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July 31, 2007

Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 31221
Lansing, MI 48990-7504

Paperless E-filing

Re: In the matter of the Complaint of **ACD Telecom, Inc.; JAS Networks, Inc.; Tel-Net Worldwide, Inc.; B&S Telecom, Inc.; Clear Rate Communications, Inc.; CMC Telecom, Inc.; Grid 4 Communications, Inc.; Zenk Group Limited d/b/a Planet Access** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate. **MPSC Case No. U-15357**

Dear Ms. Kunkel:

Enclosed for filing in the above referenced matter is the public version of the *Complaint of ACD Telecom, Inc.; JAS Networks, Inc.; TelNet Worldwide, Inc.; B&S Telecom, Inc.; Clear Rate Communications, Inc.; CMC Telecom, Inc.; Grid 4 Communications, Inc.; and Zenk Group Limited d/b/a Planet Access against Michigan Bell Telephone Company d/b/a AT&T Michigan*. Please call if you have any questions.

Very truly yours,

FIELD LAW GROUP, PLLC

Gary A. Gensch

GAG/tab
Enclosure

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc; JAS Networks, Inc.; TelNet Worldwide, Inc.; B&S Telecom, Inc.; Clear Rate Communications, Inc.; CMC Telecom, Inc.; Grid 4 Communications, Inc.; and Zenk Group, Ltd. d/b/a Planet Access**; against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

COMPLAINT

Public Version

1. ACD Telecom, Inc (“ACD”); JAS Networks, Inc.; TelNet Worldwide, Inc. (“TelNet”); B&S Telecom, Inc. (“B&S”); Clear Rate Communications, Inc. (“Clear Rate”); CMC Telecom, Inc. (“CMC”); Grid 4 Communications, Inc. (“Grid 4”); and Zenk Group, Ltd. d/b/a Planet Access (“Planet Access”);, by their attorneys, the Field Law Group, PLLC, bring this Complaint against Michigan Bell Telephone Company d/b/a AT&T Michigan (“AT&T”) pursuant to sections 201, 203, 204, and 205 of the Michigan Telecommunications Act, MCL 484.2101 *et seq.* (“MTA”).

2. The issues in this case arise out of two central controversies. The first controversy relates to ACD’s, JAS’s, and TelNet’s entry with AT&T into an amendment to their interconnection agreement (“the U-14952 Cross Connect Amendment”) where they agreed to remove the charge of \$16.46 for DS1 cross-connects from their pricing amendment and substitute a charge of \$6.89 per month. However, even though the rate no longer appears in the pricing amendment, AT&T is charging ACD, JAS, and TelNet 16.46 per month for DS1 cross connects connected to enhanced extended DS1 loops (“extended DS1 Loops”). Nothing in the Parties’ interconnection agreements (or, “ICAs”) permits AT&T to charge \$16.46 for *any* cross connects. The Commission must prohibit

AT&T from charging a non-approved rate that is not in the Parties' interconnection agreement and from acting in such clear violation of the parties' interconnection agreement and Michigan law.

3. The second controversy relates to the fact that B&S, Clear Rate, CMC, Grid 4, and Planet Access, (the "Adopting CLECs") have attempted to adopt the U-14952 Cross Connect Amendment as part of their respective interconnection agreements with AT&T. AT&T has refused to permit the Adopting CLECs to enter into a cross connect amendment with the same pricing that AT&T has entered into with TelNet and other CLECs in Michigan. AT&T's refusal to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment is discriminatory and is contrary to their interconnection agreements and Michigan and federal telecommunications law.

4. This Complaint is supported by the testimony and exhibits of Kevin Schoen, Todd A. Gardner, Mark Iannuzzi, Bruce Yuille, Thane Namy, Chuck Schneider, Douglas Black, Michael Zengerle, Peter Iannuzzi, and Dr. August Ankum.

PARTIES

5. Complainant ACD is a Michigan corporation with offices located at 1800 N. Grand River, Lansing, Michigan, 48906-3905.

6. Complainant JAS is a Michigan corporation with offices located at 5224, 33rd Street SE, Grand Rapids, Michigan, 49512.

7. Complainant TelNet is a Michigan corporation with offices located at 1175 W. Long Lake Rd., Suite 201, Troy, Michigan 48098.

8. Complainant B&S is a Michigan corporation with offices located at 5850 Dixie Highway, Clarkston, Michigan 48346.

9. Complainant Clear Rate is a Michigan corporation with offices located at 24700 Northwestern Highway, Suite 340, Southfield, Michigan 48075.

10. Complainant CMC is a Michigan corporation with offices located at 51151 Pontiac Trail, Wixom, Michigan 48393.

11. Complainant Grid 4 is a Michigan corporation with offices located at 2107 Crooks Road, Troy, Michigan 48084.

12. Complainant Planet Access is a Michigan corporation with offices located at 26400 Southfield Rd., Lathrup Village, Michigan 48076.

13. Complainants TelNet, CMC, B&S, Grid 4, Planet Access, and Clear Rate are licensed providers of basic local exchange service and provide telecommunications services in the State of Michigan.

14. AT&T is a Michigan corporation with its main offices located at 444 Michigan Avenue, Room 1750, Detroit, Michigan 48226.

15. AT&T is a licensed provider of basic local exchange service and provides telecommunications services in the State of Michigan.

JURISDICTION

16. Under § 201 of the MTA, MCL 484.2201, the Commission has jurisdiction and authority to administer the MTA and to enforce any relevant delegated authority under federal telecommunications laws.

17. Section 203(1) of the MTA, MCL 484.2203(1), authorizes the Commission, upon receipt of a complaint, to conduct an investigation, hold hearings, issue its findings, and order relief under the contested case provisions of the Michigan Administrative Procedures Act of 1969, MCL 24.201 *et seq.*

18. 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 matter.

19. Section 205(1) of the MTA, MCL 484.2205(1), permits the Commission to investigate and resolve complaints.

20. The Commission has the authority to resolve disputes arising under interconnection agreements.

FACTS

21. On July 7, 2006, TDS Metrocom, LLC, LDMI Telecommunications, Inc., and XO Communications Services, Inc. filed a complaint against AT&T in Case No. U-14952 alleging that AT&T was improperly bundling a digital test access unit (“DTAU”) with a cross connect for use with a 4-wire Digital (or, DS1) Loop, which resulted in unlawfully increasing the monthly recurring charge of the cross connect from \$0.27 to \$16.46 (the “Prior Cross Connect Litigation”).

22. AT&T’s TSLRIC for a DS3 cross connect is \$1.15 per month, which carries nearly 29 times more traffic than a DS1 cross connect.

23. AT&T’s TSLRIC for an OC-3 cross connect is \$1.05 per month, which carries over 100 times more traffic than a DS1 cross connect.

24. In addition, the DS1 cross connect charge in AT&T’s federal tariff is \$6.89. The cross-connect rate of \$6.89 in AT&T’s federal tariff includes a DTAU.

25. AT&T’s federal tariff imposes one rate for all DS1 cross-connects and does not set different rates based on the equipment or facilities to which the DS1 cross-connects are connected.

26. TelNet and four other CLECs filed petitions to intervene in the Prior Cross Connect Litigation and the Administrative Law Judge granted their interventions.

27. On January 29, 2007, AT&T and the eight CLECs who were parties in the Prior Cross Connect Litigation stipulated to dismiss the case upon the Commission's approval of "interconnection agreement amendments related to DS1 cross connects."

28. On January 31, 2007, AT&T and the eight CLECs filed joint applications in various dockets, seeking approval of the U-14952 Cross Connect Amendment. The U-14952 Cross Connect Amendment removed the \$16.46 rate from the parties' ICA pricing appendices and replaced it with a rate of \$6.89.

29. The new rate of \$6.89 include the costs of the DS1 cross connect itself and a DTAU.

30. The Commission approved the Joint Applications of AT&T and the eight CLECs on February 14, 2007.

31. On February 27, 2007, the Commission dismissed the Prior Cross Connect Litigation.

32. In March of 2007, it became apparent to TelNet that AT&T was still charging \$16.46 for most of the DS1 cross connects that TelNet purchases from AT&T.

33. Upon inquiry, AT&T informed TelNet that AT&T was still pricing the DS1 cross-connects required for extended DS1 Loops at \$16.46 even though that rate had been removed from Pricing Appendix to their ICA.

34. AT&T has alleged that the Prior Cross Connect Litigation involved only cross connects connected to unextended DS1 Loops.

35. AT&T's allegation that the Prior Cross Connect Litigation involved only cross connects connected to unextended DS1 Loops is disingenuous, not supported by the evidence submitted in Case No. U-14952, *** Confidential **

* * * Confidential * * *contrary to the parties' interconnection agreement, devoid of any technical merit or justification, and deserving of substantial sanctions.

36. In its billings to TelNet, AT&T has not previously distinguished between (i) DS1 cross connects used in connection with unextended DS1 Loops and (ii) cross-connects used in connection with extended DS1 Loops. AT&T designates all DS1 cross connects with the same USOC code – “CXCDX.”

37. There is no physical or functional difference between a DS1 cross-connect used in conjunction with unextended DS1 loops and extended DS1 loops. A DS1 cross-connect is the same physical piece of equipment regardless of what other piece of equipment or facilities is connected to it.

38. There are two DS1 cross connects necessary to assemble an extended DS1 Loop. From the time that U-13531 Pricing Amendment was added to TelNet’s ICA with AT&T, AT&T has charged TelNet \$16.46 for DS1 cross connects connected to both extended and unextended DS1 Loops..

39. TelNet advised AT&T that there is no longer a rate of \$16.46 in the Parties’ ICA and therefore charging of this unapproved rate is unlawful. However, until very recently, AT&T continued to assess TelNet two \$16.46 charges for each extended DS1 Loop that TelNet purchases.

40. TelNet has very recently received some invoices and credits from AT&T indicating a charge of \$11.67 for each DS1 cross connect associated with an extended DS1 Loop. TelNet has not yet had the opportunity to determine whether AT&T has provided this rate for all of TelNet’s extended DS1 Loops.

41. Recently, in July of 2007, AT&T has been begun charging ACD and JAS, a rate of \$11.67 for DS1 cross connects connected to extended DS1 Loops, with adjustments, back to February 14, 2007, the date their U-14952 Cross Connect Amendments were approved.

42. In the alternative, in the event the U-14952 Cross Connect Amendment does not cover DS1 cross connects associated with an extended DS1 Loop, TelNet should be able to

purchase such cross connects without begin required to purchase the DTAU that AT&T unlawfully bundles with the cross connects.

43. The transmission equipment that TelNet pays for with its purchase of an extended DS1 Loop performs all of the testing functionality that would be performed by a DTAU, and as such, no DTAU is necessary with an extended DS1 Loop.

44. In addition, upon information and belief, AT&T does not provide a DTAU with the cross connects associated with an extended DS1 Loop.

45. Subsequent to the Commission's approval of the U-14952 Cross Connect Amendment on February 14, 2007, the Adopting CLECs each submitted requests to AT&T to adopt the U-14952 Cross Connect Amendment in order to receive the same DS1 cross connect pricing that was in the U-14952 Cross Connect Amendments.

46. Initially, AT&T drafted and provided several of the Adopting CLECs with cross connect amendments that were consistent with the U-14952 Cross Connect Amendment. Several of the Adopting CLECs executed these amendments and returned them to AT&T.

47. However, AT&T, despite repeated requests, refused to execute any of the cross connect amendments that AT&T itself had drafted and had presented to the Adopting CLECs.

48. After several weeks, AT&T began to forward a second cross-connect amendment to the Adopting CLECs (the "Second Proposed Cross Connect Amendment"). The Second Proposed Cross Connect Amendment imposes different rates for the two DS1 cross-connects required in the assembly of an extended DS1 loop. The Second Proposed Cross Connect Amendment charges \$6.89 for one of the cross-connects and \$16.46 for the other cross-connect.

49. During the time that AT&T was charging TelNet \$16.46 for *both* DS1 cross connects in extended DS1 Loops, AT&T took yet another inconsistent position in offering to the Adopting CLECs an amendment that prices *one* of the cross connects at the rate of \$6.89 and *one* at \$16.46.

50. AT&T's Second Proposed Cross Connect Amendment is deficient because Case No. U-14952 resulted in the deletion of the \$16.46 rate and none of the DS1 cross connects should be priced at that rate.

51. In the alternative, if the U-14952 Cross Connect Amendment does not cover DS1 cross connects associated with an extended DS1 Loop, the Adopting CLECs should be able to purchase such cross connects without begin required to purchase the DTAUs that AT&T unlawfully bundles with the cross connects.

52. AT&T's attempt to draw an artificial price distinction, not supported by the U-14952 Cross Connect Amendment, between cross connects connected to unextended DS1 Loops and cross-connects connected to extended DS1 Loops has also caused unreasonable delay in the Adopting CLECs' ability to obtain the \$6.89 per month rate for unextended DS1 cross connects – which rate even AT&T concedes is appropriate. However, AT&T has refused to permit the Adopting CLECs to obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops until the Adopting CLECs capitulate and agree they will pay the discriminatory price of \$16.46 per month for one of the cross connects connected to extended DS1 Loops. Thus, AT&T is unreasonably refusing to provide the reduced cross-connect rates to the Adopting CLECs for cross connects connected to unextended DS1 Loops as well as for cross connects connected to extended DS1 Loops.

53. AT&T has no basis to refuse to provide the Adopting CLECs with a rate that AT&T concedes is appropriate during the period of time that it will take to resolve the instant dispute on frivolous issues that AT&T has concocted.

54. As a further point, when they first requested adoption of the U-14952 Cross Connect Amendment, one or more of the Adopting CLECs took the position that their cross connect amendments should be made effective on February 14, 2007, the same date the reduced prices

became effective for the CLECs who were involved in the Prior Cross Connect Litigation. The Adopting CLECs who made the request relied on the position of AT&T in its last cost study case, Case No. U-13531, where AT&T argued and the MPSC agreed that all new UNE prices for all CLECs had to become effective on the same date. However, AT&T in the instant case takes the position that the new UNE price for DS1 cross connects cannot take effect until the amendment is approved by the MPSC.

55. But by taking a position contrary to the position it took in Case No. U-13531, if adopted, AT&T will reap the benefits from each day that it is able to delay providing the \$6.89 per month rate to the Adopting CLECs and, conversely, the Adopting CLECs would be harmed by each day of delay.

56. Accordingly, AT&T's failure to offer the same pricing for cross connects connected to unextended DS1 Loops that AT&T has offered to other CLECs in Michigan is discriminatory and contrary to federal and Michigan telecommunications law.

57. Also, AT&T's failure to offer the same pricing for cross connects connected to extended DS1 Loops that AT&T has offered to other CLECs in Michigan is discriminatory and contrary to federal and Michigan telecommunications law.

58. AT&T's position that the U-14952 Cross Connect Amendment applies only to cross connects connected to unextended DS1 Loops but not to cross connects connected to extended DS1 Loops is frivolous.

59. AT&T's reason for not permitting the Adopting CLECs to receive the \$6.89 per month rate for cross connects connected to unextended DS1 Loops is frivolous.

60. AT&T's reason for not permitting the Adopting CLECs to receive the \$6.89 per month rate for cross connects connected to extended DS1 Loops is frivolous.

COUNT I – Violation of ACD’s, JAS’s and TelNet’s

Interconnection Agreements

61. All preceding paragraphs are realleged.

62. According to the Commission-approved U-14952 Cross Connect Amendment, the *only* permitted rate for DS1 cross-connects is \$6.89.

63. The U-14952 Cross Connect Amendment uses the words “DS1 Loop” to describe the \$6.89 cross connect rate. Extended DS1 loops are DS1 loops.

64. Neither the rate \$16.46, nor the rate of \$11.67 appears in ACD’s JAS’s, or TelNet’s amended ICA with AT&T.

65. The ICAs with AT&T of ACD, JAS, and TelNet do not make a pricing distinction between cross connects connected to unextended DS1 Loops and cross connects connected to extended DS1 Loops.

66. Therefore, AT&T is in clear and blatant breach of the ICAs of ACD, JAS, and TelNet, as amended by the Commission-approved U-14952 Cross Connect Amendment.

WHEREFORE, ACD, JAS, and TelNet respectfully request that the Commission:

(a) Order AT&T to cease and desist charging ACD, JAS, and TelNet a rate of \$16.46 or \$11.67 per month for cross connects connected to extended DS1 Loops;

(b) In accordance with the U-14952 Cross Connect Amendment, Order AT&T to charge ACD, JAS, and TelNet a rate no higher than \$6.89 per month for DS1 cross connects without regard to whether the cross connects are connected to unextended DS1 Loops or extended DS1 Loops;

(c) Order AT&T to credit and/or refund to ACD, JAS, and TelNet all amounts charged to ACD, JAS, and TelNet since the effective date of the U-14952 Cross Connect Amendment for

any DS1 cross connects at a rate more than \$6.89 per month as established in the Commission-approved Cross Connect Amendment;

(d) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay ACD's, JAS's, and TelNet's costs, including its reasonable attorney's fees, arising as a result of AT&T's frivolous position;

(e) ***** Confidential *****

***** Confidential *****

(f) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

COUNT II – Violation of the MTA – ACD, JAS, and TelNet

67. All preceding paragraphs are realleged.

68. In charging ACD, JAS, and TelNet a rate for DS1 cross connects that does not exist anywhere in the parties' interconnection agreement or in the U-14952 Cross Connect Amendment, AT&T has not only violated TelNet's interconnection agreement and the U-14952 Cross Connect Amendment, but AT&T has also violated the MTA.

69. Section 352(2) of the MTA, MCL 484.2352(2), requires that the "rates for network elements and combinations of network elements, unbundled loops, number portability, and the termination of local traffic shall be the rates established by the commission."

70. AT&T violated § 352(2) when it charges ACD, JAS, and TelNet a rate for DS1 cross connects other than the rate provided for in the Commission-approved U-14952 Cross Connect Amendment.

71. Also, § 305(n) of the MTA, MCL 484.2305(n), prohibits a provider of basic local exchange service from “[p]erforming any act that has been prohibited by [the MTA] or an order of the commission.”

72. AT&T violated § 305(n) when it acted contrary to the U-14952 Cross Connect Amendment, which the Commission approved as an amendment to ACD’s, JAS’s, and TelNet’s ICAs in a February 14, 2007 orders.

WHEREFORE, ACD, JAS, and TelNet respectfully request that the Commission:

(a) Order AT&T to cease and desist charging ACD, JAS, and TelNet a rate of \$16.46 or \$11.67 per month for cross connects connected to extended DS1 Loops;

(b) Order AT&T to charge ACD, JAS, and TelNet a rate no higher than \$6.89 per month for DS1 cross connects without regard to whether the cross connects are connected to unextended DS1 Loops or extended DS1 Loops;

(c) Order AT&T to credit and/or refund to ACD, JAS, and TelNet all amounts charged to ACD, JAS, and TelNet since the effective date of the U-14952 Cross Connect Amendment for any DS1 cross connects at a rate more than \$6.89 per month as established in the Commission-approved Cross Connect Amendment;

(d) Pursuant to § 601(a) of the Michigan Telecommunications Act, MCL 484.2601(a), impose a fine of not less than \$2,000 per day nor more than \$40,000 per day for each day of AT&T’s violation of the Michigan Telecommunications Act;

(e) Pursuant to § 601(f) of the Michigan Telecommunications Act, MCL 484.2601(f), award ACD, JAS, and TelNet its attorney fees and costs incurred as a result of bringing this action arising out of AT&T's violation of the Michigan Telecommunications Act;

(f) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay ACD's, JAS's, and TelNet's costs, including its reasonable attorney's fees, arising as a result of AT&T's frivolous position; and

(g) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

COUNT III – Violation of the Adopting CLECs' Interconnection Agreements

73. All preceding paragraphs are realleged.

74. In refusing to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment with the same rates and pricing for DS1 Cross Connects, AT&T is attempting to impose discriminatory pricing upon the Adopting CLECs for DS1 cross connects, contrary to the Adopting CLECs' interconnection agreements with AT&T.

75. Pursuant to § 1.1 of the Pricing Appendix of B&S's interconnection agreement with AT&T, Appendix XVII, AT&T must provide services to B&S at rates that are "just, reasonable and nondiscriminatory." Also, § 1.1 of the UNE Appendix, Appendix XXIII, requires AT&T to provide B&S nondiscriminatory access to UNEs "on rates, terms and conditions that are just, reasonable and nondiscriminatory."

76. Pursuant to § 9.2.1 of both CMC's and Clear Rate's interconnection agreements with AT&T, AT&T must provide CMC and Clear Rate nondiscriminatory access to UNEs at "rates, terms and conditions that are just, reasonable and nondiscriminatory."

77. Pursuant to § 2.2.2 of the UNE Appendix of Grid 4's interconnection agreement with AT&T, AT&T must provide Grid 4 nondiscriminatory access to UNEs at "rates, terms, and conditions which are just, reasonable, and nondiscriminatory."

78. Pursuant to § 9.4 of Planet Access's interconnection agreement with AT&T, AT&T must provide Planet Access nondiscriminatory access to Network Elements "on terms and conditions no less favorable than the terms and conditions under which [AT&T] provides such elements to . . . any other person."

79. AT&T has violated these provisions of the Adopting CLECs' interconnection agreements by refusing to permit the Adopting CLECs to enter into the same U-14952 Cross Connect Amendment with the same DS1 cross connect pricing that AT&T has provided to other CLECs in Michigan.

WHEREFORE, the Adopting CLECs respectfully request that the Commission:

(a) Order AT&T to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment, with the same pricing, that was adopted by numerous other CLECs in Michigan as a result of the Prior Cross Connect Litigation;

(b) Order that the Cross Connect Amendments to be entered into by AT&T and the Adopting CLECs be effective as of February 14, 2007, which is the effective date that the CLECs who participated in the Prior Cross Connect Litigation received reduced DS1 cross connect pricing. In the alternative, order that the Cross Connect Amendments be made effective as of 30 days after each respective Adopting CLEC requested that it be permitted to adopt the U-14952 Cross Connect Amendment, by which time the Commission would have reasonably approved the Adopting CLECs' Cross Connect Amendments but for the unreasonable delay caused by AT&T's violation of the parties' respective interconnection agreements;

(c) Order AT&T to credit and/or refund to the Adopting CLECs all amounts charged to them after the effective date of the cross connect amendments ordered in this proceeding for DS1 Loop cross connects (whether connected to an unextended DS1 Loop or an extended DS1 Loop) at a rate more than \$6.89 per month as established in the Commission-approved U-14952 Cross Connect Amendment;

(d) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay TelNet's costs, including its reasonable attorney's fees, arising as a result of AT&T's frivolous position; and

(e) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

**COUNT IV – Violation of the MTA – Adopting CLECs – Refusal to Permit
CLECs to Adopt the U-14952 Cross Connect Amendment**

80. All preceding paragraphs are realleged.

81. In refusing to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment, AT&T is requiring that the Adopting CLECs pay discriminatory pricing for DS1 cross connects, contrary to the MTA.

82. Section 355(1) of the MTA, MCL 484.2355(1) states:

A provider of basic local exchange service shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis.

83. AT&T violated this section of the MTA by refusing to permit the Adopting CLECs to receive the same reduced rates that AT&T had offered to other CLECs for DS1 Cross Connects.

WHEREFORE, the Adopting CLECs respectfully request that the Commission:

(a) Order AT&T to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment, with the same pricing, that was adopted by numerous other CLECs in Michigan as a result of the Prior Cross Connect Litigation;

(b) Order that the Cross Connect Amendments to be entered into by AT&T and the Adopting CLECs be effective as of February 14, 2007, which is the effective date that the CLECs who participated in the Prior Cross Connect Litigation received reduced DS1 cross connect pricing. In the alternative, order that the Cross Connect Amendments be made effective as of 30 days after each respective Adopting CLEC requested that it be permitted to adopt the U-14952 Cross Connect Amendment, by which time the Commission would have reasonably approved the Adopting CLECs' Cross Connect Amendments but for the unreasonable delay caused by AT&T's violation of the Michigan Telecommunications Act;

(c) Order AT&T to credit and/or refund to the Adopting CLECs all amounts charged to them after the effective date of the cross connect amendments ordered in this proceeding for DS1 Loop cross connects (whether connected to an unextended DS1 Loop or an extended DS1 Loop) at a rate more than \$6.89 per month as established in the Commission-approved U-14952 Cross Connect Amendment;

(d) Pursuant to § 601(a) of the Michigan Telecommunications Act, MCL 484.2601(a), impose a fine of not less than \$2,000 per day nor more than \$40,000 per day for each day of AT&T's violation of the Michigan Telecommunications Act;

(e) Pursuant to § 601(f) of the Michigan Telecommunications Act, MCL 484.2601(f), award the Adopting CLECs their attorney fees and costs incurred as a result of bringing this action arising out of AT&T's violation of the Michigan Telecommunications Act;

(f) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay the Adopting CLECs' costs, including their reasonable attorney's fees, arising as a result of AT&T's frivolous position; and

(g) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

**COUNT V – Violation of the MTA – Adopting CLECs – Refusal to Permit
CLECs to Obtain Unextended DS1 Loop Cross Connect Pricing**

84. All preceding paragraphs are realleged.

85. As discussed in Count IV, AT&T violated § 355(1) of the MTA by refusing to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment and to thus receive the same reduced rates that AT&T had offered to other CLECs for DS1 Cross Connects.

86. In addition, AT&T has violated § 355(1) of the MTA by refusing to permit the Adopting CLECs to obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops until the Adopting CLECs capitulate and agree they will pay the discriminatory price of \$16.46 per month for one of the cross connects connected to extended DS1 Loops.

87. Thus, AT&T is refusing to permit the Adopting CLECs to obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops, even though AT&T has conceded that such rate is appropriate.

88. AT&T causing such unreasonable and unnecessary delay in obtaining the \$6.89 rate for cross connects connected to unextended DS1 Loops results in discriminatory pricing for the unextended DS1 Loops, contrary to § 355(1) of the MTA.

WHEREFORE, the Adopting CLECs respectfully request that the Commission:

(a) Order that the Cross Connect Amendments to be entered into by AT&T and the Adopting CLECs be effective as of February 14, 2007, which is the effective date that the CLECs who participated in the Prior Cross Connect Litigation received reduced DS1 cross connect pricing. In the alternative, order that the Cross Connect Amendments be made effective as of 30 days after each respective Adopting CLEC requested that it be permitted to adopt the U-14952 Cross Connect Amendment, by which time the Commission would have reasonably approved the Adopting CLECs' Cross Connect Amendments but for the unreasonable delay caused by AT&T's violation of the Michigan Telecommunications Act;

(b) Order AT&T to credit and/or refund to the Adopting CLECs all amounts charged to them after the effective date of the Cross Connect Amendments ordered in this proceeding for DS1 Loop cross connects connected to an unextended DS1 Loop at a rate more than \$6.89 per month as established in the Commission-approved U-14952 Cross Connect Amendment;

(c) Pursuant to § 601(a) of the Michigan Telecommunications Act, MCL 484.2601(a), impose a fine of not less than \$2,000 per day nor more than \$40,000 per day for each day of AT&T's violation of the Michigan Telecommunications Act;

(d) Pursuant to § 601(f) of the Michigan Telecommunications Act, MCL 484.2601(f), award the Adopting CLECs their attorney fees and costs incurred as a result of bringing this action arising out of AT&T's violation of the Michigan Telecommunications Act;

(e) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay the Adopting CLECs' costs, including their reasonable attorney's fees, arising as a result of AT&T's frivolous position; and

(f) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

COUNT VI – Violation of the FTA – Adopting CLECs

89. All preceding paragraphs are realleged.

90. In refusing to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment, AT&T is requiring that the Adopting CLECs pay discriminatory pricing for DS1 cross connects, contrary to the Federal Telecommunications Act (“FTA”).

91. Under § 251(c)(2)(D) of the FTA, 47 USC 251(c)(2)(D), ILECs such as AT&T are required to

provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network . . . on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

92. In addition, § 251(c)(3) of the FTA, 47 USC 251(c)(3), requires ILECs such as AT&T to

provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

93. AT&T violated these sections of the FTA by refusing to permit the Adopting CLECs to receive the same reduced rates that AT&T had offered to other CLECs for DS1 Cross Connects.

WHEREFORE, the Adopting CLECs respectfully request that the Commission:

(a) Order AT&T to permit the Adopting CLECs to adopt the U-14952 Cross Connect Amendment, with the same pricing, that was adopted by numerous other CLECs in Michigan as a result of the Prior Cross Connect Litigation;

(b) Order that the Cross Connect Amendments to be entered into by AT&T and the Adopting CLECs be effective as of February 14, 2007, which is the effective date that the CLECs who participated in the Prior Cross Connect Litigation received reduced DS1 cross connect pricing. In the alternative, order that the Cross Connect Amendments be made effective as of 30 days after each respective Adopting CLEC requested that it be permitted to adopt the U-14952 Cross Connect Amendment, by which time the Commission would have reasonably approved the Adopting CLECs' Cross Connect Amendments but for the unreasonable delay caused by AT&T's violation of the Federal Telecommunications Act;

(c) Order AT&T to credit and/or refund to the Adopting CLECs all amounts charged to them after the effective date of the cross connect amendments ordered in this proceeding for DS1 Loop cross connects (whether connected to an unextended DS1 Loop or an extended DS1 Loop) at a rate more than \$6.89 per month as established in the Commission-approved U-14952 Cross Connect Amendment;

(d) If AT&T maintains the same position in this proceeding as it has taken prior to the filing of this Complaint, pursuant to § 209(1) of the Michigan Telecommunications Act, MCL 484.2209(1), require AT&T to pay the Adopting CLECs' costs, including their reasonable attorney's fees, arising as a result of AT&T's frivolous position; and

(e) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

COUNT VII – Alternative Count – Bundled DTAU – All Complainants

94. All preceding paragraphs are realleged.

95. In the event the Commission determines that the U-14952 Cross Connect Amendment does not apply to one or both of the DS1 cross connects associated with an extended DS1 Loop, the Commission should determine that AT&T is required to provide cross connects associated with an extended DS1 Loop without the bundled DTAU, and that such cross connects should be priced accordingly.

96. When purchasing a DS1 cross connect in connection with an extended DS1 Loop, AT&T purports to bundle with such cross connect (and as a result bundles with the extended DS1 Loop) testing equipment that AT&T identifies as the DTAU.

97. However, because testing is accomplished through the transmission equipment associated with an extended DS1 Loop, the DTAU is not necessary in connection with AT&T's provision of the extended DS1 Loop.

98. In addition, upon information and belief, it appears that AT&T does not provide a DTAU in connection with the cross connects associated with an extended DS1 Loop.

99. This bundling of the DTAU with the extended DS1 Loop is contrary to TelNet's interconnection agreement with AT&T. *See* Appendix XXIII, Section 1.1 (requiring AT&T to provide nondiscriminatory access to unbundled network elements).¹

100. This bundling of the DTAU with the extended DS1 Loop is contrary to ACD's interconnection agreement with AT&T. *See* Sections 9.1 and 9.2.²

¹Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/MCImetro_Access_Transmission_Services_LC/b_MCImetroICAPart2of2.pdf. Because this and the following referenced provisions of the parties' interconnection agreements are readily available on the Internet, Complainants' are not at this time providing paper copies of such provisions as exhibits. Complainants will provide these provisions as paper exhibits at the hearing if the Administrative Law Judge deems it necessary.

101. This bundling of the DTAU with the extended DS1 Loop is contrary to JAS's interconnection agreement with AT&T. *See* Sections 9.1 and 9.2.³

102. This bundling of the DTAU with the extended DS1 Loop is contrary to the Adopting CLECs' interconnection agreements with AT&T. *See* Appendix UNE, § 2.2 of Grid 4's Interconnection Agreement;⁴ §§ 9.1 and 9.2 of Clear Rate's Interconnection Agreement;⁵ §§ 9.1 and 9.2 of CMC's Interconnection Agreement;⁶ Appendix XXIII, Section 1.1 of B&S's Interconnection Agreement;⁷ and §§ 9.1 and 9.2 of Planet Access's Interconnection Agreement.⁸

103. This bundling of the DTAU with the extended DS1 Loop is contrary to the Michigan Telecommunications Act. *See* MCL 484.2305m.

104. This bundling of the DTAU with the extended DS1 Loop is contrary to the Federal Telecommunications Act. *See* 47 USC 251(c)(3); 47 CFR § 51.307(d).

105. Therefore, ACD, JAS, and TelNet and the Adopting CLECs should be permitted to purchase a cross connect associated with an extended DS1 Loop, without the bundled DTAU, at

² Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/ACD_Telecom_Inc/a_ACDTelecom6-4-01.pdf.

³ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/ATT_Communications_of_Michigan_Inc/a_ATTArbitrated2-20-02.pdf.

⁴ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/Grid4_Communications_Inc/b_grid4Part2of2.pdf.

⁵ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/ATT_Communications_of_Michigan_Inc/a_ATTArbitrated2-20-02.pdf.

⁶ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/ATT_Communications_of_Michigan_Inc/a_ATTArbitrated2-20-02.pdf.

⁷ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/MCImetro_Access_Transmission_Services_LC/b_MCImetroICAPart2of2.pdf.

⁸ Available at http://www.att.com/Large-Files/RIMS/Interconnection_Agreements/Michigan/Zenk_Group_LTD_dba_Planet_Access/a_Zenk.pdf.

either (1) the \$0.27 rate of a simple 4-wire cross connect in the pricing schedule, or (2) the \$0.00 rate that would apply absent the cost of the DTAU as expressed in AT&T's U-13531 cost study.

