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December 14, 2004

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
PO Box 30221
Lansing, MI 48909

Re: In the matter of the application and formal complaint of **ACD TELECOM, INC.**
against **MICHIGAN BELL TELEPHONE COMPANY d/b/a SBC MICHIGAN**
for its unilateral revocation of line sharing service in violation of the parties'
interconnection agreement and tariff obligations, and for an Emergency Relief
Order.
MPSC Case No. U-14382

Dear Ms. Kunkle:

Enclosed for filing please find an original and four copies of ACD Telecom, Inc.'s **FORMAL COMPLAINT AND REQUEST FOR EMERGENCY RELIEF ORDER** and **DIRECT TESTIMONY AND EXHIBITS OF KEVIN SCHOEN ON BEHALF OF ACD TELECOM, INC.**, in the above-captioned matter. A Proof of Service upon the Parties of Record is also enclosed. These documents have been filed electronically with the Michigan Public Service Commission's Electronic Filing System.

Sincerely,

CLARK HILL PLC

Leland R. Rosier

LRR: met
Enclosures

cc: Parties of Record

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21960/098979

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application and formal complaint of)
ACD TELECOM, INC. against MICHIGAN BELL)
TELEPHONE COMPANY d/b/a SBC MICHIGAN)
for its unilateral revocation of line sharing service)
in violation of the parties' interconnection agreement and)
tariff obligations, and for an Emergency Relief Order.)
_____)

Case No. U-14382

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF INGHAM)

Mary E. Turney, being duly sworn, deposes and says that she is an employee of Clark Hill PLC, and that on December 14, 2004, she served a copy of ACD Telecom, Inc.'s **FORMAL COMPLAINT AND REQUEST FOR EMERGENCY RELIEF ORDER** and **DIRECT TESTIMONY AND EXHIBITS OF KEVIN SCHOEN ON BEHALF OF ACD TELECOM, INC.** along with Proof of Service in the above-captioned matter upon:

SEE ATTACHED SERVICE LIST

Service was accomplished by depositing same in a regular United States Postal Service mail depository, enclosed in envelopes bearing first-class postage, fully prepaid and properly addressed, and via electronic mail. A copy was hand delivered to Robin Gleason of SBC Ameritech.

Mary E. Turney

Subscribed and sworn to before me
this 14th day of December, 2004

Judith Bradman, Notary Public
State of Michigan, County of Ingham
Acting in the County of Ingham
My Commission Expires: May 18, 2008.

SERVICE LIST
MPSC CASE NO. U-14382
PAGE 1 OF 1

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application and formal complaint of)	
ACD TELECOM, INC. against MICHIGAN BELL)	
TELEPHONE COMPANY d/b/a SBC MICHIGAN)	Case No. U-14382
for its unilateral revocation of line sharing service)	
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_____)	

FORMAL COMPLAINT
AND
REQUEST FOR EMERGENCY RELIEF ORDER

This is a Formal Complaint brought by ACD Telecom, Inc. ("Complainant" or "ACD"), a Michigan corporation, by its attorneys, Clark Hill PLC, pursuant to Sections 203, 204, 205, 305, 502, and 601 of the Michigan Telecommunications Act, MCL 484.2101 *et seq.* ("MTA"), and Rules 501 *et seq.* of the Rules of Practice and Procedure Before the Commission, MAC R 460.17501 *et seq.* It is brought against Michigan Bell Telephone Company d/b/a SBC Michigan ("SBC").

This complaint includes a Request for an Emergency Relief Order pursuant to Section 203(2) of the MTA, MCL 484.2203(2). This portion of the complaint is set forth in Count II of this complaint, and is supported by the testimony of Kevin Schoen filed with this complaint, at pages 6-7. The Request is limited to preventing SBC from refusing new orders for service prior to Commission action or adoption of an amendment to the interconnection agreement between the parties, or to terminate any existing services in any way, while this proceeding is pending.

Pursuant to Section 203(13) of the MTA, MCL 484.2203(13), where a complaint is filed by a provider against another provider, the provider of service shall not discontinue service during the period of the contested case. SBC has refused to accept new orders for line sharing as of December 6, 2004. See supporting testimony of Kevin Schoen, at page 5. Pursuant to MCL 484.2203(13), SBC should be directed to continue to place new orders for line sharing until such time as the Commission has ruled on the availability of UNEs in Michigan.

Count I of this complaint arises out of an interconnection dispute between providers. However, Count II of the Complaint involves a request for an Emergency Relief Order. Thus, at a minimum Count II is not subject to the requirement of alternative dispute process in MTA Section 203(14), MCL 484.2203(14). Complainant leaves it to the Commission whether to schedule the alternative dispute process for Count I.

INTRODUCTION AND SUMMARY

ACD's second interconnection agreement with SBC Michigan resulted from the adoption of the Coast to Coast agreement, which was approved by the Commission on September 7, 2001. As SBC has done in other proceedings, SBC has attempted to force a change of law on ACD that was not included in the Coast to Coast agreement or ever agreed to by ACD. SBC has unilaterally begun to deny orders for line sharing as of December 6, 2004, with no amendment to the interconnection agreement and before the Commission has ruled on pending cases to determine SBC's continuing responsibilities to offer UNEs in Michigan, and contrary to this Commission's order in Case No. U-14139 earlier this year. Count I thus asks the Commission to find that SBC must continue to fill new orders for line sharing unless and until an amendment is

approved, and unless and until the Commission has had a chance to determine SBC's continuing responsibilities to offer UNEs.

In addition, as set forth in the preamble to this Complaint, Count II asks that the Commission issue an Emergency Relief Order preventing SBC from stopping new orders for line sharing or to cease any currently provided services while this dispute is pending.

In support of its Formal Complaint, ACD Telecom states as follows:

Identification of Parties And Interest Of Complainant

1. ACD Telecom, Inc. ("ACD") is a Michigan corporation that is licensed to provide basic local exchange service in various exchanges in Michigan. ACD is set up to provide advanced services at least partly through use of Broadband technology, principally Digital Subscriber Lines (DSL). ACD's business address is 4890 Northwind Drive, East Lansing, Michigan, (517) 333-0900.

2. Respondent Michigan Bell Telephone Company d/b/a Ameritech Michigan d/b/a SBC Michigan ("Respondent" or "SBC") is a Michigan corporation with its registered office at 615 Griswold, Detroit, MI 48226 and its principal office of operations for telecommunications listed as 201 North Washington Square, Room 920, Lansing, MI 48933, (517) 334-3704 (phone), (517) 334-3429 (fax). Service of this Complaint is made at the principal office of operations for telecommunications, with a copy to SBC's Michigan corporate counsel.

3. ACD was granted its license by the Commission on January 19, 2000 in Case No. U-12180.

4. SBC is a licensed provider of basic local exchange service and other regulated telecommunications services in the State of Michigan under the MTA.

5. ACD and SBC have had two interconnection agreements, the first dated September 13, 1999, and the second dated April 12, 2001 and approved by the Commission on September 7, 2001 in Case No. U-12988.¹

6. ACD purchases services from SBC pursuant to the Interconnection Agreement, and ACD and SBC, including unbundled network elements, which include DSL compatible local loops and line sharing of loops for the purpose of providing DSL service to end users. The interconnection agreement includes Appendix DSL, which provides for HFPL or line sharing. SBC also offers HFPL or line sharing under tariff, at Tariff 20R, Part 19, Section 2.

Jurisdiction

7. The MTA provides that the Commission has jurisdiction and authority to administer the MTA. A primary purpose of the MTA under Section 101, MCL 484.2101, is to promote fair and effective telecommunications competition in the State of Michigan. Section 201 of the MTA, MCL 484.2201, allows the Commission to enforce the MTA as well as relevant delegated authority under the Federal Telecommunications Act. Section 203 of the MTA, MCL 484.2203, authorizes the Commission, upon receipt of a complaint, to conduct an investigation, hold hearings, and issue its findings and order under the contested case provisions of the Michigan Administrative Procedures Act of 1969, MCL 24.201 *et seq.* Section 203a provides for an alternative dispute resolution (“ADR”) process for certain complaints, including interconnection disputes, unless there is a request for an Emergency Relief Order, as is the case here. The ADR process may be administered by the Commission. Section 204 of the MTA, MCL 484.2204, provides that if two or more telecommunication providers are unable to agree on a regulated matter, then either provider may apply to the Commission for resolution of the

¹ The interconnection agreement is available at <http://www.sbc.com/search/regulatory.jsp?category=>

matter. Section 205 of the MTA, MCL 484.2205, also authorizes the Commission to investigate and resolve complaints, and to alter the manner in which a service is provided if the change is in the public interest. Section 305 of the MTA provides that a provider of basic local exchange service shall not perform any act in violation of the MTA or an order of the Commission. Section 502 of the MTA prohibits providers from making statements or representations involving rates or conditions of service that are false, misleading, or deceptive. Section 601 allows the Commission to provide remedies or penalties where a violation of the MTA (or one of its orders) is found.

8. Under Section 203(13) of the MTA, MCL 484.2203(13), where a complaint is filed by a provider against another provider, the provider of service shall not discontinue service during the period of the contested case.

9. Under Section 203(14) of the MTA, MCL 484.2203(14), except where there is a request for emergency relief, if the complaint involves an interconnection dispute between parties, the Commission is to require the parties to utilize the alternative dispute process under Section 203a of the MTA. Such a request for Emergency Relief has been made in this complaint.

Facts and Allegations

Count I. SBC's Unilateral Refusal To Provide Line Sharing

10. ACD has regularly ordered line sharing lines from SBC pursuant to the interconnection agreement between the parties.

INTERCONNECTION_AGREEMENTS/MICHIGAN/ACD_TELECOM_INC. Pertinent excerpts are attached to the testimony of Kevin Schoen.

11. Where there is a change of law, two provisions of the interconnection agreement apply. Article 9 provides with regard to UNEs and the then-anticipated changes from the UNE Remand Order. Specifically, Article 9.2.7 provides:

“9.2.7 The UNE Remand Order was released on November 5, 1999. Some portions of the UNE Remand Order are effective thirty (30) days after publication in the Federal Register and other portions are effective one hundred twenty (120) days after such publication. Both Parties are analyzing their rights and obligations under the UNE Remand Order. Subject to the outcome of any appeal including, but not limited to, any stay that may be obtained pending appeal, the Parties acknowledge that the UNE Remand Order requires Ameritech to make available certain Unbundled Network Elements not identified above and limits or conditions Ameritech’s obligation to offer certain Unbundled Network Elements identified above, such as Unbundled Switching Capability and Operator Services and Directory Services. The Parties agree to negotiate an amendment to this Agreement to conform the Agreement with the UNE Remand Order and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions relating to each such Unbundled Network Element within the time frame(s) specified for providing access as set forth in the UNE Remand Order. If the Parties are unable to reach agreement on an amendment within the time frames set forth in the UNE Remand Order for providing access to any Unbundled Network Element, either Party may consider such failure to negotiate an amendment a “Dispute” under Section 27.4 of this Agreement.” [Emphasis added.]

12. Article 28.2, which applies generally to the entire interconnection agreement, provides:

“28.2 Amendment or Other Changes to the Law; Reservation of Rights.

The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date. In the event of any amendment of the Act, or any legislative, regulatory, judicial order, rule or regulation or other legal action that revises or reverses the Act, the FCC’s First Report and Order in CC Docket Nos. 96-98 and 95-185 or any applicable Commission order purporting to apply the provisions of the Act (individually and collectively, an “Amendment to the Act”), or if any other legislative, regulatory, judicial or other legal action materially affects the ability of a Party to perform any material obligation under this

Agreement, either Party may by providing written notice to the other Party require that the affected provisions be renegotiated in good faith and this Agreement be amended accordingly to reflect the pricing, terms and conditions of each such Amendment to the Act relating to any of the provisions in this Agreement or such other mutually acceptable new provisions as may be required, provided that such affected provisions shall not affect the validity of the remainder of this Agreement. If any such amendment to this Agreement affects any rates or charges of the services provided hereunder, such amendment shall be retroactively effective as determined by the Commission and each Party reserves its rights and remedies with respect to the collection of such rates or charges; including the right to seek a surcharge before the applicable regulatory authority.” [Emphasis added]

13. On June 3, 2004, this Commission issued its order in Case No. U-14139. In that order, at page 5, the Commission stated:

“The Commission finds that, based on the commitments expressed by SBC and Verizon to refrain from precipitous unilateral discontinuance of providing UNEs to the CLECs and to continue to maintain the status quo while negotiations for implementing the change of law provisions in their current interconnection agreements are ongoing, that no state of facts exists that warrants the emergency relief that the complainants request. The Commission concludes that unless the parties appropriately amend their contracts as provided in their change of law provisions, the promised status quo should be maintained until the Commission orders otherwise. At the conclusion of this case, the Commission’s decision may be appropriately implemented. The parties’ arguments regarding standing and sufficiency of the complaint may be addressed in the usual course of this contested case proceeding.” [Emphasis added.]

14. On September 30, 2004, the CLEC Coalition filed an action with this Commission seeking to have the Commission initiate a Commission investigation of issues related to the obligation of incumbent local exchange carriers in Michigan to maintain terms and conditions for access to unbundled network elements or other facilities used to provide basic local exchange and other telecommunications services in tariffs and interconnection agreements approved by the MPSC, pursuant to the Michigan Telecommunications Act, the Telecommunications Act of 1996, and other relevant authority.

15. Also on September 30, 2004, SBC filed Case No. U-14305 seeking a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law.

16. On November 9, 2004, the Commission issued an order consolidating the cases (along with a similar filing by Verizon) and setting the matter up for comments. The Commission's Order did not in any way allow unilateral action by SBC.

17. Beginning in early December 2004, SBC began rejecting orders from ACD for line sharing.

18. On inquiry, ACD was informed by Carol Steiner of SBC that "Line Sharing is no longer an option effective 12/6/2004 and that the rejects and jeps you are receiving are valid." SBC further advised that it would impose a commercial "Line Share One" agreement if ACD wished a further line sharing type service. The notice from SBC included two "Accessible Letters" setting forth SBC's unilateral policy change.

19. Prior to December 6, 2004, SBC did not initiate negotiations to amend its interconnection agreement with ACD under the ICA change of law provisions for HPFL Line Sharing. SBC's action in discontinuing filling orders for line sharing was unilateral.

Count II. Request for Emergency Relief

20. SBC has already begun refusing orders for new service using line sharing as of December 6, 2004.

21. Based on the supporting testimony and documentation, ACD is likely to prevail on the merits. SBC and ACD have not negotiated an amendment; furthermore, according to SBC's web site the line sharing is still a tariffed service. ACD may thus order off of the interconnection agreement or tariff, but SBC is unilaterally stating that the service itself is no longer offered.

22. ACD would suffer irreparable injury to both its business and its ability to compete if it cannot place new orders for service. ACD would be financially required to terminate many of its sales and installation employees. Without an Order preventing SBC from processing new orders while the case is pending, any relief that this Commission would order with regard to SBC's illegal actions vis-à-vis ACD would be too little too late, and competition in Michigan for telephone service and broadband service in particular will be stymied.

23. Exigent circumstances exist as SBC's actions will prevent signing up and provisioning new customers, and could block service to existing customers.

24. ACD is the largest provider of DSL in the markets that it serves, and this would leave the markets without a significant competitor to SBC. ACD is one of only two facilities-based CLECs that is currently marketing DSL lines to residential customers in Lansing, East Lansing, Okemos, and Jackson. ACD is the only provider and the only facilities based competitor in many other markets, including Spring Arbor, Haslett, Mason, Eaton Rapids, and Holt. Residential customers would be left without any competitive provider for DSL services, and would have only SBC for a choice. SBC will directly benefit from stopping ACD from competing with them for facilities-based DSL services due to the elimination of its only significant DSL line sharing competitor for these markets, and due to the fact that SBC would still be able to split its own lines to provide its own customers with the equivalent of DSL over shared lines. Consequently, granting the Emergency Relief Order would not be contrary to the public interest.

25. The Commission should issue an Emergency Relief Order preventing SBC from stopping new orders or otherwise acting to stop line sharing while this dispute is pending.

SBC's Actions Violate Section 502 of the MTA

26. SBC's actions constitute a violation of the terms and conditions of the Interconnection Agreement, as well as SBC's filed tariffs.

27. By attempting to unilaterally impose a change of terms and conditions contrary to the terms of the Interconnection Agreement and its tariff, SBC has issued misleading statements as to the terms of the ICA and of the tariff that have no basis in fact or law.

Attempts To Resolve The Issues Have Been Made, And Are At An Impasse

28. ACD has contacted SBC and demanded that it cease its actions and continue providing line sharing. SBC has not responded other than its email notice of December 8, 2004 enclosing the Accessible Letters.

Demand for Contested Case Hearing

29. Complainant respectfully demands a contested case hearing on this Complaint, subject to the results of the statutorily required proceedings under Section 203a of the MTA, to the extent that they apply.

30. This Complaint is supported by the testimony and exhibits of Kevin Schoen of ACD.

Initial Hearing

31. Section 203(14) of the MTA requires that this complaint, which involves an interconnection dispute, proceed under the alternative dispute resolution procedures contained in Section 203a of the MTA. However, that provision does not apply to the request for emergency relief. ACD will defer to the Commission's procedure to appoint a mediator and set up a schedule for the alternative dispute resolution process for portions of this complaint to which it

may apply. Service of this complaint will be made on Respondent via hand delivery on the date of filing in conformance with Section 203(2) of the MTA.

Proposed Relief

WHEREFORE, Complainant ACD Telecom respectfully asks that the Commission issue an order directing the following:

1. Issue an order preventing SBC from unilaterally stopping orders for line sharing of lines to provide DSL service in an Emergency Order while this proceeding is pending, and in a permanent order, and direct SBC to follow the change of law provisions in the ICA and/or in Case U-14139 in the case of tariffs.
2. Impose significant punishment in assessing fines against SBC.
3. Award to ACD Telecom its costs and attorney fees for bringing this action.
4. Award such other relief as the Commission may deem appropriate.

Respectfully submitted,

CLARK HILL PLC

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Dated: December 14, 2004

Attorneys for Complainant

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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DIRECT TESTIMONY AND EXHIBITS OF
KEVIN SCHOEN
ON BEHALF OF
ACD TELECOM, INC.

December 14, 2004

**DIRECT TESTIMONY OF KEVIN SCHOEN
IN SUPPORT OF FORMAL COMPLAINT**

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Kevin Schoen. I am employed by ACD Telecom, Inc. and by ACD.net (“ACD”). My business address is 4890 Northwind Drive, East Lansing, Michigan, (517) 333-0900.

Q. WHAT IS YOUR POSITION WITH THE ACD COMPANIES?

A. I am the President of all of the ACD companies.

Q. PLEASE DESCRIBE THE BUSINESS OF THE ACD COMPANIES.

A. The two companies relevant to this testimony are ACD Telecom, Inc. and ACD.net. [ACD.net is a d/b/a of KEPS Technologies, Inc., which also operates under the d/b/a of ACD Technologies and ACD Computers, to emphasize different aspects of the business.] ACD Telecom, Inc. is a separate company that is licensed to provide basic local exchange service in various exchanges in Michigan. ACD.net provides Internet access to businesses and residences. Both companies are set up to provide advanced services at least partly through use of Broadband technology, principally Digital Subscriber Lines (DSL).

