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April 19, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2nd Floor)
Harrisburg, PA 17105-3265

Re: Armstrong Telecommunications Inc. v. Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc., Docket Nos. C-2010-2216205, C-2010-2216311, C-2010-2216325 and C-2010-2216293

Dear Secretary Chiavetta:

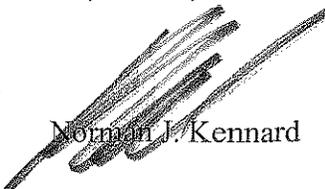
Enclosed for filing with the Commission is the Motion for Partial Summary Judgment of Armstrong Telecommunications Inc. A copy of this document has been served in accordance with the attached Certificate of Service. Also attached is a copy of the Affidavit of Bryan Cipoletti and Exhibits 1-9, which Armstrong requests be accepted into the record of this proceeding. Proprietary and Public copies are provided. Finally, Armstrong is also providing to Judge Buckley and counsel for Verizon copies of selected decisional authorities, which have not been filed with the Commission.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By:


Norman J. Kennard

cc: Dennis J. Buckley, Presiding Administrative Law Judge

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Dennis J. Buckley, Presiding**

Armstrong Telecommunications Inc.,	:	
Complainant	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North	:	C-2010-2216325
LLC, MCImetro Access Transmission	:	C-2010-2216293
Services, LLC, d/b/a Verizon Access	:	
Transmission Services and MCI	:	
Communications Services Inc.	:	
Respondents	:	

**MOTION FOR PARTIAL SUMMARY JUDGMENT OF
ARMSTRONG TELECOMMUNICATIONS INC.**

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Attorneys for
Armstrong Telecommunications, Inc.

Dated: April 19, 2011

I. Summary of Argument

At issue in this proceeding is the compensation to be exchanged for calls between: a competitive local exchange carrier (“CLEC”), Armstrong Telecommunications, Inc. (“Armstrong”), on one side; and two incumbent local exchange carriers (“ILECs”), Verizon Pennsylvania Inc. (“Verizon PA”) and Verizon North LLC (“Verizon North” and collectively (“Verizon ILECs”); and two other CLECs, MCImetro Access Transmission Services, LLC Verizon Business and MCI Communications Services Inc. (“MCI”) (collectively “Verizon”), on the other side; all of which entities are certificated as telecommunications companies by the Pennsylvania Public Utility Commission (“Commission”) to provide intrastate telecommunications services. The calls at issue originate in Pennsylvania and terminate within Pennsylvania and, thus, are intrastate in nature. The numbers used are Pennsylvania numbers. All parties’ services are fixed in nature, so the underlying called and calling parties are located in Pennsylvania when the calls are made and received.

The compensation that the parties have consistently exchanged, since the inception of operation by Armstrong, is that specified in agreements and tariffs approved by this Commission. In late August 2010, after five years of consistent adherence to these legal documents, Verizon suddenly asserts that the documents are void and the Commission is without jurisdiction over the carriers that it has certificated, the intrastate traffic being exchanged and the associated intercarrier compensation. There has been no change in the law. Nevertheless, Verizon contends that the Commission no longer has jurisdiction over the compensation it previously approved. It argues that this previously paid and agreed to toll and local compensation is abruptly inapplicable with no allegation of any change whatsoever in the underlying operations of any of the parties.

The *singular* fact that drives Verizon's position has always been true since the first call was exchanged between the parties -- Armstrong serves a cable company, which uses Internet protocol ("IP") to serve the local telephone customers to whom Verizon wishes to connect its own long distance customers.¹ Verizon bases its argument upon the protocol conversion that occurs *after* the Verizon call is delivered to Armstrong and, indeed, after Armstrong delivers it to the underlying cable company provider. Verizon avers that, because the Armstrong cable company uses IP as part of its *fixed* cable telephony service, a factual assertion conceded by Armstrong and that has not changed since the interconnection agreements were executed in 2006, Verizon is legally entitled to unilaterally disrupt its historic reciprocal compensation and switched access charge payments and may lawfully tender virtually nothing (\$.0007 per minute of use or "MOU") as payment.

This is a complete misconstruction and misapplication of compensation law and rules that apply to voice over Internet protocol ("VoIP") traffic and a blatant attempt to take advantage of FCC-created confusion involving traffic that *originates* in nomadic, Internet-based, VoIP. Not only does Verizon have the wrong type of VoIP (fixed vs. nomadic), it is aiming in the wrong direction (originating vs. terminating). Therefore, the cases that Verizon claims support its position really have nothing to do with it. Moreover, to the extent that there ever was confusion, this was eradicated by the Commission in the *Palmerton Opinion*.

¹ Verizon professes not to know when it became aware that Armstrong was serving Armstrong Utilities, Inc, a well know western Pennsylvania cable operator, but agrees that when it discovered this fact is irrelevant to its argument. Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 6 (RFA 6: "During the period of payment by Verizon, Verizon was aware that the Verizon Toll Traffic was terminating to end user customers in Internet protocol ("IP")" answered by Verizon as follows "Subject to and without waiving the objection, this request is denied as stated. Verizon admits that it is aware now, and was aware prior to the time that it asserted the August 27, 2010 dispute, that the traffic it delivered to Armstrong destined to the customers of Armstrong's cable affiliate is terminated in IP. Verizon does not know when it became aware of this fact and therefore cannot admit or deny the request as stated, but in any event the issue of when Verizon gained such awareness is irrelevant in any event.")

Moreover, the manner in which Verizon has unilaterally self-implemented the rate change to \$.0007/MOU (7/100th of a penny) violates the interconnection agreements and tariffs by which it has agreed to abide. After paying the ICA reciprocal compensation to Armstrong for three and one-half years and Armstrong's switched access rates for five years, Verizon unilaterally, without agreement or permission, and with no advance notice, ceased paying these rates and, began tendering a much, much lower payment instead.

Verizon's nonpayment violates, in numerous ways, the terms of the Verizon ICAs whereby the Verizon ILECs agreed to pay specific reciprocal compensation rates for local traffic and tariffed switched access rates for toll traffic. Verizon's collective nonpayment of Armstrong's switched access traffic also violates that tariff itself. The \$.0007 per minute rate now "offered" by Verizon is completely inapplicable. It is offered by Verizon because it is the lowest possible payment next to none whatsoever. Adding insult to injury, Verizon nevertheless continues billing Armstrong at the ICA reciprocal compensation and tariffed access creating a blatantly one-way (and completely inconsistent) compensation arrangement.

Verizon's principal legal rationale for nonpayment is that the FCC has preempted Pennsylvania regulation of IP traffic, relying upon the FCC's *Vonage* decision of 2004, entered *almost a full year prior* to the effectiveness of the Verizon ICAs, which the parties stipulated were consistent with *then-existing* law. This legal assertion is specious, having been previously rejected by numerous states and federal courts, including this Commission in its landmark *Palmerton Opinion*. The FCC has not exempted intrastate traffic, VoIP or otherwise, from the application of either intrastate switched access charges or reciprocal compensation.

Moreover, the *Vonage* decision is singularly focused upon the origination of "nomadic" VoIP and the portability of that technology, which is not a feature of cable IP traffic, as it serves

a fixed location (e.g., cable voice service in your house). The *Vonage* decision is simply not applicable to Verizon-originated traffic that terminates to a cable company network, as the US Eighth Circuit Court expressly found in the *Vonage* appeal.

Verizon's other legal rationale is that Armstrong, a CLEC certificated to provide telecommunications service and doing so as the cable company's portal to the PSTN, is an "information service provider." This assertion is equally nonsensical. Armstrong is a "telecommunications carrier" certified by the Commission that provides wholesale CLEC services under the FCC's *Time Warner* ruling and this Commission's *Sprint Wholesale* Order. It is yet another error of law for Verizon to claim that the cable company's use of Internet protocol to serve end user customers controls whether and what compensation should be exchanged between the two telecommunications carriers.

Verizon, in an effort to camouflage its own "dirty hands" in this matter and confuse the clear illegality of its non-paying behavior, concocts the claim, which it cannot legally support, that Armstrong participates in a "scheme" that defrauds Verizon of proper payment. In short, Verizon argues that Armstrong's toll traffic passes to interexchange carriers ("IXCs") who do not pay Verizon properly for terminating that traffic and this excuses Verizon's non-payment.

This theory is also legally infirm. *Verizon agrees that Armstrong is not liable* for these charges; rather, the carrier delivering toll traffic is the properly billed party. Verizon has never billed Armstrong or in any way attempted to collect these charge from Armstrong. Nor has it ever sought to collect unpaid interexchange carrier from the originating carrier or, itself ever been presented with such a bill. It concedes that it never advised Armstrong, before implementing the \$.0007 rate, that it was having such problems. Thus, there is no theory upon which Verizon can ascribe liability (let alone "unclean hands") to Armstrong.

Further, even putting aside Verizon's admission that Armstrong has no liability with respect to the payments about which Verizon complains, and accepting as true Verizon's mid-August 2010 (one week) traffic study, presented in its New Matter as factual support for its position, Verizon's theory fails. Verizon's study shows that Verizon is paid either a tariffed or contracted termination rate for more than 95% of the traffic originated by Armstrong cable customers, broken down as follows: (1) Armstrong directly connects with, and pays, Verizon for 38%; (2) Armstrong uses a major, reputable interexchange carrier (not Global NAPs, CommPartners Infotelecom, or other "bad actor") for another 40%, which carrier pays Verizon the rate agreed upon between them; and (3) the same is true for other major carriers who round out the remainder of the traffic delivered to Verizon.

Indeed, the only non-payers to which Verizon can point are the perennial problem children with whom the entire industry has a problem (e.g., Global NAPs). These represent a *de minimus* portion of the Armstrong-originated traffic delivered to Verizon in the study. Armstrong does not do business with these "bad actor" carriers. Armstrong's calls find their way into the traffic stream of these bad actors in the "least cost market" for toll transport, *the same way Verizon's own traffic was found in the Global NAPs' deliveries to Palmerton*. Verizon has clear legal opportunities to collect from these bad actors and has elsewhere chosen to pursue them, as did Palmerton, before the Commission. Whether Verizon has or not does here not render Armstrong secondarily liable.

In summary, Verizon's contractual agreements accepting another rate from most of the delivering IXC's and non-pursuit of collections from the few non-payers is not a legal (or even policy) basis to offset these amounts against what Verizon has contractually obligated itself to pay Armstrong. More importantly, Verizon admits that Armstrong continues to pay the full rates

specified in both the interconnection agreement between them (“Verizon ICA”) and in Verizon’s tariff.

Finally, contrary to Verizon’s misreading, the *Palmerton Opinion* does not stand for the proposition that a carrier may ignore its contracts and tariff obligations when using another company’s switched access services-- so long as it offers something greater than “nothing.” Verizon paid the ICA/tariff charges of Armstrong for years, but then, without any change in circumstances or law, suddenly and without notice began paying 88% below the tariffed access rate and 76% below the agreed-to reciprocal compensation rate. It now offers a mere 13%, in aggregate, of the compensation paid prior to the submission of its “dispute.”

This “non-payment self-help” flies in the face of established procedures for seeking a rate change. It constitutes a kidnap-and-ransom approach that can hardly be described as “good faith.” The specter of Pennsylvania’s two largest ILECs and its substantial toll carrier, as well as a significant CLEC, represented here collectively by Verizon, unilaterally reducing Armstrong’s revenues by 87% is an arrogant abuse of market power clearly aimed at bringing a competitor to heel.

Were Verizon truly seeking to act in good faith, it would have chosen one of the three established contractual and statutory procedures to reduce the compensation payable to Armstrong: (1) notice of ICA termination and renegotiation; (2) prior “challenge” the Verizon ICA-specified rates, as the ICA also allows; or (3) file a complaint as the tariff specifies. Yet, it is clear that each of these good faith remedies is unpalatable to Verizon for the simple fact that they require payment pending the dispute - a more legitimate path previously taken by Verizon in prior challenges to CLEC rates. The self-help seized by Verizon, all the while demanding the

continued provision of network services from Armstrong, is patently unfair and completely unlawful. The utility obligation to serve must be attended by the customer's obligation to pay.

Summary Judgment is available where, as here, there are no contested issues of *material* fact and the movant is entitled to judgment as a matter of law. In the matters for which Armstrong seeks Summary Judgment, there is no factual controversy and already decided legal principals compel judgment for Armstrong.

The main fact relied upon by Verizon -- that the cable company originates and terminates traffic in IP -- has been Verizon conceded by Armstrong. It is not contested, as it is true and has been since the parties first exchanged traffic in 2006. Verizon's arguments on the question of compensation are legally driven, not factually driven, questions of state jurisdiction and preemption. Similarly, its position regarding its proposed compensation of \$.0007 per minute is also based upon legal argument.

Verizon's final argument on the VoIP issue, that some of the IXCs delivering Armstrong traffic, such as Global NAPs, do not pay is Verizon, even if true is not legally sustainable either and Verizon agrees that it does not seek to hold Armstrong liable for IXC deliveries. However, as noted in this Motion, even accepting Verizon's traffic study as true, Verizon cannot sustain the argument, except on a *de minimus* portion of the traffic that it is truly not paid by the industry's scofflaws, because as it has conceded in discovery, it has contractually agreed to be paid a lesser amount from some of the major IXCs delivering Armstrong's traffic. Thus, there is no liability to shift, even were Verizon to claim that Armstrong is secondarily liable. In this analysis, all of the facts presented by Verizon in pleadings and discovery are presumed to be

true.² Armstrong requests that the Commission grant this Motion for Partial Summary Judgment and direct Verizon to pay Armstrong's billings for reciprocal compensation at the ICA-specified level and switched access rates at tariffed levels, retroactively and prospectively, until such time as Verizon does follow lawful procedures and the Commission authorizes, after due process, the payment of some other amount.

II. Complaint and Counter-Complaint

On December 16, 2010, Armstrong filed a formal complaint with the Commission alleging non-payment by Verizon of intercarrier compensation for terminating services³ provided to Verizon. The Complaint consists of five counts, as follows:

- Count One Refusal to Pay Tariffed Access Charges in Violation of State Law
- Count Two Refusal to Pay Tariffed Access Charges In Violation of Armstrong's State Access Tariff
- Count Three Attempt To Negotiate A Different Rate Than Specified in Armstrong's State Access Tariff in Violation of State Law
- Count Four Failure to File Dispute With the Commission in Violation of Armstrong's State Access Tariff and State Law
- Count Five Refusal to Pay Reciprocal Compensation in Breach of the Verizon ICAs

² But not Verizon's hyperbolic, argumentative claims. See, for example, Verizon Answer to Complaint at ¶25 ("Armstrong itself deliberately avoided paying switched access rates for most of the traffic that it sends to Verizon by routing that traffic through intermediate carriers that refuse to pay intrastate switched access rates on VoIP traffic, some of which pay Verizon less than \$0.0007, or nothing") or Verizon New Matter at ¶31 ("Armstrong is thus playing a game of "heads-I -win, tails-you-lose" regulatory arbitrage, by attempting to collect switched access charges from Verizon while it simultaneously avoids paying switched access charges by routing its traffic to Verizon and other local exchange carriers through wholesale providers that do not pay access charges on such traffic."). The fact omitted by Verizon in its diatribes, but revealed in discovery, is that Verizon has contractually agreed to be paid less.

³ Armstrong is also seeking payment for originating switched access charges for toll-free, "8YY" traffic (e.g., numbers dialed with a toll free pre-fix such as 800, 866, etc.) that originates on Armstrong and is transmitted to Verizon for termination to Verizon's toll-free customer. Where a carrier offers toll free service to end users, it owes originating access to the originating carrier. Verizon has also refused to pay Armstrong these originating access charges also. The volumes of this type of traffic are not significant compared to the terminating charges. See Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I-32 (Verizon Traffic Study)(Proprietary).

As relief, Armstrong requested, *inter alia*, that the Commission; grant the Complaint; direct that Verizon immediately pay Armstrong all amounts outstanding for services provided, plus late payment charges and attorney fees, as specified in Armstrong's State Access Tariff and the Verizon ICAs; and direct that, in the future, Verizon timely pay Armstrong all amounts for services provided, as well as any other relief as may be just and reasonable.

In response to Armstrong's complaint counts of non-payment,⁴ Verizon asserts, *as to each*, the defense that the traffic at issue is not subject to the agreed-upon and lawful compensation, including reciprocal compensation for local traffic and intrastate switched access charges, "because it is IP-originated and/or IP-terminated traffic."⁵

Verizon's New Matter also avers that tariffed access and ICA specified reciprocal compensation should not be paid on "IP-originated and terminated traffic."⁶ (Count I). Verizon's New Matter includes the allegation that Armstrong's collection of reciprocal compensation and switched access rates is illegal under federal law and that Armstrong is "enforcing an asymmetrical compensation scheme," because certain delivering carriers are not paying Verizon for Armstrong-originated traffic (Count II).

Additionally, Verizon seeks to raise, as Counts III and IV of its New Matter, two access tariff rate computation disputes, neither of which is related to the claimed IP exemption from the

⁴ Counts One, Two and Three. Verizon makes the same claim of an IP exemption in response to Counts Three ("Attempt to Negotiate a Different Rate than Specified in Armstrong's State Access Tariff in Violation of State Law") and Four ("Failure to File Dispute With the Commission in Violation of Armstrong's State Access Tariff and State Law").

⁵ Verizon Answer to Complaint at ¶ 28 ("To the extent any response is required, the traffic at issue is not subject to Armstrong's state access tariff for intrastate switched access services because it is IP-originated and/or IP-terminated traffic."), ¶ 30 ("To the extent any response is required, the traffic at issue is not subject to Armstrong's state access tariff for intrastate switched access services because it is IP-originated and/or IP-terminated traffic.") and ¶ 39 ("To the extent any response is required, the traffic at issue is not reciprocal compensation traffic because it is IP-originated and/or IP-terminated.")

⁶ Verizon New Matter In The Nature Of Counterclaims, No. I ("Attempt to Impose Intrastate Switched Access Charges on VoIP Traffic in Violation of Federal Law" at ¶¶ 19-28) and No. II ("Enforcing an Asymmetrical Compensation Scheme in Violation of the Public Utility Code" at ¶¶ 29-34).

ICAs and the access tariff or the claim that a 7/100th cent rate applies. These are two billing disputes regarding the calculation of (and not the application of) the access rates on toll traffic delivered by Verizon.⁷ Armstrong does not seek summary judgment resolution of the later two Verizon New Matter claims.

Armstrong does, however, seek Summary Judgment on the issues raised in its Complaint (Counts 1-5 inclusive), namely enforcement of the Verizon ICAs and Armstrong's access tariffs under law for traffic delivered by Verizon, and dismissal of Verizon's defenses, which claim that the traffic does not fall within the jurisdiction of the Commission and that the lower, Internet dial-up rate (i.e., \$0.0007) lawfully applies, as well as Verizon's Counter Complaint at Counts I and II. Armstrong seeks to be paid previously agreed upon reciprocal compensation and access rates on traffic delivered by Verizon during the pendency of Verizon's last two New Matter complaints (Verizon Counts III and IV), once this Motion for Partial Summary Judgment is granted.

III. Standard of Review

Under the Commission's Rules, parties may file preliminary motions. 52 Pa. Code §§ 5.101-103. Any party is permitted to move for summary judgment after the pleadings are closed, but within such time so as not to delay a hearing. 52 Pa. Code § 5.102(a). Pursuant to the Commission's regulation at 52 Pa. Code § 5.102(c), a motion for summary judgment must be based on the pleadings, depositions, answers to interrogatories, admissions and supporting affidavits.

⁷ Verizon New Matter in the Nature of Counterclaim No. III (Charges in Violation of 66 Pa. C.S. § 3017(c)) and No. IV (Charges in Violation of State Tariff and State Law (relating to tandem transit charges)).

A. Standard for Grant or Denial

If the pleadings, depositions, answers to interrogatories, admissions and supporting affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law, the presiding officer will grant a motion for summary judgment. 52 Pa. Code § 5.102(d)(1).

In *Shryock Brothers, Inc. v. Uwchlan Township*, ALJ Melillo recently explained:

In determining the absence of a genuine issue of fact, the evidence must be viewed in the light most favorable to the non-moving party and any doubt must be resolved against the entry of judgment. The courts will accept as true all well-pleaded facts in the non-movant's pleadings and give the non-moving party the benefit of all reasonable inferences. *Wright v. North American Life Assurance Co.*, 372 Pa. Super. Ct. 272 (1988); *Bobb v. Kraybill*, 354 Pa. Super. Ct. 361 (1986); *see also, South River Power Partners, L.P. v. West Penn Power Co.*, 86 Pa. PUC 477, 483 (1986). Also, the courts are not to decide issues of fact but to determine whether such material issues of fact exist. *Sanders v. Loomis Armored*, 418 Pa. Super. Ct. 375 (1992). It is the moving party which has the burden of proving the absence of a genuine factual issue. *Campbell v. Eitak, Inc.*, 2006 Pa. Super. Ct. 26.⁸

The Commission's preliminary motion practice is comparable to Pennsylvania civil practice regarding preliminary objections.⁹ In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but is required to provide some materials to establish that a genuine issue of material fact exists.¹⁰ In discussing this point, ALJ Melillo further noted in *Shryock*:

As stated by the Superior Court in *Morello Construction Co. v. Bridgeport Federal Savings & Loan Association*, 280 Pa. Super. Ct. 329 (1980), where a motion for summary judgment has been supported with depositions, answers to interrogatories, or affidavits, the non-moving party may not rest on mere allegations or denials in its pleadings. *See also*, Pa. R.C.P. 1035.3. Instead, the

⁸ *Shryock Brothers, Inc. v. Uwchlan Township*, 104 Pa. P.U.C. 28, 2009 WL 347490 (Pa. P.U.C.) at *27.

⁹ *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 WL 932315 (Pa. P.U.C.).

¹⁰ *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlth. 1983).

non-moving party must by affidavit or otherwise set forth specific facts showing the existence of a genuine issue of material fact ...¹¹

Although the moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to a judgment as a matter of law, the non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists.¹²

B. Partial Summary Judgment is Available

While the Commission's regulations provide for the grant or denial of a motion of summary judgment on all counts, as set forth in Section 5.102(d)(1), the Commission's regulations also state that the presiding officer may grant a partial summary judgment.

Commission regulations at 5.102(d)(2), entitled "Standard for grant or denial in part," provide that "[t]he presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law on one or more but not all outstanding issues."¹³ Further authority for partial summary judgment can be found at 52 Pa. Code § 5.102(d)(3) as follows:

"[t]he presiding officer will grant, in whole or in part, the motion in the form of an initial or recommended decision which shall be subject to exceptions as set forth in § 5.533 (relating to exceptions). Denial of a motion will be in the form of a written order." 52 Pa. Code § 5.102(d)(3). (emphasis added).

The *Shryock Brothers, Inc. v. Uwchlan Township*, 104 Pa. P.U.C. 28, 2009 WL 347490 (Pa. P.U.C.) matter serves as an example of the Commission granting partial summary judgment. The record that ALJ Melillo considered for purposes of ruling on the partial motion and full

¹¹ *Shryock* at *32 (emphasis removed).

¹² *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super 1993).

¹³ 52 Pa. Code § 5.102(d)(2).

motion for summary judgment were fifteen documents.¹⁴ ALJ Melillo concluded her Initial Decision by summarizing that:

...the standards for granting summary judgment require that all well-pleaded facts in the non-movant's pleadings be accepted as true and that the non-moving party receive the benefit of all reasonable inferences. In addition, the moving party has the burden of proving the absence of a genuine factual issue.

In the instant case, I find, as noted above, that the Township has admitted in its pleadings or discovery responses to material facts which establish its public utility status as a matter of law. Complainant has met its burden in this regard. Accordingly, I find that there are no genuine issues of material fact to establish, as a matter of law, that the Township is providing extraterritorial public utility service. I have therefore determined that Shryock is entitled to partial summary judgment on this issue (Count I of the Complaint), and to that extent, its motion for partial summary judgment will be granted.¹⁵

By its January 2008 Order, the Commission denied the Exceptions that were filed and affirmed ALJ Melillo's May 2, 2007 Initial Decision, which granted Shryock Brother's Motion for Partial Summary Judgment, in part.¹⁶

IV. Partial Summary Judgment is Appropriate on the Claimed VoIP Exemption

A. All Material Facts Are Agreed Upon and/or Admitted

1. Material Facts

Both parties agree that Armstrong is a Competitive Local Exchange Carrier ("CLEC"), certificated by this Commission as a telecommunication service provider. Armstrong, for purposes here, serves as the wholesale provider of telecommunications services in support of its

¹⁴ Such documents included the Complaint, the Answer and New Matter, the Amended Answer and New Matter, Complainant's Motion for Partial Summary Judgment, Appendix of Exhibits in Support of Complainant's Motion for partial Summary Judgment, Memorandum of Complainant Shryock in Support of Motion for Partial Summary Judgment, Answer of Respondent to Complainant's Motion for Partial Summary Judgment, Respondent's Cross Motion for Summary Judgment, Record in Support of the Answer of Respondent to Complainant's Motion for Partial Summary Judgment, Memorandum of Law in Support of Answer to Complainant's Motion for Summary Judgment and Respondent's Cross Motion for Summary Judgment.

¹⁵ *Shryock* at *48 (citations omitted).

¹⁶ These two Commission orders, as well as the Initial Decision, all have been made part of the Westlaw citation to *Shryock Brothers, Inc. v. Uwchlan Township*, 104 Pa. P.U.C. 28, 2009 WL 347490 (Pa. P.U.C.).

cable affiliate who provides cable telephony services to numerous end user customers in Pennsylvania.¹⁷

That the Armstrong cable company operates a voice network that uses Internet protocol (“IP”) to provide cable telephony services is not in dispute, as Armstrong has readily conceded this fact. Cable companies operate using a newer transmission protocol that the industry has labeled “Voice over Internet Protocol”. While the cable industry does not use the Internet backbone to transmit messages, and its end users use traditional analog phone equipment to make and receive calls. A portion of each call relies upon Internet protocol or “IP” rather than more traditional “circuit switched” protocols such as Time Division Multiplexing (“TDM”).¹⁸ Armstrong’s cable telephony (i.e., “interconnected VoIP”) can be contrasted with other types of VoIP that employ the Internet and operate primarily between two computers (i.e., “nomadic VoIP”),¹⁹ the regulatory status of which has been determined to be an “information service” and

¹⁷ Armstrong Complaint at ¶ 8 (“Armstrong operates, *inter alia*, as a wholesale CLEC, responsible for the public switched network interconnections and intercarrier compensation obligations associated with traffic originating from and terminating to its cable company affiliate, which provides various products to end-use customers, including cable telephony services, in competition with Verizon and other ILECs.”); and Verizon Answer and New Matter at 1 (“Armstrong is a competitive local exchange carrier (“CLEC”) that acts as an intermediary for its cable affiliate, Armstrong Utilities, Inc. (“AUI”), a company that provides Voice over Internet Protocol (“VoIP”) cable telephony and other services in competition with other telephone service providers in Pennsylvania. Armstrong provides AUI with interconnection to the public switched telephone network (“PSTN”), numbering resources, billing for intercarrier compensation and other services.”).

¹⁸ Internet Protocol (“IP”) is a digitized language and transmission protocol that improves on the prior standard Time Division Multiplexing (“TDM”), which has been consistently used in telephone network for the last twenty years or so. The telecommunications industry and its networks have evolved from analog to digital and, now, are undergoing another major technology shift toward packet-based transmission (e.g., TCP/IP the underlying protocol supporting VoIP).

¹⁹ Some IP-based services are computer peripheral devices (similar to a music player or streaming video) used as a plug and play device that rides over the customer’s already existing broadband connection. Frequently, these types of services limit a customer’s ability to communicate only with customers of the same service. Some services are transported entirely via the internet, “over the top” of a broadband connection, and may be portable (“nomadic”), as the computer is transported. *See, for example, In the Matter of the Petition for Declaratory Ruling that pulver.com’s Free World Dialup is Neither Telecommunications Nor a Telecommunications Service*, Memorandum Opinion and Order, WC Docket No. 03-45, FCC 04-27, Released February 19, 2004. Skype is another example. These services are entirely Internet based and generally do not interconnect with other carriers.

not “telecommunications service.”²⁰ Armstrong’s “interconnected VoIP,” by contrast, is connected to the Public Switched Telephone Network (“PSTN”) and is not exclusively Internet-based, but rather simply uses the same Internet protocol in its network.

The parties also agree that *all* traffic between Armstrong and Verizon is exchanged in TDM format.²¹ In other words, there is no IP protocol, or any other protocol conversion, employed in the transmission of this traffic between the two carriers.²² Parenthetically, calls originating on the cable company’s network are handed off *to* Armstrong in TDM format just as calls coming from other carriers and destined *for* cable company customers are handed off to Armstrong in TDM.²³

Nor is it controverted that Armstrong and Verizon regularly and routinely exchange traffic to and from Armstrong’s cable affiliate,²⁴ traffic that, prior to this dispute, has been

²⁰ The classification is critical from several perspectives. “Information service” is lesser regulated under Title I of the Federal Communications Act. Title II, “telecommunications service,” on the other hand, is subject to common carrier, utility-style regulation. The Telecommunications Act of 1996 only established entitlements for “telecommunications” providers. Interconnection under § 251 is only available to telecommunications carriers. 47 U.S.C. § 251. Moreover, an information service provider, because it is uncertificated, cannot obtain numbers from the North American Numbering Administration or port numbers from the currently serving LEC. 47 CFR § 52.15(g)(2)(i). While the FCC granted numbers to SBC’s affiliated VoIP provider, it has not done so for any VoIP provider subsequently, although several similar petitions are pending. *In the Matter of Administration of the North American Numbering Plan*, CC Docket 99-200, Order, released February 1, 2005. Retail VoIP providers that are not state certificated obtain numbers and interconnection agreements through wholesale CLECs such as Sprint or MCI. See discussion of *Time Warner*, *infra*.

²¹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 2 (Answer: “Verizon admits that the voice traffic that it delivers to Armstrong for termination is in TDM protocol at the point that it is exchanged with Armstrong, although this fact is not relevant to the legal analysis.”); and Verizon Answer to Armstrong Request For Admission No. 17 (Answer: “Verizon admits that the Armstrong-originated voice traffic that is delivered to Verizon for termination is in TDM protocol at the point that it is exchanged with Armstrong, although this fact is not relevant to the legal analysis.”).

²² Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I - 1 (“The majority of Verizon-originated traffic is originated in TDM format . . .”).

²³ Affidavit of Brian Cipoletti at ¶ 4. While not material or controverted by Verizon, the fact that Armstrong does not perform the protocol conversion to or from IP, but handles all traffic solely in TDM, demonstrates just how far removed Armstrong is from the “information” label.

²⁴ “Verizon admits that it exchanges traffic with Armstrong, which traffic either originates from or is destined to the end-user customers of Armstrong’s cable affiliate, AUI.” Verizon Answer to Complaint at ¶ 8.

consistently classified by the parties as either local²⁵ or toll²⁶ and for which the rates specified in the interconnection agreements and the parties' tariffs have been applied.

2. The Verizon ICAs

The Verizon ILECs, Verizon PA and Verizon North, voluntarily entered into Interconnection Agreements with Armstrong²⁷ for which Commission approval was granted by Orders entered August 30, 2005 ("Verizon ICAs"). As the Commission found with respect to both agreements:

Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that the Interconnection Agreement and Amendment No. 1 between Verizon North and Armstrong are non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest.²⁸

These agreements, admittedly, have remained and are currently in effect.²⁹

The Verizon ICAs became effective on June 3, 2005 and carry an initial term through June 2, 2007, and remain in force and effect unless and until cancelled or terminated by written notice of termination at least ninety days in advance of the date of termination.³⁰ In the event such termination, if either party requests negotiation of a new interconnection agreement, the

²⁵ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 1 (Answer: "Verizon admits that it directly delivers voice traffic to Armstrong for termination. Verizon admits that some of this voice traffic passes outside the local calling area.").

²⁶ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 16 (Answer: "Verizon admits that traffic that originates from Armstrong is terminated by Verizon...Verizon also admits that some of this voice traffic passes outside the local calling area.").

²⁷ In all material respects, the two interconnection agreements (Verizon PA and Verizon North) are identical. The Verizon ICAs with Armstrong for Verizon PA and Verizon North are Armstrong Exhibits 8 and 9, respectively.

²⁸ *Joint Petition for Approval of an Interconnection Agreement and Amendment No. 1 Between Verizon North, Inc., and Armstrong Telecommunications, Inc., under Section 252(e) of the Telecommunication Act of 1996*, PA PUC Docket No. A-311014F7001, Opinion and Order entered August 30, 2005 at 6; and *Joint Petition for Approval of an Interconnection Agreement and Amendment No. 1 Between Verizon Pennsylvania Inc. and Armstrong Telecommunications, Inc., under Section 252(e) of the Telecommunication Act of 1996*, PA PUC Docket No. A-311014F7000, Opinion and Order entered August 30, 2005 at 6.

²⁹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 24 (RFA 24: "The Verizon ICAs have not been terminated and are in effect" is "admitted" by Verizon).

³⁰ Verizon ICA at §§ 2.1 and 2.2.

Agreement shall remain in effect until the earlier of the effective date of a new interconnection agreement or one year after the proposed date of termination.³¹

The Verizon ICAs expressly state that the Agreements are consistent with existing law³² and provides for certain procedures in the event of a change in law.³³ Disputes, including those related to payment, must be made in “good faith.”³⁴

Under the ICAs, traffic falls into several defined categories, the most important for purposes here are “Reciprocal Compensation Traffic” and “Exchange Access.” The term “Reciprocal Compensation Traffic” is defined by excluding traffic that is not “interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access.”³⁵ The remaining traffic, most particularly local traffic, is subject to the reciprocal compensation rates also set forth in the ICAs.

³¹ Verizon ICA at § 2.3.

³² Verizon ICA at § 37.2 (“ATI acknowledges ATI has been advised by Verizon that it is Verizon’s position that this Agreement contains certain provisions which are intended to reflect Applicable Law and Commission and/or FCC arbitration decisions.”).

³³ Verizon ICA at § 4.6 (“If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, ... the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law. If within thirty (30) days of the effective date of such decision, determination, action or change, the Parties are unable to agree in writing upon mutually acceptable revisions to this Agreement, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction, without first pursuing dispute resolution in accordance with Section 14 of this Agreement.”).

³⁴ Verizon ICA at § 9.3.

³⁵ Verizon ICA, Glossary Attachment at § 2.80 (“Reciprocal Compensation Traffic. Telecommunications traffic originated by a Customer of one Party on that Party’s network and terminated to a Customer of the other Party on that other Party’s network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access. The determination of whether Telecommunications traffic is Exchange Access or Information Access shall be based upon Verizon’s local calling areas as defined by Verizon. Reciprocal Compensation Traffic does not include the following traffic (it being understood that certain traffic types will fall into more than one (1) of the categories below that do not constitute Reciprocal Compensation Traffic): (1) any Internet Traffic; (2) traffic that does not originate and terminate within the same Verizon local calling area as defined by Verizon, and based on the actual originating and terminating points of the complete end-to-end communication; (3) Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) Optional Extended Local Calling Scope Arrangement Traffic; (5) special access, private line, Frame Relay, ATM, or any other traffic that is not switched by the terminating Party; (6) Tandem Transit Traffic; (7) Voice Information Service Traffic (as defined in

In turn, the category “Exchange Access” is defined by reference to the Telecommunications Act of 1996,³⁶ which “means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.”³⁷ The term “Switched Exchange Access Service” is also defined as a toll call related service.³⁸ The calls in question do not meet any of the other ICA categories, including “Internet Traffic”³⁹ or “Voice Information Service.”⁴⁰ Nor is Armstrong providing “Information Access”⁴¹ to Verizon. No where has Verizon ever claimed otherwise.

In other words, the Verizon ICAs define the traffic exchanged between the Verizon ILECs and Armstrong in traditional terms, as either local, reciprocal compensation traffic or exchange access. None of the distinctions made in the Verizon ICAs involve the originating or terminating technology of the call. There is no definition of IP or VoIP traffic in the agreement and the ICA does not suggest that there is any special treatment for a call to or from a cable

Section 5 of the Additional Services Attachment); or, (8) Virtual Foreign Exchange Traffic (or V/FX Traffic) (as defined in the Interconnection Attachment). For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement.”)

³⁶ Verizon ICA, Glossary Attachment at § 2.36 (“Exchange Access. Shall have the meaning set forth in the Act.”).

³⁷ 47 U.S.C. § 153(16).

³⁸ Verizon ICA, Glossary Attachment at § 2.88 (“Switched Exchange Access Service. The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Exchange Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 800 access, 888 access and 900 access.”).

³⁹ Verizon ICA, Glossary Attachment at § 2.46 (“Internet Traffic. Any traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission.”).

⁴⁰ Verizon ICA at § 5.1. (“For purposes of this Section 5, (a) Voice Information Service means a service that provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public, and (b) Voice Information Service Traffic means intraLATA switched voice traffic, delivered to a Voice Information Service. Voice Information Service Traffic does not include any form of Internet Traffic. Voice Information Service Traffic also does not include 555 traffic or similar traffic with AIN service interfaces, which traffic shall be subject to separate arrangements between the Parties.”).

⁴¹ Verizon ICA, Glossary Attachment at § 2.44 (“Information Access. The provision of specialized exchange telecommunications services in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services, including a provider of Internet access or Internet transmission services.”) There are no “specialized exchange” services at issue, the controversy here being over voice “exchange access” and local voice traffic which has been set in the ICAs at the reciprocal compensation rates specified.

company. The standard toll and local definitions apply, regardless of the technology used to terminate or originate the call.

Rates are also defined in the Verizon ICAs. Tariffed rates are expressly incorporated by reference.⁴² Tariffed rates are the default and are superseded only where different rates are specified in the Pricing Attachment.⁴³ Tandem reciprocal compensation rates of \$.002439 (Verizon PA) and \$.0079536 (Verizon North) apply to local traffic.⁴⁴ Verizon's tariffed switched access charges apply to toll traffic for both Verizon and Armstrong, as Armstrong's tariffed rates must mirror Verizon's switched access rates when operating in Verizon's incumbent territory.⁴⁵ To the extent that the charges for a service are not identified in the ICA, tariffs apply. The term "tariffs" refers to each party's own respective tariffs.⁴⁶

The rates, including those charged by Armstrong, are subject to challenge, and the remedy of the party seeking to change the rates, Verizon in this case, is to institute a regulatory proceeding "to obtain a reduction in such Charges and a refund of any amounts paid in excess of

⁴² Verizon ICA at § 1.1 ("This Agreement includes: (a) the Principal Document (which shall be deemed to include Amendment No. 1 (TRO Amendment) hereto); (b) the Tariffs of each Party applicable to the Services that are offered for sale by it in the Principal Document (which Tariffs are incorporated into and made a part of this Agreement by reference); and (c) an Order by a Party that has been accepted by the other Party.")

⁴³ Verizon ICA, Pricing Attachment at § 1.3 ("The Charges for a Service shall be the Charges for the Service stated in the Providing Party's applicable Tariff."); § 1.4 ("In the absence of Charges for a Service established pursuant to Section 1.3 of this Attachment, the Charges shall be as stated in Appendix A of this Pricing Attachment."); and Appendix A at § 8.4 ("Any traffic not specifically addressed in this Agreement shall be treated as required by the applicable Tariff of the Party transporting and/or terminating the traffic.")

⁴⁴ Verizon ICA, Pricing Attachment at Appendix A.

⁴⁵ Verizon ICA, Pricing Attachment at Appendix A at Footnote 1 ("Verizon rates and services for use by ATI in the carriage of Toll Traffic shall be subject to Verizon's tariffs for Exchange Access Service."); § III ("Exchange Access Service; Interstate Per Verizon FCC tariff number 1, as amended from time to time; Intrastate Per Verizon tariff number 302, as amended from time to time."); and § 3 ("ATI Prices Notwithstanding any other provision of this Agreement, the Charges that ATI bills Verizon for ATI's Services shall not exceed the Charges for Verizon's comparable Services, except to the extent that ATI's cost to provide such ATI's Services to Verizon exceeds the Charges for Verizon's comparable Services and ATI has demonstrated such cost to Verizon, or, at Verizon's request, to the Commission or the FCC.")

⁴⁶ Verizon ICA, Pricing Attachment at § 2.90 ("Tariff. 2.90.1 Any applicable Federal or state tariff of a Party, as amended from time-to-time"; or "Tariff 2.90.2 Any standard agreement or other document, as amended from time-to-time, that sets forth the generally available terms, conditions and prices under which a Party offers a Service.")

any Charges that are reduced.”⁴⁷ Simply withholding payment, as Verizon has done, is not recognized as an acceptable option.

3. Armstrong Switched Access Tariff

Armstrong’s approved and effective state switched access tariff is Telephone - PA P.U.C. Tariff No. 5 (“Armstrong’s State Access Tariff”).⁴⁸ The access “Customer”,⁴⁹ the various Verizon entities in this instance, employs the switched access services of Armstrong to terminate their toll customers’ calls.⁵⁰ There is no provision in the tariff that limits the application of switched access rates to any technology, TDM, VoIP, wireless or otherwise.⁵¹ Armstrong’s State Access Tariff separates switched access rates separately by reference to the underlying incumbent carrier’s⁵² own tariffed rates.

⁴⁷ Verizon ICA, Pricing Attachment at § 5 (“Regulatory Review of Prices Notwithstanding any other provision of this Agreement, each Party reserves its respective rights to institute an appropriate proceeding with the FCC, the Commission or other governmental body of appropriate jurisdiction: (a) with regard to the Charges for its Services (including, but not limited to, a proceeding to change the Charges for its services, whether provided for in any of its Tariffs, in Appendix A, or otherwise); and (b) with regard to the Charges of the other Party (including, but not limited to, a proceeding to obtain a reduction in such Charges and a refund of any amounts paid in excess of any Charges that are reduced.)”).

⁴⁸ Armstrong’s State Access Tariff at Original Page 12 (“This tariff sets forth the service offerings, rates, terms and conditions applicable to the furnishing of intrastate Switched Access service and miscellaneous services related to the provision of Switched Access Service by the Competitive Local Exchange Carrier (CLEC) operations of Armstrong Telecommunications, Inc. (hereinafter “the Company”).”). Armstrong requests that administrative notice be taken of its access tariff.

⁴⁹ Armstrong’s State Access Tariff at Original Page 1-2 (“Customer: The person, firm, corporation or other entity which orders Service and is responsible for the payment of charges and for compliance with the Company’s tariff regulations.”).

⁵⁰ Armstrong’s State Access Tariff at Original Page 2-1; Rule 2.1.1 (“Scope. Access Services consist of furnishing communications service in connection with one-way or two-way information transmission between points within the State of Pennsylvania under the terms of this tariff. Access Services provided under this tariff include Switched Access Services described in Section 4 following.”).

⁵¹ Armstrong’s State Access Tariff at Original Page 4-1, Rule 4.1 (“General. Switched Access Service, which is available to Customers for their use in furnishing their services to end users, provides a two-point communications path between a Customer’s premises and an end user’s premises. It provides for the use of common terminating, switching and transport facilities. Switched Access Service provides the ability to originate calls from an end user’s premises to a Customer’s premises, and to terminate calls from a Customer’s premises location to an end user’s premises.”).

⁵² Armstrong’s State Access Tariff at Original Page 12-1 through Page 12-35 (“12. RATES AND CHARGES”).

The Customer is “responsible for ... the payment of all applicable charges pursuant to this tariff.”⁵³ Bills are past due after 30 days.⁵⁴ Armstrong is permitted to discontinue service to Verizon for both non-payment and material breach.⁵⁵ Attorney’s fees may also be collected by Armstrong.⁵⁶ Armstrong’s State Access Tariff requires that, in the event of an unresolved billing dispute, the Customer’s remedy is to file a complaint with the Commission, another reasonable and appropriate procedural option not followed by Verizon.⁵⁷

4. Payment History of the Parties and the “Dispute”

Since May 2007, the Verizon ILECs and Armstrong have compensated each other for the termination of local traffic at the reciprocal compensation rates specified in the Verizon ICA.⁵⁸ Since August of 2006, the parties, Armstrong and all Verizon entities, have used their respective tariffed switched access rates to provide exchange access services to each other.⁵⁹

⁵³ Armstrong’s State Access Tariff at Original Page 2-9, Rule 2.3.1(A); See also, Original Page 2-14, Rule 2.5.1 (“Payment for Service. The Customer is responsible for payment of all charges for services and facilities furnished by the Company to the Customer or its Joint or Authorized Users.”).

⁵⁴ Armstrong’s State Access Tariff at Original Page 2-16, Rule 2.5.2(E) (“Amounts not paid within 30 days after the date of invoice will be considered past due. If the Company becomes concerned at any time about the ability of a Customer to pay its bills, the Company may require that the Customer pay its bills within a specified number of days and make such payments in cash or the equivalent of cash.”).

⁵⁵ Armstrong’s State Access Tariff at Original Page 2-19, Rule 2.5.4 (“Refusal and Discontinuance of Service. (A) Upon nonpayment of any amounts owing to the Company, the Company may, by giving requisite prior written notice to the Customer discontinue or suspend service without incurring any liability. (B) Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.”)

⁵⁶ Armstrong’s State Access Tariff at Original Page 2-23, Rule 2.5.4(J) (“In the event the Company incurs fees or expenses, including attorney’s fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.”)

⁵⁷ Armstrong’s State Access Tariff at Original Page 2-16 (“If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the Pennsylvania Public Utility Commission in accordance with the Commission’s rules of procedures.”).

⁵⁸ “Since November 2007, Verizon has received monthly CABs Bills for the termination of Reciprocal Compensation Traffic from Armstrong and has paid such CABs Bills with limited disputes that were resolved in Armstrong’s favor.” Complaint at ¶ 18. Verizon’s Answer to the Complaint “admits that Armstrong generally sends Verizon monthly CABs bills,” and does not deny that Verizon has paid those amounts. Verizon Answer to Complaint at ¶ 18.

⁵⁹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 28 (RFA 28: “For the period November 2007 to present, Armstrong has billed Verizon reciprocal compensation rates as specified in the Verizon

Then, on August 27, 2010, with no advance warning, Verizon sent Armstrong a letter⁶⁰ taking the unilateral stance that it would no longer pay⁶¹ at the same rates as the parties had been using,⁶² but rather, would now pay at a rate of \$0.0007 per minute of use on all traffic.⁶³ Verizon explained its choice of rates payable to Armstrong in its Answer and New Matter:

While Verizon has disputed Armstrong's bills, it has continued to pay Armstrong at a rate of \$0.0007 per minute of use - a rate that the Commission no doubt recognizes as the intercarrier compensation rate applicable to ISP-bound traffic, and thus an appropriate proxy that should and has elsewhere been applied to IP traffic.⁶⁴

Verizon's dispute was denied by Armstrong email sent August 30, 2010.⁶⁵

Verizon has characterized its abrupt and unannounced failure to pay agreed upon rates, and its decision to pay another, much lower rate as a "good faith offer to negotiate."⁶⁶ Although

ICAs for terminating the Verizon Local Traffic." Answer: "...it is admitted that the Verizon ILECs received invoices charging for reciprocal compensation at the ICA rates beginning in November of 2007, backbilling charges to May of 2007.").

⁶⁰ A copy of Verizon's August 27th letter is Armstrong Exhibit 1.

⁶¹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 5 (Answer: "...is admitted that Verizon generally paid Armstrong's bills for intrastate switched access charges until it asserted the present dispute in August of 2010..."); and Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 29 (RFA 29: "For the period November 2007 to July 2010, Verizon paid the reciprocal compensation rates as specified in the Verizon ICAs to Armstrong for Verizon Local Traffic." Answer: "...it is admitted that during this period Verizon did not dispute the rate applied.").

⁶² "Beginning with Armstrong's August 2010 CABs Bills, Verizon has now claimed a dispute and refused to pay the CABs bills submitted by Armstrong, including those submitted for Exchange Access Services provided under Armstrong's State Access Tariff and Reciprocal Compensation services under the Verizon ICAs." Armstrong Complaint at ¶ 20. "Verizon admits that on August 27, 2010 Verizon registered a dispute with Armstrong regarding its CABs bills." Verizon Answer to Complaint at ¶ 20. "By letter transmitted electronically to Armstrong on August 27, 2010, Verizon notified Armstrong that it was disputing Armstrong's claim that it is entitled to be paid its tariffed switched access charges for IP-to-PSTN traffic and PSTN-to-IP traffic." Verizon New Matter at ¶ 8.

⁶³ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 31 (Answer: "... the first Armstrong invoice that Verizon disputed based on the status of the traffic as IP originated/terminated was the Armstrong Aug. 6, 2010 invoice. Since that time Verizon PA and Verizon North have paid at the rate of \$0.0007 per minute-of-use.").

⁶⁴ Verizon Answer to Complaint at page 2.

⁶⁵ A copy of Armstrong's August 30th dispute denial email and selected follow up communications between the parties is Armstrong Exhibit 2.

⁶⁶ Verizon Answer and New Matter at 2-3 (citation omitted) ("The Commission recognized in its *Palmerton* decision that a carrier may approach another carrier 'in order to initiate good faith negotiations for a traffic exchange agreement encompassing the subject of IP-enabled traffic. That is exactly what Verizon has attempted to do here, and the Commission should reject the complaint in order to allow negotiations to proceed.").

Verizon continues to send traffic to Armstrong and use its services,⁶⁷ it now claims the right to do so at a sharply reduced rate, which it has unilaterally undertaken without the agreement of Armstrong or the approval of this Commission (or other lawful authority).

By sharp contrast, since the beginning of operations and continuing to *today*, *Verizon continues to bill Armstrong* reciprocal compensation and tariffed access rates rate at agreed upon levels⁶⁸ - *bills that Armstrong pays without dispute.*⁶⁹ Verizon's self-serving, one-way interpretation of compensation is inconsistent and unsupportable. Verizon's advocacy is more than a little hypocritical - "We will ignore your invoices, but we will continue to demand payment from you."

On September 3, 2010, after the original dispute letter, Verizon sent a second letter raising two additional disputes, neither of which are related to Verizon's claimed IP exemption from the ICAs and the access tariffs or the claim that a rate of \$0.0007 applies. These are two separate billing disputes regarding the calculation of (and not the application of) the switched access rates on toll traffic delivered by Verizon.

⁶⁷ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 10 (Answer: "...it is admitted that Verizon continues to send traffic to Armstrong for termination, to the extent Verizon's customers place calls destined to the customers of Armstrong's cable affiliate so that such calls may be completed."); Verizon Answer to Armstrong Request For Admission No. 26 (Answer: "...it is admitted that Verizon delivers some traffic to Armstrong for which the originating and terminating telephone numbers are assigned to the same local calling area, but traffic that is terminated in IP is not "local" or "intrastate" traffic for jurisdictional purposes.").

⁶⁸ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 20 (RFA 20: "For the period April 2006 to present and continuing, Verizon has billed Armstrong terminating switched access charges on the Armstrong Toll Traffic" is "admitted.").

⁶⁹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 21 (RFA 21: "Armstrong has paid and continues to pay all of Verizon's bills for switched access charges for Armstrong Toll Traffic" is "admitted."); and Verizon Answer to Armstrong Request For Admission No. 42 (RFA 42: "Armstrong has paid and continues to pay all of Verizon's bills for reciprocal compensation as specified in the Verizon ICAs for Armstrong Local Traffic." Answer: "It is admitted that Armstrong generally pays those bills.").

B. Armstrong Is Entitled to Partial Summary Judgment as a Matter of Law

1. The Underlying Technology Does Not Matter

Verizon's argument in opposition to Armstrong's continued collection of agreed to reciprocal compensation and tariffed access rates is based upon the factual observation that the underlying traffic is terminated at the end user premises by a cable company in IP protocol.⁷⁰ Verizon asserts that IP terminating traffic is exempt from the ICAs and tariffs and is "interstate in nature." These claims fail on a multitude of fronts. There is no federal rule that exempts interconnected VoIP provided by a cable telephony provider, from either access or reciprocal compensation. It is clear that federal law has not preempted state law on this topic. The traffic at issue is intrastate in nature and Pennsylvania law requires payment.

One is inclined to say that Verizon is Global NAPs and Armstrong is Palmerton, using the analogy of the recently decided Commission action.⁷¹ There, the Commission unequivocally rejected Global NAPs' claim, even if it were true, that, because the traffic *originated* as *nomadic* IP, terminating access rates were not payable. Here, however, the traffic is not being delivered to Verizon. Rather, Verizon is the deliverer (as was Global NAPs), but is nevertheless claiming a VoIP exemption, based upon cases that discuss the difficulty of determining where nomadic VoIP traffic *originates*. Clearly, Verizon knows how and where its traffic is originated. Verizon is not claiming that the origination of its traffic is nomadic and, therefore, unknown. Nor is Verizon claiming that it is carrying (or that Armstrong is carrying) IP traffic.

⁷⁰ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 8 ("...the grounds for the dispute are fully stated in the August 27, 2010 letter. It is admitted that one basis for the conclusion that the traffic is not subject to switched access tariffs is the fact that traffic destined to the end users of Armstrong's cable affiliate is terminated in IP.").

⁷¹ *Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs Pennsylvania, Inc., Global NAPs, Inc. and Other Affiliates*, Docket C-2009-2093336, Opinion and Order entered March 16, 2010 ("*Palmerton Opinion*").