WHEREFORE, in the event the U-14952 Cross Connect Amendment does not apply to either of the cross connects associated with an extended DS1 Loop, ACD, JAS, and TelNet and the Adopting CLECs respectfully requests that the Commission:

(a) Order AT&T to provide both cross connects associated with an extended DS1 Loop without the inclusion of the DTAU;

(b) Order AT&T to cease and desist charging ACD, JAS, and TelNet and the Adopting CLECs a rate of \$16.46 or \$11.67 per month for cross connects connected to extended DS1 Loops;

(c) Order AT&T to charge ACD, JAS, and TelNet and the Adopting CLECs a rate of either \$0.27 or \$0.00 per month for cross connects associated with extended DS1 Loops;

(d) Order AT&T to credit and/or refund to ACD, JAS, and TelNet and the Adopting CLECs all excessive charges paid for cross connects connected to extended DS1 Loops;

(e) Pursuant to § 601(a) of the Michigan Telecommunications Act, MCL 484.2601(a), impose a fine of not less than \$2,000 per day nor more than \$40,000 per day for each day of AT&T's violation of the Michigan Telecommunications Act;

(f) Pursuant to § 601(f) of the Michigan Telecommunications Act, MCL 484.2601(f), award TelNet its attorney fees and costs incurred as a result of bringing this action arising out of AT&T's violation of the Michigan Telecommunications Act; and

(g) Grant any other relief the Commission deems appropriate according to the law and the facts of this case.

Respectfully submitted,

**ACD TELECOM, INC.; JAS, NETWORKS,
INC.; TELNET WORLDWIDE, INC.; B&S
TELECOM, INC.; CLEAR RATE
COMMUNICATIONS, INC.; CMC TELECOM,
INC.; GRID 4 COMMUNICATIONS, INC.;
AND ZENK GROUP, LTD. D/B/A PLANET
ACCESS;**

Dated: July 31, 2007

Gary L. Field (P37270)
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915 N. Washington Avenue
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gfield@fieldlawgroup.com

Attorneys for Complainants

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

MARK IANUZZI

[Public Version]

1 **Q. Please state your name and address.**

2 **A.** My name is Mark Iannuzzi. My business address is 1175 W. Long Lake Rd., Suite
3 201, Troy, Michigan 48098.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the President of TelNet Worldwide, Inc. ("TelNet"). I am responsible for the
7 management and operation of TelNet.

8
9 **Q. Please describe TelNet.**

10 **A.** TelNet obtained a license in 1999 to provide competitive local exchange service in
11 Michigan. The Commission has twice approved amendment of TelNet's license, and
12 TelNet is now licensed to provide service in every exchange in Michigan. TelNet is a
13 facilities-based carrier, operating switches in all five of Michigan's LATAs. For years,
14 TelNet has had an interconnection agreement with Michigan Bell Telephone
15 Company d/b/a AT&T Michigan ("AT&T").

16
17 **Q. Why are you testifying?**

18 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
19 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
20 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
21 Access, (the "CLECs") filed against AT&T to resolve a dispute between the CLECs
22 and AT&T. The Complaint concerns two main controversies: (1) AT&T's refusal to
23 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
24 an amendment to ACD's interconnection agreement with AT&T, and (2) AT&T's
25 refusal to permit the other CLECs ("Adopting CLECs") to enter into amendments
26 to their interconnection agreements containing the same rates for DS1 cross
27 connects as contained in amendments between ACD, JAS, TelNet and five other
28 CLECs and AT&T

29
30 **Q. Please describe TelNet's involvement in Case No. U-14952.**

31 **A.** TDS Metrocom, LLC, LDMI Telecommunications, Inc., and XO Communications
32 Services, Inc. filed a complaint with the Commission in Case No. U-14952 (the

1 “Prior Cross Connect Litigation”). A copy of the complaint is attached as **Exhibit**
2 **C-1 (MI-1)**. The complaint argued that AT&T was overcharging for certain cross
3 connects. According to the pricing schedule approved in Case No. U-13531, AT&T
4 charged \$0.27 per month for 4-wire cross connects and \$16.46 per month for DS1
5 cross connects. See **Exhibit C-2 (MI-2)**. The Complainants in Case No. U-14952
6 argued that when they ordered a 4-wire Digital Loop from AT&T, AT&T would
7 only provide the DS1 cross connect at the rate of \$16.46, when in fact the
8 Complainants wanted AT&T to provide the 4-wire cross connect at the rate of
9 \$0.27. See **Exhibit C-1 (MI-1)**. It is noteworthy that, according to **Exhibit C-2**
10 **(MI-2)**, AT&T only charges \$1.15¹ for DS3 cross connects. According to page 3 of
11 Appendix I of TelNet’s interconnection agreement with AT&T (**Exhibit C-3 (MI-**
12 **3)**), DS3 cross connects carry nearly 29 times more traffic than DS1 cross connects
13 (44.736 Mbps compared to 1.544 Mbps). Also according to **Exhibit C-2 (MI-2)**,
14 AT&T only charges \$1.05 for OC-3 cross connects. As shown on page 6 of
15 Appendix I of TelNet’s interconnection agreement with AT&T (**Exhibit C-4 (MI-**
16 **4)**), OC-3 cross connects carry over 100 times more traffic than DS1 cross connects
17 (155.52 Mbps compared to 1.544 Mbps).

18
19 The Complainants in the Prior Cross Connect Litigation argued that AT&T was
20 impermissibly bundling its digital test access unit (“DTAU”) with the 4-wire cross
21 connect, thus resulting in the inflated \$16.46 charge. TelNet and four other CLECs
22 intervened in the Prior Cross Connect Litigation and offered testimony opposed to
23 these AT&T practices.

24
25 **Q. How was the Prior Cross Connect Litigation resolved?**

26 **A. * * * Confidential * * ***
27
28

¹The price schedule lists the DS3 cross connect charge as N/A. Because the most recent cost study did not determine the DS3 cross connect price, the price that applies is the price from AT&T’s previous cost study. Thus, the monthly recurring price for a DS3 cross connect is \$1.15. See the MCImetro Access Transmission Services, LLC Interconnection Agreement, approved on Dec. 18, 2003 in Case No. U-13758, Pricing Schedule, p. 10.

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Q. **Did the Commission approve the U-14952 Cross Connect Amendment?**

A. Yes. On January 31, 2007, TelNet and AT&T filed a joint application with the Commission in Case No. U-14413 seeking approval of the U-14952 Cross Connect

1 Amendment. The Commission approved the U-14952 Cross Connect Amendment
2 on February 14, 2007 for TelNet and the other seven CLECs. A copy of TelNet's
3 U-14952 Cross Connect Amendment is attached as **Exhibit C-8 (MI-8)**.
4

5 **Q. Was the Prior Cross Connect Litigation then dismissed?**

6 **A.** Yes. On January 29, 2007, the parties to the Prior Cross Connect Litigation filed a
7 Stipulation to Dismiss, which stated: "Upon the approval without modification of
8 their interconnection agreement amendments related to DS1 cross connects, each
9 party agrees to dismiss this case with prejudice and without costs, mediation
10 sanctions and attorney fees." The Commission dismissed the Prior Cross Connect
11 Litigation on February 27, 2007.
12

13 **Q. Please describe further the U-14952 Cross Connect Amendment.**

14 **A.** The attached **Exhibit C-9 (MI-9)** is a document that provides a summary of the
15 language changes made to TelNet's interconnection agreement as a result of the U-
16 14952 Cross Connect Amendment. Essentially, the U-14952 Cross Connect
17 Amendment changed the charge of the DS1 cross connect from \$16.46 per month
18 to \$6.89 per month. The monthly \$6.89 charge includes a DTAU.
19

20 **Q. In AT&T's March, 2007 invoices to TelNet, what did AT&T charge TelNet
21 for DS1 cross connects?**

22 **A.** For cross connects connected to unextended DS1 Loops, AT&T properly charged
23 TelNet \$6.89 for the DS1 cross connect, which is represented in AT&T's invoices by
24 the USOC CXCDX. A sample page of AT&T's invoice from April of 2007 showing
25 this charge and USOC is attached as **Exhibit C-10 (MI-10)**. However, for the DS1
26 cross connects connected to extended DS1 Loops, which require two DS1 cross
27 connects, AT&T charged TelNet the previous rate of \$16.46 per month for each of
28 these DS1 cross connects, which charge is also represented in AT&T's invoices by
29 the USOC CXCDX. A sample page of AT&T's invoice from April of 2007 showing
30 these charges and USOCs is attached as **Exhibit C-11 (MI-11)**.
31
32

1 Q. Did TelNet dispute the \$16.46 charge?

2 A. Yes.

3

4 Q. How did AT&T respond?

5 A. AT&T contended that these charges were correct. AT&T's explanation for its
6 position is found in the e-mail string between Steven Tanner of AT&T and Stefanie
7 Martz of TelNet, attached as **Confidential Exhibit C-12 (MI-12)**. In his e-mail
8 dated March 22, 2007, Mr. Tanner indicated that the \$6.89 rate applies to the
9 MUJDP (4-wire analog DS1 Loop) class of service, but not to the EE7MX (4-wire
10 digital EEL) class of service. Ms. Martz responded in a March 22, 2007 e-mail that
11 there is only one DS1 cross connect price, regardless of the class of service. In a
12 March 26, 2007 e-mail, Mr. Tanner indicated as follows:

13

14 "TelNet's rate for CXCDX, Class of Service MUJDP/MUJTP, was
15 changed to 6.89 effective 2/14/07 and was the result of a DS1
16 Amendment. This rate will remain in effect until 2010.

17 CXCDX, Class of Service UB5HF/EE7MX is 16.46.

18 In summation, rate changes apply only to circuits which carry a class
19 of service MUJDP or MUJTP. The circuits you dispute have a COS
20 of EE7MX."

21

22 Ms. Martz responded in a March 26, 2007 e-mail that she could not locate the price
23 of \$16.46 in TelNet's interconnection agreement, and asked Mr. Tanner to point out
24 such price. In a March 27, 2007 e-mail, Mr. Tanner did not reference any specific
25 portion of the interconnection agreement for support, but again repeated that the
26 "DS1 amendment changed the CXCDX rate to 6.89 for class of Service
27 MUJDP/MUJTP effective 2/14/06, but the CXCDX charge for UDT remains
28 unchanged at [16.46]."

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1 **Q. Did TelNet then escalate the dispute?**

2 **A.** Yes. On April 26, 2007, pursuant to its interconnection agreement with AT&T,
3 TelNet sent AT&T a notice of dispute escalation. This notice is attached as **Exhibit**
4 **C-13 (MI-13).**

5
6 **Q. How did AT&T respond to the notice of dispute escalation?**

7 **A.** For nearly a month, I did not receive any response. Thus, on May 23, 2007, I sent an
8 e-mail to Christine Bednar of AT&T requesting some sort of reply to TelNet's notice
9 of dispute escalation. After sending Ms. Bednar additional details upon her request,
10 Ms. Bednar sent an e-mail to me on June 1, 2007, stating as follows:

11

12 "The TelNet rate matrix states that classes of service
13 MUJDP/MUJTP should bill at \$6.89 and that UB5HF/EE&MX
14 should bill at \$16.46. The language in the amendment states, The
15 CXCDX USOC COS MUJXX should bill at \$6.96. The other
16 CXCDX USOC with UDT COS remains unchanged. The
17 amendment only addresses LOOPS."

18

19 I replied to Ms. Bednar on June 2, 2007, indicating that "[t]here is no such language
20 in our cont[r]act and there is no such rate matrix in our contract," and requesting
21 whether "this is the final position of AT&T." Because I received no reply from
22 AT&T within a week, I sent an e-mail to Ms. Bednar on June 9, 2007, indicating that
23 TelNet would be proceeding with a formal claim in this matter. Ms. Bednar
24 responded on June 11, 2007, only to say that she sent my comments to the contract
25 group and was waiting for a response. A copy of the e-mail string between Ms.
26 Bednar and me is attached as **Exhibit C-14 (MI-14).**

27

28 **Q. Has AT&T recently changed what it is charging TelNet for DS1 cross**
29 **connects associated with extended DS1 Loops?**

30 **A.** Yes. TelNet has very recently received some invoices and credits from AT&T
31 charging TelNet \$11.67 for each DS1 cross connect associated with an extended

1 DS1 Loop. We have not yet had the opportunity to determine whether AT&T has
2 provided this rate for all of TelNet's extended DS1 Loops.

3

4 **Q. Is \$11.67 a proper rate for these DS1 cross connects?**

5 **A.** No. Just like TelNet's interconnection agreement with AT&T does not include a
6 rate of \$16.46 for DS1 cross connects, the agreement also does not contain a rate of
7 \$11.67 for DS1 cross connects. The agreed-upon rate in the Commission-approved
8 U-14952 Cross Connect Amendment is \$6.89 for all DS1 cross connects. Thus, the
9 \$11.67 rate is, for all of the same reasons, just as improper as the \$16.46 rate. The
10 rate of \$11.67 has never been approved by the Commission and the basis upon
11 which AT&T can purport to charge such a rate is totally inexplicable.

12

13 **Q. Please discuss what extended loops are and why they are important.**

14 **A.** A loop runs from a customer's premises to a central office where there is switching
15 equipment, where the loop terminates. Accordingly, the FCC defines a local loop as
16 "a transmission facility between a distribution frame (or its equivalent) in an
17 incumbent LEC central office and the loop demarcation point at an end-user
18 customer premises." See 47 CFR § 51.319(a). Prior to competition, in almost all
19 instances, loops would terminate at the closest central office. "Extended" loops are
20 just that – they are extended. In other words, they are extended to a central office
21 *other than* the central office that is closest to the customer. Extended loops are very
22 important to competition because they obviate the need for a CLEC to either have a
23 switch at every central office or to be collocated at every central office. Thus, with
24 extended loops, a CLEC can serve a broader area with a single switch or a single
25 collocation site.

26

27 **Q. Did the elimination of UNE-P affect the importance of extended loops?**

28 **A.** Very much so. UNE-P was a wholesale product that permitted CLECs to use the
29 ILEC switch located in every central office. In other words, switching was one of
30 the elements that the CLEC was purchasing from the ILEC when it purchased
31 UNE-P. With the disappearance of UNE-P, CLECs lost access to switching,
32 requiring them to find ways to obtain switching other than from the ILEC. Several

1 CLECs went out and purchased switches. However, switches are expensive. With
2 the demise of UNE-P, it became essential to CLECs that they be able to serve as
3 large of area as possible with each switch they purchased. Extended loops are one
4 important tool that enables CLECs to achieve that goal.

5

6 **Q. Is it in AT&T's interest to make extended loops as expensive as possible?**

7 A. Absolutely. The less able those CLECs are to make efficient economic use of their
8 switches, the less able they will be to compete with AT&T. The cost of cross
9 connects has been contrived to be a significant portion of the overall cost of an
10 extended DS1 Loop. Plus, extended loops require two cross-connects, one at the
11 closet central office (where the loop does not terminate but is continued to the
12 distant central office) and one at the remote central office where the loop ultimately
13 terminates.

14

15 I will discuss the AT&T invoice provided at **Exhibit C-11 (MI-11)** as an example.
16 The total charge for the extended DS1 Loop in such invoice is \$106.11. Note that
17 there are two DS1 cross connect charges (denoted by the CXCDX USOC) of \$16.46
18 each associated with this extended DS1 Loop. Thus, AT&T charged a total of
19 \$32.92 for the DS1 cross connects associated with this extended DS1 Loop, which
20 amount represents approximately 31% of the total extended DS1 Loop charge.
21 Conversely, if AT&T had charged the two DS1 cross connects at the proper rate of
22 \$6.89 each, the total charge would have been significantly lower at a total of \$13.78,
23 which amount represents less than 13% of the total extended DS1 Loop charge.

24

25 **Q. Does the U-14952 Cross Connect Amendment permit AT&T to charge TelNet
26 two different rates for DS1 cross connects?**

27 A. No. After incorporating the U-14952 Cross Connect Amendment into TelNet's
28 interconnection agreement with AT&T, the Pricing Schedule to the interconnection
29 agreement provides only one charge for DS1 cross connects under the Cross
30 Connect heading, and that charge is \$6.89. *See* **Exhibit C-8 (MI-8)**.

31

1 The U-14952 Cross Connect Amendment does not permit AT&T to charge a
2 different price for a DS1 cross connect to extended DS1 Loops than it charges for
3 DS1 cross-connects connected to unextended DS1 Loops. See **Exhibit C-2 (MI-2)**.
4 Thus, AT&T is charging a rate that does not exist in TelNet's interconnection
5 agreement.

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7 **Q. *** Confidential *****

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9 ***** Confidential *****

10 **A. *** Confidential *****

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4 **Q. Outside of the U-14952 Cross Connect Amendment, does TelNet's**
5 **interconnection agreement with AT&T otherwise support the proposition that**
6 **different prices should be applied for cross connects connected to extended**
7 **DS1 Loops than should be applied for cross connects connected to**
8 **unextended DS1 Loops?**

9 **A.** No. As discussed, the Pricing Schedule of the interconnection agreement only
10 indicates one charge for each type of cross connect. For example, there is one DS3
11 cross connect charge, one OC-3 cross connect charge, and one DS1 cross connect
12 charge. *See Exhibit C-2 (MI-2)*. There are no pricing or categorical differences
13 between DS3 cross connects to unextended loops and DS3 cross connects to
14 extended loops. The same is true regarding OC-3 cross connects. Likewise, these
15 differences did not exist for DS1 cross connects.

16

17 In addition, attached to the interconnection agreement is AT&T's Tariff M.P.S.C.
18 No. 20R, Part 23, Section 4, which was vacated in Michigan as of January 16, 2007.
19 *See Exhibit C-15 (MI-15)*. Sheets 119 through 121 describe AT&T's cross-
20 connection service. Sheets 119 through 121 are attached as **Exhibit C-16 (MI-16)**.
21 Sheet 119 states that AT&T's cross-connection service provides for the connection
22 of certain of TelNet's provided channels to the following AT&T services: Switched
23 Access, Unbundled Loops, Unbundled Local Switching, Service Provider Number
24 Portability, End Office Integration, Tandem Switching, and Unbundled Interoffice
25 Transport. Then, on Sheet 121, there is *only one* DS1 cross connect billing code
26 (CXCDX) and *only one* charge listed. Thus, the only logical conclusion is that AT&T
27 charges *only one* rate under the CXCDX USOC, and that rate applies to the DS1 cross
28 connect to a number of different AT&T services (including extended DS1 Loops).
29 There has never been a pricing distinction in the tariff, or elsewhere in the
30 interconnection agreement, between DS1 cross connects that is dependant on the
31 type of service to which the cross connect is connected. Accordingly, **there was**
32 **and there is no reasonable expectancy in the industry that someone could**

1 **take a position that an artificial pricing distinction should have been**
2 **understood to have existed.** No one could not have predicted that AT&T would
3 take the position that the \$6.89 rate in the U-14952 Cross Connect Amendment only
4 applies to DS1 cross connects connected to *certain* AT&T services and not DS1 cross
5 connects connected to other services. If such a drastic departure from AT&T's
6 previous practices was intended by the U-14952 Cross Connect Amendment, then
7 the amendment would certainly have specifically indicated such an intent. However,
8 as discussed, the U-14952 Cross Connect Amendment does *not* provide for a
9 different rate depending on whether the DS1 channel is cross connecting to an
10 unextended DS1 Loop or an extended DS1 Loop.

11
12 **Q. Does AT&T use DS1 cross-connects that are physically different from one**
13 **another depending on the type of service they are connected to?**

14 A. No. A DS1 cross connect is a DS1 cross connect. All DS1 cross-connects are
15 interchangeable. The same cross connect could be used on either an extended DS1
16 Loop or an unextended DS1 Loop. And, the cross connect connected to an
17 extended DS1 Loop could be switched with the cross-connect connected to an
18 unextended DS1 Loop. However, even though DS1 cross connects are
19 interchangeable, Peter Iannuzzi discusses in his testimony that the testing
20 mechanisms of extended DS1 Loops and unextended DS1 Loops are substantially
21 different.

22
23 **Q. Does the cost to purchase a DS1 cross-connect vary depending on whether it**
24 **will be connected to an extended loop or unextended loop?**

25 A. No, except that the difference between the testing mechanisms used in extended
26 DS1 Loops and unextended DS1 Loops would, if anything, make the cross connects
27 associated with extended DS1 Loops *less* expensive. *See* the testimony of Peter
28 Iannuzzi. As I said, DS1 cross connects are interchangeable. In fact, it would not
29 be reasonable for anyone to purchase them thinking that they could only be used to
30 cross-connect some DS1 services but not other DS1 services.

1 **Q. Is there any other reason to conclude that AT&T is only permitted to charge**
2 **the one rate of \$6.89 for all DS1 cross connects under the U-14952 Cross**
3 **Connect Amendment?**

4 **A.** Yes. AT&T's federal tariff states that its cross-connection service is available for
5 customers to cross connect to AT&T's "DS1 (1.544 Mbps) service with or without
6 interoffice transport including DS1 to Voice/Base Rate multiplexing," and only
7 provides one DS1 cross connect charge (\$6.89) and one DS1 cross connect USOC
8 (CXCDX). *See* AT&T's Tariff F.C.C. No. 2, pages 615.1 and 623.1, attached as
9 **Exhibit C-16 (MI-16)**. This again shows that it has been AT&T's practice to charge
10 the same rate and use the same USOC for all of its DS1 cross connects. Upon
11 entering the U-14952 Cross Connect Amendment, there was no reason for TelNet to
12 believe, and there is no reason to now conclude, that AT&T would create an entirely
13 new DS1 cross connect pricing category in order to keep in place the \$16.46 charge
14 to a portion of its DS1 cross connects. The Commission must prevent this exercise
15 of bad faith on behalf of AT&T.

16

17 **Q. Does this conclude your prepared Direct Testimony?**

18 **A.** Yes.

C-1 (MI-1)

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * *

In the matter of the formal complaint of)
TDS Metrocom, LLC, LDMI)
Telecommunications, Inc and XO)
Communications Services, Inc against)
Michigan Bell Telephone Company,)
d/b/a AT&T Michigan, or in the alternative,)
an application)
_____)

MPSC Case No. U-14952

**FORMAL COMPLAINT, OR IN THE
ALTERNATIVE, AN APPLICATION**

NOW COMES TDS Metrocom, LLC, LDMI Telecommunications, Inc. and XO Communications Services, Inc. by and through their legal counsel, Fraser Trebilcock Davis & Dunlap, P.C., and for their formal complaint against Michigan Bell Telephone Company, d/b/a AT&T Michigan or in the alternative an application pursuant to Section 204 state:

PARTIES

1. Complainant TDS Metrocom, LLC (“TDS Metrocom”) is a Delaware limited liability company with its principal place in Michigan located at 2525 Jolly Road, Okemos, Michigan 48864.

2. On November 2, 2000, the Michigan Public Service Commission (“Commission”) granted TDS Metrocom a license to provide basic local exchange service in the service territory of AT&T Michigan in Case No. U-12554.

3. TDS Metrocom is a facility-based competitive local exchange carrier (“CLEC”) that offers a variety of local, long distance, and enhanced telecommunication services to residential, business and governmental customers in Michigan.

4. TDS Metrocom has less than 250,000 end users and access lines in the State of Michigan.

5. Complainant LDMI Telecommunications (“LDMI”) is a Michigan corporation.

6. On December 12, 1997, the Commission granted LDMI a license to provide basic local exchange service in the service territory of AT&T Michigan in Case No. U-11510.

7. LDMI is a CLEC that offers a variety of local, long distance, and enhanced telecommunication services to business and governmental customers in Michigan.

8. LDMI has less than 250,000 end users and access lines in the State of Michigan.

9. Complainant XO Communications Services, Inc. (“XO”) is a Delaware corporation.

10. On December 21, 2004, the Commission granted XO a license to provide basic local exchange service in the service territory of AT&T Michigan in Case No. U-14376.¹

11. XO is a facility-based CLEC that offers a variety of local, long distance, and enhanced telecommunication services to business and governmental customers in Michigan.

12. XO has less than 250,000 end users and access lines in the State of Michigan.

13. Respondent, Michigan Bell Telephone Company operates under the assumed name of AT&T Michigan (“AT&T”).

14. AT&T is an incumbent local exchange carrier (“ILEC”) and is a provider of basic local exchange, access and toll service throughout its service territory in Michigan.

15. AT&T serves over 250,000 end users and access lines in the State of Michigan.

¹XO predecessor in interest was granted a license by the Commission in case No. U-11668 on July 13, 1998.

16. AT&T's principal place of business is 444 Michigan Avenue, Detroit, Michigan 48226.

17. AT&T provides certain wholesale services to TDS Metrocom, LDMI, XO and other CLECs.

18. TDS Metrocom, LDMI and XO each have their own interconnection agreement with AT&T.

SUMMARY OF ISSUE

19. This formal complaint involves AT&T's unlawful bundling of unwanted facilities and services with requested facilities and services in violation of the Michigan Telecommunications Act ("MTA"), the federal Telecommunications Act of 1996 and its interconnection agreements with TDS Metrocom, LDMI and XO. When TDS Metrocom, LDMI and XO order a 4-Wire Digital Loop from AT&T, AT&T bundles a cross connect with an unwanted Digital Test Access Unit ("DTAU"), which connects the 4-Wire Digital Loop to TDS Metrocom's LDMI's and XO's networks. The functionalities performed by AT&T's DTAU are not needed by TDS Metrocom, LDMI and XO, because they can and do provide the same testing that is performed by AT&T's DTAU. By bundling the unwanted DTAU with the cross connect that AT&T utilizes with a 4-Wire Digital Loop, AT&T substantially increases the monthly recurring charges imposed upon TDS Metrocom, LDMI and XO for each customer that they serve with a 4-Wire Digital Loop.

JURISDICTION

20. Pursuant to Section 201 of the MTA, the Commission has jurisdiction over this Formal Complaint. Section 201 of the MTA provides the Commission “the jurisdiction and authority to administer this act and all federal telecommunications laws, rules, orders, and regulations delegated to the state.” MCL 484.2202(1).

21. Section 203(1) of the MTA allows the Commission to “conduct an investigation, hold hearings and issue its findings and order under the contested hearing provisions of the administrative procedures act of 1969, 1969 PA 306,” MCL 484.2203(1).

22. Pursuant to Section 203(14), “the Commission shall require the parties to utilize the alternative dispute resolution process set forth under section 203a” because this complaint involves “an interconnection dispute between providers.” MCL 484.2203(14).

23. In the alternative, Section 204 of the MTA provides the Commission the authority to resolve this dispute as an application because it involves a dispute between two providers and relates to a regulated service and a matter prohibited by Section 305. MCL 484.2204.

GENERAL ALLEGATIONS

24. To provide service to end-user customers, TDS Metrocom, LDMI and XO each order an unbundled network element known as a “loop” from AT&T Michigan.

25. To provide customers with certain services, TDS Metrocom, LDMI and XO each order a loop known as the 4-Wire Digital Loop from AT&T.

26. In order for the 4-Wire Digital Loop to be utilized by these CLECs, AT&T must provide a cross connect.

27. The cross connect is the media between the AT&T distribution frame and the CLEC’s designated collocation space.

28. In providing the necessary cross connect for a 4-Wire Digital Loop, AT&T Michigan has begun to bundle the cross connect with a Digital Test Access Unit, which is also referred to as a DTAU.

29. A DTAU is a generic reference to a facility that performs the functions associated with a test assessment of the individual channels within a digital loop.

30. A DTAU is a separate network element from a 4-Wire Digital Loop and the associated cross connect.

31. TDS Metrocom, LDMI and XO each are able to provide, and do provide, the same functionally equivalent testing performed by the DTAU, which AT&T Michigan bundles with its cross connect service for 4-Wire Digital Loops.

32. AT&T Michigan refuses to unbundle its DTAU from cross connects utilized with 4-Wire Digital Loops.

33. When AT&T Michigan's bundles the unwanted DTAU with the needed cross connect for a 4-Wire Digital Loop, AT&T substantially increases the monthly recurring cost incurred by TDS Metrocom, LDMI and XO for each customer they serve through a 4-Wire Digital Loop.

COUNT I

34. TDS Metrocom, LDMI and XO adopt by reference the allegations set forth above.

35. The individual interconnection agreements between TDS Metrocom and AT&T, LDMI and AT&T, and XO and AT&T, each mandate that AT&T provide access to unbundled network elements as required by federal law.

36. From November 20, 2004 to date, AT&T Michigan has refused to provide a cross connect for 4-Wire Digital Loops separate from the DTAU testing unit.

37. AT&T Michigan contends that the Commission's Order in Case No. U-13531 entitled it to combine the DTAU and cross connect services at a rate of \$16.46.

38. AT&T Michigan ignores that the cost docket in Case No U-13531 established a 4-wire cross connect with a monthly recurring charge of 27¢.

39. The 27¢ per month recurring charge is consistent with and generally comparable with the cross connect charge previously charged by AT&T Michigan.

40. The 27¢ per month recurring charge is also consistent with and comparable to other states' cross connect charge.

41. AT&T Michigan should be required to provide 4-wire cross connect without the DTAU and at the monthly recurring charge of 27¢ when TDS Metrocom, LDMI and XO seek a cross connect for 4-Wire Digital Loop.

42. AT&T Michigan should be required to refund to TDS Metrocom, LDMI and XO any and all excessive charges paid for 4-wire cross connects.

COUNT II

43. TDS Metrocom, LDMI and XO adopt by reference the allegations set forth above.

44. Section 305m of the MTA prohibits AT&T from "bundl[ing] unwanted services or products for sale or lease to another provider." MCL 484.2305m

45. AT&T violates Section 305m of the MTA when it bundles its DTAU with cross connects for 4-Wire Digital Loops.

46. AT&T should be required to provide a cross connect for each 4-Wire Digital Loop without the DTAU and without the costs associated with the DTAU.

COUNT III

47. TDS Metrocom, LDMI and XO adopt by reference the allegations set forth above.

48. Sections 251 and 252 of the federal Telecommunications Act of 1996 require AT&T to provide to CLECs certain unbundled network elements, including loops such as 4-Wire Digital Loops.

49. Section 251(c)(3) requires AT&T to provide “access to network elements on an unbundled basis at any technically feasible point . . .”.

50. In particular, 47 C.F.R. §51.307(e) requires AT&T to provide access each network element separately for a separate charge. 47 C.F.R. §51.307(d) provides:

An incumbent LEC shall provide a requesting telecommunications carrier access to the facility or functionality of a requested network element separate from access to the facility or functionality of other network elements, for a separate charge.

51. AT&T Michigan has violated the federal law because it has failed to provide access to 4-Wire Digital Loops through a cross connect separate from the DTAU at a separate charge.

RELIEF REQUESTED

WHEREFORE, TDS Metrocom, LDMI and XO requests this Honorable Commission issue an order that:

A. Finds AT&T Michigan violated the Michigan Telecommunications Act, the federal Telecommunications Act of 1996, and the parties’ interconnection agreements;

B. Requires AT&T Michigan to provide 4-wire cross connects, to be utilized with 4-Wire Digital Loops, without the inclusion of the DTAU;

C. Requires AT&T Michigan to provide 4-wire cross connect without a DTAU at the Commission-approved rate of 27¢ per month for use with 4-Wire Digital Loops;

D. Requires AT&T Michigan to refund to TDS Metrocom, LDMI and XO any and all excessive charges for a 4-wire cross connect;

E. Imposes a fine of \$40,000 per day for each day of AT&T Michigan's violation of Section 305m of the Michigan Telecommunications Act;

F. Requires AT&T make whole TDS Metrocom, LDMI and XO for the economic loss they suffered as a result of AT&T Michigan's violation of the Michigan Telecommunications Act; and

G. Award TDS Metrocom, LDMI and XO its actual attorney fees and costs in pursuing this complaint.

Respectfully submitted,

By: _____

Michael S. Ashton (P40474)

Fraser Trebilcock Davis & Dunlap, P.C.

Attorneys for Complainant, TDS Metrocom, LLC,
LDMI Telecommunications, Inc, and XO
Communications Services, Inc.

124 West Allegan, Suite 1000

Lansing, Michigan 48933

Telephone: (517) 377-0875

Email: mashton@fraserlawfirm.com

Dated: July 7, 2006

C-2 (MI-2)

	SBC MI Recurring	SBC Michigan Non-Recurring Connect	Disconnect
Unbundled Tandem Switch Trunk Port (DS1)			
Initial Charge (per DS1)		\$ 120.08	\$ 21.97
DS1 Tandem Trunk Port Change - per port		\$ 16.08	
Service Charge per order		\$ 52.70	\$ 1.75
Cancellation or Change Service Charge per last critical date reached			
DS1 Tandem Trunk Port			
Service Order Portion to be applied to each critical date below		\$ 2.06	
Design Layout Report Date		\$ -	
Records Issue Date		\$ -	
Designed, Verified and Assigned Date		\$ -	
Plant Test Date		\$ 43.59	
Tandem Trunk Port Due Date Change Charge, per order per occasion		\$ 0.57	
ULS-ST Usage rates PER MOU			
ULS Switch Usage per MOU (for ULS-ST)	\$ -		
ULS-ST Blended Transport Usage	\$ 0.001321		
ULS-ST Common Transport Usage	\$ 0.000831		
ULS-ST Tandem Switching Usage	\$ 0.000198		
ULS-ST Reciprocal Compensation - Setup	\$ -		
ULS-ST Reciprocal Compensation - MOU	\$ -		
ULS-ST SS7 Signalling Transport	\$ 0.000969		
Stand-Alone ULS and ULS-ST Service Coordination Fee - Per carrier bill, per switch	\$ 5.39		
Unbundled Tandem Switch Trunk Port (DS1)			
Usage (without tandem trunk ports) per mou	\$ 0.000238		
Cross-Connects			
2-Wire	\$ 0.13		
4-Wire	\$ 0.27		
6-Wire	\$ 0.40		
8-Wire	\$ 0.54		
DS1	\$ 16.46		
DS3	N/A		
OC-3	\$ 1.05		
OC-12	\$ 1.05		
OC-48	\$ 1.05		
Centrex System Charges			
Centrex Common Block Establishment, each		\$ 91.75	\$ 71.17
Centrex System Features Change or Rearrangement, per feature, per occasion		\$ 72.98	\$ -
Centrex System Feature Activation, per feature, per occasion		\$ 42.12	\$ 74.11
Service Ordering Charges			
Service Ordering - Initial - Basic Port		\$ 3.46	\$ 1.77
Service Ordering - Initial - Complex Port		\$ 34.49	\$ 8.60
Service Ordering - Initial - ULS Trunk Port		\$ 73.38	\$ 1.75
Service Ordering - Record Order - Basic Port		\$ 2.13	\$ -
Service Ordering - Record Order - Complex Port		\$ 2.13	\$ -
Service Ordering - Record Order - ULS Trunk Port		\$ 2.13	\$ -
Service Ordering - Subsequent - Basic Port		\$ 3.65	\$ -
Service Ordering - Subsequent - Complex Port		\$ 5.04	\$ -
Service Ordering - Subsequent - ULS Trunk Port		\$ 5.04	\$ -
ULS Billing Establishment, per carrier (6/7/2002 replaces rate element ULS Billing Est., per carrier, per switch)		\$ 2,263.71	
Custom Routing			
Custom Routing, via LCC - New LCC, per LCC, per switch		\$ 259.04	\$ -
Custom Routing, via LCC - New Network Routing, per route, per switch		\$ 28.09	\$ 27.58
Custom Routing, via AIN, of OS / DA per route, per switch		\$ 28.09	\$ 28.09
UNE - P Service Order NRC Charge			
POTS Electronic		\$ 0.40	\$ 0.18
POTS Manual		\$ 23.16	\$ 11.37
Non-POTS Electronic		\$ 39.30	\$ 1.39
Non-POTS Manual		\$ 42.98	\$ 15.14
New UNE-P Port Connection/Disconnection			
Basic Line Port		\$ 0.14	\$ 0.14
Ground Start Line Port		\$ 0.14	\$ 0.14
ISDN-Direct Port		\$ 7.57	\$ 7.57
DID Trunk Port		\$ 17.95	\$ 13.12

C-3 (MI-3)

“Conduit” means a tube or other similar enclosure that may be used to house copper, fiber or coaxial communications cables or communications-related power cables. Conduits may be underground or above ground (for example, inside buildings) and may contain one or more inner ducts. An inner duct is a separate tube or enclosure within a Conduit.