Q. WHAT ARE YOUR PRINCIPAL RESPONSIBILITIES WITH ACD TELECOM?

A. I am responsible for the overall business operations.

1 **Q. PLEASE DESCRIBE YOUR BUSINESS EXPERIENCE IN THE**
2 **TELECOMMUNICATIONS INDUSTRY.**

3 A. My business experience in the telecommunications industry is varied and includes both
4 the provision of local service in competition with Ameritech as well as the provision of
5 Internet service. I am the founder and have served as President of ACD
6 Technologies/ACD.net since 1986. ACD Technologies is a network integration,
7 consulting, unregulated telecommunications, and Internet services firm. In founding
8 these companies, as well as ACD Telecom, Inc., I have extensive experience in both the
9 data networking and telecommunications fields. I have provided consulting services and
10 startup assistance for a variety of Internet service providers, international callback
11 telephone companies, and other telecommunications service providers. I have written,
12 and co-authored, business plans for several telecommunications firms and Internet
13 companies. I have successfully raised and negotiated venture capital funding for several
14 companies. I am on the board of directors of two other telecommunications and Internet
15 firms. I have also served on the Governor's Council on Technology in Michigan, and I
16 have testified before Michigan Legislative committees on several occasions on
17 technology issues, technology in education, and telecommunications issues. I am also
18 knowledgeable on the technical side of the telecommunications and Internet industry, and
19 I have obtained technical industry certifications, including MCSE, CCNA, CNE, and
20 have been trained on class 5 and class 4 central office switches.

21

22 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

1 A. The purpose of my testimony is to support the Complaint against SBC Michigan, to
2 describe the events as they have occurred to date, and to request that the Commission
3 order SBC not to unilaterally cease providing line sharing under ACD's interconnection
4 agreement or the applicable tariff. I will also testify as to why an Emergency Relief
5 Order is justified and required in this proceeding.
6

7 **Q. IS ACD TELECOM, INC. LICENSED TO PROVIDE BASIC LOCAL**
8 **EXCHANGE SERVICE IN MICHIGAN?**

9 A. Yes. ACD Telecom was granted its license by the Commission on January 19, 2000 in
10 Case No. U-12180.
11

12 **Q. DOES ACD PROVIDE SERVICES IN COMPETITION WITH SBC?**

13 A. Yes. ACD provides two basic types of services, Broadband DSL service using both DSL-
14 compatible unbundled local loops and line sharing, and Basic local toll service to data
15 communications companies. For Broadband DSL we are the largest competitor to SBC
16 in the markets we serve in, Lansing, East Lansing, Okemos and Jackson. . For Basic
17 Local Toll, we provide phone lines to access providers, including Michigan State
18 University, Internet Access 4U, Merit Network, ModemPool, ARQ, and others. ACD has
19 received thousands of DS-0's from Ameritech into its phone switch, and approximately
20 2000 DSL UNE loops into its Broadband network.
21

22 **Q. DOES ACD HAVE INTERCONNECTION ARRANGEMENTS WITH SBC?**

1 A. Yes. ACD Telecom has adopted into the September 18, 2000 Coast to Coast agreement.
2 On June 21, 2001 the agreement was submitted to the Commission for approval, and was
3 approved by the Commission on September 7, 2001 in Case No. U-12988. Pertinent
4 portions of the interconnection agreement are included as Exhibit KS-1 (C-___) to my
5 testimony. The interconnection agreement includes Appendix DSL, which provides for
6 HFPL or line sharing. The entire agreement is available on SBC's web site at
7 [http://www.sbc.com/search/regulatory.jsp?category=INTERCONNECTION_AGREEME](http://www.sbc.com/search/regulatory.jsp?category=INTERCONNECTION_AGREEMENTS/MICHIGAN/ACD_TELECOM_INC)
8 [NTS/MICHIGAN/ACD_TELECOM_INC](http://www.sbc.com/search/regulatory.jsp?category=INTERCONNECTION_AGREEMENTS/MICHIGAN/ACD_TELECOM_INC).

9
10 **Q. DOES SBC ALSO PROVIDE HFPL LINE SHARING UNDER TARIFF?**

11 A. Yes, at Tariff 20R, Part 19, Section 2.
12

13 **Q. HAS THAT TARIFF BEEN CHANGED?**

14 A. Not to my knowledge. It is still on the SBC public web site as of this filing, and shows
15 that as a valid offering.
16

17 **I. SBC's UNILATERAL REFUSAL TO PROVIDE LINE SHARING**

18 **Q. HAS ACD ORDERED LINE SHARING LINES FROM SBC UNDER THE**
19 **TERMS OF THE INTERCONNECTION AGREEMENT?**

20 A. Yes. ACD has regularly ordered line sharing lines from SBC pursuant to the
21 interconnection agreement between the parties.
22

1 **Q. ARE YOU FAMILIAR WITH THE CHANGE OF LAW PROVISIONS IN THE**
2 **INTERCONNECTION AGREEMENT?**

3 A. Yes. The two provisions, Articles 9.2.7 and 28.2 are included in the excerpts provided,
4 and are quoted in full in the complaint. They provide that changes of law are to be the
5 subject of negotiation and amendment.

6
7 **Q. HAS SOMETHING OCCURRED RECENTLY TO CHANGE THE**
8 **PERFORMANCE UNDER THE INTERCONNECTION AGREEMENT?**

9 A. Yes. Beginning on December 6, 2004, SBC began rejecting orders from ACD for line
10 sharing.

11

12 **Q. WHAT DID YOU DO?**

13 A. I immediately contacted SBC as soon as orders for line sharing came back rejected.

14

15 **Q. HOW DID SBC RESPOND?**

16 A. ACD was informed by an email from Carol Steiner of SBC that “Line Sharing is no
17 longer an option effective 12/6/2004 and that the rejects and jeps you are receiving are
18 valid.” SBC further advised that it would impose a commercial “Line Share One”
19 agreement if ACD wished a further line sharing type service. The notice from SBC
20 included two “Accessible Letters” setting forth SBC’s unilateral policy change. The
21 email and the attached “Accessible Letters” are attached as Exhibit KS-2 (C-___), along
22 with sample orders that were rejected under SBC’s unilateral policy.

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Q. DID SBC SEEK NEGOTIATIONS FOR AN AMENDMENT BEFORE STOPPING NEW ORDERS?

A. Prior to December 6, 2004, SBC did not initiate any negotiations to amend its interconnection agreement with ACD under the ICA change of law provisions for HPFL Line Sharing. While ACD and SBC were in negotiations on RABT and YZP amendment for loop conditioning ACD discussed the availability of a “Commercial Agreement”. SBC then forwarded a “Commercial Negotiations Non-Disclosure Agreement”

Q. WHY DID ACD AND SBC NOT NEGOTIATE A COMMERCIAL AGREEMENT?

A. ACD and SBC never worked on the line-sharing issue because SBC’s “Commercial Negotiations Non-Disclosure Agreement” specifically disallowed ACD to ever file an amendment to our interconnection agreement. SBC’s action in discontinuing filling orders for line sharing was unilateral, completely without any justification, and not supported by our interconnection agreement nor supported by SBC’s own tariffs.

II. NEED FOR EMERGENCY RELIEF ORDER

Q. YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT YOU WILL ALSO DEMONSTRATE WHY AN EMERGENCY RELIEF ORDER IS JUSTIFIED AND REQUIRED IN THIS PROCEEDING. WHAT TYPE OF EMERGENCY RELIEF IS ACD TELECOM SEEKING?

1 A. ACD is seeking an Emergency Relief Order preventing SBC from refusing new orders
2 for service using line sharing prior to Commission action or adoption of an amendment to
3 the interconnection agreement between the parties, or to terminate any existing services
4 in any way, while this proceeding is pending.

5
6 **Q. WHAT WOULD HAPPEN IF ACD TELECOM IS UNABLE TO OBTAIN NEW**
7 **ORDERS WHILE THE DISPUTE IS PENDING BEFORE THE COMMISSION?**

8 A. ACD would suffer irreparable injury to both its business and its ability to compete if it
9 cannot place new orders for service. ACD would be financially required to terminate a
10 most of its sales and installation employees. Without an Order preventing SBC from
11 processing new orders while the case is pending, any relief that this Commission would
12 order with regard to SBC's illegal actions vis-à-vis ACD would be too little too late, and
13 competition in Michigan for telephone service and broadband service in particular will be
14 stymied. Exigent circumstances exist as SBC's actions will prevent signing up and
15 provisioning new customers, and could block service to existing customers.

16
17 **Q. TO WHAT LEVEL WOULD BROADBAND COMPETITION BE IMPAIRED?**

18 A. ACD is the largest provider of DSL in the markets that it serves, and this would leave the
19 markets without a significant competitor to SBC. ACD is one of only two facilities-
20 based CLEC that is currently marketing DSL lines to residential customers in Lansing,
21 East Lansing, Okemos, and Jackson, and the only facilities based competitor in many
22 other markets, including Spring Arbor, Haslett, Mason, Eaton Rapids, and Holt.

1 Residential customers would be left without any competitive provider for DSL services,
2 and would have only SBC for a choice. SBC will directly benefit from stopping ACD
3 from competing with them for facilities-based DSL services due to the elimination of its
4 only significant DSL line sharing competitor for these markets, and due to the fact that
5 SBC would still be able to split its own lines to provide its own customers with the
6 equivalent of DSL over shared lines.

7 ACD has numerous pending orders, including many small businesses. In addition
8 we have over 60 low income middle School Students at Otto Middle School, ordered by
9 the City of Lansing Closing The Digital Gap, due for install in two weeks. ACD also is
10 in the process of initiating service in two central offices, Holt and Mason, which we are
11 unlikely to open if we cannot process orders.

12
13 **Q. HAS SBC REPRESENTED THAT THE INTERCONNECTION AGREEMENT**
14 **GIVES IT THE RIGHT TO TAKE THIS UNILATERAL ACTION?**

15 A. Yes. SBC just did it, and they will get away with it unless the Commission acts. SBC's
16 actions are a brazen and arrogant exercise of monopoly power, that is completely
17 contrary to the operating procedures of the entire CLEC and ILEC industry.

18
19 **Q. HAVE YOU MADE FURTHER EFFORTS TO GET SBC TO CHANGE ITS**
20 **UNILATERAL ACTION IN STOPPING ACD'S ACCESS TO LINE SHARING?**

1 A. Yes. I have sent several emails to our account manager, and called Craig Anderson, SBC
2 legal representative, and also I caused to be sent a notice that SBC is in breach of the
3 contract. A copy is attached to my testimony as Exhibit KS-3 (C-___).

4

5 **Q. HAS SBC RESPONDED?**

6 A. No.

7

8 **Q. WHAT WOULD YOU REQUEST THAT THE COMMISSION DO?**

9 A. I would respectfully request that the Commission issue an Emergency Relief Order
10 preventing Ameritech from stopping new orders or otherwise acting to stop line sharing
11 while this dispute is pending. I also respectfully request that SBC Michigan be fined for
12 not adhering to its interconnection agreement and tariff obligations.

13

14 **Q. WHAT WOULD BE THE MESSAGE SENT IF SBC IS ALLOWED TO**
15 **UNILATERALLY REVOKE SERVICES WITHOUT AN AMENDMENT OR**
16 **TARIFF FILING?**

17 A. The market would effectively be operating in complete chaos, with no practical rule of
18 law applying for the parties' Interconnection Agreement or Tariff Obligations. It is
19 critically important that the Commission send the message that blatant disregard for
20 Interconnection obligations cannot be ignored, and that the Commission's Authority is
21 not to be damaged by SBC's blatant use of its Monopoly power.

22

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes.

MPSC CASE NO. U-14382

Direct Testimony of Kevin Schoen

EXHIBIT KS-1 (C-___)

SBC Companies

ACD Telecom, Inc.. filed a letter requesting an adoption under Section 251/252 of the FTA96 of the Interconnection Agreement between Ameritech and Coast to Coast Telecommunications, Inc.

The attached agreement will be filed with the Commission for approval and will terminate on the same date as the underlying document. The following information is specific to the new agreement:

Effective date of Agreement _____
Termination date of Agreement September 18, 2003
Notice Information (paragraph #): 29.10

Name: Kevin Schoen
Title: President
Street Address: 4980 Northwind Drive
City/State/Zip: East Lansing, MI
Telephone #: 517-333-0900, ext. 250
FAX #: 517-333-8552
Email Address: N/A

ACD Telecom, Inc.

**SBC Telecommunications, Inc.
as agent for Ameritech Michigan**

Signature: _____

Signature: _____

Name: _____
(Print or Type)

Name: _____

Title: _____
(Print or Type)

Title: President - Industry Markets

Date: _____

Date: _____

AECN/OCN# _____

“Since this Agreement is an adoption of an existing approved Interconnection Agreement, The term “Effective Date” throughout the Agreement (excluding the title page and Preamble) shall mean _____, 2001. The change in “Effective Date” within the Agreement is only intended so that the Parties may meet the operation obligations of the Agreement and in no way is intended to extend the Agreement beyond the termination date of the adopted Agreement.

“This Agreement is the result of Requesting Carrier’s adoption of the terms and conditions of that certain Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 dated September 18, 2000 by and between Ameritech Michigan and ACD Telecom, Inc. (the “Coast to Coast Telecommunications, Inc. Agreement”). This Agreement does not represent a voluntary or negotiated agreement under Section 252 of the Act but instead merely represents Ameritech’s compliance with what Requesting Carrier maintains is its rights under **Section 252(i)** of the Act. Filing and performance by Ameritech of this Agreement does not in any way constitute a waiver by Ameritech of its position of the illegality or unreasonableness of any rates, terms, or conditions set forth in this Agreement, nor does it constitute a waiver by Ameritech of any rights and remedies it may have to seek review of this Agreement or Coast to Coast Telecommunications, Inc. Agreement, or seek review in any way of any provisions included in this Agreement as a result of Requesting Carrier’s election under **Section 252(i)** of the Act. The Parties acknowledge that in no event shall any of the rates, terms, and conditions set forth in this Agreement apply to any products or services purchased by Requesting Carrier prior to the later of (i) the date the Commission approves this Agreement under **Section 252(e)(4)** of Act, and (ii) absent such Commission approval, the date this Agreement is deemed approved under **Section 252(e)** of the Act.

Neither Ameritech nor Requesting Carrier’s execution of this Agreement and compliance with the terms and conditions of this Agreement shall be construed as or is intended to be a concession or admission by either Party that any provision in this Agreement or the Coast to Coast Telecommunications, Inc. Agreement complies with the rights and duties imposed by the Act, a decision by the FCC or the Commission, a decision of the courts, or other Applicable Law, and both Ameritech and Requesting Carrier specifically reserves their respective full rights to assert and pursue claims arising from or related to this Agreement. Ameritech further contends that certain provision of this Agreement, including, without limitation, **Sections 9.1.2** and **9.2** are inconsistent with Ameritech’s rights under the Act as interpreted by the United States Supreme Court in AT&T Corp v. Iowa Utilities Board. 119 S. Ct. 721 (1999). Ameritech reserves its rights, notwithstanding anything to the contrary in this Agreement, to exercise its rights as described in the Footnote of **Section 9.2** of this Agreement, and **Section 29.3** of this Agreement, and/or to seek appropriate legal and/or equitable relief.

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

Dated as of September 18, 2000

by and between

AMERITECH MICHIGAN,
By SBC TELECOMMUNICATIONS, INC.
its authorized agent

and

COAST TO COAST TELECOMMUNICATIONS, INC.

facilities used for Interconnection shall be as set forth in the Implementation Plan.

ARTICLE IX
UNBUNDLED ACCESS -- SECTION 251(C)(3)

9.1 Access to Network Elements.

9.1.1 Ameritech shall provide Coast access to Ameritech's Network Elements on an unbundled basis at any technically feasible point mutually agreed by the Parties in accordance with the terms and conditions of this **Article IX** and the requirements of the Act. Ameritech shall provide Coast access to each unbundled Network Element identified in **Section 9.2**, along with all of such unbundled Network Element's features, functions, and capabilities in accordance with the terms and conditions of **Article II** and as required by the Act, in a manner that shall allow Coast to provide any Telecommunications Service that can be offered by means of that Network Element; provided that the use of such Network Element is consistent with the Act.

9.1.2 Notwithstanding anything to the contrary in this Agreement, if the FCC or a court of competent jurisdiction determines that incumbent local exchange carriers (and/or Ameritech specifically) are not required to provide access to one or more of the Network Elements (individually or in combination with another Network Element) described in this Agreement or places certain limitations or qualifications on the nature of such access, Ameritech may, by providing written notice to Coast, require that any affected provision of this Agreement be deleted or renegotiated, as applicable, in good faith and this Agreement be amended accordingly. If such modifications to the Agreement are not renegotiated within thirty (30) days after the date of such notice, a Party may (i) consider such failure to renegotiate a "Dispute" under **Section 27.3** of this Agreement or (ii) forego the dispute escalation procedures set forth in **Section 27.3** and seek any relief it is entitled to under Applicable Law.

9.1.3 Ameritech shall make available access to its Network Elements at the rates specified herein only where such Network Elements, including facilities and software necessary to provide such Network Elements, exist and are available, in each case as such Network Element is defined herein. If Ameritech makes available access to a Network Element that requires special construction or conditioning, Coast shall pay to Ameritech any applicable special construction or conditioning charges. The Parties shall mutually agree on the nature and manner of any required special construction or conditioning, the applicable charges thereto and the negotiated interval(s) that will apply to the provisioning of such Network Element(s) in lieu of the standard intervals referenced in **Section 29.19**.

9.2 Network Elements.

At the request of Coast, Ameritech shall provide Coast access to the following Network Elements on an unbundled basis:

9.2.1 Unbundled Local Loops, as more fully described on **Schedule 9.2.1**;

9.2.2 Unbundled Network Interface Devices, as more fully described in **Schedule 9.2.2**;

9.2.3 Unbundled Local Switching ULS as more fully described in **Schedule 9.2.3**;

9.2.3A Unbundled Local Switching with Interim Shared Transport (ULS-IST) as more fully described in **Schedule 9.2.3A**;

9.2.4 Interoffice Transmission Facilities, as more fully described on **Schedule 9.2.4**;

9.2.5 Signaling and Call-Related Database as more fully described in **Schedule 9.2.5**;

9.2.6 Operations Support Systems (“OSS”) Functions, to be used in conjunction with other Network Elements, as more fully described in **Schedule 9.2.6**; and

9.2.7 The UNE Remand Order was released on November 5, 1999. Some portions of the UNE Remand Order are effective thirty (30) days after publication in the Federal Register and other portions are effective one hundred twenty (120) days after such publication. Both Parties are analyzing their rights and obligations under the UNE Remand Order. Subject to the outcome of any appeal including, but not limited to, any stay that may be obtained pending appeal, the Parties acknowledge that the UNE Remand Order requires Ameritech to make available certain Unbundled Network Elements not identified above and limits or conditions Ameritech’s obligation to offer certain Unbundled Network Elements identified above, such as Unbundled Switching Capability and Operator Services and Directory Services. The Parties agree to negotiate an amendment to this Agreement to conform the Agreement with the UNE Remand Order and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions relating to each such Unbundled Network Element within the time frame(s) specified for providing access as set forth in the UNE Remand Order. If the Parties are unable to reach agreement on an amendment within the time frames set forth in the UNE Remand Order for providing access to any Unbundled Network Element, either Party may consider such failure to negotiate an amendment a “Dispute” under **Section 27.4** of this Agreement.

9.3 Coast’s Combination of Network Elements.

9.3.1 Ameritech shall provide Coast access to Network Elements via Collocation in a manner that shall allow Coast to combine such Network Elements to provide a Telecommunications Service. Ameritech shall provide Coast with access to all features and capabilities of each individual Network Element that Coast combines in the same manner and subject to the same technical and interface requirements that Ameritech provides when such Network Elements are provided to Coast on an individual basis.

9.3.2 Coast, and not Ameritech, is responsible for performing the functions necessary to combine the unbundled Network Elements it requests from Ameritech. Coast shall

not combine unbundled Network Elements in a manner that will impair the ability of other Telecommunications Carriers to obtain access to unbundled Network Elements or to Interconnect with Ameritech's network.