The basis of Verizon's position is that the Verizon toll call, downstream from Verizon and Armstrong, ultimately terminates as cable (*fixed*) VoIP. In other words, Verizon miscites the case law of *nomadic VoIP call origination* and then applies it to the completely different fact situation of *fixed VoIP call termination*. As the Commission observed in the *Palmerton Opinion*, the presence of Internet protocol, at some point in the traffic stream, "is largely immaterial to this analysis on whether this Commission has subject matter jurisdiction and whether the appropriate jurisdictional intercarrier compensation should apply for this common carriage function."⁷²

Verizon's New Matter legal arguments are no more than retreads of the arguments Global NAPs sought to foist upon Palmerton Telephone and this Commission previously. Verizon argues that:

Under federal law, Armstrong's tariffed intrastate switched access charges do not apply to the VoIP traffic for which Armstrong has invoiced Verizon for two separate reasons, either of which standing alone would be sufficient to exempt it from intrastate access charges. Tariffed intrastate switched access rates do not apply because the traffic at issue is jurisdictionally interstate and because Armstrong is an "information services provider" as the FCC has defined that term.⁷³

For the first proposition (federal preemption), Verizon recites the FCC's *Vonage Decision*⁷⁴ (the release of which pre-dates the Verizon ICAs by almost one year), arguing that all VoIP traffic is interstate traffic for jurisdictional purposes, and that states are preempted from regulating "the rates, terms, and conditions of service" of all VoIP providers. Verizon then references two, more recent, federal district court cases, claiming that these decisions (also

⁷² *Palmerton Opinion* at 32 (citations omitted).

⁷³ Verizon New Matter at ¶ 20.

⁷⁴ *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, FCC 04-267, Memorandum Opinion and Order, released November 12, 2004, at ¶ 3 ("*Vonage Decision*").

addressing only nomadic VoIP-originated traffic) “held the federal and state tariffed access charge regimes do not apply to VoIP traffic.”⁷⁵

For the second proposition (information service provider exemption), Verizon claims that a 1983 FCC decision gives end user customers providing enhanced services a choice between paying the retail tariffed rate or access charges.⁷⁶ Verizon claims that, because there is a “net protocol conversion” when the Armstrong cable company converts a call from the TDM protocol (in which both Verizon and Armstrong handled it) to IP, this also converts the upstream exchange of traffic between Verizon and Armstrong to an information service.⁷⁷

Finally, only acknowledging the Commission’s *Palmerton Opinion* in passing, Verizon argues that this on-point ruling stands, not for the comprehensive proposition that traditional compensation rules apply absent other agreement between the parties, but only where the carrier refusing to pay access charges offers to pay nothing. Here, since Verizon offered to pay next to nothing (\$0.0007/MOU), Verizon argues that the *Palmerton Opinion* does not apply.⁷⁸ Moreover, even were it applicable, Verizon further argues, the *Palmerton Opinion* is wrong, because the Commission’s authority has been preempted.⁷⁹

None of these arguments are persuasive, as they are neither accurate nor applicable. First and foremost, any argument that Pennsylvania’s traditional jurisdiction over intrastate calls has been implicitly preempted cannot be sustained. Calls within Pennsylvania are this Commission’s

⁷⁵ Verizon New Matter at ¶ 20 (citing *PAETEC Communications, Inc. v. CommPartners, LLC*, 2010 WL 1767193 (D.D.C. Feb. 18, 2010); *Manhattan Telecommunications Corp. v. Global NAPs, Inc.*, 2010 WL 1326095 (S.D.N.Y. Mar. 31, 2010)).

⁷⁶ Verizon New Matter at ¶ 23 (citing Memorandum Opinion and Order, *MTS & WATS Market Structure*, 97 F.C.C.2d 682, 77, 83 (1983)).

⁷⁷ Verizon New Matter at ¶ 24 (citing *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, 104 (1996) and 47 U.S.C. § 153(20)).

⁷⁸ Verizon New Matter at ¶ 26.

⁷⁹ *Id.* (“Moreover, under federal law, VoIP traffic is jurisdictionally interstate and tariffed intrastate switched access rates do not apply.”)

statutory domain as delegated by the General Assembly. In pursuit of that duty, the Commission has been actively engaged in the regulation of intrastate access tariffs and other compensation arrangements since the divestiture of AT&T in 1984 and in intercarrier settlements decades before that.

Absent clear and unambiguous preemption by the FCC or Congress, state law applies. The United States Supreme Court has held that: “Where ... the field that Congress is said to have pre-empted has been traditionally occupied by the States ‘we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.’”⁸⁰ To be effective, preemption must be clear. The “concepts of federalism and state sovereignty make clear that in discerning whether Congress intended to preempt state law, there is a presumption *against* preemption. Specifically, the Pennsylvania Supreme Court has stated that it will not be presumed that a federal statute was intended to supersede the exercise of the power of the state *unless there is a clear manifestation of intention to do so.*”⁸¹

Even as to the cases cited by Verizon, all of which relate to the characteristics of the much different *nomadic* VoIP, the FCC has never ruled that intrastate access charges may not be applied. In *Vonage v. Minnesota*,⁸² the FCC granted Vonage’s petition to preempt the order of the Minnesota PUC, which sought to regulate Vonage *as a state public utility*. The FCC found the service to be “jurisdictionally mixed” which could not be separated into intrastate and interstate components.⁸³ The FCC determined that Minnesota’s regulation of Vonage as a public

⁸⁰ *Hillsborough County v. Automated Med. Labs, Inc.*, 471 U.S. 707, 715 (1985) (quoting *Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977) (citations omitted)).

⁸¹ *Dooner v. DiDonato*, 971 A.2d 1187, 1194 (Pa. 2009) (citations omitted)(emphasis added).

⁸² *Vonage Decision* at ¶ 3.

⁸³ *Id.* at ¶ 19.

utility “would thwart federal [policy] objectives.”⁸⁴ Based almost solely on the locational ambiguity characteristic of *nomadic* VoIP, the FCC declared nomadic VoIP service could be regulated only by the Federal government.

Importantly, Verizon ignores the fact that the FCC in its *Vonage Decision* expressly eschewed any implication to either access compensation or separation of toll traffic between state and interstate was affected:

... we **anticipate addressing other critical issues** such as universal service, **intercarrier compensation**, section 251 rights and obligations, numbering, disability access, and consumer protection in [the *IP-Enabled Services Proceeding*].⁸⁵

Indeed, one of the FCC Commissioners was openly critical of the failure to address compensation issues in the *Vonage Decision*:

Where this Order falls short is its **failure to account in a meaningful way for essential policy issues**, including universal service, public safety, law enforcement, consumer privacy, disabilities access, and **intercarrier compensation**, and the effect of our preemption here.⁸⁶

Instead, the FCC deferred the issue of what type of intercarrier compensation might be applicable to nomadic VoIP to two different dockets, one expressly involving VoIP⁸⁷ and in another regarding generic access charge reform.⁸⁸ Neither of these cases(or any other) has yielded a ruling on the topic of nomadic VoIP compensation.

As telling, within its own jurisdiction, the FCC has not exempted Vonage-type nomadic VoIP from interstate access charges. It has changed no regulations⁸⁹ and no federal tariffs have

⁸⁴ *Id.* at ¶ 14.

⁸⁵ *Id.* at ¶ 44 (emphasis added).

⁸⁶ *Id.*, Concurring Statement of Commissioner Jonathan Adelstein (emphasis added).

⁸⁷ *In re IP-Enabled Services*, 19 F.C.C.R. 4863 (2004)(“*IP-Enabled Investigation*”).

⁸⁸ *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Report and Order, issued March 3, 2005 (“*Unified Intercarrier Compensation NOPR*”).

⁸⁹ The FCC’s regulations at § 69.5(b) provides that access charges are applicable to all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services. 47 C.F.R. § 69.5(b).

been revised. Further, the FCC has declined to change the industry practice of using the telephone number's address to route traffic and render jurisdictionally separated bills (local, intrastate toll and interstate toll).⁹⁰

More recently, in 2009, the FCC acknowledged that it still has not revised the compensation rules for nomadic VoIP or preempted the application of access charges. Rather, the FCC ruled that the state commission should act on the basis of "existing law":

... that the lack of regulatory direction from the Commission [FCC] regarding these issues does not, in fact, stand as a legal obstacle to the PUCT's resolution of the arbitration.... We emphasize that the PUCT should not wait for Commission [FCC] action to move forward. Rather, the PUCT must proceed to arbitrate this interconnection agreement in a timely manner, relying on existing law.⁹¹

Verizon's legal theory to the contrary was soundly rejected by in the Commission's

Palmerton Opinion when raised by Global NAPs:

The **overwhelming weight of legal authority** of Pennsylvania and federal law, as well as the relevant decisions of other state utility regulatory commissions and courts of appropriate jurisdictions that have dealt with a large number of intercarrier compensation disputes involving GNAPs, **leads to the inescapable conclusion that the FCC *Vonage* decision is not relevant or material** on matters pertaining to the intercarrier compensation dispute before us.... The FCC *Vonage* decision plainly does not, nor was it intended to, address the issue of whether intercarrier compensation applies for the use of Palmerton's PSTN facilities when terminating VoIP calls.⁹²

Although the FCC has not yet formally proceeded with any jurisdictional classification of interconnected VoIP calls, it still expects state utility regulatory

⁹⁰ *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling and Report and Order, FCC 06-79, released June 30, 2006 at ¶ 32 and FN 89; *In the Matter of Petition of WorldCom, Inc. et al Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218, 00-249 and 00-251, Memorandum Opinion and Order, released July 17, 2002 at ¶¶ 286 and 301 ("The parties all agree that rating calls by their geographical starting and ending points raises billing and technical issues that have no concrete, workable solutions at this time."); and *Starpower Communications, LLC v. Verizon South Inc.*, File No. EB-00-MD-19, Memorandum Opinion and Order, released November 7, 2003 at ¶¶ 16 - 17 (intercarrier compensation to be on the basis of the telephone number NPA-NXX).

⁹¹ *Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134, Memorandum Opinion And Order, released October 9, 2009, at ¶¶ 9 and 10.

⁹² *Palmerton Opinion* at 24-25 (emphasis added).

commissions to deal with and resolve intercarrier compensation disputes that may implicate interconnected VoIP... Finally, the FCC fully expects state utility regulatory commissions to address intercarrier compensation issues that involve intrastate traffic and access matters.⁹³

As the Commission correctly observed, the FCC has not acted and "...we do not need and cannot afford to wait and speculate whether the FCC will reach some sort of coherent and sustainable conclusion to its IP-enabled services and intercarrier compensation reform proceedings, when this might happen, and what the FCC's conclusions might be."⁹⁴

Verizon may also argue, as it did at the Prehearing Conference, that the collection of access charges some how violates the Pennsylvania "Voice-Over-Internet Protocol Freedom Act"⁹⁵ which proscribes regulation of "the rates, terms and conditions of VoIP service or IP-enabled service."⁹⁶ The argument has not been developed by Verizon in any of its pleadings, making meaningful rebuttal difficult, but on its face, enforcing intercarrier compensation between telecommunications carriers cannot in any way, be construed as regulating the rates terms or conditions of VoIP service. This "indirectly-regulating-VoIP-services" is the same argument regarding the *Vonage Decision* proscription against state regulation of nomadic VoIP, which have been repeatedly rejected. As this Commission has said:

...we are not dealing here with the retail services of an interconnected albeit nomadic VoIP service provider. Neither are we trying to apply regulation that

⁹³ *Palmerton Opinion* at 41-42 (citing generally, *In re Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134 Memorandum Opinion and Order, DA 09-2205, released October 9, 2009), and *North County Communications Corp. v. MetroPCS California, LLC*, File No. EB-06-MD-007, Memorandum Opinion and Order, DA 09-719, released March 30, 2009.

⁹⁴ *Palmerton Opinion* at 26.

⁹⁵ 73 Pa. C.S. § 2251.1 *et seq.*

⁹⁶ 73 Pa. C.S. § 2251.4. ("Except as set forth in sections 5 and 6, notwithstanding any other provision of law, no department, agency, commission or political subdivision of the Commonwealth may enact or enforce, either directly or indirectly, any law, rule, regulation, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service.").

would have had the potential of touching the intrastate retail operations of an interconnected nomadic VoIP provider such as Vonage...⁹⁷

Nor has the Commission construed the VoIP Freedom Act to limit carrier-to-carrier regulation. Subsequent to the enactment of the Act, the Commission has continued to find that wholesale CLECs serving cable companies are jurisdictional telecommunications carriers and has certified them, as well as their tariffs.⁹⁸ Moreover, the position ignores the express retention of the Commission's powers and duties over "[s]witched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company."⁹⁹ As noted in the Palmerton proceeding:

The [VoIP Freedom] Act clearly provides that the Commission retains jurisdiction over "[s]witched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company."¹⁰⁰ And it is the question of "switched network access" that is at issue here for the Palmerton PSTN facilities and the GNAPs traffic that these facilities terminate.¹⁰¹

While Verizon may argue, by reference to another title, Title 66 of Pennsylvania Consolidated Statutes, that the term "local exchange telecommunications company" is limited to an ILEC,¹⁰² this definitional limitation is no where reflected in the Title 73 VoIP Freedom Act. Nor is there

⁹⁷ *Palmerton Opinion* at 27; See, also *Palmerton Opinion* at 29 ("Again, in contrast to the *Vonage v. NE PSC* federal court decisions, this Commission is not dealing here with jurisdictional traffic allocations that relate to the retail operations, services, and revenues of a nomadic VoIP provider.").

⁹⁸ *Application of Comcast Business Communications, LLC d/b/a Comcast Long Distance for expanded Authority to Offer, Render, Furnish or Supply Telecommunications Services as a Competitive Local Exchange Carrier to the Public in the Commonwealth of Pennsylvania in the Service Territories of Windstream Pennsylvania, Inc. et al*, 2008 WL 4145481 (Pa P.U.C.) ("CBC proposes to provide "Local Interconnection Service" (LIS) which acts as a gateway to the public switched telephone network for local qualifying cable-based voice over Internet protocol (VOIP) service providers in these rural territories.").

⁹⁹ 73 Pa. C.S. § 2251.6. ("Powers and duties retained. Nothing in this act shall be construed to modify any of the following: ... (1) The authority of a Commonwealth department, agency or commission to enforce applicable Federal or State statutes or regulations relating to any of the following:...(iv) Switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company.").

¹⁰⁰ 73 P.S. § 2251.6(1)(iv).

¹⁰¹ *Palmerton Opinion* at 26

¹⁰² 66 Pa. C.S. § 3012 (Definition of "local exchange telecommunications company").

any indication that the General Assembly intended to adopt one. Again, such a position, if Verizon chooses to take it, is neither accurate nor persuasive.

Most importantly, the rationale of the FCC's *Vonage Decision* is simply inapplicable here, as the facts of "nomadic VoIP" are entirely different from the fixed location cable telephone service that is the subject of Verizon's refusal to pay. These distinguishing features are legally significant. The "nomadic VoIP" service at issue in the *Vonage Decision* is a particular, computer-based product that uses the Internet to make calls and is completely portable with the user's computer laptop. The traffic here for which Verizon refuses to pay is originated by Verizon's customers at a fixed location and terminated on a cable telephony network at a similarly "fixed," not "nomadic," location. There is no issue of location in determining the proper jurisdiction of a call. While nomadic VoIP is available anywhere the Internet can be accessed, the cable company service is tethered to its coaxial cable and not portable, just like traditional telephone service.

The Eighth Circuit noted the significant factual differences between cable company and nomadic VoIP in the appeal of the FCC's *Vonage Order*:

Fixed VoIP service describes the use of the same technology, that is, converting a voice communication into digital packets before transmitting it to another location, but in a way where the service is used from a fixed location. For example, cable television companies offer VoIP service to their customers, but when they do so the ensuing transmissions use the cable running to and from the customer's residence. As a result, the geographic originating point of the communications can be determined. Thus, when VoIP is offered as a fixed service rather than a nomadic service, the interstate and intrastate portions of the service can be more easily distinguished.¹⁰³

These factual differences were found to be legally relevant. When the New York Commission objected, in the *Vonage Appeal*, to the implication that the FCC had also preempted regulation

¹⁰³ *Minnesota Pub. Utility Comm'n v. FCC*, 483 F.3d 570, 575 (8th Cir. 2007) ("*Vonage Appeal*").

over cable company, IP-based voice services, the FCC asserted that it had not done so and the issue would not be ripe on appeal until the court was “presented with an order preempting state regulation of fixed VoIP service providers.”¹⁰⁴ The Eighth Circuit agreed:

The [FCC’s *Vonage Decision*] order only suggests the FCC, if faced with the precise issue, would preempt fixed VoIP services. Nonetheless, the order does not purport to actually do so and until that day comes it is only a mere prediction... Indeed, as we noted, the FCC has since indicated VoIP providers who can track the geographic end-points of their calls do not qualify for the preemptive effects of the *Vonage* order.¹⁰⁵

Thus, the *Vonage Order* is not determinative of cable VoIP in any manner. Indeed, in confirmation of the fact that the *Vonage* line of cases does not apply to fixed, cable-type VoIP services, both Maine¹⁰⁶ and Missouri¹⁰⁷ regulate them as public utilities.

As the Commission noted in *Palmerton*, the cable industry acts and has been treated as any other LEC when it comes to intercarrier compensation. “When *Palmerton* directly bills [cable companies such as Adelphia, Comcast, RCN, Blue Ridge and Service Electric] under its intrastate carrier access tariff,” *Palmerton* is paid “irrespective of whether these fixed VoIP or IP-enabled originated wireline calls have been converted to a TDM protocol prior to their final termination at *Palmerton*’s PSTN facilities.”¹⁰⁸

Nor does the so-called Enhanced Service Provider (“ESP”) exemption apply here. The ESP exemption provides ESPs the opportunity to connect to the network using local exchange

¹⁰⁴ *Id.* at 582.

¹⁰⁵ *Id.*

¹⁰⁶ *State of Maine Public Utilities Commission Investigation into Whether Providers of Time Warner “Digital Phone” Service and Comcast “Digital Phone” Service Must Obtain Certificate of Public Convenience and Necessity to Offer Telephone Service*, Maine Public Utilities Commission Docket No. 2008-421, Order, October 27, 2010.

¹⁰⁷ *Comcast IP Phone of Missouri v Missouri PSC*, 2007 WL 172359 (W.D. Mo.) (“Accordingly, the Court finds that Congress did not intend for VoIP services to be completely unregulated. And, unless preempted or faced with a contrary decision from a relevant federal agency, a state agency may interpret a federal statute and apply its dictates. Therefore, the MoPSC has jurisdiction to decide whether Digital Voice is a telecommunications service.”) *Id.* at *4.

¹⁰⁸ *Palmerton Opinion* at 30-31.

facilities rather than access facilities (and pay local end user as opposed to carrier access rates). Verizon is not an ESP. It is, rather, a local and interexchange telecommunications carrier. The question of an exemption is moot for any carrier, such as Verizon, that is delivering local and toll calls.

Under FCC case law dating back to the AT&T divestiture in 1984, customers of telecommunications services that then offered dial-up data services, such as WestLaw or CompuServe, were ruled to be enhanced service providers and not telecommunications carriers. These “ESPs” were granted “the option of purchasing interstate access services on a flat-rated basis from intrastate local business tariffs, rather than from interstate access tariffs used by [interexchange, long distance carriers].”¹⁰⁹ In other words, they could buy local service under the state local tariff or pay interstate access. As noted by the FCC, “information service providers have used this exemption to their advantage by choosing to pay local business rates, rather than the tariffed interstate access charges that other users of interstate access are required to pay.”¹¹⁰ It is an alternative, to pay either the LEC’s local service rates or intrastate access, that is available to customers that receive large amounts of in-bound calls for the purpose of providing “information services.” A current example is dial-up traffic received by an internet service provider and destined for the Internet (*i.e.*, ISP-bound). The ISP receives telecommunication service from the local carrier and then uses the call for another purpose.

¹⁰⁹ *Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631 (1988) (“*ESP Exemption Order*”). “Thus, ISPs generally pay local business rates and interstate subscriber line charges for their switched access connections to local exchange company central offices.” See, also, *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Declaratory Ruling and Notice of Proposed Rulemaking, released February 26, 1999 at ¶5. The ESP exemption means that the ESP itself can obtain standard business service from the local exchange carrier, rather than having to obtain access service.

¹¹⁰ *Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Report and Order, released April 27, 2001 at ¶ 27 (“*ISP Remand Order*”).

Because Verizon is not an ESP and because Verizon is not providing an information service, Armstrong has no obligation to allow Verizon to connect to its network using local business services. Further, Verizon has not applied to receive Armstrong's local business services for a simple reason - Verizon does not qualify as an ESP. Nor would it qualify. If Verizon were simply an ESP it would have no authority to connect to Armstrong in the first place, since it would not be a telecommunications service provider. As the FCC stated in the *1st Local Competition Order*, "enhanced service providers that do not also provide domestic or international telecommunications, and are thus not telecommunications carriers within the meaning of the Act, may not interconnect under Section 251."¹¹¹

Rather than address the fact that it is not an ESP, Verizon takes a different tack. Verizon argues that someone else in the overall route of the call (i.e., Armstrong's cable affiliate) is providing an information service.¹¹² According to Verizon, this somehow negates Verizon's obligation to pay for the telecommunications service (i.e., local and exchange access) that it receives from Armstrong. Nothing could be further from well established law. The notion that carriers hauling interconnected VoIP originated traffic are telecommunication carriers was set forth in the FCC's *VoIP Universal Service Decision*:

'Over the top' interconnected VoIP providers generally purchase access to the PSTN from a telecommunications carrier who accepts outgoing traffic from and delivers incoming traffic to the interconnected VoIP provider's media gateway.

¹¹¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 15990 at ¶ 995 (1996) ("*1st Local Competition Order*").

¹¹² Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 3 (RFA 3: "Verizon is acting as a telecommunications carrier providing telecommunications service when delivering Verizon Toll Traffic to Armstrong," is denied because "...the voice traffic Verizon delivers to Armstrong that is destined to the end users of Armstrong's cable affiliate is terminated in IP..."); and Verizon Answer to Armstrong Request For Admission No. 19 (RFA 19: "Armstrong is acting as a telecommunications carrier providing telecommunications service when delivering Armstrong Toll Traffic to Verizon," is denied by Verizon "because the traffic originated by the end users of Armstrong's cable affiliate that is terminated to Verizon originates in IP...").

... The telecommunications carriers involved in originating or terminating a communication via the PSTN are by definition offering ‘telecommunications.’¹¹³

In the *Palmerton Opinion*, the Commission correctly recognized that protocol changes “incidental” to an underlying telecommunications service do not “alter their fundamental character” even if they may meet the literal definition of an information service or enhanced service.”¹¹⁴ Further, if the service provided “does not offer these customers a ‘capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information;’ therefore, its service is not an information service under section 153(20) of the Act” even if it under goes a protocol conversion during the call.¹¹⁵ The whole ESP exemption argument is no more than a distracting sideshow.

The appropriate focus is upon the nature of the service being provided to Verizon (telephone toll service) by Armstrong (exchange access service), not the protocols used by a third entity somewhere else on the call to serve the end user. Exactly on point, in a case involving Time Warner, the cable VoIP service provider, and its desire to obtain PSTN connectivity through wholesale CLECs,¹¹⁶ like Armstrong, the FCC ruled that:

...we confirm that providers of wholesale telecommunications services enjoy the same rights as any “telecommunications carrier” under those provisions of the

¹¹³ *In re Universal Service Contribution Methodology, et al.*, WC Docket No. 06-122 *et al.*, FCC 06-94, Report and Order and Notice of Proposed Rulemaking, Released June 27, 2006 at ¶ 41 (“*VoIP Universal Service Decision*”).

¹¹⁴ *Palmerton Opinion* at 36 (citing *In re AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services et al.*, WC Docket Nos. 03-133 and 05-68 (FCC Rel. February 23, 2005), Order and Notice of Proposed Rulemaking, FCC 05-41, *slip op.* ¶ 16 at 6).

¹¹⁵ *Palmerton Opinion* at 37 (citing *In re Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (FCC Rel. April 21, 2004), Order, FCC 04-97, *slip op.* ¶¶ 1 and 12, at 1, 9).

¹¹⁶ “TWC purchases wholesale telecommunications services from certain telecommunications carriers, including MCI WorldCom Network Services Inc. (MCI) and Sprint Communications Company, L.P. (Sprint), to connect TWC’s VoIP service customers with the public switched telephone network (PSTN). MCI and Sprint provide transport for the origination and termination on the PSTN through their interconnection agreements with incumbent LECs.” *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*, WC Docket No. 06-55, Memorandum Opinion and Order, released March 1, 2007 at ¶ 2 (“*Time Warner Decision*”).

Act. We further conclude that the statutory classification of the end-user service, and the classification of VoIP specifically, is not dispositive of the wholesale carrier's rights under section 251... The Act defines "telecommunications" to mean "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." The Act defines "telecommunications service" to mean "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." Finally, any provider of telecommunications services is a "telecommunications carrier" by definition under the Act.¹¹⁷

It made no difference to the FCC that the traffic delivered to or from the wholesale CLEC might have begun or ended in Internet protocol. The carrier delivering such calls is a telecommunication carrier. Here, Armstrong is a telecommunications carrier and the underlying cable company it serves relies upon the telecommunication services provided by Armstrong.

The original or final protocol of a call does not render it immune from access charges where it is delivered by a telecommunications carrier. As the FCC ruled in *Time Warner*, payments are due regardless of the originating technology:

Moreover, in this declaratory ruling proceeding we do not find it appropriate to revisit any state commission's evidentiary assessment of whether an entity demonstrated that it held itself out to the public sufficiently to be deemed a common carrier under well-established case law. In the particular wholesale/retail provider relationship described by Time Warner in the instant petition, the **wholesale telecommunications carriers have assumed responsibility for compensating the incumbent LEC for the termination of traffic** under a section 251 arrangement between those two parties. **We make such an arrangement an explicit condition** to the section 251 rights provided herein. *See, e.g.*, Verizon Comments at 2 (stating that one of the wholesale services it provides to Time Warner Cable is "administration, payment, and collection of intercarrier compensation"); Sprint Nextel Comments at 5 (offering to provide for its wholesale customers "intercarrier compensation, **including exchange access and reciprocal compensation**").¹¹⁸

¹¹⁷ *Time Warner Decision* at ¶ 9-10.

¹¹⁸ *Time Warner Decision* at ¶ 17 (emphasis added).

This Commission ruled similarly, just months before *Time Warner*, in the 2006 *Sprint Wholesale* case, the PA PUC addressed the same issues raised in *Time Warner*, and ruled that it would certificate Sprint to provide transit and interconnection services provider, even where the underlying, final technology is interconnected VoIP:¹¹⁹

Finally, the FCC preempted the states from imposing mandatory certification requirements on VoIP in the *Vonage* decision. This preemption, however, was limited to “migratory” technology accessible anywhere in the world. The FCC’s preemption addressed in *Vonage* does not extend to a “stationary” technology which confines voice service to a fixed location as occurs with the landline service proposed in the Sprint Application.¹²⁰

We are persuaded by Sprint’s summarization of the pertinent holdings to date, of *Brand X* and *Vonage*, so as to conclude that the proposed service is not an “Internet service.” We excerpt a pertinent explanation taken from Sprint’s Exceptions with which we agree:

The mere fact that [Blue Ridge] uses Internet Protocol – a particular technology adopted by most of the cable industry for placing voice traffic onto a hybrid fiber coax network – does not render Sprint’s service an Internet service. In fact, Sprint’s service does not use the Internet. It does not use the public network of interconnected computing systems utilizing the Transmission Control Protocol/Internet Protocol (“TCP/IP”) – which is the essential element that allows nontraditional IP Telephone systems such as Vonage to operate. The service Sprint will be providing is in no way associated with Internet access service. Blue Ridge telephone customers do not even need to subscribe to Internet service to receive this voice service.¹²¹

Parenthetically, the matter of Sprint’s subsequent refusal to pay access charges for cable company traffic delivered to various LECs in Iowa was rejected and Sprint told to pay.¹²²

¹¹⁹ *In re Sprint Communications Company L.P.*, 101 Pa.P.U.C. 895, 2006 WL 3675279 (Pa.P.U.C.) (“*Sprint Wholesale*”).

¹²⁰ *Id.* at 17 (citation omitted).

¹²¹ *Id.* at 19 (citing Sprint Exceptions at 23).

¹²² *Sprint Communications Company L.P. vs. Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom*, Iowa Utilities Board Docket No. FCU-2010-0001, Order, issued February 4, 2011.

Global NAPs' legal error, repeated now by Verizon here, is "focusing on the protocols used rather than on the overall transportation function that, in and of itself, legally and technically constitutes a common carrier telecommunications service *irrespective* of the technical protocol classification of the traffic being carried."¹²³

Our *Sprint* Order noted with approval Sprint's position that the "mere fact that Sprint uses Internet Protocol – a particular technology adopted by most of the cable industry for placing voice traffic onto a hybrid fiber coax network – does not render Sprint's service an internet service." The Commission's *Core* and *Sprint* decisions were paralleled by the federal *Time Warner* declaratory ruling that was issued by the FCC in March 2007.¹²⁴

In accordance with the FCC's *Time Warner* declaratory ruling and this Commission's *Sprint Wholesale* decision, Armstrong is billed by and pays to Verizon both switched access charges and reciprocal compensation for terminating Armstrong's cable traffic. As consistently, Armstrong bills to and expects to be paid for these same local and toll call termination services when Verizon is the terminating customer.

Ignoring the substance and consistency of the foregoing FCC and Commission Orders, indeed, even their existence, Verizon insists that the salient precedent consists of two recent federal district court decisions purportedly holding that "the federal and state tariffed access charge regimes do not apply to VoIP traffic."¹²⁵ Neither of these cases is either binding or persuasive.

The *Paetec* opinion by the District of Columbia is an unreported case and, therefore, not citable precedent. It is completely silent on CommPartners' operation and does not analyze any

¹²³ *Palmerton Opinion* at 8-9 ("This telecommunications service is clearly provided by a common carrier telecommunications utility that has been duly certificated to operate as such by this Commission within specific areas of the Commonwealth.").

¹²⁴ *Palmerton Opinion* at 11 (citation omitted).

¹²⁵ Verizon New Matter at ¶ 21 (citing *Paetec Communications, Inc. v. CommPartners, LLC*, 2010 WL 1767193 (D.D.C. Feb. 18, 2010) and *Manhattan Telecommunications Corp. v. Global NAPs, Inc.*, 2010 WL 1326095 (S.D.N.Y. Mar. 31, 2010)).

of the factual underpinnings necessary to reach a decision. Moreover, with all due respect, the decision wrongly rules that all VoIP calls are an information service with no analysis of the telecommunications nature of CommPartners' delivery of the traffic to Paetec under the *Time Warner* decision. The Opinion is completely at odds with the FCC's acknowledgement, in the *Vonage* case¹²⁶ and more recently in the *UTEX* case,¹²⁷ that it has not preempted the application of access charges to interconnected VoIP. In Armstrong's view, the decision is just plain wrong. At least three state commissions, this one, New Hampshire PSC¹²⁸ and the Iowa Utilities Board,¹²⁹ have rejected the D.C. District Court's conclusions. As the Commission opined in the *Palmerton Reconsideration Order*:

Not surprisingly, *Paetec* is another case decided by a federal court that, in the admitted absence of definitive action by the FCC, comes down on the side of exemption from access charges for VoIP traffic. This is, however, no different from the arguments set forth by Global NAPs, previously. There is nothing novel in *Paetec* that would incline us to reconsider the [*Palmerton Opinion*],¹³⁰

¹²⁶ *Vonage Decision, supra.*

¹²⁷ *Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas*, WC Docket No. 09-134, Memorandum Opinion and Order, released October 9, 2009 at ¶¶ 9 and 10.

¹²⁸ The New Hampshire PUC refused to revise its original Order although Global NAPs also raised the District of Columbia Court *Paetec* Memorandum Order. *Joint Petition Of Hollis Telephone et al for Authority to Block the Termination of Traffic from Global NAPs Inc.*, New Hampshire Public Utilities Commission, Docket No. DT 08-028, Reconsideration Order, Order No. 25,088 dated April 2, 2010 at 3.

¹²⁹ *Sprint Communications Company L.P. v. Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom*, Iowa Utilities Board Docket No. FCU-2010-0001, Order, issued February 4, 2011 at 42-43 ("Although the FCC has not completed its work in the *IP-Enabled Services NPRM*, it indicated there were numerous issues to be considered in classifying VoIP services as either information services or telecommunications services. The *PAETEC Decision* reduces that multitude of considerations identified by the FCC to a single-pronged test. Under the *PAETEC Decision*, all that needs to happen for a service to be classified as an information service (and thus be subject to federal jurisdiction) is a net protocol conversion. However, in 1998, the FCC declined to render such a broad and definitive conclusion about net protocol conversion in its Stevens Report to Congress. The 12-page *PAETEC Decision* does what the FCC never completed in the *IP-Enabled Services* docket, and does so without acknowledging any distinction between various types of IP-Enabled services previously identified by the FCC." (citation omitted)).

¹³⁰ *Palmerton Telephone Company v. Global NAPs South, Inc., Global NAPs Pennsylvania, Inc., Global NAPs, Inc. and Other Affiliates*, Docket C-2009-2093336, Opinion and Order, entered August 3, 2010 ("*Palmerton Reconsideration Order*") at 15-16.

The *Manhattan Telecommunications* opinion finds Global NAPs liable, in equity, to pay interstate tariffed rates. Notably, the Court did not find interconnected VoIP to be information service or exempt from access charges. The Court simply “declines to enter the [regulatory] melee and attempt to apply the filed rate doctrine,” and, instead, cuts to the heart of the matter -- finding that, under federal equity, Global NAPs should pay the federal rate. This decision shapes no precedent whatsoever for either Verizon’s proposed usurpation of state access charges or proposed rate of 7/100th of a penny.

Finally, discriminating among different technologies by applying different rates for the same services is poor public policy. The Commission has already recognized both the legal and policy implications of doing so:

We find that strict reliance on these traffic protocols for these calls places the legal and technical analysis in this matter on a legally unsustainable course. This approach also has the capacity of creating undesirable regulatory policy results.¹³¹

If certain competing telecommunications carriers pay intercarrier compensation for VoIP traffic termination, while others take the position that they may avoid such payments for the termination of similar traffic, “there can be an anticompetitive environment that artificially and inimically transmits inaccurate price signals to end-user consumers of telecommunications and communications services.”¹³² It further observed that one of the statutory policy directives in Chapter 30 of the Public Utility Code mandates this Commission to “[p]romote and encourage the provision of competitive services by a variety of service providers *on equal terms*.”¹³³

¹³¹ *Palmerton Opinion* at 5-6.

¹³² *Palmerton Opinion* at 45 (*citing* Order entered May 5, 2009 at 8-9).

¹³³ 66 Pa. C.S. § 3011(8) (*emphasis added*).

2. The Delivering Carrier Is Responsible For the Payment of Access Charges and Verizon's Attempt to Offset Has No Basis In Law

Where Armstrong directly delivers traffic to Verizon¹³⁴ it pays the negotiated reciprocal compensation rate (local traffic) or access rates (toll traffic) accordingly. For some of its traffic, principally interLATA toll, Armstrong delivers this traffic to a third party interexchange carrier that is then responsible for terminating that call to the LEC serving the called party.¹³⁵ The carriers to whom Armstrong does so are reputable and well known.¹³⁶ *Verizon itself employs intermediate carriers to deliver its originated traffic.*¹³⁷ And, it uses some of the same carriers with whom Armstrong also does business.¹³⁸

As Verizon acknowledges, “least cost routing” is “the process of analyzing, selecting, and directing the route of outbound communications traffic based on which path provides the most savings.”¹³⁹ Interexchange carriers (including those used by Armstrong *and* Verizon) employ least cost routing techniques to direct traffic in a least-cost manner (i.e., choosing various routes and underlying carriers depending upon various time-of-day, volume and other applicable discounts). Least cost routing techniques may result in more than one carrier involved in the carriage of the call. In these circumstances, the terminating carrier, Verizon in this instance, would be handed a call by a carrier other than the one to whom the originating carrier initially delivered it. The originating carrier does not control whether the toll provider with whom it

¹³⁴ According to Verizon's one-week traffic study, Armstrong directly delivered 38% of all Armstrong-originated traffic. Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 32.

¹³⁵ This indirect delivery constitutes 62% of all Armstrong-originated traffic during the week of the traffic study. Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 32.

¹³⁶ See Armstrong Exhibits 5 (Armstrong Answer to Verizon Interrogatories Set I-6) and 7 (Armstrong Answer to Verizon Request for Admissions Nos. 6-13) for listing of IXC's to whom Armstrong does and does not hand off its toll traffic.

¹³⁷ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 81 (Answer: “Verizon admits that it has agreements with some carriers to deliver its originating traffic for termination, as described in response to Armstrong I-40.”).

¹³⁸ While Verizon would identify only 3 out of the 5 carriers that it employs for indirect delivery, 2 of these are the same carriers used by Armstrong. Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 40.

¹³⁹ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 42.

contracts delivers the traffic to the terminating carrier or hands it off to another carrier for delivery. Nor does the terminating carrier know the identity of the carriers involved in the chain of delivery, except the final delivering carrier.¹⁴⁰

Nevertheless, Verizon claims that Armstrong is engaged in a vague, never defined conspiracy to deny it access charges,¹⁴¹ because *some* of Armstrong's traffic, a *de minimus* amount, is delivered by some bad IXC actors. Without knowing (or even asking) the identity of the interexchange carriers to whom Armstrong sends traffic¹⁴² and also knowing that Armstrong would not know which carriers actually deliver each of its calls, Verizon nevertheless claims that Armstrong should know that Verizon is not being paid by certain carriers.¹⁴³ The conjecture becomes evident as Verizon argues that Armstrong should know that carriers who do not pay¹⁴⁴

¹⁴⁰ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 22 and 34.

¹⁴¹ Verizon New Matter Complaint, Count II.

¹⁴² Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 52 (RFA 52: "Verizon, as the terminating carrier, is unable to identify the interexchange carrier(s) to whom Armstrong initially hands off Armstrong Indirect Toll Traffic." Answer: "Verizon admits that it has received Armstrong-originated traffic from other carriers. Based on the information that is transmitted with the call, Verizon does not know if this is the carrier to which Armstrong initially handed off the traffic."); Verizon Answer to Armstrong Request For Admission No. 61. (RFA 61: "Before refusing to pay Armstrong's August 2010 switched access bills, Verizon did not ask Armstrong to identify the interexchange carriers to whom Armstrong directly hands off Armstrong Indirect Toll Traffic." Answer: "Subject to and without waiving the objection, admitted."); and Verizon Answer to Armstrong Request For Admission No. 62 (RFA 62: At the time of filing its counter complaint, Verizon did not ask Armstrong to identify the interexchange carriers to whom Armstrong directly hands off Armstrong Indirect Toll Traffic." Answer: "Subject to and without waiving the objection, admitted. However, had Armstrong accepted Verizon's request to negotiate, rather than precipitously filing a complaint with this Commission, the parties would have had the opportunity to discuss these issues.").

¹⁴³ See Verizon New Matter at ¶ 30 ("Armstrong ... routes traffic in such a way to avoid the payment of intrastate switched access charges for the IP-originated and IP-terminated traffic that it sends to other local exchange carriers, including Verizon.") and ¶ 33 ("Armstrong ... avoids paying switched access charges by routing its traffic to Verizon and other local exchange carriers through wholesale providers that do not pay access charges on such traffic.").

¹⁴⁴ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 59 (RFA 59: "Verizon's allegations that Armstrong does not pay access charges when it delivers to other local exchange carriers (Answer at 10) is based upon the perceived payment practices of the delivering interexchange carriers indentified in the August 2010 traffic study and Verizon's belief that these delivering carriers do not pay other local exchange carriers either. The averment is not based upon any other information." Answer: "Denied. The averment is based on the actual payment practices of the carriers that deliver Armstrong-originated traffic to Verizon. *See also* response to request # 58.").

exist in the least cost market,¹⁴⁵ and that Armstrong's traffic could be delivered by some of them. Somehow Armstrong is supposed to know that these carriers have been handed Armstrong traffic.¹⁴⁶ Verizon only speculates that Armstrong has actively assisted in the avoidance by intermediate carriers of compensation to which Verizon is otherwise entitled.

Verizon takes the position that, because it does not get paid full access charges from the carriers who may ultimately deliver Armstrong-originated traffic, this should somehow count against Armstrong. It makes these averments on the basis of a one week traffic study and the identity of the carriers *delivering* Armstrong-originated traffic extracted from that study.¹⁴⁷ Verizon admits that the traffic study does not identify the carriers with whom Armstrong does business.¹⁴⁸ The study simply identifies the delivering carrier, characterizes (some of) them as being well-known non-payers and seeks to consign their unpaid liabilities to Armstrong.¹⁴⁹

The punch line that Verizon ineffectively seeks to deliver is that, since a few carriers do not pay Verizon for Armstrong-originated traffic, then Verizon should also be excused from

¹⁴⁵ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 58 (RFA 58: "Verizon averment that Armstrong knows that its wholesale providers refused to pay access charges (Verizon New Matter at ¶12) is based upon the identity of the delivering interexchange carriers. The averment is not based upon any other information." Answer: "Denied. The averment is also based on the fact that certain carriers are widely known to refuse to pay switched access charges on VoIP traffic. Further, Armstrong concedes that it is seeking what it defines as the "least cost" routing for its traffic, and Armstrong knew or should have known that those carriers who do not pay switched access rates on VoIP traffic are likely to be offering the lowest cost.").

¹⁴⁶ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 60 (RFA 60: "Verizon's claim that 'Armstrong itself deliberately avoided paying switched access rates' (Complaint Answer at ¶ 25) is based upon the perceived payment practices of the delivering interexchange carriers indentified in the August 2010 traffic study. The averment is not based upon any other information." Answer: "Denied. The averment is based on the actual payment practices of the carriers that deliver Armstrong-originated traffic to Verizon. *See also* response to request # 58.").

¹⁴⁷ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 39, 46 and 52.

¹⁴⁸ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 57 (Answer: "Verizon admits that the traffic study itself does not identify the carriers to which Armstrong initially handed of the traffic destined to be terminated by Verizon, which may or may not be the same ones that delivered the traffic.").

¹⁴⁹ However, as noted subsequently, the majority of this is not unpaid, it is paid according to agreement at different rates. Thus, there is no unpaid liability to shift.

paying anything other than \$.0007 per minute to Armstrong for Verizon-originated traffic.¹⁵⁰ In other words, Verizon's collection problem with a few bad actor delivering carriers should be an offset against Armstrong's collection of the ICA reciprocal compensation rate and its own access tariff.¹⁵¹

*This blame shifting argument fails as a matter of law. Both Armstrong and Verizon agree that liability for payment of the terminating carriers' access rates is that of the delivering carrier.*¹⁵² Indeed, Verizon expressly concedes that Armstrong is not liable to Verizon for these payments. Verizon has never billed Armstrong for any amounts unpaid by third party delivering carriers¹⁵³ or otherwise attempted in any way to collect from Armstrong.¹⁵⁴ Moreover, Verizon has never sought to collect from the originating carrier access charges not paid by the third party delivering carrier.¹⁵⁵ Nor has Verizon, as an originating LEC, ever been presented with such a bill.¹⁵⁶ Verizon has no idea of the amounts of access charges either paid or unpaid on Armstrong-originated traffic¹⁵⁷ and has refused to undertake such a calculation claiming that this

¹⁵⁰ Verizon New Matter at ¶ 33 (“Given the number of carriers in the industry that handle VoIP traffic and refuse to and otherwise do not pay tariffed access charges, including carriers through which Armstrong itself delivers its traffic to Verizon, the only way to achieve the competitive parity directed by Chapter 30 of the Public Utility Code is to have carriers negotiate their own commercially acceptable rates, terms and conditions for the exchange of this traffic.”).

¹⁵¹ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 19.

¹⁵² Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 45. The interrogatory asks “State whether Verizon asserts that Armstrong is legally liable for access bills not paid by an intermediate carrier delivering Armstrong-originated traffic.” Verizon’s response is: “No, Verizon is not making that assertion in this proceeding.”; *see also*, Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 79 (RFP 79: “Verizon does not assert that Armstrong is legally liable for switched access billings not paid by interexchange carriers delivering Armstrong Indirect Toll Traffic.” Answer: “Subject to and without waiving the objection, Verizon is not making that assertion in this case.”).

¹⁵³ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 77. (Answer: “Subject to and without waiving the objection, Verizon admits that it has not billed Armstrong for switched access charges on Armstrong-originated traffic delivered to Verizon by other carriers.”).

¹⁵⁴ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 37.

¹⁵⁵ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 41.

¹⁵⁶ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 44.

¹⁵⁷ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 16 and 17.

would be “unduly burdensome,”¹⁵⁸ even though Verizon believes that these amounts are material to its dispute with Armstrong.

Thus, there is no reason whatsoever, to delve into the specifics of the traffic study offered by Verizon. However, if reviewed, along with Verizon’s interconnection agreements with the identified carriers, this rhetoric is shown to be no more than empty rhetoric and exaggerated claims admitted to by Verizon in discovery.

When asked about its right to collect compensation from the carriers identified in the traffic study as delivering Armstrong-originated traffic, Verizon divided them into two classes – those that have agreements and those that do not. Generally, Verizon states that for those carriers that have “no agreement with Verizon ... Verizon follows normal dispute resolution and collection activity.”¹⁵⁹ No documents were provided by Verizon documenting its collection efforts despite a request to provide “full and complete copies of any and all documents related thereto.” In a supplemental answer, Verizon identifies two carriers as disputing and not paying, neither of whom is doing business with Armstrong.¹⁶⁰ Verizon’s traffic study ascribes a mere 1.8% of all Armstrong traffic deliveries to these two carriers. Certainly, Verizon knows how to

¹⁵⁸ *Id.*

¹⁵⁹ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 38; and Armstrong Exhibit 6, Verizon Supplemental Answer (by S. Paiva Letter dated April 14, 2010) to Armstrong Request For Admission No. 56 (Answer: “The carriers identified in the traffic study that dispute Verizon’s switched access bills are identified in Verizon’s supplemental response to I-18 (those with pay and dispute agreements) and I-38 (those that otherwise do not pay).”).

¹⁶⁰ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 38; Armstrong Exhibit 5, Armstrong Answer to Verizon Interrogatory Set I-6; Armstrong Exhibit 7, Armstrong Answer to Verizon Request For Admission Nos. 9, 10, 12 and 13 (Armstrong “denied” that it hands any traffic off to Global NAPs South, Inc., CommPartners, LLC, Sprint Communications Company L.P., InfoTelecom, LLC or a company known to be affiliated with them.); and Armstrong Exhibit 7, Armstrong Answer to Verizon Request For Admission Nos. 6, 8 and 11 (Armstrong “admitted” that it hands off traffic off to Level 3 Communications, LLC, XO Communications Services, Inc, AT&T Communications of Pennsylvania, LLC or a company known to be affiliated with them.).

sue Global NAPs for collection, although it has apparently chosen not to do so in Pennsylvania.¹⁶¹

As the Iowa Utilities Board recently observed in rejecting a similar argument by Sprint, the lack of “complaints from other carriers objecting to payment of intrastate access charges on VoIP traffic or seeking payment of unpaid charges on that traffic, as one might expect if large amounts of access services are not being paid for” lead to the conclusion that the claim of non-payment when made by Sprint could not be supported.¹⁶²

However, for the majority of the Armstrong-originated traffic in the traffic study, Verizon concedes that it does have agreements with the delivering carrier.¹⁶³ There is no question that Armstrong consistently pays (and continues to do so) on traffic that it directly delivers, representing 38% of total deliveries in the study. The other carrier delivering a sizeable portion of Armstrong-originated traffic (41%), is certainly reputable and no Global NAPs.¹⁶⁴

On that indirect traffic (i.e., calls delivered by a third party IXC) for which Verizon has entered into agreements, Verizon has actually contracted to accept alternative compensation to tariffed access charges. Hence, to the extent Verizon does not receive full access charges, it is

¹⁶¹ Global NAPs is currently in receivership to collect the Verizon New England debts. *Global NAPs, Inc. v. Verizon New England, Inc.*, United States District Court District Of Massachusetts, Civil Action Nos. 02-12489-RWZ and Civil Action No. 05-10079-RWZ. Previously actions between Verizon and Global NAPs include *Global NAPs, Inc. v. Verizon New England, Inc.*, 444 F.3d 59 (1st Cir. 2006); *Global NAPs, Inc. v. Verizon New England, Inc.*, 454 F.3d 91 (2nd Cir. 2006); *Global NAPs, Inc. v. Verizon New England*, 2006 WL 2632804 (D.Mass. 2006); and *Verizon New York, Inc. v. Global NAPs, Inc.*, 463 F.Supp.2d 330 (E.D.N.Y. 2006).

¹⁶² IUB Iowa Telecom Order at 36-37.

¹⁶³ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I – 38 (“For those carriers that have entered into an agreement with Verizon for a process to pay and dispute for traffic identified as VoIP, Verizon bills switched access rates and the customer remits payment at the rate agreed to in the agreement for all minutes of use identified as VoIP; the difference between what was billed and what was paid is held as disputed and is not subject to collection activity.”).

¹⁶⁴ See, Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I - 32 (Verizon Traffic Study marked “Confidential”) The line immediately below the line entitled “Total Indirect” identifies the carrier delivering 40.8% of such traffic to Verizon. The information is marked “confidential” and, therefore, is not recited in this “Public” Motion.

because Verizon has agreed to something different (presumably in return for other consideration of some other type).

For example, Verizon has agreed with Level 3, by Amendment No. 2, effective April 1, 2004, to accept \$0.0004 per minute for “VoIP Traffic” pending adoption of an “FCC VoIP Order” at which time compensation will be revised prospectively.¹⁶⁵ With AT&T, a Verizon interconnection amendment effective November 1, 2004, permits a practice labeled “dispute and withhold” for any billing above \$0.0004 per MOU.¹⁶⁶ Upon entry of a “FCC VoIP Order” past due amount may be retroactively billed. Again, any lack of payment for access charges for traffic terminating via AT&T results directly from Verizon’s agreement to accept a different form of compensation.

In summary, the Verizon traffic study found that, during the study period, 41% of Armstrong’s traffic was delivered by a large, national carrier, with two others, equally reputable, delivering an additional amount of 16%. When added to the more than 38% of its originating traffic delivered directly to Verizon by Armstrong, it becomes clear that more than 95% of all Armstrong traffic delivered to Verizon pursuant to written agreements. Verizon makes no claim that these carriers are violating these agreements.

Finally, as Verizon also acknowledges, the few delivering carriers in the study who pay nothing, again the perennial bad actors, deliver traffic that includes calls originated by a wide variety of local exchange carriers.¹⁶⁷ Indeed this was the case regarding Palmerton’s traffic

¹⁶⁵ Attached to Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I - 18; Amendment No. 2 to Interconnection Agreement between Verizon Pennsylvania Inc. and Level 3 Communications, LLC; *Joint Petition for Approval of Amendment No. 2 to an Interconnection Agreement Between Verizon Pennsylvania Inc., and Level 3 Communications, LLC under Section 252(e) of the Telecommunication Act of 1996*, 2005 WL 6502689 (Pa. P.U.C.).

¹⁶⁶ Armstrong Exhibit 4, Verizon Answer to Armstrong Interrogatories Set I - 18.

¹⁶⁷ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 65 (RFA 65: “Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications deliver traffic originated by numerous carriers, including ILECs, TDM-based CLECs and wireless carriers.” Answer: “Subject to and without waiving the

study where Global NAPs' delivery stream contained ILECs, CLECs (TDM-based), cable companies, and wireless carriers.¹⁶⁸ In the least cost market, traffic moves from carrier to carrier prior to delivery. *This is why Verizon ILEC traffic was found in the traffic streams delivered to Palmerton by Global NAPs.*¹⁶⁹ It should be no surprise, then, that Global NAPs' traffic may also include Armstrong-originated calls.

Finally, Verizon never informed Armstrong that it was having a collection problem.¹⁷⁰ It simply jumps out with an attempted "gotcha." Notably, however, Verizon is not refusing to pay any other LEC's access bills because their traffic is found in the stream delivered by non-paying carriers.¹⁷¹ Indeed, Verizon states that it has not even studied the non-payers' traffic to determine what other originating carriers may also be included.¹⁷²

objection, Verizon generally believes this statement to be true based on its own experience with these carriers.").

¹⁶⁸ *Palmerton Opinion* at 32-33 ("GNAPs is unable to explain the presence of more conventional intrastate interexchange ILEC, CLEC, and wireless calls in the stream of traffic that it transports and indirectly terminates at Palmerton's PSTN facilities — where such calls have been detected in Palmerton's special traffic study — and GNAPs' own testimony does not totally exclude their presence."(citation omitted)).

¹⁶⁹ Armstrong Exhibit 6, Verizon Supplemental Answer (by S. Paiva Letter dated April 14, 2010) to Armstrong Request For Admission No. 86 ("Verizon admits that there were calls originating from telephone numbers assigned to Verizon as the local carrier in the study of Global NAPs delivered traffic undertaken by Palmerton and presented in its complaint case. *Palmerton Telephone Co. v. Global NAPs South, Inc., et al.*, Docket No. C-2009-2093336.").

¹⁷⁰ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 64 (RFA 64: "Prior to answering Armstrong's complaint, Verizon never informed Armstrong that some of the interexchange carriers delivering Armstrong Indirect Toll Traffic to Verizon were not paying Verizon's terminating access charges." Answer: "Subject to and without waiving the objection, admitted.").

¹⁷¹ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 68 (RFA 68: "Verizon has not categorically refused to pay the terminating switched access charges of all originating carriers whose traffic is delivered to Verizon by Global NAPs, CommPartners, Sprint, Level 3, Infotelecom or One Communications." Answer: "Subject to and without waiving the objection, Verizon has only disputed the application of switched access charges where it has a reasonable basis to conclude that switched access charges are not due or are otherwise being improperly or unlawfully charged. With relevance to this case, Verizon has disputed the application of switched access charges on IP-originated and IP-terminated traffic for all similarly situated carriers, as explained more fully in response to Armstrong Set I, No. 24.").