“Control Office” is the operations center or office designated by either Party as its single point of contact for the provisioning and maintenance of its portion of this Agreement.

“Coordinated Cutover” means the coordination of all cutover activities that may be associated with porting of a telephone number from the old service provider to the new service provider, which coordination may include, but not limited to, notification of when the old service provider starts the cutover and finishes the cutover, coordination of testing, and working with the new service provider to ensure that the cutover is properly performed and completed.

“Cross Connection” means an intra-Wire Center channel of the appropriate bandwidth and media, connecting separate pieces of Telecommunications Equipment, including jumpers and intraoffice cables.

“Customer Usage Data” means the Telecommunications Services usage data of an end user customer measured in minutes, sub-minute increments, message units, or otherwise, that is recorded by one Party and forwarded to the other Party.

“Custom Local Area Signaling Service Features” (CLASS) means certain call-management service features available to end user customers within a Local Access and Transport Area (“LATA”), including but not limited to: Automatic Call Back; Automatic Recall; Call Trace; Calling Number Delivery; Customer Originated Trace; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.

“Desired Due Date” means the desired service activation date as requested by MCI on a service order.

“Dialing Parity” is as defined in the Act.

“Digital Signal Level” is one of several transmission rates in the time-division multiplex hierarchy.

“Digital Signal Level 0” (DS-0) is the 64 Kbps zero-level signal in the time-division multiplex hierarchy.

“Digital Signal Level 1” (DS-1) is the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-1 is the initial level of multiplexing.

“Digital Signal Level 3” (DS-3) is the 44.736 Mbps third-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS-3 is defined as the third level of multiplexing.

“End Office Switch” or “End Office” means a Switch that directly terminates traffic to and receives traffic from local exchange service customers. An End Office Switch does not include a PBX.

“Enhanced Service Provider” (ESP) is a provider of enhanced services as those services are defined in the Act.

“Exchange Access” is as defined in the Act.

“Exchange Message Interface” (EMI) (formerly Exchange Message Record - EMR) is the standard used for exchange of Telecommunications message information among Telecommunications Carriers for billable, non-billable, sample, settlement and study data. EMI format is contained in Telcordia Practice BR-010-200-010, CRIS Exchange Message Record.

C-4 (MI-4)

“Parity” means the provision of a service or access to service that is at least equal in quality, timing, priority, functionality and capabilities to that which SBC Michigan provides itself, its customers, subsidiaries, Affiliates or any third party.

“Party” means either SBC Michigan or MCI. “Parties” means both SBC Michigan and MCI.

“Plain Old Telephone Service” (POTS) means basic telephone service.

“Public Switched Network” or “Public Switched Telecommunications Network” (PSTN) includes all switches and transmission facilities, provided by any Telecommunications Carriers that use the NANP in connection with the provision of Telecommunications Services.

“Rate Center” means the specific geographic area that has been designated by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Telephone Exchange Service. The Rate Center is the finite geographic point identified by a specific V&H coordinate, which is used by that LEC to measure, for billing purposes, distance sensitive transmission services associated with the specific Rate Center.

“Rating Point” means the V&H coordinates associated with a particular telephone number for rating purposes.

“Remote Terminal” or “RT” means a controlled environmental vault, hut, or cabinet, which may or may not contain fiber fed digital loop carrier (DLC).

“Service Management System” (SMS) means an off-line system used to access, create, modify or update information in a database.

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

“Switch” means a mechanical, electrical or electronic device which opens and closes circuits, completes or breaks an electrical path, or select paths or circuits.

“Switched Exchange Access Service” means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of Telephone Toll Service. Switched Exchange Access Services include, but are not limited to, Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors and/or similar Switched Exchange Access Services.

“Synchronous Optical Network” (SONET) is an optical interface standard that allows inter-networking of transmission products from multiple vendors. The base rate is 51.84 Mbps (“OC-1/STS-1”) and higher rates are direct multiples of the base rate, up to 13.22 Gbps.

“Tandem Office Switch” or “Tandem” means a Switch used to connect and switch Trunk circuits between and among other Central Office Switches. A Tandem Switch does not include a PBX.

“Technically Feasible”, including burden of proof, is as defined in applicable FCC regulations and Applicable Law.

“Telecommunications” is as defined in the Act.

“Telecommunications Carrier” is as defined in the Act.

“Telecommunications Equipment” is as defined in the Act.

“Telecommunications Service” is as defined in the Act.

Confidential C-5 (MI-5)

Confidential C-6 (MI-6)

Confidential C-7 (MI-7)

C-8 (MI-8)



Lisa M. Bruno
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January 31, 2007

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, P.O. Box 30221
Lansing, MI 48911

Re: *MPSC Case No. U-14413, Interconnection Agreement Between AT&T Michigan and Telnet Worldwide, Inc.*

Dear Ms. Kunkle:

Attached for filing is the joint application requesting approval of the *Ninth Amendment* to the Interconnection Agreement by and between AT&T Michigan and Telnet Worldwide, Inc. In accordance with the Commission's request, AT&T Michigan makes this filing electronically by posting the attached Amendment and related pleadings onto the Commission's web site at:

<http://efile.mpsc.cis.state.mi.us/efile/>

Additional copies of the Amendment are available on this web site as well as AT&T Michigan's website at:

http://www.sbc.com/search/regulatory.jsp?category=WWW.SBC.COM/LARGE-FILES/RIMS/INTERCONNECTION_AGREEMENTS/MICHIGAN

Very truly yours,

Lisa M. Bruno

Attachment

cc: Mr. Gary A. Gensch

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In Re the request for Commission approval of)
An Interconnection Agreement between)
TelNet Worldwide, Inc. and)
Michigan Bell Telephone Company)
d/b/a SBC Michigan)

Case No. U- 14413

JOINT APPLICATION

AT&T Michigan¹ and TelNet Worldwide, Inc. hereby jointly apply to the Michigan Public Service Commission (Commission) pursuant to Section 203(1) of the Michigan Telecommunications Act (MTA), as amended, MCL 484.2203(1), and Section 252(e) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 252(e), for approval of the Ninth Amendment to the Interconnection Agreement between the parties heretofore approved by the Commission on February 24, 2005 (Agreement). In support of this joint application, AT&T Michigan and TelNet Worldwide, Inc. state as follows:

1. The parties have entered into good faith negotiations and have executed a Ninth Amendment to the Agreement. The Ninth Amendment to the Agreement, fully executed as of January 29, 2007, establishes a new rate for the DS1 cross connect and clarifies the definitions of DS1 cross connect and 4-wire cross connect in the Agreement. A copy of the Ninth Amendment to the Agreement, duly executed by the Parties, is submitted with this joint application as Exhibit A.

2. The Ninth Amendment is the result of voluntary negotiations and must be submitted to the Commission for its approval or rejection pursuant to Section 252(e)(1) of the Act. The Ninth Amendment meets all statutory criteria for Commission approval.

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, operates under the names "AT&T Michigan" and "AT&T Ameritech Michigan" (used interchangeably herein), pursuant to assumed name filings with the State of Michigan.

WHEREFORE, AT&T Michigan and TelNet Worldwide, Inc. jointly request Commission approval of the Ninth Amendment to the Agreement pursuant to MTA §203(1) and §252(e) of the Act as soon as possible.

Respectfully submitted,

Counsel for TelNet Worldwide, Inc.

Counsel for AT&T Michigan

*Lisa Bruno / with permission
of undersigned*

Lisa M. Bruno

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Dated: January 31, 2007

Exhibit A
Case No. U-14413

NINTH AMENDMENT

Executed as of January 29, 2007

TO

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

by and between

AT&T MICHIGAN

and

TELNET WORLDWIDE, INC.

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and Telnet Worldwide, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

2.1.1 Section 5.2.4 of Appendix UNE is amended to replace the heading "4-Wire Digital Loop" with "DS1 Loop".

2.1.2 Section 5.2.4.1 of Appendix UNE is amended to replace the terms "4-Wire 1.544 Mbps" and "4-wire digital" with "DS1", and to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."

2.1.3 Section 16.6.1 of Appendix UNE is amended to replace the term "4-Wire Digital" with the term "DS1".

2.1.4 In the Pricing Schedule, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".

2.1.5 In the Pricing Schedule, under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DIAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remnants thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of*

SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended, MPSC Case No. U-14305, Verizon v. FCC, et. al, 535 U.S. 467 (2002); USTA, et. al v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, USTA v. FCC, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

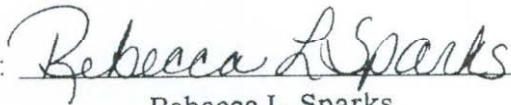
- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

Telnet Worldwide, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: 

By: 

Printed: Mark Tomasi

Printed: Rebecca L. Sparks

Title: President

Title: Executive Director-Regulatory

Date: 1/29/07

Date: 1-29-07

FACILITIES-BASED OCN # 4632

ACNA TJZ

C-9 (MI-9)

DS1 Cross-Connect Amendment Language Comparison

Sec.	Original Language	Amendment
Gen.		<p>Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units (“DTAUs”) with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan’s bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said</p>

		<p>docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading “Cross Connects”, it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC’s order in such a proceeding, shall apply no earlier than January 31, 2010.</p>
<p>App. UNE § 5.2</p>	<p>5.2 SBC Michigan will provide the following loop types at the rates, terms, and conditions set out in this Appendix and in the Appendix Pricing:</p> <p>5.2.4 4-Wire Digital Loop</p> <p>5.2.4.1 A 4-Wire 1.544 Mbps digital Loop is a transmission path that will support DS1 service including Primary Rate ISDN (PRI). The 4-wire digital Loop 1.544 Mbps supports usable bandwidth up to 1.544 Mbps.</p>	<p>5.2 SBC Michigan will provide the following loop types at the rates, terms, and conditions set out in this Appendix and in the Appendix Pricing:</p> <p>5.2.4 <u>DS1</u> Loop</p> <p>5.2.4.1 A <u>DS1</u> Loop is a transmission path that will support DS1 service including Primary Rate ISDN (PRI). The <u>DS1</u> Loop supports usable bandwidth up to 1.544 Mbps. <u>A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit (“DTAU”); no other cross connect can be used with a DS1 Loop.</u></p>

App. UNE § 16.6	16.6.1 Upon request from MCI, the following New EELs which are combinations of specific unbundled Network Element Loops found in this Appendix UNE and UDT found in this Appendix UNE, to provision circuit switched or packet switched telephone exchange service to MCI's own end user customers, are available subject to the terms and conditions contained in this Section: - 2-Wire Analog Loop to DS1 or DS3 Dedicated Transport facilities - 4-Wire Analog Loop to DS1 or DS3 Dedicated Transport facilities - 2-Wire Digital Loop to DS1 or DS3 Dedicated Transport facilities - 4-Wire Digital Loop (DS1 Loop) to DS1 or DS3 Dedicated Transport facilities	16.6.1 Upon request from MCI, the following New EELs which are combinations of specific unbundled Network Element Loops found in this Appendix UNE and UDT found in this Appendix UNE, to provision circuit switched or packet switched telephone exchange service to MCI's own end user customers, are available subject to the terms and conditions contained in this Section: - 2-Wire Analog Loop to DS1 or DS3 Dedicated Transport facilities - 4-Wire Analog Loop to DS1 or DS3 Dedicated Transport facilities - 2-Wire Digital Loop to DS1 or DS3 Dedicated Transport facilities - <u>DS1</u> Loop (DS1 Loop) to DS1 or DS3 Dedicated Transport facilities
Pricing	Unbundled Loops Digital 4W Digital – Access Area A \$40.65 4W Digital – Access Area B \$44.01 4W Digital – Access Area C \$51.71	Unbundled Loops Digital <u>DS1 Loop</u> – Access Area A \$40.65 <u>DS1 Loop</u> – Access Area B \$44.01 <u>DS1 Loop</u> – Access Area C \$51.71
Pricing	Cross-Connects 2-Wire \$0.13 4-Wire \$0.27 6-Wire \$0.40 8-Wire \$0.54	Cross-Connects 2-Wire \$0.13 4-Wire Analog \$0.27 6-Wire \$0.40 8-Wire \$0.54

DS1	\$16.46	DS1 <u>Loop</u>	<u>\$6.89</u>
DS3	N/A	DS3	N/A ¹
OC-3	\$1.05	OC-3	\$1.05
OC-12	\$1.05	OC-12	\$1.05
OC-48	\$1.05	OC-48	\$1.05

¹ Because the most recent cost study did not determine the DS3 cross connect price, the price that applies is the price from AT&T Michigan's previous cost study. Thus, the monthly recurring price for a DS3 cross connect is \$1.15. See the MCImetro Access Transmission Services, LLC Interconnection Agreement, approved on Dec. 18, 2003 in Case No. U-13758, Pricing Schedule, p. 10.

C-10 (MI-10)



[Home](#) | [Getting Started](#) | [Availability](#) | [Contacts](#) | [Training](#) | [Logout](#)



BAN: 313 G68 4292 225 ICSC: MB01 CSR Date: 04/07 Pages: 3 thru 4

- ASR Pre-validation...
- ASR Ordering Menu...
- Access Service Request WorkSheet
- Order Status
- Design Layout Report
- ASR Confirmation
- Resources...
 - > View Bill
 - > View CSR
 - > Carrier Coding Guides
 - > Mileage Calculator
 - > NECA4 BIP Display
 - > Bridging and Hubbing Guides
 - > NECA4 V&H Display
- View Company Details
- Alert Display
- Personal Profile

090706	CLS	.DHDU.362470..MB/PIU 0/PIIU 0	022307R
		/NC HCE-	
090706	1 MUJDP		090706
090706	CKL	1-25189 LAHSER, SOUTHFIELD, MI	090706
		/CFA 00009 DSX1 73 SFLDMIMN	

---SERVICE AND FEATURES---

SVC	ESTBL	:QTY	:CODE	: DESCRIPTION	:TAX:	AMOUNT	:ACTVTY	:DATE
				SFLDMIMNHT3 /LOC FLR 1/LSO				
				248 351/LSOC SFLDMIMNDSO/NCI				
				04QB9.11/SN TJZ/XPOI				
				SFLDMIMNHT3				
090706		1	CLYX1					090706
090706		1	CXCDX					022307R
				LOCAL	100%			
				X 1 X 6.8900		6.89		
090706			CKL	2-1 TOWNE SQUARE, SOUTHFIELD,				090706
				MI/LSO 248 351/LSOC				
				SFLDMIMNDSO/NCI 04DU9.1SN/SN				
				REDICO/XPOI SFLDMIPNH57				
090706		1	4U1AA	/DES NEW				090706
				LOCAL	100%			
				X 1 X 40.6500		40.65		
				LOCAL SUBTOTAL		47.54		
				CIRCUIT SUBTOTAL		47.54		

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C-11 (MI-11)

C-12 (MI-12)

MI -12

-----Original Message-----

From: TANNER, STEVEN L (ATTASIAIT) [mailto:st1714@att.com]
Sent: Tuesday, March 27, 2007 8:57 AM
To: Stefanie Martz
Cc: VOGEL, DOROTHY E (ATTASIAIT); STARR, CAROLYN (ATTASIAIT)
Subject: RE:
Resolution: AcctID: 313G682192348, CustClm: VD001307TN, AT&TCIm: LWA012489918, File
ID: 246403, CKTID: DHXU. 341687

Stefanie,

I have located this rate information on the ICA : MI Telnet Worldwide DS1 Amendment 02-20-2007. (I'm not certain where you will see this,) but I find the information on line # 668 & 669, under Product Type: Unbundled Interoffice Cross Connects

DS1 CXCDX \$16.46 UB5HF/EE7MX

Additionally, here is the response I received from contract management again. The DS1 amendment changed the CXCDX rate to 6.89 for class of Service MUJDP/MUJTP effective 2/14/06, but the CXCDX charge for UDT remains unchanged at 16.49.

If you have anything further on this matter, please contact Bruce Solis @ (214) 858-0714. He is your ICA Negotiator for TELNET. He has also confirmed the rates are correct.

steveTanner
Interconnection/UDT Billing & Claims
AT&T Wholesale Local Service Center
(414)278-2345

-----Original Message-----

From: Stefanie Martz [mailto:stefanie.martz@telnetww.com]
Sent: Monday, March 26, 2007 1:28 PM
To: TANNER, STEVEN L (ATTASIAIT)
Subject: RE:
Resolution: AcctID: 313G682192348, CustClm: VD001307TN, AT&TCIm: LWA012489918,
FileID: 246403, CKTID: DHXU. 341687
Importance: High

Steve,

I have been unable to locate the price of \$16.46 in our ICA. Can you please inform me as to where exactly in the ICA this price appears and where it states a COS basis?

Thank you,

Stefanie Martz
TelNet Worldwide, Inc.
P 248-485-1035
F 248-485-1085

-----Original Message-----

From: TANNER, STEVEN L (ATTASIAIT) [mailto:st1714@att.com]
Sent: Monday, March 26, 2007 7:53 AM
To: Stefanie Martz
Cc: VOGEL, DOROTHY E (ATTASIAIT); STARR, CAROLYN (ATTASIAIT)
Subject: FW:

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Resolution: AcctID: 313G682192348, CustCI m: VD001307TN, AT&TCI m: LWA012489918,
File
ID: 246403, CKTI D: DHXU. 341687
Importance: High

Good Morning Stefanie,
I have received a response from our Contract Management team, for final clarification on the rates, per the DS1 amendment, and how it pertains to specific COS (class of services).

Here's what I have received:
Telnet's rate for CXCDX, Class of Service MUJDP/MUJTP, was changed to 6.89 effective 2/14/07 and was the result of a DS1 Amendment. This rate will remain in effect until 2010.

CXCDX, Class of Service UB5HF/EE7MX is 16.46.

In summation, rate changes apply only to circuits which carry a class of service MUJDP or MUJTP. The circuits you dispute have a COS of EE7MX.

steveTanner
Interconnection/UDT Billing & Claims
AT&T Wholesale Local Service Center
(414)278-2345

-----Original Message-----

From: Stefanie Martz [mailto:stefanie.martz@telnetww.com]
Sent: Thursday, March 22, 2007 4:52 PM
To: TANNER, STEVEN L (ATTASIAIT)
Cc: 'Mark Iannuzzi'
Subject: RE:
Resolution: AcctID: 313G682192348, CustCI m: VD001307TN, AT&TCI m: LWA012489918,
FileID: 246403, CKTI D: DHXU. 341687
Importance: High

Steve,

Please see the attachment. It is clear that there is only one type of DS1 cross-connect price, regardless of use. Therefore, our dispute is legitimate.

Thank you,

Stefanie Martz
TelNet Worldwide, Inc.
P 248-485-1035
F 248-485-1085

-----Original Message-----

From: TANNER, STEVEN L (ATTASIAIT) [mailto:st1714@att.com]
Sent: Thursday, March 22, 2007 12:30 PM
To: Stefanie Martz
Subject: RE:
Resolution: AcctID: 313G682192348, CustCI m: VD001307TN, AT&TCI m: LWA012489918,
File
ID: 246403, CKTI D: DHXU. 341687

Stefanie,
The appropriate circuits have been corrected for billing and the CABS billing tables have been corrected for the appropriate class of service (COS).

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It applies to circuits that have a COS (class of service) : MUJDP (4-wire ANALOG DS1 Loop), not EE7MX (4-wire DIGITAL EEL) In viewing your March 2007 billing in CABS, your circuits with a COS of MUJDP are correctly rated @ \$ 6.89/per month for USOC CXCDX.

Thanks-

steveTanner
Interconnection/UDT Billing & Claims
AT&T Wholesale Local Service Center
(414)278-2345

C-13 (MI-13)



April 26, 2007

Mr. Scott Larkins
Senior Account Manager
AT&T Operations, Inc.
23500 Northwestern Hwy
Southfield, MI 48075

Re: Dispute Escalation: DS1 Cross-Connect Fees

Dear Scott:

TelNet Worldwide, Inc. (TelNet) has attempted to resolve a billing dispute regarding the fees being charged by A&T for DS1 Cross-Connects. According to the pricing amendment, the agreed upon pricing for DS1 Cross Connects as of February 14, 2007 is \$6.89/mo. However, AT&T is billing \$16.46/mo in certain cases, claiming that it is for a different class of service. However, there is only one price classification of DS1 Cross-Connects in our ICA and that price is \$6.89/mo.

According to Section 12.2 our the interconnection agreement between AT&T and TelNet, TelNet is escalating this dispute and requests AT&T to appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve this dispute. I will be acting as TelNet's representative in this dispute resolution process. Your prompt attention to this matter is appreciated.

Please advise.

Sincerely,

Mark Iannuzzi
President

C-14 (MI-14)

MI -14

-----Original Message-----

From: BEDNAR, CHRISTINE M (ATTASIAIT) [mailto:cb1879@att.com]
Sent: Monday, June 11, 2007 11:31 AM
To: Mark Iannuzzi
Cc: LARKINS, SCOTT M (ATTASIAIT); BEDNAR, CHRISTINE M (ATTASIAIT); ZUBER, CHARLES D (ATTASIAIT)
Subject: RE: Dispute Escalation Status

Mark

I sent your response back to our contract and legal group last week and did not hear back. I followed up with them this AM per your email. This was the contract group response:

"I sent your reply off to the product person who prepared the amendment which changed the rates for CXCDX (loop rate only). I will let you know what she says"

When I hear back, I will advise.

Christine

-----Original Message-----

From: Mark Iannuzzi [mailto:mark.iannuzzi@telnetww.com]
Sent: Saturday, June 09, 2007 10:29 AM
To: BEDNAR, CHRISTINE M (ATTASIAIT)
Cc: LARKINS, SCOTT M (ATTASIAIT)
Subject: RE: Dispute Escalation Status

Christine.

Given that yet another week has passed, I am assuming that there is no reply to my comments and request below. Specifically, AT&T delineating exactly where in our ICA the language and pricing is located that supports the position listed in the reply that I received.

Regretfully, I'm hereby closing the informal dispute resolution and proceeding with a formal claim.

If there is something that I missed, please let me know.

Mark

-----Original Message-----

From: Mark Iannuzzi [mailto:mark.iannuzzi@telnetww.com]
Sent: Saturday, June 02, 2007 9:17 AM
To: 'BEDNAR, CHRISTINE M (ATTASIAIT)'
Cc: 'LARKINS, SCOTT M (ATTASIAIT)'
Subject: RE: Dispute Escalation Status

Christine.

There is no such language in our contract and there is no such rate matrix in our contract. Our contract's language and intent is to address all DS1 cross connects.

The response you have provided is the same that our AP group has

received.

At this point I need to know if this is the final position of AT&T in our efforts to resolve this matter business-to-business.

Mark

-----Original Message-----

From: BEDNAR, CHRISTINE M (ATTASIAIT) [mailto:cb1879@att.com]
Sent: Friday, June 01, 2007 10:33 PM
To: Mark Iannuzzi
Cc: LARKINS, SCOTT M (ATTASIAIT); BEDNAR, CHRISTINE M (ATTASIAIT)
Subject: RE: Dispute Escalation Status

I sent it to the billing group and contract group on 5/24 and they responded with the following:

"The Telnet rate matrix states that classes of service MUJDP/MUJTP should bill at \$6.89 and that UB5HF/EE&MX should bill at \$16.46.

The language in the amendment states, The CXCDX USOC COS MUJXX should bill at \$6.96. The other CXCDX USOC with UDT COS remains unchanged. The amendment only addresses LOOPS. "

Let me know if you need further clarification on this.

Christine

-----Original Message-----

From: Mark Iannuzzi [mailto:mark.iannuzzi@telnetww.com]
Sent: Friday, June 01, 2007 11:24 AM
To: BEDNAR, CHRISTINE M (ATTASIAIT)
Cc: LARKINS, SCOTT M (ATTASIAIT)
Subject: RE: Dispute Escalation Status

Christine.

Please advise as to when you will be ready to address this matter.

Thank you.
Mark

-----Original Message-----

From: Stefanie Martz [mailto:stefanie.martz@telnetww.com]
Sent: Thursday, May 24, 2007 2:51 PM
To: 'Mark Iannuzzi'; 'BEDNAR, CHRISTINE M (ATTASIAIT)'
Cc: 'LARKINS, SCOTT M (ATTASIAIT)'
Subject: RE: Dispute Escalation Status

Christine,

Below is the list of BANS that have the incorrect DS1 cross connect charges.

313-G68-2792-792
313-G68-2797-342
313-G68-4290-340

MI -14

313-G68-1891-344
313-G68-5496-346
313-G68-4292-225
313-G68-2793-340
313-G68-3694-225
313-G68-5795-225
313-G68-1589-348
313-G68-2192-348
313-G68-2794-225
313-G68-0390-346
313-G68-6388-344

Please let me know if you need anything else.

Thank you,

Stefanie Martz
TelNet Worldwide, Inc.
P 248-485-1035
F 248-485-1050

-----Original Message-----

From: Mark Iannuzzi [mailto:mark.iannuzzi@telnetww.com]
Sent: Wednesday, May 23, 2007 9:21 PM
To: 'BEDNAR, CHRISTINE M (ATTASIAIT)'
Cc: 'LARKINS, SCOTT M (ATTASIAIT)'; 'Stefanie Martz'
Subject: RE: Dispute Escalation Status

Christine.

Attached please find the letter of dispute escalation that I sent to Scott.

Also, attached please find the amendment to our ICA that defines the correct pricing.

Finally, Stephanie, please forward to Christine the BANS with the incorrect DS1 cross connect charges.

Thanks
Mark

-----Original Message-----

From: BEDNAR, CHRISTINE M (ATTASIAIT) [mailto:cb1879@att.com]
Sent: Wednesday, May 23, 2007 2:15 PM
To: Mark Iannuzzi
Cc: LARKINS, SCOTT M (ATTASIAIT); Stefanie Martz; BEDNAR, CHRISTINE M (ATTASIAIT)
Subject: RE: Dispute Escalation Status

I am going to need a little more information regarding your dispute to determine who to escalate to. Can you provide me any circuit info, billing info etc...

Christine

-----Original Message-----

From: Mark Iannuzzi [mailto:mark.iannuzzi@telnetww.com]
Sent: Wednesday, May 23, 2007 2:09 PM
To: BEDNAR, CHRISTINE M (ATTASIAIT)
Cc: LARKINS, SCOTT M (ATTASIAIT); 'Stefanie Martz'

Subject: Dispute Escalation Status

Christine.

On April 26, 2007, I remitted a dispute escalation request according to the terms of our Interconnection Agreement. I know Scott is out, however, I have yet to receive a reply (other than Scott's) as to the party at AT&T who will be assigned to this matter.

Please advise

Thank you.
Mark

-----Original Message-----

From: LARKINS, SCOTT M (ATTASIAIT) [mailto:sl2646@att.com]
Sent: Monday, May 07, 2007 8:45 AM
To: Mark Iannuzzi; Mark Vickers; Linda Cutright; Mark Swope
Subject: Scott Larkins Coverage

I am having some back surgery this Monday. I hope to be back to work in three weeks however in my absence I am leaving you in the very capable hands of my colleague Christine Bednar. I interact with many individuals at Telnet although I am only sending this to the few that I interact with most. Please feel free to inform other Telnet team members of Christine's contact information.

I am grateful to have Christine covering for me and I hope to schedule something like golf with you all soon.

Christine Bednar
(317) 488-3017
cb1879@att.com <mailto:cb1879@mwwmail.att.com>

Scott Larkins
248-552-8255 off.
847-513-0325 eFax
National Account Manager, AT&T Wholesale
23500 Northwestern Hwy Rm# E233
Southfield, MI 48075

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>

MI -14

C-15 (MI-15)

PART 23 - Interconnection Service for Local
Telecommunications Carriers
SECTION 4 - Vacant

5th Revised Sheet No. 1
Cancels
4th Revised Sheet No. 1 (C)

(D)

Section 4 has been vacated in its entirety. The following sheets have been deleted and removed from the tariff: (C)

2nd Revised Sheet No. 3	Original Sheet No. 30
4th Revised Sheet No. 4	Original Sheet No. 31
3rd Revised Sheet No. 5	Original Sheet No. 32
3rd Revised Sheet No. 6	Original Sheet No. 33
2nd Revised Sheet No. 7	Original Sheet No. 34
2nd Revised Sheet No. 8	Original Sheet No. 35
5th Revised Sheet No. 9	Original Sheet No. 36
5th Revised Sheet No. 10	Original Sheet No. 37
5th Revised Sheet No. 11	Original Sheet No. 38
5th Revised Sheet No. 12	Original Sheet No. 39
3rd Revised Sheet No. 13	Original Sheet No. 40
3rd Revised Sheet No. 14	Original Sheet No. 41
5th Revised Sheet No. 15	Original Sheet No. 42
5th Revised Sheet No. 16	Original Sheet No. 43
4th Revised Sheet No. 17	Original Sheet No. 44
4th Revised Sheet No. 18	Original Sheet No. 45
3rd Revised Sheet No. 19	Original Sheet No. 46
3rd Revised Sheet No. 20	Original Sheet No. 47
5th Revised Sheet No. 21	Original Sheet No. 48
1st Revised Sheet No. 22	Original Sheet No. 49
Original Sheet No. 23	Original Sheet No. 50
Original Sheet No. 24	Original Sheet No. 51
Original Sheet No. 25	Original Sheet No. 52
Original Sheet No. 26	Original Sheet No. 53
Original Sheet No. 27	Original Sheet No. 54
Original Sheet No. 28	Original Sheet No. 55
Original Sheet No. 29	Original Sheet No. 56

(C)

Issued under authority of 1991 PA 179 as amended.

Issued: January 15, 2007

Effective: January 16, 2007

Robin M. Gleason, Vice President - State Regulatory
mitariff@att.com

Detroit, Michigan

517 334-3400

PART 23 - Interconnection Service for Local
Telecommunications Carriers
SECTION 4 - Vacant

4th Revised Sheet No. 2
Cancels
3rd Revised Sheet No. 2 (C)

(D)

Section 4 has been vacated in its entirety. The following sheets have been deleted and removed from the tariff: (C)

Original Sheet No. 57	1st Revised Sheet No. 90
Original Sheet No. 58	1st Revised Sheet No. 91
Original Sheet No. 59	1st Revised Sheet No. 92
Original Sheet No. 60	1st Revised Sheet No. 93
Original Sheet No. 61	3rd Revised Sheet No. 94
Original Sheet No. 62	Original Sheet No. 95
Original Sheet No. 63	Original Sheet No. 96
Original Sheet No. 64	1st Revised Sheet No. 97
Original Sheet No. 65	Original Sheet No. 98
Original Sheet No. 66	Original Sheet No. 99
Original Sheet No. 67	Original Sheet No. 100
Original Sheet No. 68	Original Sheet No. 101
Original Sheet No. 69	Original Sheet No. 102
Original Sheet No. 70	Original Sheet No. 103
Original Sheet No. 71	Original Sheet No. 104
Original Sheet No. 72	Original Sheet No. 105
Original Sheet No. 73	Original Sheet No. 106
Original Sheet No. 74	Original Sheet No. 107
Original Sheet No. 75	Original Sheet No. 108
Original Sheet No. 76	Original Sheet No. 109
Original Sheet No. 77	Original Sheet No. 110
Original Sheet No. 78	Original Sheet No. 111
Original Sheet No. 79	1st Revised Sheet No. 112
Original Sheet No. 80	1st Revised Sheet No. 113
Original Sheet No. 81	1st Revised Sheet No. 114
Original Sheet No. 82	1st Revised Sheet No. 115
Original Sheet No. 83	1st Revised Sheet No. 116
1st Revised Sheet No. 84	1st Revised Sheet No. 117
2nd Revised Sheet No. 85	2nd Revised Sheet No. 118
Original Sheet No. 85.1	Original Sheet No. 118.1
1st Revised Sheet No. 86	Original Sheet No. 118.2
3rd Revised Sheet No. 87	Original Sheet No. 119
2nd Revised Sheet No. 88	Original Sheet No. 120
1st Revised Sheet No. 89	2nd Revised Sheet No. 121

(C)

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Robin M. Gleason, Vice President - State Regulatory
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C-16 (MI-16)

PART 23 - Interconnection Service for Local
Exchange Telecommunications Carriers
SECTION 4 - Collocation Services

Original Sheet No. 119

3. AMERITECH CROSS-CONNECTION SERVICE (ACCS)

A. DESCRIPTION

Ameritech Cross-Connection Service (ACCS) provides for the connection of Carrier provided Voice Grade, 0 to 75 baud, 0 to 150 baud, 300 - 3,000 Hz, 2.4 Kbps, 4.8 Kbps, 9.6 Kbps, 19.2 Kbps, 56.0 Kbps, 64.0 Kbps, 1.544 Mbps, 44.736 Mbps, 155.52 Mbps, 622.08 Mbps, and 2488.32 Mbps channels to the following Company services:

- Switched Access services and/or Special Access services under the provisions of F.C.C. No. 2,
- Unbundled Loops under the provisions of M.P.S.C. No. 20R, Part 19, Section 2,
- Unbundled Local Switching under the provisions of M.P.S.C. No. 20R, Part 19, Section 3,
- Service Provider Number Portability under the provisions of M.P.S.C. No. 20R, Part 19, Section 6,
- Ameritech End Office Integration Service under the provisions of M.P.S.C. No. 20R, Part 23, Section 2,
- Tandem Switching service under the provision of M.P.S.C. No. 20R, Part 19, Section 5,
- Unbundled Interoffice Transport under the provision of M.P.S.C. No. 20R, Part 19, Section 12.