9.4 Nondiscriminatory Access to and Provision of Network Elements.

9.4.1 The quality of an unbundled Network Element as well as the quality of the access to such unbundled Network Element that Ameritech provides to Coast shall be the same for all Telecommunications Carriers requesting access to such Network Element.

9.4.2 The quality of a Network Element, as well as the quality of the access to such Network Element, that Ameritech provides to Coast hereunder shall be equal in quality to that which Ameritech provides to itself, its subsidiaries, Affiliates and any other person, unless Ameritech proves to the Commission that it is not technically feasible to provide the Network Element requested by Coast, or access to such Network Element, at a level of quality that is equal to that which Ameritech provides to itself.

9.4.3 Consistent with Coast's forecasted volumes and subject to the terms and conditions of **Section 19.5**, Ameritech shall provide Coast access to Network Elements and Operations Support Systems functions, including the time within which Ameritech provisions such access to Network Elements, on terms and conditions no less favorable than the terms and conditions under which Ameritech provides such elements to itself, its subsidiaries, Affiliates and any other person, except as may be provided by the Commission.

9.5 Provisioning of Network Elements.

9.5.1 Ameritech shall provide Coast, and Coast shall access, unbundled Network Elements as set forth on **Schedule 9.5**.

9.5.2 Ameritech shall provide Coast access to, and Coast shall use, subject to **Section 10.13.2(b)**, all available functionalities of Ameritech's pre-ordering, ordering, provisioning, maintenance and repair and billing functions of the Operations Support Systems functions that relate to the Network Elements that Coast purchases hereunder.

9.5.3 Prior to submitting an order for access to a Network Element which replaces, in whole or in part, a service offered by Ameritech or any other telecommunications provider for which Ameritech changes a primary Local Exchange Carrier ("PLEC"), Coast shall comply with the requirements of **Section 10.11.1**.

9.5.4 If any dispute should occur concerning the selection of a PLEC by a Customer of a Party that is served by an unbundled Network Element, the Parties shall follow the procedures described on **Schedule 10.11.2**.

9.5.5 When Ameritech receives an order for access to an unbundled Network Element or Elements from Coast for the provision of local exchange Telecommunications Services for Coast's Customer, and that Customer is currently provided local exchange

Telecommunications Services by another carrier (“**Carrier of Record**”) Ameritech shall notify such Carrier of Record of such order in the same manner as described in **Section 10.11.1**. It shall then be the responsibility of the Carrier of Record and Coast to resolve any issues related to that Customer. Coast agrees to indemnify and hold Ameritech harmless against any and all losses that may result from Ameritech acting under this **Section 9.5.5**.

9.6 Availability of Additional Network Elements.

Any request by Coast for access to a Network Element that is not otherwise provided by the terms of this Agreement at the time of such request shall be made pursuant to a Bona Fide Request and shall be subject to the payment by Coast of all applicable costs in accordance with Section 252(d)(1) of the Act to process such request and to develop, install and provide access to such Network Element. If at the time of any request by Coast for access to an unbundled Network Element, such access to an unbundled Network Element is part of Ameritech’s standard offering in Michigan to other Telecommunications Carrier’s (TCs) as determined by Ameritech, Ameritech agrees to amend this Agreement to include such access to an unbundled Network Element on the terms and conditions (including pricing) that Ameritech is making such or unbundled Network Element generally available to other TCs at the time of the request.

9.7 Pricing of Unbundled Network Elements.

Ameritech shall charge Coast the non-recurring and monthly recurring rates for unbundled Network Elements (including the monthly recurring rates for these specific Network Elements, service coordination fee, and Cross-Connect charges) as specified at Item V of the Pricing Schedule. If Coast requests and Ameritech agrees to provide services in excess of or not otherwise contemplated by this Agreement, Coast shall pay Ameritech for any additional charges to perform such services. In addition, Ameritech will provide Coast conditioning of xDSL Loop(s) at the uniform interim rates and on the terms and conditions set forth in Paragraph 21 of the FCC Conditions for the period specified therein, the rates, terms and conditions of which are incorporated herein by this reference.

9.8 Billing.

Ameritech shall bill Coast for access to unbundled Network Elements pursuant to the requirements of **Article XXVI** to this Agreement.

9.9 Maintenance of Unbundled Network Elements.

9.9.1 Ameritech shall perform maintenance of Loops as set forth in **Schedule 10.13**.

9.9.2 If (i) Coast reports to Ameritech a suspected failure of a Network Element, (ii) Ameritech dispatches a technician, and (iii) such trouble was not caused by Ameritech’s facilities or equipment, then Coast shall pay Ameritech a trip charge and time charges as set forth at Item V of the Pricing Schedule.

9.9.3 Coast and its Customer shall provide employees and agents of Ameritech access to Ameritech facilities, at all reasonable times, for the purpose of installing, rearranging, repairing, maintaining, inspecting, auditing, disconnecting, removing or otherwise servicing such facilities.

9.10 [Reserved].

9.11 Promotional UNE Platform.

Ameritech will provide Coast with certain promotional end-to-end combination of UNE's ("Promotional UNE platform") in accordance with Section 2 of **Schedule 9.2.3A**.

**ARTICLE X
RESALE AT WHOLESALE RATES--SECTION 251(C)(4)**

10.1 Telecommunications Services Available for Resale at Wholesale Rates.

10.1.1 Commencing on the Service Start Date, upon the request of Coast and subject to the terms, conditions and limitations set forth in this Agreement, Ameritech will make available to Coast for resale at wholesale rates those Telecommunications Services that Ameritech was offering to the retail subscriber on January 1, 1996 and to whom it provides at retail to subscribers who are not Telecommunications Carriers, as required by Section 251(c)(4) of the Act (the "**Resale Services**"), Subject to **Section 10.3**. The Resale Services available to Coast and the rates for such Resale Services are set forth on **Schedule 10.1**. The wholesale discount set forth on **Schedule 10.1** shall not apply to taxes or other pass-through charges (e.g., end-user common line charge, 9-1-1 surcharge and special construction charges). If during the Term the Commission changes the discount rate, or any other charge applicable to Resale Services in an order or docket that applies generally to the Resale Services that Ameritech provides in the Territory, the Parties agree to amend this Agreement to incorporate such discount rate and/or charges with such discount and/or charges to be effective as of the date specified in such order or docket.

problems.

26.4 Late Payment Charges.

If either Party fails to remit payment for any charges for services by the Bill Due Date, or if a payment or any portion of a payment is received by either Party after the Bill Due Date, or if a payment or any portion of a payment is received in funds which are not immediately available to the other Party as of the Bill Due Date (individually and collectively, “**Past Due**”), then a late payment charge shall be assessed. Past Due amounts shall accrue interest as provided in **Section 26.6**. Any late payment charges assessed on Disputed Amounts shall be paid or credited, as the case may be, as provided in **Section 27.2.2**. In no event, however, shall interest be assessed on any previously assessed late payment charges.

26.5 Adjustments.

26.5.1 A Party shall promptly reimburse or credit the other Party for any charges that should not have been billed to the other Party as provided in this Agreement. Such reimbursements shall be set forth in the appropriate section of the invoice.

26.5.2 A Party shall bill the other Party for any charges that should have been billed to the other Party as provided in this Agreement, but have not been billed to the other Party (“**Underbilled Charges**”); provided, however, that, except as provided in **Article XXVII**, the Billing Party shall not bill for Underbilled Charges which were incurred more than one (1) year prior to the date that the Billing Party transmits a bill for any Underbilled Charges. Notwithstanding the foregoing, Coast shall not be liable for any Underbilled Charges for which Customer Usage Data was not furnished by Ameritech to Coast within six (6) months of the date such usage was incurred.

26.6 Interest on Unpaid Amounts.

Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1½%) per month and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the number of days from the Bill Due Date to and including the date that payment is actually made and available.

**ARTICLE XXVII
AUDIT RIGHTS, DISPUTED AMOUNTS
AND DISPUTE RESOLUTION**

27.1 Audit Rights.

27.1.1 Subject to the restrictions set forth in **Article XX** and except as may be otherwise specifically provided in this Agreement, a Party (“**Auditing Party**”) may audit the other Party’s (“**Audited Party**”) books, records, data and other documents, as provided herein, once annually (commencing on the Service Start Date) for the purpose of evaluating the accuracy

of Audited Party's billing and invoicing of the services provided hereunder. The scope of the audit shall be limited to the period which is the shorter of (i) the period subsequent to the last day of the period covered by the Audit which was last performed (or if no audit has been performed, the Service Start Date) and (ii) the twelve (12) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the Service Start Date. Such audit shall begin no fewer than thirty (30) days after Audited Party receives a written notice requesting an audit and shall be completed no later than thirty (30) days after the start of such audit. Such audit shall be conducted by an independent auditor acceptable to both Parties. The Parties shall select an auditor by the thirtieth day following Audited Party's receipt of a written audit notice. Auditing Party shall cause the independent auditor to execute a nondisclosure agreement in a form agreed upon by the Parties. Notwithstanding the foregoing, an Auditing Party may audit Audited Party's books, records and documents more than once annually if the previous audit found previously uncorrected net variances or errors in invoices in Audited Party's favor with an aggregate value of at least two percent (2%) of the amounts payable by Auditing Party for audited services provided during the period covered by the audit.

27.1.2 Each audit shall be conducted on the premises of the Audited Party during normal business hours. Audited Party shall cooperate fully in any such audit and shall provide the independent auditor reasonable access to any and all appropriate Audited Party employees and books, records and other documents reasonably necessary to assess the accuracy of Audited Party's bills. No Party shall have access to the data of the other Party, but shall rely upon summary results provided by the independent auditor. Audited Party may redact from the books, records and other documents provided to the independent auditor any confidential Audited Party information that reveals the identity of other Customers of Audited Party. Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.

27.1.3 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) for any overpayment promptly correct any billing error, including making refund of any overpayment by Auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of or failure to act by the Audited Party, immediately compensate Auditing Party for such undercharge, in each case with interest at the lesser of (x) one and one-half (1½%) percent per month and (y) the highest rate of interest that may be charged under Applicable Law, compounded daily, for the number of days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available, as the case may be. Notwithstanding the foregoing, Coast shall not be liable for any Underbilled Charges for which Customer Usage Data was not furnished by Ameritech to Coast within ten (10) months of the date such usage was incurred.

27.1.4 Audits shall be at Auditing Party's expense, subject to reimbursement by Audited Party in the event that an audit finds, and the Parties subsequently verify, adjustment in the charges or in any invoice paid or payable by Auditing Party hereunder by an amount that is, on an annualized basis, greater than two percent (2%) of the aggregate charges for the audited services during the period covered by the audit.

27.1.5 Any disputes concerning audit results shall be referred to the Parties' respective responsible personnel for informal resolution. If these individuals cannot resolve the dispute within thirty (30) days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in **Section 27.1.1**. Any additional audit shall be at the requesting Party's expense.

27.2 Disputed Amounts.

27.2.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall, prior to the Bill Due Date, give written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such written notice the specific details and reasons for disputing each item; provided, however, a failure to provide such notice by that date shall not preclude a Party from subsequently challenging billed charges. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party, and (ii) the Billing Party shall, within ten (10) days of the Bill Due Date, provide the Non-Paying Party with back-up documentation for the Disputed Amounts; the Non-Paying Party shall then have twenty (20) days to analyze the back-up documentation and then either pay the Disputed Amounts or provide a further explanation for why it is still withholding payment on the Disputed Amounts, or any portion thereof.

27.2.2 If the Non-Paying Party disputes charges and the dispute is resolved in favor of such Non-Paying Party, (i) the Billing Party shall credit the invoice of the Non-Paying Party for the amount of the Disputed Amounts along with any applicable interest charges assessed no later than the second Bill Due Date after the resolution of the Dispute. In no event, however, shall any interest charges be assessed on any previously assessed interest charges.

27.2.3 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within the period set forth in section 27.2.1 above, then those issues will be handled in accordance with Section 27.4.

27.2.4 The Parties agree that all negotiations pursuant to this **Section 27.2** shall remain confidential in accordance with **Article XX** and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

27.3 Failure to Pay Undisputed Amounts.

Notwithstanding anything to the contrary contained herein, if the Non-Paying Party fails to (i) pay any undisputed amounts by the Bill Due Date, (ii) pay any revised deposit or (iii) make a payment in accordance with the terms of any mutually agreed upon payment arrangement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to the Non-Paying Party for failing to comply with the foregoing. If the Non-Paying Party does not satisfy the written demand within five (5) Business Days of receipt, the Billing Party may exercise any, or all, of the following options:

- (a) assess a late payment charge and where appropriate, a dishonored check charge;
- (b) require provision of a deposit or increase an existing deposit pursuant to a revised deposit request;
- (c) refuse to accept new, or complete pending, orders; and/or
- (d) subject to commission approval, discontinue service.

Notwithstanding anything to the contrary in this Agreement, the Billing Party's exercise of (i) any of the above options shall not delay or relieve the Non-Paying Party's obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date and (ii) **subsections (c) and (d)** above shall exclude any affected order or service from any applicable performance interval or Performance Benchmark. Once disconnection has occurred, additional charges may apply.

27.4 Dispute Escalation and Resolution.

Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "**Dispute**") arising under this Agreement shall be resolved in accordance with the procedures set forth in this **Section 27.4**. In the event of a Dispute between the Parties relating to this Agreement and upon the written request of either Party, each of the Parties shall appoint within five (5) Business Days after a Party's receipt of such request a designated representative who has authority to settle the Dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Dispute and negotiate in good faith in an effort to resolve such Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties are unable to resolve issues related to a Dispute within thirty (30) days after the Parties' appointment of designated representatives as set forth above, either Party may seek any relief it is entitled to under Applicable Law and Coast may invoke, to the extent applicable, the alternative dispute resolution provisions detailed in the FCC's order approving the SBC-Ameritech merger. Notwithstanding the foregoing, in no event shall the Parties permit the pending of a Dispute to disrupt service to any Coast Customer or Ameritech Customer.

27.5 Equitable Relief.

Notwithstanding the foregoing, this **Article XXVII** shall not be construed to prevent either Party from seeking and obtaining temporary equitable remedies, including temporary restraining orders, if, in its judgment, such action is necessary to avoid irreparable harm. Despite any such action, the Parties will continue to participate in good faith in the dispute resolution procedures described in this **Article XXVII**.

**ARTICLE XXVIII
REGULATORY APPROVAL**

28.1 Commission Approval.

The Parties understand and agree that this Agreement will be filed with the Commission for approval by such Commission pursuant to Section 252 of the Act. If the Commission, the FCC or any court rejects any portion of this Agreement, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion and related provisions; provided that such rejected portion shall not affect the validity of the remainder of this Agreement.

28.2 Amendment or Other Changes to the Law; Reservation of Rights.

The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date. In the event of any amendment of the Act, or any legislative, regulatory, judicial order, rule or regulation or other legal action that revises or reverses the Act, the FCC's First Report and Order in CC Docket Nos. 96-98 and 95-185 or any applicable Commission order purporting to apply the provisions of the Act (individually and collectively, an "**Amendment to the Act**"), or if any other legislative, regulatory, judicial or other legal action materially affects the ability of a Party to perform any material obligation under this Agreement, either Party may by providing written notice to the other Party require that the affected provisions be renegotiated in good faith and this Agreement be amended accordingly to reflect the pricing, terms and conditions of each such Amendment to the Act relating to any of the provisions in this Agreement or such other mutually acceptable new provisions as may be required, provided that such affected provisions shall not affect the validity of the remainder of this Agreement. If any such amendment to this Agreement affects any rates or charges of the services provided hereunder, such amendment shall be retroactively effective as determined by the Commission and each Party reserves its rights and remedies with respect to the collection of such rates or charges; including the right to seek a surcharge before the applicable regulatory authority.

28.3 Other Regulatory Changes.

**ARTICLE XXIX
MISCELLANEOUS**

29.1 Authorization.

29.1.1 Ameritech Michigan is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan. SBC Telecommunications, Inc. has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder on behalf of and as agent for Ameritech Michigan. Ameritech Michigan is

**APPENDIX DSL
(Including Line Sharing or HFPL)**

TABLE OF CONTENTS

1.	INTRODUCTION	256
2.	DEFINITIONS.....	257
3.	GENERAL TERMS AND CONDITIONS RELATING TO UNBUNDLED xDSL-CAPABLE LOOPS	258
4.	UNBUNDLED xDSL-CAPABLE LOOPS OFFERINGS	261
5.	HFPL: SPLITTER OWNERSHIP AND RESPONSIBILITIES.....	265
6.	OPERATIONAL SUPPORT SYSTEMS: LOOP MAKE-UP INFORMATION AND ORDERING	268
7.	PROVISIONING	269
8.	ACCEPTANCE TESTING AND COOPERATIVE TESTING.....	271
9.	MAINTENANCE/SERVICE ASSURANCE.....	274
10.	SPECTRUM MANAGEMENT.....	275
11.	RESERVATION OF RIGHTS	276
12.	APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS	277

APPENDIX DSL
Digital Subscriber Line (DSL) Capable Loops

1. INTRODUCTION

- 1.1 This Appendix sets forth terms and conditions for providing DSL and the High Frequency Portion of the Loop (HFPL) by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and Competitive Local Exchange Carrier (CLEC).
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, **SBC-12STATE** means the above listed ILECs doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.
- 1.4 As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.
- 1.5 The prices at which **SBC-12STATE** agrees to provide CLEC with DSL and HFPL are contained in the applicable Appendix and/or the applicable Commission ordered tariff where stated.
- 1.6 The prices, terms, and conditions herein are not applicable in **SNET**. **SNET**'s unbundled DSL offering may be found in the Commission-ordered Connecticut Access Service Tariff, Section 18.2.
- 1.7 **SBC-12STATE** agrees to provide CLEC with access to UNEs (including the unbundled xDSL Capable Loop and HFPL offerings) in accordance with the rates, terms and conditions set forth in this xDSL Attachment and the general terms and conditions applicable to UNEs under this Appendix, for CLEC to use in conjunction with its desired xDSL technologies and equipment to provide xDSL services to its end user customers.

2. DEFINITIONS

- 2.1 For purposes of this Appendix, a “loop” is defined as a transmission facility between a distribution frame (or its equivalent) in a central office and the loop demarcation point at an end user customer premises.
- 2.2 For purposes of this Appendix, a “subloop” is defined as any portion of the loop from SBC-12STATE’s F1/F2 interface to the demarcation point at the customer premise that can be accessed at a terminal in SBC-12STATE’s outside plant. An accessible terminal is a point on the loop where technicians can access the wire or fiber within the cable without removing a splice closure to reach the wire within. The Parties recognize that this is only one form of subloop (defined as the F1/F2 interface to the customer premise) as set forth in the FCC’s Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-96 (FCC 99-238), including the FCC’s Supplemental Order issued In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996, in CC Docket No. 96-98 (FCC 99-370) (rel. November 24, 1999) (“the UNE Remand Order”). Additional subloop types may be negotiated and agreed to by the Parties consistent with the UNE Remand Order. Subloops discussed in this Appendix will be effective in accordance with the dates set out in the UNE Remand Order.
- 2.3 The term “Digital Subscriber Line” (“DSL”) describes various technologies and services. The “x” in “xDSL” is a place holder for the various types of DSL services, including, but not limited to ADSL (Asymmetric Digital Subscriber Line), HDSL (High-Speed Digital Subscriber Line), IDSL (ISDN Digital Subscriber Line), SDSL (Symmetrical Digital Subscriber Line), UDSL (Universal Digital Subscriber Line), VDSL (Very High-Speed Digital Subscriber Line), and RADSL (Rate-Adaptive Digital Subscriber Line)
- 2.4 “High Frequency Portion of the Loop” (“HFPL”) is defined as the frequency above the voice band on a copper loop facility that is being used to carry traditional POTS analog circuit-switched voice band transmissions. The FCC’s Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. December 9, 1999) (the “Line Sharing Order”) references the voice band frequency of the spectrum as 300 to 3000 Hertz (and possibly up to 3400 Hertz) and provides that DSL technologies which operate at frequencies generally above 20,000 Hertz will not interfere with voice band transmission. SBC-12STATE shall only make the HFPL available to CLEC in those instances where SBC-12STATE also is providing retail POTS (voice band circuit switched) service on the same local loop facility to the same end user.
- 2.5 A loop technology that is “presumed acceptable for deployment” is one that either complies with existing industry standards, has been successfully deployed by another carrier in any state without significantly degrading the performance of other services, or has been approved by the FCC, any state commission, or an industry standards body.