¹⁷² Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 66 (RFA 66: "Verizon has not conducted a study to identify what other carriers' originating traffic is delivered to Verizon by Global NAPs, CommPartners, Sprint, Level 3, Infotelecom or One Communications." Answer: "Subject to and without waiving the objection, this request is admitted. However, Verizon's traffic study shows that some, but not all, of the listed carriers deliver Armstrong-originated traffic to Verizon. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.").

In conclusion, there is no basis in law to hold the originating carrier liable for calls delivered by a third party interexchange carrier. Verizon's attempt to offset, by amounts it has not calculated, the charges it lawfully owes to Armstrong for third party receivables which it concedes Armstrong is not liable, is utterly devoid of merit and has no basis in law. Armstrong continues to pay the Verizon ICA reciprocal compensation and Verizon access charges for its directly delivered traffic. The vast majority of indirectly delivered traffic is paid according to terms that Verizon voluntarily agreed to. Thus, there can be no claim of an unpaid amount that would even constitute a valid offset.

Palmerton did not seek to hold Verizon liable for Global NAPs' non-payment. Nor did Verizon agree to pay for the calls it originated that Global NAPs delivered to Palmerton.¹⁷³ Verizon's remedy is to do what Palmerton did, file against the offending carrier. Armstrong agrees that access cheating is a problem, but it is not solved by joining the ranks of cheaters, as Verizon now seeks to do.

3. Verizon Has Not Offered To Negotiate In Good Faith

The final fiction offered by Verizon to excuse its sudden refusal (to continue) tendering lawful payment is that it accompanied that repudiation of its lawful obligations with a "good faith offer to negotiate." Remarkably, Verizon points to the Commission's *Palmerton Opinion* as meaningful support of its position. Yet, thoughtful readers of the *Palmerton Opinion* recognize the central holding to be that access charges apply to toll traffic regardless of the technology employed on the call, in the absence of a *mutual* agreement to the contrary.

¹⁷³ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 88 (RFA 88: "Verizon did not offer to pay Palmerton Telephone for Verizon Indirect Toll Traffic delivered by Global NAPs." Answer: "Subject to and without waiving the objection, Palmerton did not seek payment from Verizon for the traffic at issue in the above-captioned case.").

Verizon's deluded interpretation appears to be that access charges apply where the delivering carrier refuses to pay anything, but that a carrier offering to pay something, even if it is next to nothing (\$.0007 per minute) may refuse to pay the tariffed rate. This position cannot be reconciled with the Commission's findings.

Verizon improperly relies upon a single fact (non-payment) recited in the *Palmerton Opinion*¹⁷⁴ and seeks to distinguish its behavior, while completely disregarding the central holding. While Global NAPs did refuse to pay anything, there is no indication that this was a critical aspect of the holding. Certainly, there is nothing in the Order to suggest that a carrier is entitled to simply ignore the terminating LEC's tariff and an effective ICA, as long as it pays any amount greater than \$0.00/MOU.

The Commission *did* rule that "GNAPs' non-payment of intrastate carrier access charges to Palmerton cannot be condoned as a matter of law and as a matter of sound regulatory policy."¹⁷⁵ However, this is hardly an invitation to the mayhem that Verizon envisions. The outcome was, in fact, a requirement to pay switched access rates and an expressed concern, warning that unequal rate application would create artificial competitive disadvantages.¹⁷⁶

Verizon's behavior here is no better than that of Global NAPs. It may, in fact, be worse. Characterizing its behavior as an "offer to negotiate was made in good faith" hardly describes the kidnapping-for-ransom scheme that Verizon has sprung upon Armstrong. By holding large sums

¹⁷⁴ *Palmerton Opinion* at 32 ("The evidentiary record is clear that GNAPs has not paid *any* access charges to Palmerton, whether interstate or intrastate, and that Palmerton's monetary claim is concentrated on the intrastate portion of the intercarrier compensation dispute at issue that is clearly within this Commission's jurisdiction." (citations omitted)).

¹⁷⁵ *Palmerton Opinion* at 26.

¹⁷⁶ *Palmerton Opinion* at 45 ("It is obvious that a telecommunications carrier that needs and obtains Palmerton's intrastate carrier access services at the prescribed jurisdictional rates that the carrier then pays to Palmerton will be competitively but artificially disadvantaged if another carrier obtains the same Palmerton carrier access services and pays no intercarrier compensation.")

of Armstrong monies hostage, which grow by approximately \$200,000 monthly,¹⁷⁷ and offering virtually nothing by comparison (13%),¹⁷⁸ Verizon uses its market clout as the largest LEC and toll carrier in Pennsylvania to cash starve Armstrong and thereby force concessions. Holding a gun to the clerk's head and offering to pay less than 13% of the sticker price is not an offer to purchase either. By doing so, Verizon violates its 2006 ICA commitment to pay rates for local and toll termination at rates 76% and 88% higher, respectively, than it now is "offering." The audacity of such an approach is truly infuriating and to claim it is simply a "good faith offer" to negotiate is arrogance perfected.

The Verizon ICAs and Armstrong's tariff clearly identify lawful mechanisms to be followed¹⁷⁹ in bringing an action that would serve Verizon's obvious objective to pay less. It did not serve notice that it sought to terminate the current ICA and negotiate a new one. It did not file a proceeding to challenge an ICA-specified charge and then seek a refund as the ICAs require. It did not file a complaint, in violation of the procedures set forth in Armstrong's access tariff, but rather has forced Armstrong to do so. Its actions are also contrary to the Pennsylvania Public Utility Code, which requires that a complaint must be filed challenging an existing tariffed rate.¹⁸⁰ Verizon simply nominated itself as the decision maker, adopting a "so sue me" attitude, while continuing to demand Armstrong's access services, but offering the lowest rate possible next to nothing.

Moreover, contrary to Verizon's assertion, the \$0.0007 rate it now pays in lieu of lawful rates has no legitimacy. While it is true that the FCC has in the past used the \$0.0007 per minute rate as a default in the case of one-way traffic destined to a dial-up Internet Service Provider

¹⁷⁷ Armstrong Exhibit 3.

¹⁷⁸ *Id.*

¹⁷⁹ See discussion, *infra*.

¹⁸⁰ 66 Pa.C.S. §§ 315 (a), 316, 701, 703 (g), and 1309 (a).

("ISP"),¹⁸¹ the traffic at issue here clearly is not ISP traffic the traffic at issue here clearly is not ISP or out-of-balance traffic. The rate has no application here in the case of a point-to-point voice call. As the *Palmerton Opinion* :

...we are not dealing with individual end-user retail calls to ISPs. Instead, we are dealing with the wholesale telecommunications transport movement and termination of interexchange traffic that includes VoIP or IP-enabled calls.¹⁸²

Verizon acknowledges that the rate is designed for dial-up calls to the Internet (ISP bound)¹⁸³ and that the rate has never been used for interexchange (toll) traffic in Pennsylvania.¹⁸⁴

Further, the \$0.0007 rate has no economic or historical significance and its origin is specious, at best. The FCC in its *ISP Remand Order* claims that the 0.0007 rate is a weighted average of the state-specific rates for ISP traffic in an ICA between Level 3 and SBC (n/k/a AT&T) circa January 2001.¹⁸⁵ A close examination of the FCC references shows that the FCC

¹⁸¹ See, *ISP Remand Order* at ¶ 8.

¹⁸² *Palmerton Opinion* at 40. Continuing the Commission states:

In these circumstances, the FCC has opined as follows:

'We agree with Bell South that AT&T's service is not analogous to ISP-bound traffic. Although a call to an ISP may include multiple communications, the only relevant communication in the case presented by AT&T is from the calling card caller to the called party. Moreover, even if there are multiple communications, the Commission [FCC] has found that neither the path of the communication nor the location of any intermediate switching point is relevant to the jurisdictional analysis.'

FCC AT&T Prepaid Calling Card Order, ¶ 26 at 10.

¹⁸³ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 14 (Answer: "As the FCC itself has explained, "[t]o limit arbitrage opportunities that arose from 'excessively high reciprocal compensation rates,' the Commission adopted a gradually declining cap on intercarrier compensation for ISP-bound traffic, beginning at \$.0015 per minute of use and declining to \$.0007 per minute of use, the current cap. The Commission derived the rate caps from contemporaneous interconnection agreements, in which carriers voluntarily agreed to rates comparable to the rate caps adopted by the Commission." *In re High-Cost Universal Serv. Support*, 24 FCC Rcd 6475 (F.C.C. 2008). Verizon further notes that one of the alternatives the FCC is considering as a result of its 2/9/11 NPRM is whether "all interconnected VoIP traffic be subject to ... [a] defined rate, such as \$ 0.0007 per minute." *In re Connect Am. Fund*, 2011 FCC LEXIS 315 (F.C.C. Feb. 9, 2011)").

¹⁸⁴ Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 15 (RFA 15: "The Pennsylvania Public Utility Commission has never required that a \$.0007 rate be applied to intrastate switched access services." Answer: "Admitted on information and belief. However, the services at issue are not "intrastate switched access services," which was the basis for Verizon's dispute.").

¹⁸⁵ *ISP Remand Order*, paragraph 85 and fn. 158.

relied upon press releases regarding the agreement, rather than the agreement itself, to support this figure.¹⁸⁶ There is no public paper trail for the calculation of this weighted average, nor does this rate appear anywhere in the actual agreement.¹⁸⁷ In fact, one of the two sources referenced by the FCC, Level 3 News Release quotes a higher number: “For traffic that is out of balance, or exceeds the ratio, the average rate is .0018 cents per minute of use, retroactive to Sept. 1, 2000, and declines to an *average of \$.00101* by June 1, 2002. Actual rates vary depending upon the state.”¹⁸⁸ Indeed, the only place that the \$0.0007 can be found is in the second press release relied upon by the FCC

In other words, both the weighting, and the state-specific rates from which the weighted average was calculated are meaningless when applied to the traffic between Armstrong and Verizon. While Verizon would like this Commission to believe that the \$0.0007 rate has some legitimacy based upon its previous use by the FCC, it was used for a very different purpose and its origin, even for that purpose, lends it little credibility.

V. Verizon Should Pay Armstrong’s Tariffed Rates *Pendente Lite*

For all of the above stated reasons, Armstrong’s Complaint should be affirmed and Verizon required to pay the ICA reciprocal compensation rates and tariffed switched access rates. Verizon is legally obligated to pay Armstrong these rates and its claim that the underlying protocol of the cable company telephony service defines the compensation between two

¹⁸⁶ *ISP Remand Order*, fn. 158. When discussing the rates in the Level 3/SBC ICA, this footnote makes the following reference: “See PR Newswire, WL PRWIRE 07:00:00 (Jan. 17, 2001); Letter from John T. Nakahata, Harris, Wiltshire & Grannis, to Magalie Roman Salas, Secretary, FCC, Attachment (Jan. 19, 2001).” The second source (“Letter from John T. Nakahata, Harris, Wiltshire & Grannis, to Magalie Roman Salas, Secretary, FCC, Attachment (Jan. 19, 2001)”) is a Level 3 letter that contains Level 3’s January 17, 2001 News Release titled “Level 3 and SBC Reach Agreement on Inter-Carrier Compensation.”

¹⁸⁷ The actual agreement is available publicly. For example, it was filed with the Public Utilities Commission of Ohio (May 14, 2001 filing in case 01-1148-TP-NAG).

¹⁸⁸ Level 3’s January 17, 2001 News Release contained in the Letter from John T. Nakahata, Harris, Wiltshire & Grannis, to Magalie Roman Salas, Secretary, FCC, Attachment (Jan. 19, 2001) (emphasis added).

telecommunications is a bad fictionalization that has been panned by this Commission previously, as well as in numerous other jurisdictions. There is no basis in law to apply a \$.0007 rate to Armstrong's services.

The Verizon ICAs current and effective agreements that legally bind the Verizon ILECs and Armstrong. They can not be simply ripped up and ignored as Verizon proposes. The Commission has found them to be in the public interest, which "shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified upon judicial review."¹⁸⁹

Tariffs are contracts that bind the utility (Armstrong) and its customers (including Verizon as an access customer).¹⁹⁰ Tariffs approved by the PUC include schedules of rates,¹⁹¹ and all rules, regulations, practices or contracts involving rates and have the force of law.¹⁹² Section 1303 of the Public Utility Code prohibits charges outside of the tariff.¹⁹³ Armstrong's access tariffs apply to any "entity" that relies upon Armstrong's exchange access services.

Verizon's implicit claim that it is allowed to unilaterally disrupt intercarrier compensation between two parties is equally specious. The self-help remedy of nonpayment seized by Verizon, even while continuing to demand the continued provision of terminating

¹⁸⁹ 66 Pa. C.S. §316.

¹⁹⁰ *Brockway Glass Co. v. Pennsylvania Public Utility Comm'n*, 63 Pa. Commw. 238, 437 A.2d 1067 (1981).

¹⁹¹ "The term "rate," as used in the Pennsylvania Public Utility Code, includes "any rules, regulations, practices classifications or contract affecting such compensation...." 66 Pa. C.S. § 102 (Definition of "Rate").

¹⁹² *AT&T Communications, Inc. v. Pennsylvania Public Utility Comm'n*, 130 Pa. Commw. 595, 568 A.2d 1362 (1990).

¹⁹³ 66 Pa. C.S. § 1303 ("No public utility shall directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part.") *Re Maislin Industries*, 72 Pa.P.U.C. 292, 0090 WL 10556078 (Pa. P.U.C.) ("... it is well settled in the law that a public utility and its customer may not fix rates by contract different from rates contained in a filed tariff, and that the filed tariff rate has the force of law and is binding on both the utility and the customer."); *See Brockway Glass, supra*; *see also, Pa. Elec. Co. v. Pa. Public Utility Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995) (tariff provisions cannot be "waived").

services by Armstrong, is unfair. The utility obligation to serve must be attended by the customer's obligation to pay.

There is nothing in "good faith" about Verizon's approach. There was no notice. No conciliatory approach. There was no acknowledgement of existing legal obligations. The whole legal predicate for Verizon's one-sided attack, the *Vonage Decision*, is completely without merit. Attempts to negotiate were really, just simple, brutal assertions of market power to force capitulation of a competitor.

Clearly, there were and are other options for Verizon to bring its claims. Were Verizon truly seeking to act in good faith, as claimed, it has among three different procedures to follow:

- (1) Provide notice of ICA termination and renegotiate with Armstrong¹⁹⁴;
- (2) "Challenge" the ICA-specified rates, as the ICA also allows¹⁹⁵; or
- (3) File a complaint as the tariff specifies.¹⁹⁶

The Public Utility Code requires that a complaint must be filed challenging an existing tariffed rate.¹⁹⁷ Payment pending dispute is a more legitimate path and one previously taken by Verizon in prior challenges to CLEC rates.¹⁹⁸

¹⁹⁴ Verizon ICA at §§ 2.1-2.3.

¹⁹⁵ Verizon ICA, Pricing Attachment at § 5

¹⁹⁶ Armstrong's State Access Tariff, Page 2-16.

¹⁹⁷ 66 Pa.C.S. §§ 315 (a), 316, 701, 703 (g), and 1309 (a).

¹⁹⁸ *Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, Verizon Select Services, Inc., Verizon Global Networks, Inc., MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. v. Penn Telecom, Inc.*, Docket No. C-20066987, Order, entered August 29, 2008; *Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, Verizon Select Services, Inc., Verizon Global Networks, Inc., MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. v. CTSI, LLC*, Docket No. C-20077332, Order, entered September 29, 2008; and *Verizon Pennsylvania Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, Verizon Select Services, Inc., Verizon Global Networks, Inc., MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. v. CTC Communications Corporation et al*, PA PUC Docket Nos. C-20077672 *et seq.*, Recommended Decision, dated June 3, 2010.

Armstrong requests that the Commission grant this Motion for Partial Summary Judgment. While there will still remain two Verizon New Matter claims that are unresolved by this Motion (CLEC parity¹⁹⁹ and the application of tandem transit elements), both are unrelated to the question of whether tariff compensation applies and the \$.0007 rate, and which are technical matters. They are separate both in terms of applicable legal principals and fact base needed to resolve.

Therefore, Armstrong requests that Verizon be directed to pay Armstrong's billings for reciprocal compensation at the ICA-specified level and switched access rates at tariffed levels, retroactively and prospectively, until such time as Verizon has followed lawful "good faith" procedures and the Commission authorizes, after due process, the payment of less.

¹⁹⁹ Verizon agrees that Armstrong's rates mirror the underlying ILECs, but that it seeks to change the calculation. Armstrong Exhibit 6, Verizon Answer to Armstrong Request For Admission No. 89 (Answer: "Armstrong's intrastate tariffed switched access rates are a matter of public record. Verizon believes, based on its review of the tariffed rate elements, that they generally match the tariffed rate elements of the incumbent telephone company in the same territory. However, Armstrong is in violation of 66 Pa. C.S. § 3017(c) because it is charging Verizon higher access rates on a per-minute-of-use basis than Verizon is being charged by certain of the ILECs in the same territory. The issue is not the tariffed rate elements themselves, but the manner in which those rate elements are being applied, particularly the CCL.").

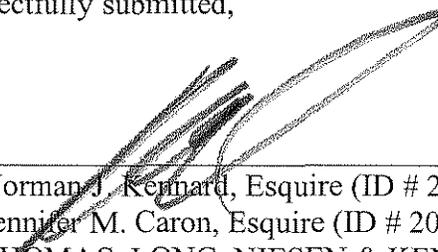
VII. CONCLUSION

WHEREFORE, Armstrong respectfully requests that this Commission:

- 1) Grant this Motion for Partial Summary Judgment;
- 2) Sustain Armstrong's Complaint in all counts;
- 3) Deny Verizon Counts I and II; and
- 4) Direct Verizon to pay Armstrong's billings for reciprocal compensation at the ICA-specified level and switched access rates at tariffed levels, retroactively and prospectively, until such time as the Commission orders otherwise.

Respectfully submitted,

By



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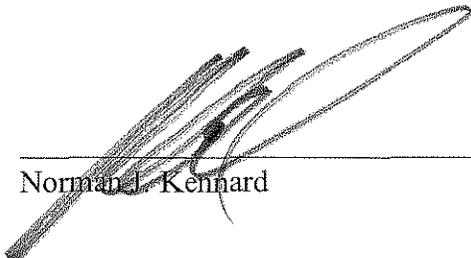
*Attorneys for
Armstrong Telecommunications Inc.*

DATE: April 19, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of April, 2011, served a true and correct copy of the foregoing in the above-captioned proceeding, upon the persons and in the manner via first class and electronic mail as follows:

Suzan D. Paiva Esquire
Verizon
1717 Arch Street
Philadelphia, PA 19103
Suzan.D.Paiva@Verizon.com



Norman L. Kennard

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Dennis J. Buckley, Presiding**

Armstrong Telecommunications Inc.,	:	
Complainant	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North	:	C-2010-2216325
LLC, MCI metro Access Transmission	:	C-2010-2216293
Services, LLC, d/b/a Verizon Access	:	
Transmission Services and MCI	:	
Communications Services Inc.	:	
Respondents	:	

AFFIDAVIT OF BRYAN CIPOLETTI

I, Bryan Cipoletti, submit the following Affidavit in support of the Motion For Partial Summary Judgment Of Armstrong Telecommunications Inc. (“Armstrong”) in the above-captioned matter.

1. I am Chief Financial Officer for Armstrong Telecommunications Inc. (“Armstrong”).
2. I am making this Affidavit under oath based upon my personal knowledge.
3. Armstrong is a Competitive Local Exchange Carrier (“CLEC”), certificated by this Commission as a telecommunication service provider, that, among other things, is acting as the PSTN interface for the voice traffic of a cable company affiliate.

4. Calls originating and terminating on the cable company network are exchanged between the cable company and Armstrong in Time Division Multiplexing (“TDM”) standard format.

5. On August 27, 2010, Verizon e-mailed a letter to Armstrong claiming a dispute over paying reciprocal compensation and switched access charges on the basis that the traffic sent to and received from Armstrong terminated and originated in Internet protocol (“IP”) format. A true and correct copy is attached as Armstrong Exhibit 1.

6. Armstrong denied Verizon’s “dispute” by reply e-mail dated August 30, 2010 and various emails and correspondence followed. True and correct copies of this email and selected other correspondence between the parties are attached as Armstrong Exhibit 2.

7. A true and correct summary of the bills tendered by Armstrong and payment received from Verizon since the dispute began with Armstrong’s bills for July 2010 services is attached as Armstrong Exhibit 3. The information contained in Armstrong Exhibit 3 is true and correct to the best of my knowledge information and belief. Verizon has paid 12% of Armstrong’s intrastate switched access bills and 24% of its reciprocal compensation bills, beginning with the August service month. Overall, Verizon has paid 12.6% of billed amounts.

8. A true and correct copy of selected Verizon Answers to Armstrong Interrogatories Set I is attached as Armstrong Exhibit 4.

9. A true and correct copy of selected Armstrong Answers to Verizon Interrogatories Set I is attached as Armstrong Exhibit 5. The information contained in Armstrong Exhibit 5 is true and correct to the best of my knowledge information and belief.

10. A true and correct copy of Verizon’s Answers to Armstrong’s Request for Admissions, including supplemental response, is attached as Armstrong Exhibit 6.

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Dennis J. Buckley, Presiding**

Armstrong Telecommunications Inc.,	:	
Complainant	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North	:	C-2010-2216325
LLC, MCI metro Access Transmission	:	C-2010-2216293
Services, LLC, d/b/a Verizon Access	:	
Transmission Services and MCI	:	
Communications Services Inc.	:	
Respondents	:	

**ARMSTRONG TELECOMMUNICATIONS INC.
LIST OF EXHIBITS**

<u>Exhibit</u>	<u>Summary</u>
1.	Verizon August 27 th Dispute Letter
2.	Armstrong August 30 th Dispute Denial and Selected Emails and Correspondence
3.	Summary of Unpaid Armstrong Bills to Verizon
4.	Selected Verizon Answers to Armstrong Interrogatories Set I
5.	Selected Armstrong Answers to Verizon Interrogatories Set I
6.	Verizon Answers to Armstrong Request for Admissions
7.	Armstrong Answers to Verizon Request for Admissions
8.	Verizon PA/Armstrong Interconnection Agreement
9.	Verizon North/Armstrong Interconnection Agreement

ARMSTRONG EXHIBIT 1

From: Bridgett.moran@verizonbusiness.com [mailto:Bridgett.moran@verizonbusiness.com]
Sent: Friday, August 27, 2010 5:20 PM
To: Franceschi, Cory
Cc: earl.hurter@verizonbusiness.com; bridgett.moran@verizonbusiness.com; lcm-claims@verizonbusiness.com
Subject: Armstrong Telecommunications Dispute Notification

.[claim Number]T000000000065149,T000000000065150[/claim Number]

Mr. Franceschi,

Please see attached dispute notification and supporting detail for invoices billed August 2010.

Bridgett L. Moran
Financial Planning & Analysis
Verizon Business

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender or send back to returns@agoc.com and delete the material from any computer.

Mr. Cory Franceschi
Armstrong Telecommunications, Inc.
One Armstrong Place
Butler, PA 16001

Re: Compensation for VOIP Traffic

Dear Mr. Franceschi:

I am writing to notify you that Verizon is disputing a portion of the intercarrier compensation charges that your company billed to Verizon.

Consistent with two recent federal district court rulings, Verizon does not believe that IP-originated or IP-terminated traffic is subject to switched access tariffs or related charges.¹ Accordingly, Verizon disputes your company's intercarrier compensation charges for this type of traffic and has re-rated the intercarrier compensation charges that your company has billed on IP-originated or IP-terminated traffic down to a rate of \$0.0007 per minute of use, which is the most generally accepted rate in the industry. Attachment A to this letter details the billing account numbers, the specific minutes of use that Verizon has re-rated, and the amount of the charges that Verizon is disputing and withholding.

Verizon looks forward to entering into a commercial agreement with your company that establishes reciprocal rates, terms, and conditions for the exchange of this traffic, and which will resolve this dispute. Verizon invites your company to contact Earl Hurter at earl.hurter@verizonbusiness.com, as soon as possible so we can arrange a meeting to make progress towards a resolution of this matter.

Very truly yours,



Donna Donahue
Verizon Business
Manager
Usage Analysis

¹ In *PAETEC v. CommPartners, LLC*, No. 08-0397, slip. op. (D.D.C. Feb. 18, 2010), the court ruled that VoIP traffic that undergoes a net protocol conversion from Internet Protocol format to Time Division Multiplexing ("TDM") format is an information service, and that access tariffs do not apply to information services. In *MetTel v. GNAPs*, No. 08-cv-3829, 2010 WL 1326095 (S.D.N.Y. Mar. 31, 2010), the court decided not to apply tariffed switched access charges to VoIP traffic but rather decided that the local exchange carrier was entitled to receive the reasonable value of the benefit it conferred on a VoIP provider, under the equitable theory of unjust enrichment.

Invoice Month	August
Invoice Day of Month	6
Grouping	ARMSTRONG
LERG Category	CLEC
Issue Code:	V16

Total \$ 104,444.06

state	OCN	TAMS BAN	CLLI	Orig Intrastat e MOUs	Term Intrastat e MOUs	Orig Intrastate CPM	
PA	024E	42290222D3222	JCTWPA03CA0	44,734	21,106	\$0.003486	
		42290555D3555	JCTWPA03CA0	5,510	130,871	\$0.003485	
		42296963D3963	JCTWPA03CA0	0	1,532	\$0.000000	
		4229H229D3229	JCTWPA03CA0	0	22,937	\$0.000000	
		42300222D3222	JCTWPA03CA0	34,934	34,310	\$0.003756	
		42300555D3555	JCTWPA03CA0	5,522	296,691	\$0.003756	
		42306963D3963	JCTWPA03CA0	0	20,967	\$0.000000	
		4230H229D3229	JCTWPA03CA0	0	9,852	\$0.000000	
		42310222D3222	JCTWPA03CA0	5,132	9,805	\$0.004053	
		42310555D3555	JCTWPA03CA0	1,094	48,868	\$0.004040	
		42315393D3393	JCTWPA03CA0	0	2,005	\$0.000000	
		42316963D3963	JCTWPA03CA0	0	3,223	\$0.000000	
		419C	42320222D3222	JCTWPA03CA0	4,118	23,106	\$0.037059
			42320555D3555	JCTWPA03CA0	672	22,346	\$0.035697
	420C	42340222D3222	BTLRPAAUDS0	7,526	4,201	\$0.020571	
		42340555D3555	BTLRPAAUDS0	896	21,500	\$0.020580	
		42346963D3963	BTLRPAAUDS0	0	410	\$0.000000	
		4234H229D3229	BTLRPAAUDS0	0	2,721	\$0.000000	
	422C	42230222D3222	BTLRPAAUDS0	41,424	40,982	\$0.094342	
		42230555D3555	BTLRPAAUDS0	5,784	38,444	\$0.093618	
		42235393D3393	BTLRPAAUDS0	0	7,315	\$0.000000	
		42236963D3963	BTLRPAAUDS0	0	32,915	\$0.000000	
		42240222D3222	BTLRPAAUDS0	976	2,157	\$0.119229	
		42240555D3555	BTLRPAAUDS0	176	1,044	\$0.122919	
		42246963D3963	BTLRPAAUDS0	0	560	\$0.000000	
		42250222D3222	BTLRPAAUDS0	48,302	86,945	\$0.068317	
		42250555D3555	BTLRPAAUDS0	7,042	524,302	\$0.078524	
		42255393D3393	BTLRPAAUDS0	0	10,950	\$0.000000	
		42256963D3963	BTLRPAAUDS0	0	94,808	\$0.000000	
		42260222D3222	BTLRPAAUDS0	18,006	101,754	\$0.044556	
		42260555D3555	BTLRPAAUDS0	3,632	327,556	\$0.043612	
		42266963D2963	BTLRPAAUDS0	0	72,493	\$0.000000	
		4226H229D3229	BTLRPAAUDS0	0	3,475	\$0.000000	
		42270183D3183	BTLRPAAUDS0	0	1,350	\$0.000000	
		42270222D3222	BTLRPAAUDS0	53,982	55,495	\$0.014321	
		42270555D3555	BTLRPAAUDS0	9,182	105,684	\$0.014245	
		42275393D3393	BTLRPAAUDS0	0	6,645	\$0.000000	
		42276963D3963	BTLRPAAUDS0	0	79,021	\$0.000000	
		42280222D3222	BTLRPAAUDS0	10,176	53,938	\$0.013120	
		42280555D3555	BTLRPAAUDS0	2,306	52,799	\$0.012804	

	42286963D2963	BTLRPAAUDS0	0	30,491	\$0.000000
423C	42330222D3222	JCTWPA03CA0	5,312	8,262	\$0.003859
	42330555D3555	JCTWPA03CA0	764	7,793	\$0.003874
	4233H229D3229	JCTWPA03CA0	0	4,961	\$0.000000

Term Intrastate CPM	Applied Rate	Orig Intrastate CPM Delta	Term Intrastate CPM Delta	Intrastate Dispute
\$0.003487	\$0.0007	\$0.002786	\$0.002787	\$183.46
\$0.003487	\$0.0007	\$0.002785	\$0.002787	\$380.07
\$0.003492	\$0.0007	\$0.000000	\$0.002792	\$4.28
\$0.003487	\$0.0007	\$0.000000	\$0.002787	\$63.92
\$0.003756	\$0.0007	\$0.003056	\$0.003056	\$211.62
\$0.003756	\$0.0007	\$0.003056	\$0.003056	\$923.43
\$0.003756	\$0.0007	\$0.000000	\$0.003056	\$64.07
\$0.003755	\$0.0007	\$0.000000	\$0.003055	\$30.09
\$0.004049	\$0.0007	\$0.003353	\$0.003349	\$50.04
\$0.004049	\$0.0007	\$0.003340	\$0.003349	\$167.31
\$0.004045	\$0.0007	\$0.000000	\$0.003345	\$6.71
\$0.004046	\$0.0007	\$0.000000	\$0.003346	\$10.78
\$0.037059	\$0.0007	\$0.036359	\$0.036359	\$989.84
\$0.035713	\$0.0007	\$0.034997	\$0.035013	\$805.93
\$0.020574	\$0.0007	\$0.019871	\$0.019874	\$233.04
\$0.020570	\$0.0007	\$0.019880	\$0.019870	\$445.02
\$0.020561	\$0.0007	\$0.000000	\$0.019861	\$8.14
\$0.020570	\$0.0007	\$0.000000	\$0.019870	\$54.07
\$0.094342	\$0.0007	\$0.093642	\$0.093642	\$7,716.68
\$0.093616	\$0.0007	\$0.092918	\$0.092916	\$4,109.52
\$0.097496	\$0.0007	\$0.000000	\$0.096796	\$708.06
\$0.089873	\$0.0007	\$0.000000	\$0.089173	\$2,935.14
\$0.119218	\$0.0007	\$0.118529	\$0.118518	\$371.33
\$0.122860	\$0.0007	\$0.122219	\$0.122160	\$149.05
\$0.112232	\$0.0007	\$0.000000	\$0.111532	\$62.46
\$0.068317	\$0.0007	\$0.067617	\$0.067617	\$9,145.06
\$0.078526	\$0.0007	\$0.077824	\$0.077826	\$41,352.57
\$0.090275	\$0.0007	\$0.000000	\$0.089575	\$980.85
\$0.036433	\$0.0007	\$0.000000	\$0.035733	\$3,387.75
\$0.044550	\$0.0007	\$0.043856	\$0.043850	\$5,251.62
\$0.043623	\$0.0007	\$0.042912	\$0.042923	\$14,215.43
\$0.044964	\$0.0007	\$0.000000	\$0.044264	\$3,208.86
\$0.042872	\$0.0007	\$0.000000	\$0.042172	\$146.55
\$0.014763	\$0.0007	\$0.000000	\$0.014063	\$18.99
\$0.014322	\$0.0007	\$0.013621	\$0.013622	\$1,491.25
\$0.014246	\$0.0007	\$0.013545	\$0.013546	\$1,555.96
\$0.014757	\$0.0007	\$0.000000	\$0.014057	\$93.41
\$0.013777	\$0.0007	\$0.000000	\$0.013077	\$1,033.37
\$0.013118	\$0.0007	\$0.012420	\$0.012418	\$796.19
\$0.012816	\$0.0007	\$0.012104	\$0.012116	\$667.65

\$0.011487	\$0.0007	\$0.000000	\$0.010787	\$328.90
\$0.003860	\$0.0007	\$0.003159	\$0.003160	\$42.89
\$0.003860	\$0.0007	\$0.003174	\$0.003160	\$27.05
\$0.003858	\$0.0007	\$0.000000	\$0.003158	\$15.67

Invoice Month	August
Invoice Day of Month	6
Grouping	ARMSTRONG
LERG Category	CLEC
Issue Code:	V16

Total \$ 18,104.74

state	OCN	TAMS BAN	CLLI	Orig Interstate MOUs	Term Interstate MOUs	Orig Interstate CPM
PA	024E	42290222D3222	JCTWPA03CA0	192,584	70,780	\$0.003487
		42290555D3555	JCTWPA03CA0	23,710	544,231	\$0.003487
		42296963D3963	JCTWPA03CA0	0	7,119	\$0.000000
		4229H229D3229	JCTWPA03CA0	0	0	\$0.000000
		42300222D3222	JCTWPA03CA0	150,385	75,737	\$0.003756
		42300555D3555	JCTWPA03CA0	23,772	580,562	\$0.003756
		42306963D3963	JCTWPA03CA0	0	78,182	\$0.000000
		4230H229D3229	JCTWPA03CA0	0	0	\$0.000000
		42310222D3222	JCTWPA03CA0	22,081	14,515	\$0.004049
		42310555D3555	JCTWPA03CA0	4,709	66,559	\$0.004048
		42315393D3393	JCTWPA03CA0	0	29	\$0.000000
		42316963D3963	JCTWPA03CA0	0	10,103	\$0.000000
		419C	42320222D3222	JCTWPA03CA0	17,727	12,691
	42320555D3555		JCTWPA03CA0	2,891	101,208	\$0.002089
	420C	42340222D3222	BTLRPAAUDS0	32,395	975	\$0.003870
		42340555D3555	BTLRPAAUDS0	3,857	26,730	\$0.003866
		42346963D3963	BTLRPAAUDS0	0	3,104	\$0.000000
		4234H229D3229	BTLRPAAUDS0	0	0	\$0.000000
	422C	42230222D3222	BTLRPAAUDS0	178,331	45,273	\$0.011875
		42230555D3555	BTLRPAAUDS0	24,894	123,590	\$0.011861
		42235393D3393	BTLRPAAUDS0	0	3	\$0.000000
		42236963D3963	BTLRPAAUDS0	0	66,904	\$0.000000
		42240222D3222	BTLRPAAUDS0	4,195	938	\$0.013106
		42240555D3555	BTLRPAAUDS0	751	5,227	\$0.013129
		42246963D3963	BTLRPAAUDS0	0	1,445	\$0.000000
		42250222D3222	BTLRPAAUDS0	207,947	83,398	\$0.004382
		42250555D3555	BTLRPAAUDS0	30,319	313,904	\$0.004382
		42255393D3393	BTLRPAAUDS0	0	0	\$0.000000
		42256963D3963	BTLRPAAUDS0	0	93,743	\$0.000000
		42260222D3222	BTLRPAAUDS0	77,523	55,768	\$0.003631
		42260555D3555	BTLRPAAUDS0	15,636	167,961	\$0.003632
		42266963D2963	BTLRPAAUDS0	0	53,123	\$0.000000
		4226H229D3229	BTLRPAAUDS0	0	0	\$0.000000
		42270183D3183	BTLRPAAUDS0	0	6	\$0.000000
		42270222D3222	BTLRPAAUDS0	232,399	72,616	\$0.003870
		42270555D3555	BTLRPAAUDS0	39,526	217,374	\$0.003870
		42275393D3393	BTLRPAAUDS0	0	0	\$0.000000
		42276963D3963	BTLRPAAUDS0	0	135,610	\$0.000000
	42280222D3222	BTLRPAAUDS0	43,807	35,142	\$0.003854	
	42280555D3555	BTLRPAAUDS0	9,926	77,065	\$0.003855	

	42286963D2963	BTLRPAAUDS0	0	59,306	\$0.000000
423C	42330222D3222	JCTWPA03CA0	22,866	33,673	\$0.003854
	42330555D3555	JCTWPA03CA0	3,280	78,315	\$0.003854
	4233H229D3229	JCTWPA03CA0	0	0	\$0.000000

Term Interstate CPM	Applied Rate	Orig Interstate CPM Delta	Term Interstate CPM Delta	Interstate Dispute
\$0.003487	\$0.0007	\$0.002787	\$0.002787	\$734.01
\$0.003487	\$0.0007	\$0.002787	\$0.002787	\$1,582.84
\$0.003488	\$0.0007	\$0.000000	\$0.002788	\$19.85
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.003755	\$0.0007	\$0.003056	\$0.003055	\$690.93
\$0.003756	\$0.0007	\$0.003056	\$0.003056	\$1,846.60
\$0.003756	\$0.0007	\$0.000000	\$0.003056	\$238.89
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.004048	\$0.0007	\$0.003349	\$0.003348	\$122.55
\$0.004049	\$0.0007	\$0.003348	\$0.003349	\$238.67
\$0.003793	\$0.0007	\$0.000000	\$0.003093	\$0.09
\$0.004048	\$0.0007	\$0.000000	\$0.003348	\$33.83
\$0.002085	\$0.0007	\$0.001385	\$0.001385	\$42.13
\$0.002085	\$0.0007	\$0.001389	\$0.001385	\$144.18
\$0.003867	\$0.0007	\$0.003170	\$0.003167	\$105.77
\$0.003871	\$0.0007	\$0.003166	\$0.003171	\$96.97
\$0.003866	\$0.0007	\$0.000000	\$0.003166	\$9.83
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.011917	\$0.0007	\$0.011175	\$0.011217	\$2,500.63
\$0.011793	\$0.0007	\$0.011161	\$0.011093	\$1,648.78
\$0.010000	\$0.0007	\$0.000000	\$0.009300	\$0.03
\$0.012142	\$0.0007	\$0.000000	\$0.011442	\$765.50
\$0.013092	\$0.0007	\$0.012406	\$0.012392	\$63.67
\$0.013107	\$0.0007	\$0.012429	\$0.012407	\$74.19
\$0.013121	\$0.0007	\$0.000000	\$0.012421	\$17.95
\$0.004382	\$0.0007	\$0.003682	\$0.003682	\$1,072.74
\$0.004382	\$0.0007	\$0.003682	\$0.003682	\$1,267.43
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.004382	\$0.0007	\$0.000000	\$0.003682	\$345.17
\$0.003631	\$0.0007	\$0.002931	\$0.002931	\$390.68
\$0.003631	\$0.0007	\$0.002932	\$0.002931	\$538.12
\$0.003631	\$0.0007	\$0.000000	\$0.002931	\$155.70
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.003333	\$0.0007	\$0.000000	\$0.002633	\$0.02
\$0.003870	\$0.0007	\$0.003170	\$0.003170	\$966.78
\$0.003870	\$0.0007	\$0.003170	\$0.003170	\$814.37
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00
\$0.003869	\$0.0007	\$0.000000	\$0.003169	\$429.76
\$0.003854	\$0.0007	\$0.003154	\$0.003154	\$249.02
\$0.003854	\$0.0007	\$0.003155	\$0.003154	\$274.38

\$0.003854	\$0.0007	\$0.000000	\$0.003154	\$187.05
\$0.003854	\$0.0007	\$0.003154	\$0.003154	\$178.31
\$0.003854	\$0.0007	\$0.003154	\$0.003154	\$257.34
\$0.000000	\$0.0007	\$0.000000	\$0.000000	\$0.00

ARMSTRONG EXHIBIT 2

From: Franceschi, Cory
Sent: Monday, August 30, 2010 4:10 PM
To: 'Bridgett.moran@verizonbusiness.com'; earl.hurter@verizonbusiness.com; lcm-claims@verizonbusiness.com
Cc: Wilson, Tom
Subject: RE: Armstrong Telecommunications Dispute Notification

All,

These claims are denied. In response to Ms. Donahue's letter and her references of some rulings, I am sure Ms. Donahue is also aware of the rulings that came out of California, Georgia and the more recent Palmerton vs. GNAPs ruling in the state of Pennsylvania which would seem to be more appropriate for the billings in Pennsylvania. Furthermore Armstrong denies these disputes based on the fact our rates and tariff are structured to recover costs associated with **all non-local voice traffic that terminates on the public switched telephone network (PSTN), regardless of the technology used to originate that traffic is subject to access charges.** Armstrong is following guidelines set by the National Exchange Carrier Association (NECA) that these are subject to access charges. Furthermore the NECA guidelines will also be followed regarding Non-Payment of services that can be found in Section 2.1.8 which results in Discontinuance of Services.

Please contact me with questions.

Cory Franceschi
ARMSTRONG
724-283-3692 Ext. 50217

From: Bridgett.moran@verizonbusiness.com [mailto:Bridgett.moran@verizonbusiness.com]
Sent: Friday, August 27, 2010 5:20 PM
To: Franceschi, Cory
Cc: earl.hurter@verizonbusiness.com; bridgett.moran@verizonbusiness.com; lcm-claims@verizonbusiness.com
Subject: Armstrong Telecommunications Dispute Notification

.[claim Number]T000000000065149,T000000000065150[/claim Number]

Mr. Franceschi,

Please see attached dispute notification and supporting detail for invoices billed August 2010.

Bridgett L. Moran
Financial Planning & Analysis
Verizon Business

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ARMSTRONG®

sent via
email
mail 11-9-10
blm
c: P. Merrick

November 9, 2010

Via e-mail to: ^Scurtis.grove@verizonbusiness.com and
Regular US Postal Service to:
Curtis Grove^S
Assistant General Counsel, Verizon Business
1320 N. Courthouse Road
Arlington, VA 22201

Re: October 20, 2010 and October 29, 2010 Dispute Notices

Dear Mr. Grove^S:

I am writing to you at the direction of Patrick H. Merrick in reference to two disputes filed by Verizon Business ("Verizon") against Armstrong Telecommunications, Inc. ("Armstrong"). These disputes, copies of which are attached for your review and convenience, provide that Verizon is refusing to pay to Armstrong access charges because Verizon has decided, unilaterally, that the subject traffic is IP originated or IP terminated traffic that is not subject to switched access tariffs. Verizon cites two inapplicable court cases as support for its decision. Armstrong finds this dispute unfounded and demands immediate payment of all amounts now past due and all amounts billed to Verizon in the future in respect of this voice traffic.

While Armstrong believes that the classification of voice traffic as IP vs. TDM has no impact on the applicability of access charges, we would advise Verizon that Armstrong does not presently receive from or hand traffic off to Verizon as IP traffic. To the contrary, our traffic is TDM traffic. Whether and to what extent either Armstrong or Verizon transports traffic on their own networks via IP is irrelevant and does not change the nature of the traffic or result in the traffic not being subject to access charges.

As a final matter I would note that the two federal court cases cited in the dispute letters are neither binding nor authoritative in Pennsylvania. I would, however, direct Verizon's attention to Final Opinion and Order of the Pennsylvania Public Utility Commission ("PAPUC")

ONE ARMSTRONG PLACE • BUTLER, PA 16001
724-283-0925 • FAX 724-256-8098

*Curtis Grove
Assistant General Counsel, Verizon Business*

November 9, 2010

Page 2

in the *Palmerton Telephone Company v. Global NAPs South Inc. et. al.* matter (a copy of which is attached for your review) where the PAPUC considered Global NAPs position that it was not required to pay access on traffic that was IP traffic. The PAPUC rejected Global NAPs argument and found that access charges on IP traffic are valid and should be paid.

As of the date of this letter, Verizon owes Armstrong \$778,865 relative to the above referenced disputes. Consistent with the PAPUC's position in the Global NAPs matter, Verizon must pay this amount and must continue to pay its access charges going forward. Consequently, Armstrong hereby demands that Verizon pay to it \$778,865 within ten (10) days of the date of this letter. Absent such payment Armstrong will seek redress with the PAPUC.

I will thank you in advance for your time and attention to this matter and I look forward to receiving payment of the \$778,865 for the past due amounts and Verizon's ongoing compliance with the rules applicable to access charges.

Sincerely,



David Jamieson
General Counsel
Armstrong Telecommunications, Inc.

DRJ/kdc

c: Patrick H. Merrick - patrick.merrick@verizonbusiness.com

William S. Carnell
Assistant General Counsel



1320 N. Court House Road
Arlington, VA 22201

Phone 703 351-3180
Fax 703 351-3664
william.s.carnell@verizon.com

November 18, 2010

Mr. David Jamieson
General Counsel
Armstrong Telecommunications, Inc.
One Armstrong Place
Butler, PA 16001

Re: Verizon Disputes of Armstrong's Switched Access Charges

Dear Mr. Jamieson:

I am writing in response to your letter dated November 9, 2010, to Curtis Groves of Verizon.

As an initial matter, your letter addresses only one of the grounds on which Verizon has disputed Armstrong's switched access charges – *i.e.*, the fact that the subject traffic is IP originated or IP terminated and therefore is not subject to switched access charges. Your letter does not address the fact that Verizon has also disputed Armstrong's switched access charges on other grounds, including, but not limited to their apparent unlawfulness under Section 3017(c) of the Pennsylvania Public Utility Code. In connection with these disputes based on other grounds, Verizon has requested that Armstrong refund or credit the unlawful amounts that Armstrong has collected from Verizon. None of these disputes has been resolved to Verizon's satisfaction.

With respect to the arguments in your November 9th letter, Verizon does not agree with Armstrong's interpretations of the law. The cases that we have cited are instructive to this dispute. The traffic at issue is interstate traffic that is not subject to intrastate charges, as you contend. We are aware of the Pennsylvania PUC's *Palmerton* decision. Among other things, *Palmerton* was based on different facts than are presented in our dispute. In response to your claim regarding the nature of the traffic exchanged between the parties, we have not asserted that we exchange traffic with Armstrong in IP format, but rather that the traffic we exchange either originates or terminates in IP format. We have also not contended, as did the carrier disputing the charges in the *Palmerton* case, that no payments are due on this traffic.

David Jamieson, Esq.
November 18, 2010
Page 2 of 2

Verizon is prepared to continue good faith negotiations with Armstrong regarding all of these disputes. To that end, Mr. Pat Merrick of Verizon has contacted your client, Mr. James Mitchell, and scheduled another negotiating session for this Friday at 3:00 pm. Verizon will be prepared to address and respond to the settlement proposal previously offered by Mr. Mitchell. Verizon expects that both parties will continue to negotiate in good faith to resolve all of Verizon's disputes of Armstrong's switched access charges.

Given, among other things, the ongoing settlement discussions between our respective clients and the separate, disputed amounts (on other grounds, referenced above) that Verizon raised with Armstrong, it is not appropriate for Armstrong to demand full payment of the switched access charges disputed by Verizon.¹ Our respective clients should continue their settlement negotiations with an eye towards a prompt resolution of all of Verizon's disputes. Once that settlement has been finalized and executed, the parties can promptly make whatever payments, credits or refunds are due under the terms of that settlement. If, on the other hand, Armstrong follows through on its threat to file a complaint against Verizon, Verizon will be forced to raise in any such litigation the unlawful switched access charges that Armstrong has collected (i.e., the charges that are unlawful based on the "other grounds" referenced above). As you are aware, Verizon's claim for refund or credit of these unlawful switched access charges far exceeds the amount you claim is overdue.

If you have any questions regarding this letter, please do not hesitate to contact me.

Very truly yours,



William S. Carnell

¹ Verizon does not agree with your assertion that "[a]s of the date of this letter, Verizon owes Armstrong \$778,865." First, as of November 9, 2010 (the date of your letter), the unpaid balance of Armstrong's invoices to Verizon was only \$482,529. Second, for the reasons that Verizon has noted in this letter, as well as in prior letters it has sent to Armstrong, Verizon does not agree that it owes Armstrong even the lower amount.



Shipment Receipt
Address Information

Ship to:	Ship from:
David Jamieson	William Carnell
Armstrong	Verizon
Telecommunications, Inc.	
1 ARMSTRONG PL	1320 N. Court House Road
	9th Floor
BUTLER, PA	Arlington, VA
16001-1951	22201
US	US
724-283-0925	703-351-3180

Shipping Information

Tracking number: 794132344156
Ship date: 11/18/2010
Estimated shipping charges: 4.61

Package Information

Service type: Standard Overnight
Package type: FedEx Envelope
Number of packages: 1
Total weight: 0.5LBS
Declared value: 0.00USD
Special Services:
Pickup/Drop-off: Use an already scheduled pickup at my location

Billing Information

Bill transportation to: Rhonda Bingel-320
Your reference: 40607
P.O. no.:
Invoice no.:
Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including business value of the package, loss of sales, income, interest, profit, attorney's fees, costs, and other items of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits. Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different from the actual charges for your shipment. Circumstances may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheet for details on how shipping charges are calculated.

Mitchell, James D

From: Mitchell, James D
Sent: Friday, December 10, 2010 6:18 PM
To: 'patrick.merrick@verizonbusiness.com'
Cc: Wilson, Tom; Franceschi, Cory
Subject: Re: Verizon Counter Offer

Patrick

As I stated in our prior conversations and in my email this morning, Armstrong rejects Verizon's position on VoIP. As we have also indicated we are billing Verizon based upon the tariffs of the incumbents in the areas we operate. Therefore we find this proposal totally unacceptable.

We will be filing our case to resolve this with the PaPUC next week.

Jim Mitchell
Armstrong

From: Merrick, Patrick H (Pat) <patrick.merrick@verizonbusiness.com>
To: Mitchell, James D
Cc: Hurter, Arthur E (Earl) <earl.hurter@verizonbusiness.com>; Donahue, Donna (Donna Donahue) <donna.donahue@verizonbusiness.com>
Sent: Fri Dec 10 17:13:51 2010
Subject: RE: Verizon Counter Offer

CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FED. R. EVID. SEC. 408 AND STATE EQUIVALENTS

Armstrong Telecommunications Inc.

Jim, as we discussed, we would like to settle all outstanding disputes and our proposal, subject to full documentation in a settlement agreement, is as follows:

1. Intrastate Rate Dispute and VOIP Dispute to Date

[REDACTED]

2. VOIP Going Forward Settlement Rate

[REDACTED]

3. Term of Agreement

[REDACTED]

4. Miscellaneous

[REDACTED]

Patrick H. Merrick
Group Manager - Finance
(703) 886-5088 - Office
(202) 251-0187 - Mobile
patrick.merrick@verizonbusiness.com

From: Mitchell, James D [mailto:jmitchell@agoc.com]
Sent: Friday, December 10, 2010 8:16 AM
To: Merrick, Patrick H (Pat)
Cc: Wilson, Tom; Franceschi, Cory
Subject: RE: Verizon Counter Offer

Pat

Thanks for the update. I trust that this will reflect our position that your VoIP claim is not valid. To that end we are drafting our complaint to the PaPUC regarding your VoIP dispute. Unless there is a significant change in your position we could file this next week

Jim Mitchell

From: Merrick, Patrick H (Pat) [mailto:patrick.merrick@verizonbusiness.com]
Sent: Thursday, December 09, 2010 5:06 PM
To: Mitchell, James D
Subject: Verizon Counter Offer

Jim,

Thanks for your patience. I hope to have a counter offer to you tomorrow.

Patrick H. Merrick
Group Manager - Finance
(703) 886-5088 - Office
(202) 251-0187 - Mobile
patrick.merrick@verizonbusiness.com

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ARMSTRONG EXHIBIT 3
CONFIDENTIAL

ARMSTRONG EXHIBIT 4
CONFIDENTIAL

ARMSTRONG EXHIBIT 5
CONFIDENTIAL

ARMSTRONG EXHIBIT 6

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Armstrong Telecommunications, Inc.	:	
	:	
Complainant,	:	
	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North LLC,	:	C-2010-2216325
MCImetro Access Transmission Services LLC	:	C-2010-2216293
d/b/a Verizon Access Transmission Services and	:	
MCI Communications Services Inc.,	:	
	:	
Respondents.	:	

**VERIZON'S ANSWERS AND OBJECTIONS TO
ARMSTRONG'S FIRST SET OF
REQUESTS FOR ADMISSION**

Verizon Pennsylvania Inc., Verizon North LLC, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc. (collectively, "Verizon") by their attorneys, pursuant to 52 Pa. Code § 5.350, provide the following answers and objections to the Set I Requests for Admission propounded by Armstrong Telecommunications, Inc. on March 22, 2011.

- 1. Verizon directly delivers interexchange (toll) voice traffic to Armstrong for termination ("Verizon Toll Traffic").**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic" is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it directly delivers voice traffic to Armstrong for termination. Verizon admits that some of this voice traffic passes outside the local calling area. See 66 Pa. C.S. § 3012 (definition of "interexchange services"). However, to the extent Armstrong is using the term "interexchange (toll) voice traffic" to suggest that the traffic is intrastate in jurisdiction, Verizon denies this request. Armstrong has admitted that the voice traffic delivered by Verizon to Armstrong destined to the end users of Armstrong's

cable affiliate is IP-terminated, and some of this traffic may be IP-originated as well. Therefore the traffic is interstate in jurisdiction and is an “information service,” as discussed in Verizon’s Answer and New Matter to the Complaint.

- 2. Verizon Toll Traffic is delivered by Verizon to Armstrong in time division multiplex (“TDM”) protocol.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant to this case or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that the voice traffic that it delivers to Armstrong for termination is in TDM protocol at the point that it is exchanged with Armstrong, although this fact is not relevant to the legal analysis. Armstrong has admitted that all of the traffic destined to the customers of its cable affiliate is terminated in IP. *See* Armstrong Answer to New Matter, ¶4.