Issued under authority of M.P.S.C. Order dated 08/31/00 Case No. U-11831

Issued: October 2, 2000

Effective: October 3, 2000

By Robin Gleason, Vice President - Regulatory
Detroit, Michigan

MICHIGAN BELL
TELEPHONE COMPANY
TARIFF M.P.S.C. NO. 20R

Ameritech
Tariff

PART 23

SECTION 4

PART 23 - Interconnection Service for Local
Exchange Telecommunications Carriers
SECTION 4 - Collocation Services

Original Sheet No. 120

3. AMERITECH CROSS-CONNECTION SERVICE (ACCS) (cont'd)

B. TERMS AND CONDITIONS

Ameritech Cross-Connection Service (ACCS) is provided under the same terms and conditions as Ameritech Cross-Connection Service for Interconnection (ACCSI) (Ameritech Operating Companies Tariff F.C.C. No. 2, Section 16.4).

Issued under authority of M.P.S.C. Order dated 08/31/00 Case No. U-11831

Issued: October 2, 2000

Effective: October 3, 2000

By Robin Gleason, Vice President - Regulatory
Detroit, Michigan

PART 23 - Interconnection Service for Local
Exchange Telecommunications Carriers
SECTION 4 - Collocation Services

1st Revised Sheet No. 121
Cancels
Original Sheet No. 121

3. AMERITECH CROSS-CONNECTION SERVICE (ACCS) (cont'd)

C. PRICES

Description /Billing Code/	Recurring Charge	Non- recurring Charge
2-Wire Cross-Connect /CXCT2/	\$ 0.13	-
4-Wire Cross-Connect /CXCT4/	0.25	-
6-Wire Cross-Connect /CXCT6/	0.38	-
8-Wire Cross-Connect /CXCT8/	0.50	-
DS1/LT1 Cross-Connect /CXCDX/	.27	-
DS3/LT3 Cross-Connect /CXCEX/	1.15	-
OC-n Cross-Connect	0.88	-

Issued under authority of M.P.S.C. Order dated 08/31/00 Case No. U-11831

Issued: January 8, 2001

Effective: January 9, 2001

By Robin Gleason, Vice President - Regulatory
Detroit, Michigan

C-17 (MI-17)

ACCESS SERVICE

16. Ameritech Interconnection Services (Cont'd)

16.4. Cross-Connection Service for Interconnection (ACCSI) (Cont'd)

(T)

(B) Special Access Connections:

- Telegraph (0-75 baud or 0 to 150 baud) service with or without interoffice transport.
- Direct Analog (300 - 3,000 Hz) service with or without interoffice transport.
- Base Rate (2.4, 4.8, 9.6, 19.2, 56.0, 64.0 Kbps) service with or without interoffice transport. (T)
- DS1 (1.544 Mbps) service with or without interoffice transport including DS1 to Voice/Base Rate multiplexing (Optional Feature). * (T)
(T)
- DS3 (44.736 Mbps) service with or without interoffice transport including DS3 to DS1 multiplexing (Optional Feature). * (T)
(T)
- OC-3 (155.52 Mbps) service with or without interoffice transport including add/drop multiplexing (Optional Feature). (T)
- OC-12 (622.08 Mbps) service with or without interoffice transport including add/drop multiplexing (Optional Feature). (T)
- OC-48 (2488.32 Mbps) service with or without interoffice transport including add/drop multiplexing (Optional Feature). (T)
- OC-192 (9953.28 Mbps) service with or without interoffice transport including add/drop multiplexing (Optional Feature). (T)

(C) Digital Network Access Line Connections:

- STP Access Service

Rates for ACCSI are described in Section 16.5, (4), following.

16.4.1 Allowance for Interruptions

ACCSI credit allowances will be determined using the same methodology applicable to the connected interstate Switched Transport and/or Special Access Service components. Credit Allowances are described in Section 2, preceding.

* Shared Use rate treatment as described in Section 7.4.8 preceding is not applicable to Ameritech Interconnection Services rate elements contained within Section 16.

(This page filed under Transmittal No. 1357)

ACCESS SERVICE

16. Ameritech Interconnection Services (Cont'd)

16.5 Rates and Charges (Cont'd)

(4) Ameritech Cross-Connection Service for Interconnection
 (ACCSI) - for all AIS Services (Cont'd)

	USOC	Monthly	Nonrecurring Charge	
(B) Special Access Connections: (Cont'd)				
DS1				
Wisconsin Only	CXCDX	\$ 0.52	N/A	
All Other States	CXCDX	6.89	N/A	
DS3				
Wisconsin Only	CXCEX	0.96	N/A	
All Other States	CXCEX	1.01	N/A	
OC-3	CXCMX	Apply rates and charges as OCCCX in 7.5.10(A)(5)(c)		
OC-12	CXCNX	Apply rates and charges as OCCDX in 7.5.10(B)(5)(c)		
OC-48	CXCZX	Apply rates and charges as OCCFX in 7.5.10(C)(5)(c)		
OC-192		Apply rates and charges as OCCGX in 7.5.10(D)(5)(c)		
WaveMAN SM				
OC-48	CXCZX	\$1,880.00	\$400.00	
OC-192	C2CAX	\$3,760.00	\$400.00	
GigaMAN [®]				
1 Gigabit Ethernet	OCLGX	\$1,500.00	\$400.00	
OPT-E-MAN [®]				
1 Gigabit Ethernet	OCLGX	\$ 100.00	\$200.00	(T)
CSME				
1 Gigabit Ethernet	OCLGX	\$ 100.00	\$200.00	(N) (N)
DecaMAN [®]				
10 Gigabit Ethernet	OCLHX	\$3,500.00	\$400.00	
(C) Digital Network Access Line Connections:				
- LT-1 (1.544 Mbps)	CXCHX	Apply rates, charges as CXCDX		

(This page filed under Transmittal No. 1577)

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY

OF

PETER IANUZZI

1 **Q. Please state your name and address.**

2 **A.** My name is Peter Iannuzzi. My business address is 1175 W. Long Lake Rd., Suite
3 101, Troy, Michigan 48098.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the Systems Engineering Manager of TelNet Worldwide, Inc. (“TelNet”). I am
7 responsible for (i) Design and implementation of specifications for new
8 telecommunication services, platform nodes and/or their transmission links taking
9 into consideration the existing network topology and cost; (ii) conducting analysis to
10 identify areas for improvement; (iii) providing and executing acceptance test plans
11 for new systems being evaluated for introduction into the production network (this
12 responsibility includes providing methods of procedure for service migration
13 strategies to these new systems); (iv) drafting and maintaining technical specification
14 drawings of network topology; (v) designing/planning build out or upgrading
15 telecommunication plants/sites; (vi) developing/maintaining MOP documentation
16 on plant installation and maintenance procedures; and (vii) assuring/inspecting
17 designs and installations are implemented that meet or exceed TelNet network
18 requirements for redundancy, diversity, quality, reliability and remote accessibility.

19
20 **Q. Please describe you education and professional background.**

21 **A.** I graduated in 1990 with a Bachelor of Science in Electrical Engineering from
22 Oakland University. I have been TelNet Worldwide’s Systems Engineering Manager
23 from 1999 to the present. I was a Hewlett Packard CO Systems Engineer -
24 Mechanical Engineering Productivity Group from 1997 to 1999. From 1991 to 1997,
25 I was employed by Variation Systems Analysis as Mechanical Engineer Consultant
26 and Technical Support Specialist.

27
28 **Q. Why are you testifying?**

29 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
30 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
31 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
32 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs

1 and AT&T. The Complaint concerns two main controversies: (1) AT&T's refusal to
2 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
3 an amendment to ACD's interconnection agreement with AT&T, and (2) AT&T's
4 refusal to permit the other CLECs ("Adopting CLECs") to enter into amendments
5 to their interconnection agreements containing the same rates for DS1 cross
6 connects as contained in amendments between ACD, JAS, TelNet and five other
7 CLECs and AT&T.

8

9 **Q. Please indicate the charges AT&T assesses on TelNet for an enhanced**
10 **extended DS1 Loop ("extended DS1 Loop").**

11 **A. Exhibit C-11 (MI-11)** to the testimony of Mark Iannuzzi shows the charges AT&T
12 assesses on TelNet for an extended DS1 Loop. Such invoice shows the following
13 charges associated with an extended DS1 Loop: two DS1 cross connect charges of
14 \$16.46 each (CXCDX), two channel mileage termination charges of \$12.28 each
15 (CZ4X2), one 1.544 Mbps Loop charge of \$44.01 (4U1B1), and one distance-
16 sensitive channel mileage charge of \$0.77 (1YZX2 per mile).

17

18 (I understand that the above channel mileage charge is for Zone 2 and that slightly
19 different charges apply for other zones. A review of TelNet's pricing appendix to its
20 Interconnection Agreement shows AT&T charges \$12.39 per month for DS1
21 termination in Zone1 and \$13.17 in Zone 3.)

22

23 **Q. Please describe an extended DS1 Loop.**

24 **A.** An extended DS1 Loop is exactly what it sounds like – it is a DS1 Loop that is
25 extended. Normally, when TelNet purchases an unextended DS1 Loop from
26 AT&T, TelNet is purchasing a DS1 circuit from the customer premises to AT&T's
27 central office. Once at AT&T's central office, the circuit is cross connected to
28 TelNet's facilities (appearance) within AT&T's area in the central office. As I
29 understand it, AT&T uses a DS1 cross connect to make this connection, with
30 attached testing equipment that AT&T identifies as a digital test access unit
31 ("DTAU"). The circuit is then connected to TelNet's collocation equipment within

1 AT&T's central office. The DTAU provides testing capabilities for the provisioning,
2 maintenance, and trouble shooting of these unextended DS1 Loops.

3
4 However, with extended DS1 Loops, things work differently. Instead of being cross
5 connected with TelNet's facilities upon arriving at AT&T's central office, the DS1
6 circuit is cross connected with the transmission equipment within the originating
7 central office, which at that point acts as an "on-ramp." This transmission
8 equipment is identified as AT&T's invoices as "Channel Mileage Termination." The
9 circuit then leaves the original central office and is transmitted to the destination
10 central office, where the circuit then takes an "off-ramp" at the transmission
11 equipment within the destination central office. This transmission equipment is the
12 second "Channel Mileage Termination" charge AT&T assesses in connection with
13 an extended DS1 Loop. At this point, the transmission equipment is cross
14 connected with TelNet's facilities in the destination central office, and from there
15 transferred to TelNet's collocation equipment within the destination central office.
16 Thus, the DS1 Loop is "extended" from the original central office to TelNet's
17 collocation equipment in the destination central office.

18
19 **Q. Does AT&T utilize DTAUs in connection with providing TelNet with an**
20 **extended DS1 Loop?**

21 **A.** I do not have access to AT&T's equipment to determine whether AT&T includes
22 DTAUs in connection with its provision of extended DS1 Loops. However, my
23 opinion is that AT&T does *not* need or use DTAUs with these loops.

24
25 **Q. Why do you believe AT&T does not need or utilize DTAUs in connection**
26 **with its provision of an extended DS1 Loop?**

27 **A.** There are a couple of reasons. First, within the original central office, the DS1
28 circuit does not connect with TelNet's facilities at all. Instead, the circuit is cross
29 connected to AT&T's transmission equipment for transfer to the destination central
30 office. The cross connect to AT&T's transmission equipment does not require a
31 DTAU because AT&T's transmission equipment has full and complete capabilities
32 to test the circuit both backward to the customer premises and forward to the cross

1 connection point in the destination central office. In purchasing an extended DS1
2 Loop, TelNet already pays for this transmission testing capability when it purchases
3 the loop because TelNet pays for *two* Channel Mileage Termination pieces. Thus,
4 even if AT&T provides a DTAU with the cross connect in the original central office,
5 such DTAU would be completely unnecessary and redundant.

6

7 Second, the DTAU is also not necessary at the cross connect site within the
8 destination central office. Although AT&T's transmission equipment is connected
9 with TelNet's facilities within the destination central office, again, AT&T's
10 transmission equipment is able to perform the type of testing that the DTAU would
11 perform. Thus, there is no need for the DTAU. And in my experience, a DTAU is
12 not available to AT&T for use within the destination central office.

13

14 In my experience, during troubleshooting of a DS1 Loop a systematic process of
15 testing takes place in an attempt to isolate the problem causing the service
16 deterioration and/or failure. In every case where I have been involved, when the
17 testing process has concluded within the destination central offices transmission
18 equipment, and where the results of the isolation tests still have not revealed the root
19 cause (that is, TelNet's transmission equipment has not responded to loopbacks for
20 the DS1 being tested), the AT&T remote technician acknowledges the limits of his
21 testing capability. The remote technicians acknowledge that further testing requires
22 dispatch of a CO technician to the destination central office. AT&T would then
23 dispatch CO technician then manually plugs into the appearance (a.k.a. cross-
24 connect-equipment assignment) panel with a hand held test set to perform the tests
25 between the AT&T transmission equipment and TelNet's transmission equipment in
26 the collocation area. If AT&T was providing a DTAU at the cross connect point in
27 the destination central office, there would be no need to manually dispatch a
28 technician.

29

30 **Q. Based on your opinion and experience, are DTAUs necessary for AT&T's**
31 **provision of an extended DS1 Loop to TelNet?**

1 **A.** No. AT&T's transmission equipment performs all of the testing functions that
2 DTAUs perform. Thus, there is no need for the DTAUs. In addition, as discussed,
3 it appears from my experiences that AT&T does not even provide the DTAUs, at
4 least not in the destination central office, when provisioning an extended DS1 Loop.

5

6 **Q. Is a DTAU separate and distinct from a cross connect?**

7 **A.** Yes. The DTAU is separate and distinct from a cross connect. They are two
8 different pieces of equipment, and it is certainly technically feasible to use a 4-wire
9 cross connect, which is capable of supporting the transmission of digital data at the
10 rate of 1.544 Mbps, for both extended and unextended DS1 Loops without the
11 bundled DTAU attached.

12

13 **Q. Does TelNet want or need a DTAU bundled to the cross connects for use
14 with extended DS1 Loops?**

15 **A.** No. The DTAU is simply not necessary. In paying for the transmission component
16 of the extended DS1 Loop, TelNet already pays for and receives all of the testing
17 capability via the termination equipment that is necessary for an extended DS1 Loop.
18 In addition, although AT&T charges for two DTAUs in connection with the cross
19 connects associated with an extended DS1 Loop, I believe that AT&T either does
20 not provide or does not use either of these DTAUs. Accordingly, not only is TelNet
21 paying for a bundled service that is completely unnecessary, TelNet is likely paying
22 for a bundled service that it is not even receiving.

23

24 **Q. Please summarize Telnet's request.**

25 **A.** TelNet should be able to purchase an extended DS1 Loop without paying for the
26 unnecessary and perhaps nonexistent DTAUs. Accordingly, AT&T should provide
27 TelNet with two 4-wire cross connects, or two DS1 cross connects without the
28 bundled DTAU for use in AT&T's provision of the extended DS1 Loop.

29

30 **Q. Does this conclude your prepared Direct Testimony?**

31

32 **A.** Yes.

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

BRUCE H. YUILLE

1 **Q. Please state your name and address.**

2 **A.** My name is Bruce H. Yuille. My business address is 5850 Dixie Highway, Clarkston,
3 Michigan 48346.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the President of B&S Telecom, Inc. (“B&S”). I am responsible for the
7 management and operation of B&S.

8
9 **Q. Please describe B&S.**

10 **A.** B&S is a licensed provider of competitive local exchange service in Michigan. B&S
11 has an interconnection agreement with Michigan Bell Telephone Company d/b/a
12 AT&T Michigan (“AT&T”).

13
14 **Q. Why are you testifying?**

15 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
16 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
17 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
18 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
19 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
20 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
21 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
22 refusal to permit the other CLECs, including B&S (“Adopting CLECs”), to enter
23 into amendments to their interconnection agreements containing the same rates for
24 DS1 cross connects as contained in amendments between ACD, JAS, TelNet and
25 five other CLECs and AT&T.

26
27 **Q. Did you make a request to AT&T for an amendment to B&S’s**
28 **interconnection agreement with AT&T relating to the rate for DS1 cross**
29 **connects?**

30 **A.** Yes. When I became aware that, as a result of the proceeding in Case No. U-14952,
31 AT&T had entered into interconnection agreement amendments with eight other
32 CLECs which lowered the rate for DS1 cross connects from \$16.46 per month to

1 \$6.89 per month, I requested my attorney to contact AT&T to request the same
2 amendment with the same pricing. On March 5, 2007, my attorney Mr. Hai Jiang e-
3 mailed a letter to AT&T requesting that B&S be permitted to adopt an amendment
4 with the \$6.89 DS1 cross connect rate. A copy of the letter is attached as **Exhibit**
5 **C-18 (BHY-1)**. I also requested through counsel that the amendment be made
6 effective as of February 14, 2007, which was the effective date of the reduced pricing
7 amendments entered into as a result of Case No. U-14952.

8

9 **Q. How did AT&T respond to the request?**

10 **A.** Initially, Ms. PJ Pothen of AT&T responded in a March 5, 2007 e-mail that she
11 would check into it. After Mr. Jiang forwarded her the Commission's order
12 approving a similar amendment for another CLEC, Ms. Pothen indicated that she
13 would submit the request to the contract management group. Having heard nothing
14 for over a week, Mr. Jiang sent Ms. Pothen an e-mail on March 13, 2007, asking for
15 the status of the request. Ms. Pothen responded in a March 13, 2007 e-mail that she
16 was still "awaiting Legal's final approval." This e-mail string is attached as **Exhibit**
17 **C-19 (BHY-2)**.

18

19 **Q. Did AT&T then send B&S an amendment for B&S to execute?**

20 **A.** Yes. On March 27, 2007, AT&T sent me for my signature a DS1 Cross Connects
21 Amendment for Michigan ("Original Cross Connect Amendment"), as well as a joint
22 application for Commission approval. Copies of the cover letter, amendment, and
23 joint application are attached as **Exhibit C-20 (BHY-3)**. This amendment was
24 substantively the same as the amendments entered into by the parties to Case No. U-
25 14952, and changed the rate for DS1 cross connects from \$16.46 to \$6.89.

26

27 **Q. Please describe what happened next.**

28 **A.** I forwarded the documents to my attorneys Mr. Gary Field and Mr. Jiang for them
29 to review, to execute on my behalf, and to return to AT&T. As I understand it, Mr.
30 Field sent the executed amendment and joint application to AT&T on March 28,
31 2007. See a copy of the e-mail string attached as **Exhibit C-21 (BHY-4)**.

32

1

2 **Q. Did AT&T ever return to you a copy of the executed documents?**

3 **A.** No.

4

5 **Q. What did you do next?**

6 **A.** I directed my attorney Mr. Gary Gensch to send a notice of dispute to AT&T. Mr.
7 Gensch sent the notice of dispute to AT&T on April 27, 2007. A copy of the notice
8 is attached as **Exhibit C-22 (BHY-5)**. The notice disputed AT&T's refusal to enter
9 into an amendment with B&S changing the rate of DS1 cross connects from \$16.46
10 to \$6.89, even though AT&T had entered into similar amendments with eight other
11 CLECs in Michigan. The notice appointed me as representative for informal
12 negotiations aimed at resolving the dispute.

13

14 **Q. How did AT&T respond to the notice of dispute?**

15 **A.** I did not hear anything from AT&T for more than six weeks. Then, on June 11,
16 2007, AT&T sent me a Revised DS1 Cross Connect Amendment. Copies of the
17 cover letter and the revised amendment are attached as **Exhibit C-23 (BHY-6)**.
18 The Revised DS1 Cross Connect Amendment did not remove the \$16.46 rate from
19 the pricing schedule like the Original DS1 Cross Connect Amendment (and the U-
20 14952 amendments) had done, and instead retained the \$16.46 rate to be applied to a
21 new category of DS1 cross connects that had not previously appeared in the pricing
22 schedule – “DS1 Transport.” The revised amendment also included the \$6.89 rate
23 to be applied to “DS1 Loop.” In addition, the Revised DS1 Cross Connect
24 Amendment included the following language not present in the initial amendment:

25

“As specified below in the pricing schedule under ‘Enhanced
26 Extended Loop (EEL)’, DS1 EEL charge is the sum of its parts (i.e.
27 both DS1 Loop cross-connect and DS1 Transport cross-connect are
28 applicable).”

29

30

31

32

Accordingly, instead of providing for one DS1 cross connect rate of \$6.89, as AT&T
provided in the amendments entered into with the eight CLECs involved in Case
No. U-14952 (e.g., see **Exhibit C-8 (MI-8)** to the direct testimony of Mark
Iannuzzi), and as AT&T initially offered to B&S, the revised amendment requires

1 that one of the DS1 cross connects associated with an enhanced extended DS1 Loop
2 (“extended DS1 Loop”) be billed at the rate of \$6.89, while the other DS1 cross
3 connect associated with an extended DS1 Loop be billed at the rate of \$16.46.
4

5 **Q. Did B&S enter into the revised amendment?**

6 **A.** No. The revised amendment prices DS1 cross connects connected to extended DS1
7 Loops at a higher rate than AT&T’s amendments with the CLECs involved in Case
8 No. U-14952 prices such cross connects. Such pricing is discriminatory, and is
9 contrary to Michigan law, federal law, and § 1.1, Appendix XVII and § 1.1, Appendix
10 XXIII of B&S’s interconnection agreement with AT&T. *See Exhibit C-24 (BHY-*
11 *7).*
12

13 **Q. Has AT&T permitted B&S to enter into an amendment revising the DS1**
14 **cross connect price for unextended DS1 Loops only?**

15 **A.** No. Even though AT&T has apparently taken the position that the \$6.89 rate
16 should only apply to unextended DS1 Loops, AT&T has refused to permit B&S to
17 obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops until
18 B&S agrees that it will pay the discriminatory price of \$16.46 per month for one of
19 the cross connects associated with the extended DS1 Loop.
20

21 **Q. If, as AT&T contends, the \$6.89 rate only applies to unextended DS1 Loops,**
22 **what rate should B&S pay for cross connects associated with extended DS1**
23 **Loops?**

24 **A.** As discussed in the testimony of Mr. Peter Iannuzzi and Dr. August Ankum, B&S
25 and the other CLECs should be able to choose to purchase a 4-wire, DS1 (1.544
26 Mbps) level cross connect for use with its extended DS1 Loops at the rate of \$0.27.
27 AT&T should not be permitted to force B&S or the other CLECs to purchase the
28 DS1 cross connect with the bundled digital test access unit (“DTAU”) where B&S
29 does not want the DTAU and where the DTAU is unnecessary.
30

31 **Q: Why do you take this position?**
32

1 **A:** Because ATT has a clear duty to unbundle its network wherever technically feasible.
2 It is clear to me from such testimony, that either or both DS1 and EELs will work
3 with mere four wire cross connects. The DTAU therefore is NOT necessary for
4 either. It is equally clear to me that the DTAU may provide some added benefits
5 that an end user may want to purchase. For instance the end user may want to
6 decrease a quality of service promise of restoration of service from 20+ hours down
7 to 4 hours or less. Therefore, the DTAU is an optional quality of service function
8 that should be the choice of the end user or the CLEC that orders a unextended DS1
9 loop or an extended DS1 Loop. Accordingly, B&S should be able to purchase
10 unextended and extended DS1 loops with a four wire cross connect at the 27 cent
11 cross connect price or using a DTAU at the appropriate price for that service.

12

13 **Q.** Does this conclude your prepared testimony?

14

15 **A.** Yes.

C-18 (BHY-1)

FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

March 5, 2007

Via Email

PJ Pothen
AT&T Account Manager

Re: B&S Telecom, Inc.'s Adoption of an amendment to the Interconnection Agreement

Dear Mr. Pothen:

By this letter, B&S Telecom, Inc. ("B&S") requests that B&S and AT&T Michigan enter into the sixth amendment similar to the Fifth Amendment-DS1 Cross Connects to the Interconnection Agreement between ACD Telecom, Inc. and AT&T Michigan that the Michigan Public Service Commission ("Commission") approved in Case No. U-12988 on February 14, 2007. The ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects sets the rate for a DS1 cross-connect at \$6.89.

On March 14, 2006 in Case No. 14783, B&S adopted the Interconnection Agreement between Quick Communications, Inc. ("Quick") and AT&T Michigan that was approved by the Commission on October 14, 2004 in Case No. U-14301. The adopted Interconnection Agreement also incorporates by reference the four amendments that Quick and AT&T Michigan entered into. Subsequently, B&S and AT&T Michigan also adopted the Fifth Amendment.

Pursuant to Section 1.1 of Appendix XI, Network Interconnection Method/Interconnection Trunking of our Interconnection Agreement, AT&T Michigan shall provide Interconnection on rates, terms and conditions that are just, reasonable and nondiscriminatory in accordance with the terms and conditions of this Agreement and the requirements of the Act. Under Section 251(c)(2)(D), AT&T Michigan has the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

In the event that AT&T Michigan disagrees with B&S' request to enter into an amendment similar to the ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects, this letter serves as a request to negotiate an amendment pursuant to the above quoted section in the Interconnection Agreement and Section 251(c)(2)(D) of the Act.

The following is the contact information of B&S:

Bruce H. Yuille/President
5850 Dixie Highway
Clarkston, MI 48346
Fax: 248-623-1977

Thank you for your prompt attention to this matter. Please contact either me or Gary Field, legal counsel to B&S, at (517) 913-5100 to begin discussions on the procedures that AT&T Michigan would like to employ to finalize the amendment with B&S.

Very truly yours,

Field Law Group, PLLC

Hai Jiang

HJ/tab

cc: Bruce Yuille

C-19 (BHY-2)

BHY-2

From: POTHEN, PJ (SWBT) [mailto:py4601@att.com]
Sent: Tuesday, March 13, 2007 3:41 PM
To: Hai Jiang
Subject: RE: B&S Telecom request to adopt a cross-connects amendment

Hai,

Because B&S Telecom was an MFN into Quick Communications (which was an adoption of MCI metro) unlike ACD Telecom which was an MFN into Coast to Coast, I to submit it to our Product and Legal teams for modification and approval. The language in Section 2 had to be modified for proper reference to the original agreement. It has met Product's approval and I am now awaiting Legal's final approval. I am hoping to receive final approval by end of business today.

I have all my documents prepared and ready to go to contract management as soon as I receive that consensus. I apologize for the delay but it couldn't be avoided as the underlying agreements were different.

PJ POTHEN

AT&T CLEC Negotiations

311 S. Akard, 20th Floor

Dallas, TX 75202

Office: 214-858-0761

Fax: 214-858-1245

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-----Original Message-----

From: Hai Jiang [mailto:hjiang@FielLawGroup.com]
Sent: Tuesday, March 13, 2007 11:07 PM
To: POTHEN, PJ (ATTSWBT)
Subject: RE: B&S Telecom request to adopt a cross-connects amendment

Mr. Pothen,

How is our request being processed? We would appreciate if this adoption can be finalized as soon as possible.

BHY-2

Hai Ji ang
Field Law Group, PLLC
915 N. Washington Avenue,
Lansing, MI 48906-5137
hjiang@FieldLawGroup.com
(517) 913-5101 Phone
(517) 913-3471 Fax

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From: POTHEN, PJ (SWBT) [mailto:py4601@att.com]
Sent: Monday, March 05, 2007 7:22 PM
To: Hai Ji ang
Subject: RE: B&S Telecom request to adopt a cross-connects amendment

Thanks Hai. I will submit the request to our contract management group tomorrow morning.

PJ POTHEN
AT&T CLEC Negotiations
311 S. Akard, 20th Floor
Dallas, TX 75202
Office: 214-858-0761
Fax: 214-858-1245

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-----Original Message-----
From: Hai Ji ang [mailto:hjiang@FieldLawGroup.com]
Sent: Monday, March 05, 2007 2:13 PM
To: POTHEN, PJ (SWBT)
Subject: RE: B&S Telecom request to adopt a cross-connects amendment

BHY-2

Mr. Pothan,

Just for your information, attached is the Michigan commission's order approving the cross-connects amendment.

Thank you for your assistance in this matter.

Hai Jiang

Field Law Group, PLLC

915 N. Washington Avenue,

Lansing, MI 48906-5137

hjiang@FieldLawGroup.com

(517) 913-5101 Phone

(517) 913-3471 Fax

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From: POTHAN, PJ (SWBT) [mailto:py4601@att.com]
Sent: Monday, March 05, 2007 2:02 PM
To: Hai Jiang
Cc: Gary Field; Bruce Yuille
Subject: RE: B&S Telecom request to adopt a cross-connects amendment

Hai,

Let me check into this and get back with you because a CLEC can no longer adopt an amendment from another CLEC agreement without adopting the complete agreement. However, if it is a standard amendment that you can request then that will not be a problem.

I let you know what I find out.

BHY-2

PJ POTHEN

AT&T CLEC Negotiations

311 S. Akard, 20th Floor

Dallas, TX 75202

Office: 214-858-0761

Fax: 214-858-1245

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-----Original Message-----

From: Hai Jiang [mailto:hjiang@FieldLawGroup.com]

Sent: Monday, March 05, 2007 12:31 PM

To: POTHEN, PJ (SWBT)

Cc: Gary Field; 'Bruce Yuille'

Subject: B&S Telecom request to adopt a cross-connects amendment

Mr. Pothen,

Attached is B&T Telecom, Inc.'s request to a adopt a cross-connects amendment. Please let me know if you have any question with regard to this email.

Thank you,

Hai Jiang

Field Law Group, PLLC

915 N. Washington Avenue,

Lansing, MI 48906-5137

hjiang@FieldLawGroup.com

(517) 913-5101 Phone

(517) 913-3471 Fax

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BHY-2

copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately. Thank you.

C-20 (BHY-3)



March 27, 2007

Bruce Yuille
President
B&S Telecom, Inc.
5850 Dixie Highway
Clarkston, MI 48346

Dear Mr. Yuille:

Attached is the proposed Amendment ("Provisions") between B&S Telecom, Inc. and Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T") for review and signature. This package contains the following:

1. DS1 Cross Connects Amendment. Please print and execute two (2) original signature pages.
2. Joint Filing Application for Michigan Public Service Commission. Please print and execute one (1) original.

Return both original, signed and dated signature pages and the Joint Filing Application to the following address within 30 days for proper execution:

Contract Processing
4 AT&T Plaza
311 South Akard, 9th Floor
Dallas, TX 75202

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Provisions may be withdrawn or changed at any time by AT&T prior to their effective date, and will be considered automatically withdrawn 30 days from the date of this letter if your company has not returned signed and dated signature page(s) as provided above by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

Retain the electronic copy of the amendment for your records as additional paper copies will not be sent. After AT&T executes, a fully executed signature page will be returned for your records.

If you have questions regarding the attached, please contact PJ Pothen at 214-858-0761.

Sincerely,

Demetria Johnson-Jackson
Manager - Contract Management

Attachments

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and B & S Telecom, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
- 1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

- 2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:
 - 2.1.1 A new Section 3.1.2.2 is added, to the TRO/TRRO Remand Attachment dated October 25, 2005, as follows. "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."
 - 2.1.2 In the Pricing Schedule, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop."
 - 2.1.3 In the Pricing Schedule, under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.
- 2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended*, MPSC Case No. U-14305, *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir.

2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

B & S Telecom, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____
(Print or Type)

Title: _____
(Print or Type)

Date: _____

Date: _____

FACILITIES-BASED OCN # 0074
RESALE OCN # 071D
UNE OCN # 0074
ACNA BSW

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In Re the request for Commission approval of)
An Interconnection Agreement between)
B&S Telecom, Inc. and Michigan Bell)
Telephone Company d/b/a AT&T Michigan_____) Case No. U- 14783

JOINT APPLICATION

AT&T Michigan¹ and B&S Telecom, Inc. hereby jointly apply to the Michigan Public Service Commission (Commission) pursuant to Section 203(1) of the Michigan Telecommunications Act (MTA), as amended, MCL 484.2203(1), and Section 252(e) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 252(e), for approval of the _____ Amendment to the interconnection agreement between the parties heretofore approved by the Commission on March 14, 2006 (Agreement). In support of this joint application, AT&T Michigan and B&S Telecom, Inc. state as follows:

1. The parties have entered into good faith negotiations and have executed a _____ Amendment to the Agreement. The _____ Amendment to the Agreement, fully executed as of _____, 2007, establishes a new rate for the DS1 cross connect and clarifies the definitions of DS1 cross connect and 4-wire cross connect in the Agreement. A copy of the _____ Amendment to the Agreement, duly executed by the parties, is submitted with this joint application as Exhibit A.

2. The _____ Amendment is the result of voluntary negotiations and must be submitted to the Commission for its approval or rejection pursuant to Section 252(e)(1) of the Act. The _____ Amendment meets all statutory criteria for Commission approval.

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, operates under the name "AT&T Michigan" pursuant to assumed name filings with the State of Michigan.

WHEREFORE, AT&T Michigan and B&S Telecom, Inc. jointly request Commission approval of the _____ Amendment to the Agreement pursuant to MTA §203(1) and §252(e) of the Act as soon as possible.

Respectfully submitted,

B&S Telecom, Inc.