- 2.6 A “non-standard xDSL-based technology” is a loop technology that is not presumed acceptable for deployment under Section 2.5 of this Appendix.
- 2.7 “Continuity” shall be defined as a single, uninterrupted path along a circuit, from the Minimum Point of Entry (MPOE) or other demarcation point to the Point of Interface (POI) located on the horizontal side of the Main Distribution Frame (MDF).
- 2.8 “Proof of Continuity” shall be determined by performing a physical fault test from the MPOE or other demarcation point to the POI located on the horizontal side of the MDF by providing a short across the circuit on the tip and ring, and registering whether it can be received at the far end. This test will be known hereafter as “Proof of Continuity” or “Continuity Test.”
- 2.9 “xDSL Capable Loop” is a loop that a CLEC may use to deploy xDSL technologies.
- 2.10 “Cooperative Acceptance Testing” shall be defined as the joint testing between **SBC-12STATE**’s Technician, its Local Operations Center (“LOC”), and the CLECs designated test representative for the purpose of verifying Continuity as more specifically described in Section 8.
- 2.11 Plan of Record for Pre-Ordering and Ordering of xDSL and other Advanced Services (“Plan of Record” or “POR”) refers to **SBC-12STATE**’s December 7, 1999 filing with the FCC, including any subsequent modifications or additions to such filing.
- 2.12 The “Splitter” is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the Digital Subscriber Line Access Multiplexer (DSLAM) equipment or may be externally mounted.
- 2.13 Digital Subscriber Line Access Multiplexer” (“DSLAM”) is a piece of equipment that links end-user DSL connections to a single high-speed packet switch, typically ATM or IP.

3. GENERAL TERMS AND CONDITIONS RELATING TO UNBUNDLED xDSL-CAPABLE LOOPS

- 3.1 Unless otherwise noted, all references to “loop” in Sections 3.1 - 3.8 includes **SBC-12STATE**’s HFPL offering unless otherwise noted.
- 3.2 **SBC-12STATE** will provide a loop for CLEC to deploy xDSL technologies presumed acceptable for deployment or non-standard xDSL technology as defined in this

Appendix. SBC-12STATE will not impose limitations on the transmission speeds of xDSL services; provided, however, SBC-12STATE does not guarantee transmission speeds, available bandwidth nor imply any service level. Consistent with the Line Sharing Order, CLEC may only deploy xDSL technologies on HFPL loops that do not interfere with analog voice band transmission.

- 3.3 SBC-12STATE shall not deny CLEC's request to deploy any loop technology that is presumed acceptable for deployment unless SBC-12STATE has demonstrated to the state commissions in accordance with FCC orders that CLEC's deployment of the specific loop technology will significantly degrade the performance of other advanced services or traditional voice band services.
- 3.4 In the event the CLEC wishes to introduce a technology that has been approved by another state commission or the FCC, or successfully deployed elsewhere, the CLEC will provide documentation describing that action to SBC-12STATE and the state commission before or at the time of its request to deploy such technology within SBC-12STATE. The documentation should include the date of approval or deployment, any limitations included in its deployment, and a sworn attestation that the deployment did not significantly degrade the performance of other services.
- 3.5 In the event the CLEC wishes to introduce a technology that does not conform to existing industry standards and has not been approved by an industry standards body, the FCC, or a state commission, the burden is on the CLEC to demonstrate that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.

3.6 Liability

- 3.6.1 Notwithstanding any other provision of this Appendix, each Party, whether a CLEC or SBC-12STATE, agrees that should it cause any non-standard xDSL technologies to be deployed or used in connection with or on SBC-12STATE facilities, the Party ("Indemnifying Party") will pay all costs associated with any damage, service interruption or other telecommunications service degradation, or damage to the other Party's ("Indemnitee") facilities. Notwithstanding any other provision of this Appendix, CLEC ("Indemnifying Party") shall release, defend and indemnify SBC-12STATE ("Indemnitee") and hold Indemnitee harmless against any Loss, including any Loss to a Third Party such as another CLEC or SBC-12STATE end user, arising out of the negligence or willful misconduct of CLEC, its agents, its end users, contractors, or others retained by CLEC, in connection with CLEC's provision of splitter functionality under this Appendix.
- 3.6.2 For any technology, CLEC's use of any SBC-12STATE network element, or its own equipment or facilities in conjunction with any SBC-12STATE network

element, will not materially interfere with or impair service over any facilities of **SBC-12STATE**, its affiliated companies or connecting and concurring carriers involved in **SBC-12STATE** services, cause damage to **SBC-12STATE**'s plant, impair the privacy of a communications carried over **SBC-12STATE**'s facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, **SBC-12STATE** may discontinue or refuse service if CLEC violates this provision, provided that such termination of service will be limited to CLEC's use of the element(s) causing the violation. Subject to Section 9.3 for HFPL, **SBC-12STATE** will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, the CLEC demonstrates that their use of the network element is not the cause of the network harm. If **SBC-12STATE** does not believe the CLEC has made the sufficient showing of harm, or if CLEC contests the basis for the disconnection, either Party must first submit the matter to dispute resolution under the Dispute Resolution Procedures set forth in this Appendix. Any claims of network harm by **SBC-12STATE** must be supported with specific and verifiable supporting information.

3.7 Indemnification

- 3.7.1 Covered Claim: Indemnifying Party will indemnify, defend and hold harmless Indemnitee from any claim for damages, including but not limited to direct, indirect or consequential damages, made against Indemnitee by any telecommunications service provider or telecommunications user (other than claims for damages or other losses made by an end-user of Indemnitee for which Indemnitee has sole responsibility and liability) arising from the use of such non-standard xDSL technologies by the Indemnifying Party, or Indemnifying Party's (i.e. CLECs) provision of splitter functionality under this Appendix, or the Indemnifying Party's retention of the loop used to provide the HFPL when the end user terminates voice service from Indemnitee and Indemnitee is requested by another telecommunications provider to provide a voice grade service or facility to the end user.
- 3.7.2 Indemnifying Party is permitted to fully control the defense or settlement of any Covered Claim, including the selection of defense counsel. Notwithstanding the foregoing, Indemnifying Party will consult with Indemnitee on the selection of defense counsel and consider any applicable conflicts of interest. Indemnifying Party is required to assume all costs of the defense and any damages resulting from the use of any non-standard xDSL technologies in connection with or on Indemnitee's facilities or Indemnifying Party's (i.e. CLEC's) provision of splitter functionality under this Appendix, or the Indemnifying Party's retention of the loop used to provide the HFPL when the end user terminates voice service from Indemnitee and Indemnitee is requested by another telecommunications provider to provide a voice grade service or facility to the end user, and Indemnitee will bear no financial or legal responsibility whatsoever arising from such claims.

3.7.3 Indemnity agrees to fully cooperate with the defense of any Covered Claim. Indemnatee will provide written notice to Indemnifying Party of any Covered Claim at the address for notice assigned herein within ten days of receipt, and, in the case of receipt of service of process, will deliver such process to Indemnifying Party not later than 10 business days prior to the date for response to the process. Indemnatee will provide to Indemnifying Party reasonable access to or copies of any relevant physical and electronic documents or records related to the deployment of non-standard xDSL technologies used by Indemnatee in the area affected by the claim, or Indemnifying Party's (i.e. CLEC's) provision of splitter functionality under this Appendix, all other documents or records determined to be discoverable, and all other relevant documents or records that defense counsel may reasonably request in preparation and defense of the Covered Claim. Indemnatee will further cooperate with Indemnifying Party's investigation and defense of the Covered Claim by responding to the reasonable requests to make its employees with knowledge relevant to the Covered Claim available as witnesses for preparation and participation in discovery and trial during regular weekday business hours. Indemnatee will promptly notify Indemnifying Party of any settlement communications, offers or proposals received from claimants.

3.7.4 Indemnity agrees that Indemnifying Party will have no indemnity obligation, and Indemnatee will reimburse Indemnifying Party's defense costs, in any case in which Indemnifying Party's technology is determined not to be the cause of any Indemnatee liability and in any case which Indemnifying Party's (i.e. CLECs) provision of splitter functionality under this Appendix is determined not to be the cause of any Indemnity (i.e. **SBC-12STATE**) liability.

3.8 Claims Not Covered: No Party hereunder agrees to indemnify or defend any other Party against claims based on the other Party's gross negligence or intentional misconduct.

4. UNBUNDLED xDSL-CAPABLE LOOP OFFERINGS

4.1 DSL-Capable Loops: For each of the loop types described in Sections 4.1.1 - 4.1.4 below, CLEC will, at the time of ordering, notify **SBC-12STATE** as to the Power Spectrum Density (PSD) mask of the technology the CLEC will deploy.

4.1.1 2-Wire xDSL Loop: A 2-wire xDSL loop for purposes of this section, is a copper loop over which a CLEC may provision various DSL technologies. A copper loop used for such purposes will meet basic electrical standards such as metallic connectivity and capacitive and resistive balance, and will not include load coils, mid-span repeaters or excessive bridged tap (bridged tap in excess of 2,500 feet in length). However removal of load coils, repeaters or excessive bridged tap on an existing loop is optional, subject to conditioning charges, and will be performed at

CLEC's request. The rates set forth in Appendix Pricing shall apply to this 2-Wire xDSL Loop.

- 4.1.2 2-Wire Digital Loop (e.g., ISDN/IDSL): A 2-Wire Digital Loop for purposes of this Section is 160 Kbps and supports Basic Rate ISDN (BRI) digital exchange services. The terms and conditions for the 2-Wire Digital Loop are set forth in the Appendix UNE and the rates in the associated Appendix Pricing.
- 4.1.3 4-Wire xDSL Loop: A 4-Wire xDSL loop for purposes of this section, is a copper loop over which a CLEC may provision DSL technologies. A copper loop used for such purposes will meet basic electrical standards such as metallic connectivity and capacitive and resistive balance, and will not include load coils, mid-span repeaters or excessive bridged tap (bridged tap in excess of 2,500 feet in length). However removal of load coils, repeaters or excessive bridged tap on an existing loop is optional and will be performed at CLEC's request. The rates set forth in Appendix Pricing shall apply to this 4-Wire xDSL Loop.
- 4.1.4 Sub-Loop: In locations where **SBC-12STATE** has deployed: (1) Digital Loop Carrier systems and an uninterrupted copper loop is replaced with a fiber segment or shared copper in the distribution section of the loop; (2) Digital Added Main Line ("DAML") technology to derive multiple voice-grade POTS circuits from a single copper pair; or (3) entirely fiber optic facilities to the end user, **SBC-12STATE** will make the following options available to CLEC:
- 4.1.4.1 Where spare copper facilities are available, and the facilities meet the necessary technical requirements for the provisioning of DSL, the CLEC has the option of requesting **SBC-12STATE** to make copper facilities available (subject to Section 4.6 below).
- 4.1.4.2 The CLEC has the option of collocating a DSLAM in **SBC-12STATE**'s Remote Terminal ("RT") at the fiber/copper interface point, pursuant to collocation terms and conditions. When the CLEC collocates its DSLAM at **SBC-12STATE** RTs, **SBC-12STATE** will provide CLEC with unbundled access to subloops to allow CLEC to access the copper wire portion of the loop.
- 4.1.4.3 Where the CLEC is unable to obtain spare copper loops necessary to provision a DSL service, and **SBC-12STATE** has placed a DSLAM in the RT, **SBC-12STATE** must unbundle and provide access to its DSLAM. **SBC-12STATE** is relieved of this requirement to unbundle its DSLAM if it permits the CLEC to collocate its DSLAM in the RT on the same terms and conditions

that apply to its own DSLAM. The rates set forth in Appendix PRICING shall apply to this subloop.

4.1.5 When **SBC-12STATE** is the provider of the retail POTS analog voice service on the same loop to the same end-user, HFPL access will be offered on loops that meet the loop requirements as defined in Sections 4.1.1-4.1.4 above. The CLEC will provide **SBC-12STATE** with the type of technology it seeks to deploy, at the time of ordering, including the PSD of the technology the CLEC will deploy. If the technology does not have a PSD mask, CLEC shall provide **SBC-12STATE** with a technical description of the technology (including power mask) for inventory purposes.

4.1.5.1 xDSL technologies may only reside in the higher frequency ranges, preserving a “buffer zone” to ensure the integrity of voice band traffic.

4.2 When **SBC-12STATE** traditional retail POTS services are disconnected at the request of the end user or POTS service is suspended due to “denial for non-pay”, **SBC-12STATE** will notify the CLEC that the broadband service will be converted from a Line Sharing Circuit, or HFPL, to a full stand alone UNE loop or will be disconnected at CLEC’s option.

4.3 **SBC-12STATE** shall be under no obligation to provide multi-carrier or multi-service line sharing arrangements as referenced in FCC 99-35, paragraph 75.

4.4 HFPL is not available in conjunction with a combination of network elements known as the platform or UNE-P (including loop and switch port combinations) or unbundled local switching or any arrangement where **SBC-12STATE** is not the retail POTS provider.

4.5 **SBC-12STATE** shall not be required to provide narrowband service to CLEC “A” and broadband service to CLEC “B” on the same loop. Any line sharing between two CLECs shall be accomplished between those parties and shall not utilize any **SBC-12STATE** splitters, equipment, cross connects or OSS systems to facilitate line sharing between such CLECs.

4.6 **SBC-12STATE** shall be under no obligation to provision xDSL capable loops in any instance where physical facilities do not exist. **SBC-12STATE** shall be under no obligation to provide HFPL where **SBC-12STATE** is not the existing retail provider of the traditional, analog voice service (POTS). This shall not apply where physical facilities exist, but conditioning is required. In that event, CLEC will be given the opportunity to evaluate the parameters of the xDSL or HFPL service to be provided, and determine whether and what type of conditioning should be performed at its request at their cost.

- 4.7 For each loop, CLEC shall at the time of ordering notify **SBC-12STATE** as to the PSD mask of the technology the CLEC intends to deploy on the loop. If and when a change in PSD mask is made, CLEC will immediately notify **SBC-12STATE**. Likewise, **SBC-12STATE** will disclose to CLEC upon request information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops. **SBC-12STATE** will use this formation for the sole purpose of maintaining an inventory of advanced services present in the cable sheath. If the technology does not fit within a national standard PSD mask, CLEC shall provide **SBC-12STATE** with a technical description of the technology (including power mask) for inventory purposes. Additional information on the use of PSD masks can be found in Section 10 below.
- 4.8 In the event that **SBC-12STATE** rejects a request by CLEC for provisioning of advanced services, **SBC-12STATE** will disclose to the requesting CLEC information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops, including the specific reason for the denial, within 48 hours of the denial.
- 4.9 **SBC-12STATE** will not deny a requesting CLEC's right to deploy new xDSL technologies that do not conform to the national standards and have not yet been approved by a standards body (or otherwise authorized by the FCC, any state commission or which have not been successfully deployed by any carrier without significantly degrading the performance of other services) if the requesting CLEC can demonstrate to the Commission that the loop technology will not significantly degrade the performance of other advanced services or traditional voice band services.
- 4.9.1 Upon request by CLEC, **SBC-12STATE** will cooperate in the testing and deployment of new xDSL technologies or may direct the CLEC, at CLEC's expense, to a third party laboratory of CLEC's choice for such evaluation.
- 4.9.2 If it is demonstrated that the new xDSL technology will not significantly degrade the other advanced services or traditional voice based services, **SBC-12STATE** will provide a loop to support the new technology for CLEC as follows:
- 4.9.2.1 If the technology requires the use of a 2-Wire or a 4-Wire xDSL loop (as defined above), then **SBC-12STATE** will provide an xDSL loop at the same rates listed for a 2-Wire or 4-Wire xDSL loop and associated loop conditioning as needed; provided, however, conditioning on HFPL DSL circuits shall be provided consistent with the terms of Section 6.3.4 below.
- 4.9.2.2 In the event that a xDSL technology requires a loop type that differs from that of a 2-Wire or 4-Wire xDSL loop (as defined in this Attachment, the Parties make a good faith effort to arrive at

an Agreement as to the rates, terms and conditions for an unbundled loop capable of supporting the proposed xDSL technology. If negotiations fail, any dispute between the Parties concerning the rates, terms and conditions for an unbundled loop capable of supporting the proposed xDSL technology shall be resolved pursuant to the dispute resolution process provided for in this Appendix.

4.9.2.3 With the exception of HFPL access, which is addressed in Section 9 below, if **SBC-12STATE** or another CLEC claims that a service is significantly degrading the performance of other advanced services or traditional voice band services, then **SBC-12STATE** or that other CLEC must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem. Any claims of network harm must be supported with specific and verifiable supporting information. In the event that **SBC-12STATE** or a CLEC demonstrates to the Commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of such services.

4.9.3 **SBC-12STATE** shall not impose its own standards for provisioning xDSL services, through Technical Publications or otherwise, until and unless approved by the Commission or the FCC prior to use. However, **SBC-12STATE** will publish non-binding Technical Publications to communicate current standards and their application as set forth in Paragraph 72 of FCC Order 99-48 (rel. March 31, 1999), FCC Docket 98-147.

5. HFPL: SPLITTER OWNERSHIP AND RESPONSIBILITIES

5.1 Splitter ownership:

5.1.1 Option 1: CLEC will own and have sole responsibility to forecast, purchase, install, inventory, provision and maintain splitters. When physically collocating, splitters shall be installed in the CLECs collocation arrangement area (whether caged or cageless) consistent with **SBC-12STATE**'s standard collocation practices and procedure. When virtually collocated, **SBC-12STATE** will install, provision and maintain splitters under the terms of virtual collocation.

5.1.2 Option 2: SBC voluntarily agrees to own, purchase, install, inventory, provision, maintain and lease splitters in accordance with the terms set forth herein. SBC will determine where such SBC-owned splitters will be located in

each central office. Upon CLEC's request, SBC will perform testing at the SBC-owned splitter on behalf of CLEC. In the event that no trouble is found at the time of testing by SBC, CLEC shall pay SBC for such testing at the rates set forth in the interconnection agreement with the parties. CLEC will not be permitted direct physical access to the SBC-owned splitters, including the MDF or the IDF, for testing. Upon the request of either Party, the Parties shall meet to negotiate terms for additional test access capabilities.

5.1.2.1 SBC will agree to lease such splitters a line at a time subject to the following terms and conditions:

5.1.2.1.1 Forecasts: CLEC will provide SBC with a forecast of its demand for each central office prior to submitting its first LSR for that individual office and then every January and July thereafter (or as otherwise agreed to by both parties). CLEC's failure to submit a forecast for a given office may affect provisioning intervals. In the event CLEC fails to submit a forecast in a central office which does not have available splitter ports, SBC shall have an additional ten (10) business days to install CLEC's line sharing order.