- 3. Verizon is acting as a telecommunications carrier providing telecommunications service when delivering Verizon Toll Traffic to Armstrong.**

OBJECTION:

Verizon objects to this request on the ground that “telecommunications carrier” and “telecommunications service” are not defined. Importantly, those terms have different definitions depending on the context in which they are used and it is not clear how Armstrong is using the terms. *See, e.g.* 47 U.S.C. § 153 versus 66 Pa. C.S. § 3012. Verizon further objects on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, this request is denied. Because Armstrong admits that the voice traffic Verizon delivers to Armstrong that is destined to the end users of Armstrong’s cable affiliate is terminated in IP, and some of the traffic may also be originated in IP, the traffic is not “telecommunications” as that term is defined at 47 U.S.C. § 153(50) (“[t]he term “telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”) But even if it were considered “telecommunications,” the traffic is interstate in jurisdiction.

4. **For the period August 2006 to present and continuing, Armstrong has billed Verizon access charges for terminating the Verizon Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that Armstrong has billed Verizon for intrastate switched access charges since approximately August of 2006. It is denied that tariffed switched access rates are properly applied to IP-terminated or IP-originated traffic.

5. **For the period August 2006 to July 2010, Verizon paid terminating switched access charges to Armstrong for Verizon Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that Verizon generally paid Armstrong’s bills for intrastate switched access charges until it asserted the present dispute in August of 2010, but it is denied that such payments were due on IP-originated or IP-terminated traffic.

6. **During the period of payment by Verizon, Verizon was aware that the Verizon Toll Traffic was terminating to end user customers in Internet protocol ("IP").**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, this request is denied as stated. Verizon admits that it is aware now, and was aware prior to the time that it asserted the August 27, 2010 dispute, that the traffic it delivered to Armstrong destined to the customers of Armstrong’s cable affiliate is terminated in IP. Verizon does not know when it became aware of this fact and therefore cannot admit or deny the request as

stated, but in any event the issue of when Verizon gained such awareness is irrelevant in any event.

7. Verizon unilaterally ceased paying switched access charges on Verizon Toll Traffic to Armstrong as of August 27, 2010.

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that beginning August 27, 2010, Verizon disputed Armstrong’s charges on the grounds stated in its dispute letters, including the fact that IP-originated or IP-terminated traffic is not subject to switched access tariffs. However, it is denied that Verizon “ceased paying.” To the contrary, Verizon continued to pay for terminating this traffic at a rate of \$0.0007 per minute-of-use, and requested that Armstrong enter into negotiation of a commercial agreement to establish reciprocal rates, terms and conditions for the exchange of this type of traffic.

8. Verizon's basis for refusal to pay Armstrong's switched access charges to Armstrong for terminating Verizon Toll Traffic, stated on August 27, 2010, is that the traffic is terminated to end user customers in IP.

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, the grounds for the dispute are fully stated in the August 27, 2010 letter. It is admitted that one basis for the conclusion that the traffic is not subject to switched access tariffs is the fact that traffic destined to the end users of Armstrong’s cable affiliate is terminated in IP.

9. At the time that Verizon refused to pay Armstrong's bills for switched access charges, Verizon PA and Verizon North began paying at the rate of \$.0007 per minute, a rate lower than Armstrong's switched access rates.

ANSWER:

It is admitted that commencing with the August 27, 2010 dispute letter, Verizon Pennsylvania Inc. and Verizon North LLC have paid Armstrong at the rate of \$0.0007 per minute-of-use pending negotiation of a commercial agreement to

establish reciprocal rates, terms and conditions for the exchange of this type of traffic, and that this rate is lower than Armstrong's current intrastate switched access rates.

10. Verizon continues to send Verizon Toll Traffic to Armstrong for termination.

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which goes into the defined term "Verizon Toll Traffic" is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that Verizon continues to send traffic to Armstrong for termination, to the extent Verizon's customers place calls destined to the customers of Armstrong's cable affiliate so that such calls may be completed.

11. Although also still continuing to deliver Verizon Toll Traffic, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc. ("Verizon Business") currently pay nothing to Armstrong for Verizon Toll Traffic.

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which goes into the defined term "Verizon Toll Traffic" is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Denied. Commencing with the August 27, 2010 dispute letter, Verizon Business paid Armstrong at the rate of \$0.0007 per minute-of-use pending negotiation of a commercial agreement to establish reciprocal rates, terms and conditions for the exchange of this type of traffic. Verizon Business's payments to Armstrong for December 2010 through March 2011 were temporarily delayed due to calculation of the dispute, but have since been released for payment at the rate of \$0.0007 per minute-of-use.

12. At no time prior to its August 27, 2010 refusal to pay switched access charges did Verizon request that Armstrong negotiate its rate for switched access services.

ANSWER:

Denied as stated. Verizon has never requested "that Armstrong negotiate its rate for switched access services." The services at issue are not switched access services, which was the basis for Verizon's dispute.

13. **There is no agreement between the parties establishing a rate of \$.0007 for Verizon Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Verizon Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, this request is admitted. Verizon further notes that it has requested for Armstrong to negotiate an agreement but Armstrong has refused to do so.

14. **The rate of \$.0007 was established by the FCC as a default rate for the termination of local dial-up calling to the Internet.**

ANSWER:

Denied as stated. As the FCC itself has explained, “[t]o limit arbitrage opportunities that arose from ‘excessively high reciprocal compensation rates,’ the Commission adopted a gradually declining cap on intercarrier compensation for ISP-bound traffic, beginning at \$.0015 per minute of use and declining to \$.0007 per minute of use, the current cap. The Commission derived the rate caps from contemporaneous interconnection agreements, in which carriers voluntarily agreed to rates comparable to the rate caps adopted by the Commission.” *In re High-Cost Universal Serv. Support*, 24 FCC Rcd 6475 (F.C.C. 2008). Verizon further notes that one of the alternatives the FCC is considering as a result of its 2/9/11 NPRM is whether “all interconnected VoIP traffic be subject to . . . [a] defined rate, such as \$ 0.0007 per minute.” *In re Connect Am. Fund*, 2011 FCC LEXIS 315 (F.C.C. Feb. 9, 2011).

15. **The Pennsylvania Public Utility Commission has never required that a \$.0007 rate be applied to intrastate switched access services.**

ANSWER:

Admitted on information and belief. However, the services at issue are not “intrastate switched access services,” which was the basis for Verizon’s dispute.

16. **Armstrong directly delivers interexchange (toll) voice traffic to Verizon for termination ("Armstrong Toll Traffic").**

OBJECTION:

Verizon objects to this request on the ground that the terms “interexchange (toll) voice traffic” and “directly delivers” are not defined and it is not clear how Armstrong is using these terms.

ANSWER:

Verizon admits that traffic that originates from Armstrong is terminated by Verizon. However, the majority is delivered to Verizon by other carriers and so it is not accurate to say all of the traffic is “directly” delivered. Verizon also admits that some of this voice traffic passes outside the local calling area. *See* 66 Pa. C.S. § 3012 (definition of “interexchange services”). However, to the extent Armstrong uses the term “interexchange (toll) voice traffic” to suggest that the traffic is intrastate in jurisdiction, Verizon denies this request because Armstrong has admitted that all traffic from its cable affiliate is IP-originated. *See* Armstrong Answer to New Matter, ¶ 4.

17. Armstrong Toll Traffic is delivered by Armstrong to Verizon in TDM protocol.

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Armstrong Toll Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that the Armstrong-originated voice traffic that is delivered to Verizon for termination is in TDM protocol at the point that it is exchanged with Armstrong, although this fact is not relevant to the legal analysis. Further, Armstrong has admitted that all traffic originated by its cable affiliate is originated in IP. *See* Armstrong Answer to New Matter, ¶ 4.

18. Verizon is aware that the Armstrong Toll Traffic is originated by end user customers in IP.

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Armstrong Toll Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Verizon admits that it is aware that the Armstrong-originated voice traffic coming from the end users of Armstrong’s cable affiliate that is delivered to Verizon for termination is originated in IP, and Armstrong has admitted this fact.

19. Armstrong is acting as a telecommunications carrier providing telecommunications service when delivering Armstrong Toll Traffic to Verizon.

OBJECTION:

Verizon objects to this request on the ground that “telecommunications carrier” and “telecommunications service” are not defined and it is not clear how Armstrong is using those terms. Importantly, those terms have different definitions depending on the context in which they are used. *See, e.g.* 47 U.S.C. § 153 versus 66 Pa. C.S. § 3012. Verizon further objects on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Armstrong Toll Traffic” is not defined and it is not clear how Armstrong is using that term.

ANSWER:

Subject to and without waiving the objection, the request is denied. Because the traffic originated by the end users of Armstrong’s cable affiliate that is terminated to Verizon originates in IP, it is not “telecommunications” as that term is defined at 47 U.S.C. § 153(50) (“[t]he term “telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”) But even if such traffic were categorized as “telecommunications,” it is interstate in jurisdiction.

- 20. For the period April 2006 to present and continuing, Verizon has billed Armstrong terminating switched access charges on the Armstrong Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Armstrong Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

It is admitted that Verizon has billed a small amount each month for intrastate terminating switched access, but because the majority of Armstrong’s traffic destined to be terminated by Verizon is delivered indirectly by other carriers, such billings are minimal. For example, the charges for October 2010 were under \$300. Moreover, Verizon has asked Armstrong to negotiate *reciprocal* rates terms and conditions for the exchange of IP traffic, but Armstrong has refused.

- 21. Armstrong has paid and continues to pay all of Verizon's bills for switched access charges for Armstrong Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which goes into the defined term “Armstrong Toll Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

See response to # 20. It is admitted that Armstrong has generally paid these small bills.

- 22. Verizon continues to accept Armstrong's payment of switched access charges for Armstrong Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which goes into the defined term "Armstrong Toll Traffic" is not defined and it is not clear how Armstrong is using the term.

ANSWER:

See response to # 21.

- 23. The Verizon ILECs entered into Interconnection Agreements ("Verizon ICAs") with Armstrong for which Commission approval was sought by Petitions filed on July 6, 2005 and granted by Orders entered August 30, 2005.**

OBJECTION:

Verizon objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Admitted.

- 24. The Verizon ICAs have not been terminated and are in effect.**

OBJECTION:

Verizon objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Admitted.

- 25. The Verizon ICAs specify a reciprocal compensation rate for the transport and termination of local traffic, which rates are higher than \$.0007 per minute.**

OBJECTION:

Verizon objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

It is admitted that the end office reciprocal compensation rate in the ICAs is \$.000987 for Verizon Pennsylvania Inc. and \$0.0030000 for Verizon North LLC. "Reciprocal compensation traffic" and the instances in which reciprocal compensation rates apply are defined in the ICA.

- 26. Verizon directly delivers local voice traffic to Armstrong for termination ("Verizon Local Traffic").**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic" is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, it is admitted that Verizon delivers some traffic to Armstrong for which the originating and terminating telephone numbers are assigned to the same local calling area, but traffic that is terminated in IP is not "local" or "intrastate" traffic for jurisdictional purposes.

- 27. Verizon Local Traffic is delivered by Verizon to Armstrong in TDM protocol.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, it is admitted that the traffic Verizon delivers to Armstrong is in TDM protocol when exchanged by the parties, but that fact is not relevant since Armstrong has admitted that the traffic destined to the end users of its cable affiliate is terminated in IP.

- 28. For the period November 2007 to present, Armstrong has billed Verizon reciprocal compensation rates as specified in the Verizon ICAs for terminating the Verizon Local Traffic.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that the Verizon ILECs received invoices charging for reciprocal compensation at the ICA rates beginning in November of 2007, backbilling charges to May of 2007

- 29. For the period November 2007 to July 2010, Verizon paid the reciprocal compensation rates as specified in the Verizon ICAs to Armstrong for Verizon Local Traffic.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, it is admitted that during this period Verizon did not dispute the rate applied.

- 30. During the period of payment by Verizon, Verizon was aware that the Verizon Local Traffic was terminating to end user customers in IP.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it is aware that the traffic it delivers to Armstrong destined to the customers of Armstrong's cable affiliate is terminated in IP. Verizon does not know when it became aware of this fact and therefore cannot admit or deny the request as stated, but the issue of when Verizon gained such awareness is not relevant in any event.

- 31. Verizon unilaterally ceased paying reciprocal compensation rates to Armstrong as specified in the Verizon ICAs on Verizon Local Traffic as of September 3, 2010.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, the first Armstrong invoice that Verizon disputed based on the status of the traffic as IP originated/terminated was the Armstrong Aug. 6, 2010 invoice. Since that time Verizon PA and Verizon North have paid at the rate of \$0.0007 per minute-of-use.

- 32. Verizon's basis for refusal to pay reciprocal compensation rates as specified in the Verizon ICAs for terminating Verizon Local Traffic is that the traffic is terminated to end user customers in IP.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, the grounds for the dispute are fully stated in the August 27, 2010 letter. It is admitted that one basis for the dispute is the fact that it is terminated in IP.

- 33. At the time that Verizon refused to pay Armstrong's bills for reciprocal compensation rates as specified in the Verizon ICAs, Verizon PA and Verizon North began paying at the rate of \$.0007 per minute.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, see response to # 32.

- 34. At no time prior to its September 3, 2010 refusal to pay reciprocal compensation rates as specified in the Verizon ICAs did Verizon request that Armstrong negotiate a different rate for local transport and termination services.**

OBJECTION:

Verizon objects to this request on the ground that the term "local voice traffic," which is a necessary component of the term "Verizon Local Traffic," is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, denied as stated. Verizon has not requested that Armstrong “negotiate” a different rate for “local” traffic. The traffic at issue here is not “local” as a jurisdictional matter, which was the basis for Verizon’s dispute.

- 35. There is no agreement between the parties establishing a rate of \$.0007 for terminating Verizon Local Traffic.**

OBJECTION:

Verizon objects to this request on the ground that the term “local voice traffic,” which is a necessary component of the term “Verizon Local Traffic,” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, this request is admitted. Verizon further notes that it has requested for Armstrong to negotiate an agreement but Armstrong has refused to do so.

- 36. By refusing to pay reciprocal compensation rates as specified in the Verizon ICAs, Verizon is in violation of the Verizon ICAs.**

OBJECTION:

Verizon objects to this request on the ground that it calls for a legal conclusion and improperly presumes that the traffic at issue is subject to the reciprocal compensation rates in the ICA.

ANSWER:

Subject to and without waiving the objection, denied.

- 37. Whether reciprocal compensation rates as specified in the Verizon ICAs applies to Verizon Local Traffic is a legal question.**

OBJECTION:

Verizon objects to this request on the ground that the term “local voice traffic,” which is a necessary component of the term “Verizon Local Traffic,” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, denied as stated. This is both a legal question and a matter of contract interpretation, both of which may depend on questions of fact and the application of law/contract terms to fact.

- 38. Armstrong directly delivers local Voice traffic to Verizon for termination ("Armstrong Local Traffic").**

OBJECTION:

Verizon objects to this request on the ground that the terms “local voice traffic” and “directly delivers” are not defined and it is not clear how Armstrong is using these terms.

ANSWER:

Subject to and without waiving the objection, Verizon admits that traffic that originates from Armstrong is terminated by Verizon. However, the majority is delivered to Verizon by carriers other than Armstrong, and so it is not accurate to say that all of the traffic is “directly” delivered by Armstrong. Verizon also admits that some of this voice traffic is originated and terminated within the same local calling area. However, to the extent Armstrong uses the term “local voice traffic” to suggest that the traffic is intrastate in jurisdiction, Verizon denies this request because Armstrong admits that traffic originated from the customers of its cable affiliate is IP-originated.

39. Armstrong Local Traffic is delivered by Armstrong to Verizon in TDM protocol.

OBJECTION:

Verizon objects to this request on the ground that “local voice traffic,” which goes into the defined term “Armstrong Local Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that the Armstrong-originated voice traffic that is delivered to Verizon for termination is in TDM protocol at the point that it is exchanged by the parties, although this fact is not relevant to the legal analysis. Further, Armstrong has admitted that the traffic coming from the end users of its cable affiliate is originated in IP. *See* Armstrong Answer to New Matter ¶ 4.

40. For the period April 2006 to present and continuing, Verizon has billed Armstrong reciprocal compensation rates as specified in the Verizon ICAs for the Armstrong Local Traffic.

OBJECTION:

Verizon objects to this request on the ground that “local voice traffic,” which goes into the defined term “Armstrong Local Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

Subject to and without waiving the objection, it is admitted that Verizon has billed Armstrong reciprocal compensation, but Verizon has also stated that it wishes to negotiate *reciprocal* rates, terms and conditions for the exchange of IP traffic and Armstrong has refused.

41. **Verizon is aware that the Armstrong Local Traffic is originated by end user customers in IP.**

OBJECTION:

Verizon objects to this request on the ground that “local voice traffic,” which goes into the defined term “Armstrong Local Traffic” is not defined and it is not clear how Armstrong is using the term. Verizon further objects on the ground that this request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it is aware that traffic originated from the end users of Armstrong’s cable affiliate is originated in IP.

42. **Armstrong has paid and continues to pay all of Verizon' s bills for reciprocal compensation as specified in the Verizon ICAs for Armstrong Local Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “local voice traffic,” which goes into the defined term “Armstrong Local Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

See response to # 40. It is admitted that Armstrong generally pays those bills.

43. **Verizon continues to accept Armstrong’s payment of reciprocal compensation as specified in the Verizon ICAs for Armstrong Local Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “local voice traffic,” which goes into the defined term “Armstrong Local Traffic” is not defined and it is not clear how Armstrong is using the term.

ANSWER:

See response to # 42.

Payment by Third Party Carriers Delivering Toll Traffic

44. **Interexchange carriers hand off toll traffic to other interexchange carriers in the “least cost routing” market.**

OBJECTION:

Verizon objects to this request on the ground that the term “least cost routing market” is not defined and is not a term with an accepted meaning. Verizon further objects on the ground that this question is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the behavior of unnamed interexchange carriers. Based on its objection, Verizon will not be responding to this request.

45. **“Least cost routing” means delivering traffic, generally toll traffic, to another interexchange carrier based upon that carriers' quoted price for delivery to the calling destination.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the behavior of unnamed interexchange carriers. Verizon understands that this may be how Armstrong defines “least cost routing;” however, this is not a term of art in the industry and accordingly Verizon cannot admit or deny that this is an accepted definition. Based on its objection, Verizon will not be responding to this request.

46. **Multiple interexchange carriers may be involved in the delivery of a toll call with each making a decision to deliver or hand the call off to another interexchange carrier on the basis of "least cost routing."**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the behavior or decisions of unnamed interexchange carriers. Based on its objection, Verizon will not be responding to this request.

47. **"Least cost routing" is a common industry practice.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the behavior of the “industry,” a term that itself is undefined. Further, Armstrong’s purported definition of “least cost routing” is not a term of art in the industry and accordingly Verizon cannot admit or deny that this is an accepted definition or a common practice. Based on its objection, Verizon will not be responding to this request.

48. **After surrendering its toll traffic to the initial interexchange carrier, the originating carrier is unable to track the call to determine whether and to which**

interexchange carrier the toll traffic may have been subsequently handed off in the "least cost routing" market.

OBJECTION:

Verizon objects to this request on the ground that the term "least cost routing market" is not defined and is not a term with an accepted meaning. Verizon further objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the abilities of unnamed interexchange carriers. Based on its objection, Verizon will not be responding to this request.

- 49. The terminating carrier knows the identity of the delivering interexchange carrier.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the knowledge of unnamed terminating carriers. Based on its objection, Verizon will not be responding to this request.

- 50. The terminating carrier is unable to track whether and to which interexchange carrier the toll traffic delivered may have been previously handed off in the "least cost routing" market.**

OBJECTION:

Verizon objects to this request on the ground that the term "least cost routing market" is not defined and is not a term with an accepted meaning. Verizon further objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the abilities of unnamed terminating carriers. Based on its objection, Verizon will not be responding to this request.

- 51. Armstrong sometimes hands off interexchange (toll) voice traffic to third party interexchange carrier(s) for delivery to terminating carriers, including Verizon ("Armstrong Indirect Toll Traffic").**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic" is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic. Verizon further objects on the ground that it cannot reasonably be expected to admit or deny what Armstrong "sometimes" does.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has received Armstrong-originated traffic from other carriers. Verizon concludes that this only could have occurred because Armstrong hands off its traffic to other carriers for delivery to Verizon. Indeed, Armstrong has admitted in response to discovery that it has done so. *See* Armstrong Response to Verizon I-5.

- 52. Verizon, as the terminating carrier, is unable to identify the interexchange carrier(s) to whom Armstrong initially hands off Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has received Armstrong-originated traffic from other carriers. Based on the information that is transmitted with the call, Verizon does not know if this is the carrier to which Armstrong initially handed off the traffic. However, Armstrong has admitted in response to discovery that it has handed off traffic to certain of the carriers from which Verizon has received Armstrong-originated traffic. *See* Armstrong Response to Verizon I-5.

- 53. Verizon, as the terminating carrier, is able to identify those interexchange carriers from whom it receives Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has received Armstrong-originated traffic from other carriers and that it is able to identify the carriers from which it receives that traffic.

- 54. A special study is required to determine the identity of the underlying originating carrier in the traffic delivered by a third-party interexchange carrier.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about the knowledge of unnamed terminating carriers.

ANSWER:

Subject to and without waiving the objection, Verizon is able to identify the carrier that originated traffic that is delivered to it by another carrier by a lookup of the OCN to which the Originating NPA NXX is assigned in the number portability database administered by Neustar.

- 55. The only specific instances known to Verizon regarding the presence of Armstrong Indirect Toll Traffic in the traffic delivered to Verizon are those contained in the August 2010 traffic study (Referenced at New Matter ¶ 11 and provided in Response to Armstrong Interrogatories Set 1- 32).**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined, and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, this request is denied. Verizon knows that the majority of Armstrong’s traffic was delivered to Verizon indirectly during the period of the traffic study, but it is also reasonable to conclude based on this evidence and the switched access billing volumes that Armstrong’s traffic is routinely delivered in this manner. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.

- 56. The carriers identified by Verizon in the August 2010 traffic study delivering Armstrong Indirect Toll Traffic that dispute Verizon's switched access bills are Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, denied. See Verizon traffic study for a correct identification of the relevant carriers.

57. **Verizon does not know the interexchange carrier(s) to whom Armstrong handed off the Armstrong Indirect Toll Traffic reviewed in the August 2010 traffic study.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, denied. In response to Verizon Set I, No. 5 Armstrong admitted that it handed off traffic to certain of the carriers from which Verizon received Armstrong’s traffic. Verizon admits that the traffic study itself does not identify the carriers to which Armstrong initially handed off the traffic destined to be terminated by Verizon, which may or may not be the same ones that delivered the traffic.

58. **Verizon averment that Armstrong knows that its wholesale providers refused to pay access charges (Verizon New Matter at ¶12) is based upon the identity of the delivering interexchange carriers. The averment is not based upon any other information.**

ANSWER:

Denied. The averment is also based on the fact that certain carriers are widely known to refuse to pay switched access charges on VoIP traffic. Further, Armstrong concedes that it is seeking what it defines as the “least cost” routing for its traffic, and Armstrong knew or should have known that those carriers who do not pay switched access rates on VoIP traffic are likely to be offering the lowest cost.

59. **Verizon’s allegations that Armstrong does not pay access charges when it delivers to other local exchange carriers (Answer at ~ 10) is based upon the perceived payment practices of the delivering interexchange carriers identified in the August 2010 traffic study and Verizon’s belief that these delivering carriers do not pay other local exchange carriers either. The averment is not based upon any other information.**

ANSWER:

Denied. The averment is based on the actual payment practices of the carriers that deliver Armstrong-originated traffic to Verizon. *See also* response to request # 58.

60. **Verizon’s claim that "Armstrong itself deliberately avoided paying switched access rates" (Complaint Answer at ¶ 25) is based upon the perceived payment**

practices of the delivering interexchange carriers indentified in the August 2010 traffic study. The averment is not based upon any other information.

ANSWER:

Denied. The averment is based on the actual payment practices of the carriers that deliver Armstrong-originated traffic to Verizon. *See also* response to request # 58.

- 61. Before refusing to pay Armstrong's August 2010 switched access bills, Verizon did not ask Armstrong to identify the interexchange carriers to whom Armstrong directly hands off Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic. Verizon further objects to the incorrect premise that Verizon "refused" to pay (Verizon has been paying at the rate of \$0.0007) and on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, admitted.

- 62. At the time of filing its counter complaint, Verizon did not ask Armstrong to identify the interexchange carriers to whom Armstrong directly hands off Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Verizon presumes that by "counter complaint" Armstrong refers to Verizon's New Matter.

ANSWER:

Subject to and without waiving the objection, admitted. However, had Armstrong accepted Verizon's request to negotiate, rather than precipitously filing a complaint with this Commission, the parties would have had the opportunity to discuss these issues.

63. **Verizon did not ask Armstrong, prior to its Set I discovery submitted in this case, to identify the interexchange carriers to whom Armstrong directly hands off Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, admitted. However, had Armstrong accepted Verizon’s request to negotiate, rather than precipitously filing a complaint with this Commission, the parties would have had the opportunity to discuss these issues.

64. **Prior to answering Armstrong's complaint, Verizon never informed Armstrong that some of the interexchange carriers delivering Armstrong Indirect Toll Traffic to Verizon were not paying Verizon's terminating access charges.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, admitted. However, had Armstrong accepted Verizon’s request to negotiate, rather than precipitously filing a complaint with this Commission, the parties would have had the opportunity to discuss these issues.

65. **Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications deliver traffic originated by numerous carriers, including ILECs, TDM-based CLECs and wireless carriers.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition

about practices of other carriers. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon generally believes this statement to be true based on its own experience with these carriers.

- 66. Verizon has not conducted a study to identify what other carriers' originating traffic is delivered to Verizon by Global NAPs, CommPartners, Sprint, Level 3, Infotelecom or One Communications.**

OBJECTION:

Verizon objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, this request is admitted. However, Verizon's traffic study shows that some, but not all, of the listed carriers deliver Armstrong-originated traffic to Verizon. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.

- 67. Verizon believes that Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications deliver traffic originating by a wide variety of local exchange carriers, including ILECs, CLECs and wireless carriers.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon cannot reasonably be expected to admit or deny a general proposition about practices of other carriers. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon generally believes this statement to be true based on its own experience with these carriers.

- 68. Verizon has not categorically refused to pay the terminating switched access charges of all originating carriers whose traffic is delivered to Verizon by Global NAPs, CommPartners, Sprint, Level 3, Infotelecom or One Communications.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and speculative and Verizon has not conducted a study to identify all of the carriers whose traffic is

delivered by the identified companies. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon has only disputed the application of switched access charges where it has a reasonable basis to conclude that switched access charges are not due or are otherwise being improperly or unlawfully charged. With relevance to this case, Verizon has disputed the application of switched access charges on IP-originated and IP-terminated traffic for all similarly situated carriers, as explained more fully in response to Armstrong Set I, No. 24.

- 69. Verizon has categorically refused to pay terminating switched access charges where it believes that the traffic terminates to end user customers in IP.**

ANSWER:

Verizon has only disputed the application of switched access charges where it has a reasonable basis to conclude that switched access charges are not due. Verizon has disputed the application of switched access charges on IP-terminated traffic for all similarly-situated carriers, as explained more fully in response to Armstrong Set I, No. 24.

- 70. The delivering interexchange carrier is legally liable for payment of the terminating carrier's switched access charges.**

OBJECTION:

Verizon objects to this request for admission because it is a question of law rather than a question of the application of law to fact and therefore is not an appropriate subject for a request for admission pursuant to 52 Pa. Code § 5.350(a). Based on this objection, Verizon will not be responding to this request.

- 71. Verizon is seeking payment of switched access charges from Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications.**

OBJECTION:

Verizon objects to this request on the ground that it is unduly general and overly broad.

ANSWER:

Subject to and without waiving the objection, with regard to VoIP traffic Verizon has explained the status of each of the carriers identified in Verizon's traffic study in response to Armstrong Set I, No. 38.

- 72. For those interexchange carriers delivering Armstrong Indirect Toll Traffic that have agreements with Verizon, Verizon bills switched access rates and, if the**

carrier does not pay, the difference is held as disputed and is not subject to collection activity.

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using this term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon has identified the agreements that it has with certain carriers regarding the termination of VoIP traffic in response to Armstrong Set I, No. 18, and the terms of those agreements speak for themselves.

- 73. For those interexchange carriers delivering Armstrong Indirect Toll Traffic that have no agreements, Verizon bills switched access charges and then follows its normal dispute resolution and collection activity.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, this statement is generally correct but Verizon’s practices are explained in more detail in response to Armstrong Set I, No. 38.

- 74. Verizon has not undertaken a calculation of the switched access charges billed and paid by interexchange carriers to Verizon for Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon has not conducted a study of the exact amount of switched access charges billed and paid, or not paid, for Armstrong originated traffic, but Verizon's traffic study indicates that the majority of Armstrong's traffic is being delivered by carriers that do not pay switched access rates on VoIP traffic. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.

- 75. Verizon has not undertaken a calculation of the switched access charges billed, but not paid by interexchange carriers, to Verizon for Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon has not conducted a study of the exact amount of switched access charges billed and paid, or not paid, for Armstrong originated traffic but Verizon's traffic study indicates that the majority of Armstrong's traffic is being delivered by carriers that do not pay switched access rates on VoIP traffic. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.

- 76. The originating carrier is not liable to pay Verizon's switched access rates on toll traffic delivered by a third party interexchange carrier.**

OBJECTION:

Verizon objects to this request for admission because it is a question of law rather than a question of the application of law to fact and therefore is not an appropriate subject for a request for admission pursuant to 52 Pa. Code § 5.350(a). Based on this objection, Verizon will not be responding to this request. However, Verizon has not taken the position that such payment is due in this case.

- 77. Verizon has not, in any way, attempted to collect access charge payments from Armstrong for Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using this term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has not billed Armstrong for switched access charges on Armstrong-originated traffic delivered to Verizon by other carriers.

- 78. Verizon never submitted a bill to or demanded payment from Armstrong for Armstrong Indirect Toll Traffic where the delivering interexchange carrier did not pay Verizon's switched access bill.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using the term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has not billed Armstrong for switched access charges on Armstrong-originated traffic delivered to Verizon by other carriers.

- 79. Verizon does not assert that Armstrong is legally liable for switched access billings not paid by interexchange carriers delivering Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request on the ground that "interexchange (toll) voice traffic," which is a component of the defined term "Armstrong Indirect Toll Traffic," is not defined and it is not clear how Armstrong is using this term. For the reasons set forth in response to request #1 Verizon does not agree that the traffic at issue is intrastate traffic.

ANSWER:

Subject to and without waiving the objection, Verizon is not making that assertion in this case.

- 80. Verizon agrees that Armstrong is not liable for payment of switched access charges on Armstrong Indirect Toll Traffic.**

OBJECTION:

Verizon objects to this request for admission because it is a question of law rather than a question of the application of law to fact and therefore is not an appropriate subject for a request for admission pursuant to 52 Pa. Code § 5.350(a). Based on this

objection, Verizon will not be responding to this request. However, Verizon has not taken the position that such payment is due in this case.

- 81. Verizon sometimes also sometimes hands off interexchange (toll) voice traffic to third party interexchange carriers for delivery to terminating carriers, including Armstrong (“Verizon Indirect Toll Traffic”).**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using this term. Verizon further objects on the ground that the request seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon admits that it has agreements with some carriers to deliver its originating traffic for termination, as described in response to Armstrong I-40. However, Verizon has not conducted a study to determine if any traffic is delivered to Armstrong via intermediate carriers and accordingly cannot admit or deny the “including Armstrong” portion of this request. The vast majority, and possibly all, of Verizon’s traffic is delivered to Armstrong directly rather than indirectly through another carrier.

- 82. Verizon, as the originating carrier, has never been presented with a bill for switched access charges by a terminating carrier where Verizon Indirect Toll Traffic is delivered by a third party interexchange carrier that refuses to pay the terminating carrier.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it is unduly general and overly broad and seeks information that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, this request is too broad to admit or deny generally.

- 83. Verizon would not pay a bill for switched access charges presented by a terminating carrier where Verizon Indirect Toll Traffic is delivered by a third party interexchange carrier that refuses to pay the terminating carrier.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it unduly general and overly broad and seeks a speculative answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence. Based on this objection Verizon will not be responding to this request.

- 84. Verizon Indirect Toll Traffic would likely be found in a study of the traffic delivered by Global NAPs, CommPartners, Sprint, Level 3, Infotelecom and One Communications for termination to other carriers.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it unduly general and overly broad and seeks a speculative answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, since Verizon has not conducted and cannot conduct a study of the traffic delivered by these companies to other carriers Verizon cannot admit or deny this request.

- 85. Verizon was a party in the *Palmerton v. Global NAPs* proceeding at Docket No. C-2009-2093336.**

ANSWER:

Admitted.

- 86. Verizon Indirect Toll Traffic and the originating traffic of other TDM-based incumbent local exchange companies (“ILEC”), competitive local exchange companies (“CLECs”) and cable companies, as well as wireless carriers, was found in the study of Global NAPs delivered traffic undertaken by Palmerton and presented in its complaint case. *Palmerton Telephone Co. v. Global NAPs South, Inc., et al.*, Docket No. C-2009-2093336.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it unduly general and overly broad and seeks a speculative answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence. In any event, the Commission made certain findings of fact based on the study presented by Palmerton Telephone Co. in the

above case, which findings are a matter of public record. Based on this objection, Verizon will not be responding to this request.

- 87. Palmerton did not seek payment from Verizon for Verizon Indirect Toll Traffic delivered by Global NAPs to Palmerton.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it seeks an answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Verizon did not make any claims against Palmerton in the above-captioned case.

- 88. Verizon did not offer to pay Palmerton Telephone for Verizon Indirect Toll Traffic delivered by Global NAPs.**

OBJECTION:

Verizon objects to this request on the ground that “interexchange (toll) voice traffic,” which is a component of the defined term “Armstrong Indirect Toll Traffic,” is not defined and it is not clear how Armstrong is using the term. Verizon further objects to this request on the ground that it seeks an answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence.

ANSWER:

Subject to and without waiving the objection, Palmerton did not seek payment from Verizon for the traffic at issue in the above-captioned case.

ILEC Mirroring By CLECs

- 89. Armstrong's intrastate tariffed switched access rates are the same as the tariffed switched access rates of the underlying incumbent telephone company.**

ANSWER:

Armstrong’s intrastate tariffed switched access rates are a matter of public record. Verizon believes, based on its review of the tariffed rate elements, that they generally match the tariffed rate elements of the incumbent telephone company in the same territory. However, Armstrong is in violation of 66 Pa. C.S. § 3017(c) because it is charging Verizon higher access rates on a per-minute-of-use basis than Verizon is being charged by certain of the ILECs in the same territory. The issue is not the tariffed rate elements themselves, but the manner in which those rate elements are being applied, particularly the CCL.

90. **In all prior cases where Verizon challenged a CLECs' access rates as not being in compliance with 1307(c), Verizon continued to pay the billed rate and filed a complaint seeking a prospective rate change and a refund.**

OBJECTION:

Verizon objects to this request on the ground that it seeks an answer that is not relevant to this matter or reasonably calculated to lead to the discovery of admissible evidence. Further, Verizon has not contended that any CLEC's access rates violate section "1307(c)". Based on this objection Verizon will not be responding to this request. However, Verizon notes that it is disputing Armstrong's switched access charges and paying at a different rate on the basis that tariffed switched access charges do not apply to IP-originated or IP-terminated traffic.

91. **Verizon's efforts to determine whether or not Armstrong's switched access rates mirror those of the underlying ILECs consisted of reviewing ATI CABS invoices for June, July and August 2010, calculating a composite (average) rate per minute and then comparing that to the composite rate derived from the August 2010 CABS bills received by Verizon from the underlying ILECs.**

ANSWER:

It is admitted that Verizon undertook the calculations described above, and provided the results to Armstrong together with its letter raising this dispute. To Verizon's knowledge, Armstrong has not denied that its average rate per minute charged to Verizon for intrastate switched access is higher than the average rate per minute charged by the identified incumbent carriers. Further, Verizon reserves the right to conduct additional studies if and when it submits testimony in this case.

Overcharging

92. **The claimed "overcharges" averred in Verizon's answer to Armstrong's complaint (Answer at Introduction and ¶¶ 18 and 19) relate solely to the four counts of its counter complaint.**

ANSWER:

It is admitted that the reference to "overcharges" was to the issues raised in Verizon's New Matter, in particular paragraphs 19 through 45. Verizon reserves the right to dispute any other "overcharges" of which it may become aware.

93. **Verizon's allegations regarding "billings otherwise in violation of law" (Answer at Introduction and ¶¶ 18 and 19) relate solely to the four counts of its counter complaint.**

ANSWER:

It is admitted that the reference to "billing for services not rendered" was to the issue raised in Verizon's New Matter, particularly paragraphs 40 through 45. Verizon

reserves the right to dispute any other "billing for services not rendered" of which it may become aware.

Date: April 11, 2011

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April 14, 2011

Via E-Mail and U.S. Mail

Norman J. Kennard, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street, Suite 500
Harrisburg, PA 17108

**Re: Armstrong Telecommunications, Inc. v.
Verizon Pennsylvania Inc., Verizon North LLC, MCI metro Access
Transmission Services LLC d/b/a Verizon Access Transmission Services,
and MCI Communications Services Inc.
Docket Nos. C-2010-2216205, C-2010-2216311,
C-2010-2216325, and C-2010-2216293**

Dear Norm:

In response to your letter dated April 11, 2011, Verizon respectfully disagrees with your assertion that certain of our responses to Armstrong's Requests for Admission Set I are "facially incomplete and/or not responsive." In an effort to be cooperative, however, I will clarify our responses to the specific requests you mention. The following explanations are subject to and without waiver of the individual objections set forth in our responses:

3. You state that the question is whether Verizon is "acting as a telecommunications carrier" when it delivers certain traffic to Armstrong. The term "telecommunications carrier" is undefined in your request. Verizon is aware of the following two definitions:

"The term 'telecommunications carrier' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 [47 USCS § 226]). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage." 47 USCS § 153

"Telecommunications Carrier." An entity that provides telecommunications services subject to the jurisdiction of the commission. 66 Pa. C.S. § 3012

APR 18 2011

Neither definition speaks in terms of a carrier “acting” as a telecommunications carrier in some cases but not in others, and so the question is not answerable as asked.

12. You state that “Verizon’s response equivocates on whether or not this is switched access services.” Our responses states “[t]he services at issue are not switched access services.” I don’t read that as equivocating.

44-50. You state that Verizon “defined the term ‘least cost routing’” in its response to Armstrong I-42 and we should use that definition in responding to these requests for admission. But the problem with these questions is that they ask Verizon to admit that there is a “market” for least cost routing – which we do not know to be true and cannot admit. We objected to that assumption in the interrogatory as well. Also, these questions ask Verizon to admit or deny generally what unnamed carriers know or do, which is not a proper request. Moreover, request #45 states a totally different definition for “least cost routing” than that stated in Verizon’s discovery response I-42, adding to the confusion. We will agree that Verizon generally understands that some carriers engage in the practice of “least cost routing,” which means the process of analyzing, selecting, and directing the route of outbound communications traffic based on which path provides the most savings, and that this practice can include handing off traffic to third party carriers for delivery to the ultimate destination. Verizon cannot admit or deny as a general matter what the delivering carrier knows about what happens to the traffic after it is delivered to a third-party carrier because that would depend on the individual agreements and discussions between those carriers and is a case-by-case factual question.

56. The carriers identified in the traffic study that dispute Verizon’s switched access bills are identified in Verizon’s supplemental response to I-18 (those with pay and dispute agreements) and I-38 (those that otherwise do not pay). The carriers identified are not the same as the list set forth in request 56, which is why that request is denied.

86. Verizon admits that there were calls originating from telephone numbers assigned to Verizon as the local carrier in the study of Global NAPs delivered traffic undertaken by Palmerton and presented in its complaint case. ***Palmerton Telephone Co. v. Global NAPs South, Inc., et al., Docket No. C-2009-2093336.***

90. With the question revised to refer to 66 Pa. C.S. § 3017(c), the request is denied because the statement is not true for “all prior cases where Verizon challenged a CLEC’s access rates as not being in compliance with” § 3017(c).

Very truly yours,



Suzan D. Paiva

ARMSTRONG EXHIBIT 7

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Armstrong Telecommunications, Inc.	:	
	:	
Complainant,	:	
	:	
v.	:	Docket Nos. C-2010-2216205
	:	C-2010-2216311
Verizon Pennsylvania Inc., Verizon North LLC,	:	C-2010-2216325
MCImetro Access Transmission Services LLC	:	C-2010-2216293
d/b/a Verizon Access Transmission Services and	:	
MCI Communications Services Inc.,	:	
	:	
Respondents.	:	

**RESPONSES OF ARMSTRONG TELECOMMUNICATIONS, INC.
TO THE REQUESTS FOR ADMISSIONS OF
VERIZON PENNSYLVANIA, INC.
VERIZON NORTH LLC, MCImetro ACCESS TRANSMISSION
SERVICES, LLC d/b/a VERIZON ACCESS TRANSMISSION SERVICES
AND MCI COMMUNICATIONS SERVICES INC.**

Armstrong Telecommunications, Inc. (“Armstrong”), Complainant herein, submits the following responses to the Requests for Admissions of Respondent Verizon North LLC, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services and MCI Communications Services Inc. (“Verizon”):

I. Please admit or deny that all traffic originated by Armstrong and its cable affiliate in Pennsylvania is originated in IP.

Answer: Admitted as to cable company affiliate traffic. Not all traffic on Armstrong’s network is originated or terminated in Internet protocol (“IP”). Traffic originated and/or terminated by Armstrong and its cable affiliate, however, is all originated and/or terminated in IP protocol. All traffic on Armstrong’s network is in Time Division Multiplex

("TDM"). All traffic exchanged between Verizon and Armstrong is in TDM protocol. The protocol of the underlying voice service provider is legally irrelevant to the intercarrier compensation issues of this case.

2. Please admit or deny that all traffic originated by Armstrong or Armstrong's cable affiliate and terminated by Verizon in Pennsylvania is originated in IP.

Answer: Admitted as to cable company affiliate traffic. Not all traffic on Armstrong's network is originated or terminated in Internet protocol ("IP"). Traffic originated and/or terminated by Armstrong and its cable affiliate, however, is all originated and/or terminated in IP protocol. All traffic on Armstrong's network is in Time Division Multiplex ("TDM"). All traffic exchanged between Verizon and Armstrong is in TDM protocol. The protocol of the underlying voice service provider is legally irrelevant to the intercarrier compensation issues of this case.

3. Please admit or deny that all traffic originated by Verizon and terminated by Armstrong or Armstrong's cable affiliate in Pennsylvania is terminated in IP.

Answer: Admitted as to cable company affiliate traffic. Not all traffic on Armstrong's network is originated or terminated in Internet protocol ("IP"). Traffic originated and/or terminated by Armstrong and its cable affiliate, however, is all originated and/or terminated in IP protocol. All traffic on Armstrong's network is in Time Division Multiplex ("TDM"). All traffic exchanged between Verizon and Armstrong is in TDM protocol. The protocol of the underlying voice service provider is legally irrelevant to the intercarrier compensation issues of this case.

4. Please admit or deny that all traffic originated by Armstrong or Armstrong's cable affiliate in IP and terminated by Verizon in TDM protocol in Pennsylvania undergoes a net protocol conversion (see definition of "net protocol conversion").

Answer: Admitted in part; denied in part. Not all traffic on Armstrong's network is originated or terminated in Internet protocol ("IP"). Traffic originated and/or terminated by Armstrong and its cable affiliate, however, is all originated and/or terminated in IP protocol. All traffic on Armstrong's network is in Time Division Multiplex ("TDM"). All traffic exchanged between Verizon and Armstrong is in TDM protocol. The protocol of the underlying voice service provider is legally irrelevant to the intercarrier compensation issues of this case.

5. Please admit or deny that all traffic originated by Verizon in TDM protocol and terminated by Armstrong or Armstrong's cable affiliate in IP in Pennsylvania undergoes a net protocol conversion (see definition of "net protocol conversion").

Answer: Admitted in part; denied in part. Not all traffic on Armstrong's network is originated or terminated in Internet protocol ("IP"). Traffic originated and/or terminated by Armstrong and its cable affiliate, however, is all originated and/or terminated in IP protocol. All traffic on Armstrong's network is in Time Division Multiplex ("TDM"). All traffic exchanged between Verizon and Armstrong is in TDM protocol. The protocol of the underlying voice service provider is legally irrelevant to the intercarrier compensation issues of this case.

6. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to Level 3 Communications, LLC or a company known to be affiliated with Level 3 Communications, LLC traffic destined to be terminated by Verizon.

Answer: Admitted.

7. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to Neutral Tandem – Pennsylvania, LLC or a company known to be affiliated with Neutral Tandem – Pennsylvania, LLC traffic destined to be terminated by Verizon.

Answer: Admitted, as a tandem operator, but denied as an interexchange carrier.

8. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to XO Communications Services, Inc. or a company known to be affiliated with XO Communications Services, Inc. traffic destined to be terminated by Verizon.

Answer: Admitted.

9. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to Global NAPs South, Inc. or a company known to be affiliated with Global NAPs South, Inc. traffic destined to be terminated by Verizon.

Answer: Denied.

10. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to CommPartners, LLC or a company known to be affiliated with CommPartners, LLC traffic destined to be terminated by Verizon.

Answer: Denied.

11. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to AT&T Communications of Pennsylvania, LLC or a company known to be affiliated with AT&T Communications of Pennsylvania, LLC traffic destined to be terminated by Verizon.

Answer: Admitted.

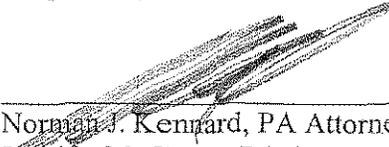
12. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to Sprint Communications Company L.P. or a company known to be affiliated with Sprint Communications Company L.P. traffic destined to be terminated by Verizon.

Answer: Denied.

13. Please admit or deny that during the period from January 1, 2008 to the present, Armstrong has delivered to InfoTelecom, LLC or a company known to be affiliated with InfoTelecom, LLC traffic destined to be terminated by Verizon.

Answer: Denied.

Respectfully submitted,



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Attorneys for
Armstrong Telecommunications, Inc.

Dated: March 4, 2011

ARMSTRONG EXHIBIT 8

AGREEMENT

by and between

ARMSTRONG TELECOMMUNICATIONS, INC.

and

VERIZON PENNSYLVANIA INC.

FOR THE COMMONWEALTH OF

PENNSYLVANIA

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AGREEMENT

PREFACE

This Agreement, including Amendment No. 1 (TRO Amendment) hereto ("Agreement") shall be deemed effective as of June 3, 2005 (the "Effective Date"), between Armstrong Telecommunications, Inc. ("ATI"), a corporation organized under the laws of the Commonwealth of Pennsylvania, with offices at One Armstrong Place, Butler, PA 16001 and Verizon Pennsylvania Inc. ("Verizon"), a corporation organized under the laws of the Commonwealth of Pennsylvania with offices at 1717 Arch Street, Philadelphia, PA 19103 (Verizon and ATI may be referred to hereinafter, each, individually as a "Party", and, collectively, as the "Parties").

GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises contained in this Agreement, and intending to be legally bound, pursuant to Section 252 of the Act, Verizon and ATI hereby agree as follows:

1. The Agreement

- 1.1 This Agreement includes: (a) the Principal Document (which shall be deemed to include Amendment No. 1 (TRO Amendment) hereto); (b) the Tariffs of each Party applicable to the Services that are offered for sale by it in the Principal Document (which Tariffs are incorporated into and made a part of this Agreement by reference); and, (c) an Order by a Party that has been accepted by the other Party.
- 1.2 Except as otherwise expressly provided in the Principal Document (including, but not limited to, the Pricing Attachment), conflicts among provisions in the Principal Document, Tariffs, and an Order by a Party that has been accepted by the other Party, shall be resolved in accordance with the following order of precedence, where the document identified in subsection "(a)" shall have the highest precedence: (a) the Principal Document; (b) the Tariffs; and, (c) an Order by a Party that has been accepted by the other Party. The fact that a provision appears in the Principal Document but not in a Tariff, or in a Tariff but not in the Principal Document, shall not be interpreted as, or deemed grounds for finding, a conflict for the purposes of this Section 1.2.
- 1.3 This Agreement constitutes the entire agreement between the Parties on the subject matter hereof, and supersedes any prior or contemporaneous agreement, understanding, or representation, on the subject matter hereof, provided, however, notwithstanding any other provision of this Agreement or otherwise, this Agreement is an amendment, extension and restatement of the Parties' prior interconnection and resale agreement(s), if any, and, as such, this Agreement is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction with respect to any prior interconnection or resale agreements and, accordingly, all monetary obligations of the Parties to one another under any prior interconnection or resale agreements shall remain in full force and effect and shall constitute monetary obligations of the Parties under this Agreement (provided, however, that nothing contained in this Agreement shall convert any claim or debt that would otherwise constitute a prepetition claim or debt in a bankruptcy case into a postpetition claim or debt). In connection with the foregoing, Verizon expressly reserves all of its rights under the Bankruptcy Code and Applicable Law to seek or oppose any relief in respect of the assumption, assumption and assignment, or rejection of any interconnection or resale agreements between Verizon and ATI.

- 1.4 Except as otherwise provisioned in the Principal Document, the Principal Document may not be waived or modified except by a written document that is signed by the Parties. Subject to the requirements of Applicable Law, a Party shall have the right to add, modify, or withdraw, its Tariff(s) at any time, without the consent of, or notice to, the other Party.

2. Term and Termination

- 2.1 This Agreement shall be effective as of the Effective Date and, unless cancelled or terminated earlier in accordance with the terms hereof, shall continue in effect until June 2, 2007 (the "Initial Term"). Thereafter, this Agreement shall continue in force and effect unless and until cancelled or terminated as provided in this Agreement.
- 2.2 Either ATI or Verizon may terminate this Agreement effective upon the expiration of the Initial Term or effective upon any date after expiration of the Initial Term by providing written notice of termination at least ninety (90) days in advance of the date of termination.
- 2.3 If either ATI or Verizon provides notice of termination pursuant to Section 2.2 and on or before the proposed date of termination either ATI or Verizon has requested negotiation of a new interconnection agreement, unless this Agreement is cancelled or terminated earlier in accordance with the terms hereof (including, but not limited to, pursuant to Section 12), this Agreement shall remain in effect until the earlier of: (a) the effective date of a new interconnection agreement between ATI and Verizon; or, (b) the date one (1) year after the proposed date of termination.
- 2.4 If either ATI or Verizon provides notice of termination pursuant to Section 2.2 and by 11:59 PM Eastern Time on the proposed date of termination neither ATI nor Verizon has requested negotiation of a new interconnection agreement, (a) this Agreement will terminate at 11:59 PM Eastern Time on the proposed date of termination, and (b) the Services being provided under this Agreement at the time of termination will be terminated, except to the extent that the Purchasing Party has requested that such Services continue to be provided pursuant to an applicable Tariff or Statement of Generally Available Terms (SGAT).

3. Glossary and Attachments

The Glossary and the following Attachments are a part of this Agreement:

- Additional Services Attachment
- Interconnection Attachment
- Resale Attachment
- Network Elements Attachment
- Collocation Attachment
- 911 Attachment
- Pricing Attachment

4. Applicable Law

- 4.1 The construction, interpretation and performance of this Agreement shall be governed by (a) the laws of the United States of America and (b) the laws of the Commonwealth of Pennsylvania, without regard to its conflicts of laws rules. All

disputes relating to this Agreement shall be resolved through the application of such laws.

- 4.2 Each Party shall remain in compliance with Applicable Law in the course of performing this Agreement.
- 4.3 Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.
- 4.4 Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects, the notifying Party's ability to perform its obligations under this Agreement.
- 4.5 If any provision of this Agreement shall be invalid or unenforceable under Applicable Law, such invalidity or unenforceability shall not invalidate or render *unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision*; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 4.6 If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law. If within thirty (30) days of the effective date of such decision, determination, action or change, the Parties are unable to agree in writing upon mutually acceptable revisions to this Agreement, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction, without first pursuing dispute resolution in accordance with Section 14 of this Agreement.
- 4.7 Notwithstanding anything in this Agreement to the contrary, if, as a result of any legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or benefit, otherwise required to be provided to ATI hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit, and ATI shall reimburse Verizon for any payment previously made by Verizon to ATI that was not required by Applicable Law. Verizon will provide thirty (30) days prior written notice to ATI of any such *discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply.*

5. Assignment

Neither Party may assign this Agreement or any right or interest under this Agreement, nor delegate any obligation under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment or delegation in violation of this Section 5 shall be void and ineffective and constitute default of this Agreement.

6. Assurance of Payment

- 6.1 Upon request by Verizon, ATI shall, at any time and from time to time, provide to Verizon adequate assurance of payment of amounts due (or to become due) to Verizon hereunder.
- 6.2 Assurance of payment of charges may be requested by Verizon if ATI (a) prior to the Effective Date, has failed to timely pay a bill rendered to ATI by Verizon or its Affiliates, (b) on or after the Effective Date, fails to timely pay a bill rendered to ATI by Verizon or its Affiliates, (c) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy, or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.
- 6.3 *Unless otherwise agreed by the Parties, the assurance of payment shall consist of an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon. The letter of credit shall be in an amount equal to two (2) months anticipated charges (including, but not limited to, both recurring and non-recurring charges), as reasonably determined by Verizon, for the Services to be provided by Verizon to ATI in connection with this Agreement. If ATI meets the condition in subsection 6.2(d) above or has failed to timely pay two or more bills rendered by Verizon or a Verizon Affiliate in any twelve (12)-month period, Verizon may, at its option, demand (and ATI shall provide) additional assurance of payment, consisting of monthly advanced payments of estimated charges as reasonably determined by Verizon, with appropriate true-up against actual billed charges no more frequently than once per Calendar Quarter.*
- 6.4 [Intentionally Left Blank].
- 6.5 [Intentionally Left Blank].
- 6.6 Verizon may (but is not obligated to) draw on the letter of credit upon notice to ATI in respect of any amounts to be paid by ATI hereunder that are not paid within thirty (30) days of the date that payment of such amounts is required by this Agreement.
- 6.7 If Verizon draws on the letter of credit, upon request by Verizon, ATI shall provide a replacement or supplemental letter of credit conforming to the requirements of Section 6.3.
- 6.8 Notwithstanding anything else set forth in this Agreement, if Verizon makes a request for assurance of payment in accordance with the terms of this Section, then Verizon shall have no obligation thereafter to perform under this Agreement until such time as ATI has provided Verizon with such assurance of payment.