Counsel for AT&T Michigan

Bruce Yuille
5850 Dixie Highway
Clarkston, Michigan 48346
(248) 623-9500

Craig A. Anderson (P28968)
444 Michigan Avenue, Room 1700
Detroit, Michigan 48226
(313) 223-8033

Dated: _____

C-21 (BHY-4)

BHY-4

-----Original Message-----

From: Bruce Yuille [mailto:byuille@800goquick.com]
Sent: Wednesday, March 28, 2007 11:18 AM
To: 'Hai Jiang'
Subject: RE: B&S TELECOM, INC. -DS1 CROSS CONNECTS AMENDMENT-MI

Thanks!

-----Original Message-----

From: Hai Jiang [mailto:hjiang@FieldLawGroup.com]
Sent: Wednesday, March 28, 2007 12:37 PM
To: 'Bruce Yuille'
Subject: RE: B&S TELECOM, INC. -DS1 CROSS CONNECTS AMENDMENT-MI

Bruce,

Gary has signed as instructed and we mailed out today.

Thank you,

Hai Jiang
Field Law Group, PLLC
915 N. Washington Avenue,
Lansing, MI 48906-5137
hjiang@FieldLawGroup.com
(517) 913-5101 Phone
(517) 913-3471 Fax

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-----Original Message-----

From: Bruce Yuille [mailto:byuille@800goquick.com]
Sent: Tuesday, March 27, 2007 8:03 PM
To: 'Hai Jiang'; 'Gary L. Field'
Subject: FW: B&S TELECOM, INC. -DS1 CROSS CONNECTS AMENDMENT-MI

Hai /Gary:

Please review, sign my name and return it for filing.

Bruce

-----Original Message-----

From: JOHNSON-JACKSON, DEMETRIA D (ATTSWBT) [mailto:dj6287@att.com]
Sent: Tuesday, March 27, 2007 5:10 PM
To: byuille@800goquick.com
Cc: POTHEN, PJ (ATTSWBT); ASHLEY, TINA (ATTASAIT)
Subject: B&S TELECOM, INC. -DS1 CROSS CONNECTS AMENDMENT-MI

> Dear Mr. Yuille,

>

> Attached below you will find a complete DS1 Cross Connects Amendment for Michigan. Please review the attached Carrier Cover Letter, as it contains all pertinent information regarding the execution and filing of the Amendment. Should you have any questions regarding the attached, please

Page 1

BHY-4

contact PJ Pothan at 214-858-0761.

>

> Cover Letter

<<Carrier Cvr Ltr 022207.pdf>>

> Amendment

<<B&S Telecom Inc. DS-1 CC Amendment.pdf>> Filing Document <<Jt App
6th.pdf>> Demetria Johnson-Jackson Manager-Contract Management AT&T

Wholesale Customer Care

214-464-0628

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C-22 (BHY-5)

FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

April 27, 2007

Ms. Tina Ashley
Account Manager
AT&T Michigan

Re: B & S Telecom Request for Informal Dispute Resolution – Cross Connect Amendment

Dear Ms. Ashley:

B & S Telecom, Inc. (“B & S”) has attempted to adopt an amendment to its interconnection agreement with AT&T Michigan that would revise the rate of DS1 Cross Connects from \$16.46 per month to \$6.89 per month. AT&T Michigan has entered into identical amendments with numerous other CLECs in Michigan, but has thus far refused to enter into such amendment with B & S. Pursuant to § 1.1 of the Pricing Appendix of B & S’s interconnection agreement, Appendix XVII, AT&T Michigan must provide services to B & S at rates that are “just, reasonable and nondiscriminatory.” Also, § 1.1 of the UNE Appendix, Appendix XXIII, requires AT&T Michigan to provide B & S nondiscriminatory access to UNEs “on rates, terms and conditions that are just, reasonable and nondiscriminatory.” Accordingly, AT&T Michigan is currently in violation of the parties’ interconnection agreement in that AT&T Michigan is refusing to provide DS1 Cross Connects to B & S at the same rate that AT&T Michigan offers to other CLECs in Michigan.

According to Section 12.2 of B & S’s interconnection agreement with AT&T Michigan, B & S is by this letter initiating informal dispute resolution with AT&T Michigan regarding this matter. B & S appoints Bruce Yuille as its representative for informal negotiations. Mr. Yuille can be reached by phone at (248) 623-9500, or by e-mail at byuille@800goquick.com. Please appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve this dispute.

Please contact me if you have any questions or comments.

Sincerely,
FIELD LAW GROUP, PLLC

Gary A. Gensch

C-23 (BHY-6)



June 11, 2007

Bruce Yuille
President
B & S Telecom, Inc.
5850 Dixie Highway
Clarkston, MI 48346

Dear Mr. Yuille:

Attached is the proposed amendment ("Provisions") between B & S Telecom, Inc. and Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T") for review and signature. This package contains the following:

1. Amendment DS1 Cross Connects. Please print and execute 2 original signature pages.

Please return both original signed and dated signature pages to the following address within 30 days for proper execution:

Contract Processing
4 AT&T Plaza
311 South Akard, 9th Floor
Dallas, TX 75202

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Provisions may be withdrawn or changed at any time by AT&T prior to their effective date, and will be considered automatically withdrawn 30 days from the date of this letter if your company has not returned signed and dated signature pages as provided above by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

Please retain the electronic copy of the amendment for your records as additional paper copies will not be sent. After AT&T executes, a fully executed signature page(s) will be returned for your records.

Finally, please note your OCN and ACNA for each applicable state will be inserted on the signature pages based upon the information provided from AT&T's CLEC Profile website. Please do not revise the signature pages. If there are discrepancies in the reflection of the OCN and/or ACNA, please contact your Account Manager to have the CLEC Profile updated. This information is required for execution. State certification status and number, if appropriate, is required to complete the filing process.

If you have questions regarding the attached, please contact Nicole Bracy on 404-927-7596.

Sincerely,

Linda Campbell
Manager - Contract Management

Attachment

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and B & S Telecom, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
- 1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

- 2.1.1 A new Section 3.1.2.2 is added, to the TRO/TRRO Remand Attachment dated October 25, 2005, as follows. "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."
- 2.1.2 In the Pricing Schedule, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop."
- 2.1.3 In the Pricing Schedule, under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Transport" is added after the term "DS1" and the price of "\$16.46" remains unchanged; (iii) the words "DS1Loop" with the price "\$6.89" are added; and (iv) the words "As specified below in this pricing schedule under "Enhanced Extended Loop (EEL)", DS1 EEL charge is the sum of its parts (i.e. both DS1 Loop cross-connect and DS1 Transport cross-connect are applicable)" are added. For the avoidance of doubt, these new rates shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

B & S Telecom, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

(Print or Type)

(Print or Type)

Date: _____

Date: _____

FACILITIES-BASED OCN # 0074
RESALE OCN # 071D
UNE OCN # 0074
ACNA BSW

C-24 (BHY-7)

1 INTRODUCTION

- 1.1 This Appendix sets forth the pricing rates, terms and conditions for Interconnection, unbundled access to Network Elements, Resale, Collocation and for any other services provided pursuant to this Agreement. All such rates shall be just, reasonable and nondiscriminatory in accordance with Applicable law.
- 1.2 All of the rates set forth in this Agreement are inclusive. If the Parties have inadvertently omitted an appropriate Commission-approved rate for any unbundled Network Element, service, feature or function contemplated under this Agreement (“Contemplated Services”), the Parties shall amend the Agreement to include such rate. In the event that there is no appropriate Commission-approved rate for a Contemplated Service and SBC Michigan has a reasonable basis to believe it can charge MCI_m for the Contemplated Service, the Parties agree to negotiate in good faith to amend the Agreement to include an interim rate. Such interim rates shall remain in effect, subject to true-up, until the Commission determines a permanent rate or decides that no rate is appropriate. The Parties further agree that during any negotiations pursuant to this Section 1.2, SBC Michigan shall provide MCI_m with the Contemplated Service in question and MCI_m shall be responsible for paying for such Contemplated Service retroactive to the date it was first delivered. For any rates set pursuant to this Section 1.2, the Parties agree to use the appropriate SBC Michigan tariff rate, if such a rate exists. All of the rates set forth in this Agreement shall remain in effect for the term of this Agreement unless they are changed in accordance with the provisions of this Agreement. For the purposes of this Appendix, “rates” may refer to either or both recurring and nonrecurring prices.
- 1.3 Each rate set forth in this Appendix is the total rate applicable for the respective service, save for taxes and late payment charges, if any. Where required by Applicable Law, rates contained in this Appendix Pricing are based upon FCC and state Commission approved pricing methodologies. If a rate element and/or charge for a product or service contained in, referenced to or otherwise provided by SBC Michigan under this Agreement (including any attached or referenced Appendices) is not listed in this Appendix Pricing, including any rates and/or charges developed in response to a Bona Fide Request (BFR), such rates and charges shall be determined in accordance with the pricing principles set forth in the Act; provided however, if SBC Michigan provides a product or service that is not subject to the pricing principles of the Act, such rate(s) and/or charges shall be as negotiated by SBC Michigan and MCI_m.
- 1.4 Intentionally Omitted.
- 1.5 Except as otherwise noted, all rates set forth in this Agreement are permanent rates, unless changed by order of the Commission or other administrative or judicial body of competent jurisdiction, or by mutual agreement of the Parties. If the Commission or other administrative or judicial body of competent jurisdiction subsequently orders a different rate, either Party, upon the Commission’s order, may provide written notice to the other Party, to change the rate set forth in this Agreement to conform to the new rate ordered by the Commission. Upon written notice, the Parties will negotiate an amendment to this Agreement reflecting the new rate. The new rate will be effective on the date of receipt of the written notice of election.
- 1.6 If a rate is identified as interim, upon adoption of a final rate by the Commission, either Party may elect to change the interim rate to conform to the permanent rate upon written notice to other Party. If either Party elects to change an interim rate to conform to a permanent rate, the permanent rate will be substituted for the interim rate and will remain in effect for the remainder of this Agreement unless otherwise changed in accordance with the terms of this Agreement. Unless otherwise agreed by the Parties, an interim rate

1 INTRODUCTION

- 1.1 This Appendix Unbundled Network Elements (UNE) sets forth the terms and conditions pursuant to which SBC Michigan agrees to furnish MCIIm with access to unbundled Network Elements. At MCIIm's request, SBC Michigan shall provide nondiscriminatory access to unbundled Network Elements at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory in accordance with the terms of this Appendix. SBC Michigan shall provide such unbundled Network Elements in a manner that allows MCIIm to combine such elements in order to provide a Telecommunications Service.
- 1.2 The following are the unbundled Network Elements which MCIIm and SBC Michigan have identified as of the Effective Date of this Agreement. The Parties agree that the unbundled Network Elements identified below are not exclusive and that pursuant to the BFR process MCIIm may identify and request that SBC Michigan furnish additional or revised unbundled Network Elements. Failure to list an unbundled Network Element herein shall not constitute a waiver by MCIIm to obtain an unbundled Network Element subsequent defined by the FCC or the Commission.

Loop
 High Frequency Portion of the Loop "HFPL"
 Subloop Elements
 Network Interface Device
 Local Circuit Switching
 Packet Switching
 Shared Transport
 Interoffice Transport
 Signaling Link Transport
 Signaling Transfer Points
 Service Control Points / Databases
 Local Tandem Switching
 Dark Fiber
 Call Related Databases
 OS/DA
 * Directory Assistance Listing Databases

- 1.3 MCIIm may request new, undefined unbundled Network Elements in accordance with the Bona Fide Request Process.
- 1.4 The prices at which SBC Michigan agrees to provide MCIIm with unbundled Network Elements are contained in the applicable Appendix Pricing.

2 GENERAL TERMS AND CONDITIONS

- 2.1 SBC Michigan and MCIIm agree that MCIIm may connect its facilities or facilities provided to MCIIm by third-parties with SBC Michigan's network at any point designated by MCIIm, provided such point is technically feasible, for access to unbundled Network Elements for the provision by MCIIm of a Telecommunications Service.
- 2.2 SBC Michigan will provide MCIIm nondiscriminatory access to unbundled Network Elements:
- 2.2.1 At any technically feasible point;

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

DOUGLAS R. BLACK

1 **Q. Please state your name and address.**

2 **A.** My name is Douglas R. Black. My business address is 2107 Crooks Road, Troy,
3 Michigan 48084.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the Vice President of Grid 4 Communications, Inc. (“Grid 4”). I am
7 responsible for the business development, including all regulatory matters, of Grid 4.

8
9 **Q. Please describe Grid 4.**

10 **A.** Grid 4 is a licensed provider of competitive local exchange service in Michigan. Grid
11 4 has an interconnection agreement with Michigan Bell Telephone Company d/b/a
12 AT&T Michigan (“AT&T”).

13
14 **Q. Why are you testifying?**

15 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
16 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
17 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
18 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
19 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
20 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
21 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
22 refusal to permit the other CLECs, including Grid 4 (“Adopting CLECs”), to enter
23 into amendments to their interconnection agreements containing the same rates for
24 DS1 cross connects as contained in amendments between ACD, JAS, TelNet and
25 five other CLECs and AT&T.

26
27 **Q. Did you make a request to AT&T for an amendment to Grid 4’s**
28 **interconnection agreement with AT&T relating to the rate for DS1 cross**
29 **connects?**

30 **A.** Yes. When I became aware that, as a result of the proceeding in Case No. U-14952,
31 AT&T had entered into interconnection agreement amendments with eight other
32 CLECs which lowered the rate for DS1 cross connects from \$16.46 per month to

1 \$6.89 per month, I requested AT&T to provide Grid 4 the same amendment with
2 the same pricing. I received a draft amendment on March 5, 2007 (“Original Cross
3 Connect Amendment”). A copy of the draft amendment is attached as **Exhibit C-**
4 **25 (DRB-1)**. Because the language of the draft amendment was consistent with the
5 amendments AT&T entered into with the CLECs in Case No. U-14952, I indicated
6 to AT&T that the amendment was acceptable to Grid 4.

7

8 **Q. Please describe what happened next.**

9 **A.** On March 19, 2007, AT&T sent me an executable copy of the amendment and joint
10 application. Copies of the cover letter, amendment, and joint application are
11 attached as **Exhibit C-26 (DRB-2)**. However, this second amendment contained
12 additional language in § 6 that was not present in the Original Cross Connect
13 Amendment that AT&T provided.¹ Accordingly, I sent an e-mail on March 21, 2007
14 to Lori Colon of AT&T informing her that Grid 4 did not accept the changes made
15 to § 6 of the amendment, and requesting that AT&T resolve this issue. A copy of
16 the e-mail is attached as **Exhibit C-27 (DRB-3)**.

17

18 **Q. How did AT&T respond?**

19 **A.** On March 26, 2007, AT&T agreed that Grid 4 could execute the Original Cross
20 Connect Amendment. Grid 4 did so, and overnighted the executed amendment and
21 joint application to AT&T that same day.

22

23 **Q. Please describe what happened next.**

24 **A.** Having not received the executed amendment back from AT&T, I spoke with Ms.
25 Colon on May 1, 2007, asking her about the status of the amendment. She indicated
26 that she had recently been informed that AT&T wanted to make some changes to
27 the language in the amendment. I indicated that this delay was not acceptable, and
28 that Grid 4 would like the new rates to be effective retroactively. Ms. Colon
29 indicated that she would send me the requested language change, and asked me to
30 insert my requested changes regarding the effective date. I sent the requested

¹The changes in § 6 of the amendment did not involve DS1 cross connect pricing, but was instead additional Reservation of Rights language.

1 retroactive language to Ms. Colon in an e-mail dated May 1, 2007. The May 1, 2007
2 e-mail is attached as **Exhibit C-28 (DRB-4)**.

3
4 On May 10, 2007, Ms. Colon indicated to me by e-mail that she was still awaiting
5 final approval of the language changes. A copy of the e-mail is attached as **Exhibit**
6 **C-29 (DRB-5)**. Thus, because I still had not received the revised language from
7 AT&T, I sent Ken Gray of AT&T a notice of dispute on May 10, 2007. A copy of
8 the notice of dispute is attached as **Exhibit C-30 (DRB-6)**. The notice disputed
9 AT&T's refusal to enter into an amendment with Grid 4 changing the rate of DS1
10 cross connects from \$16.46 to \$6.89, even though AT&T had entered into similar
11 amendments with eight other CLECs in Michigan. The notice appointed me as
12 representative for informal negotiations aimed at resolving the dispute.

13
14 **Q. How did AT&T respond to the notice of dispute?**

15 **A.** I did not hear anything from AT&T for one week, so I called Mr. Gray on May 17,
16 2007 and left him a voice mail asking him for AT&T's response. Mr. Gray returned
17 my call on May 17, 2007 and left me a voice mail indicating that this was not a
18 proper issue for an informal dispute because Grid 4's dispute was a contract dispute
19 rather than a billing dispute. Mr. Gray indicated that he would, however, forward my
20 notice of dispute to Ms. Colon in the contracts group and to AT&T's legal group.

21
22 **Q. What further response did you receive from AT&T?**

23 **A.** On June 4, 2007, Ms. Colon sent me a copy of the Revised DS1 Cross Connect
24 Amendment with the proposed language changes redlined. A copy of the redlined
25 amendment is attached as **Exhibit C-31 (DRB-7)**. The Revised DS1 Cross Connect
26 Amendment did not remove the \$16.46 rate from the pricing schedule like the
27 Original DS1 Cross Connect Amendment (and the U-14952 amendments) had done,
28 and instead retained the \$16.46 rate to be applied to a new category of DS1 cross
29 connects that had not previously appeared in the pricing schedule – "DS1
30 Transport." The Revised DS1 Cross Connect Amendment also included the \$6.89
31 rate to be applied to "DS1 Loop." In addition, the Revised DS1 Cross Connect
32 Amendment included the following language not present in the initial amendment:

1 “As specified below in the pricing schedule under ‘Enhanced
2 Extended Loop (EEL)’, DS1 EEL charge is the sum of its parts (i.e.
3 both DS1 Loop cross-connect and DS1 Transport cross-connect are
4 applicable).”
5

6 Accordingly, instead of providing for one DS1 cross connect rate of \$6.89, as AT&T
7 provided in the amendments entered into with the eight CLECs involved in Case
8 No. U-14952 (e.g., see **Exhibit C-8 (MI-8)** to the direct testimony of Mark
9 Iannuzzi), and as AT&T initially offered to Grid 4, the Revised DS1 Cross Connect
10 Amendment requires that one of the DS1 cross connects associated with an
11 enhanced extended DS1 Loop (“extended DS1 Loop”) be billed at the rate of \$6.89,
12 while the other DS1 cross connect associated with an extended DS1 Loop be billed
13 at the rate of \$16.46.
14

15 **Q. Did Grid 4 agree to the language of the Revised DS1 Cross Connect**
16 **Amendment?**

17 **A.** No. The Revised DS1 Cross Connect Amendment prices DS1 cross connects
18 connected to extended DS1 Loops at a higher rate than AT&T’s amendments with
19 the CLECs involved in Case No. U-14952 prices such cross connects. Such pricing
20 is discriminatory, and is contrary to Michigan law, federal law, and § 2.2.2, UNE
21 Appendix of Grid 4’s interconnection agreement with AT&T. *See* **Exhibit C-32**
22 **(DRB-8)**.
23

24 **Q. Has AT&T permitted Grid 4 to enter into an amendment revising the DS1**
25 **cross connect price for unextended DS1 Loops only?**

26 **A.** No. Even though AT&T has apparently taken the position that the \$6.89 rate
27 should only apply to unextended DS1 Loops, AT&T has refused to permit Grid 4 to
28 obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops until
29 Grid 4 agrees that it will pay the discriminatory price of \$16.46 per month for one of
30 the cross connects associated with the extended DS1 Loop.
31
32

1 Q. Does this conclude your prepared Direct Testimony?

2 A. Yes.

C-25 (DRB-1)

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and grid4 Communications, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

2.1.1 Section 7.2.4 of Appendix UNE is amended to read as follows: DS1 Loop.

2.1.2 Section 7.2.4.1 of Appendix UNE is amended to replace the phrase "4-Wire 1.544 Mbps digital" and "4-wire digital" with the term "DS1" and to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."

2.1.3 Section 18.2 of Appendix UNE is amended to replace the phrase "Sections 18.3, 18.4 and 18.5" with the term "cross connects."

2.1.4 Section 18.3.4, of Appendix UNE is amended to replace the phrase "4-Wire Digital" with the term "DS1".

2.1.5 In the Pricing Schedule Exhibit A, page 1 of 14, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".

2.1.6 In the Pricing Schedule Exhibit A, page 6 of 14 under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner

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whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written

notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended*, MPSC Case No. U-14305, *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

grid4 Communications, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: Executive Director-Regulatory

Date: _____

Date: _____

FACILITIES-BASED OCN # _____

ACNA _____

C-26 (DRB-2)



March 19, 2007

C. Christopher Hopkins
CEO
grid4 Communications, Inc.
900 Wilshire Drive, Suite 310
Troy, MI 48084

Dear Mr. Hopkins:

Attached is the proposed Amendment ("Provisions") between grid4 Communications, Inc. and Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T") for review and signature. This package contains the following:

1. DS1 Cross Connects Amendment. Please print and execute two (2) original signature pages.
2. Joint Filing Application for Michigan Public Service Commission. Please print and execute one (1) original.

Return both original, signed and dated signature pages and the Joint Filing Application to the following address within 30 days for proper execution:

Contract Processing
4 AT&T Plaza
311 South Akard, 9th Floor
Dallas, TX 75202

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Provisions may be withdrawn or changed at any time by AT&T prior to their effective date, and will be considered automatically withdrawn 30 days from the date of this letter if your company has not returned signed and dated signature page(s) as provided above by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

Retain the electronic copy of the amendment for your records as additional paper copies will not be sent. After AT&T executes, a fully executed signature page will be returned for your records.

If you have questions regarding the attached, please contact Lori Colon at 312-335-7411.

Sincerely,

Demetria Johnson-Jackson
Manager - Contract Management

Attachments

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and grid4 Communications, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

2.1.1 Section 7.2.4 of Appendix UNE is amended to read as follows: DS1 Loop.

2.1.2 Section 7.2.4.1 of Appendix UNE is amended to replace the phrase "4-Wire 1.544 Mbps digital" and "4-wire digital" with the term "DS1" and to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."

2.1.3 Section 18.2 of Appendix UNE is amended to replace the phrase "Sections 18.3, 18.4 and 18.5" with the term "cross connects."

2.1.4 Section 18.3.4, of Appendix UNE is amended to replace the phrase "4-Wire Digital" with the term "DS1".

2.1.5 In the Pricing Schedule Exhibit A, page 1 of 14, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".

2.1.6 In the Pricing Schedule Exhibit A, page 6 of 14 under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or

judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); the FCC's Report and Order and Notice of Proposed Rulemaking (FCC 05-150), CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242 and 05-271 (rel. Sept. 23, 2005) ("Title I Order"); the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including this and any other amendments to the Agreement), AT&T Michigan shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and CLEC's own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders. Further, neither Party will argue or take the position before any state or federal regulatory commission or court that any provisions set forth in this Agreement and this Amendment constitute an agreement or waiver relating to the appropriate routing, treatment and compensation for Voice Over Internet Protocol traffic and/or traffic utilizing in whole or part Internet Protocol technology; rather, each Party expressly reserves any rights, remedies, and arguments they may have as to such issues including but not limited, to any rights each may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (rel. April 21, 2004). Notwithstanding anything to the contrary in the Agreement and this Amendment and except to the extent that AT&T Michigan has adopted the FCC ISP terminating compensation plan ("FCC Plan") in Michigan where this Agreement is effective, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to AT&T Michigan's right to exercise its option at any time to adopt on a date specified by AT&T Michigan the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.

7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

grid4 Communications, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: Executive Director-Regulatory

Date: _____

Date: _____

FACILITIES-BASED OCN # 460E
RESALE OCN# 9234
UNE OCN# 9714
ACNA GID

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In Re the request for Commission approval of)
A multi-state Interconnection Agreement between)
grid4 Communications, Inc. and various SBC)
Communications, Inc. owned companies)
Including SBC Michigan)

Case No. U- 13805

JOINT APPLICATION

AT&T Michigan¹ and grid4 Communications, Inc. hereby jointly apply to the Michigan Public Service Commission (Commission) pursuant to Section 203(1) of the Michigan Telecommunications Act (MTA), as amended, MCL 484.2203(1), and Section 252(e) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 252(e), for approval of the _____ Amendment to the interconnection agreement between the parties heretofore approved by the Commission on July 8, 2003 (Agreement). In support of this joint application, AT&T Michigan and grid4 Communications, Inc. state as follows:

1. The parties have entered into good faith negotiations and have executed a _____ Amendment to the Agreement. The _____ Amendment to the Agreement, fully executed as of _____, 2007, establishes a new rate for the DS1 cross connect and clarifies the definitions of DS1 cross connect and 4-wire cross connect in the Agreement. A copy of the _____ Amendment to the Agreement, duly executed by the parties, is submitted with this joint application as Exhibit A.

2. The _____ Amendment is the result of voluntary negotiations and must be submitted to the Commission for its approval or rejection pursuant to Section 252(e)(1) of the Act. The _____ Amendment meets all statutory criteria for Commission approval.

¹ Michigan Bell Telephone Company (previously referred to as “Michigan Bell” or “SBC Michigan”) now operates under the name “AT&T Michigan” pursuant to an assumed name filing with the State of Michigan.

WHEREFORE, AT&T Michigan and grid4 Communications, Inc. jointly request Commission approval of the _____ Amendment to the Agreement pursuant to MTA §203(1) and §252(e) of the Act as soon as possible.

Respectfully submitted,

grid4 Communications, Inc.

Counsel for AT&T Michigan

C. Christopher Hopkins
900 Wilshire Drive, Suite 310
Troy, Michigan 48084
(248) 244-8100

Craig A. Anderson (P28968)
444 Michigan Avenue, Room 1700
Detroit, Michigan 48226
(313) 223-8033

Dated: _____

C-27 (DRB-3)

DRB-3

From: Doug Black [dblack@grid4.com]
Sent: Wednesday, March 21, 2007 12:23 PM
To: 'COLON, LORI (ATTASIAIT)'
Cc: 'C. Christopher Hopkins'; dblack@grid4.com
Subject: FW: GRID4 COMMUNICATIONS, INC. -DS1 CROSS CONNECT AMENDMENT-MI

Lori,

As mentioned in my voice message, the attached Amendment reflects substantial changes to section 6. Many of these changes have no relevance to the DS1 cross connect topic and Grid4 is not in agreement with them.

This Amendment needs to be executed so it can be submitted to the MPSC. I have waited long enough and need to have this resolved. Please contact me today to discuss how we make that a reality.

Doug

-----Original Message-----

From: JOHNSON-JACKSON, DEMETRIA D (ATTSWBT) [mailto:dj6287@att.com]
Sent: Monday, March 19, 2007 3:44 PM
To: dblack@grid4.com
Subject: GRID4 COMMUNICATIONS, INC. -DS1 CROSS CONNECT AMENDMENT-MI

> Dear Mr. Hopkins,
>
> Attached below you will find a complete DS1 Cross Connect Amendment
> for
Michigan. Please review the attached Carrier Cover Letter, as it contains all pertinent information regarding the execution and filing of the Amendment. Should you have any questions regarding the attached, please contact Lori Colon at 312-335-7411.

>
> Cover Letter
> > <<Carrier Cvr Ltr 022207.pdf>>
> Amendment
> > <<GRID4 DS1 Amendment.pdf>>
> Filing Document
> > <<Jt App 5th.pdf>>
> Demetria Johnson-Jackson
> Manager-Contract Management
> AT&T Wholesale Customer Care
> 214-464-0628
> This e-mail and any files transmitted with it are the property of AT&T Inc. and/or its affiliates, are confidential, and are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please notify the sender at 214-464-0628 and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited.

>
>

C-28 (DRB-4)

DRB-4

From: Doug Black [dblack@grid4.com]
Sent: Tuesday, May 01, 2007 4:24 PM
To: 'COLON, LORI (ATTASIAIT)'
Cc: 'Doug Black'
Subject: RE: DS MI Rate Amendment

Lori,

Per our conversation, Grid4 is requesting these new rates be effective as described below. Grid4 has been overly patient the past few months as AT&T repeatedly changes these completed documents. These continued delays should not come at the expense of Grid4.

2.1.6 In the Pricing Schedule Exhibit A, page 6 of 14 under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DSL"; and (iii) the price of "\$16.46" is replaced with "\$6.89". This new rate is contingent on the MPSC approval and will be applied retroactively to April 24, 2007.

Thanks, Doug

-----Original Message-----

From: COLON, LORI (ATTASIAIT) [mailto:lc2683@att.com]
Sent: Tuesday, May 01, 2007 10:18 AM
To: Doug Black
Subject: DS MI Rate Amendment

Doug,

It is section 2.1.6 in the attached that will be modified. I must update and have product review before I can send to you with the revised changes. Please feel free to modify the attached for the language you are seeking for retroactivity and I will submit.

2.1.6 In the Pricing Schedule Exhibit A, page 6 of 14 under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DSL"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

<<GRID4_DS1_Amendment.pdf>>
Lori Colon
Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

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C-29 (DRB-5)

DRB-5

-----Original Message-----

From: COLON, LORI (ATTASIAIT) [mailto:lc2683@att.com]

Sent: Thursday, May 10, 2007 9:41 AM

To: Doug Black

Subject: DS1 xconnect

Doug,

I thought I would have something for you to review with respect to the language changes by yesterday however I am still awaiting final approval of the language. We are in the final stages of modifying section 2.1.6 and reviewing your proposed change. I expect to have something shortly and upon approval I will send that out to you. I appreciate your patience.

Lori Colon
Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

This e-mail and any files transmitted with it are the property of AT&T Inc. and/or its affiliates, are confidential, and are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please notify the sender at 312-335-7411 and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited.

C-30 (DRB-6)



May 10, 2007

Kenneth Gray
AT&T Michigan
350 N. Orleans
Chicago, IL 60654

Re: Grid 4 Request for Informal Dispute Resolution – Cross Connect Amendment

Dear Ken:

Grid 4 Communications, Inc. ("Grid 4") has attempted to adopt an amendment to its interconnection agreement with AT&T Michigan that would revise the rate of DS1 Cross Connects from \$16.46 per month to \$6.89 per month. AT&T Michigan has entered into identical amendments with numerous other CLECs in Michigan, but has thus far refused to enter into such amendment with Grid 4. Pursuant to § 2.2.2 of the UNE Appendix, AT&T Michigan must provide Grid 4 nondiscriminatory access to UNEs at "rates, terms, and conditions which are just, reasonable, and nondiscriminatory." Accordingly, AT&T Michigan is currently in violation of the parties' interconnection agreement in that AT&T Michigan is refusing to provide DS1 Cross Connects to Grid 4 at the same rate that AT&T Michigan offers to other CLECs in Michigan.

According to Section 10.5.1 of Grid 4's interconnection agreement with AT&T Michigan, Grid 4 is by this letter initiating informal dispute resolution with AT&T Michigan regarding this matter. Grid 4 appoints Mr. Black as its representative for informal negotiations. Mr. Black can be reached by phone at 248-918-2851, or by e-mail at dblack@grid4.com. Please appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve this dispute.

Please contact me if you have any questions or comments.

Sincerely,

Douglas R. Black, Vice President

C-31 (DRB-7)

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and grid4 Communications, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
- 1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

- 2.1.1 A new Section 3.1.2.2 is added, to the TRO/TRO Remand Attachment dated October 25, 2005, as follows. "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."
- 2.1.3 The following change is made in Attachment A Pricing Schedule , page 1 of 14, to AMENDMENT – MPSC JANUARY 25, 2005 FINAL ORDER – CASE NO. U-13531: under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".
- 2.1.4 The following changes are made in Attachment A Pricing Schedule , page 6 of 14, to AMENDMENT – MPSC JANUARY 25, 2005 FINAL ORDER – CASE NO. U-13531: under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Transport" is added after the term "DS1" and the price of "\$16.46" remains unchanged; (iii) the words "DS1 Loop" with the price "\$6.89" are added; and (iv) the words "As specified below in this pricing schedule under "Enhanced Extended Loop (EEL)", DS1 EEL charge is the sum of its parts (i.e. both DS1 Loop cross-connect and DS1 Transport cross-connect are applicable)" are added. For the avoidance of doubt, these new rates shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

grid4 Communications, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: Executive Director-Regulatory

Date: _____

Date: _____

FACILITIES-BASED OCN # _____

ACNA _____

C-32 (DRB-8)

- 2.10.1.1 as an “A-link”, which is a connection between a switch and a home signaling transfer point (STP) mated pair; and
 - 2.10.1.2 as a “B-link” or “D-link,” which is an interconnection between STPs in different signaling networks.
 - 2.10.2 When MCIIm provides its own switch or STP, MCIIm will provide DS1 (1.544 Mbps) interfaces at MCIIm-designated SPOIs. Each 56 Kbps transmission path will appear as a DS0 channel on the DS1 interface.
 - 2.10.3 In each LATA in which MCIIm desires Dedicated Signaling Links for interconnection to the SBC Michigan SS7 Signaling Network, Dedicated Signaling Links shall be established to each STP of a mated pair of STPs.
 - 2.10.4 MCIIm assumes the responsibility to ensure diverse routing of MCIIm signaling links from MCIIm’s switch to MCIIm’s SPOI. SBC Michigan will provide the same amount of diversity as it provides to itself in terms of diverse routing of interoffice facilities.
 - 2.10.5 When MCIIm requests that SBC Michigan add a Signaling Point Code (SPC), MCIIm will identify to SBC Michigan the SPCs associated with MCIIm set of links and will pay a non-recurring charge per STP pair at the rates set forth in Appendix Pricing.
 - 2.10.6 MCIIm will notify SBC Michigan in writing thirty (30) days in advance of any material change in MCIIm’s use of such SS7 signaling network, including but not limited to any change in MCIIm SS7 Dedicated Signaling Links, SS7 Transport and/or STP.
- 2.11 Signaling Transfer Points (STPs)
- 2.11.1 The STP element is a signaling network function that includes all of the capabilities provided by the STP switches which enable the exchange of SS7 messages between switching elements, database elements and signaling transfer point switches via associated signaling links. STP includes the associated link interfaces.
 - 2.11.2 SBC Michigan will route MCIIm traffic as defined by MCIIm.
 - 2.11.3 SS7 Transport will apply to SS7 messages transported on behalf of MCIIm from an SBC Michigan designated STP pair to an SBC Michigan STP pair. In SBC Michigan the Signal Switching and Signal Transport rates will apply to ISUP and TCAP messages.
 - 2.11.4 In such instance as MCIIm utilizes SBC Michigan’s Unbundled Local Switching Network Element, MCIIm does not separately order SS7 signaling under this method. MCIIm will be charged for the use of the SBC Michigan SS7 signaling on a per call basis.
- 2.12 STP Technical Requirements
- 2.12.1 SBC Michigan shall provide nondiscriminatory access to all associated signaling and signaling connectivity at the STP necessary for call routing and completion. STPs will provide signaling connectivity to the following network elements connected to the SBC Michigan SS7 network including but not limited to: SBC Michigan Local Switching or Tandem Switching; SBC Michigan Service Control

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** JAS
Networks, Inc.; TelNet Worldwide, Inc.; **B&S**
Telecom, Inc.; **Clear Rate Communications, Inc.;** CMC
Telecom, Inc.; **Grid 4 Communications, Inc.;** and **Zenk**
Group, Ltd. d/b/a Planet Access; against **Michigan Bell**
Telephone Company d/b/a AT&T Michigan regarding
AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

CHUCK SCHNEIDER

1 **Q. Please state your name and address.**

2 **A.** My name is Chuck Schneider. My business address is 51151 Pontiac Trail, Wixom,
3 Michigan 48393.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the Vice President – Business Operations of CMC Telecom, Inc. (“CMC”). I
7 am responsible for the day-to-day business operations of CMC.