5.1.2.1.2 Forecast Penalties: If CLEC fails to come within plus or minus twenty five percent (25%) of its forecast referenced in Section 5.1.2.4.1 above, CLEC shall have an additional ninety (90) days to meet such forecast. If, on the 90th day, CLEC has failed to come within plus or minus twenty five percent (25%) of its forecast referenced in Section 5.1.2.4.1 above, CLEC shall pay SBC a penalty payment commensurate with the difference between the ports actually used and the ports forecasted as a nonrecurring charge. Should another carrier consume the splitter ports which were forecasted but not used by CLEC, SBC will discount CLEC's penalty payment to SBC on a pro rata basis.

5.1.2.2 Splitter provisioning will use standard SBC configuration cabling and wiring in SBC-12 STATE locations. Connecting Block layouts will reflect standard recognizable arrangements that will work with SBC-12 STATE's Operational Support Systems ("OSS").

- 5.1.2.3 Splitter technology will adhere to established industry standards for technical, test access, common size, configurations and shelf arrangements.
 - 5.1.2.4 All SBC-owned splitter equipment will be compliant with applicable national standards and NEBS Level 1.
 - 5.1.2.5 From time to time, SBC may need to replace or repair SBC-owned splitters or splitter cards which necessitate a brief interruption of service. In the event that service interruption is anticipated by SBC to last more than fifteen (15) minutes, SBC shall notify CLEC.
 - 5.1.2.6 When an end-user disconnects SBC's POTS service, SBC will initiate action to disconnect the POTS service, will notify CLEC of such disconnection and will reconfigure the loop to remove the splitter in order to conserve the splitter ports for future line sharing orders. CLEC shall pay a nonrecurring charge for any such reconfiguration. The loop reconfiguration will result in temporary downtime of the loop as the splitter is removed from the circuit. Upon request of either Party, the Parties shall meet to negotiate terms for such notification and disconnection.
 - 5.1.2.7 SBC retains the sole right to select SBC-owned splitter equipment and installation vendors.
- 5.2 When physically collocated, splitters will be placed in traditional collocation areas as outlined in the physical collocation terms and conditions in this Appendix or applicable Commission-ordered tariff. In this arrangement, the CLEC will have test access to the line side of the splitter on the terminating end of the cross connect to the collocation arrangement. It is recommended that the CLEC provision splitter cards that provide test port capabilities. When virtually collocated, **SBC-12STATE** will install the splitter in a **SBC-12STATE** bay and **SBC-12STATE** will access the splitter on behalf of the CLEC for line continuity tests. Additional testing capabilities (including remote testing) may be negotiated by the Parties. The CLEC is not permitted direct physical access to the MDF or the IDF for testing.
- 5.3 Splitter provisioning will use standard SBC configuration cabling and wiring in **SBC-12STATE** locations. Connecting Block layouts will reflect standard recognizable arrangements that will work with **SBC-12STATE** Operations Support Systems ("OSS").
- 5.4 Splitter technology needs to adhere to established industry standards for technical, test access, common size, configurations and shelf arrangements.

5.5 All splitter equipment must be compliant with applicable national standards and NEBS Level 1.

6. OPERATIONAL SUPPORT SYSTEMS: LOOP MAKE-UP INFORMATION AND ORDERING

- 6.1 General: **SBC-12STATE** will provide CLEC with nondiscriminatory access that access is available by electronic or manual means, to its loop make-up information set forth in **SBC-12STATE**'s Plan of Record. In the interim, loop make-up data will be provided as set forth below. In accordance with the FCC's UNE Remand Order, CLEC will be given nondiscriminatory access to the same loop make-up information that **SBC-12STATE** is providing any other CLEC and/or **SBC-12STATE** or its advanced services affiliate.
- 6.2 Loop Pre-Qualification: Subject to 6.1 above, **SBC-12STATE**'s pre-qualification will provide a near real time response to CLEC queries. Until replaced with OSS access as provided in 6.1, **SBC-12STATE** will provide mechanized access to a loop length indicator via Verigate and DataGate in regions where Verigate/DataGate are generally available for use with xDSL-based, HFPL, or other advanced services. The loop length is an indication of the approximate loop length, based on a 26-gauge equivalent and is calculated on the basis of Distribution Area distance from the central office. This is an optional service to the CLEC and is available at no charge.
- 6.3 Loop Qualification: Subject to 6.1 above, **SBC-12STATE** will develop and deploy enhancements to its existing DataGate and EDI interfaces that will allow CLECs, as well as **SBC-12STATE**'s retail operations or its advanced services affiliate, to have near real time electronic access as a preordering function to the loop make-up information, subject to the following:
- 6.3.1 For loops ordered under 12,000 feet in length, **SBC-12STATE** will provide a process that does not require loop qualification. If load coils, repeaters or excessive bridged tap are present on a loop under 12,000 feet in length, conditioning to remove these elements will be performed at no charge.
- 6.3.2 If a CLEC elects to have **SBC-12STATE** provide loop makeup through a manual process for information not available electronically, then the loop qualification interval will be 3-5 business days, or the interval provided to **SBC-12STATE**'s affiliate, whichever is less.
- 6.3.3 If the results of the loop qualification indicate that conditioning is available, CLEC may request that **SBC-12STATE** perform conditioning at charges set forth in the Pricing Schedule. The CLEC may order the loop without conditioning or with partial conditioning if desired.

6.3.4 For HFPL, if CLEC's requested conditioning will degrade the customer's analog voice service, **SBC-12STATE** is not required to condition the loop. However, should **SBC-12STATE** refuse the CLEC's request to condition a loop, **SBC-12STATE** will make an affirmative showing to the relevant state commission that conditioning the specific loop in question will significantly degrade voice band services.

6.4 Electronic access to loop makeup data through OSS enhancements described in 6.1 above will return information in all fields described in the Plan of Record where information is contained in **SBC-12STATE**'s electronic databases. If manual loop qualification is requested, loop makeup data should include the following: (a) the actual loop length; (b) the length by gauge; and (c) the presence of repeaters, load coils, or bridged taps; and shall include, if noted on the individual loop record, (d) the total length of bridged taps, load coils, and repeaters; (e) the presence of pair gain devices, DLC, and/or DAML, and (f) the presence of disturbers in the same and/or adjacent binder groups. If a detailed manual loop qualification is requested, loop makeup data should include all of the fields described in the Plan of Record including those described above for manual loop qualification.

7. PROVISIONING

7.1 Provisioning: **SBC-12STATE** will not guarantee that the local loop(s) ordered will perform as desired by CLEC for xDSL-based, HFPL, or other advanced services, but will guarantee basic metallic loop parameters, including continuity and pair balance. CLEC-requested testing by **SBC-12STATE** beyond these parameters will be billed on a time and materials basis at the applicable tariffed rates. On loops where CLECs have requested that no conditioning be performed, **SBC-12STATE**'s maintenance will be limited to verifying loop suitability based on POTS design. For loops having had partial or extensive conditioning performed at CLEC's request, **SBC-12STATE** will verify continuity, the completion of all requested conditioning, and will repair at no charge to CLEC any gross defects which would be unacceptable based on current POTS design criteria and which do not result from the loop's modified design. For loops under 12,000 feet, **SBC-12STATE** will remove load coils, repeaters, and excessive bridged tap at no charge to CLEC.

7.2 Subject to Section 6.3.4 above, CLEC shall designate, at the CLEC's sole option, what loop conditioning **SBC-12STATE** is to perform in provisioning the xDSL loop(s), subloop(s), or HFPL on the loop order. Conditioning may be ordered on loop(s), subloop(s), or HFPL of any length at the Loop conditioning rates set forth in the Pricing Schedule. The loop, subloop, or HFPL will be provisioned to meet the basic metallic and electrical characteristics such as electrical conductivity and capacitive and resistive balance.

- 7.3 The provisioning intervals are applicable to every xDSL loop and HFPL regardless of the loop length. The Parties will meet to negotiate and agree upon subloop provisioning intervals.
- 7.3.1 The provisioning and installation interval for xDSL-capable loops and HFPL, where no conditioning is requested (including outside plant rearrangements that involve moving a working service to an alternate pair as the only possible solution to provide a DSL-capable loop or HFPL), on orders for 1-20 loops per order or per end-user location, will be 5 business days, or the provisioning and installation interval applicable to **SBC-12STATE**'s tariffed xDSL-based services, or its affiliate's, whichever is less.
- 7.3.1.1 The provisioning and installation intervals for xDSL-capable loops and HFPL where conditioning is requested or outside plant rearrangements are necessary, as defined above, on orders for 1-20 loops per order or per end-user customer location, will be ten (10) business days, or the provisioning and installation interval applicable to **SBC-12STATE**'s tariffed xDSL-based services or its affiliate's xDSL-based services where conditioning is required, whichever is less. For HFPL orders, intervals are contingent upon CLEC's end user customer release during normal working hours. In the event the end user customer should require conditioning during non-working hours, the due date may be adjusted consistent with end user release of circuit and out-of-hours charges may apply at the rates set forth in Section 8.4.2 hereof.
- 7.3.3 Orders for more than 20 loops per order or per end user location, where no conditioning is requested will have a provisioning and installation interval of 15 business days, or as agreed upon by the Parties. For HFPL orders, intervals are contingent upon end user release during normal working hours. In the event the CLEC's end user customers require conditioning during non-working hours, the due date may be adjusted consistent with end user release of circuit and out-of-hours charges may apply.
- 7.3.2 Orders for more than 20 loops per order which require conditioning will have a provisioning and installation interval agreed by the parties in each instance.
- 7.3.3 Subsequent to the initial order for a xDSL capable loop, subloop, or HFPL additional conditioning may be requested on such loop(s) at the rates set forth in the Pricing Schedule and the applicable service order charges will apply; provided, however, when requests to add or modify conditioning are received for a pending xDSL capable loop(s) order, no additional service order charges shall be assessed, but the due date may be adjusted if necessary to meet standard provisioning intervals. The provisioning interval for additional requests for conditioning pursuant to this subsection will be the same as set forth above.

7.4 The CLEC, at its sole option, may request shielded cross-connects for central office wiring for use with 2-wire xDSL loop or HFPL when used to provision ADSL over a DSL-capable Loop or HFPL provided for herein at the rates set forth in the Appendix Pricing.

8. ACCEPTANCE TESTING AND COOPERATIVE TESTING

8.1 **SBC-12STATE** and the CLEC agree to implement Acceptance Testing during the provisioning cycle for xDSL loop delivery. When **SBC-12STATE** provides HFPL, continuity is generally assumed as **SBC-12STATE** retail POTS service is operating at the time of the order. Therefore, acceptance testing is unnecessary. Generally, **SBC-12STATE** would not dispatch to provision HFPL, thus would not have a technician at the customer site to perform an acceptance test.

8.2 Should the CLEC desire Acceptance Testing, it shall request such testing on a per xDSL loop basis upon issuance of the Local Service Request (LSR). Acceptance Testing will be conducted at the time of installation of the service request.

8.2.1 If the LSR was placed without a request for Acceptance Testing, and the CLEC should determine that it is desired or needed during any subsequent phase of provisioning, the request may be added at any time; however, this may cause a new standard due date to be calculated for the service order.

8.3 Acceptance Testing Procedure:

8.3.1 Upon delivery of a loop to/for the CLEC, **SBC-12STATE**'s field technician will call the LOC and the LOC tester will call a toll free number provided by the CLEC to initiate performance of a series of Acceptance Tests.

8.3.1.1.1 For 2-wire digital loops that are not provisioned through repeaters or digital loop carriers, the **SBC-12STATE** field technician will provide a solid short across the tip and ring of the circuit and then open the loop circuit.

8.3.1.1.2 For 2-wire digital loops that are provisioned through repeaters or Digital Loop Carrier, the **SBC-12STATE** field technician will not perform a short or open circuit due to technical limitations.

8.3.2 If the loop passes the "Proof of Continuity" parameters, as defined by this Appendix for DSL loops, the CLEC will provide **SBC-12STATE** with a confirmation number and **SBC-12STATE** will complete the order. The CLEC will be billed for the Acceptance Test as specified below under Acceptance Testing Billing at the applicable rates as set forth in Appendix Pricing.

- 8.3.3 If the Acceptance Test fails loop Continuity Test parameters, as defined by this Appendix for DSL loops, the LOC technician will take any or all reasonable steps to immediately resolve the problem with the CLEC on the line including, but not limited to, calling the central office to perform work or troubleshooting for physical faults. If the problem cannot be resolved in an expedient manner, the technician will release the CLEC representative, and perform the work necessary to correct the situation. Once the loop is correctly provisioned, **SBC-12STATE** will re-contact the CLEC representative to repeat the Acceptance Test. When the aforementioned test parameters are met, the CLEC will provide **SBC-12STATE** with a confirmation number and **SBC-12STATE** will complete the order. If CLEC xDSL service does not function as desired, yet test parameters are met, **SBC-12STATE** will still close the order. **SBC-12STATE** will not complete an order that fails Acceptance Testing.
- 8.3.4 Until such time as the CLEC and **SBC-12STATE** agree, or industry standards establish, that their test equipment can accurately and consistently send signals through repeaters or Digital Loop Carriers, the CLEC agrees to accept 2-wire digital loops, designed with such reach extenders, without testing the complete circuit. Consequently, **SBC-12STATE** agrees that should the CLEC open a trouble ticket and a **SBC-12STATE** network fault be found by standard testing procedures on such a loop within ten (10) business days (in which it is determined by standard testing to be a **SBC-12STATE** fault), **SBC-12STATE**, upon CLEC request, will adjust the CLEC's bill to refund the recurring charge of such a loop until the fault has been resolved and the trouble ticket is closed.
- 8.3.5 **SBC-12STATE** will be relieved of the obligation to perform Acceptance Testing on a particular loop and will assume acceptance of the loop by the CLEC when the CLEC cannot provide a "live" representative (through no answer or placement on hold) for over ten (10) minutes. **SBC-12STATE** may then close the order utilizing existing procedures, document the time and reason, and may bill the CLEC as if the Acceptance Test had been completed and the loop accepted, subject to Section 8.4 below.
- 8.3.6 If, however, a trouble ticket is opened on the loop within 24 hours and the trouble resulted from **SBC-12STATE** error as determined through standard testing procedures, the CLEC will be credited for the cost of the Acceptance Test. Additionally, the CLEC may request **SBC-12STATE** to re-perform the Acceptance Test at the conclusion of the repair phase again at no charge. This loop will not be counted as a successful completion for the purposes of the calculations discussed in Section 8.4 below.
- 8.3.7 Both Parties declare they will work together, in good faith, to implement Acceptance Testing procedures that are efficient and effective. If the Parties mutually agree to additional testing, procedures and/or standards not covered by

this Appendix or any Public Utilities Commission or FCC ordered tariff, the Parties will negotiate terms and conditions to implement such additional testing, procedures and/or standards. Additional charges may apply if any accepted changes in Acceptance Testing procedures require additional time and/or expense.

8.4 Acceptance Testing Billing

8.4.1 The CLEC will be billed for Acceptance Testing upon the effective date of this Appendix for loops that are installed correctly by the committed interval without the benefit of corrective action due to acceptance testing. In any calendar month after the first sixty (60) days of the agreement, the CLEC may indicate that it believes that **SBC-12STATE** is failing to install loops that are acceptable under the terms and definitions of this Appendix.

8.4.1.1 **SBC-12STATE** will perform an unbiased random sampling of the CLEC's service orders (or any other statistically robust or mutually acceptable sampling process). If the sampling establishes that **SBC-12STATE** is correctly provisioning loops with continuity and ordered conditioning eighty percent (80%) of the time, **SBC-12STATE** may continue charging for Acceptance Testing for all. If the sampling results show that **SBC-12STATE** is not correctly provisioning loops eighty percent (80%) of the time, or greater, **SBC-12STATE** may then perform a comprehensive analysis of the population.

8.4.1.2 If the sampling results from Section 8.4.1.1 above show that **SBC-12STATE** is in non-compliance with the conditioning success rate, as defined in this Appendix, then the CLEC will not be billed for Acceptance Testing for the next sixty (60) days. When and if necessary, the Parties will negotiate, in good faith, to determine a mutually acceptable method for random sampling; however, orders placed within the first thirty (30) days of the CLEC's entry into any Metropolitan Statistical Area ("MSA") shall be excluded from any sampling population, whether random or comprehensive.

8.4.1.3 In any calendar month after the sixty (60) day no-charge period for Acceptance Testing, **SBC-12STATE** may request another random sampling of orders, using the mutually acceptable random sampling method, as negotiated in Section 8.4.1.2 above, be performed to determine whether **SBC-12STATE** can show compliance with the minimum success rates, as defined in Section 8.4.1.1 above. If the sampling result show **SBC-**

12STATE is again in compliance, billing for Acceptance Testing shall resume.

8.4.1.4 Regardless of whether **SBC-12STATE** is in the period in which it may bill for Acceptance Testing, it will not bill for the Acceptance Testing for loop installs that did not pass the test parameters, as defined by this Appendix. **SBC-12STATE** will not bill for loop repairs when the repair resulted from a **SBC-12STATE** problem.

8.4.1.5 Beginning November 1, 2000, the **SBC-12STATE** delivery commitment, as defined by this Appendix, changes from 80% to 90%.

8.4.2 The charges for Acceptance Testing shall be as follows:

REGION	TARIFF	USOC	FIRST HALF HR./FRACTION**	ADDITIONAL **
Ameritech	FCC No. 2; Sec. 13.3.4 (C)(1)(a)	UBCX+	\$40.92	\$22.60
Nevada Bell*	FCC No. 1; Sec. 13.3.5 (B)(1)	UBC++	\$40.21/\$32.72	N/A
Pacific Bell	FCC No. 128; Sec. 13.3.5 (C)(1)(a)	UBC++	\$44.00	\$23.00
Southwestern Bell	FCC No. 73; Sec. 13.4.8 (A)	UBCX+	\$33.51	\$21.32

* Nevada Bell Charges represent I/R Technicians and Central Office Maintenance respectively.

**Rates subject to tariff changes.

If requested by the CLEC, Overtime or Premium time charges will apply for Acceptance Testing requests in off-hours at overtime time charges calculated at one and one half times the standard price and premium time being calculated at two times the standard price.

9. MAINTENANCE /SERVICE ASSURANCE

9.1 If requested by either Party, the parties will negotiate in good faith to arrive at terms and conditions for Acceptance Testing on repairs.

9.2 Narrowband/voice service: If the narrowband, or voice, portion of the loop becomes significantly degraded due to the broadband or high frequency portion of the loop, certain procedures as detailed below will be followed to restore the narrowband, or voice service. Should only the narrowband or voice service be reported as significantly degraded or out of service, **SBC-12STATE** shall repair the narrowband portion of the loop without disturbing the broadband portion of

the loop if possible. In any case, SBC-12STATE shall attempt to notify the end user and CLEC any time SBC-12STATE repair effort has the potential of affecting service on the broadband portion of the loop.

- 9.3 If SBC-12STATE isolates a trouble (causing significant degradation or out of service condition to the POTS service) to the HFPL caused by the CLEC data equipment or splitter, SBC-12STATE will attempt to notify the CLEC and request a trouble ticket and committed restoration time for clearing the reported trouble (no longer than 24 hours). The CLEC will allow the end user the option of restoring the POTS service if the end user is not satisfied with the repair interval provided by the CLEC. If the end user chooses to have the POTS service restored until such time as the HFPL problem can be corrected and notifies either CLEC or SBC-12STATE (or if the CLEC has failed to restore service within 24 hours), either Party will notify the other and SBC-12STATE will “cutaround” the POTS Splitter/DSLAM equipment to restore POTS. When the CLEC resolves the trouble condition in its equipment, the CLEC will contact SBC-12STATE to restore the HFPL portion of the loop. In the event the trouble is identified and corrected in the CLEC equipment, SBC-12STATE will charge the CLEC upon closing the trouble ticket.
- 9.4 Maintenance, other than assuring loop continuity and balance on unconditioned or partially conditioned loops greater than 12,000 feet, will only be provided on a time and material basis. On loops where CLEC has requested recommended conditioning not be performed, SBC-12STATE's maintenance will be limited to verifying loop suitability for POTS. For loops having had partial or extensive conditioning performed at CLEC's request, SBC-12STATE will verify continuity, the completion of all requested conditioning, and will repair at no charge to CLEC any gross defects which would be unacceptable for POTS and which do not result from the loop's modified design.
- 9.5 Any CLEC testing of the retail-POTS service must be non-intrusive. The CLEC may use intrusive testing on its non-integrated DATA-only sections within its equipment. The retail POTS service must be continuous and cannot be opened by the CLEC.
- 9.6 The CLEC shall not rearrange or modify the retail-POTS within its equipment in any way beyond the original HFPL service.