- 6.9 The fact that a letter of credit is requested by Verizon hereunder shall in no way relieve ATI from compliance with the requirements of this Agreement (including, but not limited to, any applicable Tariffs) as to advance payments and payment for Services, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of Services for nonpayment of any amounts payment of which is required by this Agreement.

7. Audits

- 7.1 Except as may be otherwise specifically provided in this Agreement, either Party ("Auditing Party") may audit the other Party's ("Audited Party") books, records, documents, facilities and systems for the purpose of evaluating the accuracy of the Audited Party's bills. Such audits may be performed once in each Calendar Year; provided, however, that audits may be conducted more frequently (but no more frequently than once in each Calendar Quarter) if the immediately preceding audit found previously uncorrected net inaccuracies in billing in favor of the Audited Party having an aggregate value of at least \$1,000,000.
- 7.2 The audit shall be performed by independent certified public accountants selected and paid by the Auditing Party. The accountants shall be reasonably acceptable to the Audited Party. Prior to commencing the audit, the accountants shall execute an agreement with the Audited Party in a form reasonably acceptable to the Audited Party that protects the confidentiality of the information disclosed by the Audited Party to the accountants. The audit shall take place at a time and place agreed upon by the Parties; provided, that the Auditing Party may require that the audit commence no later than sixty (60) days after the Auditing Party has given notice of the audit to the Audited Party.
- 7.3 Each Party shall cooperate fully in any such audit, providing reasonable access to any and all employees, books, records, documents, facilities and systems, reasonably necessary to assess the accuracy of the Audited Party's bills.
- 7.4 Audits shall be performed at the Auditing Party's expense, provided that there shall be no charge for reasonable access to the Audited Party's employees, books, records, documents, facilities and systems necessary to assess the accuracy of the Audited Party's bills.

8. Authorization

- 8.1 Verizon represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
- 8.2 ATI represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
- 8.3 ATI Certification.

Notwithstanding any other provision of this Agreement, Verizon shall have no obligation to perform under this Agreement until such time as ATI has obtained such FCC and Commission authorization as may be required by Applicable Law for conducting business in the Commonwealth of Pennsylvania. ATI shall not place any Orders under this Agreement until it has obtained such authorization. ATI shall provide proof of such authorization to Verizon upon request.

9. Billing and Payment; Disputed Amounts

- 9.1 Except as otherwise provided in this Agreement, each Party shall submit to the other Party on a monthly basis in an itemized form, statement(s) of charges incurred by the other Party under this Agreement.
- 9.2 Except as otherwise provided in this Agreement, payment of amounts billed for Services provided under this Agreement, whether billed on a monthly basis or as otherwise provided in this Agreement, shall be due, in immediately available U.S. funds, on the later of the following dates (the "Due Date"): (a) the due date specified on the billing Party's statement; or (b) twenty (20) days after the date the statement is received by the billed Party. Payments shall be transmitted by electronic funds transfer.
- 9.3 If any portion of an amount billed by a Party under this Agreement is subject to a good faith dispute between the Parties, the billed Party shall give notice to the billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. A Party may also dispute prospectively with a single notice a class of charges that it disputes. Notice of a dispute may be given by a Party at any time, either before or after an amount is paid, and a Party's payment of an amount shall not constitute a waiver of such Party's right to subsequently dispute its obligation to pay such amount or to seek a refund of any amount paid. The billed Party shall pay by the Due Date all undisputed amounts. Billing disputes shall be subject to the terms of Section 14, Dispute Resolution.
- 9.4 Charges due to the billing Party that are not paid by the Due Date, shall be subject to a late payment charge. The late payment charge shall be in an amount specified by the billing Party which shall not exceed a rate of one-and-one-half percent (1.5%) of the overdue amount (including any unpaid previously billed late payment charges) per month.
- 9.5 Although it is the intent of both Parties to submit timely statements of charges, failure by either Party to present statements to the other Party in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges, by the billing Party under this Agreement, and, except for assertion of a provision of Applicable Law that limits the period in which a suit or other proceeding can be brought before a court or other governmental entity of appropriate jurisdiction to collect amounts due, the billed Party shall not be entitled to dispute the billing Party's statement(s) based on the billing Party's failure to submit them in a timely fashion.

10. Confidentiality

- 10.1 As used in this Section 10, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:
- 10.1.1 Books, records, documents and other information disclosed in an audit pursuant to Section 7;
- 10.1.2 Any forecasting information provided pursuant to this Agreement;
- 10.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service,

Caller ID or similar service, or LIDB service, or (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

- 10.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);
- 10.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary;" and
- 10.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential or "Proprietary".

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information which the other Party has identified as Confidential Information pursuant to Sections 10.1.5 or 10.1.6.

- 10.2 Except as otherwise provided in this Agreement, the Receiving Party shall:
 - 10.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and
 - 10.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 10 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 10.
- 10.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement, and (b) one copy for archival purposes only.
- 10.4 Unless otherwise agreed, the obligations of Sections 10.2 and 10.3 do not apply to information that:
 - 10.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;

- 10.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates;
 - 10.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;
 - 10.4.4 is independently developed by the Receiving Party;
 - 10.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or
 - 10.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.
- 10.5 Notwithstanding the provisions of Sections 10.1 through 10.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.
- 10.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.
- 10.7 The provisions of this Section 10 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.
- 10.8 Each Party's obligations under this Section 10 shall survive expiration, cancellation or termination of this Agreement.

11. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

12. Default

If either Party ("Defaulting Party") fails to make a payment required by this Agreement (including, but not limited to, any payment required by Section 9.3 of undisputed amounts

to the billing Party) or materially breaches any other material provision of this Agreement, and such failure or breach continues for thirty (30) days after written notice thereof from the other Party, the other Party may, by written notice to the Defaulting Party, (a) suspend the provision of any or all Services hereunder, or (b) cancel this Agreement and terminate the provision of all Services hereunder.

13. Discontinuance of Service by ATI

- 13.1 If ATI proposes to discontinue, or actually discontinues, its provision of service to all or substantially all of its Customers, whether voluntarily, as a result of bankruptcy, or for any other reason, ATI shall send written notice of such discontinuance to Verizon, the Commission, and each of ATI's Customers. ATI shall provide such notice such number of days in advance of discontinuance of its service as shall be required by Applicable Law. Unless the period for advance notice of discontinuance of service required by Applicable Law is more than thirty (30) days, to the extent commercially feasible, ATI shall send such notice at least thirty (30) days prior to its discontinuance of service.
- 13.2 Such notice must advise each ATI Customer that unless action is taken by the ATI Customer to switch to a different carrier prior to ATI's proposed discontinuance of service, the ATI Customer will be without the service provided by ATI to the ATI Customer.
- 13.3 Should a ATI Customer subsequently become a Verizon Customer, ATI shall provide Verizon with all information necessary for Verizon to establish service for the ATI Customer, including, but not limited to, the ATI Customer's billed name, listed name, service address, and billing address, and the services being provided to the ATI Customer.
- 13.4 Nothing in this Section 13 shall limit Verizon's right to cancel or terminate this Agreement or suspend provision of Services under this Agreement.

14. Dispute Resolution

- 14.1 Except as otherwise provided in this Agreement, any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties. To initiate such negotiation, a Party must provide to the other Party written notice of the dispute that includes both a detailed description of the dispute or alleged nonperformance and the name of an individual who will serve as the initiating Party's representative in the negotiation. The other Party shall have ten Business Days to designate its own representative in the negotiation. The Parties' representatives shall meet at least once within 45 days after the date of the initiating Party's written notice in an attempt to reach a good faith resolution of the dispute. Upon agreement, the Parties' representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations.
- 14.2 If the Parties have been unable to resolve the dispute within 45 days of the date of the initiating Party's written notice, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction.

15. Force Majeure

- 15.1 Neither Party shall be responsible for any delay or failure in performance which results from causes beyond its reasonable control ("Force Majeure Events"), whether or not foreseeable by such Party. Such Force Majeure Events include, but are not limited to, adverse weather conditions, flood, fire, explosion, earthquake, volcanic action, power failure, embargo, boycott, war, revolution, civil commotion, act of public enemies, labor unrest (including, but not limited to, strikes, work stoppages, slowdowns, picketing or boycotts), inability to obtain equipment, parts, software or repairs thereof, acts or omissions of the other Party, and acts of God.
- 15.2 If a Force Majeure Event occurs, the non-performing Party shall give prompt notification of its inability to perform to the other Party. During the period that the non-performing Party is unable to perform, the other Party shall also be excused from performance of its obligations to the extent such obligations are reciprocal to, or depend upon, the performance of the non-performing Party that has been prevented by the Force Majeure Event. The non-performing Party shall use commercially reasonable efforts to avoid or remove the cause(s) of its non-performance and both Parties shall proceed to perform once the cause(s) are removed or cease.
- 15.3 Notwithstanding the provisions of Sections 15.1 and 15.2, in no case shall a Force Majeure Event excuse either Party from an obligation to pay money as required by this Agreement.
- 15.4 Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

16. Forecasts

In addition to any other forecasts required by this Agreement, upon request by Verizon, ATI shall provide to Verizon forecasts regarding the Services that ATI expects to purchase from Verizon, including, but not limited to, forecasts regarding the types and volumes of Services that ATI expects to purchase and the locations where such Services will be purchased.

17. Fraud

ATI assumes responsibility for all fraud associated with its Customers and accounts. Verizon shall bear no responsibility for, and shall have no obligation to investigate or make adjustments to ATI's account in cases of, fraud by ATI's Customers or other third parties.

18. Good Faith Performance

The Parties shall act in good faith in their performance of this Agreement. Except as otherwise expressly stated in this Agreement (including, but not limited to, where consent, approval, agreement or a similar action is stated to be within a Party's sole discretion), where consent, approval, mutual agreement or a similar action is required by any provision of this Agreement, such action shall not be unreasonably withheld, conditioned or delayed. If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Agreement, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

19. Headings

The headings used in the Principal Document are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of the Principal Document.

20. Indemnification

20.1 Each Party ("Indemnifying Party") shall indemnify, defend and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all Claims that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, Agents or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in connection with this Agreement.

20.2 Indemnification Process.

20.2.1 As used in this Section 20, "Indemnified Person" means a person whom an Indemnifying Party is obligated to indemnify, defend and/or hold harmless under Section 20.1.

20.2.2 An Indemnifying Party's obligations under Section 20.1 shall be conditioned upon the following:

20.2.3 The Indemnified Person: (a) shall give the Indemnifying Party notice of the Claim promptly after becoming aware thereof (including a statement of facts known to the Indemnified Person related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Person shall have the right to approve the Indemnifying Party's choice of legal counsel.

20.2.4 If the Indemnified Person fails to comply with Section 20.2.3 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Person with respect to such Claim under this Agreement.

20.2.5 Subject to 20.2.6 and 20.2.7, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

20.2.6 With respect to any Third Party Claim, the Indemnified Person shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could

affect the rights of the Indemnified Person. In so participating, the Indemnified Person shall be entitled to employ separate counsel for the defense at the Indemnified Person's expense. The Indemnified Person shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

- 20.2.7 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Person, the Indemnified Person shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Person against, the Third Party Claim for any amount in excess of such refused settlement or judgment.
- 20.2.8 The Indemnified Person shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.
- 20.2.9 The Indemnifying Party and the Indemnified Person shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.
- 20.3 Each Party agrees that it will not implead or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.
- 20.4 Each Party's obligations under this Section 20 shall survive expiration, cancellation or termination of this Agreement.

21. Insurance

- 21.1 ATI shall maintain during the term of this Agreement and for a period of two years thereafter all insurance and/or bonds required to satisfy its obligations under this Agreement (including, but not limited to, its obligations set forth in Section 20 hereof) and all insurance and/or bonds required by Applicable Law. The insurance and/or bonds shall be obtained from an insurer having an A.M. Best insurance rating of at least A-, financial size category VII or greater. At a minimum and without limiting the foregoing undertaking, ATI shall maintain the following insurance:
 - 21.1.1 Commercial General Liability Insurance, on an occurrence basis, including but not limited to, premises-operations, broad form property damage, products/completed operations, contractual liability, independent contractors, and personal injury, with limits of at least \$2,000,000 combined single limit for each occurrence.

- 21.1.2 Commercial Motor Vehicle Liability Insurance covering all owned, hired and non-owned vehicles, with limits of at least \$2,000,000 combined single limit for each occurrence.
 - 21.1.3 Excess Liability Insurance, in the umbrella form, with limits of at least \$10,000,000 combined single limit for each occurrence.
 - 21.1.4 Worker's Compensation Insurance as required by Applicable Law and Employer's Liability Insurance with limits of not less than \$2,000,000 per occurrence.
 - 21.1.5 All risk property insurance on a full replacement cost basis for all of ATI's real and personal property located at any collocation site or otherwise located on or in any Verizon premises (whether owned, leased or otherwise occupied by Verizon), facility, equipment or right-of-way.
- 21.2 Any deductibles, self-insured retentions or loss limits ("Retentions") for the foregoing insurance must be disclosed on the certificates of insurance to be provided to Verizon pursuant to Sections 21.4 and 21.5, and Verizon reserves the right to reject any such Retentions in its reasonable discretion. All Retentions shall be the responsibility of ATI.
- 21.3 ATI shall name Verizon and Verizon's Affiliates as additional insureds on the foregoing liability insurance.
- 21.4 ATI shall, within two (2) weeks of the Effective Date hereof at the time of each renewal of, or material change in, ATI 's insurance policies, and at such other times as Verizon may reasonably specify, furnish certificates or other proof of the foregoing insurance reasonably acceptable to Verizon. The certificates or other proof of the foregoing insurance shall be sent to: Director - Contract Performance & Administration, Verizon Wholesale Markets, 600 Hidden Ridge, HQEWMNOTICES, Irving, TX 75038.
- 21.5 ATI shall require its contractors, if any, that may enter upon the premises or access the facilities or equipment of Verizon or Verizon's affiliates to maintain insurance in accordance with Sections 21.1 through 21.3 and, if requested, to furnish Verizon certificates or other adequate proof of such insurance acceptable to Verizon in accordance with Section 21.4.
- 21.6 If ATI or ATI's contractors fail to maintain insurance as required in Sections 21.1 through 21.5, above, Verizon may (but shall not be obligated to) purchase such insurance and ATI shall reimburse Verizon for the cost of the insurance.
- 21.7 Certificates furnished by ATI or ATI's contractors shall contain a clause stating: "Verizon Pennsylvania Inc. shall be notified in writing at least thirty (30) days prior to cancellation of, or any material change in, the insurance."

22. Intellectual Property

- 22.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual

property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.

- 22.2 Except as stated in Section 22.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.
- 22.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.
- 22.4 ATI agrees that the Services provided by Verizon hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between Verizon and Verizon's vendors. Verizon agrees to advise ATI, directly or through a third party, of any such terms, conditions or restrictions that may limit any ATI use of a Service provided by Verizon that is otherwise permitted by this Agreement. At ATI's written request, to the extent required by Applicable Law, Verizon will use Verizon's best efforts, as commercially practicable, to obtain intellectual property rights from Verizon's vendor to allow ATI to use the Service in the same manner as Verizon that are coextensive with Verizon's intellectual property rights, on terms and conditions that are equal in quality to the terms and conditions under which Verizon has obtained Verizon's intellectual property rights. ATI shall reimburse Verizon for the cost of obtaining such rights.

23. Joint Work Product

The Principal Document is the joint work product of the Parties, has been negotiated by the Parties, and shall be fairly interpreted in accordance with its terms. In the event of any ambiguities, no inferences shall be drawn against either Party.

24. Law Enforcement

- 24.1 Each Party may cooperate with law enforcement authorities and national security authorities to the full extent required or permitted by Applicable Law in matters related to Services provided by it under this Agreement, including, but not limited to, the production of records, the establishment of new lines or the installation of new services on an existing line in order to support law enforcement and/or national security operations, and, the installation of wiretaps, trap-and-trace facilities and equipment, and dialed number recording facilities and equipment.

- 24.2 A Party shall not have the obligation to inform the other Party or the Customers of the other Party of actions taken in cooperating with law enforcement or national security authorities, except to the extent required by Applicable Law.
- 24.3 Where a law enforcement or national security request relates to the establishment of lines (including, but not limited to, lines established to support interception of communications on other lines), or the installation of other services, facilities or arrangements, a Party may act to prevent the other Party from obtaining access to information concerning such lines, services, facilities and arrangements, through operations support system interfaces.

25. Liability

- 25.1 As used in this Section 25, "Service Failure" means a failure to comply with a direction to install, restore or terminate Services under this Agreement, a failure to provide Services under this Agreement, and failures, mistakes, omissions, interruptions, delays, errors, defects or the like, occurring in the course of the provision of any Services under this Agreement.
- 25.2 Except as otherwise stated in Section 25.5, the liability, if any, of a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, to the other Party, the other Party's Customers, and to any other person, for Claims arising out of a Service Failure shall not exceed an amount equal to the pro rata applicable monthly charge for the Services that are subject to the Service Failure for the period in which such Service Failure occurs.
- 25.3 Except as otherwise stated in Section 25.5, a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, shall not be liable to the other Party, the other Party's Customers, or to any other person, in connection with this Agreement (including, but not limited to, in connection with a Service Failure or any breach, delay or failure in performance, of this Agreement) for special, indirect, incidental, consequential, reliance, exemplary, punitive, or like damages, including, but not limited to, damages for lost revenues, profits or savings, or other commercial or economic loss, even if the person whose liability is excluded by this Section has been advised of the possibility of such damages.
- 25.4 The limitations and exclusions of liability stated in Sections 25.1 through 25.3 shall apply regardless of the form of a claim or action, whether statutory, in contract, warranty, strict liability, tort (including, but not limited to, negligence of a Party), or otherwise.
- 25.5 Nothing contained in Sections 25.1 through 25.4 shall exclude or limit liability:
- 25.5.1 under Sections 20, Indemnification, or 41, Taxes.
 - 25.5.2 for any obligation to indemnify, defend and/or hold harmless that a Party may have under this Agreement.
 - 25.5.3 for damages arising out of or resulting from bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, or Toxic or Hazardous Substances, to the extent such damages are otherwise recoverable under Applicable Law;
 - 25.5.4 for a claim for infringement of any patent, copyright, trade name, trade mark, service mark, or other intellectual property interest;

25.5.5 under Section 258 of the Act or any order of FCC or the Commission implementing Section 258; or

25.5.6 under the financial incentive or remedy provisions of any service quality plan required by the FCC or the Commission.

25.6 In the event that the liability of a Party, a Party's Affiliate, or a director, officer or employee of a Party or a Party's Affiliate, is limited and/or excluded under both this Section 25 and a provision of an applicable Tariff, the liability of the Party or other person shall be limited to the smaller of the amounts for which such Party or other person would be liable under this Section or the Tariff provision.

25.7 Each Party shall, in its tariffs and other contracts with its Customers, provide that in no case shall the other Party, the other Party's Affiliates, or the directors, officers or employees of the other Party or the other Party's Affiliates, be liable to such Customers or other third-persons for any special, indirect, incidental, consequential, reliance, exemplary, punitive or other damages, arising out of a Service Failure.

26. Network Management

26.1 Cooperation. The Parties will work cooperatively in a commercially reasonable manner to install and maintain a reliable network. ATI and Verizon will exchange appropriate information (e.g., network information, maintenance contact numbers, escalation procedures, and information required to comply with requirements of law enforcement and national security agencies) to achieve this *desired reliability*. In addition, the Parties will work cooperatively in a commercially reasonable manner to apply sound network management principles to alleviate or to prevent traffic congestion and subject to Section 17, to minimize fraud associated with third number billed calls, calling card calls, and other services related to this Agreement.

26.2 Responsibility for Following Standards. Each Party recognizes a responsibility to follow the standards that may be agreed to between the Parties and to employ characteristics and methods of operation that will not interfere with or impair the service, network or facilities of the other Party or any third parties connected with or involved directly in the network or facilities of the other.

26.3 Interference or Impairment. If a Party ("Impaired Party") reasonably determines that the services, network, facilities, or methods of operation, of the other Party ("Interfering Party") will or are likely to interfere with or impair the Impaired Party's provision of services or the operation of the Impaired Party's network or facilities, the Impaired Party may interrupt or suspend any Service provided to the Interfering Party to the extent necessary to prevent such interference or impairment, subject to the following:

26.3.1 Except in emergency situations (e.g., situations involving a risk of bodily injury to persons or damage to tangible property, or an interruption in Customer service) or as otherwise provided in this Agreement, the Impaired Party shall have given the Interfering Party at least ten (10) days' prior written notice of the interference or impairment or potential interference or impairment and the need to correct the condition within said time period; and taken other actions, if any, required by Applicable Law; and,

26.3.2 Upon correction of the interference or impairment, the Impaired Party will promptly restore the interrupted or suspended Service. The

Impaired Party shall not be obligated to provide an out-of-service credit allowance or other compensation to the Interfering Party in connection with the suspended Service.

26.4 Outage Repair Standard. In the event of an outage or trouble in any Service being provided by a Party hereunder, the Providing Party will follow Verizon's standard procedures for isolating and clearing the outage or trouble.

27. Non-Exclusive Remedies

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

28. Notice of Network Changes

If a Party makes a change in the information necessary for the transmission and routing of services using that Party's facilities or network, or any other change in its facilities or network that will materially affect the interoperability of its facilities or network with the other Party's facilities or network, the Party making the change shall publish notice of the change at least ninety (90) days in advance of such change, and shall use reasonable efforts, as commercially practicable, to publish such notice at least one hundred eighty (180) days in advance of the change; provided, however, that if an earlier publication of notice of a change is required by Applicable Law (including, but not limited to, 47 CFR 51.325 through 51.335) notice shall be given at the time required by Applicable Law.

29. Notices

29.1 Except as otherwise provided in this Agreement, notices given by one Party to the other Party under this Agreement:

29.1.1 shall be in writing;

29.1.2 shall be delivered (a) personally, (b) by express delivery service with next Business Day delivery, (c) by First Class, certified or registered U.S. mail, postage prepaid, or (d) by facsimile telecopy, with a copy delivered in accordance with (a), (b) or (c), preceding; and

29.1.3 shall be delivered to the following addresses of the Parties:

To ATI:

Terri K. Firestein
10806 Garrison Hollow Road
Clear Spring, MD 21722
Telephone Number: (301) 842-1437
Facsimile Number: (301) 842-1439
Internet Address: tfireccg@aol.com

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 North Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

or to such other address as either Party shall designate by proper notice.

Notices will be deemed given as of the earlier of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, (c) where the notice is sent via First Class U.S. Mail, three (3) Business Days after mailing, (d) where notice is sent via certified or registered U.S. mail, the date of receipt shown on the Postal Service receipt, and (e) where the notice is sent via facsimile telecopy, if the notice is sent on a *Business Day and before 5 PM. in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation.*

30. Ordering and Maintenance

ATI shall use Verizon's electronic Operations Support System access platforms to submit Orders and requests for maintenance and repair of Services, and to engage in other pre-ordering, ordering, provisioning, maintenance and repair transactions. If Verizon has not yet deployed an electronic capability for ATI to perform a pre-ordering, ordering, provisioning, maintenance or repair, transaction offered by Verizon, ATI shall use such other processes as Verizon has made available for performing such transaction (including, but not limited, to submission of Orders by telephonic facsimile transmission and placing trouble reports by voice telephone transmission).

31. Performance Standards

31.1 Verizon shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law, including, but not limited to, Section 251(c) of the Act.

31.2 ATI shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law.

32. Point of Contact for ATI Customers

32.1 ATI shall establish telephone numbers and mailing addresses at which ATI Customers may communicate with ATI and shall advise ATI Customers of these telephone numbers and mailing addresses.

- 32.2 Except as otherwise agreed to by Verizon, Verizon shall have no obligation, and may decline, to accept a communication from a ATI Customer, including, but not limited to, a ATI Customer request for repair or maintenance of a Verizon Service provided to ATI.

33. Predecessor Agreements

- 33.1 Except as stated in Section 33.2 or as otherwise agreed in writing by the Parties:

33.1.1 Further to the provisions of Section 1 of the General Terms and Conditions of this Agreement, any prior interconnection or resale agreement between the Parties for the Commonwealth of Pennsylvania pursuant to Section 252 of the Act and in effect prior to the Effective Date is hereby amended, extended and restated; and

33.1.2 any Services that were purchased by one Party from the other Party under a prior interconnection or resale agreement between the Parties for the Commonwealth of Pennsylvania pursuant to Section 252 of the Act and in effect prior to the Effective Date, shall as of the Effective Date be subject to and purchased under this Agreement.

- 33.2 Except as otherwise agreed in writing by the Parties, if a Service purchased by a Party under a prior interconnection or resale agreement between the Parties pursuant to Section 252 of the Act was subject to a contractual commitment that it would be purchased for a period of longer than one month, and such period had not yet expired as of the Effective Date and the Service had not been terminated prior to the Effective Date, to the extent not inconsistent with this Agreement, such commitment shall remain in effect and the Service will be purchased under this Agreement; provided, that if this Agreement would materially alter the terms of the commitment, either Party make elect to cancel the commitment.

- 33.3 If either Party elects to cancel the commitment pursuant to the proviso in Section 33.2, the Purchasing Party shall not be liable for any termination charge that would otherwise have applied. However, if the commitment was cancelled by the Purchasing Party, the Providing Party shall be entitled to payment from the Purchasing Party of the difference between the price of the Service that was actually paid by the Purchasing Party under the commitment and the price of the Service that would have applied if the commitment had been to purchase the Service only until the time that the commitment was cancelled.

34. Publicity and Use of Trademarks or Service Marks

- 34.1 A Party, its Affiliates, and their respective contractors and Agents, shall not use the other Party's trademarks, service marks, logos or other proprietary trade dress, in connection with the sale of products or services, or in any advertising, press releases, publicity matters or other promotional materials, unless the other Party has given its written consent for such use, which consent the other Party may grant or withhold in its sole discretion.
- 34.2 Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party.
- 34.3 Any violation of this Section 34 shall be considered a material breach of this Agreement.

35. References

- 35.1 All references to Sections, Appendices and Exhibits shall be deemed to be references to Sections, Appendices and Exhibits of this Agreement unless the context shall otherwise require.
- 35.2 *Unless the context shall otherwise require, any reference to a Tariff, agreement, technical or other document (including Verizon or third party guides, practices or handbooks), or provision of Applicable Law, is to such Tariff, agreement, document, or provision of Applicable Law, as amended and supplemented from time to time (and, in the case of a Tariff or provision of Applicable Law, to any successor Tariff or provision).*

36. Relationship of the Parties

- 36.1 The relationship of the Parties under this Agreement shall be that of independent contractors and nothing herein shall be construed as creating any other relationship between the Parties.
- 36.2 Nothing contained in this Agreement shall make either Party the employee of the other, create a partnership, joint venture, or other similar relationship between the Parties, or grant to either Party a franchise, distributorship or similar interest.
- 36.3 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or Agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.
- 36.4 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, Agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, Agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.
- 36.5 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.
- 36.6 The relationship of the Parties under this Agreement is a non-exclusive relationship.

37. Reservation of Rights

- 37.1 Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights: (a) to appeal or otherwise seek the reversal of and changes in any arbitration decision associated with this Agreement; (b) to challenge the lawfulness of this Agreement and any provision of this Agreement; (c) to seek changes in this Agreement (including, but not limited to, changes in rates, charges and the Services that must be offered) through changes in Applicable Law; (d) to challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the Commission, the FCC, or a court of applicable jurisdiction; and (e) to collect debts owed to it under any prior interconnection or resale agreements. Nothing in this Agreement shall be

deemed to limit or prejudice any position a Party has taken or may take before the Commission, the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section shall survive the expiration, cancellation or termination of this Agreement.

- 37.2 ATI acknowledges ATI has been advised by Verizon that it is Verizon's position that this Agreement contains certain provisions which are intended to reflect Applicable Law and Commission and/or FCC arbitration decisions.

38. Subcontractors

A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement; provided, that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

39. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the Parties and their respective legal successors and permitted assigns.

40. Survival

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information (including but not limited to, Section 10), indemnification or defense (including, but not limited to, Section 20), or limitation or exclusion of liability (including, but not limited to, Section 25), and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

41. Taxes

41.1 In General. With respect to any purchase hereunder of Services, if any federal, state or local tax, fee, surcharge or other tax-like charge (a "Tax") is required or permitted by Applicable Law or a Tariff to be collected from the Purchasing Party by the Providing Party, then (a) the Providing Party shall properly bill the Purchasing Party for such Tax, (b) the Purchasing Party shall timely remit such Tax to the Providing Party and (c) the Providing Party shall timely remit such collected Tax to the applicable taxing authority.

41.2 Taxes Imposed on the Providing Party. With respect to any purchase hereunder of Services, if any federal, state or local Tax is imposed by Applicable Law on the receipts of the Providing Party, and such Applicable Law permits the Providing Party to exclude certain receipts received from sales for resale to a public utility, distributor, telephone company, local exchange carrier, telecommunications company or other communications company ("Telecommunications Company"), such exclusion being based solely on the fact that the Purchasing Party is also subject to a tax based upon receipts ("Receipts Tax"), then the Purchasing Party (a) shall provide the Providing Party with notice in writing in accordance with Section 41.6 of this Agreement of its intent to pay the Receipts Tax and (b) shall timely pay the Receipts Tax to the applicable tax authority.

- 41.3 Taxes Imposed on Customers. With respect to any purchase hereunder of Services that are resold to a third party, if any federal, state or local Tax is imposed by Applicable Law on the subscriber, end-user, Customer or ultimate consumer ("Subscriber") in connection with any such purchase, which a *Telecommunications Company is required to impose and/or collect from a Subscriber*, then the Purchasing Party (a) shall be required to impose and/or collect such Tax from the Subscriber and (b) shall timely remit such Tax to the applicable taxing authority.
- 41.4 Liability for Uncollected Tax, Interest and Penalty. If the Providing Party has not received an exemption certificate from the Purchasing Party and the Providing Party fails to bill the Purchasing Party for any Tax as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, (a) the Purchasing Party shall remain liable for such unbilled Tax and (b) the Providing Party shall be liable for any interest assessed thereon and any penalty assessed with respect to such unbilled Tax by such authority. If the Providing Party properly bills the Purchasing Party for any Tax but the Purchasing Party fails to remit such Tax to the Providing Party as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Providing Party does not collect any Tax as required by Section 41.1 because the Purchasing Party has provided such Providing Party with an exemption certificate that is later found to be inadequate by a taxing authority, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Purchasing Party fails to pay the Receipts Tax as required by Section 41.2, then, as between the Providing Party and the Purchasing Party, (x) the Providing Party shall be liable for any Tax imposed on its receipts and (y) the Purchasing Party shall be liable for any interest assessed thereon and any penalty assessed upon the Providing Party with respect to such Tax by such authority. If the Purchasing Party fails to impose and/or collect any Tax from Subscribers as required by Section 41.3, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall remain liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. With respect to any Tax that the Purchasing Party has agreed to pay, or is required to impose on and/or collect from Subscribers, the Purchasing Party agrees to indemnify and hold the Providing Party harmless on an after-tax basis for any costs incurred by the Providing Party as a result of actions taken by the applicable taxing authority to recover the Tax from the Providing Party due to the failure of the Purchasing Party to timely pay, or collect and timely remit, such Tax to such authority. In the event either Party is audited by a taxing authority, the other Party agrees to cooperate fully with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 41.5 Tax Exemptions and Exemption Certificates. If Applicable Law clearly exempts a purchase hereunder from a Tax, and if such Applicable Law also provides an exemption procedure, such as an exemption-certificate requirement, then, if the Purchasing Party complies with such procedure, the Providing Party shall not collect such Tax during the effective period of such exemption. Such exemption shall be effective upon receipt of the exemption certificate or affidavit in accordance with the terms set forth in Section 41.6. If Applicable Law clearly

exempts a purchase hereunder from a Tax, but does not also provide an exemption procedure, then the Providing Party shall not collect such Tax if the Purchasing Party (a) furnishes the Providing Party with a letter signed by an officer requesting such an exemption and citing the provision in the Applicable Law which clearly allows such exemption and (b) supplies the Providing Party with an indemnification agreement, reasonably acceptable to the Providing Party (e.g., an agreement commonly used in the industry), which holds the Providing Party harmless on an after-tax basis with respect to its forbearing to collect such Tax.

- 41.6 All notices, affidavits, exemption-certificates or other communications required or permitted to be given by either Party to the other, for purposes of this Section 41, shall be made in writing and shall be delivered in person or sent by certified mail, return receipt requested, or registered mail, or a courier service providing proof of service, and sent to the addressees set forth in Section 29 as well as to the following:

To Verizon:

Tax Administration
Verizon Communications
1095 Avenue of the Americas
Room 3109
New York, NY 10036

To ATI:

Barbara Drenzo
One Armstrong Place
Butler, Pennsylvania 16001

Either Party may from time to time designate another address or other addressees by giving notice in accordance with the terms of this Section. Any notice or other communication shall be deemed to be given when received.

42. Technology Upgrades

Notwithstanding any other provision of this Agreement, Verizon shall have the right to deploy, upgrade, migrate and maintain its network at its discretion. The Parties acknowledge that Verizon, at its election, may deploy fiber throughout its network and that such fiber deployment may inhibit or facilitate ATI's ability to provide service using certain technologies. Nothing in this Agreement shall limit Verizon's ability to modify its network through the incorporation of new equipment or software or otherwise. ATI shall be solely responsible for the cost and activities associated with accommodating such changes in its own network.

43. Territory

- 43.1 This Agreement applies to the territory in which Verizon operates as an Incumbent Local Exchange Carrier in the Commonwealth of Pennsylvania. Verizon shall be obligated to provide Services under this Agreement only within this territory.
- 43.2 Notwithstanding any other provision of this Agreement, Verizon may terminate this Agreement as to a specific operating territory or portion thereof if Verizon sells or otherwise transfers its operations in such territory or portion thereof to a third-person. Verizon shall provide ATI with at least 90 calendar days prior written

notice of such termination, which shall be effective upon the date specified in the notice.

44. Third Party Beneficiaries

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third-persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

45. 251 and 271 Requirements

The Parties agree that the performance of the terms of this Agreement will satisfy Verizon's obligations under Section 251 of the Act, and the requirements of the Checklist under Section 271 of the Act.

46. 252(i) Obligations

To the extent required by Applicable Law, each Party shall comply with Section 252(i) of the Act. *To the extent that the exercise by ATI of any rights it may have under Section 252(i) results in the rearrangement of Services by Verizon, ATI shall be solely liable for all costs associated therewith, as well as for any termination charges associated with the termination of existing Verizon Services.*

47. Use of Service

Each Party shall make commercially reasonable efforts to ensure that its Customers comply with the provisions of this Agreement (including, but not limited to the provisions of applicable Tariffs) applicable to the use of Services purchased by it under this Agreement.

48. Waiver

A failure or delay of either Party to enforce any of the provisions of this Agreement, or any right or remedy available under this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement, shall in no way be construed to be a waiver of such provisions, rights, remedies or options.

49. Warranties

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, **WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE** WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

50. Withdrawal of Services

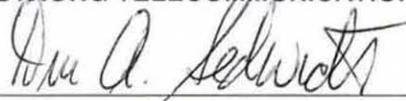
50.1 Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, Verizon may terminate its offering and/or provision of any Service under this Agreement upon thirty (30) days prior written notice to ATI.

50.2 Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, Verizon may with thirty (30) days prior written notice to ATI terminate any provision of this Agreement that provides for the payment by Verizon to ATI of compensation related to traffic, including, but not limited to, *Reciprocal Compensation and other types of compensation for termination of traffic delivered by Verizon to ATI*. Following such termination, except as otherwise agreed in writing by the Parties, Verizon shall be obligated to provide compensation to ATI related to traffic only to the extent required by Applicable Law. If Verizon exercises its right of termination under this Section, the Parties shall negotiate in good faith appropriate substitute provisions for compensation related to traffic; provided, however, that except as otherwise voluntarily agreed by Verizon in writing in its sole discretion, Verizon shall be obligated to provide compensation to ATI related to traffic only to the extent required by Applicable Law. If within thirty (30) days after Verizon's notice of termination the Parties are unable to agree in writing upon mutually acceptable substitute provisions for *compensation related to traffic*, either Party may submit their disagreement to dispute resolution in accordance with Section 14 of this Agreement.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

ARMSTRONG TELECOMMUNICATIONS, INC.

By: 

Printed: Dru A. Sedwick

Title: President

Date: 6/3/05

VERIZON PENNSYLVANIA INC.

By: 

Printed: John C. Peterson

Title: Director - Contract Performance and Administration

Date: 6/7/05

GLOSSARY

1. General Rule

- 1.1 The provisions of Sections 1.2 through 1.4 and Section 2 apply with regard to the Principal Document. Terms used in a Tariff shall have the meanings stated in the Tariff.
- 1.2 Unless the context clearly indicates otherwise, when a term listed in this Glossary is used in the Principal Document, the term shall have the meaning stated in this Glossary. A defined term intended to convey the meaning stated in this Glossary is capitalized when used. Other terms that are capitalized, and not defined in this Glossary or elsewhere in the Principal Document, shall have the meaning stated in the Act. Additional definitions that are specific to the matters covered in a particular provision of the Principal Document may appear in that provision. To the extent that there may be any conflict between a definition set forth in this Glossary and any definition in a specific provision, the definition set forth in the specific provision shall control with respect to that provision.
- 1.3 Unless the context clearly indicates otherwise, any term defined in this Glossary which is defined or used in the singular shall include the plural, and any term defined in this Glossary which is defined or used in the plural shall include the singular.
- 1.4 The words "shall" and "will" are used interchangeably throughout the Principal Document and the use of either indicates a mandatory requirement. The use of one or the other shall not confer a different degree of right or obligation for either Party.

2. Definitions

- 2.1 Act.
The Communications Act of 1934 (47 U.S.C. §151 et seq.), as from time to time amended (including, but not limited to, by the Telecommunications Act of 1996).
- 2.2 Advanced Services.
As a general matter, shall have the meaning set forth by the FCC.
- 2.3 Affiliate.
Shall have the meaning set forth in the Act.
- 2.4 Agent.
An agent or servant.
- 2.5 Agreement.
This Agreement, as defined in Section 1 of the General Terms and Conditions.
- 2.6 Ancillary Traffic.
All traffic that is destined for ancillary services, or that may have special billing

requirements, including but not limited to the following: Directory Assistance, 911/E911, Operator Services (IntraLATA call completion), IntraLATA third party, collect and calling card, 800/888 database query, LIDB, and Voice Information Services Traffic as described in Section 5 of the Additional Services Attachment.

2.7 ANI (Automatic Number Identification).

The signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.

2.8 Applicable Law.

All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.

2.9 ASR (Access Service Request).

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of interconnection.

2.10 BFR (Bona Fide Request).

The process described in the Network Element Attachment that prescribes the terms and conditions relating to a Party's request that the other Party provide a UNE that it is not otherwise required to provide under the terms of this Agreement.

2.11 Business Day.

Monday through Friday, except for holidays observed by Verizon.

2.12 Calendar Quarter.

January through March, April through June, July through September, or October through December.

2.13 Calendar Year.

January through December.

2.14 CCS (Common Channel Signaling).

A method of transmitting call set-up and network control data over a digital signaling network separate from the public switched telephone network facilities that carry the actual voice or data content of the call.

2.15 Central Office.

A local switching system for connecting lines to lines, lines to trunks, or trunks to trunks for the purpose of originating/terminating calls over the public switched telephone network. A single Central Office may handle several Central Office codes ("NXX"). Sometimes this term is used to refer to a telephone company building in which switching systems and telephone equipment are installed.

2.16 Central Office Switch.

A switch used to provide Telecommunications Services, including, but not limited to, an End Office Switch or a Tandem Switch. A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.

2.17 Claims.

Any and all claims, demands, suits, actions, settlements, judgments, fines, penalties, liabilities, injuries, damages, losses, costs (including, but not limited to, court costs), and expenses (including, but not limited to, reasonable attorney's fees).

2.18 CLEC (Competitive Local Exchange Carrier).

Any Local Exchange Carrier other than Verizon that is operating as a Local Exchange Carrier in the territory in which Verizon operates as an ILEC in the Commonwealth of Pennsylvania. ATI is or shortly will become a CLEC.

2.19 CLLI Codes.

Common Language Location Identifier Codes.

2.20 CMDS (Centralized Message Distribution System).

The billing record and clearing house transport system that LECs use to exchange out collects and in collects as well as Carrier Access Billing System (CABS) records.

2.21 Commission.

Pennsylvania Public Utility Commission.

2.22 CPN (Calling Party Number).

A CCS parameter that identifies the calling party's telephone number.

2.23 CPNI (Customer Proprietary Network Information).

Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. § 222.

2.24 Cross Connection.

For a collocation arrangement, the facilities between the collocating Party's equipment and the equipment or facilities of the housing Party (such as the housing Party's digital signal cross connect, Main Distribution Frame, or other suitable frame or panel).

2.25 Customer.

A third party residence or business end-user subscriber to Telephone Exchange Services provided by either of the Parties.

2.26 Dark Fiber IOF (Dark Fiber Interoffice Facility).

Consists of fiber strand(s) that are located within a fiber optic cable between either (a) accessible terminals in two or more Verizon Central Offices or (b) an accessible terminal in a Verizon Central Office and an accessible terminal in a ATI Central Office, but, in either case, that has not been activated through

connection to multiplexing, aggregation or other electronics that "light it" and thereby render it capable of carrying Telecommunications Services.

2.27 Dark Fiber Loop.

Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon Wire Center, and Verizon's accessible terminal located in Verizon's main termination point at a Customer premises, such as a fiber patch panel, and that has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

2.28 Dark Fiber Sub-Loop.

Consists of fiber optic strand(s) in a Verizon fiber optic cable (a) between Verizon's accessible terminal located within a Verizon Wire Center, and Verizon's accessible terminal at a Verizon remote terminal equipment enclosure, (b) between Verizon's accessible terminal at a Verizon remote terminal equipment enclosure and Verizon's accessible terminal located in Verizon's main termination point located within a Customer premises, or (c) between Verizon's accessible terminals at Verizon remote terminal equipment enclosures, and that in all cases has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

2.29 Digital Signal Level.

One of several transmission rates in the time-division multiplex hierarchy.

2.30 DS0 (Digital Signal Level 0).

The 64kbps zero-level signal in the time-division multiplex hierarchy.

2.31 DS1 (Digital Signal Level 1).

The 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

2.32 DS3 (Digital Signal Level 3).

The 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

2.33 EMI (Exchange Message Interface).

Standard used for the interexchange of telecommunications message information between local exchange carriers and interexchange carriers for billable, non-billable, sample, settlement and study data. Data is provided between companies via a unique record layout that contains Customer billing information, account summary and tracking analysis. EMI format is contained in document SR-320 published by the Alliance for Telecom Industry Solutions.

2.34 End Office Switch or End Office.

A switching entity that is used to terminate Customer station Loops for the purpose of interconnection to each other and to trunks.

2.35 Entrance Facility.

The facilities between a Party's designated premises and the Central Office serving that designated premises.

2.36 Exchange Access.

Shall have the meaning set forth in the Act.

2.37 Extended Local Calling Scope Arrangement.

An arrangement that provides a Customer a local calling scope (Extended Area Service, "EAS"), outside of the Customer's basic exchange serving area. Extended Local Calling Scope Arrangements may be either optional or non-optional. "Optional Extended Local Calling Scope Arrangement Traffic" is traffic that under an optional Extended Local Calling Scope Arrangement chosen by the Customer terminates outside of the Customer's basic exchange serving area.

2.38 FCC.

The Federal Communications Commission.

2.39 FCC Internet Order.

Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68, (adopted April 18, 2001).

2.40 FCC Regulations.

The unstayed, effective regulations promulgated by the FCC, as amended from time to time.

2.41 House and Riser Cable.

A two-wire metallic distribution facility in Verizon's network between the minimum point of entry for a building where a premises of a Customer is located (such a point, an "MPOE") and the Rate Demarcation Point for such facility (or NID) if the NID is located at such Rate Demarcation Point).

2.42 IDLC (Integrated Digital Loop Carrier).

A subscriber Loop carrier system that integrates within the switch at a DS1 level, which is twenty-four (24) Loop transmission paths combined into a 1.544 Mbps digital signal.

2.43 ILEC (Incumbent Local Exchange Carrier).

Shall have the meaning stated in the Act.

2.44 Information Access.

The provision of specialized exchange telecommunications services in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services, including a provider of Internet access or Internet transmission services.

- 2.45 Inside Wire or Inside Wiring.
All wire, cable, terminals, hardware, and other equipment or materials, on the Customer's side of the Rate Demarcation Point.
- 2.46 Internet Traffic.
Any traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission.
- 2.47 InterLATA Service.
Shall have the meaning set forth in the Act.
- 2.48 IntraLATA.
Telecommunications that originate and terminate within the same LATA.
- 2.49 [Intentionally Left Blank].
- 2.50 ISDN (Integrated Services Digital Network).
A switched network service providing end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for digital transmission of two (2) 64 kbps bearer channels and one (1) 16 kbps data and signaling channel (2B+D). Primary Rate Interface-ISDN (PRI-ISDN) provides for digital transmission of twenty-three (23) 64 kbps bearer channels and one (1) 64 kbps data and signaling channel (23B+D).
- 2.51 IXC (Interexchange Carrier).
A Telecommunications Carrier that provides, directly or indirectly, InterLATA or IntraLATA Telephone Toll Services.
- 2.52 LATA (Local Access and Transport Area).
Shall have the meaning set forth in the Act.
- 2.53 LEC (Local Exchange Carrier).
Shall have the meaning set forth in the Act.
- 2.54 LERG (Local Exchange Routing Guide).
A Telcordia Technologies reference containing NPA/NXX routing and homing information.
- 2.55 LIDB (Line Information Data Base).
Line Information databases which provide, among other things, calling card validation functionality for telephone line number cards issued by Verizon and other entities and validation data for collect and third number-billed calls (e.g., data for billed number screening).
- 2.56 Line Side.
An End Office Switch connection that provides transmission, switching and

optional features suitable for Customer connection to the public switched network, including loop start supervision, ground start supervision and signaling for BRI-ISDN service.

2.57 Loop.

A transmission path that extends from a Main Distribution Frame or functionally comparable piece of equipment in a Customer's serving End Office, to the Rate Demarcation Point (or NID if installed at the Rate Demarcation Point) in or at the Customer's premises. The actual transmission facilities used to provide a Loop may utilize any of several technologies.

2.58 LSR (Local Service Request).

An industry standard form, which contains data elements and usage rules, used by the Parties to establish, add, change or disconnect resold Telecommunications Services and Network Elements.

2.59 MDF (Main Distribution Frame).

The primary point at which outside plant facilities terminate within a Wire Center, for interconnection to other Telecommunications facilities within the Wire Center. The distribution frame used to interconnect cable pairs and line trunk equipment terminating on a switching system.

2.60 Measured Internet Traffic.

Dial-up, switched Internet Traffic originated by a Customer of one Party on that Party's network at a point in a Verizon local calling area, and delivered to a Customer or an Internet Service Provider served by the other Party, on that other Party's network at a point in the same Verizon local calling area. Verizon local calling areas shall be as defined by Verizon. For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. Calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis, are not considered Measured Internet Traffic. For the avoidance of any doubt, Virtual Foreign Exchange Traffic (i.e., V/FX Traffic) (as defined in the Interconnection Attachment) does not constitute Measured Internet Traffic.

2.61 MECAB (Multiple Exchange Carrier Access Billing).

A document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an Exchange Access Service provided by two or more LECs, or by one LEC in two or more states, within a single LATA.

2.62 MECOD (Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface).

A document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for

Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR-ST5-002643, establishes methods for processing orders for Exchange Access Service that is to be provided by two or more LECs.

2.63 [Intentionally Left Blank].

2.64 NANP (North American Numbering Plan).

The system of telephone numbering employed in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean islands. The NANP format is a 10-digit number that consist of a 3-digit NPA Code (commonly referred to as the area code), followed by a 3-digit NXX code and 4 digit line number.

2.65 Network Element.

Shall have the meaning stated in the Act.

2.66 NID (Network Interface Device).

The Verizon provided interface terminating Verizon's Telecommunications network on the property where the Customer's service is located at a point determined by Verizon. The NID contains an FCC Part 68 registered jack from which Inside Wire may be connected to Verizon's network.

2.67 NPA (Numbering Plan Area).

Also sometimes referred to as an area code, is the first three-digit indicator of each 10-digit telephone number within the NANP. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized Telecommunications Service that may be provided across multiple geographic NPA areas. 500, 700, 800, 888 and 900 are examples of Non-Geographic NPAs.

2.68 NXX, NXX Code, Central Office Code or CO Code.

The three-digit switch entity indicator (i.e. the first three digits of a seven-digit telephone number).

2.69 Order.

An order or application to provide, change or terminate a Service (including, but not limited to, a commitment to purchase a stated number or minimum number of lines or other Services for a stated period or minimum period of time).

2.70 Originating Switched Access Detail Usage Data.

A category 1101XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.71 POI (Point of Interconnection).

The physical location where the Parties' respective facilities physically

interconnect for the purpose of mutually exchanging their traffic. As set forth in the Interconnection Attachment, a Point of Interconnection shall be at (i) a technically feasible point on Verizon's network in a LATA and/or (ii) a fiber meet point to which the Parties mutually agree under the terms of this Agreement. By way of example, a technically feasible Point of Interconnection on Verizon's network in a LATA would include an applicable Verizon Tandem Wire Center or Verizon End Office Wire Center but, notwithstanding any other provision of this Agreement or otherwise, would not include a ATI Wire Center, ATI switch or any portion of a transport facility provided by Verizon to ATI or another party between (x) a Verizon Wire Center or switch and (y) the Wire Center or switch of ATI or another party.

2.72 Port.

A line card (or equivalent) and associated peripheral equipment on an End Office Switch that interconnects individual Loops or individual Customer trunks with the switching components of an End Office Switch and the associated switching functionality in that End Office Switch. Each Port is typically associated with one (or more) telephone number(s) that serves as the Customer's network address. The Port is part of the provision of unbundled Local Switching Element.

2.73 Principal Document.

This document, including, but not limited to, the Title Page, the Table of Contents, the Preface, the General Terms and Conditions, the signature page, this Glossary, the Attachments, and the Appendices to the Attachments.

2.74 Providing Party.

A Party offering or providing a Service to the other Party under this Agreement.

2.75 Purchasing Party.

A Party requesting or receiving a Service from the other Party under this Agreement.

2.76 Rate Center Area.

The geographic area that has been identified by a given LEC as being associated with a particular NPA-NXX code assigned to the LEC for its provision of Telephone Exchange Services. The Rate Center Area is the exclusive geographic area that the LEC has identified as the area within which it will provide Telephone Exchange Services bearing the particular NPA-NXX designation associated with the specific Rate Center Area.

2.77 Rate Center Point.

A specific geographic point, defined by a V&H coordinate, located within the Rate Center Area and used to measure distance for the purpose of billing for distance-sensitive Telephone Exchange Services and Toll Traffic. Pursuant to Telcordia Practice BR-795-100-100, the Rate Center Point may be an End Office location, or a "LEC Consortium Point Of Interconnection."

2.78 Rate Demarcation Point.

The physical point in a Verizon provided network facility at which Verizon's

responsibility for maintaining that network facility ends and the Customer's responsibility for maintaining the remainder of the facility begins, as set forth in this Agreement, Verizon's applicable Tariffs, if any, or as otherwise prescribed under Applicable Law.

2.79 Reciprocal Compensation.

The arrangement for recovering, in accordance with Section 251(b)(5) of the Act, the FCC Internet Order, and other applicable FCC orders and FCC Regulations, costs incurred for the transport and termination of Reciprocal Compensation Traffic originating on one Party's network and terminating on the other Party's network (as set forth in Section 7 of the Interconnection Attachment).

2.80 Reciprocal Compensation Traffic.

Telecommunications traffic originated by a Customer of one Party on that Party's network and terminated to a Customer of the other Party on that other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access. The determination of whether Telecommunications traffic is Exchange Access or Information Access shall be based upon Verizon's local calling areas as defined by Verizon. Reciprocal Compensation Traffic does not include the following traffic (it being understood that certain traffic types will fall into more than one (1) of the categories below that do not constitute Reciprocal Compensation Traffic): (1) any Internet Traffic; (2) traffic that does not originate and terminate within the same Verizon local calling area as defined by Verizon, and based on the actual originating and terminating points of the complete end-to-end communication; (3) Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) Optional Extended Local Calling Scope Arrangement Traffic; (5) special access, private line, Frame Relay, ATM, or any other traffic that is not switched by the terminating Party; (6) Tandem Transit Traffic; (7) Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment); or, (8) Virtual Foreign Exchange Traffic (or V/FX Traffic) (as defined in the Interconnection Attachment). For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement.

2.81 Retail Prices.

The prices at which a Service is provided by Verizon at retail to subscribers who are not Telecommunications Carriers.