8
9 **Q. Please describe CMC.**

10 **A.** CMC is a licensed provider of competitive local exchange service in Michigan. CMC
11 has an interconnection agreement with Michigan Bell Telephone Company d/b/a
12 AT&T Michigan (“AT&T”).

13
14 **Q. Why are you testifying?**

15 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
16 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
17 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
18 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
19 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
20 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
21 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
22 refusal to permit the other CLECs, including CMC (“Adopting CLECs”), to enter
23 into amendments to their interconnection agreements containing the same rates for
24 DS1 cross connects as contained in amendments between ACD, JAS, TelNet and
25 five other CLECs and AT&T.

26
27 **Q. Did you make a request to AT&T for an amendment to CMC’s**
28 **interconnection agreement with AT&T relating to the rate for DS1 cross**
29 **connects?**

30 **A.** Yes. When I became aware that, as a result of the proceeding in Case No. U-14952,
31 AT&T had entered into interconnection agreement amendments with eight other
32 CLECs which lowered the rate for DS1 cross connects from \$16.46 per month to

1 \$6.89 per month, I requested AT&T to provide CMC the same amendment with the
2 same pricing. I made this request on March 13, 2007 in an e-mail to Mr. Ken Gray
3 of AT&T. Mr. Gray forwarded my request to Ms. Helen Watkins, an AT&T
4 contract negotiator, on March 14, 2007. I did not hear any response from AT&T
5 for over a week, so I sent an e-mail to Ms. Watkins on March 22, 2007, asking her
6 when I can expect to receive a copy of the amendment. Ms. Watkins replied on
7 March 28, 2007 that she had prepared the amendment, and had “forwarded it to the
8 AT&T product SME for review.” After another two weeks without hearing
9 anything from AT&T, I sent another e-mail to Ms. Watkins on April 10, 2007, again
10 asking her when I can expect to receive the amendment. Ms. Watkins replied on
11 April 10, 2007 that she was waiting for a response from AT&T’s legal team, and that
12 she would forward me the amendment once she received their approval. This e-mail
13 string is attached as **Exhibit C-33 (CS-1)**.

14
15 **Q. Please describe what happened next.**

16 **A.** Having received no further communication from AT&T regarding the amendment
17 for over a month, I directed my attorney Mr. Gary Gensch to send Mr. Gray a notice
18 of dispute on May 14, 2007. A copy of the notice of dispute is attached as **Exhibit**
19 **C-34 (CS-2)**. The notice disputed AT&T’s refusal to enter into an amendment with
20 CMC changing the rate of DS1 cross connects from \$16.46 to \$6.89, even though
21 AT&T had entered into similar amendments with eight other CLECs in Michigan
22 (e.g., see **Exhibit C-8 (MI-8)** to the direct testimony of Mark Iannuzzi). The notice
23 appointed me as representative for informal negotiations aimed at resolving the
24 dispute.

25
26 **Q. How did AT&T respond to the notice of dispute?**

27 **A.** AT&T never responded to the notice of dispute. Thus, AT&T’s failure to permit
28 CMC to enter into an amendment with AT&T changing the rate of DS1 cross
29 connects from \$16.46 to \$6.89 is discriminatory, and is contrary to Michigan law,
30 federal law, and § 9.2.1 of CMC’s interconnection agreement with AT&T. *See*
31 **Exhibit C-35 (CS-3)**

1 **Q.** **Has AT&T permitted CMC to enter into an amendment revising the DS1**
2 **cross connect price for unextended DS1 Loops only?**

3 **A.** No. Even though AT&T has apparently taken the position that the \$6.89 rate
4 should only apply to unextended DS1 Loops, AT&T has refused to permit CMC to
5 obtain the \$6.89 rate for cross connects connected to unextended DS1 Loops until
6 CMC agrees that it will pay the discriminatory price of \$16.46 per month for one of
7 the cross connects associated with the extended DS1 Loop.

8

9 **Q.** **Does this conclude your prepared Direct Testimony?**

10

11 **A.** Yes.

C-33 (CS-1)

CS-1

MessageFrom: WATKINS, HELEN L (ATTSWBT) [hw7936@att.com]
Sent: Tuesday, April 10, 2007 1:22 PM
To: Chuck Schneider
Cc: GRAY, KENNETH D (ATTASIAIT)
Subject: RE: ICA Cross-Connect Amendment

Chuck,

I can't give you an exact date because I am now waiting for a response from our legal team. As soon as I receive their approval, I will send the amendment to you for review.

Hel en Watki ns
Associ ate Di rector-Regul atory
AT&T Whol esal e
214-858-0698

-----Original Message-----

From: Chuck Schneider [mailto:CSchneider@cmctelcom.net]
Sent: Tuesday, April 10, 2007 9:37 AM
To: WATKINS, HELEN L (ATTSWBT)
Cc: GRAY, KENNETH D (ATTASIAIT)
Subject: RE: ICA Cross-Connect Amendment

Hel en,

Do you know when I can expect to receive the amendment?

Chuck Schnei der
VP - Busi ness Operati ons
CMC Tel ecom, Inc.
PH: 248-896-5310
FX: 248-668-2812
Emai l: cschnei der@cmctel ecom.net

From: WATKINS, HELEN L (ATTSWBT) [mailto:hw7936@att.com]
Sent: Wednesday, March 28, 2007 11:48 AM
To: Chuck Schneider
Cc: GRAY, KENNETH D (ATTASIAIT)
Subject: RE: ICA Cross-Connect Amendment

Chuck,

I have prepared the DS1 Cross Connect Amendment and forwarded it to the AT&T product SME for review. However, the SME is out of the office until April 2, 2007. I will follow up next week to determine when the amendment will be ready to forward to you for review.

Hel en Watki ns
Associ ate Di rector-Regul atory

CS-1

AT&T Wholesale
214-858-0698

-----Original Message-----

From: Chuck Schneider [mailto:CSchneider@cmctelcom.net]
Sent: Thursday, March 22, 2007 10:32 AM
To: WATKINS, HELEN L (ATTSWBT)
Cc: GRAY, KENNETH D (ATTASIAIT)
Subject: RE: ICA Cross-Connect Amendment

Hel en,

When can I expect to receive the Cross-connect Amendment?

Chuck Schneider
VP - Business Operations
CMC Telecom, Inc.
PH: 248-896-5310
FX: 248-668-2812
Email: cschneider@cmctelcom.net

From: GRAY, KENNETH D (ATTASIAIT) [mailto:kg9758@att.com]
Sent: Wednesday, March 14, 2007 12:31 PM
To: WATKINS, HELEN L (ATTSWBT)
Cc: Chuck Schneider
Subject: FW: ICA Cross-Connect Amendment

Hel en, please see CMC's request below for a new amendment to reduce cross-connection charges.

Chuck, Hel en Watki ns is your contract negotiator.

Thanks,

Ken Gray.

-----Original Message-----

From: Chuck Schneider [mailto:CSchneider@cmctelcom.net]
Sent: Tuesday, March 13, 2007 9:16 AM
To: GRAY, KENNETH D (ATTASIAIT)
Cc: Craig Champagne
Subject: ICA Cross-Connect Amendment

Ken,

CS-1

I understand there is an amendment available to reduce cross-connect charges to \$6.89. Please send me the amendment for my review.

Thanks,

Chuck Schneider
VP - Business Operations
CMC Telecom, Inc.
PH: 248-896-5310
FX: 248-668-2812
Email: cschneider@cmctelecom.net

C-34 (CS-2)

FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

May 14, 2007

Ken Gray
Account Manager
AT&T Michigan
350 N. Orleans, 3rd Floor
Chicago, IL 60654
kg9758@att.com

Re: CMC Request for Informal Dispute Resolution – Cross Connect Amendment

Dear Mr. Gray:

CMC Telecom, Inc. (“CMC”) has attempted to adopt an amendment to its interconnection agreement with AT&T Michigan that would revise the rate of DS1 Cross Connects from \$16.46 per month to \$6.89 per month. AT&T Michigan has entered into identical amendments with numerous other CLECs in Michigan, but has thus far refused to enter into such amendment with CMC. Pursuant to § 9.2.1 of the parties’ interconnection agreement, AT&T Michigan must provide CMC non-discriminatory access to UNEs at “rates, terms and conditions that are just, reasonable and nondiscriminatory.” Accordingly, AT&T Michigan is currently in violation of the parties’ interconnection agreement in that AT&T Michigan is refusing to provide DS1 Cross Connects to CMC at the same rate that AT&T Michigan offers to other CLECs in Michigan.

According to Section 28.3.2 of CMC’s interconnection agreement with AT&T Michigan, CMC is by this letter initiating informal dispute resolution with AT&T Michigan regarding this matter. CMC appoints Chuck Schneider as its representative for informal negotiations. Mr. Schneider can be reached by phone at 248-668-2800, or by e-mail at cshneider@cmctelecom.net. Please appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve this dispute.

Please contact me if you have any questions or comments.

Sincerely,

Gary Gensch

cc: Chuck Schneider
Craig Champagne

C-35 (CS-3)

Users. SBC AMERITECH shall place no other use restrictions or other limiting conditions on Network Elements and Combinations purchased by AT&T under the terms of this Agreement. Notwithstanding anything to the contrary in this Article IX, SBC-AMERITECH shall not be required to provide Network Elements on an unbundled basis beyond those identified in 47 C.F.R. § 51.319 to AT&T if:

- (1) The Commission concludes that:
 - (A) such Network Element is proprietary or contains proprietary information that will be revealed if such Network Element is provided to AT&T on an unbundled basis; and
 - (B) AT&T could offer the same proposed Telecommunications Service through the use of other, nonproprietary Network Elements within SBC-AMERITECH's network; or
- (2) The Commission concludes that the failure of SBC-AMERITECH to provide access to such Network Element would not decrease the quality of, and would not increase the financial or administrative cost of, the Telecommunications Service AT&T seeks to offer, compared with providing that service over other unbundled Network Elements in SBC-AMERITECH's network.

9.1.3 SBC-AMERITECH shall connect AT&T's facilities with SBC-AMERITECH's network at any technically feasible point for access to UNEs for the provision by AT&T of a Telecommunications Service consistent with the provisions of the Act and the applicable FCC rules.

9.2 Network Elements.

9.2.1 SBC-AMERITECH shall provide AT&T access to Network Elements on an unbundled basis (and combinations of Network Elements as set forth in Section 9.3 of this Article) at rates, terms and conditions that are just, reasonable and non-discriminatory in accordance with the terms and conditions of this Agreement and the requirements of Section 251 and Section 252 of the Act and applicable FCC Orders and other applicable laws.

9.2.2 SBC-AMERITECH will permit AT&T to interconnect AT&T's facilities or facilities provided by AT&T or to AT&T by SBC-AMERITECH or third parties with each of SBC-AMERITECH's unbundled Network Elements or Combinations at any technically feasible point designated by AT&T. Any request by AT&T to interconnect at a point not previously established: (i) in accordance with the terms of this Agreement (e.g., other than as set forth in the descriptions of unbundled Network Elements and Combinations under the following provisions of this Article IX and Schedules 9.2.1 through 9.2.9), or (ii) under any arrangement SBC-AMERITECH may have with another

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** JAS
Networks, Inc.; TelNet Worldwide, Inc.; B&S
Telecom, Inc.; Clear Rate Communications, Inc.; CMC
Telecom, Inc.; Grid 4 Communications, Inc.; and Zenk
Group, Ltd. d/b/a Planet Access; against Michigan Bell
Telephone Company d/b/a AT&T Michigan regarding
AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

MICHAEL J. ZENGERLE

1 **Q. Please state your name and address.**

2 **A.** My name is Michael J. Zengerle. My business address is 26400 Southfield Road,
3 Lathrup Village, Michigan 48076.

4

5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the President of Zenk Group, Ltd. d/b/a Planet Access (“Planet Access”). I
7 am responsible for the management and operations of Planet Access.

8

9 **Q. Please describe Planet Access.**

10 **A.** Planet Access is a licensed provider of competitive local exchange service in
11 Michigan. Planet Access has an interconnection agreement with Michigan Bell
12 Telephone Company d/b/a AT&T Michigan (“AT&T”).

13

14 **Q. Why are you testifying?**

15 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
16 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
17 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
18 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
19 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
20 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
21 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
22 refusal to permit the other CLECs, including Planet Access (“Adopting CLECs”), to
23 enter into amendments to their interconnection agreements containing the same
24 rates for DS1 cross connects as contained in amendments between ACD, JAS,
25 TelNet and five other CLECs and AT&T.

26

27 **Q. Did you make a request to AT&T for an amendment to Planet Access’s**
28 **interconnection agreement with AT&T relating to the rate for DS1 cross**
29 **connects?**

30 **A.** Yes. When I became aware that, as a result of the proceeding in Case No. U-14952,
31 AT&T had entered into interconnection agreement amendments with eight other
32 CLECs which lowered the rate for DS1 cross connects from \$16.46 per month to

1 \$6.89 per month, I directed my attorney Mr. Hai Jiang to request AT&T to provide
2 Planet Access the same amendment with the same pricing. On March 28, 2007, Mr.
3 Jiang sent a letter to Mr. Ken Gray of AT&T making such request on behalf of
4 Planet Access. A copy of the letter is attached as **Exhibit C-36 (MJZ-1)**.

5
6 **Q. Did AT&T respond to the request?**

7 **A.** No. So I directed my attorney Mr. Gary Gensch to send Mr. Gray a notice of
8 dispute on May 15, 2007. A copy of the notice of dispute is attached as **Exhibit C-**
9 **37 (MJZ-2)**. The notice disputed AT&T's refusal to enter into an amendment with
10 Planet Access changing the rate of DS1 cross connects from \$16.46 to \$6.89, even
11 though AT&T had entered into similar amendments with eight other CLECs in
12 Michigan (e.g., see **Exhibit C-8 (MI-8)** to the direct testimony of Mark Iannuzzi).
13 The notice appointed me as representative for informal negotiations aimed at
14 resolving the dispute.

15
16 **Q. How did AT&T respond to the notice of dispute?**

17 **A.** AT&T never responded to the notice of dispute. Thus, AT&T's failure to permit
18 Planet Access to enter into an amendment with AT&T changing the rate of DS1
19 cross connects from \$16.46 to \$6.89 is discriminatory, and is contrary to Michigan
20 law, federal law, and § 9.4 of Planet Access's interconnection agreement with AT&T.
21 *See Exhibit C-38 (MJZ-3)*.

22
23 **Q. Has AT&T permitted Planet Access to enter into an amendment revising the**
24 **DS1 cross connect price for unextended DS1 Loops only?**

25 **A.** No. Even though AT&T has apparently taken the position that the \$6.89 rate
26 should only apply to unextended DS1 Loops, AT&T has refused to permit Planet
27 Access to obtain the \$6.89 rate for cross connects connected to unextended DS1
28 Loops until Planet Access agrees that it will pay the discriminatory price of \$16.46
29 per month for one of the cross connects associated with the extended DS1 Loop.

30
31 **Q. Does this conclude your prepared Direct Testimony?**

32 **A.** Yes.
33

C-36 (MJZ-1)

FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

March 28, 2007

Via Email

Ken Gray
kg9758@att.com
AT&T Account Manager

Re: Planet Access' Adoption of an amendment to the Interconnection Agreement

Dear Mr. Gray:

By this letter, Zenk Group, Ltd. d/b/a Planet Access ("Planet Access") requests that Planet Access and AT&T Michigan enter into the Fifth Amendment similar to the Fifth Amendment-DS1 Cross Connects to the Interconnection Agreement between ACD Telecom, Inc. and AT&T Michigan that the Michigan Public Service Commission ("Commission") approved in Case No. U-12988 on February 14, 2007. The ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects sets the rate for a DS1 cross-connect at \$6.89.

On February 25, 2003 in Case No. U-13258, Planet Access adopted the Interconnection Agreement between Coast to Coast Telecommunications Inc. ("Coast to Coast") and Ameritech Michigan that was approved by the Commission on October 24, 2000 in Case No. U-12382. The parties also adopted four amendments.

Pursuant to Section 3.6 of Article II, Interconnection shall be equal in quality to that provided by the Parties to themselves or any subsidiary, Affiliate or other person. For purposes of this Section 3.6, "equal in quality" means the same technical criteria and service standards that a Party uses within its own network. Under Section 251(c)(2)(D), AT&T Michigan has the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

In the event that AT&T Michigan disagrees with Planet Access' request to enter into an amendment similar to the ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects, this letter serves as a request to negotiate an amendment pursuant to the above quoted section in the Interconnection Agreement and Section 251(c)(2)(D) of the Act.

The following is the contact information of Planet Access:

Michael Zengerle/President
26400 Southfield Road
Lathrup Village, MI 48076

Thank you for your prompt attention to this matter. Please contact either me or Gary Field, legal counsel to Planet Access, at (517) 913-5100 to begin discussions on the procedures that AT&T Michigan would like to employ to finalize the amendment with Planet Access.

Very truly yours,

Field Law Group, PLLC

Hai Jiang

HJ/tab

cc: Michael Zengerle

C-37 (MJZ-2)

FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

May 15, 2007

Ken Gray
Account Manager
AT&T Michigan
350 N. Orleans, 3rd Floor
Chicago, IL 60654
kg9758@att.com

Re: Planet Access Request for Informal Dispute Resolution – Cross Connect Amendment

Dear Mr. Gray:

Zenk Group Ltd d/b/a Planet Access (“Planet Access”) has attempted to adopt an amendment to its interconnection agreement with AT&T Michigan that would revise the rate of DS1 Cross Connects from \$16.46 per month to \$6.89 per month. AT&T Michigan has entered into identical amendments with numerous other CLECs in Michigan, but has thus far refused to enter into such amendment with Planet Access. Pursuant to Section 9.4 of the parties’ interconnection agreement, AT&T Michigan must provide Planet Access nondiscriminatory access to Network Elements “on terms and conditions no less favorable than the terms and conditions under which [AT&T Michigan] provides such elements to . . . any other person.” Accordingly, AT&T Michigan is currently in violation of the parties’ interconnection agreement in that AT&T Michigan is refusing to provide DS1 Cross Connects to Planet Access at the same rate that AT&T Michigan offers to other CLECs in Michigan.

According to Section 27.4 of Planet Access’s interconnection agreement with AT&T Michigan, Planet Access is by this letter initiating informal dispute resolution with AT&T Michigan regarding this matter. Planet Access appoints Mike Zengerle as its representative for informal negotiations. Mr. Zengerle can be reached by phone at (248) 552-8450, or by e-mail at mzen-gerle@planetaccess.tv. Please appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve this dispute.

Please contact me if you have any questions or comments.

Sincerely,

Gary Gensch

cc: Mike Zengerle

C-38 (MJZ-3)

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 **CLEC** 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 **CLEC** 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 **CLEC**, 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 **CLEC**'s forecasted volumes and subject to the terms and conditions of **Section 19.5**, Ameritech shall provide **CLEC** 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 **CLEC**, and **CLEC** shall access, unbundled Network Elements as set forth on **Schedule 9.5**.

9.5.2 Ameritech shall provide **CLEC** access to, and **CLEC** 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 **CLEC** 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**"), **CLEC** 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 **CLEC** for the provision of local exchange Telecommunications Services for **CLEC**'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 **CLEC** to resolve any issues related

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

THANE NAMY

1 **Q. Please state your name and address.**

2 **A.** My name is Thane Namy. My business address is 24700 Northwestern Highway,
3 Suite 340, Southfield, Michigan 48075.

4

5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the Chief Executive Officer of Clear Rate Communications, Inc. (“Clear Rate”).
7 I am responsible for the management and operation of Clear Rate.

8

9 **Q. Please describe Clear Rate.**

10 **A.** Clear Rate is a licensed provider of competitive local exchange service in Michigan.
11 Clear Rate has an interconnection agreement with Michigan Bell Telephone
12 Company d/b/a AT&T Michigan (“AT&T”).

13

14 **Q. Why are you testifying?**

15 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
16 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
17 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
18 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
19 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
20 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
21 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
22 refusal to permit the other CLECs, including Grid 4 (“Adopting CLECs”), to enter
23 into amendments to their interconnection agreements containing the same rates for
24 DS1 cross connects as contained in amendments between ACD, JAS, TelNet and
25 five other CLECs and AT&T.

26

27 **Q. Did you make a request to AT&T for an amendment to Clear Rate’s**
28 **interconnection agreement with AT&T relating to the rate for DS1 cross**
29 **connects?**

30 **A.** Yes. When I became aware that, as a result of the proceeding in Case No. U-14952,
31 AT&T had entered into interconnection agreement amendments with eight other
32 CLECs which lowered the rate for DS1 cross connects from \$16.46 per month to

1 \$6.89 per month, I directed my attorney to request that Clear Rate be permitted to
2 enter into the same amendment with the same pricing. To this end, my attorney Hai
3 Jiang sent a letter to AT&T attached to a February 9, 2007 e-mail, requesting that
4 Clear Rate be permitted to adopt the new DS1 cross connect amendment. See the e-
5 mail and letter attached as **Exhibit C-39 (TN-1)**.

6

7 **Q. How did AT&T respond to the request?**

8 **A.** On April 4, 2007, AT&T sent me for my signature a DS1 Cross Connects
9 Amendment for Michigan (“Original Cross Connect Amendment”), as well as a joint
10 application for Commission approval. Copies of the e-mail, cover letter,
11 amendment, and joint application are attached as **Exhibit C-40 (TN-2)**. This
12 amendment was substantively the same as the amendments entered into by the
13 parties to Case No. U-14952, and changed the rate for DS1 cross connects from
14 \$16.46 to \$6.89.

15

16 **Q. Did you execute the documents?**

17 **A.** Yes, I executed the documents and returned them to AT&T on April 15, 2007.

18

19 **Q. Did AT&T ever return to you a copy of the executed documents?**

20 **A.** No. Thus, on May 23, 2007, I sent an e-mail to Cheryl Labat and Lori Colon of
21 AT&T asking why AT&T had not yet returned an executed copy of the amendment.
22 Ms. Colon responded that “[t]here has been an issue with the language and I am
23 awaiting approval.” Ms. Colon indicated that such approval should come within a
24 few days. See the e-mail string attached as **Exhibit C-41 (TN-3)**.

25

26 **Q. Please describe what happened next.**

27 **A.** On June 4, 2007, Ms. Colon sent me an e-mail indicating that AT&T would resubmit
28 to Clear Rate for my signature the “revised” DS1 amendment. Because I had already
29 executed the Original Cross Connect Amendment, I asked Ms. Colon what had
30 changed in the revised amendment and what had prompted such change. Ms. Colon
31 replied that “it was determined that the amendment was absent the necessary
32 language which clearly identifies the applicable rates for the DS1 transport cross-

1 connects,” and that the “revised amendment cares for that.” See the e-mail string
2 attached as **Exhibit C-42 (TN-4)**.

3
4 **Q. Did AT&T send you a Revised DS1 Cross Connect Amendment?**

5 **A.** Yes. On June 6, 2007, AT&T sent me a Revised DS1 Cross Connect Amendment.
6 Copies of the cover letter and the revised amendment are attached as **Exhibit C-43**
7 **(TN-5)**. The Revised DS1 Cross Connect Amendment did not remove the \$16.46
8 rate from the pricing schedule like the Original DS1 Cross Connect Amendment
9 (and the U-14952 amendments) had done, and instead retained the \$16.46 rate to be
10 applied to a new category of DS1 cross connects that had not previously appeared in
11 the pricing schedule – “DS1 Transport.” The revised amendment also included the
12 \$6.89 rate to be applied to “DS1 Loop.” In addition, the Revised DS1 Cross
13 Connect Amendment included the following language not present in the initial
14 amendment:

15
16 “As specified below in this pricing schedule under ‘Enhanced
17 Extended Loop (EEL)’, DS1 EEL charge is the sum of its parts (i.e.
18 both DS1 Loop cross-connect and DS1 Transport cross-connect are
19 applicable).”

20
21 Accordingly, instead of providing for one DS1 cross connect rate of \$6.89, as AT&T
22 provided in the amendments entered into with the eight CLECs involved in Case
23 No. U-14952 (e.g., see **Exhibit C-8 (MI-8)** to the direct testimony of Mark
24 Iannuzzi), and as AT&T initially offered to Clear Rate, the revised amendment
25 requires that one of the DS1 cross connects associated with an enhanced extended
26 DS1 Loop (“extended DS1 Loop”) be billed at the rate of \$6.89, while the other DS1
27 cross connect associated with an extended DS1 Loop be billed at the rate of \$16.46.

28
29 **Q. Did Clear Rate enter into the revised amendment?**

30 **A.** No. I responded in a June 7, 2007 e-mail that the revised amendment contained
31 different terms and pricing than in the amendment entered into by XO
32 Communications, Inc. (“XO”). XO was one of the CLECs that participated in Case

1 No. U-14952. I restated my request that Clear Rate be permitted to adopt the same
2 amendment that was entered into by XO and AT&T. Ms. Colon responded in a
3 June 18, 2007 e-mail as follows:

4
5 “As you know, the DS1 Loop Cross Connect Amendment is
6 intended only to change the price of \$16.46 to \$6.89 and to clarify the
7 type of cross connect required for a DS1 loop. The approved
8 amendment accomplished these purposes. However, AT&T
9 Michigan had realized that the manner in which this amendment was
10 worded also caused an inadvertent error or mistake. When the
11 amendment inserted the word ‘loop’ in front of ‘DS1’ under the
12 heading ‘Cross Connects’ in the pricing schedule, this inadvertently
13 removed the reference to the DS1 transport cross connect product,
14 as well as the corresponding price for this product, from the pricing
15 schedule. Consistent with the provisions in our ICA, AT&T
16 Michigan will continue offering to Clear Rate this product at the
17 Commission approved rate of \$16.46.”

18
19 In a June 19, 2007 e-mail, I asked Ms. Colon to clarify whether Clear Rate was able
20 to adopt the *exact* DS1 cross connect amendment that XO had received. Ms. Colon
21 replied in a June 19, 2007 e-mail as follows:

22
23 “As indicated in my June 18, 2007 email, the initial DS1 Loop Cross
24 Connect Amendments contained an inadvertent error. With that
25 said, it is no longer an amendment to be presented to any CLEC. In
26 regard to the DS1 Loop Cross Connect Amendment Clear Rate
27 received on June 6, 2007, which Clear Rate may be referring to as the
28 ‘altered’ amendment, that amendment is the DS1 Loop Cross
29 Connect Amendment, with the error corrected, that AT&T is
30 presently offering.”

31
32 See the e-mail string attached as **Exhibit C-44 (TN-6)**.

1 The revised amendment prices DS1 cross connects connected to extended DS1
2 Loops at a higher rate than AT&T's amendments with the CLECs involved in Case
3 No. U-14952 prices such cross connects. Such pricing is discriminatory, and is
4 contrary to Michigan law, federal law, and § 9.2.1 of Clear Rate's interconnection
5 agreement with AT&T. *See Exhibit C-45 (TN-7).*

6

7 **Q. Has AT&T permitted Clear Rate to enter into an amendment revising the**
8 **DS1 cross connect price for unextended DS1 Loops only?**

9 **A.** No. Even though AT&T has apparently taken the position that the \$6.89 rate
10 should only apply to unextended DS1 Loops, AT&T has refused to permit Clear
11 Rate to obtain the \$6.89 rate for cross connects connected to unextended DS1
12 Loops until Clear Rate agrees that it will pay the discriminatory price of \$16.46 per
13 month for one of the cross connects associated with the extended DS1 Loop.

14

15 **Q. Does this conclude your prepared Direct Testimony?**

16

17 **A.** Yes.

C-39 (TN-1)

Gary L. Field

From: Hai Jiang [hjiang@FieldLawGroup.com]
Sent: Wednesday, July 11, 2007 2:16 PM
To: 'Gary Gensch'
Subject: FW: Clear Rate cross connects adoption letter
Importance: High

From: Hai Jiang [mailto:hjiang@FieldLawGroup.com]
Sent: Friday, February 09, 2007 4:13 PM
To: 'cl2717@att.com'
Subject: Clear Rate cross connects adoption letter
Importance: High

Ms. Labat,

Attached is Clear Rate's letter requesting to adopt a new cross connection amendment. Please let me know if you have any question with regard to this matter.

Thank you,

Hai Jiang
Field Law Group, PLLC
915 N. Washington Avenue,
Lansing, MI 48906-5137
hjiang@FieldLawGroup.com
(517) 913-5101 Phone
(517) 913-3471 Fax

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FIELD LAW GROUP, PLLC

Gary L. Field
Gary A. Gensch
Hai Jiang
Of Counsel:
Norman C. Witte

915 N. Washington Avenue
Lansing, Michigan 48906-5137
Telephone (517) 913-5100
Facsimile (517) 913-3471
E-mail: glfield@fieldlawgroup.com

February 9, 2007

Via Email

Cheryl Labat
AT&T Senior Account Manager
2600 Camino Ramon
San Ramon, CA 94583
(925) 824-7296

Re: Adoption of an amendment to the Interconnection Agreement

Dear Ms Labat:

By this letter, Clear Rate Communications, Inc. ("Clear Rate") requests that Clear Rate and AT&T Michigan enter into the sixteenth amendment similar to the Fifth Amendment-DS1 Cross Connects to the Interconnection Agreement between ACD Telecom, Inc. and AT&T Michigan that AT&T Michigan filed with the Michigan Public Service Commission ("Commission") for approval on January 30, 2007. The ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects sets the rate for a DS1 cross-connect at \$6.89.

Clear Rate adopted the Interconnection Agreement between AT&T Communications of Michigan, Inc. and SBC Michigan and the adoption was approved by the Commission on October 14, 2004 in Case No. U-14302. The adopted Interconnection Agreement also incorporates by reference the nine amendments that AT&T Communications of Michigan and SBC Michigan entered into. Subsequently, Clear Rate and AT&T Michigan also adopted six more amendments, from Tenth Amendment to Fifteenth Amendment.

Under section 3.12 of the Interconnection Agreement, interconnection shall be equal in quality as provided in Section 251 (c) (2) (C) of the Act and on rates, terms and conditions consistent with Section 251 (c) (2) (D) of the Act. Section 9.2.1, Article IX, further requires AT&T Michigan to provide Clear Rate access to Network Elements on an unbundled basis (and combinations of Network Elements as set forth in Section 9.3 of Article IX) at rates, terms and conditions that are just, reasonable and nondiscriminatory in accordance with the terms and conditions of this Agreement and the requirements of Section 251 and Section 252 of the Act and applicable FCC Orders and other applicable laws.

Pursuant to Section 251(c)(2)(D) of the federal Act, AT&T Michigan has the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network on rates, terms, and conditions that are

Field Law Group, PLLC

Page 2 of 2

just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

In the event that AT&T Michigan disagrees with Clear Rate's request to enter into an amendment similar to the ACD/AT&T Michigan Fifth Amendment-DS1 Cross Connects, this letter serves as a request to negotiate an amendment pursuant to the above quoted section in the Interconnection Agreement and Section 251(c)(2)(D) of the Act.

The following is the contact information of Clear Rate:

Thane Namy, President
Clear Rate Communications, Inc.
24700 Northwestern Hwy Ste. 340
Southfield, MI 48075

Thank you for your prompt attention to this matter. Please contact either me or Gary Field, legal counsel to Clear Rate, at (517) 913-5100 to begin discussions on the procedures that AT&T Michigan would like to employ to finalize the amendment with Clear Rate.

Very truly yours,

Field Law Group, PLLC

Hai Jiang

HJ/tab

cc: Thane Namy

C-40 (TN-2)

Gary L. Field

From: Sam Namy [snamy@clearrate.com]
Sent: Wednesday, April 04, 2007 6:01 PM
To: Thane Namy
Subject: FW: CLEAR RATE COMMUNICATIONS, INC.-DS1 CROSS CONNECTS AMENDMENT-MI
Follow Up Flag: Follow up
Flag Status: Completed

Were you expecting this? I think this has to do with T-1's they considered special access. If you were not expecting this I'll follow up with Cheryl Labatt to clarify. We may need to have an attorney review.

Thanks,

Sam

-----Original Message-----

From: JOHNSON-JACKSON, DEMETRIA D (ATTSWBT) [<mailto:dj6287@att.com>]
Sent: Wednesday, April 04, 2007 5:57 PM
To: Sam Namy
Cc: LONG, ANN M (ATTPB); LABAT, CHERYL A (ATTPB)
Subject: CLEAR RATE COMMUNICATIONS, INC.-DS1 CROSS CONNECTS AMENDMENT-MI

> Dear Thane Namy,

>

> Attached below you will find a complete DS1 Cross Connects Amendment for Michigan. Please review the attached Carrier Cover Letter, as it contains all pertinent information regarding the execution and filing of the Amendment. Should you have any questions regarding the attached, please contact Ann Long at 925-823-3128.

