI information associated with Wes-Tex's fixed wireless end users accessing E911 Universal Emergency Number Service to the PSAP for display at an attendant position console
- C) SWBT shall provide and maintain sufficient dedicated E911 circuits, in accordance with the provisions of the SWBT E911 tariff and specifications of the E911 Universal Emergency Number Service Customer.
- D) SWBT shall provide Wes-Tex with a description of the geographic area and PSAPs served by the E911 Control Office(s) according to industry standards for E911 information sharing.

## Appendix E911 - Fixed Wireless Service

- E) SWBT shall provide Wes-Tex with a file containing the Master Street Address Guide (MSAG) for the exchanges or communities specified in Exhibit I, in accordance with the methods and procedures described in the document "Operating Methods for Downloading and Maintaining End User Records in SWBT's DBMS" (dated November 1996 and to be provided by SWBT), and as subsequently modified consistent with industry standards. SWBT shall provide Wes-Tex additional files with the entire MSAG, including subsequent additions or updates to the MSAG in accordance with the intervals specified in Exhibit I. In addition, SWBT shall provide Wes-Tex with a statistical report in a timely fashion and in accordance with the methods and procedures described in the above mentioned document for each file downloaded by Wes-Tex to SWBT's DBMS, so that Wes-Tex may ensure the accuracy of the end user records.
- F) Wes-Tex shall connect its switches to the E911 Control Office by one-way outgoing CAMA trunks dedicated for originating E9 11 emergency service calls, according to specifications in the document "TEXAS E911 NETWORK INTERFACES", or by dedicated trunks using SS7 protocol in areas served by an E911 Control Office capable of supporting SS7 connectivity for 911. Wes-Tex will attest it has been provided copies of the documents referenced in E. and F., above.
- G) At a reasonable time prior to establishment of E911 Universal Emergency Number Service, Wes-Tex will download and maintain thereafter all information required to establish records necessary for furnishing connection to E911 Universal Emergency Number Service in connection with Wes-Tex's fixed wireless service. Wes-Tex will adopt and comply with operating methods applicable to downloading and maintaining Wes-Tex's end user records in SWBT's DBMS, as set forth in the document referenced in E, above.
- H) Wes-Tex acknowledges that its end users in a single local calling scope may be by different PSAPs. Wes-Tex will be responsible for providing facilities to route calls from its end users to the proper E911 Control Office(s).
- I) Wes-Tex and SWBT agree that Exhibit I shall be completed by the Parties thirty (30) days prior to the passing of live traffic.

### III. METHODS AND PRACTICES

With respect to all matters covered by this Appendix, each Party will adopt and comply with standard industry operating methods and practices and will observe the terms and conditions of SWBT's tariffs, and the rules and regulations of the FCC, the Public Utility Commission of Texas and the Texas Advisory Commission on State Emergency Communications that apply to the provision of E911 Universal Emergency Number Service in the context of Wes-Tex's fixed wireless service. SWBT will adhere to the March 1997 NENA recommended Standards for Local Service Providers. SWBT will only exceed the NENA recommended Minimum Trunking Requirements under extenuating circumstances and with the approval of the Public Safety Entity.

### IV. CONTINGENCY

- A) The Parties agree that the E9 11 Universal Emergency Number Service is provided for

## Appendix E911 - Fixed Wireless Service

the use of the E911 Universal Emergency Number Service Customer, and recognize the authority of the E911 Universal Emergency Number Service Customer to establish service specifications and grant final approval (or denial) of service configurations offered by SWBT and Wes-Tex. The specifications are to be documented in Exhibit I, CLEC Serving Area Description and E911 Interconnection Details. The terms and conditions of this Appendix represent a negotiated plan for providing E911 Universal Emergency Number Service, for which Wes-Tex must obtain documentation of the E911 Universal Emergency Number Service Customer's approval. Wes-Tex will provide such documentation to SWBT prior to use of Wes-Tex's E911 connection for actual emergency calls.

- B) The Parties designate the following representatives who shall have the authority to execute additional Exhibit I to this Appendix when necessary to accommodate expansion of Wes-Tex's geographic area into the jurisdiction of additional PSAPs or to increase the number of CAMA trunks:

Wes-Tex representative:

Wes-Tex Telecommunications, Inc. D)  
Attn: J.R. Wilson, Manager  
West Loop 214  
P.O. Box 1329  
Stanton, TX 79782  
FAX: (915) 756-2693

SWBT representative:

The terms and conditions of this Appendix were subject to negotiation prior to the event that the E911 Universal Emergency Number Service Customer orders changes to the E911 Universal Emergency Number Service that necessitate revision of this Appendix.