2.82 Routing Point.

A specific geographic point identified by a specific V&H coordinate. The Routing Point is used to route inbound traffic to specified NPA-NXXs. The Routing Point must be located within the LATA in which the corresponding NPA-NXX is located. However, the Routing Point associated with each NPA-NXX need not be the same as the corresponding Rate Center Point, nor must it be located *within the corresponding Rate Center Area, nor must there be a unique and separate Routing Point corresponding to each unique and separate Rate Center Area.*

2.83 Service.

Any Interconnection arrangement, Network Element, Telecommunications Service, collocation arrangement, or other service, facility or arrangement, offered by a Party under this Agreement.

2.84 SS7 (Signaling System 7).

The common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI). Verizon and ATI currently utilize this out-of-band signaling protocol.

2.85 Subsidiary.

A corporation or other person that is controlled by a Party.

2.86 Sub-Loop Distribution Facility.

A two-wire or four-wire metallic distribution facility in Verizon's network between a Verizon feeder distribution interface ("FDI") and the Rate Demarcation Point for such facility (or NID if the NID is located at such Rate Demarcation Point).

2.87 Sub-Loop Feeder Facility.

A DS1 or DS3 transmission path over a feeder facility in Verizon's network between a Verizon End Office and either a Verizon remote terminal equipment enclosure (an "RTEE") that subtends such End Office or a Verizon FDI that subtends the End Office.

2.88 Switched Exchange Access Service.

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Exchange Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 800 access, 888 access and 900 access.

2.89 Tandem Switch.

A switching entity that has billing and recording capabilities and is used to connect and switch trunk circuits between and among End Office Switches and between and among End Office Switches and carriers' aggregation points, points of termination, or points of presence, and to provide Switched Exchange Access Services.

2.90 Tariff.

2.90.1 Any applicable Federal or state tariff of a Party, as amended from time-to-time; or

2.90.2 Any standard agreement or other document, as amended from time-to-time, that sets forth the generally available terms, conditions and prices under which a Party offers a Service.

The term "Tariff" does not include any Verizon statement of generally available terms (SGAT) which has been approved or is pending approval by the Commission pursuant to Section 252(f) of the Act.

2.91 Telcordia Technologies.

Telcordia Technologies, Inc., formerly known as Bell Communications Research, Inc. (Bellcore).

2.92 Telecommunications Carrier.

Shall have the meaning set forth in the Act.

2.93 Telecommunications Services.

Shall have the meaning set forth in the Act.

2.94 Telephone Exchange Service.

Shall have the meaning set forth in the Act.

2.95 Terminating Switched Access Detail Usage Data.

A category 1101XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.96 Third Party Claim.

A Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party.

2.97 Toll Traffic.

Traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network and is not Reciprocal Compensation Traffic, Measured Internet Traffic, or Ancillary Traffic. Toll Traffic may be either "IntraLATA Toll Traffic" or "InterLATA Toll Traffic", depending on whether the originating and terminating points are within the same LATA.

2.98 Toxic or Hazardous Substance.

Any substance designated or defined as toxic or hazardous under any "Environmental Law" or that poses a risk to human health or safety, or the environment, and products and materials containing such substance. "Environmental Laws" means the Comprehensive Environmental Response, Compensation, and Liability Act, the Emergency Planning and Community Right-to-Know Act, the Water Pollution Control Act, the Air Pollution Control Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, the Occupational Safety and Health Act, and all other Federal, State or local laws or governmental regulations or requirements, that are similar to the above-referenced laws or that otherwise govern releases, chemicals, products, materials or wastes that may pose risks to human health or safety, or the environment, or that relate to the protection of wetlands or other natural resources.

2.99 Traffic Factor 1.

For traffic exchanged via Interconnection Trunks, a percentage calculated by dividing the number of minutes of interstate traffic (excluding Measured Internet Traffic) by the total number of minutes of interstate and intrastate traffic. ((Interstate Traffic Total Minutes of Use {excluding Measured Internet Traffic

Total Minutes of Use} ÷ {Interstate Traffic Total Minutes of Use + Intrastate Traffic Total Minutes of Use} x 100). Until the form of a Party's bills is updated to use the term "Traffic Factor 1," the term "Traffic Factor 1" may be referred to on the Party's bills and in billing related communications as "Percent Interstate Usage" or "PIU."

2.100 Traffic Factor 2.

For traffic exchanged via Interconnection Trunks, a percentage calculated by dividing the combined total number of minutes of Reciprocal Compensation Traffic and Measured Internet Traffic by the combined total number of minutes of intrastate traffic and Measured Internet Traffic. ($\frac{\{\text{Reciprocal Compensation Traffic Total Minutes of Use} + \text{Measured Internet Traffic Total Minutes of Use}\}}{\{\text{Intrastate Traffic Total Minutes of Use} + \text{Measured Internet Traffic Total Minutes of Use}\}} \times 100$). Until the form of a Party's bills is updated to use the term "Traffic Factor 2," the term "Traffic Factor 2" may be referred to on the Party's bills and in billing related communications as "Percent Local Usage" or "PLU."

2.101 Trunk Side.

A Central Office Switch connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, to another carrier's network. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.

2.102 UDLC (Universal Digital Loop Carrier).

UDLC arrangements consist of a Central Office Terminal and a Remote Terminal located in the outside plant or at a customer premises. The Central Office and the Remote Terminal units perform analog to digital conversions to allow the feeding facility to be digital. UDLC is deployed where the types of services to be provisioned by the systems cannot be integrated such as non-switched services and UNE Loops.

2.103 V and H Coordinates Method.

A method of computing airline miles between two points by utilizing an established formula that is based on the vertical and horizontal coordinates of the two points.

2.104 Voice Grade.

Either an analog signal of 300 to 3000 Hz or a digital signal of 56/64 kilobits per second. When referring to digital Voice Grade service (a 56-64 kbps channel), the terms "DS0" or "sub-DS1" may also be used.

2.105 Wire Center.

A building or portion thereof which serves as the premises for one or more Central Office Switches and related facilities.

2.106 xDSL.

As defined and offered in this Agreement. The small "x" before the letters DSL signifies reference to DSL as a generic transmission technology, as opposed to a

specific DSL "flavor."

ADDITIONAL SERVICES ATTACHMENT

1. Alternate Billed Calls

- 1.1 The Parties will engage in settlements of intraLATA intrastate alternate-billed calls (*e.g.*, collect, calling card, and third-party billed calls) originated or authorized by their respective Customers in accordance with an arrangement mutually agreed to by the Parties.

2. Dialing Parity - Section 251(b)(3)

Each Party shall provide the other Party with nondiscriminatory access to such services and information as are necessary to allow the other Party to implement local Dialing Parity in accordance with the requirements of Section 251(b)(3) of the Act.

3. Directory Assistance (DA) and Operator Services (OS)

- 3.1 Either Party may request that the other Party provide the requesting Party with nondiscriminatory access to the other Party's directory assistance services (DA), IntraLATA operator call completion services (OS), and/or directory assistance listings database. If either Party makes such a request, the Parties shall enter into a mutually acceptable written agreement for such access.
- 3.2 ATI shall arrange, at its own expense, the trunking and other facilities required to transport traffic to and from the designated DA and OS switch locations.

4. Directory Listing and Directory Distribution

To the extent required by Applicable Law, Verizon will provide directory services to ATI. Such services will be provided in accordance with the terms set forth herein.

4.1 Listing Information.

As used herein, "Listing Information" means a ATI Customer's primary name, address (including city, state and zip code), telephone number(s), the delivery address and number of directories to be delivered, and, in the case of a business Customer, the primary business heading under which the business Customer desires to be placed, and any other information Verizon deems necessary for the publication and delivery of directories.

4.2 Listing Information Supply.

ATI shall provide to Verizon on a regularly scheduled basis, at no charge, and in a format required by Verizon or by a mutually agreed upon industry standard (*e.g.*, Ordering and Billing Forum developed) all Listing Information and the service address for each ATI Customer whose service address location falls within the geographic area covered by the relevant Verizon directory. ATI shall also provide to Verizon on a daily basis: (a) information showing ATI Customers who have disconnected or terminated their service with ATI; and (b) delivery information for each non-listed or non-published ATI Customer to enable Verizon to perform its directory distribution responsibilities. Verizon shall promptly provide to ATI (normally within forty-eight (48) hours of receipt by Verizon, excluding non-business days) a query on any listing that is not acceptable.

4.3 Listing Inclusion and Distribution.

Verizon shall include each ATI Customer's primary listing in the appropriate alphabetical directory and, for business Customers, in the appropriate classified (Yellow Pages) directory in accordance with the directory configuration, scope and schedules determined by Verizon in its sole discretion, and shall provide initial distribution of such directories to such ATI Customers in the same manner it provides initial distribution of such directories to its own Customers. "Primary Listing" means a Customer's primary name, address, and telephone number. Listings of ATI's Customers shall be interfiled with listings of Verizon's Customers and the Customers of other LECs included in the Verizon directories. ATI shall pay Verizon's tariffed charges for additional, foreign, and other listings products (as documented in local Tariff) for ATI's Customers.

4.4 Verizon Information.

Upon request by ATI, Verizon shall make available to ATI the following information to the extent that Verizon provides such information to its own business offices: a directory list of relevant NXX codes, directory and Customer Guide close dates, and Yellow Pages headings. Verizon shall also make available to ATI, upon written request, a copy of Verizon's alphabetical listings standards and specifications handbook.

4.5 Confidentiality of Listing Information.

Verizon shall accord ATI Listing Information the same level of confidentiality that Verizon accords its own listing information, and shall use such Listing Information solely for the purpose of providing directory-related services; provided, however, that should Verizon elect to do so, it may use or license ATI Listing Information for directory publishing, direct marketing, or any other purpose for which Verizon uses or licenses its own listing information, so long as ATI Customers are not separately identified as such; and provided further that ATI may identify those of its Customers who request that their names not be sold for direct marketing purposes and Verizon shall honor such requests to the same extent that it does for its own Customers. *Verizon shall not be obligated to compensate ATI for Verizon's use or licensing of ATI Listing Information.*

4.6 Accuracy.

Both Parties shall use commercially reasonable efforts to ensure the accurate publication of ATI Customer listings. At ATI's request, Verizon shall provide ATI with a report of all ATI Customer listings in a reasonable timeframe prior to the service order close date for the applicable directory. Verizon shall process any corrections made by ATI with respect to its listings, provided such corrections are received prior to the close date of the particular directory.

4.7 Indemnification.

ATI shall adhere to all practices, standards, and ethical requirements established by Verizon with regard to listings. By providing Verizon with Listing Information, ATI warrants to Verizon that ATI has the right to provide such Listing Information to Verizon on behalf of its Customers. ATI shall make commercially reasonable efforts to ensure that any business or person to be listed is authorized and has the right (a) to provide the product or service offered, and (b) to use any personal or corporate name, trade name, trademark, service mark or language used in the listing. ATI agrees to release, defend, hold harmless and indemnify Verizon from and against any and all claims, losses, damages, suits, or other actions, or any liability whatsoever, suffered, made, instituted, or asserted by any person arising

out of Verizon's publication or dissemination of the Listing Information as provided by ATI hereunder.

4.8 Liability.

Verizon's liability to ATI in the event of a Verizon error in or omission of a ATI Customer listing shall not exceed the amount to which Verizon would be liable to its own Customer for such error or omission. ATI agrees to take all reasonable steps, including, but not limited to, entering into appropriate contractual provisions with its Customers, to ensure that its and Verizon's liability to ATI's Customers in the event of a Verizon error in or omission of a listing shall be subject to the same limitations of liability applicable between Verizon and its own Customers as set forth in Verizon's applicable Tariffs.

4.9 Service Information Pages.

Verizon shall include all ATI NXX codes associated with the geographic areas to which each directory pertains, to the extent it does so for Verizon's own NXX codes, in any lists of such codes that are contained in the general reference portion of each directory. ATI's NXX codes shall appear in such lists in the same manner as Verizon's NXX information. In addition, when ATI is authorized to, and is offering, local service to Customers located within the geographic area covered by a specific directory, at ATI's request, Verizon shall include, at no charge, in the "Customer Guide" or comparable section of the applicable alphabetical directories, ATI's critical contact information for ATI's installation, repair and Customer service, as provided by ATI. Such critical contact information shall appear alphabetically by local exchange carrier and in accordance with Verizon's generally applicable policies. ATI shall be responsible for providing the necessary information to Verizon by the applicable close date for each affected directory.

4.10 Directory Publication.

Nothing in this Agreement shall require Verizon to publish a directory where it would not otherwise do so.

4.11 Other Directory Services.

ATI acknowledges that if ATI desires directory services in addition to those described herein, such additional services must be obtained under separate agreement with Verizon's directory publishing company.

5. Voice Information Service Traffic

5.1 For purposes of this Section 5, (a) Voice Information Service means a service that provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public, and (b) Voice Information Service Traffic means intraLATA switched voice traffic, delivered to a Voice Information Service. Voice Information Service Traffic does not include any form of Internet Traffic. Voice Information Service Traffic also does not include 555 traffic or similar traffic with AIN service interfaces, which traffic shall be subject to separate arrangements between the Parties. Voice Information Service Traffic is not subject to Reciprocal Compensation charges under Section 7 of the Interconnection Attachment.

- 5.2 If a ATI Customer is served by resold Verizon dial tone line Telecommunications Service or a Verizon Local Switching UNE, to the extent reasonably feasible, Verizon will route Voice Information Service Traffic originating from such Service or UNE to the appropriate Voice Information Service connected to Verizon's network unless a feature blocking such Voice Information Service Traffic has been installed. For such Voice Information Service Traffic, ATI shall pay to Verizon without discount any Voice Information Service provider charges billed by Verizon to ATI. ATI shall pay Verizon such charges in full regardless of whether or not ATI collects such charges from its Customer.
- 5.3 ATI shall have the option to route Voice Information Service Traffic that originates on its own network to the appropriate Voice Information Service connected to Verizon's network. In the event ATI exercises such option, ATI will establish, at its own expense, a dedicated trunk group to the Verizon Voice Information Service serving switch. This trunk group will be utilized to allow ATI to route Voice Information Service Traffic originated on its network to Verizon. For such Voice Information Service Traffic, unless ATI has entered into a written agreement with Verizon under which ATI will collect from ATI's Customer and remit to Verizon the Voice Information Service provider's charges, ATI shall pay to Verizon without discount any Voice Information Service provider charges billed by Verizon to ATI. ATI shall pay Verizon such charges in full regardless of whether or not ATI collects such charges from its own Customer.

6. Intercept and Referral Announcements

- 6.1 When a Customer changes its service provider from Verizon to ATI, or from ATI to Verizon, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides the Customer's new number or other appropriate information, to the extent known to the Party formerly providing service. Notwithstanding the foregoing, a Party shall not be obligated under this Section to provide a Referral Announcement if the Customer owes the Party unpaid overdue amounts or the Customer requests that no Referral Announcement be provided.
- 6.2 Referral Announcements shall be provided, in the case of business Customers, for a period of not less than one hundred and twenty (120) days after the date the Customer changes its telephone number, and, in the case of residential Customers, not less than thirty (30) days after the date the Customer changes its telephone number; provided that if a longer time period is required by Applicable Law, such longer time period shall apply. Except as otherwise provided by Applicable Law, the period for a referral may be shortened by the Party formerly providing service if a number shortage condition requires reassignment of the telephone number.
- 6.3 This referral announcement will be provided by each Party at no charge to the other Party; provided that the Party formerly providing service may bill the Customer its standard Tariff charge, if any, for the referral announcement.

7. Originating Line Number Screening (OLNS)

Upon ATI's request, Verizon will update its database used to provide originating line number screening (the database of information which indicates to an operator the acceptable billing methods for calls originating from the calling number (e.g., penal institutions, COCOTS).

8. Operations Support Systems (OSS) Services

8.1 Definitions.

The terms listed below shall have the meanings stated below:

- 8.1.1 Verizon Operations Support Systems: Verizon systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing.
- 8.1.2 Verizon OSS Services: Access to Verizon Operations Support Systems functions. The term "Verizon OSS Services" includes, but is not limited to: (a) Verizon's provision of ATI Usage Information to ATI pursuant to Section 8.3 of this Attachment; and, (b) "Verizon OSS Information", as defined in Section 8.1.4 of this Attachment.
- 8.1.3 Verizon OSS Facilities: Any gateways, interfaces, databases, facilities, equipment, software, or systems, used by Verizon to provide Verizon OSS Services to ATI.
- 8.1.4 Verizon OSS Information: Any information accessed by, or disclosed or provided to, ATI through or as a part of Verizon OSS Services. The term "Verizon OSS Information" includes, but is not limited to: (a) any Customer Information related to a Verizon Customer or a ATI Customer accessed by, or disclosed or provided to, ATI through or as a part of Verizon OSS Services; and, (b) any ATI Usage Information (as defined in Section 8.1.6 of this Attachment) accessed by, or disclosed or provided to, ATI.
- 8.1.5 Verizon Retail Telecommunications Service: Any Telecommunications Service that Verizon provides at retail to subscribers that are not Telecommunications Carriers. The term "Verizon Retail Telecommunications Service" does not include any Exchange Access service (as defined in Section 3(16) of the Act, 47 U.S.C. § 153(16)) provided by Verizon.
- 8.1.6 ATI Usage Information: For a Verizon Retail Telecommunications Service purchased by ATI pursuant to the Resale Attachment, the usage information that Verizon would record if Verizon was furnishing such Verizon Retail Telecommunications Service to a Verizon end-user retail Customer. For a Verizon Local Switching Network Element purchased by ATI pursuant to the Network Element Attachment, the usage information that Verizon would record if Verizon was using such Local Switching Network Element to furnish a Verizon Retail Telecommunications Service to a Verizon end-user retail Customer.
- 8.1.7 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or the purchase by a Customer of the services or products of a Party.

8.2 Verizon OSS Services.

- 8.2.1 Upon request by ATI, Verizon shall provide to ATI Verizon OSS Services. Such Verizon OSS Services will be provided in accordance with, but only to the extent required by, Applicable Law.
- 8.2.2 Subject to the requirements of Applicable Law, Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services that will be offered by Verizon, shall be as determined

by Verizon. Subject to the requirements of Applicable Law, Verizon shall have the right to change Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services, from time-to-time, without the consent of ATI.

8.2.3 To the extent required by Applicable Law, in providing Verizon OSS Services to ATI, Verizon will comply with Verizon's applicable OSS Change Management Guidelines, as such Guidelines are modified from time-to-time, including, but not limited to, the provisions of the Guidelines related to furnishing notice of changes in Verizon OSS Services. Verizon's OSS Change Management Guidelines will be set out on a Verizon website.

8.3 ATI Usage Information.

8.3.1 Upon request by ATI, Verizon shall provide to ATI ATI Usage Information. Such ATI Usage Information will be provided in accordance with, but only to the extent required by, Applicable Law.

8.3.2 *ATI Usage Information will be available to ATI through the following:*

8.3.2.1 Daily Usage File on Data Tape.

8.3.2.2 Daily Usage File through Network Data Mover (NDM).

8.3.3 *ATI Usage Information will be provided in an Alliance for Telecommunications Industry Solutions EMI format.*

8.3.4 Daily Usage File Data Tapes provided pursuant to Section 8.3.2.1 of this Attachment will be issued each Business Day.

8.3.5 Except as stated in this Section 8.3, subject to the requirements of Applicable Law, the manner in which, and the frequency with which, ATI Usage Information will be provided to ATI shall be determined by Verizon.

8.4 Access to and Use of Verizon OSS Facilities.

8.4.1 Verizon OSS Facilities may be accessed and used by ATI only to the extent necessary for ATI's access to and use of Verizon OSS Services pursuant to this Agreement.

8.4.2 *Verizon OSS Facilities may be accessed and used by ATI only to provide Telecommunications Services to ATI Customers.*

8.4.3 ATI shall restrict access to and use of Verizon OSS Facilities to ATI. This Section 8 does not grant to ATI any right or license to grant sublicenses to other persons, or permission to other persons (except ATI's employees, agents and contractors, in accordance with Section 8.4.7 of this Attachment), to access or use Verizon OSS Facilities.

8.4.4 ATI shall not (a) alter, modify or damage the Verizon OSS Facilities (including, but not limited to, Verizon software), (b) copy, remove, derive, reverse engineer, or decompile, software from the Verizon OSS Facilities, or (c) obtain access through Verizon OSS Facilities to Verizon databases, facilities, equipment, software, or systems, which are not offered for ATI's use under this Section 8.

- 8.4.5 AT&T shall comply with all practices and procedures established by Verizon for access to and use of Verizon OSS Facilities (including, but not limited to, Verizon practices and procedures with regard to security and use of access and user identification codes).
- 8.4.6 All practices and procedures for access to and use of Verizon OSS Facilities, and all access and user identification codes for Verizon OSS Facilities: (a) shall remain the property of Verizon; (b) shall be used by AT&T only in connection with AT&T's use of Verizon OSS Facilities permitted by this Section 8; (c) shall be treated by AT&T as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions; and, (d) shall be destroyed or returned by AT&T to Verizon upon the earlier of request by Verizon or the expiration or termination of this Agreement.
- 8.4.7 AT&T's employees, agents and contractors may access and use Verizon OSS Facilities only to the extent necessary for AT&T's access to and use of the Verizon OSS Facilities permitted by this Agreement. Any access to or use of Verizon OSS Facilities by AT&T's employees, agents, or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.3.2 of this Attachment.

8.5 Verizon OSS Information.

- 8.5.1 Subject to the provisions of this Section 8, in accordance with, but only to the extent required by, Applicable Law, Verizon grants to AT&T a non-exclusive license to use Verizon OSS Information.
- 8.5.2 All Verizon OSS Information shall at all times remain the property of Verizon. Except as expressly stated in this Section 8, AT&T shall acquire no rights in or to any Verizon OSS Information.
- 8.5.3 The provisions of this Section 8.5.3 shall apply to all Verizon OSS Information, except (a) AT&T Usage Information, (b) CPNI of AT&T, and (c) CPNI of a Verizon Customer or a AT&T Customer, to the extent the Customer has authorized AT&T to use the CPNI.
 - 8.5.3.1 Verizon OSS Information may be accessed and used by AT&T only to provide Telecommunications Services to AT&T Customers.
 - 8.5.3.2 AT&T shall treat Verizon OSS Information that is designated by Verizon, through written or electronic notice (including, but not limited to, through the Verizon OSS Services), as "Confidential" or "Proprietary" as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions.
 - 8.5.3.3 Except as expressly stated in this Section 8, this Agreement does not grant to AT&T any right or license to grant sublicenses to other persons, or permission to other persons (except AT&T's employees, agents or contractors, in accordance with Section 8.5.3.4 of this Attachment), to access, use or disclose Verizon OSS Information.

- 8.5.3.4 ATI's employees, agents and contractors may access, use and disclose Verizon OSS Information only to the extent necessary for ATI's access to, and use and disclosure of, Verizon OSS Information permitted by this Section 8. Any access to, or use or disclosure of, Verizon OSS Information by ATI's employees, agents or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.3.2 of this Attachment.
 - 8.5.3.5 ATI's license to use Verizon OSS Information shall expire upon the earliest of: (a) the time when the Verizon OSS Information is no longer needed by ATI to provide Telecommunications Services to ATI Customers; (b) termination of the license in accordance with this Section 8; or (c) expiration or termination of this Agreement.
 - 8.5.3.6 All Verizon OSS Information received by ATI shall be destroyed or returned by ATI to Verizon, upon expiration, suspension or termination of the license to use such Verizon OSS Information.
- 8.5.4 Unless sooner terminated or suspended in accordance with this Agreement or this Section 8 (including, but not limited to, Section 2.2 of the General Terms and Conditions and Section 8.6.1 of this Attachment), ATI's access to Verizon OSS Information through Verizon OSS Services shall terminate upon the expiration or termination of this Agreement.
- 8.5.5 Audits.
- 8.5.5.1 Verizon shall have the right (but not the obligation) to audit ATI to ascertain whether ATI is complying with the requirements of Applicable Law and this Agreement with regard to ATI 's access to, and use and disclosure of, Verizon OSS Information.
 - 8.5.5.2 Without in any way limiting any other rights Verizon may have under this Agreement or Applicable Law, Verizon shall have the right (but not the obligation) to monitor ATI 's access to and use of Verizon OSS Information which is made available by Verizon to ATI pursuant to this Agreement, to ascertain whether ATI is complying with the requirements of Applicable Law and this Agreement, with regard to ATI 's access to, and use and disclosure of, such Verizon OSS Information. The foregoing right shall include, but not be limited to, the right (but not the obligation) to electronically monitor ATI 's access to and use of Verizon OSS Information which is made available by Verizon to ATI through Verizon OSS Facilities.
 - 8.5.5.3 Information obtained by Verizon pursuant to this Section 8.5.5 shall be treated by Verizon as Confidential Information of ATI pursuant to Section 10 of the General Terms and Conditions; provided that, Verizon shall have the right (but not the obligation) to use and disclose information obtained by Verizon pursuant to Section 8.5.5 of this Attachment to

enforce Verizon's rights under this Agreement or Applicable Law.

- 8.5.6 ATI acknowledges that the Verizon OSS Information, by its nature, is updated and corrected on a continuous basis by Verizon, and therefore that Verizon OSS Information is subject to change from time to time.

8.6 Liabilities and Remedies.

- 8.6.1 Any breach by ATI, or ATI's employees, agents or contractors, of the provisions of Sections 8.4 or 8.5 of this Attachment shall be deemed a material breach of this Agreement. In addition, if ATI or an employee, agent or contractor of ATI at any time breaches a provision of Sections 8.4 or 8.5 of this Attachment and such breach continues for more than ten (10) days after written notice thereof from Verizon, then, except as otherwise required by Applicable Law, Verizon shall have the right, upon notice to ATI, to suspend the license to use Verizon OSS Information granted by Section 8.5.1 of this Attachment and/or the provision of Verizon OSS Services, in whole or in part.

- 8.6.2 ATI agrees that Verizon would be irreparably injured by a breach of Sections 8.4 or 8.5 of this Attachment by ATI or the employees, agents or contractors of ATI, and that Verizon shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any such breach. Such remedies shall not be deemed to be the exclusive remedies for any such breach, but shall be in addition to any other remedies available under this Agreement or at law or in equity.

8.7 Relation to Applicable Law.

The provisions of Sections 8.4, 8.5 and 8.6 of this Attachment with regard to the confidentiality of information shall be in addition to and not in derogation of any provisions of Applicable Law with regard to the confidentiality of information, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by Verizon of any right with regard to protection of the confidentiality of the information of Verizon or Verizon Customers provided by Applicable Law.

8.8 Cooperation.

ATI, at ATI's expense, shall reasonably cooperate with Verizon in using Verizon OSS Services. Such cooperation shall include, but not be limited to, the following:

- 8.8.1 Upon request by Verizon, ATI shall by no later than the fifteenth (15th) day of the last month of each Calendar Quarter submit to Verizon reasonable, good faith estimates of the volume of each type of OSS transaction that ATI anticipates submitting in each week of the next Calendar Quarter.
- 8.8.2 ATI shall reasonably cooperate with Verizon in submitting orders for Verizon Services and otherwise using the Verizon OSS Services, in order to avoid exceeding the capacity or capabilities of such Verizon OSS Services.
- 8.8.3 ATI shall participate in cooperative testing of Verizon OSS Services and shall provide assistance to Verizon in identifying and correcting

mistakes, omissions, interruptions, delays, errors, defects, faults, failures, or other deficiencies, in Verizon OSS Services.

8.9 Verizon Access to Information Related to ATI Customers.

8.9.1 Verizon shall have the right to access, use and disclose information related to ATI Customers that is in Verizon's possession (including, but not limited to, in Verizon OSS Facilities) to the extent such access, use and/or disclosure has been authorized by the ATI Customer in the manner required by Applicable Law.

8.9.2 Upon request by Verizon, ATI shall negotiate in good faith and enter into a contract with Verizon, pursuant to which Verizon may obtain access to ATI's operations support systems (including, systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing) and information contained in such systems, to permit Verizon to obtain information related to ATI Customers (as authorized by the applicable ATI Customer), to permit Customers to transfer service from one Telecommunications Carrier to another, and for such other purposes as may be permitted by Applicable Law.

8.10 Verizon Pre-OSS Services.

8.10.1 As used in this Section 8, "Verizon Pre-OSS Service" means a service which allows the performance of an activity which is comparable to an activity to be performed through a Verizon OSS Service and which Verizon offers to provide to ATI prior to, or in lieu of, Verizon's provision of the Verizon OSS Service to ATI. The term "Verizon Pre-OSS Service" includes, but is not limited to, the activity of placing orders for Verizon Services through a telephone facsimile communication.

8.10.2 Subject to the requirements of Applicable Law, the Verizon Pre-OSS Services that will be offered by Verizon shall be as determined by Verizon and Verizon shall have the right to change Verizon Pre-OSS Services, from time-to-time, without the consent of ATI.

8.10.3 Subject to the requirements of Applicable Law, the rates for Verizon Pre-OSS Services shall be as determined by Verizon and shall be subject to change by Verizon from time to time.

8.10.4 The provisions of Sections 8.4 through 8.8 of this Attachment shall also apply to Verizon Pre-OSS Services. For the purposes of this Section 8.10: (a) references in Sections 8.4 through 8.8 of this Attachment to Verizon OSS Services shall be deemed to include Verizon Pre-OSS Services; and, (b) references in Sections 8.4 through 8.8 of this Attachment to Verizon OSS Information shall be deemed to include information made available to ATI through Verizon Pre-OSS Services.

8.11 Cancellations.

Verizon may cancel orders for service which have had no activity within thirty-one (31) consecutive calendar days after the original service due date.

9. Poles, Ducts, Conduits and Rights-of-Way

- 9.1 Verizon shall afford ATI non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by Verizon. Such access shall be provided in accordance with, but only to the extent required by, Applicable Law, pursuant to Verizon's applicable Tariffs, or, in the absence of an applicable Verizon Tariff, Verizon's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties.
- 9.2 ATI shall afford Verizon non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by ATI. Such access shall be provided pursuant to ATI's applicable Tariffs, or, in the absence of an applicable ATI Tariff, ATI's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties. The terms, conditions and prices offered to Verizon by ATI for such access shall be no less favorable than the terms, conditions and prices offered to ATI by Verizon for access to poles, ducts, conduits and rights of way owned or controlled by Verizon.

10. Telephone Numbers

- 10.1 This Section applies in connection with ATI Customers served by Telecommunications Services provided by Verizon to ATI for resale or a Local Switching Network Element provided by Verizon to ATI.
- 10.2 ATI's use of telephone numbers shall be subject to Applicable Law the rules of the North American Numbering Council and the North American Numbering Plan Administrator, the applicable provisions of this Agreement (including, but not limited to, this Section 10), and Verizon's practices and procedures for use and assignment of telephone numbers, as amended from time-to-time.
- 10.3 Subject to Sections 10.2 and 10.4 of this Attachment, if a Customer of either Verizon or ATI who is served by a Verizon Telecommunications Service ("VTS") or a Verizon Local Switching Network Element ("VLSNE") changes the LEC that serves the Customer using such VTS or VLSNE (including a change from Verizon to ATI, from ATI to Verizon, or from ATI to a LEC other than Verizon), after such change, the Customer may continue to use with such VTS or VLSNE the telephone numbers that were assigned to the VTS or VLSNE for the use of such Customer by Verizon immediately prior to the change.
- 10.4 Verizon shall have the right to change the telephone numbers used by a Customer if at any time: (a) the Customer requests service at a new location, that is not served by the Verizon switch and the Verizon rate center from which the Customer previously had service; (b) continued use of the telephone numbers is not technically feasible; or, (c) in the case of Telecommunications Service provided by Verizon to ATI for resale, the type or class of service subscribed to by the Customer changes.
- 10.5 If service on a VTS or VLSNE provided by Verizon to ATI under this Agreement is terminated and the telephone numbers associated with such VTS or VLSNE have not been ported to a ATI switch, the telephone numbers shall be available for reassignment by Verizon to any person to whom Verizon elects to assign the telephone numbers, including, but not limited to, Verizon, Verizon Customers, ATI, or Telecommunications Carriers other than Verizon and ATI.
- 10.6 ATI may reserve telephone numbers only to the extent Verizon's Customers may reserve telephone numbers.

11. Routing for Operator Services and Directory Assistance Traffic

For a Verizon Telecommunications Service dial tone line purchased by ATI for resale pursuant to the Resale Attachment, upon request by ATI, Verizon will establish an arrangement that will permit ATI to route the ATI Customer's calls for operator and directory assistance services to a provider of operator and directory assistance services selected by ATI. Verizon will provide this routing arrangement in accordance with, but only to the extent required by, Applicable Law. Verizon will provide this routing arrangement pursuant to an appropriate written request submitted by ATI and a mutually agreed-upon schedule. This routing arrangement will be implemented at ATI's expense, with charges determined on an individual case basis. In addition to charges for initially establishing the routing arrangement, ATI will be responsible for ongoing monthly and/or usage charges for the routing arrangement. ATI shall arrange, at its own expense, the trunking and other facilities required to transport traffic to ATI's selected provider of operator and directory assistance services.

12. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

INTERCONNECTION ATTACHMENT

1. General

Each Party shall provide to the other Party, in accordance with this Agreement, but only to the extent required by Applicable Law, interconnection at (i) any technically feasible Point(s) of Interconnection on Verizon's network in a LATA and/or (ii) a fiber meet point to which the Parties mutually agree under the terms of this Agreement, for the transmission and routing of Telephone Exchange Service and Exchange Access. By way of example, a technically feasible Point of Interconnection on Verizon's network in a LATA would include an applicable Verizon Tandem Wire Center or Verizon End Office Wire Center but, notwithstanding any other provision of this Agreement or otherwise, would not include a ATI Wire Center, ATI switch or any portion of a transport facility provided by Verizon to ATI or another party between (x) a Verizon Wire Center or switch and (y) the Wire Center or switch of ATI or another party. For brevity's sake, the foregoing examples of locations that, respectively, are and are not "on Verizon's network" shall apply (and are hereby incorporated by reference) each time the term "on Verizon's network" is used in this Agreement.

2. Points of Interconnection and Trunk Types

2.1 Point(s) of Interconnection.

- 2.1.1 Each Party, at its own expense, shall provide transport facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA selected by ATI.

2.2 Trunk Types.

- 2.2.1 In interconnecting their networks pursuant to this Attachment, the Parties will use, as appropriate, the following separate and distinct trunk groups:
 - 2.2.1.1 Interconnection Trunks for the transmission and routing of Reciprocal Compensation Traffic, translated LEC IntraLATA toll free service access code (e.g., 800/888/877) traffic, and IntraLATA Toll Traffic, between their respective Telephone Exchange Service Customers, Tandem Transit Traffic, and, Measured Internet Traffic, all in accordance with Sections 5 through 8 of this Attachment;
 - 2.2.1.2 Access Toll Connecting Trunks for the transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code (e.g., 800/888/877) traffic, between ATI Telephone Exchange Service Customers and purchasers of Switched Exchange Access Service via a Verizon access Tandem in accordance with Sections 9 through 11 of this Attachment; and
 - 2.2.1.3 Miscellaneous Trunk Groups as mutually agreed to by the Parties, including, but not limited to: (a) choke trunks for traffic congestion and testing; and, (b) untranslated IntraLATA/InterLATA toll free service access code (e.g. 800/888/877) traffic.

- 2.2.2 Other types of trunk groups may be used by the Parties as provided in other Attachments to this Agreement (e.g., 911/E911 Trunks; Information Services Trunks) or in other separate agreements between the Parties (e.g., Directory Assistance Trunks, Operator Services Trunks, BLV/BLVI Trunks or Trunks for 500/555 traffic).
- 2.2.3 In accordance with the terms of this Agreement, the Parties will deploy One-Way Interconnection Trunks (trunks with traffic going in one direction, including one-way trunks and uni-directional two-way trunks) and/or Two-Way Interconnection Trunks (trunks with traffic going in both directions).
- 2.2.4 ATI shall establish, at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA, separate Interconnection Trunk group(s) between such POI(s) and each Verizon Tandem in a LATA with a subtending End Office(s) to which ATI originates calls for Verizon to terminate.
- 2.2.5 In the event the volume of traffic between a Verizon End Office and a technically feasible Point of Interconnection on Verizon's network in a LATA, which is carried by a Final Tandem Interconnection Trunk group, exceeds the Centium Call Second (Hundred Call Second) busy hour equivalent of one (1) DS1 at any time and/or 200,000 minutes of use for a single month: (a) if One-Way Interconnection Trunks are used, the originating Party shall promptly establish new or augment existing End Office One-Way Interconnection Trunk groups between the Verizon End Office and the technically feasible Point of Interconnection on Verizon's network; or, (b) if Two-Way Interconnection Trunks are used, ATI shall promptly submit an ASR to Verizon to establish new or augment existing End Office Two-Way Interconnection Trunk group(s) between that Verizon End Office and the technically feasible Point of Interconnection on Verizon's network.
- 2.2.6 Except as otherwise agreed in writing by the Parties, the total number of Tandem Interconnection Trunks between a technically feasible Point of Interconnection on Verizon's network and a Verizon Tandem will be limited to a maximum of 240 trunks. In the event that the volume of traffic between a technically feasible Point of Interconnection on Verizon's network and a Verizon Tandem exceeds, or reasonably can be expected to exceed, the capacity of the 240 trunks, ATI shall promptly submit an ASR to Verizon to establish new or additional End Office Trunks to insure that the volume of traffic between the technically feasible Point of Interconnection on Verizon's network and the Verizon Tandem does not exceed the capacity of the 240 trunks.

2.3 One-Way Interconnection Trunks.

- 2.3.1 Where the Parties use One-Way Interconnection Trunks for the delivery of traffic from ATI to Verizon, ATI, at ATI's own expense, shall:
 - 2.3.1.1 provide its own facilities for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA; and/or
 - 2.3.1.2 obtain transport for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA (a) from a third-party, or, (b) if Verizon offers such

transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon; and/or

- 2.3.2 For each Tandem or End Office One-Way Interconnection Trunk group for delivery of traffic from ATI to Verizon with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, ATI will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%). In the event ATI fails to submit an ASR to disconnect One-Way Interconnection Trunks as required by this Section, Verizon may bill (and to ATI shall pay) for the excess Interconnection Trunks at the rates set forth in the Pricing Attachment.
 - 2.3.3 Where the Parties use One-Way Interconnection Trunks for the delivery of traffic from Verizon to ATI, Verizon, at Verizon's own expense, shall provide its own facilities for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA.
- 2.4 Two-Way Interconnection Trunks.
- 2.4.1 Where the Parties use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and ATI, ATI, at its own expense, shall:
 - 2.4.1.1 provide its own facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA; and/or
 - 2.4.1.2 obtain transport to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA (a) from a third-party, or, (b) if Verizon offers such transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon.
 - 2.4.2 Where the Parties use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and ATI, Verizon, at its own expense, shall provide its own facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA.
 - 2.4.3 Prior to establishing any Two-Way Interconnection Trunks, ATI shall meet with Verizon to conduct a joint planning meeting ("Joint Planning Meeting"). At that Joint Planning Meeting, each Party shall provide to the other Party originating Centium Call Second (Hundred Call Second) information, and the Parties shall mutually agree on the appropriate initial number of End Office and Tandem Two-Way Interconnection Trunks and the interface specifications at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA at which the Parties interconnect for the exchange of traffic. Where the Parties have agreed to convert existing One-Way Interconnection Trunks to Two-Way Interconnection Trunks, at the Joint Planning Meeting, the Parties shall also mutually agree on the conversion process and project intervals for conversion of such One-Way Interconnection Trunks to Two-Way Interconnection Trunks.
 - 2.4.4 On a semi-annual basis, ATI shall submit a good faith forecast to Verizon of the number of End Office and Tandem Two-Way Interconnection Trunks that ATI anticipates Verizon will need to

provide during the ensuing two (2) year period for the exchange of traffic between ATI and Verizon. ATI's trunk forecasts shall conform to the Verizon CLEC trunk forecasting guidelines as in effect at that time.

- 2.4.5 The Parties shall meet (telephonically or in person) from time to time, as needed, to review data on End Office and Tandem Two-Way Interconnection Trunks to determine the need for new trunk groups and to plan any necessary changes in the number of Two-Way Interconnection Trunks.
- 2.4.6 Two-Way Interconnection Trunks shall have SS7 Common Channel Signaling. The Parties agree to utilize B8ZS and Extended Super Frame (ESF) DS1 facilities, where available.
- 2.4.7 With respect to End Office Two-Way Interconnection Trunks, both Parties shall use an economic Centum Call Second (Hundred Call Second) equal to five (5).
- 2.4.8 Two-Way Interconnection Trunk groups that connect to a Verizon access Tandem shall be engineered using a design blocking objective of Neal-Wilkinson B.005 during the average time consistent busy hour. Two-Way Interconnection Trunk groups that connect to a Verizon local Tandem shall be engineered using a design blocking objective of Neal-Wilkinson B.01 during the average time consistent busy hour. Verizon and ATI shall engineer Two-Way Interconnection Trunks using BOC Notes on the LEC Networks SR-TSV-002275.
- 2.4.9 The performance standard for final Two-Way Interconnection Trunk groups shall be that no such Interconnection Trunk group will exceed its design blocking objective (B.005 or B.01, as applicable) for three (3) consecutive calendar traffic study months.
- 2.4.10 ATI shall determine and order the number of Two-Way Interconnection Trunks that are required to meet the applicable design blocking objective for all traffic carried on each Two-Way Interconnection Trunk group. ATI shall order Two-Way Interconnection Trunks by submitting ASRs to Verizon setting forth the number of Two-Way Interconnection Trunks to be installed and the requested installation dates within Verizon's effective standard intervals or negotiated intervals, as appropriate. ATI shall complete ASRs in accordance with OBF Guidelines as in effect from time to time.
- 2.4.11 Verizon may (but shall not be obligated to) monitor Two-Way Interconnection Trunk groups using service results for the applicable design blocking objective. If Verizon observes blocking in excess of the applicable design objective on any Tandem Two-Way Interconnection Trunk group and ATI has not notified Verizon that it has corrected such blocking, Verizon may submit to ATI a Trunk Group Service Request directing ATI to remedy the blocking. Upon receipt of a Trunk Group Service Request, ATI will complete an ASR to establish or augment the End Office Two-Way Interconnection Trunk group(s), or, if mutually agreed, to augment the Tandem Two-Way Interconnection Trunk group with excessive blocking and submit the ASR to Verizon within five (5) Business Days.
- 2.4.12 The Parties will review all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of seventy percent (70%), or

greater, to determine whether those groups should be augmented. ATI will promptly augment all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of eighty percent (80%) by submitting ASRs for additional trunks sufficient to attain a utilization level of approximately seventy percent (70%), unless the Parties agree that additional trunking is not required. For each Tandem Two-Way Interconnection Trunk group with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, ATI will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%) for each respective group, unless the Parties agree that the Two-Way Interconnection Trunks should not be disconnected. In the event ATI fails to submit an ASR for Two-Way Interconnection Trunks in conformance with this Section, Verizon may bill ATI for the excess Interconnection Trunks at the applicable Verizon rates.

- 2.4.13 Because Verizon will not be in control of when and how many Two-Way Interconnection Trunks are established between its network and ATI's network, Verizon's performance in connection with these Two-Way Interconnection Trunk groups shall not be subject to any performance measurements and remedies under this Agreement, and, except as otherwise required by Applicable Law, under any FCC or Commission approved carrier-to-carrier performance assurance guidelines or plan.
- 2.4.14 ATI will route its traffic to Verizon over the End Office and Tandem Two-Way Interconnection Trunks in accordance with SR-TAP-000191, including but not limited to those standards requiring that a call from ATI to a Verizon End Office will first be routed to the End Office Interconnection Trunk group between ATI and the Verizon End Office.

3. Alternative Interconnection Arrangements

- 3.1 In addition to the foregoing methods of Interconnection, and subject to mutual agreement of the Parties, the Parties may agree to establish a Fiber Meet arrangement.
- 3.2 The establishment of any Fiber Meet arrangement is expressly conditioned upon the Parties' reaching prior written agreement on routing, appropriate sizing and forecasting, equipment, ordering, provisioning, maintenance, repair, testing, augment, and compensation, procedures and arrangements, reasonable distance limitations, and on any other arrangements necessary to implement the Fiber Meet arrangement.
- 3.3 Except as otherwise agreed by the Parties, Fiber Meet arrangements shall be used only for the termination of Reciprocal Compensation Traffic, Measured Internet Traffic, and IntraLATA Toll Traffic.

4. Initiating Interconnection

- 4.1 If ATI determines to offer Telephone Exchange Services and to interconnect with Verizon in any LATA in which Verizon also offers Telephone Exchange Services and in which the Parties are not already interconnected pursuant to this Agreement, ATI shall provide written notice to Verizon of the need to establish Interconnection in such LATA pursuant to this Agreement.

- 4.2 The notice provided in Section 4.1 of this Attachment shall include (a) the initial Routing Point(s); (b) the applicable technically feasible Point(s) of Interconnection on Verizon's network to be established in the relevant LATA in accordance with this Agreement; (c) ATI's intended Interconnection activation date; (d) a forecast of ATI's trunking requirements conforming to Section 14.2 of this Attachment; and (e) such other information as Verizon shall reasonably request in order to facilitate Interconnection.
- 4.3 The interconnection activation date in the new LATA shall be mutually agreed to by the Parties after receipt by Verizon of all necessary information as indicated above. Within ten (10) Business Days of Verizon's receipt of ATI's notice provided for in Section 4.1 of this Attachment, Verizon and ATI shall confirm the technically feasible Point of Interconnection on Verizon's network in the new LATA and the mutually agreed upon Interconnection activation date for the new LATA.

5. Transmission and Routing of Telephone Exchange Service Traffic

5.1 Scope of Traffic.

Section 5 prescribes parameters for Interconnection Trunks used for Interconnection pursuant to Sections 2 through 4 of this Attachment.

5.2 Trunk Group Connections and Ordering.

- 5.2.1 For both One-Way and Two-Way Interconnection Trunks, if ATI wishes to use a technically feasible interface other than a DS1 or a DS3 facility at the POI, the Parties shall negotiate reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such arrangement; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.
- 5.2.2 When One-Way or Two-Way Interconnection Trunks are provisioned using a DS3 interface facility, if ATI orders the multiplexed DS3 facilities to a Verizon Central Office that is not designated in the NECA 4 Tariff as the appropriate Intermediate Hub location (i.e., the Intermediate Hub location in the appropriate Tandem subtending area based on the LERG), and the provision of such facilities to the subject Central Office is technically feasible, the Parties shall negotiate in good faith reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such arrangement; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.
- 5.2.3 Each Party will identify its Carrier Identification Code, a three or four digit numeric code obtained from Telcordia, to the other Party when ordering a trunk group.
- 5.2.4 When SS7 signaling is not used, unless mutually agreed to by both Parties, each Party will outpulse ten (10) digits to the other Party.
- 5.2.5 Each Party will use commercially reasonable efforts to monitor trunk groups under its control and to augment those groups using generally accepted trunk-engineering standards so as to not exceed blocking

objectives. Each Party agrees to use modular trunk-engineering techniques for trunks subject to this Attachment.

5.3 Switching System Hierarchy and Trunking Requirements.

For purposes of routing ATI traffic to Verizon, the subtending arrangements between Verizon Tandem Switches and Verizon End Office Switches shall be the same as the Tandem/End Office subtending arrangements Verizon maintains for the routing of its own or other carriers' traffic (i.e., traffic will be routed to the appropriate Verizon Tandem subtended by the terminating End Office serving the Verizon Customer). For purposes of routing Verizon traffic to ATI, the subtending arrangements between ATI Tandem Switches and ATI End Office Switches shall be the same as the Tandem/End Office subtending arrangements that ATI maintains for the routing of its own or other carriers' traffic.

5.4 Signaling.

Each Party will provide the other Party with access to its databases and associated signaling necessary for the routing and completion of the other Party's traffic in accordance with the provisions contained in the Unbundled Network Element Attachment or applicable access tariff.

5.5 Grades of Service.

The Parties shall initially engineer and shall monitor and augment all trunk groups consistent with the Joint Process as set forth in Section 14.1 of this Attachment.

6. Traffic Measurement and Billing over Interconnection Trunks

6.1 For billing purposes, each Party shall pass Calling Party Number (CPN) information on at least ninety-five percent (95%) of calls carried over the Interconnection Trunks.

6.1.1 As used in this Section 6, "Traffic Rate" means the applicable Reciprocal Compensation Traffic rate, Measured Internet Traffic rate, intrastate Switched Exchange Access Service rate, interstate Switched Exchange Access Service rate, or intrastate/interstate Tandem Transit Traffic rate, as provided in the Pricing Attachment, an applicable Tariff, or, for Measured Internet Traffic, the FCC Internet Order.

6.1.2 If the originating Party passes CPN on ninety-five percent (95%) or more of its calls, the receiving Party shall bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. For any remaining (up to 5%) calls without CPN information, the receiving Party shall bill the originating Party for such traffic at the Traffic Rate applicable to each relevant minute of traffic, in direct proportion to the minutes of use of calls passed with CPN information.

6.1.3 If the originating Party passes CPN on less than ninety-five percent (95%) of its calls and the originating Party chooses to combine Reciprocal Compensation Traffic and Toll Traffic on the same trunk group, the receiving Party shall bill the higher of its interstate Switched Exchange Access Service rates or its intrastate Switched Exchange Access Services rates for all traffic that is passed without CPN, unless the Parties agree that other rates should apply to such traffic.

- 6.2 At such time as a receiving Party has the capability, on an automated basis, to use such CPN to classify traffic delivered over Interconnection Trunks by the other Party by Traffic Rate type (e.g., Reciprocal Compensation Traffic/Measured Internet Traffic, intrastate Switched Exchange Access Service, interstate Switched Exchange Access Service, or intrastate/interstate Tandem Transit Traffic), such receiving Party shall bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. If the receiving Party lacks the capability, on an automated basis, to use CPN information on an automated basis to classify traffic delivered by the other Party by Traffic Rate type, the originating Party will supply Traffic Factor 1 and Traffic Factor 2. The Traffic Factors shall be supplied in writing by the originating Party within thirty (30) days of the Effective Date and shall be updated in writing by the originating Party quarterly. Measurement of billing minutes for purposes of determining terminating compensation shall be in conversation seconds (the time in seconds that the Parties equipment is used for a completed call, measured from the receipt of answer supervision to the receipt of disconnect supervision). Measurement of billing minutes for originating toll free service access code (e.g., 800/888/877) calls shall be in accordance with applicable Tariffs. Determination as to whether traffic is Reciprocal Compensation Traffic or Measured Internet Traffic shall be made in accordance with Paragraphs 8 and 79, and other applicable provisions, of the FCC Internet Order (including, but not limited to, in accordance with the rebuttable presumption established by the FCC Internet Order that traffic delivered to a carrier that exceeds a 3:1 ratio of terminating to originating traffic is Measured Internet Traffic, and in accordance with the process established by the FCC Internet Order for rebutting such presumption before the Commission).
- 6.3 Each Party reserves the right to audit all Traffic, up to a maximum of two audits per Calendar Year, to ensure that rates are being applied appropriately; provided, however, that either Party shall have the right to conduct additional audit(s) if the preceding audit disclosed material errors or discrepancies. Each Party agrees to provide the necessary Traffic data in conjunction with any such audit in a timely manner.
- 6.4 Nothing in this Agreement shall be construed to limit either Party's ability to designate the areas within which that Party's Customers may make calls which that Party rates as "local" in its Customer Tariffs.
- 6.5 If and, to the extent that, a ATI Customer receives V/FX Traffic, ATI shall promptly provide notice thereof to Verizon (such notice to include, without limitation, the specific telephone number(s) that the Customer uses for V/FX Traffic, as well as the LATA in which the Customer's station is actually physically located) and shall not bill Verizon Reciprocal Compensation, intercarrier compensation or any other charges for calls placed by Verizon's Customers to such ATI Customers.

7. Reciprocal Compensation Arrangements Pursuant to Section 251(b)(5) of the Act

7.1 Reciprocal Compensation.

The Parties shall exchange Reciprocal Compensation Traffic at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA designated in accordance with the terms of this Agreement. The Party originating Reciprocal Compensation Traffic shall compensate the terminating Party for the transport and termination of such traffic to its Customer in accordance with Section 251(b)(5) of the Act at the equal and symmetrical rates stated in the Pricing Attachment; it being understood and agreed that Verizon shall charge (and ATI

shall pay Verizon) the End Office Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic ATI physically delivers to a POI at the Verizon Wire Center in which the terminating Verizon End Office is located, and otherwise that Verizon shall charge (ATI shall pay Verizon) the Tandem Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic ATI delivers to Verizon; it also being understood and agreed that ATI shall charge (and Verizon shall pay ATI) the End Office Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic Verizon delivers to ATI, unless Verizon is required under Applicable Law to pay the Tandem Reciprocal Compensation rate set forth in the Pricing Attachment. These rates are to be applied at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA at which the Parties interconnect, whether such traffic is delivered by Verizon for termination by ATI, or delivered by ATI for termination by Verizon. No additional charges shall be assessed by the terminating Party for the transport and termination of such traffic from the technically feasible Point(s) of Interconnection on Verizon's network in a LATA to its Customer; provided, however, for the avoidance of any doubt, ATI shall also pay Verizon, at the rates set forth in the Pricing Attachment, for any multiplexing, cross connects or other collocation related Services that ATI obtains from Verizon. When such Reciprocal Compensation Traffic is delivered over the same Interconnection Trunks as Toll Traffic, any port, transport or other applicable access charges related to the delivery of Toll Traffic from the technically feasible Point of Interconnection on Verizon's network in a LATA to the terminating Party's Customer shall be prorated so as to apply only to the Toll Traffic. The designation of traffic as Reciprocal Compensation Traffic for purposes of Reciprocal Compensation shall be based on the actual originating and terminating points of the complete end-to-end communication.