>

> Cover Letter

>>Carrier Cvr Ltr 022207.pdf>>

> Amendment

>>Clear Rate MI DS1 Amendment 032307.pdf>> Filing Document <<Jt App 16th.pdf>> Demetria Johnson-Jackson
Manager-Contract Management AT&T Wholesale Customer Care

214-464-0628

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7/31/2007



April 5, 2007

Thane Namy
President/CEO
Clear Rate Communications, Inc.
24700 Northwestern Highway, Suite 340
Southfield, MI 48075

Dear Thane Namy:

Attached is the proposed Amendment ("Provisions") between Clear Rate Communications, Inc. and Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T") for review and signature. This package contains the following:

1. DS1 Cross Connects Amendment. Please print and execute two (2) original signature pages.
2. Joint Filing Application for Michigan Public Service Commission. Please print and execute one (1) original.

Return both original, signed and dated signature pages and the Joint Filing Application to the following address within 30 days for proper execution:

Contract Processing
4 AT&T Plaza
311 South Akard, 9th Floor
Dallas, TX 75202

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Provisions may be withdrawn or changed at any time by AT&T prior to their effective date, and will be considered automatically withdrawn 30 days from the date of this letter if your company has not returned signed and dated signature pages as provided above by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

Retain the electronic copy of the amendment for your records as additional paper copies will not be sent. After AT&T executes, a fully executed signature page will be returned for your records.

If you have questions regarding the attached, please contact Ann Long at 925-823-3128.

Sincerely,

Demetria Johnson-Jackson
Manager - Contract Management

Attachments

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and Clear Rate Communications, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

2.1.1 Section 9.2.1.3.5 of Schedule 9.2.1, Local Loops, is amended (i) to replace the term "4-Wire 1.544 Mbps Digital Loop" with "DS1 Digital Loop"; (ii) to replace the term "1.544 Mbps Digital" with "DS1 Loop", and (iii) to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loops."

2.1.2 In the Pricing Schedule Exhibit A, page 1 of 14, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".

2.1.3 In the Pricing Schedule Exhibit A, page 6 of 14 under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended*, MPSC Case No. U-14305, *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir.

2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

Clear Rate Communications, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

RESALE OCN # 279B
UNE OCN # 672B
ACNA LRI

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In Re the request for Commission approval of)
An Interconnection Agreement between)
Clear Rate Communications, Inc. and Michigan) Case No. U-14302
Bell Telephone Company d/b/a SBC Michigan_____)

JOINT APPLICATION

AT&T Michigan¹ and Clear Rate Communications, Inc. hereby jointly apply to the Michigan Public Service Commission (Commission) pursuant to Section 203(1) of the Michigan Telecommunications Act (MTA), as amended, MCL 484.2203(1), and Section 252(e) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 252(e), for approval of the _____ Amendment to the interconnection agreement between the parties heretofore approved by the Commission on October 14, 2004 (Agreement). In support of this joint application, AT&T Michigan and Clear Rate Communications, Inc. state as follows:

1. The parties have entered into good faith negotiations and have executed a _____ Amendment to the Agreement. The _____ Amendment to the Agreement, fully executed as of _____, 2007, establishes a new rate for the DS1 cross connect and clarifies the definitions of DS1 cross connect and 4-wire cross connect in the Agreement. A copy of the _____ Amendment to the Agreement, duly executed by the parties, is submitted with this joint application as Exhibit A.

2. The _____ Amendment is the result of voluntary negotiations and must be submitted to the Commission for its approval or rejection pursuant to Section 252(e)(1) of the Act. The _____ Amendment meets all statutory criteria for Commission approval.

¹ Michigan Bell Telephone Company (previously referred to as "Michigan Bell" or "SBC Michigan") now operates under the name "AT&T Michigan" pursuant to an assumed name filing with the State of Michigan.

WHEREFORE, AT&T Michigan and Clear Rate Communications, Inc. jointly request Commission approval of the _____ Amendment to the Agreement pursuant to MTA §203(1) and §252(e) of the Act as soon as possible.

Respectfully submitted,

Clear Rate Communications, Inc.

Counsel for AT&T Michigan

Thane Namy
24700 Northwestern Highway, Suite 340
Southfield, MI 48075
(248) 556-4527

Craig A. Anderson (P28968)
444 Michigan Avenue, Room 1700
Detroit, Michigan 48226
(313) 223-8033

Dated: _____

C-41 (TN-3)

Gary L. Field

From: COLON, LORI (ATTASIAIT) [lc2683@att.com]
Sent: Thursday, May 24, 2007 9:10 AM
To: Thane Namy
Subject: RE: DS-1 Amendment

There has been an issue with the language and I am awaiting approval. It should be in the next few days we will have that and I can re-submit your request for signature.

Lori Colon

Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

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From: Thane Namy [mailto:tnamy@clearrate.com]
Sent: Wednesday, May 23, 2007 5:29 PM
To: COLON, LORI (ATTASIAIT)
Cc: Thane Namy
Subject: FW: DS-1 Amendment

Hi Lori,

We executed a DS-1 x-connect amendment some time ago and never received it back. Can you check on this for me? Ann Long is out till 6-18-07.

Thanks,

=====
Thane Namy
Telephone: 248-556-4527
Direct Fax: 248-556-4534
www.ClearRate.com

From: Thane Namy
Sent: Wednesday, May 23, 2007 6:23 PM
To: 'LABAT, CHERYL A (ATTPB)'; 'ann.long@att.com'
Cc: Sam Namy; Thane Namy
Subject: RE: DS-1 Amendment

7/31/2007

Good Evening Ann/Cheryl,

We executed a DS-1 Amendment some time ago. We have not received the executed copy back from SBC.

Can you please advise.

Thanks,

=====

Thane Namy
Clear Rate Communications, Inc.
24700 Northwestern Hwy
Suite 340
Southfield, MI 48075
Telephone: 248-556-4527
Direct Fax: 248-556-4534
www.ClearRate.com

C-42 (TN-4)

Gary L. Field

From: COLON, LORI (ATTASIAIT) [lc2683@att.com]
Sent: Tuesday, June 05, 2007 2:39 PM
To: Thane Namy
Cc: LONG, ANN M (ATTPB)
Subject: RE: DS-1 Amendment

Thane,

AT&T has expedited Clear Rate's receipt of its DS1 Cross-Connect Amendment and Joint Application for execution with a delivery date of Wednesday, June 6, 2007.

In response to what specifically changed and prompted the need for a revision; it was determined that the amendment was absent the necessary language which clearly identifies the applicable rates for the DS1 transport cross-connects. The revised amendment cares for that.

Please let me know if you have any other questions.

Lori Colon

Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

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From: Thane Namy [mailto:tnamy@clearrate.com]
Sent: Monday, June 04, 2007 7:05 PM
To: COLON, LORI (ATTASIAIT)
Cc: Thane Namy
Subject: RE: DS-1 Amendment

Hi Lori,

There was an agreed upon amendment which was written by SBC and we simply executed. Please advise what specifically has changed with the amendment and what prompted the need for an altered amendment?

The correct email is tnamy@clearrate.com.

Please let me know.

Thanks,

=====
Thane Namy

7/31/2007

Telephone: 248-556-4527
Direct Fax: 248-556-4534
www.ClearRate.com

From: COLON, LORI (ATTASIAIT) [mailto:lc2683@att.com]
Sent: Monday, June 04, 2007 10:47 AM
To: Thane Namy
Subject: RE: DS-1 Amendment

Thane,

A revised DS1 Amendment is being resent to Clear Rate for signature. Contract Management is due to have that out the door by June 10. Is the notice information for who should receive and the email address correct. I'm wondering if the S should be T 'tnamy@clearrate.com' Please let me know. Thanks much.

Thane Namy
President/CEO
24700 Northwestern Highway
Suite 340
Southfield, MI 48075
Telephone: (248) 556-4527
Fax: (248) 556-4534
eMail: snamy@clearrate.com

Lori Colon

Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

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From: Thane Namy [mailto:tnamy@clearrate.com]
Sent: Wednesday, May 23, 2007 5:29 PM
To: COLON, LORI (ATTASIAIT)
Cc: Thane Namy
Subject: FW: DS-1 Amendment

Hi Lori,

We executed a DS-1 x-connect amendment some time ago and never received it back. Can you check on this for me? Ann Long is out till 6-18-07.

Thanks,

7/31/2007

=====

Thane Namy
Telephone: 248-556-4527
Direct Fax: 248-556-4534
www.ClearRate.com

From: Thane Namy
Sent: Wednesday, May 23, 2007 6:23 PM
To: 'LABAT, CHERYL A (ATTPB)'; 'ann.long@att.com'
Cc: Sam Namy; Thane Namy
Subject: RE: DS-1 Amendment

Good Evening Ann/Cheryl,

We executed a DS-1 Amendment some time ago. We have not received the executed copy back from SBC.

Can you please advise.

Thanks,

=====

Thane Namy
Clear Rate Communications, Inc.
24700 Northwestern Hwy
Suite 340
Southfield, MI 48075
Telephone: 248-556-4527
Direct Fax: 248-556-4534
www.ClearRate.com

C-43 (TN-5)



June 6, 2007

Thane Namy
President/CEO
Clear Rate Communications, Inc.
24700 Northwestern Highway, Ste 340
Southfield, MI 48075

Dear Mr. Namy:

Attached is the proposed amendment (“Provisions”) between Clear Rate Communications, Inc. and Michigan Bell Telephone Company d/b/a AT&T Michigan (“AT&T”) for review and signature. This package contains the following:

1. Amendment-DS1 Cross Connects. Please print and execute 2 original signature pages.

Please return both original signed and dated signature pages to the following address within 30 days for proper execution:

Contract Processing
4 AT&T Plaza
311 South Akard, 9th Floor
Dallas, TX 75202

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Provisions may be withdrawn or changed at any time by AT&T prior to their effective date, and will be considered automatically withdrawn 30 days from the date of this letter if your company has not returned signed and dated signature pages as provided above by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

Please retain the electronic copy of the amendment for your records as additional paper copies will not be sent. After AT&T executes, a fully executed signature page(s) will be returned for your records.

Finally, please note your OCN and ACNA for each applicable state will be inserted on the signature pages based upon the information provided from AT&T’s CLEC Profile website. Please do not revise the signature pages. If there are discrepancies in the reflection of the OCN and/or ACNA, please contact your Account Manager to have the CLEC Profile updated. This information is required for execution. State certification status and number, if appropriate, is required to complete the filing process.

If you have questions regarding the attached, please contact Ann Long on 925-823-3128.

Sincerely,

Linda Campbell
Manager - Contract Management

Attachment

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan¹ ("AT&T Michigan") and Clear Rate Communications, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
- 1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

- 2.1.1 A new Section 3.1.2.2 is added, to the TRO/TRRO Attachment dated October 25, 2005, as follows:
"A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loops."
- 2.1.2 The following change is made in the Attachment A Pricing Schedule, page 1 of 14, to AMENDMENT – MPSC JANUARY 25, 2005 FINAL ORDER – CASE NO. U-13531: under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".
- 2.1.3 The following changes are made in Attachment A Pricing Schedule, page 6 of 14, to AMENDMENT – MPSC JANUARY 25, 2005 FINAL ORDER – CASE NO. U-13531: under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Transport" is added after the term "DS1"; and the price of "\$16.46" remains unchanged; (iii) the words "DS1 Loop" with "\$6.89" are added; and (iv) the words "As specified below in this pricing schedule under "Enhanced Extended Loop (EEL)", DS1 EEL charge is the sum of its parts (i.e. both DS1 Loop cross-connect and DS1 Transport cross-connect are applicable)" are added. For the avoidance of doubt, these new rates shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.

7. MISCELLANEOUS

- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

Clear Rate Communications, Inc.

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

RESALE OCN # 279B
UNE OCN # 672B
ACNA LRI

C-44 (TN-6)

Gary L. Field

From: COLON, LORI (ATTASIAIT) [lc2683@att.com]
Sent: Tuesday, June 19, 2007 1:54 PM
To: Thane Namy
Cc: LONG, ANN M (ATTPB); Gary L. Field
Subject: RE: Clear Rate Communications, Inc. Amendment

Thane,

As indicated in my June 18, 2007 email, the initial DS1 Loop Cross Connect Amendments contained an inadvertent error. With that said, it is no longer an amendment to be presented to any CLEC. In regard to the DS1 Loop Cross Connect Amendment Clear Rate received on June 6, 2007, which Clear Rate may be referring to as the "altered" amendment, that amendment is the DS1 Loop Cross Connect Amendment, with the error corrected, that AT&T is presently offering.

Please let me know if you have any additional questions. Thanks much.

Lori Colon
Lead Negotiator
AT&T Wholesale
AT&T Illinois
312-335-7411

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-----Original Message-----

From: Thane Namy [<mailto:tnamy@clearrate.com>]
Sent: Tuesday, June 19, 2007 11:27 AM
To: COLON, LORI (ATTASIAIT)
Cc: LONG, ANN M (ATTPB); Thane Namy; Gary L. Field
Subject: RE: Clear Rate Communications, Inc. Amendment
Importance: High

Lori,

Please provide a simple yes or no answer.

Can we get the EXACT SAME amendment that XO received? Yes or NO?

Or is the only amendment available to Clear Rate is the altered Amendment - (the slightly changed amendment - different from XO's amendment - that was presented to Clear Rate recently)?

Please let me know.

7/31/2007

Thanks,

=====

Thane Namy

Telephone: 248-556-4527

Direct Fax: 248-556-4534

www.ClearRate.com

-----Original Message-----

From: COLON, LORI (ATTASIAIT) [<mailto:lc2683@att.com>]

Sent: Monday, June 18, 2007 11:17 AM

To: Thane Namy

Cc: LONG, ANN M (ATTPB)

Subject: RE: Clear Rate Communications, Inc. Amendment

Thane,

In response to the attached, AT&T Michigan is treating Clear Rate in the same manner as other CLECs that have executed the DS1 Loop Cross Connect Amendment.

As you know, the DS1 Loop Cross Connect Amendment is intended only to change the price for a DS1 loop cross connect from the price of \$16.46 to \$6.89 and to clarify the type of cross connect required for a DS1 loop. The approved amendment accomplished these purposes. However, AT&T Michigan had realized that the manner in which this amendment was worded also caused an inadvertent error or mistake. When the amendment inserted the word "loop" in front of "DS1" under the heading "Cross Connects" in the pricing schedule, this inadvertently removed the reference to the DS1 transport cross connect product, as well as the corresponding price for this product, from the pricing schedule. Consistent with the provisions in our ICA, AT&T Michigan will continue offering to Clear Rate this product at the Commission approved rate of \$16.46.

On June 6, 2007, AT&T Michigan presented Clear Rate with a revised amendment which includes a reference to DS1 transport cross connect product as well as the appropriate rate and a joint motion for Commission approval for Clear Rate to execute and return for filing with the Michigan Commission for approval.

Please let me know if you have any additional questions. Thank you.

Lori Colon

Lead Negotiator

AT&T Wholesale

AT&T Illinois

312-335-7411

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-----Original Message-----

From: Thane Namy [<mailto:tnamy@clearrate.com>]

Sent: Thursday, June 14, 2007 8:37 AM

To: COLON, LORI (ATTASIAIT)

Cc: CAMPBELL, LINDA J (ATTSWBT); LONG, ANN M (ATTPB); Thane Namy; Gary L. Field

Subject: FW: Clear Rate Communications, Inc. Amendment

Importance: High

Good Morning Lori,

I received your voicemail that you have a response to my questions. Please email those responses to me, this will avoid any confusion or possible misinterpretation to my questions below. I appreciate you researching this and providing responses.

Thanks,

=====

Thane Namy

Telephone: 248-556-4527

Direct Fax: 248-556-4534

www.ClearRate.com

-----Original Message-----

From: Thane Namy

Sent: Thursday, June 07, 2007 12:10 PM

To: 'lc3055@att.com'; 'LONG, ANN M (ATTPB)'

Cc: 'LABAT, CHERYL A (ATTPB)'; 'COLON, LORI (ATTASIAIT)'; Thane Namy; 'Gary L. Field'

Subject: FW: Clear Rate Communications, Inc. Amendment

Importance: High

Ann/Linda,

I have reviewed the amendment. It provides different terms and pricing than XO has received from AT&T regarding the DS-1 cross-connect amendment. I have attached for your review.

Clear Rate is specifically requesting the same amendment that other CLECs, XO amendment provided for your reference - we want this same amendment, received on February 14, 2007. We are insisting on rights to be treated the same as other CLECs before us.

Please confirm you are willing to provide this identical amendment or unwilling and the only amendment available is the one provided in this email.

We will file a complaint with the MPSC if necessary to obtain access to the same amendments other CLECs have received and to prevent AT&T's discriminatory and anti-competitive action being forced on us regarding this issue.

Please advise.

Thanks,

=====

Thane Namy

Telephone: 248-556-4527

Direct Fax: 248-556-4534

www.ClearRate.com

-----Original Message-----

From: CAMPBELL, LINDA J (ATTSWBT) [<mailto:lc3055@att.com>]

Sent: Wednesday, June 06, 2007 5:20 PM

To: Thane Namy

Cc: glfield@fielddlawgroup.com; COLON, LORI (ATTASIAIT); LONG, ANN M (ATTPB); LABAT, CHERYL A (ATTPB)

Subject: Clear Rate Communications, Inc. Amendment

Mr. Namy -

Attached below you will find an electronic copy of the signature ready Amendment - DS1 Cross Connects for Clear Rate Communications, Inc. in Michigan. Please review the attached Cover Letter, as it contains all pertinent information regarding the execution of the agreement. Should you have any questions, regarding the attached, please contact Lori Colon at 312-335-7411.

Cover Letter

<<Cvr Ltr.pdf>>

Amendment

<<052907 Clear Rate MI DS1 Amendment.pdf>>

> Linda Campbell
> Manager-Contract Management
> AT&T Wholesale Customer Care

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>

>

C-45 (TN-7)

Users. SBC AMERITECH shall place no other use restrictions or other limiting conditions on Network Elements and Combinations purchased by AT&T under the terms of this Agreement. Notwithstanding anything to the contrary in this Article IX, SBC-AMERITECH shall not be required to provide Network Elements on an unbundled basis beyond those identified in 47 C.F.R. § 51.319 to AT&T if:

- (1) The Commission concludes that:
 - (A) such Network Element is proprietary or contains proprietary information that will be revealed if such Network Element is provided to AT&T on an unbundled basis; and
 - (B) AT&T could offer the same proposed Telecommunications Service through the use of other, nonproprietary Network Elements within SBC-AMERITECH's network; or
- (2) The Commission concludes that the failure of SBC-AMERITECH to provide access to such Network Element would not decrease the quality of, and would not increase the financial or administrative cost of, the Telecommunications Service AT&T seeks to offer, compared with providing that service over other unbundled Network Elements in SBC-AMERITECH's network.

9.1.3 SBC-AMERITECH shall connect AT&T's facilities with SBC-AMERITECH's network at any technically feasible point for access to UNEs for the provision by AT&T of a Telecommunications Service consistent with the provisions of the Act and the applicable FCC rules.

9.2 Network Elements.

9.2.1 SBC-AMERITECH shall provide AT&T access to Network Elements on an unbundled basis (and combinations of Network Elements as set forth in Section 9.3 of this Article) at rates, terms and conditions that are just, reasonable and non-discriminatory in accordance with the terms and conditions of this Agreement and the requirements of Section 251 and Section 252 of the Act and applicable FCC Orders and other applicable laws.

9.2.2 SBC-AMERITECH will permit AT&T to interconnect AT&T's facilities or facilities provided by AT&T or to AT&T by SBC-AMERITECH or third parties with each of SBC-AMERITECH's unbundled Network Elements or Combinations at any technically feasible point designated by AT&T. Any request by AT&T to interconnect at a point not previously established: (i) in accordance with the terms of this Agreement (e.g., other than as set forth in the descriptions of unbundled Network Elements and Combinations under the following provisions of this Article IX and **Schedules 9.2.1** through **9.2.9**), or (ii) under any arrangement SBC-AMERITECH may have with another

STATE OF MICHIGAN

IN THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of **ACD Telecom, Inc;** JAS)
Networks, Inc.; TelNet Worldwide, Inc.; **B&S**)
Telecom, Inc.; Clear Rate Communications, Inc.; **CMC**)
Telecom, Inc.; Grid 4 Communications, Inc.; and **Zenk**)
Group, Ltd. d/b/a Planet Access; against **Michigan Bell**)
Telephone Company d/b/a AT&T Michigan regarding)
AT&T's improper DS1 cross connect rate.)
_____)

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

DR. AUGUST H. ANKUM

1 **Q. Please state your name and address.**

2 **A.** My name is Dr. August H. Ankum. My business address is 1027 Arch, Suite #304,
3 Philadelphia, PA 19107.

4

5 **Q. By whom are you employed?**

6 **A.** I am a Senior Vice President at QSI Consulting, Inc., a consulting firm specializing in
7 economics and telecommunications issues.

8

9 **Q. Please describe your education background and work experience.**

10 **A.** I received a Ph.D. in Economics from the University of Texas at Austin in 1992, an
11 M.A. in Economics from the University of Texas at Austin in 1987, and a B.A. in
12 Economics from Quincy College, Illinois, in 1982.

13 My professional background covers work experiences in private industry and at state
14 regulatory agencies. As a consultant, I have worked with large companies, such as
15 AT&T, AT&T Wireless and MCI WorldCom ("MCIW"), as well as with smaller
16 carriers, including a variety of competitive local exchange carriers ("CLECs") and
17 wireless carriers. I have worked on many of the arbitration proceedings between
18 new entrants and incumbent local exchange carriers ("ILECs"). Specifically, I have
19 been involved in arbitrations between new entrants and NYNEX, Bell Atlantic, US
20 WEST, BellSouth, Ameritech, AT&T (formerly SBC), GTE and Puerto Rico
21 Telephone. Prior to practicing as a telecommunications consultant, I worked for
22 MCI Telecommunications Corporation ("MCI") as a senior economist. At MCI, I
23 provided expert witness testimony and conducted economic analyses for internal
24 purposes. Before I joined MCI in early 1995, I worked for Teleport
25 Communications Group, Inc. ("TCG"), as a Manager in the Regulatory and External
26 Affairs Division. In this capacity, I testified on behalf of TCG in proceedings
27 concerning local exchange competition issues, such as Ameritech's Customer First
28 proceeding in Illinois. From 1986 until early 1994, I was employed as an economist
29 by the Public Utility Commission of Texas ("PUCT") where I worked on a variety of
30 electric power and telecommunications issues. During my last year at the PUCT, I
31 held the position of chief economist. Prior to joining the PUCT, I taught

1 undergraduate courses in economics as an Assistant Instructor at the University of
2 Texas from 1984 to 1986.

3
4 A list of proceedings in which I have filed testimony is attached as **Exhibit C-46**
5 **(AHA-1)**.

6

7 **Q. Why are you testifying?**

8 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
9 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
10 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
11 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
12 and AT&T. The Complaint concerns two controversies: (1) AT&T’s refusal to
13 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
14 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
15 refusal to permit the other CLECs, including B&S (“Adopting CLECs”), to enter
16 into amendments to their interconnection agreements containing the same rates for
17 DS1 cross connects as contained in amendments between ACD, JAS, TelNet and
18 five other CLECs and AT&T.

19

20 **Q. Did you participate in Case No. U-14952?**

21 **A.** Yes. I participated in Case No. U-14952 as an expert witness in support of the
22 complaint filed by TDS Metrocom, LLC, LDMI Telecommunications, Inc., and XO
23 Communications Services, Inc. against AT&T. I filed my direct testimony and
24 exhibits in that proceeding with the complaint on July 7, 2006, which testimony and
25 exhibits are hereby incorporated into this testimony by reference (“U-14952
26 testimony”). A public version of my testimony and exhibits are located at Document
27 No. 0003 in the Commission’s online E-Docket, available online at
28 <http://efile.mpasc.cis.state.mi.us/efile/docs/14952/0003.pdf>. The confidential
29 version of my direct testimony and exhibits are located at Document No. 0013 N.
30 This confidential version was filed with the Commission and separated from the
31 public docket.

1 **Q. Why is the testimony you provided in Case No. U-14952 important to this**
2 **proceeding?**

3 **A.** As I understand it, AT&T has charged TelNet \$16.46 (and more recently \$11.67) per
4 month for the two DS1 cross connects associated with enhanced extended DS1
5 Loops (“extended DS1 Loops”), even after TelNet entered into an amendment to its
6 interconnection agreement with AT&T arising out of Case No. U-14952 (the “U-
7 14952 Cross Connect Amendment”) that changed the rate of DS1 cross connects
8 from \$16.46 per month to \$6.89 per month. AT&T’s apparent position is that the
9 new \$6.89 rate for some reason does not apply to cross connects associated with
10 extended DS1 Loops.

11 My testimony in Case No. U-14952 showed, among other things, that the rate of
12 \$16.46 is inappropriate for a 4-wire, DS1 (1.54 Mbps) level cross connect. The same
13 rate and cost analysis issues addressed in my testimony, in Case No. U-14952, are
14 relevant in the current complaint.

15

16 **Q. If the U-14952 Cross Connect Amendment does not cover the cross connects**
17 **associated with an extended DS1 Loop, what should TelNet pay for the**
18 **extended DS1 Loop?**

19 **A.** In that case, as I discuss in my U-14952 testimony, TelNet should have the option of
20 purchasing a 4-wire, DS1 (1.544 Mbps) level cross connect without the bundled
21 DTAU for use with an extended DS1 Loop. As I demonstrate in that testimony, the
22 cost of the cross connect should either be \$0.27, which is the cost of the 4-wire cross
23 connect in the U-13531 pricing schedule, or the cost should be \$0.00, which is the
24 cost of a 4-wire DS1 (1.544 Mbps) level cross connect minus the costs of the DTAU
25 as established in AT&T’s U-13531 cost study (*see* page 13 of my U-14952 testimony).

26

27 **Q. Please further describe why TelNet should be permitted to pay such rates for**
28 **the cross connect associated with an extended DS1 Loop.**

29 **A.** As discussed at pages 14 through 17 of my U-14952 testimony, according to AT&T’s
30 cost study in Case No. U-13531, all of the recurring costs of a DS1 cross connect are
31 associated with the DTAU. The DTAU testing function, however, should be
32 optional and be unbundled for the cross connects, which are the network elements

1 that the Adopting CLECs request; again, as discussed in my U-14952 testimony, the
2 cross connects should be offered on a standalone basis. Also, as testified to by Mr.
3 Peter Iannuzzi, while the DTAU performs certain testing functions, DTAUs are not
4 necessary in connection with AT&T's provision of an extended DS1 Loop because
5 the transmission equipment associated with an extended DS1 Loop contains all of
6 the testing functionality that DTAUs perform. In addition, Peter Iannuzzi testifies
7 that AT&T might not even use a DTAU at all in connection with the cross connects
8 associated with an enhanced DS1 Loop, providing even more support for the
9 contention that TelNet should not be required to pay for the bundled DTAU service
10 that it does not want.

11
12 **Q. Please discuss in more detail why the \$0.27 rate, or in the alternative the \$0.00**
13 **rate, are the rates TelNet should pay for cross connects associated with**
14 **extended DS1 Loops.**

15 **A.** \$0.27 is the rate in the U-13531 pricing schedule for 4-wire cross connects. See
16 **Exhibit C-2 (MI-2)** to the testimony of Mark Iannuzzi. Without the bundled
17 DTAU, all TelNet needs in connection with its extended DS1 Loops is a simple 4-
18 wire cross connect. This rate is comparable to the 4-wire cross connect that TelNet
19 previously purchased from AT&T for identical cross connect services under AT&T's
20 previous U-11831 cost study. *See* my U-14952 testimony, p. 9.

21
22 Alternatively, because the entire recurring cost of a DS1 cross connect is associated
23 with the DTAU, and because AT&T is impermissibly bundling the DTAU with the
24 DS1 cross connect, and thereby requiring TelNet to purchase testing equipment that
25 is completely unnecessary, entirely redundant, and perhaps even nonexistent, TelNet
26 should only be required to pay the cost of the DS1 cross connect minus the cost of
27 the DTAU as established in AT&T's U-13531 cost study. Because the entire cost of
28 the DS1 cross connect is associated with the DTAU, TelNet should be able to
29 purchase an unbundled DS1 cross connect for \$0.00.

30
31
32

1 **Q. From a costing perspective, should the Adopting CLECs also be permitted to**
2 **purchase the cross connects associated with an extended DS1 Loop at this**
3 **reduced rate?**

4 **A.** Yes. As I understand it, the Adopting CLECs have requested to enter into the U-
5 14952 Cross Connect Amendment, but AT&T has refused such requests absent the
6 Adopting CLECs agreeing that the \$16.46 rate applies to one of the cross connects
7 associated with an extended DS1 Loop. The Adopting CLECs should be permitted
8 to pay the reduced rate of \$0.27, in order to obtain such DS1 cross connect without
9 the bundled DTAU for use with an extended DS1 Loop.

10

11 **Q. Does this conclude your prepared Direct Testimony?**

12 **A.** Yes.

C-46 (AHA-1)

Curriculum Vitae
August H. Ankum, Ph.D.
Senior Vice President
QSI Consulting, Inc.

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I am an economist and consultant, specializing in public utility regulation. In this capacity, I have provided consulting services in the major telecommunications markets of the United States, such as California, New York, Texas, Illinois, Michigan, Tennessee, Florida, Georgia, and in a variety of other states. My consulting activities focus mostly on telecommunications regulation. Specifically, I work with large corporate clients, such as MCIWorldCom, AT&T, AT&T Wireless, and a variety of smaller competitive local exchange carriers and PCS providers. I have represented these clients before state and federal regulatory agencies in various proceedings concerning the introduction of competition in telecommunications markets. Recently, these proceedings focus largely on the implementation of the pro-competition provisions of Telecommunications Act of 1996.

Professional experience:

My professional background includes work experiences in private industry and state government. I have worked for MCI Telecommunications Corporation ("MCI") as a senior economist. At MCI, I provided expert witness testimony and conducted economic analyses for internal purposes. Prior to joining MCI in early 1995, I worked for Teleport Communications Group, Inc. ("TCG"), as a Manager in the Regulatory and External Affairs Division. In this capacity, I testified on behalf of TCG in proceedings concerning local exchange competition issues. From 1986 until early 1994, I was employed as an economist by the Public Utility Commission of Texas ("PUCT") where I worked on a variety of electric power and telecommunications issues. During my last year at the PUCT I held the position of chief economist. Prior to joining the PUCT, I taught undergraduate courses in economics as an Assistant Instructor at the University of Texas from 1984 to 1986.

Education:

I received a Ph.D. in Economics from the University of Texas at Austin in 1992, an M.A. in Economics from the University of Texas at Austin in 1987, and a B.A. in Economics from Quincy College, Illinois, in 1982.

PROCEEDINGS IN WHICH DR. ANKUM HAS FILED EXPERT WITNESS TESTIMONY:

New York

Commission Investigation into Resale, Universal Service and Link and Port Pricing, New York Public Service Commission, Case Nos. 95-C-0657, 94-C-0095, and 91-C-1174. On behalf of MCI Telecommunications Corporation.

In the Matter of Proceeding on Motion of the Commission To Reexamine Reciprocal Compensation, New York Public Service Commission, Case 99-C-0529. On Behalf Of Cablevision LightPath, Inc.

Proceeding on the Motion of the Commission To Examine New York Telephone Company's Rates for Unbundled Network Elements, New York Public Service Commission, Case 98-C-1357. On behalf of Corecomm New York, Inc.

Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements, New York Public Service Commission Case 98-C-1357, On behalf of MCIWorldCom.

California

Joint Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Switching in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050. Consolidated dockets. On behalf of ATT and MCI.

Connecticut

DPUC Investigation of Intrastate Carrier Access Charges, Docket No. 02-05-17. On behalf of AT&T and MCI.

Florida

Investigation into Pricing of Unbundled Network Elements, Docket No. 990649B-TP. Filed on behalf of AT&T Communications of the Southern States, Inc. MCImetro Access Transmission Services, LLC & MCI WorldCom Communications, Inc., Florida Digital Network, Inc. (collectively called the "ALEC Coalition").

New Jersey

Petition of Focal Communications Corporation of New Jersey For Arbitration Pursuant to

Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic – New Jersey Board of Public Utilities, May 2000. On behalf of Focal Communications Corporation of New Jersey.

I/M/O the Board's Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic-New Jersey, Inc. New Jersey Board of Public Utilities, Docket No. TO00060356. On behalf of WorldCom, Inc.

Delaware

Petition of Focal Communications Corporation of Pennsylvania For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic – Delaware, Inc. Delaware Public Service Commission, PSC Docket No. 00-025. On behalf of Focal Communications Corporation of Pennsylvania.

Texas

Petition of The General Counsel for an Evidentiary Proceeding to Determine Market Dominance, PUC of Texas, Docket No. 7790. On behalf of the Public Utility Commission of Texas.

Application of Southwestern Bell Telephone Company for Revisions to the Customer Specific Pricing Plan Tariff, PUC of Texas, Docket No. 8665. On behalf of the Public Utility Commission of Texas.

Application of Southwestern Bell Telephone Company to Amend its Existing Customer Specific Pricing Plan Tariff: As it Relates to Local Exchange Access through Integrated Voice/Data Multiplexers, PUC of Texas, Docket No. 8478. On behalf of the Public Utility Commission of Texas.

Application of Southwestern Bell Telephone Company to Provide Custom Service to Specific Customers, PUC of Texas, Docket No. 8672. On behalf of the Public Utility Commission of Texas.

Inquiry of the General Counsel into the Reasonableness of the Rates and Services of Southwestern Bell Telephone Company, PUC of Texas, Docket No. 8585. On behalf of the Public Utility Commission of Texas.

Southwestern Bell Telephone Company Application to Declare the Service Market for CO LAN Service to be Subject to Significant Competition, PUC of Texas, Docket No. 9301. On behalf of the Public Utility Commission of Texas.