10. SPECTRUM MANAGEMENT

- 10.1 CLEC will advise SBC-12STATE of the PSD mask approved or proposed by T1.E1 that reflect the service performance parameters of the technology to be used. The CLEC, at its option, may provide any service compliant with that PSD mask so long as it stays within the allowed service performance parameters. At

the time of ordering a xDSL-capable loop, CLEC will notify **SBC-12STATE** as to the type of PSD mask CLEC intends to use on the ordering form, and if and when a change in PSD mask is made, CLEC will notify **SBC-12STATE**. CLEC will abide by standards pertinent for the designated PSD mask type.

- 10.2 **SBC-12STATE** agrees that as a part of spectrum management, it will maintain an inventory of the existing services provisioned on the cable. **SBC-12STATE** may not segregate xDSL technologies into designated binder groups without Commission review and approval, or approved industry standard. **SBC-12STATE** shall not deny CLEC a loop based upon spectrum management issues, subject to 10.3 below. In all cases, **SBC-12STATE** will manage the spectrum in a competitively neutral manner consistent with all relevant industry standards regardless of whether the service is provided by a CLEC or by **SBC-12STATE**, as well as competitively neutral as between different xDSL services. Where disputes arise, **SBC-12STATE** and CLEC will put forth a good faith effort to resolve such disputes in a timely manner. As a part of the dispute resolution process, **SBC-12STATE** will, upon request from a CLEC, disclose within 3-5 business days information with respect to the number of loops using advanced services technology within the binder group and the type of technology deployed on those loops so that the involved parties may examine the deployment of services within the affected loop plant.
- 10.3 In the event that the FCC or the industry establishes long-term standards and practices and policies relating to spectrum compatibility and spectrum management that differ from those established in this Appendix, **SBC-12STATE** and CLEC agree to comply with the FCC and/or industry standards, practices and policies and will establish a mutually agreeable transition plan and timeframe for achieving and implementing such industry standards, practices and policies.
- 10.4 Within thirty (30) days after general availability of equipment conforming to applicable industry standards or the mutually agreed upon standards developed by the industry in conjunction with the Commission or FCC, then **SBC-12STATE** and/or CLEC must begin the process of bringing its deployed xDSL technologies and equipment into compliance with such standards at its own expense.

11. RESERVATION OF RIGHTS

- 11.1 The Parties acknowledge and agree that the provision of these DSL-Capable Loops and the associated rates, terms and conditions set forth above are subject to any legal or equitable rights of review and remedies (including agency reconsideration and court review). If any reconsideration, agency order, appeal, court order or opinion, stay, injunction or other action by any state or federal regulatory body or court of competent jurisdiction stays, modifies, or otherwise affects any of the rates, terms and conditions herein, specifically including those

arising with respect to Federal Communications Commission orders (whether from the Memorandum Opinion and Order, and Notice of Proposed Rulemaking, FCC 98-188 (rel. August 7, 1998), in CC Docket No. 98-147, the FCC's First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48 (rel. March 31, 1999), in CC Docket 98-147, the FCC's Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-96 (FCC 99-238), including the FCC's Supplemental Order issued *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, in CC Docket 96-98 (FCC 99-370) (rel. November 24, 1999) ("the UNE Remand Order"), or the FCC's 99-355 Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. December 9, 1999), or any other proceeding, the Parties shall negotiate in good faith to arrive at an agreement on conforming modifications to this Appendix. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or the provisions affected shall be handled under the Dispute Resolution procedures set forth in this Agreement.

12. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

MPSC CASE NO. U-14382

Direct Testimony of Kevin Schoen

EXHIBIT KS-2 (C-___)

From: STEINER, CAROL L (AIT) [mailto:cs1936@sbc.com]
Sent: Wednesday, December 08, 2004 2:22 PM
To: Kevin Schoen; Tim Sands; Sheri Furr
Cc: HUNTER, CHARLOTTE E (SWBT); COALSON, PAMELA (SWBT)
Subject: FW: HFPL SBC Owned Splitters
Importance: High

Kevin, Sheri and Tim;

This is to advise you that Line Sharing is no longer an option effective 12/6/2004 and that the rejects and jeps you are receiving are valid.

SBC has issued the following Accessible Letters, sent in April 16, 2004 and October 8, 2004, respectively, to provide notice of SBC's plans to phase out the HFPL product:

<<CLECALL04-062.doc>> <<CLECALL04-154.doc>>

ACD can order "Line Share One" upon signing a "Line Share One contract".

> Below are some examples of pon's ACD has within the last two days. Please let us know if you would like us to prepare a "Line Share One" agreement for you to sign.

> 3535 3535 ACD0004022A
> 3535 3535 ACD0004022A
> 3535 3535 ACD0004030
> 3535 3535 ACD0004030
> 3535 3535 ACD0004037
> 3535 3535 ACD0004039
> 3535 3535 ACD0004042
> 3535 3535 ACD0004044
> 3535 3535 ACD0004044
> 3535 3535 ACD0004045
> 3535 3535 ACD0004047
> 3535 3535 ACD0004047A
> 3535 3535 ACD0004047A
> 3535 3535 ACD0004048

>
>

Regards,
cls

Carol L. Steiner
Account Manager - Industry Markets
350 North Orleans Street - Floor 3
Chicago, Illinois 60665
Office: 312.335.6764
FAX: 312.335.2927



Accessible

Date: April 16, 2004 **Number:** CLECALL04-062

Effective Date: July 24, 2004 (Tentative date for Line Share One Availability); April 12, 2004 (for HFPL Pricing Offer for New End-Users). **Category:** Line Sharing

Subject: (BUSINESS PROCESSES) Availability of Line Sharing and HFPL Pricing Offer for New End-Users

Related Letters: Attachment: N/A

States Impacted: Arkansas, Connecticut, California, Indiana, Illinois, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, Wisconsin

Issuing SBC ILECS: SBC Illinois, SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut (collectively referred to for purposes of this Accessible Letter as "SBC 13-State")

Response Deadline: N/A **Contact:** Account Manager

Conference Call/Meeting: N/A

This Accessible Letter is to advise of SBC 13-State plans going forward with respect to line sharing including a pricing proposal for those CLECs who have or elect to sign up new end-user customers to be served via the High Frequency Portion of the Loop ("HFPL") on and after October 2, 2003 and before December 6, 2004.

In the FCC's Triennial Review Order ("TRO") and implementing rules which became effective on October 2, 2003, the FCC found that beginning October 2, 2003; the HFPL "shall no longer be required to be provided as an unbundled network element...." However, the FCC established certain transitional mechanisms for the phasing out of the HFPL. In particular, the FCC found that in those instances where a CLEC began providing xDSL service to a particular end-user customer prior to October 2, 2003 and has not ceased providing DSL service to that end-user customer, the ILEC must continue to provide the HFPL at the same rate in effect between the Parties prior to October 2, 2003, until the CLEC's (or its successor or assigns) DSL service to that end-user customer is cancelled or disconnected for whatever reason, subject to the outcome of the FCC's Biennial Review proceeding (which the FCC advised was scheduled to commence in 2004) ("Grandfathered End-Users"). The FCC also established a 3-year transition plan for any new end-user customers a CLEC begins to provide xDSL service to via the HFPL on or after October 2, 2003 and before October 3, 2004 (Year 1) ("New End-Users"). The FCC found that CLECs could only sign up New End-Users via the HFPL during Year 1 of the transition period and for those New End-Users, the HFPL rate would increase each year of the transition period toward the full cost of a copper loop (i.e., Year 1 - 25% of the xDSL loop rate; Year 2 - 50% of the xDSL loop rate; and Year 3 - 75% of the xDSL loop rate). The FCC found that effective October 2, 2006, any New End-Users signed up during Year 1 (along with any new end-users a CLEC wished to begin providing xDSL-based services to after October 2, 2004), would have to be served through a line splitting

arrangement, the use of a stand-alone copper loop, or through an arrangement that the CLEC has negotiated with the ILEC to replace line sharing.

In light of the FCC's findings, SBC 13-STATE currently plans to offer a commercial line sharing product ("Line Share One") for CLECs to serve new end-users over the high frequency spectrum of SBC 13-State copper xDSL loops should they so choose (1) beginning October 3, 2004 (the date upon which the FCC's rules provide ILECs are no longer obligated to provide the HFPL to serve new end user customers); and/or (2) which CLECs could use to serve New End-Users signed up during year 1 of the transition period (i.e., October 2, 2003 and before October 3, 2004), after the end of the three year transition period (i.e., beginning October 2, 2006). Also, it is possible that Grandfathered End-Users could be served via SBC 13-State planned commercial line sharing product after the FCC has determined how such Grandfathered End-Users should be treated (in its planned Biennial Review proceeding). This is to advise that SBC 13-STATE currently plans to have its commercial Line Share One product available on or around July 24, 2004 and plans to have a draft Line Share One commercial agreement available for review by our wholesale customers prior to the tentatively scheduled implementation date for this product. SBC 13-State will advise of the Line Share One commercial agreement availability for review/execution by carriers via subsequent Accessible Letter.

For those CLECs that do not transfer to the Line Share One product immediately (on or after the July 24, 2004 Line Share One availability date), there may be a small window between October 3, 2004 (date upon which the FCC's rules provide ILEC's are no longer obligated to provide new HFPLs), and close of business December 3, 2004 (the final day that SBC 13-STATE will accept orders for the HFPL product), where SBC 13-STATE will continue to process new orders for the HFPL. By agreeing to provision new HFPLs potentially during this small window of time, SBC 13-STATE does not waive, but instead expressly reserves all of its rights under applicable law including without limitation, the FCC's TRO and implementing rules. Any new end-users signed up by a CLEC to be served via the HFPL between October 3, 2004 and close of business December 3, 2004, will be treated as New End-Users under the FCC rules unless your Company elects to accept SBC 13-State proposal offering to treat New End-Users as Grandfathered End-Users, as more specifically set forth below.

To insure seamless processing of requests for line sharing arrangements over SBC 13-State copper xDSL loops on or after December 6, 2004, please note that it will be necessary for you to contact your Account Manager sufficiently in advance to negotiate, execute and return to SBC 13-STATE a commercial Line Share One agreement. If your company has not executed a commercial Line Share One agreement with SBC 13-STATE prior to December 6, 2004, any orders you submit for line shared arrangements over SBC 13-State copper xDSL loops on or after that date may not be processed (including any orders placed prior to December 6, 2004, which are subsequently supplemented with a request for a due date change after that date).

In addition, to the extent your Company might be interested, this is to advise of a separate offer SBC 13-STATE is willing to contractually offer to CLECs who have ordered, or elect to order between October 2, 2003 and until the close of business December 3, 2003, an HFPL(s) to serve New End-Users. In particular, in lieu of adjusting the HFPL recurring rate for any New End-Users during each year of the 3-year transition period toward the full cost of the loop (as provided for in the FCC's TRO and implementing rules), SBC 13-STATE is willing to treat CLEC's New End-Users in the same manner as CLEC's Grandfathered End-Users, including serving such New End-Users at the HFPL recurring rates in effect between the CLEC and SBC 13-STATE prior to October 2, 2003 until the end of the FCC's 3-year transitional period for such New End-Users (i.e., October 2, 2006). To the extent that CLEC was serving Grandfathered End-Users over the HFPL prior to October 2, 2003 at interim HFPL recurring rates, that interim HFPL rate would continue to apply to both CLEC's Grandfathered End-Users and New End-Users, subject to true-up upon the state commission's establishment of a non-interim HFPL recurring rate. For any CLECs that had a non-interim HFPL recurring rate in effect with SBC 13-STATE prior to October 2, 2003, those CLECs

would continue to pay the negotiated HFPL recurring rate for both Grandfathered End-Users and New End-Users. For any CLECs that did not have any HFPLs in service or line sharing provisions in effect prior to October 2, 2003, SBC 13-STATE would offer the HFPL at the HFPL recurring rate established by the state commission in that state (interim or non-interim to the extent one has been established) and in any state where the state commission has not established an interim or non-interim HFPL rate, SBC 13-State would offer the HFPL at its existing generic HFPL rate. If your company is interested in this offer, please contact your SBC 13-STATE Account Manager to obtain SBC 13-STATE's Post-Triennial Review Line Sharing provisions, which include provisions to memorialize this offer for purposes of the Parties' applicable interconnection agreement.

SBC 13-STATE reserves the right to make any modifications to, or to cancel, the information set forth herein at any time. In the event of any modification or cancellation, CLECs will be notified via subsequent Accessible Letter. SBC 13-STATE shall incur no liability if this information is modified or canceled by SBC 13-STATE.



Date: October 8, 2004

Number: CLECALL04-154

Effective Date: 10/8/04

Category: DSL

Subject: (BUSINESS PROCESSES) Line Sharing Plans and CA Line Share Order Update

Related Letters:

Attachment: NA

States Impacted: All States

Issuing SBC ILECS: SBC Illinois, SBC Indiana, SBC Ohio, SBC Michigan, SBC Wisconsin, SBC California, SBC Nevada, SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma, SBC Texas and SBC Connecticut (collectively referred to for purposes of this Accessible Letter as "SBC 13-State")

Response Deadline: NA

Contact: Account Manager

Conference Call/Meeting: NA

On April 16, 2004, SBC 13-State issued an Accessible Letter, **CLECALL04-062**, to advise of SBC 13-State's plans going forward with respect to line sharing including a pricing proposal for those CLECs who have or elect to sign up new end-user customers to be served via the High Frequency Portion of the Loop ("HFPL") on and after October 2, 2003 and before the close of business December 3, 2004. This is to provide an updated status of SBC 13-State's plans with respect to line sharing.

Background: In its Triennial Review Order ("TRO") and implementing rules, the FCC found that beginning October 2, 2003; the HFPL "shall no longer be required to be provided as an unbundled network element..." However, the FCC established certain transitional mechanisms for the phasing out of the HFPL. In particular, the FCC found that in those instances where a CLEC began providing xDSL service to an end-user customer via the HFPL prior to October 2, 2003 and has not ceased providing xDSL service to that end-user customer, the ILEC must continue to provide the HFPL at the same rate in effect between the Parties prior to October 2, 2003, until the CLEC's (or its successor or assigns) xDSL service to that end-user customer is cancelled or disconnected for whatever reason, subject to the outcome of the FCC's Biennial Review proceeding (which the FCC advised was scheduled to commence in 2004) ("Grandfathered End-Users"). The FCC also established a 3-year transition plan for any new end-user customers a CLEC begins to serve via the HFPL on or after October 2, 2003 and before October 3, 2004 (Year 1) ("New End-Users"). With respect to the New End-Users, the FCC's rules provide for the HFPL rate to increase each year of the transition period toward the full cost of a copper loop (i.e., Year 1 - 25% of the xDSL loop rate; Year 2 - 50% of the xDSL loop rate; and Year 3 - 75% of the xDSL loop rate). The FCC found that effective October 2, 2006, any New End-Users signed up during Year 1 (along with any new end-users a CLEC wished to begin providing xDSL-based services to after October 2, 2004), would have to be served through a line splitting arrangement, the use of a stand-alone copper loop, or through an arrangement that the CLEC has negotiated with the ILEC to replace line sharing.

Alternative Offer to CLECs as to the HFPL: However, SBC 13-State has developed an alternative proposal that SBC 13-State is willing to contractually offer to CLECs who have ordered, or elect to order between October 2, 2003 and the close of business December 3, 2004,

an HFPL(s) to serve New End-Users.¹ In particular, in lieu of adjusting the HFPL recurring rate for any New End-Users during each year of the 3-year transition period toward the full cost of the loop (as provided for in the FCC's TRO and implementing rules), SBC 13-State is willing to treat CLEC's New End-Users in the same manner as CLEC's Grandfathered End-Users, including serving such New End-Users at the HFPL recurring rates in effect between the CLEC and SBC 13-State prior to October 2, 2003 until the end of the FCC's 3-year transitional period for such New End-Users (i.e., October 2, 2006). If your company is interested in this offer, please contact your SBC 13-State Account Manager to obtain SBC 13-State's proposed contract language in this regard. Any new end-users signed up by a CLEC to be served via the HFPL between October 3, 2004 and close of business December 3, 2004, will be treated as New End-Users under the FCC rules unless your Company elects to accept SBC 13-State's contractual offer to treat New End-Users as Grandfathered End-Users, as more specifically addressed above and in SBC 13-State's prior Accessible Letter **CLECALL04-062**.

Commercial Line Sharing Offering: With respect to line sharing going forward, SBC 13-State advised in its prior Accessible Letter, **CLECALL04-062**, that SBC 13-State planned to offer a commercial line sharing product ("Line Share One") for CLECs to serve new end-users over the high frequency of an SBC 13-State copper xDSL loop in those instances where SBC 13-State is providing the retail voice service over the same loop. SBC 13-State's commercial Line Share One product (and associated commercial agreement) is now available. To the extent your Company is interested in entering into commercial negotiations with SBC 13-State for SBC 13-State's line shared service(s), please submit a request for commercial negotiations to your SBC 13-State Account Manager.

To insure seamless processing of requests for line sharing arrangements over SBC 13-State copper xDSL loops after December 3, 2004, please note that it will be necessary for you to contact your Account Manager sufficiently in advance to negotiate, execute and return to SBC 13-State a commercial Line Share One agreement. Except as otherwise provided below (for California only), if your company has not executed a commercial Line Share One agreement with SBC 13-State prior to December 6, 2004, any orders you submit for line shared arrangements over SBC 13-State's copper xDSL loops on or after that date may not be processed (including any orders placed prior to December 6, 2004, which are subsequently supplemented with a request for a due date change after that date).

California Line Sharing Order: On January 30, 2003, the California Public Utilities Commission ("CPUC") issued its HFPL Order in Rulemaking 93-04-003 and Investigation 93-04-002, in which it established a final \$0.00 HFPL recurring rate and ordered that the HFPL be made available as a UNE under state law (notwithstanding the FCC's TRO and the USTA I and II decisions), but stayed implementation of the HFPL Order on a prospective basis. On May 6, 2004, the CPUC lifted its prior stay and therefore, the CPUC's HFPL Order is now effective in California.

To the extent your Company should wish to order new HFPLs in CA under the CPUC's HFPL Order after December 3, 2004, it will be necessary for your Company to invoke intervening law and negotiate conforming changes to your California Interconnection Agreement with SBC in California prior to December 3, 2004. Due to previously scheduled programming changes that will be implemented in the SBC 13-State states effective Monday, December 6, 2004, please contact your SBC Account Manager as soon as possible if you plan to conform your California Interconnection Agreement to the CPUC's HFPL Order and order new HFPLs in California on or after December 6, 2004, in order to ensure your HFPL orders are processed on or after that date.

¹By agreeing to provision new HFPLs potentially during this small window of time (i.e., October 3, 2004 through December 3, 2004), SBC-13STATE does not waive, but instead expressly reserves all of its rights under applicable law including without limitation, the FCC's TRO and implementing rules.