7.2 Traffic Not Subject to Reciprocal Compensation.

- 7.2.1 Reciprocal Compensation shall not apply to interstate or intrastate Exchange Access (including, without limitation, Virtual Foreign Exchange Traffic (i.e., V/FX Traffic), Information Access, or exchange services for Exchange Access or Information Access.
- 7.2.2 Reciprocal Compensation shall not apply to Internet Traffic.
- 7.2.3 Reciprocal Compensation shall not apply to Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis.
- 7.2.4 Reciprocal Compensation shall not apply to Optional Extended Local Calling Area Traffic.
- 7.2.5 Reciprocal Compensation shall not apply to special access, private line, or any other traffic that is not switched by the terminating Party.
- 7.2.6 Reciprocal Compensation shall not apply to Tandem Transit Traffic.
- 7.2.7 Reciprocal Compensation shall not apply to Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment).
- 7.2.8 Reciprocal Compensation shall not apply to traffic that is not subject to Reciprocal Compensation under Section 251(b)(5) of the Act.

7.2.9 Reciprocal Compensation shall not apply to Virtual Foreign Exchange Traffic (i.e., V/FX Traffic). As used in this Agreement, "Virtual Foreign Exchange Traffic" or "V/FX Traffic" is defined as calls in which a ATI Customer is assigned a telephone number with an NXX Code (as set forth in the LERG) associated with an exchange that is different than the exchange (as set forth in the LERG) associated with the actual physical location of such Customer's station. For the avoidance of any doubt, ATI shall pay Verizon's originating access charges for all V/FX Traffic originated by a Verizon Customer, and ATI shall pay Verizon's terminating access charges for all V/FX Traffic originated by a ATI Customer.

7.3 The Reciprocal Compensation rates (including, but not limited to, the Reciprocal Compensation per minute of use charges) billed by ATI to Verizon shall not exceed the Reciprocal Compensation rates (including, but not limited to, Reciprocal Compensation per minute of use charges) billed by Verizon to ATI.

8. Other Types of Traffic

8.1 Notwithstanding any other provision of this Agreement or any Tariff: (a) the Parties' rights and obligations with respect to any intercarrier compensation that may be due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC orders and FCC Regulations; and, (b) a Party shall not be obligated to pay any intercarrier compensation for Internet Traffic that is in excess of the intercarrier compensation for Internet Traffic that such Party is required to pay under the FCC Internet Order and other applicable FCC orders and FCC Regulations.

8.2 Subject to Section 8.1 of this Attachment, interstate and intrastate Exchange Access, Information Access, exchange services for Exchange Access or Information Access, and Toll Traffic, shall be governed by the applicable provisions of this Agreement and applicable Tariffs.

8.3 For any traffic originating with a third party carrier and delivered by ATI to Verizon, ATI shall pay Verizon the same amount that such third party carrier would have been obligated to pay Verizon for termination of that traffic at the location the traffic is delivered to Verizon by ATI.

8.4 Any traffic not specifically addressed in this Agreement shall be treated as required by the applicable Tariff of the Party transporting and/or terminating the traffic.

8.5 The Parties may also exchange Internet Traffic at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA established hereunder for the exchange of Reciprocal Compensation Traffic. Any intercarrier compensation that may be due in connection with the Parties' exchange of Internet Traffic shall be applied at such technically feasible Point of Interconnection on Verizon's network in a LATA in accordance with the FCC Internet Order.

9. Transmission and Routing of Exchange Access Traffic

9.1 Scope of Traffic.

Section 9 prescribes parameters for certain trunks to be established over the Interconnections specified in Sections 2 through 5 of this Attachment for the transmission and routing of traffic between ATI Telephone Exchange Service Customers and Interexchange Carriers ("Access Toll Connecting Trunks"), in any

case where ATI elects to have its End Office Switch subtend a Verizon Tandem. This includes casually-dialed (1010XXX and 101XXXX) traffic.

9.2 Access Toll Connecting Trunk Group Architecture.

- 9.2.1 If ATI chooses to subtend a Verizon access Tandem, ATI's NPA/NXX must be assigned by ATI to subtend the same Verizon access Tandem that a Verizon NPA/NXX serving the same Rate Center Area subtends as identified in the LERG.
- 9.2.2 ATI shall establish Access Toll Connecting Trunks pursuant to applicable access Tariffs by which it will provide Switched Exchange Access Services to Interexchange Carriers to enable such Interexchange Carriers to originate and terminate traffic to and from ATI's Customers.
- 9.2.3 *The Access Toll Connecting Trunks shall be two-way trunks. Such trunks shall connect the End Office ATI utilizes to provide Telephone Exchange Service and Switched Exchange Access to its Customers in a given LATA to the access Tandem(s) Verizon utilizes to provide Exchange Access in such LATA.*
- 9.2.4 Access Toll Connecting Trunks shall be used solely for the transmission and routing of Exchange Access to allow ATI's Customers to connect to or be connected to the interexchange trunks of any Interexchange Carrier which is connected to a Verizon access Tandem.

10. Meet-Point Billing Arrangements

- 10.1 ATI and Verizon will establish Meet-Point Billing (MPB) arrangements in order to provide a common transport option to Switched Exchange Access Services customers via a Verizon access Tandem Switch in accordance with the Meet Point Billing guidelines contained in the OBF's MECAB and MECOD documents, except as modified herein, and in Verizon's applicable Tariffs. The arrangements described in this Section 10 are intended to be used to provide Switched Exchange Access Service where the transport component of the Switched Exchange Access Service is routed through an access Tandem Switch that is provided by Verizon.
- 10.2 *In each LATA, the Parties shall establish MPB arrangements for the applicable ATI Routing Point/Verizon Serving Wire Center combinations.*
- 10.3 Interconnection for the MPB arrangement shall occur at each of the Verizon access Tandems in the LATA, unless otherwise agreed to by the Parties.
- 10.4 ATI and Verizon will use reasonable efforts, individually and collectively, to maintain provisions in their respective state access Tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor Tariff sufficient to reflect the MPB arrangements established pursuant to this Agreement.
- 10.5 In general, there are four alternative Meet-Point Billing arrangements possible, which are: Single Bill/Single Tariff, Multiple Bill/Single Tariff, Multiple Bill/Multiple Tariff, and Single Bill/Multiple Tariff, as outlined in the OBF MECAB Guidelines.

Each Party shall implement the "Multiple Bill/Single Tariff" or "Multiple Bill/Multiple

Tariff" option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party. Alternatively, in former Bell Atlantic service areas, upon agreement of the Parties, each Party may use the New York State Access Pool on its behalf to implement the Single Bill/Multiple Tariff or Single Bill/Single Tariff option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party.

- 10.6 The rates to be billed by each Party for the portion of the MPB arrangement provided by it shall be as set forth in that Party's applicable Tariffs, or other document that contains the terms under which that Party's access services are offered. For each ATI Routing Point/Verizon Serving Wire Center combination, the MPB billing percentages for transport between the ATI Routing Point and the Verizon Serving Wire Center shall be calculated in accordance with the formula set forth in Section 10.17 of this Attachment.
- 10.7 Each Party shall provide the other Party with the billing name, billing address, and Carrier Identification Code (CIC) of the IXC, and identification of the Verizon Wire Center serving the IXC in order to comply with the MPB notification process as outlined in the MECAB document.
- 10.8 Verizon shall provide ATI with the Terminating Switched Access Detail Usage Data (EMI category 1101XX records) recorded at the Verizon access Tandem on cartridge or via such other media as the Parties may agree to, no later than ten (10) Business Days after the date the usage occurred.
- 10.9 ATI shall provide Verizon with the Originating Switched Access Detail Usage Data (EMI category 1101XX records) on cartridge or via such other media as the Parties may agree, no later than ten (10) Business Days after the date the usage occurred.
- 10.10 All usage data to be provided pursuant to Sections 10.8 and 10.9 of this Attachment shall be sent to the following addresses:

To ATI:

Barbara Direnzo
One Armstrong Place
Butler, Pennsylvania 16001

For Verizon (Former BA service area):

New York State Access Pool
C/O ACM, Inc.
120 Erie Blvd.
Schenectady, NY 12305
Attn: Mark Ferri

Either Party may change its address for receiving usage data by notifying the other Party in writing pursuant to Section 29 of the General Terms and Conditions.

- 10.11 ATI and Verizon shall coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers or Operating Company Number ("OCN"), as appropriate, for the MPB arrangements described in this Section 10. Each Party shall notify the other if the level of billing or other

BAR/BACR elements change, resulting in a new BAR/BACR number, or if the OCN changes.

- 10.12 Each Party agrees to provide the other Party with notification of any errors it discovers in MPB data within thirty (30) calendar days of the receipt of the original data. The other Party shall attempt to correct the error and resubmit the data within ten (10) Business Days of the notification. In the event the errors cannot be corrected within such ten- (10) Business-Day period, the erroneous data will be considered lost. In the event of a loss of data, whether due to uncorrectable errors or otherwise, both Parties shall cooperate to reconstruct the lost data and, if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon prior usage data.
- 10.13 Either Party may request a review or audit of the various components of access recording up to a maximum of two (2) audits per calendar year. All costs associated with each review and audit shall be borne by the requesting Party. Such review or audit shall be conducted subject to Section 7 of the General Terms and Conditions and during regular business hours. A Party may conduct additional audits, at its expense, upon the other Party's consent, which consent shall not be unreasonably withheld.
- 10.14 Except as expressly set forth in this Agreement, nothing contained in this Section 10 shall create any liability for damages, losses, claims, costs, injuries, expenses or other liabilities whatsoever on the part of either Party.
- 10.15 MPB will apply for all traffic bearing the 500, 900, toll free service access code (e.g. 800/888/877) (to the extent provided by an IXC) or any other non-geographic NPA which may be designated for such traffic in the future.
- 10.16 In the event ATI determines to offer Telephone Exchange Services in a LATA in which Verizon operates an access Tandem Switch, Verizon shall permit and enable ATI to subtend the Verizon access Tandem Switch(es) designated for the Verizon End Offices in the area where there are located ATI Routing Point(s) associated with the NPA NXX(s) to/from which the Switched Exchange Access Services are homed.
- 10.17 Except as otherwise mutually agreed by the Parties, the MPB billing percentages for each Routing Point/Verizon Serving Wire Center combination shall be calculated according to the following formula, unless as mutually agreed to by the Parties:
- $a / (a + b) = \text{ATI Billing Percentage}$
- and
- $b / (a + b) = \text{Verizon Billing Percentage}$
- where:
- a = the airline mileage between ATI Routing Point and the actual point of interconnection for the MPB arrangement; and
- b = the airline mileage between the Verizon Serving Wire Center and the actual point of interconnection for the MPB arrangement.
- 10.18 ATI shall inform Verizon of each LATA in which it intends to offer Telephone Exchange Services and its calculation of the billing percentages which should

apply for such arrangement. Within ten (10) Business Days of ATI's delivery of notice to Verizon, Verizon and ATI shall confirm the Routing Point/Verizon Serving Wire Center combination and billing percentages.

11. Toll Free Service Access Code (e.g., 800/888/877) Traffic

The following terms shall apply when either Party delivers toll free service access code (e.g., 800/877/888)("8YY") calls to the other Party. For the purposes of this Section 11, the terms "translated" and "untranslated" refers to those toll free service access code calls that have been queried ("translated") or have not been queried ("untranslated") to an 8YY database. Except as otherwise agreed to by the Parties, all ATI originating "untranslated" 8YY traffic will be routed over a separate One-Way Trunk group.

11.1 When ATI delivers translated 8YY calls to Verizon for completion,

11.1.1 to an IXC, ATI shall:

11.1.1.1 provide an appropriate EMI record to Verizon for processing and Meet Point Billing in accordance with Section 10 of this Attachment; and

11.1.1.2 bill the IXC the ATI query charge associated with the call.

11.1.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, ATI shall:

11.1.2.1 provide an appropriate EMI record to the toll free service access code service provider; and

11.1.2.2 bill to the toll free service access code service provider the ATI's Tariffed Feature Group D ("FGD") Switched Exchange Access or Reciprocal Compensation rates, as applicable, and the ATI query charge; and

11.1.2.3 Verizon shall bill applicable Tandem Transit Service charges and associated passthrough charges to ATI.

11.2 When Verizon performs the query and delivers translated 8YY calls, originated by Verizon's or another LEC's Customer,

11.2.1 to ATI in its capacity as a toll free service access code service provider, Verizon shall:

11.2.1.1 bill ATI the Verizon query charge associated with the call as specified in the Pricing Attachment; and

11.2.1.2 provide an appropriate EMI record to ATI; and

11.2.1.3 bill ATI Verizon's Tariffed FGD Switched Exchange Access or Reciprocal Compensation rates as applicable.

11.3 When ATI delivers untranslated 8YY calls to Verizon for completion,

11.3.1 to an IXC, Verizon shall:

11.3.1.1 query the call and route the call to the appropriate IXC; and

- 11.3.1.2 provide an appropriate EMI record to ATI to facilitate billing to the IXC; and
- 11.3.1.3 bill the IXC the Verizon query charge associated with the call and any other applicable Verizon charges.
- 11.3.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, Verizon shall:
 - 11.3.2.1 query the call and route the call to the appropriate LEC toll free service access code service provider; and
 - 11.3.2.2 provide an appropriate EMI record to ATI; to facilitate billing to the LEC toll free service access code service provider; and
 - 11.3.2.3 bill the LEC toll free service access code service provider the query charge associated with the call and any other applicable Verizon charges.
- 11.4 Verizon will not direct untranslated toll free service access code call to ATI.

12. Tandem Transit Traffic

- 12.1 As used in this Section 12, Tandem Transit Traffic is Telephone Exchange Service traffic that originates on ATI's network, and is transported through a Verizon Tandem to the Central Office of a CLEC, ILEC other than Verizon, Commercial Mobile Radio Service (CMRS) carrier, or other LEC, that subtends the relevant Verizon Tandem to which ATI delivers such traffic. Neither the originating nor terminating customer is a Customer of Verizon. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide (LERG). Switched Exchange Access Service traffic is not Tandem Transit Traffic.
- 12.2 Tandem Transit Traffic Service provides ATI with the transport of Tandem Transit Traffic as provided below.
- 12.3 Tandem Transit Traffic may be routed over the Interconnection Trunks described in Sections 2 through 6 of this Attachment. ATI shall deliver each Tandem Transit Traffic call to Verizon with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of CLASS Features and billing functions.
- 12.4 ATI shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic arrangement (either via written agreement or mutual Tariffs) with any CLEC, ILEC, CMRS carrier, or other LEC, to which it delivers Telephone Exchange Service traffic that transits Verizon's Tandem Office. If ATI does not enter into and provide notice to Verizon of the above referenced arrangement within 180 days of the initial traffic exchange with relevant third party carriers, then ATI will pay a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment, in addition to the Tandem Transit Traffic Service charges set forth in the Pricing Attachment.
- 12.5 ATI shall pay Verizon for Transit Service that ATI originates at the rate specified in the Pricing Attachment. Verizon reserves the right to assess to ATI any additional charges or costs the receiving CLEC, ILEC, CMRS carrier, or other LEC, imposes or levies on Verizon for the delivery or termination of such traffic,

including any Switched Exchange Access Service charges. Payment of any terminating charges (access or otherwise) is the responsibility of ATI.

- 12.6 Except as set forth in this Section 12.6, Verizon will not provide Tandem Transit Traffic Service for Tandem Transit Traffic volumes that exceed the CCS busy hour equivalent of 200,000 combined minutes of use to a particular CLEC, ITC, CMRS carrier or other LEC for any month (the "Threshold Level"). At such time that ATI's Tandem Transit Traffic exceeds the Threshold Level, upon receipt of a written request from ATI, Verizon shall continue to provide Tandem Transit Service to ATI (for the carrier in respect to which the Threshold Level has been reached) for a period equal to sixty (60) days after the date upon which the Threshold Level was reached for the subject carrier (the "Transition Period"). During the Transition Period, in addition to any and all Tandem Transit Traffic rates and charges as provided in Section 12.5 hereof, ATI shall pay Verizon (a) a monthly "Transit Service Trunking Charge" for each subject carrier, as set forth in the Pricing Attachment, and (b) a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment. Upon ATI's receipt of Verizon's notice that the Threshold Level has been reached with respect to a specific carrier, ATI shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic agreement with such carrier for the purpose of seeking direct interconnection. If Verizon believes that ATI has not exercised good faith efforts promptly to obtain such agreement, Verizon may use the Dispute Resolution processes of this Agreement. If, at the end of the Transition Period Verizon does not terminate the Transit Traffic Service to ATI, ATI shall continue to pay Verizon (i) a monthly "Transit Service Trunking Charge" for each subject carrier, as set forth in the Pricing Attachment, and (ii) a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment.
- 12.7 If or when a third party carrier's Central Office subtends a ATI Central Office, then ATI shall offer to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to ATI as defined in this Section 12 such that Verizon may terminate calls to a Central Office of a CLEC, ILEC, CMRS carrier, or other LEC, that subtends a ATI Central Office ("Reciprocal Tandem Transit Service"). ATI shall offer such Reciprocal Transit Service arrangements under terms and conditions no less favorable than those provided in this Section 12.
- 12.8 Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it originates, or from which it terminates, traffic.

13. Number Resources, Rate Center Areas and Routing Points

- 13.1 Nothing in this Agreement shall be construed to limit or otherwise adversely affect in any manner either Party's right to employ or to request and be assigned any Central Office Codes ("NXX") pursuant to the Central Office Code Assignment Guidelines and any relevant FCC or Commission orders, as may be amended from time to time, or to establish, by Tariff or otherwise, Rate Center Areas and Routing Points corresponding to such NXX codes.
- 13.2 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to information provided on ASRs as well as the LERG in order to recognize and route traffic to the other Party's assigned NXX codes. Except as expressly set forth in this Agreement, neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

- 13.3 Unless otherwise required by Commission order, the Rate Center Areas will be the same for each Party. During the term of this Agreement, ATI shall adopt the Rate Center Area and Rate Center Points that the Commission has approved for Verizon within the LATA and Tandem serving area. ATI shall assign whole NPA-NXX codes to each Rate Center Area unless otherwise ordered by the FCC, the Commission or another governmental entity of appropriate jurisdiction, or the LEC industry adopts alternative methods of utilizing NXXs.
- 13.4 ATI will also designate a Routing Point for each assigned NXX code. ATI shall designate one location for each Rate Center Area in which the ATI has established NXX code(s) as the Routing Point for the NPA-NXXs associated with that Rate Center Area, and such Routing Point shall be within the same LATA as the Rate Center Area but not necessarily within the Rate Center Area itself. Unless specified otherwise, calls to subsequent NXXs of ATI will be routed in the same manner as calls to ATI's initial NXXs.
- 13.5 Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended, and nothing in this Agreement shall be construed, to in any way constrain ATI's choices regarding the size of the local calling area(s) that ATI may establish for its Customers, which local calling areas may be larger than, smaller than, or identical to Verizon's local calling areas.

14. Joint Network Implementation and Grooming Process; and Installation, Maintenance, Testing and Repair

14.1 Joint Network Implementation and Grooming Process.

Upon request of either Party, the Parties shall jointly develop an implementation and grooming process (the "Joint Grooming Process" or "Joint Process") which may define and detail, inter alia:

- 14.1.1 standards to ensure that Interconnection Trunks experience a grade of service, availability and quality which is comparable to that achieved on interoffice trunks within Verizon's network and in accord with all appropriate relevant industry-accepted quality, reliability and availability standards. Except as otherwise stated in this Agreement, trunks provided by either Party for Interconnection services will be engineered using a design-blocking objective of B.01.
- 14.1.2 the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the trunk groups, including, but not limited to, standards and procedures for notification and discoveries of trunk disconnects;
- 14.1.3 disaster recovery provision escalations;
- 14.1.4 additional technically feasible Point(s) of Interconnection on Verizon's network in a LATA as provided in Section 2 of this Attachment; and
- 14.1.5 such other matters as the Parties may agree, including, e.g., End Office to End Office high usage trunks as good engineering practices may dictate.

14.2 Forecasting Requirements for Trunk Provisioning.

Within ninety (90) days of executing this Agreement, ATI shall provide Verizon a two (2)-year traffic forecast. This initial forecast will provide the amount of traffic

to be delivered to and from Verizon over each of the Interconnection Trunk groups over the next eight (8) quarters. The forecast shall be updated and provided to Verizon on an as-needed basis but no less frequently than semiannually. All forecasts shall comply with the Verizon CLEC Interconnection Trunking Forecast Guide and shall include, at a minimum, Access Carrier Terminal Location (ACTL), traffic type (Reciprocal Compensation Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for applicable Verizon Tandem and End Office switches to which ATI wishes to send traffic and the technically feasible Points of Interconnection on Verizon's network in a LATA at which the Parties will interconnect), interface type (e.g., DS1), and trunks in service each year (cumulative).

14.2.1 Initial Forecasts/Trunking Requirements. Because Verizon's trunking requirements will, at least during an initial period, be dependent on the Customer segments and service segments within Customer segments to whom ATI decides to market its services, Verizon will be largely dependent on ATI to provide accurate trunk forecasts for both inbound (from Verizon) and outbound (to Verizon) traffic. Verizon will, as an initial matter, provide the same number of trunks to terminate Reciprocal Compensation Traffic to ATI as ATI provides to terminate Reciprocal Compensation Traffic to Verizon. At Verizon's discretion, when ATI expressly identifies particular situations that are expected to produce traffic that is substantially skewed in either the inbound or outbound direction, Verizon will provide the number of trunks ATI suggests; provided, however, that in all cases Verizon's provision of the forecasted number of trunks to ATI is conditioned on the following: that such forecast is based on reasonable engineering criteria, there are no capacity constraints, and ATI's previous forecasts have proven to be reliable and accurate.

14.2.1.1 Monitoring and Adjusting Forecasts. Verizon will, for ninety (90) days, monitor traffic on each trunk group that it establishes at ATI's suggestion or request pursuant to the procedures identified in Section 14.2 of this Attachment. At the end of such ninety-(90) day period, Verizon may disconnect trunks that, based on reasonable engineering criteria and capacity constraints, are not warranted by the actual traffic volume experienced. If, after such initial ninety (90) day period for a trunk group, Verizon determines that any trunks in the trunk group in excess of two (2) DS1s are not warranted by actual traffic volumes (considering engineering criteria for busy Centium Call Second (Hundred Call Second) and blocking percentages), then Verizon may hold ATI financially responsible for the excess facilities and disconnect such excess facilities.

14.2.1.2 In subsequent periods, Verizon may also monitor traffic for ninety (90) days on additional trunk groups that ATI suggests or requests Verizon to establish. If, after any such (90) day period, Verizon determines that any trunks in the trunk group are not warranted by actual traffic volumes (considering engineering criteria for busy hour Centium Call Second (Hundred Call Second) and blocking percentages), then Verizon may hold ATI financially responsible for the excess facilities. At any time during the relevant ninety-(90)

day period, ATI may request that Verizon disconnect trunks to meet a revised forecast. In such instances, Verizon may hold ATI financially responsible for the disconnected trunks retroactive to the start of the ninety (90) day period through the date such trunks are disconnected.

15. Number Portability - Section 251(B)(2)

15.1 Scope.

The Parties shall provide Number Portability (NP) in accordance with rules and regulations as from time to time prescribed by the FCC.

15.2 Procedures for Providing LNP ("Long-term Number Portability").

The Parties will follow the LNP provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF. The Parties shall provide LNP on a reciprocal basis.

15.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Telephone Exchange Service(s) it will now receive from Party B. After Party B has received authorization from the Customer in accordance with Applicable Law and sends an LSR to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.

15.2.2 When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

15.2.3 When a Customer of Party A ports their telephone numbers to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

15.2.4 When a Customer of Party A ports their telephone numbers to Party B, in the process of porting the Customer's telephone numbers, Party A shall implement the ten-digit trigger feature where it is available. When Party A receives the porting request, the unconditional trigger shall be applied to the Customer's line before the due date of the porting activity. When the ten-digit unconditional trigger is not available, Party A and Party B must coordinate the disconnect activity.

- 15.2.5 The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP capable switches.
- 15.2.6 Where LNP is commercially available, the NXXs in the office shall be defined as portable, except as noted in 15.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable LNP capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.
- 15.2.7 All NXXs assigned to LNP capable switches are to be designated as portable unless a NXX(s) has otherwise been designated as non-portable. Non-portable NXXs include NXX codes assigned to paging, cellular and wireless services; codes assigned for internal testing and official use and any other NXX codes required to be designated as non-portable by the rules and regulations of the FCC. NXX codes assigned to mass calling on a choked network may not be ported using LNP technology but are portable using methods established by the NANC and adopted by the FCC. On a prospective basis, newly assigned codes in switches capable of porting shall become commercially available for porting with the effective date in the network.
- 15.2.8 Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier for the other Party in the event that either Party is unable to perform the routing necessary for LNP.

15.3 Procedures for Providing NP Through Full NXX Code Migration.

Where a Party has activated an entire NXX for a single Customer, or activated at least eighty percent (80%) of an NXX for a single Customer, with the remaining numbers in that NXX either reserved for future use by that Customer or otherwise unused, if such Customer chooses to receive Telephone Exchange Service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead times for movements of NXXs from one switch to another. Neither Party shall charge the other in connection with this coordinated transfer.

15.4 Procedures for Providing INP (Interim Number Portability).

The Parties shall provide Interim Number Portability (INP) in accordance with rules and regulations prescribed from time to time by the FCC and state regulatory bodies, the Parties respective company procedures, and as set forth in this Section 15.4. The Parties shall provide INP on a reciprocal basis.

- 15.4.1 In the event that either Party, Party B, wishes to serve a Customer currently served at an End Office of the other Party, Party A, and that End Office is not LNP-capable, Party A shall make INP available only where LNP is not commercially available or not required by FCC orders and regulations. INP will be provided by remote call forwarding

(RCF) and/or direct inward dialing (DID) technology, which will forward terminating calls to Party B's End Office. Party B shall provide Party A with an appropriate "forward-to" number.

- 15.4.2 Prices for INP and formulas for sharing Terminating access revenues associated with INP shall be provided where applicable, upon request by either Party.
- 15.4.3 Either Party wishing to use DID to provide for INP must request a dedicated trunk group from the End Office where the DID numbers are currently served to the new serving-End Office. If there are no existing facilities between the respective End Offices, the dedicated facilities and transport trunks will be provisioned as unbundled service through the ASR provisioning process. The requesting party will reroute the DID numbers to the pre-positioned trunk group using the LSR provisioning process. DID trunk rates are contained in the Parties' respective tariffs.
- 15.4.4 The Parties Agree that, per FCC 98-275, Paragraph 16, effective upon the date LNP is available at any End Office of one Party, Party A, providing INP for Customers of the other Party, Party B, no further orders will be accepted for new INP at that End Office. Orders for new INP received prior to that date, and change orders for existing INP, shall be worked by Party A. Orders for new INP received by Party A on or after that date shall be rejected. Existing INP will be grandfathered, subject to Section 15.4.5 of this Attachment.
- 15.4.5 In offices equipped with LNP prior to September 1, 1999 for former Bell Atlantic offices and October 1, 2000 for former GTE offices, the Parties agree to work together to convert all existing INP-served Customers to LNP by December 31, 2000 in accordance with a mutually agreed to conversion process and schedule. If mutually agreed to by the Parties, the conversion period may be extended one time by no more than 90 days from December 31, 2000.
- 15.4.6 Upon availability of LNP after October 1, 2000 at an End Office of either Party, both Parties agree to work together to convert the existing INP-served Customers to LNP by no later than 90 days from the date of LNP availability unless otherwise agreed to by the Parties.
- 15.4.7 When, through no fault of Verizon's, all INP has not been converted to LNP at the end of the agreed to conversion period, then the remaining INPs will be changed to a functionally equivalent tariff service and billed to ATI at the tariff rate(s) for the subject jurisdiction.

15.5 Procedures for LNP Request.

The Parties shall provide for the requesting of End Office LNP capability on a reciprocal basis through a written request. The Parties acknowledge that Verizon has deployed LNP throughout its network in compliance with FCC 96-286 and other applicable FCC Regulations.

- 15.5.1 If Party B desires to have LNP capability deployed in an End Office of Party A, which is not currently capable, Party B shall issue a LNP request to Party A. Party A will respond to the Party B, within ten (10) days of receipt of the request, with a date for which LNP will be available in the requested End Office. Party A shall proceed to provide

for LNP in compliance with the procedures and timelines set forth in FCC 96-286, Paragraph 80, and FCC 97-74, Paragraphs 65 through 67.

- 15.5.2 The Parties acknowledge that each can determine the LNP-capable End Offices of the other through the Local Exchange Routing Guide (LERG). In addition the Parties shall make information available upon request showing their respective LNP-capable End Offices, as set forth in this Section 15.5.

16. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

RESALE ATTACHMENT

1. General

Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, Verizon's Telecommunications Services for resale by ATI; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide Telecommunications Services to ATI only to the extent required by Applicable Law and may decline to provide a Telecommunications Service to ATI to the extent that provision of such Telecommunications Service is not required by Applicable Law.

2. Use of Verizon Telecommunications Services

- 2.1 Verizon Telecommunications Services may be purchased by ATI under this Resale Attachment only for the purpose of resale by ATI as a Telecommunications Carrier. Verizon Telecommunications Services to be purchased by ATI for other purposes (including, but not limited to, ATI's own use) must be purchased by ATI pursuant to other applicable Attachments to this Agreement (if any), or separate written agreements, including, but not limited to, applicable Verizon Tariffs.
- 2.2 ATI shall not resell:
- 2.2.1 Residential service to persons not eligible to subscribe to such service from Verizon (including, but not limited to, business or other nonresidential Customers);
 - 2.2.2 Lifeline, Link Up America, or other means-tested service offerings, to persons not eligible to subscribe to such service offerings from Verizon;
 - 2.2.3 Grandfathered or discontinued service offerings to persons not eligible to subscribe to such service offerings from Verizon; or
 - 2.2.4 Any other Verizon service in violation of a restriction stated in this Agreement (including, but not limited to, a Verizon Tariff) that is not prohibited by Applicable Law.
 - 2.2.5 In addition to any other actions taken by ATI to comply with this Section 2.2, ATI shall take those actions required by Applicable Law to determine the eligibility of ATI Customers to purchase a service, including, but not limited to, obtaining any proof or certification of eligibility to purchase Lifeline, Link Up America, or other means-tested services, required by Applicable Law. ATI shall indemnify Verizon from any Claims resulting from ATI's failure to take such actions required by Applicable Law.
 - 2.2.6 Verizon may perform audits to confirm ATI's conformity to the provisions of this Section 2.2. Such audits may be performed twice per calendar year and shall be performed in accordance with Section 7 of the General Terms and Conditions.

- 2.3 ATI shall be subject to the same limitations that Verizon's Customers are subject to with respect to any Telecommunications Service that Verizon grandfathers or *discontinues offering*. Without limiting the foregoing, except to the extent that Verizon follows a different practice for Verizon Customers in regard to a grandfathered Telecommunications Service, such grandfathered Telecommunications Service: (a) shall be available only to a Customer that already has such Telecommunications Service; (b) may not be moved to a new service location; and (c) will be furnished only to the extent that facilities continue to be available to provide such Telecommunications Service.
- 2.4 ATI shall not be eligible to participate in any Verizon plan or program under which Verizon Customers may obtain products or services, which are not Verizon Telecommunications Services, in return for trying, agreeing to purchase, purchasing, or using Verizon Telecommunications Services.
- 2.5 In accordance with 47 CFR § 51.617(b), Verizon shall be entitled to all charges for Verizon Exchange Access services used by interexchange carriers to provide service to ATI Customers.

3. Availability of Verizon Telecommunications Services

- 3.1 Verizon will provide a Verizon Telecommunications Service to ATI for resale pursuant to this Attachment where and to the same extent, but only where and to the same extent that such Verizon Telecommunications Service is provided to Verizon's Customers.
- 3.2 Except as otherwise required by Applicable Law, subject to Section 3.1 of this Attachment, Verizon shall have the right to add, modify, grandfather, discontinue or withdraw Verizon Telecommunications Services at any time, without the consent of ATI.
- 3.3 To the extent required by Applicable Law, the Verizon Telecommunications Services to be provided to ATI for resale pursuant to this Attachment will include a *Verizon Telecommunications Service customer-specific contract service arrangement ("CSA")* (such as a customer specific pricing arrangement or individual case based pricing arrangement) that Verizon is providing to a Verizon Customer at the time the CSA is requested by ATI.

4. Responsibility for Charges

- 4.1 ATI shall be responsible for and pay to Verizon all charges for any Telecommunications Services provided by Verizon or provided by persons other than Verizon and billed for by Verizon, that are ordered, activated or used by ATI, ATI Customers or any other persons, through, by means of, or in association with, Telecommunications Services provided by Verizon to ATI pursuant to this Resale Attachment.
- 4.2 Upon request by ATI, Verizon will provide for use on resold Verizon retail Telecommunications Service dial tone lines purchased by ATI such Verizon retail Telecommunications Service call blocking and call screening services as Verizon provides to its own end user retail Customers, where and to the extent Verizon provides such Verizon retail Telecommunications Service call blocking services to Verizon's own end user retail Customers. ATI understands and agrees that certain of Verizon's call blocking and call screening services are not guaranteed to block or screen all calls and that notwithstanding ATI's purchase of such blocking or screening services, ATI's end user Customers or other persons ordering, activating or using Telecommunications Services on the resold dial tone

lines may complete or accept calls which ATI intended to block. Notwithstanding the foregoing, ATI shall be responsible for and shall pay Verizon all charges for Telecommunications Services provided by Verizon or provided by persons other than Verizon and billed for by Verizon in accordance with the terms of Section 4.1 above.

5. Operations Matters

5.1 Facilities.

- 5.1.1 Verizon and its suppliers shall retain all of their right, title and interest in all facilities, equipment, software, information, and wiring used to provide Verizon Telecommunications Services.
- 5.1.2 Verizon shall have access at all reasonable times to ATI Customer locations for the purpose of installing, inspecting, maintaining, repairing, and removing, facilities, equipment, software, and wiring used to provide the Verizon Telecommunications Services. ATI shall, at ATI's expense, obtain any rights and authorizations necessary for such access.
- 5.1.3 Except as otherwise agreed to in writing by Verizon, Verizon shall not be responsible for the installation, inspection, repair, maintenance, or removal of facilities, equipment, software, or wiring provided by ATI or ATI Customers for use with Verizon Telecommunications Services.

5.2 Branding.

- 5.2.1 Except as stated in Section 5.2.2 of this Attachment, in providing Verizon Telecommunications Services to ATI, Verizon shall have the right (but not the obligation) to identify the Verizon Telecommunications Services with Verizon's trade names, trademarks and service marks ("Verizon Marks"), to the same extent that these Services are identified with Verizon's Marks when they are provided to Verizon's Customers. Any such identification of Verizon's Telecommunications Services shall not constitute the grant of a license or other right to ATI to use Verizon's Marks.
- 5.2.2 To the extent required by Applicable Law, upon request by ATI and at prices, terms and conditions to be negotiated by ATI and Verizon, Verizon shall provide Verizon Telecommunications Services for resale that are identified by ATI's trade name, or that are not identified by trade name, trademark or service mark.
- 5.2.3 If Verizon uses a third-party contractor to provide Verizon Operator Services or Verizon Directory Assistance Services, ATI will be responsible for entering into a direct contractual arrangement with the third-party contractor at ATI's expense (a) to obtain identification of Verizon Operator Services or Verizon Directory Assistance Services purchased by ATI for resale with ATI's trade name, or (b) to obtain removal of Verizon Marks from Verizon Operator Services or Verizon Directory Assistance Services purchased by ATI for resale.

6. Rates and Charges

The rates and charges for Verizon Telecommunication Services purchased by ATI for resale pursuant to this Attachment shall be as provided in this Attachment and the Pricing

Attachment.

7. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

NETWORK ELEMENTS ATTACHMENT

1. General

- 1.1 Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide unbundled Network Elements (UNEs) and Combinations to ATI only to the extent required by Applicable Law and may decline to provide UNEs or Combinations to ATI to the extent that provision of such UNEs or Combinations is not required by Applicable Law.
- 1.2 Verizon shall be obligated to combine UNEs that are not already combined in Verizon's network only to the extent required by Applicable Law. Except as otherwise required by Applicable Law: (a) Verizon shall be obligated to provide a UNE or Combination pursuant to this Agreement only to the extent such UNE or Combination, and the equipment and facilities necessary to provide such UNE or Combination, are available in Verizon's network; and (b) Verizon shall have no obligation to construct or deploy new facilities or equipment to offer any UNE or Combination.
- 1.3 ATI may use a UNE or Combination only for those purposes for which Verizon is required by Applicable Law to provide such UNE or Combination to ATI. Without limiting the foregoing, ATI may use a UNE or Combination (a) only to provide a Telecommunications Service and (b) to provide Exchange Access services only to the extent that Verizon is required by Applicable Law to provide such UNE or Combination to ATI in order to allow ATI to provide such Exchange Access services.
- 1.4 Notwithstanding any other provision of this Agreement:
- 1.4.1 To the extent Verizon is required by a change in Applicable Law to provide to ATI a UNE or Combination that is not offered under this Agreement to ATI as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be available and how it will be used, and terms, conditions and prices for pre-ordering, ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed in writing by the Parties.
- 1.4.2 Verizon shall not be obligated to provide to ATI, and ATI shall not request from Verizon, access to a proprietary advanced intelligent network service.
- 1.5 Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to ATI, and the Commission, the FCC, a court or other governmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to ATI. If Verizon terminates its provision of a UNE or a Combination to ATI

pursuant to this Section 1.5 and ATI elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with ATI to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of ATI; and, (b) ATI shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.

- 1.6 Nothing contained in this Agreement shall be deemed to constitute an agreement by Verizon that any item identified in this Agreement as a Network Element is (i) a Network Element under Applicable Law, or (ii) a Network Element Verizon is required by Applicable Law to provide to ATI on an unbundled basis or in combination with other Network Elements.
- 1.7 If as the result of ATI Customer actions (i.e., Customer Not Ready ("CNR")), Verizon cannot complete requested work activity when a technician has been dispatched to the ATI Customer premises, ATI will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the applicable Service Order charge as provided in the Pricing Attachment and the Premises Visit Charge as provided in Verizon's applicable retail or wholesale Tariff.

2. Verizon's Provision of Network Elements

Subject to the conditions set forth in Section 1 of this Attachment, in accordance with, but only to the extent required by, Applicable Law, Verizon shall provide ATI access to the following:

- 2.1 Loops, as set forth in Section 3 of this Attachment;
- 2.2 Line Sharing, as set forth in Section 4 of this Attachment;
- 2.3 Line Splitting, as set forth in Section 5 of this Attachment;
- 2.4 Sub-Loops, as set forth in Section 6 of this Attachment;
- 2.5 *Inside Wire*, as set forth in Section 7 of this Attachment;
- 2.6 Dark Fiber, as set forth in Section 8 of this Attachment;
- 2.7 Network Interface Device, as set forth in Section 9 of this Attachment;
- 2.8 Switching Elements, as set forth in Section 10 of this Attachment;
- 2.9 Interoffice Transmission Facilities (IOF), as set forth in Section 11 of this Attachment;
- 2.10 Signaling Networks and Call-Related Databases, as set forth in Section 12 of this Attachment;
- 2.11 *Operations Support Systems*, as set forth in Section 13 of this Attachment; and
- 2.12 Other UNEs in accordance with Section 14 of this Attachment.

3. Loop Transmission Types

- 3.1 Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall allow ATI to access Loops unbundled from local switching and local transport, in accordance with this Section 3 and the rates and charges provided in the Pricing Attachment. Verizon shall allow ATI access to Loops in accordance with, but

only to extent required by, Applicable Law. The available Loop types are as set forth below:

- 3.1.1 "2 Wire Analog Voice Grade Loop" or "Analog 2W" provides an effective 2-wire channel with 2-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals and loop-start signaling. This Loop type is more fully described in Verizon Technical Reference (TR)-72565, as revised from time-to-time. If "Customer-Specified Signaling" is requested, the Loop will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, and no signaling. Customer specified signaling is more fully described in Verizon TR-72570, as revised from time-to-time. Verizon will not build new facilities.
- 3.1.2 "4-Wire Analog Voice Grade Loop" or "Analog 4W" provides an effective 4-wire channel with 4-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals. This Loop type will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, duplex, and no signaling. This Loop type is more fully described in Verizon TR-72570, as revised from time-to-time. Verizon will not build new facilities.
- 3.1.3 "2-Wire ISDN Digital Grade Loop" or "BRI ISDN" provides a channel with 2-wire interfaces at each end that is suitable for the transport of 160 kbps digital services using the ISDN 2B1Q line code. This Loop type is more fully described in American National Standards Institute (ANSI) T1.601-1998 and Verizon TR 72575, as revised from time-to-time. In some cases loop extension equipment may be necessary to bring the line loss within acceptable levels. Verizon will provide loop extension equipment only upon request. A separate charge will apply for loop extension equipment. The 2-Wire ISDN Digital Grade Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, AT&T may order a 2-Wire Digital Compatible Loop using 2-wire ISDN ordering codes to provide similar capability. Verizon will not build new facilities.
- 3.1.4 "2-Wire ADSL-Compatible Loop" or "ADSL 2W" provides a channel with 2-wire interfaces at each end that is suitable for the transport of digital signals up to 8 Mbps toward the Customer and up to 1 Mbps from the Customer. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. ADSL-Compatible Loops will be available only where existing copper facilities are available and meet applicable specifications. Verizon will not build new facilities. The upstream and downstream ADSL power spectral density masks and dc line power limits in Verizon TR 72575, as revised from time-to-time, must be met. The 2-Wire ADSL-Compatible Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, AT&T may order a 2-Wire Digital Compatible Loop using 2-wire ADSL ordering codes to provide similar capability.
- 3.1.5 "2-Wire HDSL-Compatible Loop" or "HDSL 2W" consists of a single 2-wire non-loaded, twisted copper pair that meets the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575,

as revised from time-to-time, must be met. 2-Wire HDSL-Compatible Loops will be provided only where existing facilities are available and can meet applicable specifications. The 2-Wire HDSL-Compatible Loop is available only in the former Bell Atlantic Service areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using 2-Wire HDSL ordering codes to provide similar capability. Verizon will not build new facilities.

- 3.1.6 "4-Wire HDSL-Compatible Loop" or "HDSL 4W" consists of two 2-wire non-loaded, twisted copper pairs that meet the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575, as revised from time-to-time, must be met. 4-Wire HDSL-Compatible Loops will be provided only where existing facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.7 "2-Wire IDSL-Compatible Metallic Loop" consists of a single 2-wire non-loaded, twisted copper pair that meets revised resistance design criteria. This Loop is intended to be used with very-low band symmetric DSL systems that meet the Class 1 signal power limits and other criteria in the T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3) and are not compatible with 2B1Q 160 kbps ISDN transport systems. The actual data rate achieved depends upon the performance of CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3, as revised from time-to-time. This loop cannot be provided via UDLC. The 2-Wire IDSL-Compatible Metallic Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using ISDN ordering codes to provide similar capability. IDLC-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.8 "2-Wire SDSL-Compatible Loop", is intended to be used with low band symmetric DSL systems that meet the Class 2 signal power limits and other criteria in the T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3). This Loop consists of a single 2-wire non-loaded, twisted copper pair that meets Class 2 length limit in T1E1.4/2000-002R3. The data rate achieved depends on the performance of the CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3, as revised from time-to-time. The 2-Wire SDSL-Compatible Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop to provide similar capability. SDSL-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.9 "4-Wire 56 kbps Loop" is a 4-wire Loop that provides a transmission path that is suitable for the transport of digital data at a synchronous rate of 56 kbps in opposite directions on such Loop simultaneously. A 4-Wire 56 kbps Loop consists of two pairs of non-loaded copper wires with no intermediate electronics or it consists of universal digital loop

carrier with 56 kbps DDS dataport transport capability. Verizon shall provide 4-Wire 56 kbps Loops to ATI in accordance with, and subject to, the technical specifications set forth in Verizon TR-72575, as revised from time-to-time. Verizon will not build new facilities.

- 3.1.10 "DS-1 Loops" provide a digital transmission channel suitable for the transport of 1.544 Mbps digital signals. This Loop type is more fully described in Verizon TR 72575, as revised from time to time. The DS-1 Loop includes the electronics necessary to provide the DS-1 transmission rate. A DS-1 Loop will be provided only where the electronics necessary to provide the DS-1 transmission rate are at the requested installation date currently available for the requested DS-1 Loop. Verizon will not install new electronics. If the electronics necessary to provide Clear Channel (B8ZS) signaling are at the requested installation date currently available for a requested DS-1 Loop, upon request by ATI, the DS-1 Loop will be furnished with Clear Channel (B8ZS) signaling. Verizon will not install new electronics to furnish Clear Channel (B8ZS) signaling.
- 3.1.11 "DS-3 Loops" will support the transmission of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS-1 channels). This Loop type is more fully described in Verizon TR 72575, as revised from time to time. The DS-3 Loop includes the electronics necessary to provide the DS-3 transmission rate. A DS-3 Loop will be provided only where the electronics necessary to provide the DS-3 transmission rate are at the requested installation date currently available for the requested DS-3 Loop. Verizon will not install new electronics and Verizon will not build new facilities.
- 3.1.12 In the former Bell Atlantic Service Areas only, "Digital Designed Loops" are comprised of designed loops that meet specific ATI requirements for metallic loops over 18k ft. or for conditioning of ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loops. "Digital Designed Loops" may include requests for:
 - 3.1.12.1 a 2W Digital Designed Metallic Loop with a total loop length of 18k to 30k ft., unloaded, with the option to remove bridged tap;
 - 3.1.12.2 a 2W ADSL Loop of 12k to 18k ft. with an option to remove bridged tap (such a Loop with the bridged tap so removed shall be deemed to be a "2W ADSL Compatible Loop");
 - 3.1.12.3 a 2W ADSL Loop of less than 12k ft. with an option to remove bridged tap (such a Loop with the bridged tap so removed shall be deemed to be a "2W ADSL Compatible Loop");
 - 3.1.12.4 a 2W HDSL Loop of less than 12k ft. with an option to remove bridged tap;
 - 3.1.12.5 a 4W HDSL Loop of less than 12k ft with an option to remove bridged tap;
 - 3.1.12.6 a 2 W Digital Designed Metallic Loop with Verizon-placed ISDN loop extension electronics;

- 3.1.12.7 a 2W SDSL Loop with an option to remove bridged tap; and
- 3.1.12.8 a 2W IDSL Loop of less than 18k ft. with an option to remove bridged tap;
- 3.1.13 Verizon shall make Digital Designed Loops available ATI at the rates as set forth in the Pricing Attachment.
- 3.1.14 In the former GTE Service Areas only, "Conditioned Loops" are comprised of designed loops that meet specific ATI requirements for metallic loops over 12k ft. or for conditioning of 2-wire or 4-wire digital or BRI ISDN Loops. "Conditioned Loops" may include requests for:
 - 3.1.14.1 a 2W Digital Loop with a total loop length of 12k to 30k ft., unloaded, with the option to remove bridged tap (such a Loop, unloaded, with bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.2 a 2W Digital Loop of 12k to 18k ft. with an option to remove load coils and/or bridged tap (such a Loop with load coils and/or bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.3 a 2W Digital or 4W Digital Loop of less than 12k ft. with an option to remove bridged tap (such a 2W Loop with bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.4 a 2W Digital Loop with Verizon-placed ISDN loop extension electronics (such a Loop with ISDN loop extension electronics so placed shall be deemed to be a "2W Digital Compatible Loop").
- 3.1.15 Verizon shall make Conditioned Loops available to ATI at the rates as set forth in the Pricing Attachment.
- 3.2 The following ordering procedures shall apply to xDSL Compatible Loops, Digital Designed and Conditioned Loops:
 - 3.2.1 ATI shall place orders for xDSL Compatible Loops, Digital Designed and Conditioned Loops by delivering to Verizon a valid electronic transmittal Service Order or other mutually agreed upon type of Service Order. Such Service Order shall be provided in accordance with industry format and specifications or such format and specifications as may be agreed to by the Parties.
 - 3.2.2 *In former Bell Atlantic Service Areas, Verizon is conducting a mechanized survey of existing Loop facilities, on a Central Office by Central Office basis, to identify those Loops that meet the applicable technical characteristics established by Verizon for compatibility with xDSL Compatible or BRI ISDN signals. The results of this survey will be stored in a mechanized database and made available to ATI as the process is completed in each Central Office. ATI must utilize this mechanized loop qualification database, where available, in advance of submitting a valid electronic transmittal Service Order for an xDSL Compatible or BRI ISDN Loop. Charges for mechanized loop qualification information are set forth in the Pricing Attachment. In*

former GTE Service Areas, Verizon provides access to mechanized xDSL loop qualification information to help identify those loops that meet applicable technical characteristics for compatibility with xDSL Services that the CLEC may wish to offer to its end user Customers. ATI must access Verizon's mechanized loop qualification system through the use of the on-line computer interface at www.verizon.com/wise in advance of submitting a valid electronic transmittal Service Order for xDSL service arrangements. The loop qualification information provided by Verizon gives ATI the ability to determine loop composition, loop length and may provide other loop characteristics, when present, that may indicate incompatibility with xDSL Services such as load coils or Digital Loop Carrier. Information provided by the mechanized loop qualification system also indicates whether loop conditioning may be necessary. It is the responsibility of ATI to evaluate the loop qualification information provided by Verizon and determine whether a loop meets ATI requirements for xDSL Service, including determining whether conditioning should be ordered, prior to submitting an Order.

- 3.2.3 If the Loop is not listed in the mechanized database described in Section 3.2.2 of this Attachment, ATI must request a manual loop qualification, where such qualification is available, prior to submitting a valid electronic Service Order for an xDSL Compatible or BRI ISDN Loop. In general, Verizon will complete a manual loop qualification request within three (3) Business Days, although Verizon may require additional time due to poor record conditions, spikes in demand, or other unforeseen events. The manual loop qualification process is currently available in the former Bell Atlantic Service Areas only.
- 3.2.4 If a query to the mechanized loop qualification database or manual loop qualification indicates that a Loop does not qualify (e.g., because it does not meet the applicable technical parameters set forth in the Loop descriptions above), ATI may request an Engineering Query, where available, as described in Section 3.2.7 of this Attachment, to determine whether the result is due to characteristics of the loop itself (e.g., specific number and location of bridged taps, the specific number of load coils, or the gauge of the cable).
- 3.2.5 Once a Loop has been pre-qualified, ATI will submit a Service Order pursuant to Section 3.2.1 of this Attachment if it wishes to obtain the Loop.
 - 3.2.5.1 If the Loop is determined to be xDSL Compatible and if the Loop serving the serving address is usable and available to be assigned as a xDSL Compatible Loop, Verizon will initiate standard Loop provisioning and installation processes, and standard Loop provisioning intervals will apply.
 - 3.2.5.2 If the Loop is determined to be xDSL Compatible, but the Loop serving the service address is unusable or unavailable to be assigned as an xDSL Compatible Loop, Verizon will search the Customer's serving terminal for a suitable spare facility. If an xDSL Compatible Loop is found within the serving terminal, Verizon will perform a Line and Station Transfer (or "pair swap") whereby the Verizon technician will transfer the Customer's existing service from one existing

Loop facility onto an alternate existing xDSL Compatible Loop facility serving the same location. Verizon performs Line and Station Transfers in accordance with the procedures developed in the DSL Collaborative in the State of New York, NY PSC Case 00-C-0127. Standard intervals do not apply when Verizon performs a Line and Station Transfer, and additional charges shall apply as set forth in the Pricing Attachment.

- 3.2.6 If ATI submits a Service Order for an xDSL Compatible or BRI ISDN Loop that has not been prequalified, Verizon will query the Service Order back to ATI for qualification and will not accept such Service Order until the Loop has been prequalified on a mechanized or manual basis. If ATI submits a Service Order for an xDSL Compatible or BRI ISDN Loop that is, in fact, not compatible with the requested service (e.g. ADSL, HDSL etc.) in its existing condition, Verizon will respond back to ATI with a "Nonqualified" indicator and with information showing whether the non-qualified result is due to the presence of load coils, presence of digital loop carrier, or loop length (including bridged tap).
- 3.2.7 Where ATI has followed the prequalification procedure described above and has determined that a Loop is not compatible with xDSL technologies or BRI ISDN service in its existing condition, it may either request an Engineering Query, where available, to determine whether conditioning may make the Loop compatible with the applicable service; or if ATI is already aware of the conditioning required (e.g., where ATI has previously requested a qualification and has obtained loop characteristics), ATI may submit a Service Order for a Digital Designed Loop. Verizon will undertake to condition or extend the Loop in accordance with this Section 3.2 of this Attachment upon receipt of ATI's valid, accurate and pre-qualified Service Order for a Digital Designed Loop.
- 3.2.8 The Parties will make reasonable efforts to coordinate their respective roles in order to minimize provisioning problems. In general, where conditioning or loop extensions are requested by ATI, an interval of eighteen (18) Business Days will be required by Verizon to complete the loop analysis and the necessary construction work involved in conditioning and/or extending the loop as follows:
- 3.2.8.1 Three (3) Business Days will be required following receipt of ATI's valid, accurate and pre-qualified Service Order for a Digital Designed or Conditioned Loop to analyze the loop and related plant records and to create an Engineering Work Order.
- 3.2.8.2 Upon completion of an Engineering Work Order, Verizon will initiate the construction order to perform the changes/modifications to the Loop requested by ATI. Conditioning activities are, in most cases, able to be accomplished within fifteen (15) Business Days. Unforeseen conditions may add to this interval.

After the engineering and conditioning tasks have been completed, the standard Loop provisioning and installation process will be initiated, subject to Verizon's standard provisioning intervals.