Petition of Southwestern Bell Telephone Company for Authority to Change Rates, PUC of Texas,

Docket No. 10382, Direct Testimony, September 1991. On behalf of the Public Utility Commission of Texas.

Application of Southwestern Bell Telephone Company, GTE Southwest, Inc., and Contel of Texas, Inc. For Approval of Flat-rated Local Exchange Resale Tariffs Pursuant to PURA 1995 Section 3.2532, Public Utility Commission of Texas, Docket No. 14658. On behalf of Office of Public Utility Counsel of Texas.

Application of Southwestern Bell Telephone Company, GTE Southwest, Inc., and Contel of Texas, Inc. For Interim Number Portability Pursuant to Section 3.455 of the Public Utility Regulatory Act, Public Utility Commission of Texas, Docket No. 14658. On behalf of Office of Public Utility Counsel of Texas.

Application of AT&T Communications for Compulsory Arbitration to Establish an Interconnection Agreement Between AT&T and Southwestern Bell Telephone Company, and Petition of MCI for Arbitration under the FTA96, Public Utility Commission of Texas, Consl. Docket Nos. 16226 and 16285. On behalf of AT&T and MCI.

Proceeding to examine reciprocal compensation pursuant to section 252 of the Federal Telecommunications of 1996, Public Utility Commission of Texas, Docket No. 21982. On behalf of Taylor Communications.

Proceeding on Cost Issues Severed from PUC Docket 24542, Docket No. 25834. On behalf of AT&T and MCIMetro.

Iowa

US West Communications, Inc., Iowa Department of Commerce – Utilities Board, Docket No: RPU – 00 – 01. On behalf of McLeodUSA.

Illinois

Adoption of Rules on Line-Side Interconnection and Reciprocal Interconnection, Illinois Commerce Commission, Docket No. 94-0048. On behalf of Teleport Communications Group, Inc.

Proposed Introduction of a Trial of Ameritech's Customer First Plan in Illinois, Illinois Commerce Commission, Docket No. 94-0096. On behalf of Teleport Communications Group, Inc.

Addendum to Proposed Introduction of a Trial of Ameritech's Customer First Plan in Illinois, Illinois Commerce Commission, Docket No. 94-0117. On behalf of Teleport Communications Group, Inc.

AT&T's Petition for an Investigation and Order Establishing Conditions Necessary to Permit Effective Exchange Competition to the Extent Feasible in Areas Served by Illinois Bell Telephone Company, Illinois Commerce Commission, Docket No. 94-0146. On behalf of Teleport Communications Group, Inc.

Proposed Reclassification of Bands B and C Business Usage and Business Operator Assistance/Credit Surcharges to Competitive Status, Illinois Commerce Commission, Docket No. 95-0315. On behalf of MCI Telecommunications Corporation.

Investigation Into Amending the Physical Collocation Requirements of 83 Ill. Adm. Code 790, Illinois Commerce Commission, Docket 94-480. On behalf of MCI Telecommunications Corporation.

Petition for a Total Local Exchange Wholesale Tariff from Illinois Bell Telephone Company d/b/a Ameritech Illinois and Central Telephone Company Pursuant to Section 13-505.5 of the Illinois Public Utilities Act, Illinois Commerce Commission, Docket No. 95-0458. On behalf of MCI Telecommunications Corporation.

Citation to Investigate Illinois Bell Telephone Company's Rates, Rules and regulations For its Unbundled Network Component Elements, Local Transport Facilities, and End office Integration Services, Illinois Commerce Commission, Docket No. 95-0296. On behalf of MCI Telecommunications Corporation.

In the Matter of MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish and Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois, Illinois Commerce Commission, Docket No. 96-AB-006. On behalf of MCI Telecommunications Corporation.

In the Matter of MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish and Interconnection Agreement with Central Telephone Company of Illinois ("Sprint"), Illinois Commerce Commission, Docket No. 96-AB-007. On behalf of MCI Telecommunications Corporation.

Investigation into forward looking cost studies and rates of Ameritech Illinois for interconnection, network elements, transport and termination of traffic. Illinois Commerce Commission, Docket No. 96-0486. On behalf of MCI Telecommunications Corporation.

Phase II of Ameritech Illinois TELRIC proceeding. Illinois Commerce Commission Docket No. 98-0396. On behalf of MCIWorldCom.

Illinois Commerce Commission On its Motion vs Illinois Bell Telephone Company Investigation into Tariff Providing Unbundled Local Switching with Shared Transport, Illinois Commerce

Commission, Docket No. 00- 0700. On behalf of AT&T Communications of Illinois, Inc. and WorldCom, Inc.

Massachusetts

NYNEX/MCI Arbitration, Common Wealth of Massachusetts, Department of Public Utilities, D.P.U. 96-83. On behalf of MCI Telecommunications Corporation.

Investigation into Pricing based on TELRIC for Unbundled Network Elements and Combinations of Unbundled Networks Elements and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services. Massachusetts Department of Energy and Transportation, Docket 01-20. On behalf Allegiance, Network Plus, Inc., El Paso Networks, LLC, and Covad Communications Company.

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' intrastate retail telecommunications services in the Commonwealth of Massachusetts. Massachusetts Department of Energy and Transportation, Docket 01-03. On behalf of Network Plus, Inc.

New Mexico

Brooks Fiber Communications of New Mexico, Inc. Petition for Arbitration, New Mexico State Corporation Commission, Docket No. 96-307-TC. On behalf of Brooks Fiber Communications of New Mexico, Inc.

In the matter of the consideration of costing and pricing rules for OSS, collocation, shared transport, non-recurring charges, spot frames, combination of network elements and switching.
On behalf of the Commission Staff.

Minnesota

In Re Commission Investigation Of Qwest's Pricing Of Certain Unbundled Network Elements, PUC Docket No. P-442, 421, 3012 /M-01-1916. Rebuttal testimony, April, 2002. on behalf of Otter Tail Telecom, Val-Ed Joint Venture D/B/A 702 Communications, McCleoudUSA, Eschelon Telecommunications, USLink.

Michigan

In the Matter of the Application of City Signal, Inc. for an Order Establishing and Approving

Interconnection Arrangements with Michigan Bell Telephone Company, Michigan Public Service Commission, Case No. U-10647. On behalf of Teleport Communications Group, Inc.

In the Matter, on the Commission's Own Motion, to Establish Permanent Interconnection Arrangements Between Basic Local Exchange Providers, Michigan Public Service Commission, Case No. U-10860. On behalf of MCI Telecommunications Corporation.

In the Matter, on the Commission's Own Motion, to consider the total service long run incremental costs and to determine the prices for unbundled network elements, interconnection services, resold services, and basic local exchange services for Ameritech Michigan, Michigan Public Service Commission, Case No. U-11280. On behalf of MCI Telecommunications Corporation.

In the matter of the application under Section 310(2) and 204, and the complaint under Section 205(2) and 203, of MCI Telecommunications Corporation against AMERITECH requesting a reduction in intrastate switched access charges, Case No. U-11366. On behalf of MCI Telecommunications Corporation.

In the matter, on the Commission's own motion, to review the costs of telecommunications services provided by SBC Michigan, Case No. U-13531, On behalf of AT&T, Worldcom, Inc., McLeodUSA and TDS Metrocom.

In the Matter of the Commission's own motion, to consider the total service long run incremental costs for all access, toll, and local exchange services provided by Ameritech Michigan, Case No. U-11831. On behalf of MCIWorldCom, Inc.

Ohio

In the Matter of MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish and Interconnection Agreement with Ameritech Ohio, The Public Utilities Commission of Ohio, Case No. 96-888-TP-ARB. On behalf of MCI Telecommunications Corporation.

In the matter of the review of Ameritech Ohio's economic costs for interconnection, unbundled network elements, and reciprocal compensation for transport and termination of local telecommunications traffic, The Public Utilities Commission of Ohio, Case No. 96-922-TP-UNC. On behalf of MCI Telecommunications Corporation.

In the Matter of the Review of Ameritech Ohio's Economic Costs for Interconnection, Unbundled Network Elements, and Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic. Case No. 96-922-TP-UNC and In the Matter of the Application of Ameritech Ohio for Approval of Carrier to Carrier Tariff. Case No. 00-1368-TP-ATA. Ohio Public Utilities Commission. On behalf of MCIWorldCom and ATT of the Central Region.

In the matter of the petition of MCI Telecommunications Corporation for arbitration pursuant to section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement with Cincinnati Bell Telephone Company, Case No. 97-152-TP-ARB, On behalf of the MCI Telecommunications Corporation

Indiana

In the matter of the Petition of MCI Telecommunications Corporation for the Commission to Modify its Existing Certificate of Public Convenience and Necessity and to Authorize the Petitioner to Provide certain Centrex-like Intra-Exchange Services in the Indianapolis LATA Pursuant to I.C. 8-1-2-88, and to Decline the Exercise in Part of its Jurisdiction over Petitioner's Provision of such Service, Pursuant to I.C. 8-1-2.6., Indiana Regulatory Commission, Cause No. 39948. On behalf of MCI Telecommunications Corporation.

In the matter of the Petition of Indiana Bell Telephone company, Inc. For Authorization to Apply a Customer Specific Offering Tariff to Provide the Business Exchange Services Portion of Centrex and PBX Trunking Services and for the Commission to Decline to Exercise in Part Jurisdiction over the Petitioner's Provision of such Services, Pursuant to I.C. 8-1-2.6, Indiana regulatory Commission, Cause No. 40178. On behalf of MCI Telecommunications Corporation.

MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish and Interconnection Agreement with Indiana Bell Telephone Company d/b/a Ameritech Indiana, Indiana Public Utility Regulatory Commission, Cause No. 40603-INT-01. On behalf of MCI Telecommunications Corporation.

In the matter of the Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection Service, Unbundled Elements and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes, Indiana Public Utility Regulatory Commission, Cause No. 40611. On behalf of MCI Telecommunications Corporation.

In the Matter of the Commission Investigation and Generic Proceeding on GTE's Rates for Interconnection, Service, Unbundled Elements, and Transport under the FTA 96 and related Indiana Statutes, Indiana Public Utility Regulatory Commission, Cause No. 40618. On behalf of MCI Telecommunication Corporation.

In the matter of the Commission Investigation and Generic proceeding on the Ameritech Indiana's rates for Interconnection, Unbundled Elements, and Transport and Termination Under the Telecommunications Act of 1996 and Related Indiana Statutes, Indiana Utility Regulatory Commission, Cause No. 40611-S1. On behalf of WorldCom, Inc., AT&T Communications of Indiana, G.P.

Rhode Island

Comprehensive Review of Intrastate Telecommunications Competition, State of Rhode Island and Providence Plantations Public Utilities Commission, Docket No. 2252. On behalf of MCI Telecommunications Corporation.

Utah

In the Matter of the Determination of the Costs Investigation of the Unbundled Loop of Qwest Corporation, Inc., Docket No. 01-049-85. On behalf of AT&T and WorldCom.

Vermont

Investigation into NET's tariff filing re: Open Network Architecture, including the Unbundling of NET's Network, Expanded Interconnection, and Intelligent Networks, Vermont Public Service Board, Docket No. 5713. On behalf of MCI Telecommunications Corporation.

Wisconsin

Investigation of the Appropriate Standards to Promote Effective Competition in the Local Exchange Telecommunications Market in Wisconsin, Public Service Commission of Wisconsin, Cause No. 05-TI-138. On behalf of MCI Telecommunications Corporation.

Matters relating to the satisfaction of conditions for offering interLATA services (Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin) Wisconsin Public Service Commission, 670-TI-120. On behalf of MCI Telecommunications Corporation.

In the Matter of MCI Telecommunications Corporation Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin, Wisconsin Public Service Commission, Docket Nos. 6720-MA-104 and 3258-MA-101. On behalf of MCI Telecommunications Corporation.

Investigation Into The Establishment of Cost-Related Zones For Unbundled Network Elements, Docket No. 05-TI-349. On behalf of AT&T Communications of Wisconsin, McLEODUSA Telecommunications Services, Inc., TDS MetroCom, Inc., and Time Warner Telecom.

Investigation into Ameritech Wisconsin's Unbundled Network Elements, PSC of Wisconsin, Docket No. 6720-TI-161. On Behalf Of AT&T Communications of Wisconsin, Inc.,

WorldCom, Inc., Rhythms Links, Inc., KMC Telecom, Inc., and McLeodUSA (“CLEC Coalition”)

Pennsylvania

In Re: Formal Investigation to Examine Updated Universal Service Principles and Policies for telecommunications Services in the Commonwealth Interlocutory order, Initiation of Oral Hearing Phase, Pennsylvania Public Utility Commission, Docket No. I-00940035. On behalf of MCI Telecommunications Corporation.

Structural Separation of Verizon, Pennsylvania Public Utility Commission - Docket No. M-0001352. On behalf of MCI WorldCom.

Georgia

AT&T Petition for the Commission to Establish Resale Rules, Rates and terms and Conditions and the Initial Unbundling of Services, Georgia Public Service Commission, Docket No. 6352-U. On behalf of MCI Telecommunications Corporation.

Tennessee

Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies, Tennessee Public Service Commission, Docket No. 96-00067. On behalf of MCI Telecommunications Corporation.

Commonwealth of Puerto Rico

Petition for Arbitration Pursuant to 47 U.S.C. & (b) and the Puerto Rico Telecommunications Act of 1996, regarding Interconnection Rates Terms and Conditions with Puerto Rico Telephone Company, Puerto Rico Telecommunications Regulatory Board, Docket No. 97-0034-AR. On behalf of Cellular Communications of Puerto Rico, Inc.

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

Kevin Schoen

[Public Version]

1 **Q. Please state your name and address.**

2 **A.** My name is Kevin Schoen. My business address is 1800 N Grand River Ave
3 Lansing, MI 48906-3905.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the President of ACD Telecom, Inc. (“ACD”). I am responsible for the
7 management and operation of ACD.

8
9 **Q. Please describe ACD.**

10 **A.** ACD obtained a license in 2000 to provide competitive local exchange service in
11 Michigan. In 2002, the Commission approved an expansion of ACD’s license, and
12 ACD now provides facilities-based service in numerous exchanges throughout the
13 state of Michigan. ACD has had an interconnection agreement with Michigan Bell
14 Telephone Company d/b/a AT&T Michigan (“AT&T”) for years.

15
16 **Q. Why are you testifying?**

17 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
18 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
19 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
20 Access, (the “CLECs”) filed against AT&T to resolve a dispute between the CLECs
21 and AT&T. The Complaint concerns two main controversies: (1) AT&T’s refusal to
22 charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required by
23 an amendment to ACD’s interconnection agreement with AT&T, and (2) AT&T’s
24 refusal to permit the other CLECs (“Adopting CLECs”) to enter into amendments
25 to their interconnection agreements containing the same rates for DS1 cross
26 connects as contained in amendments between ACD, JAS, TelNet and five other
27 CLECs and AT&T.

28
29 **Q. Please describe ACD’s involvement in Case No. U-14952.**

30 **A.** TDS Metrocom, LLC, LDMI Telecommunications, Inc., and XO Communications
31 Services, Inc. filed a complaint with the Commission in Case No. U-14952 (the
32 “Prior Cross Connect Litigation”). The complaint argued that AT&T was

1 overcharging for certain cross connects. According to the pricing schedule approved
2 in Case No. U-13531, AT&T charged \$0.27 per month for 4-wire cross connects and
3 \$16.46 per month for DS1 cross connects. The Complainants in Case No. U-14952
4 argued that when they ordered a 4-wire Digital Loop from AT&T, AT&T would
5 only provide the DS1 cross connect at the rate of \$16.46, when in fact the
6 Complainants wanted AT&T to provide the 4-wire cross connect at the rate of
7 \$0.27.

8

9 The Complainants in the Prior Cross Connect Litigation argued that AT&T was
10 impermissibly bundling its digital test access unit (“DTAU”) with the 4-wire cross
11 connect, thus resulting in the inflated \$16.46 charge. ACD and four other CLECs
12 intervened in the Prior Cross Connect Litigation and offered testimony opposed to
13 these AT&T practices.

14

15 **Q. How was the Prior Cross Connect Litigation resolved?**

16 **A. * * * Confidential * * ***

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26 *** * * Confidential * ***

27

28 **Q. Did the Commission approve the U-14952 Cross Connect Amendment?**

29 **A.** Yes. On January 31, 2007, ACD and AT&T filed a joint application with the
30 Commission in Case No. U-12988, seeking approval of the U-14952 Cross Connect
31 Amendment. The Commission approved the U-14952 Cross Connect Amendment

1 on February 14, 2007 for ACD and the other seven CLECs. A copy of ACD's U-
2 14952 Cross Connect Amendment is attached as **Exhibit C-48 (KS-2)**.

3
4 **Q. Was the Prior Cross Connect Litigation then dismissed?**

5 **A.** Yes. On January 29, 2007, the parties to the Prior Cross Connect Litigation filed a
6 Stipulation to Dismiss, which stated: "Upon the approval without modification of
7 their interconnection agreement amendments related to DS1 cross connects, each
8 party agrees to dismiss this case with prejudice and without costs, mediation
9 sanctions and attorney fees." The Commission dismissed the Prior Cross Connect
10 Litigation on February 27, 2007.

11
12 **Q. Please describe further the U-14952 Cross Connect Amendment.**

13 **A.** Essentially, the U-14952 Cross Connect Amendment changed the charge of the DS1
14 cross connect from \$16.46 per month to \$6.89 per month. The monthly \$6.89
15 charge includes a DTAU and prohibited 4 wire cross-connects from being used for
16 DS1 circuits.

17
18 **Q. *** Confidential *****

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20 ***** Confidential *****

21 **A. *** Confidential *****

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26 ***** Confidential *****

27
28 **Q. After the U-14952 Cross Connect Amendment became effective, what did**
29 **AT&T charge ACD for DS1 cross connects?**

30 **A.** Soon after the amendment was approved, AT&T reduced the rate that it was
31 charging ACD for cross connects connected to unextended DS1 Loops from \$16.46
32 to \$6.89 per month. ***** Confidential *****

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***** Confidential *****

Q. Has AT&T recently changed what it is charging ACD for DS1 cross connects associated with extended DS1 Loops?

A. Yes. ACD has very recently received some invoices from AT&T charging ACD \$11.67 for each DS1 cross connect associated with an extended DS1 Loop. We have not yet had the opportunity to determine whether AT&T has provided this rate for all of ACD’s extended DS1 Loops. See, for example, **Confidential Exhibit C-51 (KS-5) *** Confidential *****

***** Confidential *****

Q. Is \$11.67 a proper rate for these DS1 cross connects?

A. No. ACD’s interconnection agreement with AT&T does not include a rate of \$11.67 for DS1 cross connects. The agreed-upon rate in the Commission-approved U-14952 Cross Connect Amendment is \$6.89 for all DS1 cross connects. The rate of \$11.67 has never been approved by the Commission and the no basis exists for AT&T to charge such a rate.

Q. * Confidential ****

***** Confidential *****

A. * Confidential *****

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5 ***** Confidential *****

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7 **Q.** **Does this conclude your prepared Direct Testimony?**

8

9 **A.** Yes.

Confidential C-47 (KS-1)

C-48 (KS-2)

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and ACD Telecom, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:

2.1.1 Schedule 9.2.1, Local Loops, at page 148 (the last definition) is amended to (i) replace the term "4-Wire 1.544 Mbps DS-1 Compatible Digital Unbundled Local Loop" with "DS1 Digital Loop"; (ii) to replace the term "1.544 Mbps Digital" with "DS1 Loop", and (iii) to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."

2.1.2 In the Pricing Schedule, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".

2.1.3 In the Pricing Schedule, under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.

2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation, by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

- 2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.
- 2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

- 3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

- 4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

- 5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

- 6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended, MPSC Case*

No. U-14305, *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

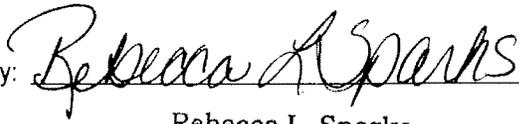
- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

ACD Telecom, Inc.

Michigan Bell Telephone Company d/b/a AT&T Michigan by AT&T Operations, Inc., its authorized agent

By: 

By: 

Printed: KEVIN SURGEN

Printed: Rebecca L. Sparks

Title: PRESIDENT

Title: Executive Director-Regulatory

Date: 01-25-07

Date: 1-29-07

FACILITIES-BASED OCN # 3535

ACNA AXIS

Confidential C-49 (KS-3)

Confidential C-50 (KS-4)

Confidential C-51 (KS-5)

**STATE OF MICHIGAN
IN THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of **ACD Telecom, Inc;** **JAS Networks, Inc.;** **TelNet Worldwide, Inc.;** **B&S Telecom, Inc.;** **Clear Rate Communications, Inc.;** **CMC Telecom, Inc.;** **Grid 4 Communications, Inc.;** and **Zenk Group, Ltd. d/b/a Planet Access;** against **Michigan Bell Telephone Company d/b/a AT&T Michigan** regarding AT&T's improper DS1 cross connect rate.

Case No. U-15357

DIRECT TESTIMONY AND EXHIBITS

OF

Todd A. Gardner

[Public Version]

1 **Q. Please state your name and address.**

2 **A.** My name is Todd A. Gardner. My business address is 5224 33rd Street S.E., Grand
3 Rapids, Michigan 49512.

4
5 **Q. By whom are you employed and what are your duties?**

6 **A.** I am the Director of Network Development for JAS Networks, Inc. ("JAS). I am
7 responsible for various supervisory functions regarding the management and
8 operation of JAS.

9
10 **Q. Please describe JAS.**

11 **A.** JAS obtained a license in 1999 to provide competitive local exchange service in
12 Michigan. In 2002, the Commission approved an expansion of JAS's license, and
13 JAS now provides facilities-based service in numerous exchanges throughout the
14 state of Michigan. JAS has had an interconnection agreement with Michigan Bell
15 Telephone Company d/b/a AT&T Michigan since March of 2006.

16
17 **Q. Why are you testifying?**

18 **A.** I am testifying in support of a Complaint that ACD, JAS Networks, Inc, TelNet
19 Worldwide, Inc; B&S Telecom, Inc., Clear Rate Communications, Inc., CMC
20 Telecom, Inc., Grid 4 Communications, Inc., and Zenk Group, Ltd. d/b/a Planet
21 Access, (the "CLECs") filed against AT&T to resolve a dispute between the CLECs
22 and AT&T. The Complaint concerns two main controversies: (1) AT&T's refusal
23 to charge ACD, JAS, and TelNet an accurate rate for DS1 cross connects as required
24 by an amendment to ACD's interconnection agreement with AT&T, and (2)
25 AT&T's refusal to permit the other CLECs ("Adopting CLECs") to enter into
26 amendments to their interconnection agreements containing the same rates for DS1
27 cross connects as contained in amendments between ACD, JAS, TelNet and five
28 other CLECs and AT&T.

29
30 **Q. Please describe JAS's involvement in Case No. U-14952.**

31 **A.** TDS Metrocom, LLC, LDMI Telecommunications, Inc., and XO Communications
32 Services, Inc. filed a complaint with the Commission in Case No. U-14952 (the

1 “Prior Cross Connect Litigation”). The complaint argued that AT&T was
2 overcharging for certain cross connects. According to the pricing schedule approved
3 in Case No. U-13531, AT&T charged \$0.27 per month for 4-wire cross connects and
4 \$16.46 per month for DS1 cross connects. The Complainants in Case No. U-14952
5 argued that when they ordered a 4-wire Digital Loop from AT&T, AT&T would
6 only provide the DS1 cross connect at the rate of \$16.46, when in fact the
7 Complainants wanted AT&T to provide the 4-wire cross connect at the rate of
8 \$0.27.

9

10 The Complainants in the Prior Cross Connect Litigation argued that AT&T was
11 impermissibly bundling its digital test access unit (“DTAU”) with the 4-wire cross
12 connect, thus resulting in the inflated \$16.46 charge. JAS and four other CLECs
13 intervened in the Prior Cross Connect Litigation and offered testimony opposed to
14 these AT&T practices.

15

16 **Q. How was the Prior Cross Connect Litigation resolved?**

17 **A. * * * Confidential * * ***

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27 *** * * Confidential * * ***

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29 **Q. Did the Commission approve the U-14952 Cross Connect Amendment?**

30 **A.** Yes. On January 31, 2007, JAS and AT&T filed a joint application with the
31 Commission in Case No. U-14972, seeking approval of the U-14952 Cross Connect
32 Amendment. The Commission approved the U-14952 Cross Connect Amendment

1 on February 14, 2007 for JAS and the other seven CLECs. A copy of JAS's U-14952
2 Cross Connect Amendment is attached as **Exhibit C-53 (TAG-2)**.

3
4 **Q. Was the Prior Cross Connect Litigation then dismissed?**

5 **A.** Yes. On January 29, 2007, the parties to the Prior Cross Connect Litigation filed a
6 Stipulation to Dismiss, which stated: "Upon the approval without modification of
7 their interconnection agreement amendments related to DS1 cross connects, each
8 party agrees to dismiss this case with prejudice and without costs, mediation
9 sanctions and attorney fees." The Commission dismissed the Prior Cross Connect
10 Litigation on February 27, 2007.

11
12 **Q. Please describe further the U-14952 Cross Connect Amendment.**

13 **A.** Essentially, the U-14952 Cross Connect Amendment changed the charge of the DS1
14 cross connect from \$16.46 per month to \$6.89 per month. The monthly \$6.89
15 charge includes a DTAU.

16
17 **Q. *** Confidential *****

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19 ***** Confidential *****

20 **A. *** Confidential *****

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24
25 ***** Confidential *****

26
27 **Q. After the U-14952 Cross Connect Amendment became effective, what did**
28 **AT&T charge JAS for DS1 cross connects?**

29 **A.** Soon after the amendment was approved, AT&T reduced the rate that it was
30 charging JAS for cross connects connected to unextended DS1 Loops from \$16.46
31 to \$6.89 per month. ***** Confidential *****

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***** Confidential *****

Q. Has AT&T recently changed what it is charging JAS for DS1 cross connects associated with extended DS1 Loops?

A. Yes. JAS has very recently received some invoices from AT&T charging JAS \$11.67 for each DS1 cross connect associated with an extended DS1 Loop. We have not yet had the opportunity to determine whether AT&T has provided this rate for all of JAS's extended DS1 Loops. See, for example, **Confidential Exhibit C-56 (TAG-5)**

***** Confidential *****

***** Confidential *****

Q. Is \$11.67 a proper rate for these DS1 cross connects?

A. No. JAS's interconnection agreement with AT&T does not include a rate of \$11.67 for DS1 cross connects. The agreed-upon rate in the Commission-approved U-14952 Cross Connect Amendment is \$6.89 for all DS1 cross connects. The rate of \$11.67 has never been approved by the Commission and the no basis exists for AT&T to charge such a rate.

Q. * Confidential ****

***** Confidential *****

A. * Confidential *****

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.* Confidential *****

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As noted, the U-14952 Cross Connect Amendment does not permit AT&T to charge \$16.46 or \$11.67 for *any* cross connect.

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Q. Does this conclude your prepared Direct Testimony?

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9

A. Yes.

Confidential C-52 (TAG-1)

C-53 (TAG-2)

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

This Amendment to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") is being entered into by and between Michigan Bell Telephone Company d/b/a AT&T Michigan ("AT&T Michigan")¹ and JAS Networks, Inc. ("CLEC").

WHEREAS, AT&T Michigan and CLEC are parties to an interconnection agreement that was previously submitted to the Michigan Public Service Commission ("MPSC" or "Commission") for approval, and may have been amended prior to this Amendment (the "Agreement"); and

WHEREAS, AT&T Michigan and CLEC desire to amend the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Agreement shall be amended as follows:

1. INTRODUCTION

- 1.1 Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
- 1.2 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.

2. AMENDMENT TO THE AGREEMENT

- 2.1 The Agreement is hereby amended to clarify certain aspects of the Agreement, as follows:
 - 2.1.1 Section 9.2.1.3.5 of Schedule 9.2.1, Local Loops, is amended (i) to replace the term "4-Wire 1.544 Mbps Digital Loop" with "DS1 Digital Loop"; (ii) to replace the term "1.544 Mbps Digital" with "DS1 Loop", and (iii) to add the following sentence at the end of the provision: "A DS1 Loop requires the use of a DS1 cross connect with a digital test access unit ("DTAU"); no other cross connect can be used with a DS1 Loop."
 - 2.1.2 In the Pricing Schedule, under the heading "Unbundled Loops" and, below that, the subheading "Digital", references to "4W Digital" are replaced with the term "DS1 Loop".
 - 2.1.3 In the Pricing Schedule, under the heading "Cross Connects", (i) the word "Analog" is added after the term "4-Wire"; (ii) the word "Loop" is added after the term "DS1"; and (iii) the price of "\$16.46" is replaced with "\$6.89". For the avoidance of doubt, this new rate shall apply prospectively only, beginning on the Amendment Effective Date (as defined in Section 3.1 below), and shall in no circumstances be applied retroactively.
- 2.2 A new section is added to the General Terms and Conditions of the Agreement as follows: Notwithstanding any lesser obligation in the Agreement, AT&T Michigan and CLEC shall each absolutely forbear (and shall absolutely forbear from encouraging or supporting any party or interested person in any manner whatsoever) from seeking or bringing any proceeding related in any way to whether CLECs can order a 4-wire digital cross connect for use with a digital loop, whether AT&T Michigan can bundle or otherwise require the use of Digital Test Access Units ("DTAUs") with 4-wire or DS1 cross connects for use with a digital loop, whether such practice is a violation of state and/or federal law, whether AT&T Michigan is required to provision 4-wire or DS1 cross connects for DS1 loops without DTAUs, and whether AT&T Michigan must refund amounts paid by CLEC to AT&T Michigan as the result of AT&T Michigan's bundling or requiring the use of DTAUs with 4-wire or DS1 cross connects for DS1 loops (including, without limitation,

¹ Michigan Bell Telephone Company (Michigan Bell), a Michigan corporation, offers telecommunications services and operates under the name "AT&T Michigan".

by communicating with the MPSC or its Staff or any party, entity or interested person about initiating any such proceeding). A party, entity or interested person shall include, without limitation, any present or future entity affiliated with AT&T Michigan and CLEC, respectively. To the extent any such proceeding is for whatever reason initiated, AT&T Michigan and CLEC recognize, acknowledge and agree that any decision arising from said docket(s) (including any appeals thereof) shall not affect in any way the rate of \$6.89 in the Pricing Schedule under the heading "Cross Connects", it being specifically agreed that they will abide by the rate without regard or reference to any decision or order arising from said docket(s). The limitations set forth in this paragraph regarding the rate of \$6.89 shall not apply to an MPSC generic rate or cost proceeding (i.e., the proceeding applies to AT&T Michigan and all or substantially all CLECs in the State of Michigan) initiated and conducted no earlier than January 31, 2010; the resulting rates from such a proceeding shall be reflected in the Agreement pursuant to the terms and conditions thereof, and, irrespective of the MPSC's order in such a proceeding, shall apply no earlier than January 31, 2010.

2.2.1 Section 2.2 above shall be deemed to be automatically incorporated into and become a part of, and shall supersede, amend, and modify the applicable provisions of, any future interconnection agreement(s) between AT&T Michigan and CLEC for the period indicated in Section 2.2, whether negotiated, arbitrated, or arrived at through the exercise of Section 252(i) MFN rights or otherwise. Any inconsistencies between Section 2.2 and other provisions of the current ICA or future interconnection agreement(s) between the parties will be governed by Section 2.2 unless expressly superseded by a future amendment between the Parties that references this Amendment and Section 2.2, and then only to the extent specified in any such future amendment.

2.3 Nothing in this Amendment expands, contracts, or otherwise affects either AT&T Michigan's or CLEC's rights or obligations under the Agreement beyond the express provisions of this Amendment.

3. AMENDMENT EFFECTIVE DATE

3.1 The effective date of this Amendment shall be immediate upon approval of this Amendment by the MPSC under Section 252(e) of the Act or, absent such MPSC approval, the date this Amendment is deemed approved under Section 252(e)(4) of the Act ("Amendment Effective Date").

4. TERM OF AMENDMENT

4.1 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

5. APPLICATION OF FEDERAL REQUIREMENTS AND OBLIGATIONS

5.1 No aspect of this Amendment qualifies for portability into any other state under any state or federal statute, regulation, order or legal obligation (collectively "Law"), if any. The entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code.

6. RESERVATIONS OF RIGHTS

6.1 In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Application of SBC Michigan for a consolidated change of law proceeding to conform 251/252 interconnection agreements to governing law pursuant to Section 252 of the Communications Act of 1934, as amended*, MPSC Case No. U-14305, *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial

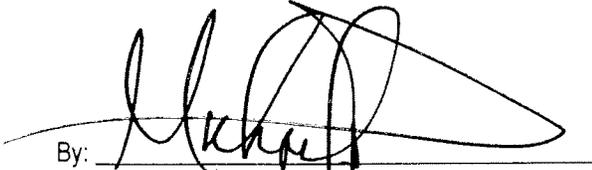
Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004).

7. MISCELLANEOUS

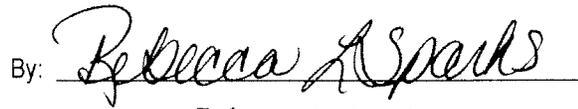
- 7.1 On and from the Amendment Effective Date, reference to the Agreement in any notices, requests, orders, certificates and other documents shall be deemed to include this Amendment, whether or not reference is made to this Amendment, unless the context shall be otherwise specifically noted.
- 7.2 This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written.

IN WITNESS WHEREOF, each Party has caused this Amendment to be executed by it's duly authorized representative.

JAS Networks, Inc.

By: 
Printed: Michael Grinzinger
Title: CFO
Date: January 25, 2007

Michigan Bell Telephone Company d/b/a AT&T
Michigan by AT&T Operations, Inc., its authorized
agent

By: 
Printed: Rebecca L. Sparks
Title: Executive Director-Regulatory
Date: 1-29-07

FACILITIES-BASED OCN # 2984

ACNA ASN

Confidential C-54 (TAG-3)

Confidential C-55 (TAG-4)

Confidential C-56 (TAG-5)