- C) Either Party may unilaterally change its designated representative and/or address, telephone contact number, or facsimile number for the receipt of notices by giving seven (7) days prior written notice to the other Party in compliance with this Section. Any notice or other communication for purposes of this section will be deemed given when

### V.

### BASIS OF COMPENSATION

- A) Compensation to SWBT for provision of connection to E911 Universal Emergency Number Service provided hereunder will be based upon the charges set forth in Exhibit II, BASIS OF COMPENSATION, which is also attached hereto and incorporated herein, and applied as specified in Exhibit I.
- B) For computation in Exhibit II, during the initial year that SWBT provides Wes-Tex connection to E911 Universal

## Appendix E911 - Fixed Wireless Service

Emergency Number Service, the number of access lines as shown in Exhibit I will be counted on January 1, April 1, July 1, and October 1 (or the first day of service, with proration of the first month's charges) and the number will be used in computing compensation for the corresponding quarter. At the end of the first full year of service, a new count of access lines will be made and it will be used until the succeeding December 31. For each succeeding year, a new count of access lines, as of the first day of January, will be used in the computation of compensation under this Appendix for that year. Each count of access lines will be rounded to the nearest thousand for compensation purposes, but in no case shall the number be less than 1000

- C) Charges will begin on the date connection to E911 Universal Emergency Number Service commences.

### VI. **MONTHLY BILLING**

SWBT will render to Wes-Tex monthly statements in advance, showing the amounts determined as provided in Section V, Basis of Compensation, above, and Wes-Tex will make payment in full within thirty (30) days from the date of the bill.

### VII. **MUTUALITY**

Wes-Tex agrees that to the extent it offers the type of services covered by this Appendix to any company, that should SWBT request such services, Wes-Tex will provide such services to SWBT under terms and conditions comparable to the terms and conditions contained in this Appendix.

# Appendix E911 - Fixed Wireless Service

Appendix E911 - Fixed Wireless Page 6

## EXHIBIT I TO APPENDIX E911

ii. was developed for use with CLECs Comparable substitutions will need to be made for Wes-Tex's use.)

CLEC NAME & CONTACTS	CLEC "OCN"	CLEC Switch	Switch Type	CLEC NPA/NXX(s) included
E9-1-1 Coordinator	CLEC Telco ID		CLLI Code	
			"Connect Signal" Digits <sup>(4)</sup>	Estimated # of EAAs
9-1-1 Database Manager	CLEC Service : Area Definition		1 - 1	
			ETST Code	# 9-1-1 Trunks Requested
Switch Site Contact			"Default" PSAP	Requested Service Date

### SWBT E9-1-1 SYSTEM CONFIGURATION ASSOCIATED WITH DESIGNATED E9-1-1 CONTROL OFFICE

E911 CONTROL OFFICE CELL Code:	EXCHANGES FOR MSAG PULL <sup>(3)</sup>	PSAPs INCLUDED	E9-1-1 CUSTOMER and AGENCY TYPE <sup>(see legend below)</sup>
E9-1-1 Features Required:			
9-1-1 Trunks from CLEC:			
MSAG Update Interval: Monthly			

FOOTNOTES: (1) MSAG pull is keyed to these exchanges, and will only contain addresses in SWB's service area.

(2) n/a

(3) Only areas within the listed exchanges and also within the jurisdiction of this PSAP are included. The remainder of the PSAP's jurisdiction is not included.

(4) Refer to network interface specifications in Exhibit III.

### "TYPE of AGENCY"

#### LEGEND:

- HRC = Home Rule City
- ECD = Emergency Communications District
- COG = Council of Governments or Regional Planning Commission
- GLC = General Law City
- Cnty = County with special provisions (only applies to Dallas County)

Appendix E911 - Fixed Wireless Service  
EXHIBIT II  
BASIS OF COMPENSATION

This Exhibit fi is attached to and made a part of Appendix E91 I - Fixed Wireless Service

- A. The following compensation amounts will be due SWBT for the provision of services under the above-mentioned Appendix for Wes-Tex exchanges and the feature configurations shown in Exhibit I.

<u>E911 Feature Charge Configuration Access</u>	<u>Monthly Charge Per 1000 Access Lines</u>	<u>Nonrecurring per 1000 Lines</u>
Automatic Number Identification		
- SWBT PSAP	\$11.24	\$81.20
- non-SWBT PSAP	\$ 6.89	\$81.20
Combined Automatic Number Identification and Selective Routing		
- SWBT PSAP	\$88.90	\$428.01
- non-SWBT PSAP	\$84.33	\$428.01
Combined Automatic Number and Automatic Location Identification		
- SWBT PSAP	\$89.48	\$299.68
- non-SWBT PSAP	\$79.00	\$297.74
Combined Automatic Number, Automatic Location Identification, And Selective Routing		
- SWBT PSAP	\$107.82	\$502.10
- non-SWBT PSAP	\$ 97.34	\$500.16

- B. The following trunk charges will be paid to SWBT for each E911 Control Office to which Wes-Tex connects.

<u>Trunk Charge</u>	<u>Monthly Recurring</u>	<u>Nonrecurring</u>
Channel (Each) trunk	\$39.00 per trunk	\$165.00 per