Each CLEC must provide its own splitters for purposes of line sharing for any new end-users signed up to be served via a line sharing arrangement.

SBC 13-State reserves the right to make any modifications to, or to cancel, the information set forth herein. CLECs will be advised of any modifications or cancellation of this information via subsequent Accessible Letter. SBC 13-State shall incur no liability to any CLEC if this information is modified or canceled by SBC 13-State.

COMPANY: ACD Telecom
REGION: SBC Midwest Region 5-State
DATE: 12-10-2004 02:50 PM CST

ADMINISTRATIVE SECTION:

STATUS: Fatal Error	PON: ACD0004047A	VER: 03	USER ID: axk001
LAST-ACT-DATE: 12-08-2004 09:37 AM	End User Name: ALL PHASE GLASS	SERVICE TYPE: A- Loop	ACTIVITY TYPE: V- Conversion with Change

LOCAL SERVICE REQUEST - ADMINISTRATION

ATN: <BLANK>	LSR NO: 20041207L16877-02	D/T SENT: 12-08-2004 08:21 AM	SUP: 3
ACTIVITY TYPE: V	DDD: 12-10-2004	SCD: <BLANK>	APPTIMEDDD: <BLANK>
DDDO: <BLANK>	RESID: <BLANK>	NOR: <BLANK>	DFDT: <BLANK>
DFDTO: <BLANK>	PROJECT: <BLANK>	SC: Michigan	SLI: <BLANK>
CHC: NO	EXP: NO	EXP RSN: <BLANK>	RTR: <BLANK>
CC: 3535	NNSP: <BLANK>	ONSP: <BLANK>	ALBR: NO
AGAATH: YES	ACTL: LNNGMIMNH51	SACTL: <BLANK>	LST: <BLANK>
TOS: 2R--	SPEC: <BLANK>	NC: UA-S	NCI: 02QB9.005
SECNCI: 02DU.01A	LSR MODIFIED BY: axk001	LSR CREATED ON: 12-08-2004	NPDI: <BLANK>
NENA/ECC: <BLANK>	ATR: <BLANK>	LSP AUTH: <BLANK>	REMARKS: THIS IS A LINE SHARING ORDER FOR A NEW HFPL LINE SHARING SBC SPLITTER

LOCAL SERVICE REQUEST - ADMINISTRATION - RPON

RPON: <BLANK> **RORD:** <BLANK> **QRYNBR:** <BLANK>

LOCAL SERVICE REQUEST - ADMINISTRATION - ACCOUNT FEATURES

AFA: <BLANK> **ACCOUNT FEATURE:** <BLANK> **ACCOUNT FEATURE DETAIL:** <BLANK>

LOCAL SERVICE REQUEST - BILL

BAN1: <BLANK> **BAN2:** <BLANK> **EBP:** <BLANK> **VTA:** <BLANK>

LOCAL SERVICE REQUEST - CONTACT

INIT: SHERI FURR	TEL NO: 517-333-0900_0221	FAX NO: 517-333-8552	IMPCON: SHERI FURR
TEL NO: 517-333-0900_0221	DSGCON: <BLANK>	DRC: <BLANK>	TEL NO: <BLANK>
FAX NO: <BLANK>			

END USER - LOCATION

NAME: ALL PHASE GLASS	AFT: <BLANK>	SAPR: <BLANK>	SANO: 3405
SASF: <BLANK>	SASD: N	SASN: EAST	SATH: <BLANK>
SASS: <BLANK>	LD1: SUIT	LV1: A	LD2: <BLANK>
LV2: <BLANK>	LD3: <BLANK>	LV3: <BLANK>	AAI: <BLANK>
CITY: LANSING	STATE: Michigan	ZIP: 48906	LCON: KATIE HARMAN
TEL NO: 517-316-1602_	ACC: <BLANK>	WSOP: <BLANK>	CPE MFR: <BLANK>
CPE MOD: <BLANK>	ELT: <BLANK>	NCON: <BLANK>	EATN: <BLANK>

END USER - DISCONNECT

DNUM: 0	DQTY: 0		
DISC NBR: <BLANK>	TERS: <BLANK>	TC OPT: <BLANK>	TC PER: <BLANK>
TCID: <BLANK>	TC TO : <BLANK>	TC NAME: <BLANK>	

LOOP

LNUM: 1	LQTY: 1		
LNA: V	SLTN: 517-316-0868	LMT: L	CKR: ACDLS0004047A
TSP: <BLANK>	ECCKT: <BLANK>	CFA: <BLANK>	CCEA: 00005/DS02/36/LNNGMIMN/LNNGMIMNH51
CBCID: <BLANK>	CABLE ID: <BLANK>	SYSTEM ID: <BLANK>	CHAN/PAIR: <BLANK>
CBCID: <BLANK>	CHAN/PAIR: <BLANK>	SSCFA: <BLANK>	VCI: <BLANK>
VPI: <BLANK>	RECKT: <BLANK>	OECKT: .UAFU.011703..MB	CODE SET: <BLANK>
DISC NBR: <BLANK>	TERS: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>		

COMPANY: ACD Telecom
REGION: SBC Midwest Region 5-State
DATE: 12-10-2004 02:45 PM CST

ADMINISTRATIVE SECTION:

STATUS: Fatal Error	PON: ACD0004022A	VER: 03	USER ID: axk001
LAST-ACT-DATE: 12-08-2004 09:43 AM	End User Name: GREG COLEGROVE	SERVICE TYPE: A- Loop	ACTIVITY TYPE: V- Conversion with Change

LOCAL SERVICE REQUEST - ADMINISTRATION

ATN: <BLANK>	LSR NO: 20041206L07593-02	D/T SENT: 12-08-2004 08:31 AM	SUP: 3
ACTIVITY TYPE: V	DDD: 12-13-2004	SCD: <BLANK>	APPTIMEDDD: <BLANK>
DDDO: <BLANK>	RESID: <BLANK>	NOR: <BLANK>	DFDT: <BLANK>
DFDTO: <BLANK>	PROJECT: <BLANK>	SC: Michigan	SLI: <BLANK>
CHC: NO	EXP: NO	EXP RSN: <BLANK>	RTR: <BLANK>
CC: 3535	NNSP: <BLANK>	ONSP: <BLANK>	ALBR: NO
AGAATH: YES	ACTL: HOLTMIHEH13	SACTL: <BLANK>	LST: <BLANK>
TOS: 2R--	SPEC: <BLANK>	NC: UA-S	NCI: 02QB9.005
SECNCI: 02DU.01A	LSR MODIFIED BY: axk001	LSR CREATED ON: 12-08-2004	NPDI: <BLANK>
NENA/ECC: <BLANK>	ATR: <BLANK>	LSP AUTH: <BLANK>	REMARKS: THIS IS A LINE SHARING ORDER FOR A NEW HFPL LINE SHARING SBC SPLITTER

LOCAL SERVICE REQUEST - ADMINISTRATION - RPON

RPON: <BLANK> RORD: <BLANK> QRYNBR: <BLANK>

LOCAL SERVICE REQUEST - ADMINISTRATION - ACCOUNT FEATURES

AFA: <BLANK> ACCOUNT FEATURE: <BLANK> ACCOUNT FEATURE DETAIL:
<BLANK>

LOCAL SERVICE REQUEST - BILL

BAN1: <BLANK> BAN2: <BLANK> EBP: <BLANK> VTA: <BLANK>

LOCAL SERVICE REQUEST - CONTACT

INIT: SHERI FURR	TEL NO: 517-333-0900_0221	FAX NO: 517-333-8552	IMPCON: SHERI FURR
TEL NO: 517-333-0900_0221	DSGCON: <BLANK>	DRC: <BLANK>	TEL NO: <BLANK>
FAX NO: <BLANK>			

END USER - LOCATION

NAME: GREG COLEGROVE	AFT: <BLANK>	SAPR: <BLANK>	SANO: 4105
SASF: <BLANK>	SASD: <BLANK>	SASN: TURNBRIDGE	SATH: AV
SASS: <BLANK>	LD1: <BLANK>	LV1: <BLANK>	LD2: <BLANK>
LV2: <BLANK>	LD3: <BLANK>	LV3: <BLANK>	AAI: <BLANK>
CITY: HOLT	STATE: Michigan	ZIP: 48842	LCON: GREG COLEGROVE
TEL NO: 517-694-9512_	ACC: <BLANK>	WSOP: <BLANK>	CPE MFR: <BLANK>
CPE MOD: <BLANK>	ELT: <BLANK>	NCON: <BLANK>	EATN: <BLANK>

END USER - DISCONNECT

DNUM: 0	DQTY: 0		
DISC NBR: <BLANK>	TERS: <BLANK>	TC OPT: <BLANK>	TC PER: <BLANK>
TCID: <BLANK>	TC TO : <BLANK>	TC NAME: <BLANK>	

LOOP

LNUM: 1	LQTY: 1		
LNA: V	SLTN: 517-694-9512	LMT: M	CKR: ACDLS0004022A
TSP: <BLANK>	ECCKT: <BLANK>	CFA: <BLANK>	CCEA:
			00001/DS02/16/HOLTMIHE/HOLTMIHEH13
CBCID: <BLANK>	CABLE ID: <BLANK>	SYSTEM ID: <BLANK>	CHAN/PAIR: <BLANK>
CBCID: <BLANK>	CHAN/PAIR: <BLANK>	SSCFA: <BLANK>	VCI: <BLANK>
VPI: <BLANK>	RECCKT: <BLANK>	OECCKT: .UAFU.866601..MB	CODE SET: <BLANK>
DISC NBR: <BLANK>	TERS: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>		

MPSC Case No. U-14382 Exhibit KS-2 (C-____) Page 12 of 19

LOOP - TRANSFER OF CALLS

LNUM: 1 LQTY: 1
TC OPT: <BLANK> TC PER: <BLANK>
TCID: <BLANK> TC TO : <BLANK> TC NAME : <BLANK>

DIRECTORY LISTINGS - LISTING CONTROL

DLNUM : 0 DLQTY: 0
LACT: <BLANK> ALI: <BLANK> RTY: <BLANK> LTY: <BLANK>
STYC: <BLANK> TOA: <BLANK> DOI: <BLANK> WPP: <BLANK>

DIRECTORY LISTINGS - LISTING INDICATORS

DLNUM : 0 DLQTY: 0
DML: <BLANK> BRO: <BLANK> ADV: NO STR: <BLANK>
DLNM: NO PROF: NO DIRIDL: <BLANK> DIRSUB: <BLANK>
OMSD: <BLANK>

DIRECTORY LISTINGS - LISTING INSTRUCTIONS

DLNUM : 0 DLQTY: 0
LTN: <BLANK> NSTN: <BLANK> OMTN: <BLANK> LEX: <BLANK>
DNA: <BLANK> LNPL: <BLANK> LNLN: <BLANK> LNFN: <BLANK>
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PLA: <BLANK> ADI: <BLANK> DNO: NO LAPR: <BLANK>
LANO: <BLANK> LASF: <BLANK> LASD: <BLANK> LASN: <BLANK>
LATH: <BLANK> LASS: <BLANK> LALO: <BLANK> LALOC: <BLANK>
LAST: <BLANK> LAZC: <BLANK> LTEXT: <BLANK>
LTXTY: <BLANK> LPHRASE: <BLANK>

DIRECTORY LISTINGS - SLU INDENT

DLNUM : 0 DLQTY: 0
LVL: 0 PLS: <BLANK> PLINFO: <BLANK> PLTN: <BLANK>
LVL: <BLANK> PLS: <BLANK> PLINFO: <BLANK> PLTN: <BLANK>
SO: <BLANK> FAINFO: <BLANK> FATN: <BLANK>

DIRECTORY LISTINGS - DELIVERY

DIRQTY: 0 DIRTYP: <BLANK> DIRQTYA: <BLANK> DIRQTYNC: <BLANK>
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DDANO: <BLANK> DDASF: <BLANK> DDASD: <BLANK> DDASN: <BLANK>
DDATH: <BLANK> DDASS: <BLANK> LD1: <BLANK> LV1: <BLANK>
LD2: <BLANK> LV2: <BLANK> LD3: <BLANK> LV3: <BLANK>
AAI: <BLANK> CITY: <BLANK> STATE: <BLANK> ZIP: <BLANK>
DACT: <BLANK> DDAPR: <BLANK> DDANO: <BLANK> DDASF: <BLANK>
DDASD: <BLANK> DDASN: <BLANK> DDATH: <BLANK> DDASS: <BLANK>
LD1: <BLANK> LV1: <BLANK> LD2: <BLANK> LV2: <BLANK>
LD3: <BLANK> LV3: <BLANK> AAI: <BLANK> CITY: <BLANK>
STATE: <BLANK> ZIP: <BLANK>

DIRECTORY LISTINGS - ADVERTISING

SIC: <BLANK> YPH: <BLANK>

ERROR

CC: 3535 D/T SENT(CENTRAL TIME): LSR NO: 20041206L07593-02 RT: E
12-08-2004 09:43 AM

EC VER: ACE

TOTAL NUMBER OF ERRORS ON LSR: 1 PON: ACD0004022A

ERROR CODE: MR0181 NUM NAME/NBR: LNUM 1 FIELD IN ERROR: <BLANK> FORM IN ERROR: <BLANK>
ERROR MESSAGE: LMT INVALID COMBINATION

COMPANY: ACD Telecom
REGION: SBC Midwest Region 5-State
DATE: 12-10-2004 03:05 PM CST

ADMINISTRATIVE SECTION:

STATUS: Fatal Error **PON:** ACD0004048 **VER:** 03 **USER ID:** axk001
LAST-ACT-DATE: 12-08-2004 10:50 AM **End User Name:** MARK NELSON **SERVICE TYPE:** A- Loop **ACTIVITY TYPE:** N- New Install

LOCAL SERVICE REQUEST - ADMINISTRATION

ATN: <BLANK> **LSR NO:** 20041207L19062-02 **D/T SENT:** 12-08-2004 10:34 AM **SUP:** 3
ACTIVITY TYPE: N **DDD:** 12-10-2004 **SCD:** <BLANK> **APPTIMEDDD:** <BLANK>
DDDO: <BLANK> **RESID:** <BLANK> **NOR:** <BLANK> **DFDT:** <BLANK>
DFDTO: <BLANK> **PROJECT:** <BLANK> **SC:** Michigan **SLI:** <BLANK>
CHC: NO **EXP:** NO **EXP RSN:** <BLANK> **RTR:** <BLANK>
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AGAATH: NO **ACTL:** HSLTMIHSH05 **SACTL:** <BLANK> **LST:** <BLANK>
TOS: 2R-- **SPEC:** <BLANK> **NC:** UA-S **NCI:** 02QB9.005
SECNCI: 02DU.01A **LSR MODIFIED BY:** axk001 **LSR CREATED ON:** 12-08-2004 **NPDI:** <BLANK>
NENA/ECC: <BLANK> **ATR:** <BLANK> **LSP AUTH:** <BLANK> **REMARKS:** THIS IS A LINE SHARING ORDER FOR A NEW HFPL LINE SHARING SBC SPLITTER

LOCAL SERVICE REQUEST - ADMINISTRATION - RPON

RPON: <BLANK> **RORD:** <BLANK> **QRYNBR:** <BLANK>

LOCAL SERVICE REQUEST - ADMINISTRATION - ACCOUNT FEATURES

AFA: <BLANK> **ACCOUNT FEATURE:** <BLANK> **ACCOUNT FEATURE DETAIL:** <BLANK>

LOCAL SERVICE REQUEST - BILL

BAN1: <BLANK> **BAN2:** <BLANK> **EBP:** <BLANK> **VTA:** <BLANK>

LOCAL SERVICE REQUEST - CONTACT

INIT: SHERI FURR **TEL NO:** 517-333-0900_0221 **FAX NO:** 517-333-8552 **IMPCON:** SHERI FURR
TEL NO: 517-333-0900_0221 **DSGCON:** <BLANK> **DRC:** <BLANK> **TEL NO:** <BLANK>
FAX NO: <BLANK>

END USER - LOCATION

NAME: MARK NELSON **AFT:** <BLANK> **SAPR:** <BLANK> **SANO:** 16910
SASF: <BLANK> **SASD:** <BLANK> **SASN:** BROADVIEW **SATH:** DR
SASS: <BLANK> **LD1:** <BLANK> **LV1:** <BLANK> **LD2:** <BLANK>
LV2: <BLANK> **LD3:** <BLANK> **LV3:** <BLANK> **AAI:** <BLANK>
CITY: BATH TWP **STATE:** Michigan **ZIP:** 48823 **LCON:** MARK NELSON
TEL NO: 517-339-6996_ **ACC:** <BLANK> **WSOP:** <BLANK> **CPE MFR:** <BLANK>
CPE MOD: <BLANK> **ELT:** <BLANK> **NCON:** <BLANK> **EATN:** <BLANK>

END USER - DISCONNECT

DNUM: 0 **DQTY:** 0 **TC OPT:** <BLANK> **TC PER:** <BLANK>
DISC NBR: <BLANK> **TERS:** <BLANK> **TC NAME:** <BLANK>
TCID: <BLANK> **TC TO :** <BLANK>

LOOP

LNUM: 1 **LQTY:** 1 **LMT:** N **CKR:** ACDLS0004048
LNA: N **SLTN:** 517-339-6996 **CFA:** <BLANK> **CCEA:**
TSP: <BLANK> **ECCKT:** <BLANK> **SYSTEM ID:** <BLANK> 00001/DS02/63/HSLTMIHS/HSLTMIHSH05
CBCID: <BLANK> **CABLE ID:** <BLANK> **SSCFA:** <BLANK> **CHAN/PAIR:** <BLANK>
CBCID: <BLANK> **CHAN/PAIR:** <BLANK> **OECCKT:** <BLANK> **VCI:** <BLANK>
VPI: <BLANK> **RECCKT:** <BLANK> **CTI:** <BLANK> **CODE SET:** <BLANK>
DISC NBR: <BLANK> **TERS:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK>

LOOP - TRANSFER OF CALLS

LNUM: 1 LQTY: 1
 TC OPT: <BLANK> TC PER: <BLANK>
 TCID: <BLANK> TC TO : <BLANK> TC NAME : <BLANK>

DIRECTORY LISTINGS - LISTING CONTROL

DLNUM : 0 DLQTY: 0
 LACT: <BLANK> ALI: <BLANK> RTY: <BLANK> LTY: <BLANK>
 STYC: <BLANK> TOA: <BLANK> DOI: <BLANK> WPP: <BLANK>

DIRECTORY LISTINGS - LISTING INDICATORS

DLNUM : 0 DLQTY: 0
 DML: <BLANK> BRO: <BLANK> ADV: NO STR: <BLANK>
 DLNM: NO PROF: NO DIRIDL: <BLANK> DIRSUB: <BLANK>
 OMSD: <BLANK>

DIRECTORY LISTINGS - LISTING INSTRUCTIONS

DLNUM : 0 DLQTY: 0
 LTN: <BLANK> NSTN: <BLANK> OMTN: <BLANK> LEX: <BLANK>
 DNA: <BLANK> LNPL: <BLANK> LNLN: <BLANK> LNFN: <BLANK>
 DES: <BLANK> TL: <BLANK> TITLE1: <BLANK> TITLE2: <BLANK>
 TLD: <BLANK> TITLE 1D: <BLANK> TITLE 2D: <BLANK> NICK: <BLANK>
 PLA: <BLANK> ADI: <BLANK> DNO: NO LAPR: <BLANK>
 LANO: <BLANK> LASF: <BLANK> LASD: <BLANK> LASN: <BLANK>
 LATH: <BLANK> LASS: <BLANK> LALO: <BLANK> LALOC: <BLANK>
 LAST: <BLANK> LAZC: <BLANK>
 LTTY: <BLANK> LPHRASE: <BLANK> LTEXT: <BLANK>

DIRECTORY LISTINGS - SLU INDENT

DLNUM : 0 DLQTY: 0
 LVL: 0 PLS: <BLANK> PLINFO: <BLANK> PLTN: <BLANK>
 LVL: <BLANK> PLS: <BLANK> PLINFO: <BLANK> PLTN: <BLANK>
 SO: <BLANK> FAINFO: <BLANK> FATN: <BLANK>

DIRECTORY LISTINGS - DELIVERY

DIRQTY: 0 DIRTYP: <BLANK> DIRQTYA: <BLANK> DIRQTYNC: <BLANK>
 DIRTYP: <BLANK> DIRQTYA: <BLANK> DIRQTYNC: <BLANK> DIRTYP: <BLANK>
 DIRQTYA: <BLANK> DIRQTYNC: <BLANK> DACT: <BLANK> DDAPR: <BLANK>
 DDANO: <BLANK> DDASF: <BLANK> DDASD: <BLANK> DDASN: <BLANK>
 DDATH: <BLANK> DDASS: <BLANK> LD1: <BLANK> LV1: <BLANK>
 LD2: <BLANK> LV2: <BLANK> LD3: <BLANK> LV3: <BLANK>
 AAI: <BLANK> CITY: <BLANK> STATE: <BLANK> ZIP: <BLANK>
 DACT: <BLANK> DDAPR: <BLANK> DDANO: <BLANK> DDASF: <BLANK>
 DDASD: <BLANK> DDASN: <BLANK> DDATH: <BLANK> DDASS: <BLANK>
 LD1: <BLANK> LV1: <BLANK> LD2: <BLANK> LV2: <BLANK>
 LD3: <BLANK> LV3: <BLANK> AAI: <BLANK> CITY: <BLANK>
 STATE: <BLANK> ZIP: <BLANK>

DIRECTORY LISTINGS - ADVERTISING

SIC: <BLANK> YPH: <BLANK>

ERROR

CC: 3535 D/T SENT(CENTRAL TIME): LSR NO: 20041207L19062-02 RT: E
 12-08-2004 10:50 AM

EC VER: ACE

TOTAL NUMBER OF ERRORS ON LSR: 3 PON: ACD0004048

ERROR CODE: MR0175 NUM NAME/NBR: --- FIELD IN ERROR: NC FORM IN ERROR: ADMIN
 ERROR MESSAGE: NC INVALID/INCOMPLETE INFORMATION

ERROR CODE: MR0179 NUM NAME/NBR: LNUM 1 FIELD IN ERROR: CCEA FORM IN ERROR: LOOP
 ERROR MESSAGE: CCEA NOT VALID FOR YOUR ACCOUNT

ERROR CODE: MR0175

NUM NAME/NBR: LNUM 1

FIELD IN ERROR: <BLANK>

FORM IN ERROR: <BLANK>

ERROR MESSAGE: LMT INVALID/INCOMPLETE INFORMATION

COMPANY: ACD Telecom
REGION: SBC Midwest Region 5-State
DATE: 12-10-2004 02:52 PM CST

ADMINISTRATIVE SECTION:

STATUS: Fatal Error **PON:** ACD0004030 **VER:** 04 **USER ID:** axk001
LAST-ACT-DATE: 12-08-2004 09:26 AM **End User Name:** TERRY RIDDLE **SERVICE TYPE:** A- Loop **ACTIVITY TYPE:** N- New Install

LOCAL SERVICE REQUEST - ADMINISTRATION

ATN: <BLANK> **LSR NO:** 20041206L09912-03 **D/T SENT:** 12-08-2004 08:28 AM **SUP:** 3
ACTIVITY TYPE: N **DDD:** 12-09-2004 **SCD:** <BLANK> **APPTIMEDDD:** <BLANK>
DDDO: <BLANK> **RESID:** <BLANK> **NOR:** <BLANK> **DFDT:** <BLANK>
DFDTO: <BLANK> **PROJECT:** <BLANK> **SC:** Michigan **SLI:** <BLANK>
CHC: NO **EXP:** NO **EXP RSN:** <BLANK> **RTR:** <BLANK>
CC: 3535 **NNSP:** <BLANK> **ONSP:** <BLANK> **ALBR:** NO
AGAATH: NO **ACTL:** LNNGMISOH17 **SACTL:** <BLANK> **LST:** <BLANK>
TOS: 2R-- **SPEC:** <BLANK> **NC:** UA-S **NCI:** 02QB9.005
SECNCI: 02DU.01A **LSR MODIFIED BY:** axk001 **LSR CREATED ON:** 12-08-2004 **NPDI:** <BLANK>
NENA/ECC: <BLANK> **ATR:** <BLANK> **LSP AUTH:** <BLANK> **REMARKS:** THIS IS A LINE SHARING ORDER FOR A NEW HFPL LINE SHARING SBC SPLITTER

LOCAL SERVICE REQUEST - ADMINISTRATION - RPON

RPON: <BLANK> **RORD:** <BLANK> **QRYNBR:** <BLANK>

LOCAL SERVICE REQUEST - ADMINISTRATION - ACCOUNT FEATURES

AFA: <BLANK> **ACCOUNT FEATURE:** <BLANK> **ACCOUNT FEATURE DETAIL:** <BLANK>

LOCAL SERVICE REQUEST - BILL

BAN1: <BLANK> **BAN2:** <BLANK> **EBP:** <BLANK> **VTA:** <BLANK>

LOCAL SERVICE REQUEST - CONTACT

INIT: SHERI FURR **TEL NO:** 517-333-0900_0221 **FAX NO:** 517-333-8552 **IMPCON:** SHERI FURR
TEL NO: 517-333-0900_0221 **DSGCON:** <BLANK> **DRC:** <BLANK> **TEL NO:** <BLANK>
FAX NO: <BLANK>

END USER - LOCATION

NAME: TERRY RIDDLE **AFT:** <BLANK> **SAPR:** <BLANK> **SANO:** 1904
SASF: <BLANK> **SASD:** <BLANK> **SASN:** GEORGETOWN **SATH:** BLVD
SASS: <BLANK> **LD1:** APT **LV1:** 11 **LD2:** <BLANK>
LV2: <BLANK> **LD3:** <BLANK> **LV3:** <BLANK> **AAI:** <BLANK>
CITY: LANSING **STATE:** Michigan **ZIP:** 48911 **LCON:** TERRY RIDDLE
TEL NO: 517-394-4956_ **ACC:** <BLANK> **WSOP:** <BLANK> **CPE MFR:** <BLANK>
CPE MOD: <BLANK> **ELT:** <BLANK> **NCON:** <BLANK> **EATN:** <BLANK>

END USER - DISCONNECT

DNUM: 0 **DQTY:** 0 **TC OPT:** <BLANK> **TC PER:** <BLANK>
DISC NBR: <BLANK> **TERS:** <BLANK> **TC NAME:** <BLANK>
TCID: <BLANK> **TC TO :** <BLANK>

LOOP

LNUM: 1 **LQTY:** 1 **LMT:** M **CKR:** ACDLS0004030
LNA: N **SLTN:** 517-394-4956 **CFA:** <BLANK> **CCEA:**
TSP: <BLANK> **ECCKT:** <BLANK> **SYSTEM ID:** <BLANK> 00003/DS02/68/LNNGMISO/LNNGMISOH17
CBCID: <BLANK> **CABLE ID:** <BLANK> **SSCFA:** <BLANK> **CHAN/PAIR:** <BLANK>
CBCID: <BLANK> **CHAN/PAIR:** <BLANK> **OECCKT:** <BLANK> **VCI:** <BLANK>
VPI: <BLANK> **RECCKT:** <BLANK> **CTI:** <BLANK> **CODE SET:** <BLANK>
DISC NBR: <BLANK> **TERS:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK> **CTI:** <BLANK> **RELAY RACK:** <BLANK>
SHELF: <BLANK> **SLOT:** <BLANK>

MPSC Case No. U-14382 Exhibit KS-2 (C-___) Page 18 of 19
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COMPANY: ACD Telecom
REGION: SBC Midwest Region 5-State
DATE: 12-10-2004 02:48 PM CST

ADMINISTRATIVE SECTION:

STATUS: Fatal Error PON: ACD0004037 VER: 03 USER ID: axk001
LAST-ACT-DATE: 12-08-2004 09:43 AM End User Name: THE THERAPY INSTITUTE SERVICE TYPE: A- Loop ACTIVITY TYPE: N- New Install

LOCAL SERVICE REQUEST - ADMINISTRATION

ATN: <BLANK>	LSR NO: 20041206L16633-02	D/T SENT: 12-08-2004 08:43 AM	SUP: 3
ACTIVITY TYPE: N	DDD: 12-13-2004	SCD: <BLANK>	APPTIMEDDD: <BLANK>
DDDO: <BLANK>	RESID: <BLANK>	NOR: <BLANK>	DFDT: <BLANK>
DFDTO: <BLANK>	PROJECT: <BLANK>	SC: Michigan	SLI: <BLANK>
CHC: NO	EXP: NO	EXP RSN: <BLANK>	RTR: <BLANK>
CC: 3535	NNSP: <BLANK>	ONSP: <BLANK>	ALBR: NO
AGAATH: NO	ACTL: HSLTMIHSH05	SACTL: <BLANK>	LST: <BLANK>
TOS: 2R--	SPEC: <BLANK>	NC: UA-S	NCI: 02QB9.005
SECNCI: 02DU.01A	LSR MODIFIED BY: axk001	LSR CREATED ON: 12-08-2004	NPDI: <BLANK>
NENA/ECC: <BLANK>	ATR: <BLANK>	LSP AUTH: <BLANK>	REMARKS: THIS IS A LINE SHARING ORDER FOR A NEW HFPL LINE SHARING SBC SPLITTER

LOCAL SERVICE REQUEST - ADMINISTRATION - RPON

RPON: <BLANK> RORD: <BLANK> QRYNBR: <BLANK>

LOCAL SERVICE REQUEST - ADMINISTRATION - ACCOUNT FEATURES

AFA: <BLANK> ACCOUNT FEATURE: <BLANK> ACCOUNT FEATURE DETAIL: <BLANK>

LOCAL SERVICE REQUEST - BILL

BAN1: <BLANK> BAN2: <BLANK> EBP: <BLANK> VTA: <BLANK>

LOCAL SERVICE REQUEST - CONTACT

INIT: SHERI FURR TEL NO: 517-333-0900_0221 FAX NO: 517-333-8552 IMPCON: SHERI FURR
TEL NO: 517-333-0900_0221 DSGCON: <BLANK> DRC: <BLANK> TEL NO: <BLANK>
FAX NO: <BLANK>

END USER - LOCATION

NAME: THE THERAPY INSTITUTE	AFT: <BLANK>	SAPR: <BLANK>	SANO: 1660
SASF: <BLANK>	SASD: <BLANK>	SASN: HASLETT	SATH: RD
SASS: <BLANK>	LD1: SUIT	LV1: 4	LD2: <BLANK>
LV2: <BLANK>	LD3: <BLANK>	LV3: <BLANK>	AAI: <BLANK>
CITY: HASLETT	STATE: Michigan	ZIP: 48840	LCON: JACIE
TEL NO: 517-339-4597_	ACC: <BLANK>	WSOP: <BLANK>	CPE MFR: <BLANK>
CPE MOD: <BLANK>	ELT: <BLANK>	NCON: <BLANK>	EATN: <BLANK>

END USER - DISCONNECT

DNUM: 0 DQTY: 0 TC OPT: <BLANK> TC PER: <BLANK>
DISC NBR: <BLANK> TERS: <BLANK> TC NAME: <BLANK>
TCID: <BLANK> TC TO : <BLANK>

LOOP

LNUM: 1	LQTY: 1	LMT: M	CKR: ACDLS0004037
LNA: N	SLTN: 517-339-4597	CFA: <BLANK>	CCEA:
TSP: <BLANK>	ECCKT: <BLANK>		00001/DS02/62/HSLTMIHS/HSLTMIHSH05
CBCID: <BLANK>	CABLE ID: <BLANK>	SYSTEM ID: <BLANK>	CHAN/PAIR: <BLANK>
CBCID: <BLANK>	CHAN/PAIR: <BLANK>	SSCFA: <BLANK>	VCI: <BLANK>
VPI: <BLANK>	RECCKT: <BLANK>	OECCKT: <BLANK>	CODE SET: <BLANK>
DISC NBR: <BLANK>	TERS: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>	CTI: <BLANK>	RELAY RACK: <BLANK>
SHELF: <BLANK>	SLOT: <BLANK>		

MPSC Case No. U-14382 Exhibit KS-2 (C-___) Page 19 of 19

LOOP - TRANSFER OF CALLS

LNUM: 1 **LQTY:** 1
TC OPT: <BLANK> **TC PER:** <BLANK>
TCID: <BLANK> **TC TO :** <BLANK> **TC NAME :** <BLANK>

DIRECTORY LISTINGS - LISTING CONTROL

DLNUM : 0 **DLQTY:** 0
LACT: <BLANK> **ALI:** <BLANK> **RTY:** <BLANK> **LTY:** <BLANK>
STYC: <BLANK> **TOA:** <BLANK> **DOI:** <BLANK> **WPP:** <BLANK>

DIRECTORY LISTINGS - LISTING INDICATORS

DLNUM : 0 **DLQTY:** 0
DML: <BLANK> **BRO:** <BLANK> **ADV:** NO **STR:** <BLANK>
DLNM: NO **PROF:** NO **DIRIDL:** <BLANK> **DIRSUB:** <BLANK>
OMSD: <BLANK>

DIRECTORY LISTINGS - LISTING INSTRUCTIONS

DLNUM : 0 **DLQTY:** 0
LTN: <BLANK> **NSTN:** <BLANK> **OMTN:** <BLANK> **LEX:** <BLANK>
DNA: <BLANK> **LNPL:** <BLANK> **LNLN:** <BLANK> **LNFN:** <BLANK>
DES: <BLANK> **TL:** <BLANK> **TITLE1:** <BLANK> **TITLE2:** <BLANK>
TLD: <BLANK> **TITLE 1D:** <BLANK> **TITLE 2D:** <BLANK> **NICK:** <BLANK>
PLA: <BLANK> **ADI:** <BLANK> **DNO:** NO **LAPR:** <BLANK>
LANO: <BLANK> **LASF:** <BLANK> **LASD:** <BLANK> **LASN:** <BLANK>
LATH: <BLANK> **LASS:** <BLANK> **LALO:** <BLANK> **LALOC:** <BLANK>
LAST: <BLANK> **LAZC:** <BLANK> **LTEXT:** <BLANK>
LXTY: <BLANK> **LPHRASE:** <BLANK>

DIRECTORY LISTINGS - SLU INDENT

DLNUM : 0 **DLQTY:** 0
LVL: 0 **PLS:** <BLANK> **PLINFO:** <BLANK> **PLTN:** <BLANK>
LVL: <BLANK> **PLS:** <BLANK> **PLINFO:** <BLANK> **PLTN:** <BLANK>
SO: <BLANK> **FAINFO:** <BLANK> **FATN:** <BLANK>

DIRECTORY LISTINGS - DELIVERY

DIRQTY: 0 **DIRTYP:** <BLANK> **DIRQTYA:** <BLANK> **DIRQTYNC:** <BLANK>
DIRTYP: <BLANK> **DIRQTYA:** <BLANK> **DIRQTYNC:** <BLANK> **DIRTYP:** <BLANK>
DIRQTYA: <BLANK> **DIRQTYNC:** <BLANK> **DACT:** <BLANK> **DDAPR:** <BLANK>
DDANO: <BLANK> **DDASF:** <BLANK> **DDASD:** <BLANK> **DDASN:** <BLANK>
DDATH: <BLANK> **DDASS:** <BLANK> **LD1:** <BLANK> **LV1:** <BLANK>
LD2: <BLANK> **LV2:** <BLANK> **LD3:** <BLANK> **LV3:** <BLANK>
AAI: <BLANK> **CITY:** <BLANK> **STATE:** <BLANK> **ZIP:** <BLANK>
DACT: <BLANK> **DDAPR:** <BLANK> **DDANO:** <BLANK> **DDASF:** <BLANK>
DDASD: <BLANK> **DDASN:** <BLANK> **DDATH:** <BLANK> **DDASS:** <BLANK>
LD1: <BLANK> **LV1:** <BLANK> **LD2:** <BLANK> **LV2:** <BLANK>
LD3: <BLANK> **LV3:** <BLANK> **AAI:** <BLANK> **CITY:** <BLANK>
STATE: <BLANK> **ZIP:** <BLANK>

DIRECTORY LISTINGS - ADVERTISING

SIC: <BLANK> **YPH:** <BLANK>

ERROR

CC: 3535 **D/T SENT(CENTRAL TIME):** **LSR NO:** 20041206L16633-02 **RT:** E
12-08-2004 09:42 AM

EC VER: ACE

TOTAL NUMBER OF ERRORS ON LSR: 1 **PON:** ACD0004037

ERROR CODE: MR0180

NUM NAME/NBR: ---

FIELD IN ERROR: ACTIVITY **FORM IN ERROR:** ADMIN
TYPE

ERROR MESSAGE: ACT NOT IN CONTRACT/CONTRACT REQUIRED

MPSC CASE NO. U-14382

Direct Testimony of Kevin Schoen

EXHIBIT KS-3 (C-___)



via: electronic mail

December 10th, 2004

Mr. Craig Anderson
Michigan Bell Telephone Company, d/b/a/ SBC Michigan
444 Michigan Avenue, Room 1750
Detroit, MI 48226

Dear Craig,

ACD has been advised by our account manager that SBC is refusing to process line sharing orders. According to accessible letters forwarded by our account manager SBC advises that they are eliminating line-sharing as of December 6th, 2004 as a result of the Triennial Review Order. After several inquiries to Carol Steiner, she advised they would be in contact with ACD by close of business on Friday, December 10th. We have not received any information other than SBC's offer of a "Commercial Line Sharing One Agreement" apparently under the guise that such an agreement would not be filed with the Michigan Public Service Commission.

As SBC is aware, ACD and SBC have an interconnection agreement, in which each party signed and filed with the commission. As part of our interconnection agreement, SBC's obligation is to perform HPFL line-sharing services, unless otherwise amended.

Section 28.2 of our interconnection agreement clearly outlines that the interconnection agreement must be amended in order to invoke any alleged change of law.

SBC and ACD have not filed an amendment to modify line-sharing on our interconnection agreement. Furthermore line-sharing is an SBC tariffed service in Michigan, and is currently available to any CLEC that wishes to order it. SBC has neither revoked its tariff, nor have they entered into negotiations, or dispute resolution to amend our interconnection agreement related to Line Sharing.

As you can imagine the urgency related to this, as SBC has made it impossible to for ACD to provide service.

This letter is to formally inform you that SBC is in material breach of our interconnection agreement and ACD will take action by Monday, December 13, 2004, 3:00pm, if the issue is not resolved by that time, or ACD is provided adequate assurances that the issue will be immediately corrected. In any event, ACD will seek damages from SBC.

It is shocking that SBC has unilaterally decided that this service will no longer be available, in willful violation of our mutually agreed upon interconnection agreement, and tariff obligations.

You may reach me on my cell phone at 517-449-2468, office phone 517-999-9999 ext. 250 if you would like to discuss this matter, or via email at schoen.kevin@acd.net.

Yours truly,

/s/

Kevin C. Schoen
President and CEO

cc: Orjiakor Isiogu, Director of Telecommunications, MPSC
Leland Rosier, Clark Hill, P.L.C.
Carol Steiner, Account Manager, SBC
Joeseeph Tocco, SBC Legal