- 3.2.9 If ATI requires a change in scheduling, it must contact Verizon to issue a supplement to the original Service Order. If ATI cancels the request for conditioning after a loop analysis has been completed but prior to the commencement of construction work, ATI shall compensate Verizon for an Engineering Work Order charge as set forth in the Pricing Attachment. *If ATI cancels the request for conditioning after the loop analysis has been completed and after construction work has started or is complete, ATI shall compensate Verizon for an Engineering Work Order charge as well as the charges associated with the conditioning tasks performed as set forth in the Pricing Attachment.*
- 3.3 Conversion of Live Telephone Exchange Service to Analog 2W Loops.
- 3.3.1 The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to ATI Telephone Exchange Services provisioned over Analog 2W unbundled Local Loops ("Analog 2W Loops") to be provided by Verizon to ATI:
- 3.3.1.1 Coordinated cutover charges shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops. When an outside dispatch is required to perform a conversion, additional charges may apply. If ATI does not request a coordinated cutover, Verizon will process ATI's order as a new installation subject to applicable standard provisioning intervals.
- 3.3.1.2 ATI shall request Analog 2W Loops for coordinated cutover from Verizon by delivering to Verizon a valid electronic Local Service Request ("LSR"). Verizon agrees to accept from ATI the date and time for the conversion designated on the LSR ("Scheduled Conversion Time"), provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force is not available, ATI and Verizon shall mutually agree on a New Conversion Time, as defined below. ATI shall designate the Scheduled Conversion Time subject to Verizon standard provisioning intervals as stated in the Verizon CLEC Handbook, as may be revised from time to time. Within three (3) Business Days of Verizon's receipt of such valid LSR, or as otherwise required by Applicable Law, Verizon shall provide ATI the scheduled due date for conversion of the Analog 2W Loops covered by such LSR.
- 3.3.1.3 ATI shall provide dial tone at the ATI collocation site at least forty-eight (48) hours prior to the Scheduled Conversion Time.
- 3.3.1.4 Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New Conversion Time may not be rescheduled more than one

(1) time in a Business Day, and any two New Conversion Times for a particular Analog 2W Loop shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.

3.3.1.5 If the New Conversion Time is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:

3.3.1.5.1 If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be credited upon request from ATI; and

3.3.1.5.2 If ATI requests to reschedule outside the one (1) hour time frame above, ATI shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.

3.3.1.6 If ATI is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and ATI will reschedule and, upon request from ATI, Verizon will credit the Analog 2W Loop Service Order Charge for the original Scheduled Conversion Time.

3.3.1.7 The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the Analog 2W Loops to ATI is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a negotiated interval.

3.3.1.8 Conversions involving LNP will be completed according to North American Numbering Council (NANC) standards, via the regional Number Portability Administration Center (NPAC).

3.3.1.9 If ATI requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.

3.4 Cooperative Testing.

In the former Bell Atlantic Service Areas only, ATI may request Cooperative Testing in conjunction with its request for an xDSL Compatible Loop or Digital Designed Loop. "Cooperative Testing" is a procedure whereby a Verizon

technician and a ATI technician jointly verify that an xDSL Compatible Loop or Digital Designed Loop is properly installed and operational prior to Verizon's completion of the order. ATI may request, at its option, Cooperative Testing by entering a toll-free (e.g. 800/888/877) number in the Remarks field of the LSR of an xDSL Compatible or Digital Designed Loop Service Order, and the Verizon technician will call the toll-free number to perform the Cooperative Test. When both the Verizon and ATI technicians agree that the Loop test shows that the Loop is operational, the ATI technician will provide the Verizon technician with a serial number to acknowledge that the Loop is operational. Charges for Cooperative Testing are as set forth in the Pricing Attachment.

- 3.5 Verizon shall provide ATI access to its Loops at each of Verizon's Wire Centers for Loops terminating in that Wire Center. In addition, if ATI orders one or more Loops provisioned via Integrated Digital Loop Carrier or Remote Switching technology deployed as a Loop concentrator, Verizon shall, where available, move the requested Loop(s) to a spare physical Loop, if one is existing and available, at no additional charge to ATI. If, however, no spare physical Loop is available, Verizon shall within three (3) Business Days of ATI's request notify ATI of the lack of available facilities. Upon request and to the extent required by Applicable Law, Verizon will provide ATI access to the unbundled Local Loop through the demultiplexing of the integrated digitized Loop(s). Upon request and to the extent required by Applicable Law, Verizon will provide ATI access to the unbundled Local Loop at the Loop concentration site point. Notwithstanding anything to the contrary in this Agreement, standard provisioning intervals shall not apply to Loops provided under this Section 3.5.

4. Line Sharing

Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI line sharing in accordance with, and subject to, the rates, terms and conditions set forth in Verizon's PA PUC Tariff No. 216, as amended from time to time, that relate to or concern line sharing, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective ("Line Sharing"). Verizon shall provide ATI with access to Line Sharing in accordance with, but only to the extent required by, Applicable Law.

5. Line Splitting

Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall provide ATI with access to line splitting in accordance with, and subject to, the rates, terms and conditions set forth in Verizon's PA PUC Tariff No. 216, as amended from time to time, that relate to or concern line splitting, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective ("Line Splitting"). Verizon shall provide ATI with access to Line Splitting in accordance with, but only to the extent required by, Applicable Law.

6. Sub-Loop

Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall allow ATI to access Sub-Loops unbundled from local switching and transport, in accordance with the terms of Verizon's PA PUC Tariff No. 216, as amended from time to time, that relate to or concern Sub-Loops, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective. Verizon shall allow ATI access to Sub-Loops in accordance with, but only to the extent required by, Applicable Law.

6.1 Collocation in Remote Terminals.

To the extent required by Applicable Law, Verizon shall allow ATI to collocate equipment in a Verizon remote terminal equipment enclosure in accordance with, and subject to, the rates, terms and conditions set forth in the Collocation Attachment and the Pricing Attachment.

7. **Inside Wire**

7.1 House and Riser.

[This Section Intentionally Left Blank].

8. **Dark Fiber**

8.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to unbundled Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF in accordance with, and subject to, the rates, terms and conditions provided in the Pricing Attachment and rates, terms and conditions of Verizon's applicable Tariffs. Access to unbundled Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will be provided by Verizon only where existing facilities are available. Access to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will be provided in accordance with, but only to the extent required by, Applicable Law. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF consist of Verizon optical transmission facilities without attached multiplexers, aggregation or other electronics. To the extent Verizon's Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF contain any lightwave repeaters (e.g., regenerators or optical amplifiers) installed thereon, Verizon shall not remove the same. Except as otherwise required by Applicable Law, the following terms and conditions apply to Verizon's Dark Fiber offerings.

8.2 In addition to the other terms and conditions of this Agreement, the following terms and conditions shall apply to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF:

8.2.1 Verizon shall be required to provide a Dark Fiber Loop only where one end of the Dark Fiber Loop terminates at a Verizon accessible terminal in Verizon's Central Office that can be cross-connected to ATI's collocation arrangement located in that same Verizon Central Office and the other end terminates at Verizon's accessible terminal located in Verizon's main termination point in the Customer premises in the same serving wire center. Verizon shall be required to provide a Dark Fiber Sub-Loop only where (1) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal in Verizon's Central Office that can be cross-connected to ATI's collocation arrangement located in that same Verizon Central Office and the other end terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure, or (2) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal located at Verizon's main termination point located within the Customer premises and the other end terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure, or (3) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure

that can be cross-connected to ATI's collocation arrangement or adjacent structure and the other end terminates at Verizon's accessible terminal at another Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure. A ATI demarcation point at a Customer premises shall be established in the main telco room of the Customer premises if Verizon is located in that room or, if the building does not have a main telco room or if Verizon is not located in that room, then at a location to be determined by Verizon. A ATI demarcation point at a Customer premises shall be established at a location that is no more than thirty (30) feet from Verizon's accessible terminal on which the Dark Fiber Loop or Dark Fiber Sub-Loop terminates. Verizon shall connect a Dark Fiber Loop or Dark Fiber Sub-Loop to the ATI demarcation point by installing a fiber jumper no greater than thirty (30) feet in length.

- 8.2.2 ATI may access a Dark Fiber Loop, a Dark Fiber Sub-Loop, or Dark Fiber IOF only at a pre-existing Verizon accessible terminal of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, and ATI may not access a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF at any other point, including, but not limited to, a splice point or case. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF are not available to ATI unless such Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF are already terminated on an existing Verizon accessible terminal. Unused fibers located in a cable vault or a controlled environment vault, manhole or other location outside the Verizon Wire Center, and not terminated to a fiber patch panel, are not available to ATI.
- 8.2.3 Except if and, to the extent required by, Applicable Law, Verizon will not perform splicing (e.g., introduce additional splice points or open existing splice points or cases) to accommodate ATI's request.
- 8.2.4 Verizon shall perform all work necessary to install (1) a cross connect or a fiber jumper from a Verizon accessible terminal to a ATI collocation arrangement or (2) from a Verizon accessible terminal to ATI's demarcation point at a Customer premises or ATI Central Office.
- 8.2.5 A "Dark Fiber Inquiry Form" must be submitted prior to submitting an ASR. Upon receipt of ATI's completed Dark Fiber Inquiry Form, Verizon will initiate a review of its cable records to determine whether Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF may be available between the locations and in the quantities specified. Verizon will respond within fifteen (15) Business Days from receipt of the ATI's Dark Fiber Inquiry Form, indicating whether Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF may be available (if so available, an "Acknowledgement") based on the records search except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. The Dark Fiber Inquiry is a record search and does not guarantee the availability of Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF. Where a direct Dark Fiber IOF route is not available, Verizon will provide, where available, Dark Fiber IOF via a reasonable indirect route that passes through intermediate Verizon Central Offices at the rates set forth in the Pricing Attachment. Verizon reserves the right to limit the number of intermediate Verizon Central Offices on an indirect route consistent with limitations in Verizon's network design and/or prevailing

industry practices for optical transmission applications. Any limitations on the number of intermediate Verizon Central Offices will be discussed with ATI. If access to Dark Fiber IOF is not available, Verizon will notify ATI, within fifteen (15) Business Days, that no spare Dark Fiber IOF is available over the direct route nor any reasonable alternate indirect route, except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. Where no available route was found during the record review, Verizon will identify the first blocked segment on each alternate indirect route and which segment(s) in the alternate indirect route are available prior to encountering a blockage on that route, at the rates set forth in the Pricing Attachment.

- 8.2.5.1 ATI shall indicate on the Dark Fiber Inquiry Form whether the available Dark Fiber should be reserved, at the rates set forth in the Pricing Attachment, pending receipt of an order for the Dark Fiber.
- 8.2.5.2 Upon request from ATI as indicated on the Dark Fiber Inquiry Form, Verizon shall hold such requested Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF for ATI's use for ten (10) Business Days from ATI's receipt of Acknowledgement and may not allow any other party (including Verizon) to use such fiber during that time period.
- 8.2.5.3 ATI shall submit an order for the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF as soon as possible using the standard ordering process or parallel provisioning process as described in Section 8.2.5.5. The standard ordering process shall be used when ATI does not have additional requirements for collocation. The parallel provisioning process shall be used when ATI requires new collocation facilities or changes to existing collocation arrangements.
- 8.2.5.4 If no order is received from ATI for the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF within ten (10) Business Days from ATI's receipt of Acknowledgement, Verizon shall return to spare the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that Verizon previously notified ATI are available. Should ATI submit an order to Verizon after the ten (10) Business Day reservation period for access to a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that Verizon has previously notified ATI was available, ATI assumes all risk that such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will no longer be available.
- 8.2.5.5 Upon ATI's request, the Parties will conduct parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF in accordance with the following terms and conditions:
 - 8.2.5.5.1 ATI will use existing interfaces and Verizon's current applications and order forms to request collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF.

- 8.2.5.5.2 Verizon will parallel process ATI's requests for collocation, including augments, and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF.
- 8.2.5.5.3 Before ATI submits a request for parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, ATI will:
 - 8.2.5.5.3.1 submit a Dark Fiber Inquiry Form and receive an Acknowledgement from Verizon; and
 - 8.2.5.5.3.2 submit a collocation application for the Verizon Central Office(s) where the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF *terminates and receive* confirmation from Verizon that ATI's collocation application has been accepted.
- 8.2.5.5.4 ATI will prepare requests for parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF in the manner and form reasonably specified by Verizon.
- 8.2.5.5.5 If Verizon rejects ATI's Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request, ATI may cancel its collocation application within five (5) Business Days of such rejection and receive a refund of the collocation application fee paid by ATI, less the costs Verizon incurred to date.
- 8.2.5.5.6 If Verizon accepts ATI's Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request, Verizon will parallel provision the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF to a temporary location in Verizon's Central Office(s). Verizon will charge and ATI will pay for parallel provisioning of such Dark Fiber Loop, *Dark Fiber Sub-Loop or Dark Fiber IOF at the rates specified in the Pricing Attachment* beginning on the date that Verizon accepts each Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request.
- 8.2.5.5.7 Within ten (10) days after Verizon completes a ATI collocation application, ATI shall submit a Dark Fiber change request to reposition Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF from the temporary location in that Verizon Central Office(s) to the permanent location at ATI's collocation arrangement in such Verizon Central Office(s). ATI will prepare such request(s) in the manner and form specified by Verizon.

- 8.2.5.5.8 If ATI cancels its collocation application, ATI must also submit a cancellation for the unbundled Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF provisioned to the temporary location in the Verizon Central Office(s).
- 8.2.6 ATI shall order Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF by sending to Verizon a separate ASR for each A to Z route.
- 8.2.7 Where a collocation arrangement can be accomplished in a Verizon premises, access to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that terminate in a Verizon premises must be accomplished via a collocation arrangement in that Verizon premises. In circumstances where a collocation arrangement cannot be accomplished in a Verizon premises, the Parties agree to negotiate for possible alternative arrangements.
- 8.2.8 A Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will be offered to ATI in the condition that it is available in Verizon's network at the time that ATI submits its request (i.e., "as is"). In addition, Verizon shall not be required to convert lit fiber to a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF for ATI's use.
- 8.2.9 Spare wavelengths on fiber strands, where Wave Division Multiplexing (WDM) or Dense Wave Division Multiplexing (DWDM) equipment is deployed, are not considered to be Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, and, therefore, will not be offered to ATI as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.
- 8.2.10 Fiber that has been assigned to fulfill a Customer order for maintenance purposes or for Verizon's lit fiber optic systems will not be offered to ATI as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.
- 8.2.11 ATI shall be responsible for providing all transmission, terminating and lightwave repeater equipment necessary to light and use Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF.
- 8.2.12 ATI may not resell Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, purchased pursuant to this Agreement to third parties.
- 8.2.13 Except to the extent that Verizon is required by Applicable Law to provide Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF to ATI for use for Special or Switched Exchange Access Services, ATI shall not use Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, for Special or Switched Exchange Access Services.
- 8.2.14 In order to preserve the efficiency of its network, Verizon may, upon a showing of need to the Commission, limit ATI to leasing up to a maximum of twenty-five percent (25%) of the Fiber Loops, Fiber Sub-Loops or Fiber IOF in any given segment of Verizon's network. In addition, except as otherwise required by Applicable Law, Verizon may take any of the following actions, notwithstanding anything to the contrary in this Agreement:

- 8.2.14.1 Revoke Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF leased to ATI upon a showing of need to the Commission and twelve (12) months' advance written notice to ATI; and
- 8.2.14.2 Verizon reserves and shall not waive, Verizon's right to claim before the Commission that Verizon should not have to fulfill a ATI order for Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF because that request would strand an unreasonable amount of fiber capacity, disrupt or degrade service to Customers or carriers other than ATI, or impair Verizon's ability to meet a legal obligation.
- 8.2.15 Except as expressly set forth in this Agreement, ATI may not reserve Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.
- 8.2.16 ATI shall be solely responsible for: (a) determining whether or not the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF accommodate the requirements of ATI; (b) obtaining any Rights of Way, governmental or private property permit, easement or other authorization or approval required for access to the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF; (c) installation of fiber optic transmission equipment needed to power the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF to transmit Telecommunications Services traffic; (d) installation of a demarcation point in a building where a Customer is located; and (e) except as set forth with respect to the parallel provisioning process addressed above, ATI's collocation arrangements with any proper optical cross connects or other equipment that ATI needs to access Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF before it submits an order for such access. ATI hereby represents and warrants that it shall have all such rights of way, authorizations and the like applicable to the geographic location at which it wishes to establish a demarcation point for a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, on or before the date that ATI places an order for the applicable Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, and that it shall maintain the same going forward.
- 8.2.17 ATI is responsible for trouble isolation before reporting trouble to Verizon. Verizon will restore continuity to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that have been broken. Verizon will not repair a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that is capable of transmitting light, even if the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF have changed.
- 8.2.18 ATI is responsible for all work activities at the Customer premises. Except as otherwise required by Applicable Law, all negotiations with the premises owner are solely the responsibility of ATI.
- 8.2.19 ATI may request the following, which shall be provided on a time and materials basis (as set forth in the Pricing Attachment):
 - 8.2.19.1 A fiber layout map that shows the streets within a Verizon Wire Center where there are existing Verizon fiber cable sheaths. Verizon shall provide such maps to ATI subject to the agreement of ATI, in writing, to treat the maps as

confidential and to use them for preliminary design purposes only. ATI acknowledges that fiber layout maps do not show whether or not spare Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF are available. Verizon shall provide fiber layout maps to ATI subject to a negotiated interval.

- 8.2.19.2 A field survey that shows the availability of Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF between two or more Verizon Central Offices, a Verizon Central Office and a ATI Central Office or a Verizon End Office and the premises of a Customer, shows whether or not such Dark Fiber Loop(s), Dark Fiber Sub-Loop(s), or Dark Fiber IOF are defective, shows whether or not such Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF have been used by Verizon for emergency restoration activity and tests the transmission characteristics of Verizon's Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF. If a field survey shows that a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF is available, ATI may reserve the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, as applicable, for ten (10) Business Days from receipt of Verizon's field survey results. If ATI submits an order for access to such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF after passage of the foregoing ten (10) Business Day reservation period, Verizon does not guarantee or warrant the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will be available when Verizon receives such order, and ATI assumes all risk that the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will not be available. Verizon shall perform a field survey subject to a negotiated interval. If a ATI submits an order for a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF without first obtaining the results of a field survey of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, ATI assumes all risk that the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will not be compatible with ATI's equipment, including, but not limited to, order cancellation charges.

9. Network Interface Device

Subject to the conditions set forth in Section 1 of this Attachment, and upon request by ATI, Verizon shall permit ATI to connect a carrier's Loop to the Inside Wiring of a Customer's premises through Verizon's NID at the rates, terms and conditions set forth in Verizon's PA PUC Tariff No. 216, as amended from time to time, that relate to or concern NIDs, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective. Verizon shall provide ATI with access to NIDs in accordance with, but only to the extent required by, Applicable Law.

10. Unbundled Switching Elements

- 10.1 Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall make available to ATI the local switching element and Tandem switching element unbundled from transport, local Loop transmission, or other services, in accordance with this Section 10 and the rates and charges provided in the Pricing Attachment. Verizon shall provide ATI with access to the local switching

element and the Tandem switching element in accordance with, but only to the extent required by, Applicable Law.

10.2 Local Switching.

10.2.1 The unbundled local switching element includes line side and trunk side facilities (e.g. line and trunk side Ports such as analog and ISDN line side Ports and DS1 trunk side Ports), plus the features, functions, and capabilities of the switch. It consists of the line-side Port (including connection between a Loop termination and a switch line card, telephone number assignment, basic intercept, one primary directory listing, presubscription, and access to 911, operator services, and directory assistance), line and line group features (including all vertical features and line blocking options that the switch and its associated deployed switch software is capable of providing and are currently offered to Verizon's local exchange Customers), usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks), and trunk features (including the connection between the trunk termination and a trunk card).

10.2.2 Verizon shall offer, as an optional chargeable feature, usage tapes in accordance with Section 8 of the Additional Services Attachment.

10.2.3 ATI may request activation or deactivation of features on a per-port basis at any time, and shall compensate Verizon for the non-recurring charges associated with processing the order. ATI may submit a Bona Fide Request in accordance with Section 14.3 of this Attachment for other switch features and functions that the switch is capable of providing, but which Verizon does not currently provide, or for customized routing of traffic other than operator services and/or directory assistance traffic. Verizon shall develop and provide these requested services where technically feasible with the agreement of ATI to pay the recurring and non-recurring costs of developing, installing, updating, providing and maintaining these services.

10.3 Network Design Request (NDR).

Prior to submitting any order for unbundled local switching (as a UNE or in combination with other UNEs), ATI shall complete the NDR process. As part of the NDR process, ATI shall request standardized or customized routing of its Customer traffic in conjunction with the provision of unbundled Local Switching.

If ATI selects customized routing, ATI shall define the routing plan and Verizon shall implement such plan, subject to technical feasibility constraints. Time and Material Charges may apply.

10.4 Tandem Switching.

The unbundled Tandem switching element includes trunk-connect facilities, the basic switching function of connecting trunks to trunks, and the functions that are centralized in Tandem Switches. Unbundled Tandem switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon access Tandem for the purpose of routing a call or calls.

11. Unbundled Interoffice Facilities

- 11.1 Subject to the conditions set forth in Section 1 of this Attachment, where facilities are available, at ATI's request, Verizon shall provide ATI with interoffice facilities (IOF) unbundled from other Network Elements at the rates set forth in the Pricing Attachment; provided, however, that Verizon shall offer unbundled shared IOF only to the extent that ATI also purchases unbundled Local Switching capability from Verizon in accordance with Section 10 of this Attachment. Verizon shall provide ATI with such IOF in accordance with, but only to the extent required by, Applicable Law. Verizon will not install new electronics, and Verizon will not build new facilities.
- 11.2 If and, to the extent that, ATI has purchased (or purchases) transport from Verizon under a Verizon tariff or otherwise, and ATI has a right under Applicable Law to convert (and wishes to convert) such transport to unbundled IOF under this Agreement, it shall give Verizon written notice of such request (including, without limitation, through submission of ASRs if Verizon so requests) and provide to Verizon all information (including, without limitation, a listing of the specific circuits in question) that Verizon reasonably requires to effectuate such conversion. In the case of any such conversion, ATI shall pay any and all conversion charges (e.g., non-recurring charges), as well as any and all termination liabilities, minimum service period charges and like charges in accordance with Verizon's applicable tariffs.

12. Signaling Networks and Call-Related Databases

- 12.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to databases and associated signaling necessary for call routing and completion by providing SS7 Common Channel Signaling ("CCS") Interconnection, and Interconnection and access to toll free service access code (e.g., 800/888/877) databases, LIDB, and any other necessary databases, in accordance with this Section 12 and the rates and charges provided in the Pricing Attachment. Such access shall be provided by Verizon in accordance with, but only to the extent required by, Applicable Law.
- 12.2 ATI shall provide Verizon with CCS Interconnection required for call routing and completion, and the billing of calls which involve ATI's Customers, at non-discriminatory rates (subject to the provisions of the Pricing Attachment), terms and conditions, provided further that if the ATI information Verizon requires to provide such call-related functionality is resident in a database, ATI will provide Verizon with the access and authorization to query ATI's information in the databases within which it is stored.
- 12.3 Alternatively, either Party ("Purchasing Party") may secure CCS Interconnection from a commercial SS7 hub provider (third party signaling provider) to transport signaling messages to and from the Verizon CCS network, and in that case the other Party will permit the Purchasing Party to access the same databases as would have been accessible if the Purchasing Party had connected directly to the other Party's CCS network. If a third party signaling provider is selected by ATI to transport signaling messages, that third party provider must present a letter of agency to Verizon, prior to the testing of the interconnection, authorizing the third party to act on behalf of ATI.
- 12.4 Regardless of the manner in which ATI obtains CCS Interconnection, ATI shall comply with Verizon's SS7 certification process prior to establishing CCS Interconnection with Verizon.
- 12.5 The Parties will provide CCS Signaling to each other, where and as available, in conjunction with all Reciprocal Compensation Traffic, Toll Traffic, Meet Point

Billing Traffic, and Transit Traffic. The Parties will cooperate on the exchange of TCAP messages to facilitate interoperability of CCS-based features between their respective networks, including all CLASS Features and functions, to the extent each Party offers such features and functions to its Customers. All CCS Signaling parameters will be provided upon request (where available), including called party number, Calling Party Number, originating line information, calling party category, and charge number. All privacy indicators will be honored as required under applicable law.

- 12.6 The Parties will follow all OBF-adopted standards pertaining to CIC/OZZ codes.
- 12.7 Where CCS Signaling is not available, in-band multi-frequency ("MF") wink start signaling will be provided. Any such MF arrangement will require a separate local trunk circuit between the Parties' respective switches in those instances where the Parties have established End Office to End Office high usage trunk groups. In such an arrangement, each Party will out pulse the full ten-digit telephone number of the called Party to the other Party.
- 12.8 The Parties acknowledge that there is a network security risk associated with interconnection with the public Internet Protocol network, including, but not limited to, the risk that interconnection of ATI signaling systems to the public Internet Protocol network may expose ATI and Verizon signaling systems and information to interference by third parties. ATI shall notify Verizon in writing sixty (60) days in advance of installation of any network arrangement that may expose signaling systems or information to access through the public Internet Protocol network. ATI shall take commercially reasonable efforts to protect its signaling systems and Verizon's signaling systems from interference by unauthorized persons.
- 12.9 Each Party shall provide trunk groups, where available and upon reasonable request, that are configured utilizing the B8ZS ESF protocol for 64 kbps clear channel transmission to allow for ISDN interoperability between the Parties' respective networks.
- 12.10 The following publications describe the practices, procedures and specifications generally utilized by Verizon for signaling purposes and are listed herein to assist the Parties in meeting their respective Interconnection responsibilities related to Signaling:
 - 12.10.1 Telcordia Generic Requirements, GR-905-CORE, Issue 1, March, 1995, and subsequent issues and amendments; and
 - 12.10.2 Where applicable, Verizon Supplement Common Channel Signaling Network Interface Specification (Verizon-905).
- 12.11 Each Party shall charge the other Party mutual and reciprocal rates for any usage-based charges for CCS Signaling, toll free service access code (e.g., 800/888/877) database access, LIDB access, and access to other necessary databases, as follows: Verizon shall charge ATI in accordance with the Pricing Attachment and the terms and conditions in applicable Tariffs. ATI shall charge Verizon rates equal to the rates Verizon charges ATI, unless ATI's Tariffs for CCS signaling provide for lower generally available rates, in which case ATI shall charge Verizon such lower rates. Notwithstanding the foregoing, to the extent a Party uses a third party vendor for the provision of CCS Signaling, such charges shall apply only to the third party vendor.

13. Operations Support Systems

Subject to the conditions set forth in Section 1 of this Attachment and in Section 8 of the Additional Services Attachment, Verizon shall provide ATI with access via electronic interfaces to databases required for pre-ordering, ordering, provisioning, maintenance and repair, and billing. Verizon shall provide ATI with such access in accordance with, but only to the extent required by, Applicable Law. All such transactions shall be submitted by ATI through such electronic interfaces.

14. Availability of Other Network Elements on an Unbundled Basis

- 14.1 Any request by ATI for access to a Verizon Network Element that is not already available and that Verizon is required by Applicable Law to provide on an unbundled basis shall be treated as a Network Element Bona Fide Request pursuant to Section 14.3, of this Attachment. ATI shall provide Verizon access to its Network Elements as mutually agreed by the Parties or as required by Applicable Law.
- 14.2 *Notwithstanding anything to the contrary in this Section 14, a Party shall not be required to provide a proprietary Network Element to the other Party under this Section 14 except as required by Applicable Law.*
- 14.3 Network Element Bona Fide Request (BFR).
 - 14.3.1 Each Party shall promptly consider and analyze access to a new unbundled Network Element in response to the submission of a Network Element Bona Fide Request by the other Party hereunder. The Network Element Bona Fide Request process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) ¶ 259 and n.603 or subsequent orders.
 - 14.3.2 A Network Element Bona Fide Request shall be submitted in writing and shall include a technical description of each requested Network Element.
 - 14.3.3 The requesting Party may cancel a Network Element Bona Fide Request at any time, but shall pay the other Party's reasonable and demonstrable costs of processing and/or implementing the Network Element Bona Fide Request up to the date of cancellation.
 - 14.3.4 Within ten (10) Business Days of its receipt, the receiving Party shall acknowledge receipt of the Network Element Bona Fide Request.
 - 14.3.5 Except under extraordinary circumstances, within thirty (30) days of its receipt of a Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a preliminary analysis of such Network Element Bona Fide Request. The preliminary analysis shall confirm that the receiving Party will offer access to the Network Element or will provide a detailed explanation that access to the Network Element is not technically feasible and/or that the request does not qualify as a Network Element that is required to be provided by Applicable Law.
 - 14.3.6 If the receiving Party determines that the Network Element Bona Fide Request is technically feasible and access to the Network Element is required to be provided by Applicable Law, it shall promptly proceed with developing the Network Element Bona Fide Request upon receipt of written authorization from the requesting Party. When it receives

such authorization, the receiving Party shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals. Unless the Parties otherwise agree, the Network Element requested must be priced in accordance with Section 252(d)(1) of the Act.

- 14.3.7 As soon as feasible, but not more than ninety (90) days after its receipt of authorization to proceed with developing the Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a Network Element Bona Fide Request quote which will include, at a minimum, a description of each Network Element, the availability, the applicable rates, and the installation intervals.
- 14.3.8 Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for the Network Element Bona Fide Request pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.
- 14.3.9 If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, or is failing to act in accordance with Section 251 of the Act, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.

15. Maintenance of Network Elements

If (a) ATI reports to Verizon a Customer trouble, (b) ATI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon's facilities or equipment in whole or in part, then ATI shall pay Verizon a charge set forth in the Pricing Attachment for time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by ATI is not available at the appointed time. ATI accepts responsibility for initial trouble isolation and providing Verizon with appropriate dispatch information based on its test results. If, as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Pricing Attachment will be assessed per occurrence to ATI by Verizon. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Pricing Attachment will be assessed per occurrence to ATI by Verizon. Verizon agrees to respond to ATI trouble reports on a non-discriminatory basis consistent with the manner in which it provides service to its own retail Customers or to any other similarly situated Telecommunications Carrier.

16. Combinations

Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall be obligated to provide a Combination only to the extent provision of such Combination is required by Applicable Law. To the extent Verizon is required by Applicable Law to provide a Combination to ATI, Verizon shall provide such Combination in accordance with the terms, conditions and prices for such Combination as provided in Verizon's PA PUC Tariff No. 216, as amended from time to time, that relate to or concern Combinations, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective.

17. Rates and Charges

The rates and charges for UNEs, Combinations and other services, facilities and arrangements, offered under this Attachment shall be as provided in this Attachment and the Pricing Attachment.

18. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

COLLOCATION ATTACHMENT

1. Verizon's Provision of Collocation

Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, collocation for the purpose of facilitating ATI's interconnection with facilities or services of Verizon or access to Unbundled Network Elements of Verizon; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide collocation to ATI only to the extent required by Applicable Law and may decline to provide collocation to ATI to the extent that provision of collocation is not required by Applicable Law. Subject to the foregoing, Verizon shall provide collocation to ATI in accordance with the rates, terms and conditions set forth in Verizon's collocation Tariff, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective.

911 ATTACHMENT

1. 911/E-911 Arrangements

- 1.1 ATI may, at its option, interconnect to the Verizon 911/E-911 Selective Router or 911 Tandem Offices, as appropriate, that serve the areas in which ATI provides Telephone Exchange Services, for the provision of 911/E-911 services and for access to all subtending Public Safety Answering Points (PSAP). In such situations, Verizon will provide ATI with the appropriate CLLI codes and specifications of the Tandem Office serving area. In areas where E-911 is not available, ATI and Verizon will negotiate arrangements to connect ATI to the 911 service in accordance with applicable state law.
- 1.2 Path and route diverse Interconnections for 911/E-911 shall be made at the technically feasible Point of Interconnection on Verizon's network at which the Parties interconnect, or other points as necessary and mutually agreed, and as required by law or regulation.
- 1.3 Within thirty (30) days of its receipt of a complete and accurate request from ATI, to include all required information and applicable forms, and to the extent authorized by the relevant federal, state, and local authorities, Verizon will provide ATI, where Verizon offers 911 service, with the following at a reasonable fee, if applicable:
 - 1.3.1 a file via electronic medium containing the Master Street Address Guide ("MSAG") for each county within the LATA(s) where ATI is providing, or represents to Verizon that it intends to provide within sixty (60) days of ATI's request, local exchange service, which MSAG shall be updated as the need arises and a complete copy of which shall be made available on an annual basis. A letter is required from the PSAP director before the release of the MSAG by Verizon to ATI;
 - 1.3.2 a list of the address and CLLI code of each 911/E-911 selective router or 911 Tandem office(s) in the area in which ATI plans to offer Telephone Exchange Service;
 - 1.3.3 a list of geographical areas, e.g., LATAs, counties or municipalities, with the associated 911 tandems, as applicable.
 - 1.3.4 a list of Verizon personnel who currently have responsibility for 911/E-911 requirements, including a list of escalation contacts should the primary contacts be unavailable.
 - 1.3.5 any special 911 trunking requirements for each 911/E-911 selective router or 911 Tandem Office, where available, and;
 - 1.3.6 prompt return of any ATI 911/E-911 data entry files containing errors, so that ATI may ensure the accuracy of the Customer records.

2. Electronic Interface

ATI shall use, where available, the appropriate Verizon electronic interface, through which ATI shall input and provide a daily update of 911/E-911 database information related to appropriate ATI Customers. In those areas where an electronic interface is not available, ATI shall provide Verizon with all appropriate 911/E-911 information such as name, address, and telephone number via facsimile for Verizon's entry into the 911/E-

911 database system. Any 911/E-911-related data exchanged between the Parties prior to the availability of an electronic interface shall conform to Verizon standards, whereas 911/E-911-related data exchanged electronically shall conform to the National Emergency Number Association standards (NENA). ATI may also use the electronic interface, where available, to query the 911/E-911 database to verify the accuracy of ATI Customer information.

3. 911 Interconnection

Verizon and ATI will use commercially reasonable efforts to facilitate the prompt, robust, reliable and efficient interconnection of ATI systems to the 911/E-911 platforms and/or systems.

4. 911 Facilities

ATI shall be responsible for providing facilities from the ATI End Office to the 911 Tandem or selective router. ATI shall deploy diverse routing of 911 trunk pairs to the 911 tandem or selective router.

5. Local Number Portability for use with 911

The Parties acknowledge that until Local Number Portability (LNP) with full 911/E-911 compatibility is utilized for all ported telephone numbers, the use of Interim Number Portability ("INP") creates a special need to have the Automatic Location Identification (ALI) screen reflect two numbers: the "old" number and the "new" number assigned by ATI. Therefore, for those ported telephone numbers using INP, ATI will provide the 911/E-911 database with both the forwarded number and the directory number, as well as all other required information including the appropriate address information for the Customer for entry into the 911/E-911 database system. Further, ATI will outpulse the telephone number to which the call has been forwarded (that is, the Customer's ANI) to the 911 Tandem office or selective router. ATI will include their NENA five character Company Identification ("COID") for inclusion in the ALI display.

5.1 ATI is required to enter data into the 911/E-911 database under the NENA Standards for LNP. This includes, but is not limited to, using ATI's NENA COID to lock and unlock records and the posting of ATI's NENA COID to the ALI record where such locking and migrating feature for 911/E-911 records are available or as defined by local standards.

6. PSAP Coordination

Verizon and ATI will work cooperatively to arrange meetings with PSAPs to answer any technical questions the PSAPs, or county or municipal coordinators may have regarding the 911/E-911 arrangements.

7. 911 Compensation

ATI will compensate Verizon for connections to its 911/E-911 platform and/or system pursuant to the rate schedule included in the Pricing Attachment.

8. 911 Rules and Regulations

ATI and Verizon will comply with all applicable rules and regulations (including 911 taxes and surcharges as defined by local requirements) pertaining to the provision of 911/E-911 services in the Commonwealth of Pennsylvania.

9. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

PRICING ATTACHMENT

1. General

- 1.1 As used in this Attachment, the term "Charges" means the rates, fees, charges and prices for a Service.
- 1.2 Except as stated in Section 2 or Section 3 of this Attachment, Charges for Services shall be as stated in this Section 1.
- 1.3 The Charges for a Service shall be the Charges for the Service stated in the Providing Party's applicable Tariff.
- 1.4 In the absence of Charges for a Service established pursuant to Section 1.3 of this Attachment, the Charges shall be as stated in Appendix A of this Pricing Attachment. For rate elements provided in Appendix A of this Pricing Attachment that do not include a Charge, either marked as "TBD" or otherwise, Verizon is developing such Charges and has not finished developing such Charges as of the Effective Date of this Agreement ("Effective Date"). When Verizon finishes developing such a Charge, Verizon shall notify ATI in writing of such Charge in accordance with, and subject to, the notices provisions of this Agreement and thereafter shall bill ATI, and ATI shall pay to Verizon, for Services provided under this Agreement on the Effective Date and thereafter in accordance with such Charge. Any notice provided by Verizon to ATI pursuant to this Section 1.4 shall be deemed to be a part of Appendix A of this Pricing Attachment immediately after Verizon sends such notice to ATI and thereafter.
- 1.5 The Charges stated in Appendix A of this Pricing Attachment shall be automatically superseded by any applicable Tariff Charges. The Charges stated in Appendix A of this Pricing Attachment also shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a Tariff that has been filed with the Commission or the FCC), provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.
- 1.6 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.5 of this Attachment, if Charges for a Service are otherwise expressly provided for in this Agreement, such Charges shall apply.
- 1.7 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.6 of this Attachment, the Charges for the Service shall be the Providing Party's FCC or Commission approved Charges.
- 1.8 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.7 of this Attachment, the Charges for the Service shall be mutually agreed to by the Parties in writing.

2. Verizon Telecommunications Services Provided to ATI for Resale Pursuant to the Resale Attachment

- 2.1 Verizon Telecommunications Services for which Verizon is Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.

- 2.1.1 The Charges for a Verizon Telecommunications Service purchased by ATI for resale for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Retail Price for such Service set forth in Verizon's applicable Tariffs (or, if there is no Tariff Retail Price for such Service, Verizon's Retail Price for the Service that is generally offered to Verizon's Customers), less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act, the applicable wholesale discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.2 The Charges for a Verizon Telecommunications Service Customer Specific Arrangement ("CSA") purchased by ATI for resale pursuant to Section 3.3 of the Resale Attachment for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Retail Price for the CSA, less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act, the applicable discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act. Notwithstanding the foregoing, in accordance with, and to the extent permitted by Applicable Law, Verizon may establish a wholesale discount for a CSA that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to ATI for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.3 Notwithstanding Sections 2.1 and 2.2 of this Attachment, in accordance with, and to the extent permitted by Applicable Law, Verizon may at any time establish a wholesale discount for a Telecommunications Service (including, but not limited to, a CSA) that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to ATI for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.4 The wholesale discount stated in Appendix A shall be automatically superseded by any new wholesale discount when such new wholesale discount is required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC, provided such new wholesale discount is not subject to a stay issued by any court of competent jurisdiction.
- 2.1.5 The wholesale discount provided for in Sections 2.1.1 through 2.1.3 of this Attachment shall not be applied to:
- 2.1.5.1 Short term promotions as defined in 47 CFR § 51.613;
 - 2.1.5.2 Except as otherwise provided by Applicable Law, Exchange Access services;

- 2.1.5.3 Subscriber Line Charges, Federal Line Cost Charges, end user common line Charges, taxes, and government Charges and assessment (including, but not limited to, 9-1-1 Charges and Dual Party Relay Service Charges).
 - 2.1.5.4 Any other service or Charge that the Commission, the FCC, or other governmental entity of appropriate jurisdiction determines is not subject to a wholesale discount under Section 251(c)(4) of the Act.
- 2.2 Verizon Telecommunications Services for which Verizon is Not Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.
 - 2.2.1 The Charges for a Verizon Telecommunications Service for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges stated in Verizon's Tariffs for such Verizon Telecommunications Service (or, if there are no Verizon Tariff Charges for such Service, Verizon's Charges for the Service that are generally offered by Verizon).
 - 2.2.2 The Charges for a Verizon Telecommunications Service customer specific contract service arrangement ("CSA") purchased by ATI pursuant to Section 3.3 of the Resale Attachment for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges provided for in the CSA and any other Charges that Verizon could bill the person to whom the CSA was originally provided (including, but not limited to, applicable Verizon Tariff Charges).
- 2.3 Other Charges.
 - 2.3.1 ATI shall pay, or collect and remit to Verizon, without discount, all Subscriber Line Charges, Federal Line Cost Charges, and end user common line Charges, associated with Verizon Telecommunications Services provided by Verizon to ATI.

3. **ATI Prices**

Notwithstanding any other provision of this Agreement, the Charges that ATI bills Verizon for ATI's Services shall not exceed the Charges for Verizon's comparable Services, except to the extent that ATI's cost to provide such ATI's Services to Verizon exceeds the Charges for Verizon's comparable Services and ATI has demonstrated such cost to Verizon, or, at Verizon's request, to the Commission or the FCC.

4. **Section 271**

If Verizon is a Bell Operating Company (as defined in the Act) and in order to comply with Section 271(c)(2)(B) of the Act provides a Service under this Agreement that Verizon is not required to provide by Section 251 of the Act, Verizon shall have the right to establish Charges for such Service in a manner that differs from the manner in which under Applicable Law (including, but not limited to, Section 252(d) of the Act) Charges must be set for Services provided under Section 251.

5. **Regulatory Review of Prices**

Notwithstanding any other provision of this Agreement, each Party reserves its respective rights to institute an appropriate proceeding with the FCC, the Commission or other

governmental body of appropriate jurisdiction: (a) with regard to the Charges for its Services (including, but not limited to, a proceeding to change the Charges for its services, whether provided for in any of its Tariffs, in Appendix A, or otherwise); and (b) with regard to the Charges of the other Party (including, but not limited to, a proceeding to obtain a reduction in such Charges and a refund of any amounts paid in excess of any Charges that are reduced).

APPENDIX A TO THE PRICING ATTACHMENT¹

VERIZON PENNSYLVANIA and ATI V1.8

A. INTERCONNECTION²

<u>Service or Element Description:</u>	<u>Recurring Charges:</u>	<u>Non-Recurring Charge:</u>
I. Reciprocal Compensation Traffic Termination³		
Reciprocal Compensation Traffic End Office Rate	\$.000987/MOU	Not Applicable
Reciprocal Compensation Traffic Tandem Rate	\$.002439/MOU	Not Applicable

¹ This Appendix may contain rates for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Agreement (e.g., services, facilities, arrangements and the like for which an unbundling requirement does not exist under 47 U.S.C. Section 251(c)(3)). Notwithstanding any such rates (and/or references) and, for the avoidance of any doubt, nothing in this Appendix shall be deemed to require Verizon to provide a service, facility, arrangement or the like that the Agreement does not require Verizon to provide, or to provide a service, facility, arrangement or the like upon rates, terms or conditions other than those that may be required by the Agreement.

All rates and charges set forth in this Appendix shall apply until such time as they are replaced by new rates and/or charges as the Commission or the FCC may approve or allow to go into effect from time to time, subject however, to any stay or other order issued by any court of competent jurisdiction. In addition to any rates and charges set forth herein, Verizon, effective as of March 11, 2005, may, but shall not be required to, charge (and ATI shall pay) any rates and charges that apply to a CLEC's embedded base of certain UNEs pursuant to the FCC's Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338 (FCC rel. Feb. 4, 2005), the foregoing being without limitation of other rates and charges that may apply under subsequent FCC orders or otherwise.

Unless a citation is provided to a generally applicable Verizon tariff, all listed rates and services are available only to ATI when purchasing these services for use in the provision of Telephone Exchange Service, and apply only to Reciprocal Compensation Traffic and local Ancillary Traffic. Verizon rates and services for use by ATI in the carriage of Toll Traffic shall be subject to Verizon's tariffs for Exchange Access Service. Adherence to these limitations is subject to a reasonable periodic audit by Verizon.

² All rates and charges specified herein are pertaining to the Interconnection Attachment.

³ See the last page regarding measurement and calculation of Reciprocal Compensation Traffic termination charges.

Service or Element Description:

II. Entrance Facilities and Transport for Interconnection

A. Entrance facilities, and transport, as appropriate, for Interconnection at Verizon End Office, Tandem Office, or other Point of Interconnection

Recurring Charges:

Per interstate [Verizon FCC 1 Sec. 6 access tariff for Feature Group D service as amended from time to time

Per intrastate [Verizon PA PUC. – PA – No. 302 Sec. 6] access tariff for Feature Group D service as amended from time to time

Non-Recurring Charge:

Per interstate [Verizon FCC 1 Sec. 6] access tariff for Feature Group D service as amended from time to time

Per intrastate [Verizon PA PUC. – PA – No. 302 Sec. 6] access tariff for Feature Group D service as amended from time to time

III. Exchange Access Service

Interstate

Per Verizon FCC tariff number 1, as amended from time to time

Intrastate

Per Verizon tariff number 302, as amended from time to time

Service or Element Description:

Recurring Charges:

Non-Recurring Charge:

IV. End Point Fiber Meet

To be charged in accordance with the requirements of the Interconnection Attachment.

V. Tandem Transit arrangements for Reciprocal Compensation Traffic between ATI and carriers other than Verizon that subtend a Verizon Tandem Switch. (Not applicable to Toll Traffic when Meet Point Billing Arrangement applies; Separate trunks required for IXC subtending trunks)

Tandem Switching	\$.0001146/MOU	Per Section II. above, as applicable
Switched Transport	\$.000206/MOU	
Transit Service Billing Fee	\$.000010/MOU/Mile	
Transit Service Trunking Charge	Five (5) percent of the Tandem Switching charges and the Tandem-Switched Transport charges assessed during the billing period for traffic exchanged with the relevant third party carrier. The rate for Dedicated DS1 Meet Point B (Tandem) trunk port, as set forth in the Verizon FCC Interstate Tariff No. 1 for the relevant third party carrier.	

B. UNBUNDLED NETWORK ELEMENTS⁴

Service or Element Description:

I. Dedicated Transport

Recurring Charge s:

Non-Recurring Charge:

As applicable per Verizon PA PUC 216 as amended from time to time.

II. Common Transport

As applicable per Verizon PA PUC 216 as amended from time to time.

III. Digital Cross-Connect System

As applicable per Verizon PA PUC 216 as amended from time to time.

IV. Entrance Facilities

As applicable per Verizon PA PUC 216 as amended from time to time.

V. Unbundled Switching⁵

As applicable per Verizon PA PUC 216 as amended from time to time.

VI. Unbundled Loops

With the exception of 2 Wire HDSL, SDSL and IDSL, as applicable per Verizon PA PUC 216 as amended from time to time.

⁴ All rates and charges specified herein are pertaining to the Network Elements Attachment. The rates set forth herein are subject to, and shall not have the effect of limiting, footnote 1 above. Verizon does not agree that UNE prices must be based solely on forward-looking costs, and Verizon reserves the right to change UNE prices to conform to any modification of the FCC's UNE pricing rules.

⁵ In addition to the recurring and non-recurring rates set forth herein for unbundled switching elements, Verizon may levy upon purchaser of such elements any access charges (or portion thereof) permitted by Applicable Laws.

Service or Element Description:

2 Wire ADSL compatible Loops
2 Wire HDSL compatible Loops
2 Wire SDSL compatible Loops
2 Wire IDSL compatible Loops

Recurring Charges:

Density Cell:
1 - \$6.77/Month
2 - \$9.25/Month
3 - \$12.39/Month
4 - \$22.39/Month

Non-Recurring Charge:

Service Order: \$0.00
Installation:
If premises visit not required - \$1.44 initial and each additional loop; Not Applicable if existing loop & port together

If premises visit required - \$1.44, initial and each additional loop

Disconnect:
\$1.30 per loop

Cooperative Testing,
per loop-\$0.00

Engineering query,
\$0.00

Engineering Work
Order,
\$0.00

Manual Pre-
Qualification, per loop
\$0.00

<u>Service or Element Description:</u>	<u>Recurring</u>	<u>Non-Recurring</u>
	<u>Charges:</u>	<u>Charge:</u>
VII. Intrastate Collocation	As Applicable Per Verizon PA PUC No. 218 as amended from time to time	
VIII. Line Sharing	As applicable per Verizon PA PUC 216 and PA PUC 218 as amended from time to time.	
IX. Line Splitting	Rates for Line Splitting are as set forth in Verizon's PA PUC No. 216 Tariff as amended from time to time.	
X. EEL	As applicable per Verizon PA PUC 216 as amended from time to time.	
XI. UNE Platform Conversion	As applicable per Verizon PA PUC 216 as amended from time to time	
XII. DARK FIBER		
Records Review, per inquiry		\$0.00
Records Review with Reservation, per inquiry		TBD
Dark Fiber – IOF		
Verizon C.O. to Verizon C.O		
Service Order		\$55.22
Serving Wire Center ("SWC") Charge/SWC/Pair	\$15.95	\$42.59
IOF Mileage/Pair/mile	\$51.77	
IOF Mileage Installation Charge/Pair		\$204.94
Expedited Handling		\$94.34
Intermediate Office Routing Charge	\$10.66	\$36.23
Verizon C.O. to CLEC C.O.		
Service Order		\$55.22
SWC Charge/SWC/Pair	\$15.95	\$42.59
Channel Termination Installation Charge		\$353.23
Expedited Handling		\$94.34
Dark Fiber - LOOP		
Service Order		\$55.22
SWC Charge/SWC/Pair	\$15.95	\$38.53
Loop Charge/Pair		
Rate Group A1	\$71.66	\$566.97
Rate Group A2	\$117.04	\$566.97
Rate Group B1	\$169.14	\$566.97
Rate Group B2	\$200.95	\$566.97
Expedited Handling		\$317.43
Dark Fiber Sub-Loop	TBD	TBD

<u>Service or Element Description:</u>	<u>Recurring Charges:</u>	<u>Non-Recurring Charge:</u>
XIII. Unbundled Subloop Arrangement (USLA)	As applicable per Verizon PA PUC 216 as amended from time to time.	
XIV. Unbundled Feeder Sub-Loop (UFSE)	As applicable per Verizon PA PUC 216 as amended from time to time.	
XV. Unbundled Drop Sub-Element (UDSE)	As applicable per Verizon PA PUC 216 as amended from time to time.	
XVI. Signaling and Databases	As applicable per Verizon PA PUC 216 as amended from time to time.	
XVII. Network Interface Device (NID)	Except as below for NID-to-NID as applicable per Verizon PA PUC 216 as amended from time to time.	
NID - 2 Wire per NID/month - NID-to-NID	\$1.04	
NID - 4 Wire per NID/month - NID-to-NID	\$1.12	

C. RESALE⁶

<u>Service or Element Description:</u>	<u>Recurring Charges:</u>	<u>Non-Recurring Charge:</u>
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I. Wholesale Discount for Resale of Retail Telecommunications Services⁷

Resale of retail services if ATI provides own operator services platform	25.69% (Inclusive of PA gross receipts tax)	
Resale of retail services if ATI uses Verizon operator services platform	23.43% (Inclusive of PA gross receipts tax)	

D. OPERATIONS SUPPORT SYSTEM

As applicable per Verizon PA PUC 216 as amended from time to time.

E. 911/E911

Transport	Access pass-through to number portability purchaser
Data Entry and Maintenance	Per section B. above. No Charge

⁶ All rates and charges specified herein are pertaining to the Resale Attachment.

⁷ Excludes telecommunications services designed primarily for wholesale, such as switched and special exchange access service, and, subject to the provisions of the Resale Attachment, the following additional arrangements that are not subject to resale: limited duration (90 days or less) promotional offerings, public coin telephone service, and technical and market trials. Taxes shall be collected and remitted by the reseller and Verizon in accordance with legal requirements and as agreed between the Parties. Surcharges (e.g., 911, telecommunications relay service, universal service fund) shall be collected by the reseller and either remitted to the recipient agency or NECA, or passed through to Verizon for remittance to the recipient agency or NECA, as appropriate and agreed between the Parties. End user common line charges shall be collected by the reseller and remitted to Verizon.

Service or Element Description:

Recurring Charges:

Non-Recurring Charge:

F. TIME AND MATERIALS

As applicable per Verizon PA PUC 216 as amended from time to time.

G. CUSTOMIZED ROUTING

As applicable per Verizon PA PUC 216 as amended from time to time.

H. DIRECTORY LISTINGS & BOOKS

Primary Listing (on initial UNE service order). For each residence telephone number, two (2) listings in the White Page directory are provided. For each business telephone number listed (except numbers of Centrex or Centrex-like services or indialing service station lines) one (1) listing is provided in the White Page Directory and one (1) listing in the Yellow Page directory of the type provided to Verizon-PA end user business customers for which no specific charge applies.

Not Applicable

Not Applicable

Other Tariffed Listing Services (For listings ordered in excess of the primary listings provided or other listing types, or listings ordered at a time other than initial UNE service order, or listings ordered not associated with a UNE service order, or for changes made to existing listings.)

Retail rates apply. For retail rates see Verizon-PA Tariff No. 1 sec. 5.B.

Books & delivery (annual home area directories only)

No charge for normal numbers of books delivered to end users; bulk deliveries to ATI per separate arrangement

RECIPROCAL COMPENSATION TRAFFIC TERMINATION RATES

A. Charges by Verizon

- (a) Reciprocal Compensation Traffic Tandem Rate.
- (b) Reciprocal Compensation Traffic End Office Rate.

B. Charges by ATI

1. Single-tiered interconnection structure:

ATI's rates for the termination of Verizon's Reciprocal Compensation Traffic under the single-tiered interconnection structure shall be recalculated once each year on each anniversary of the Effective Date (the "Rate Determination Date"). The methodology for recalculating the rates is as follows:

Tandem Minutes = Total minutes of use of Reciprocal Compensation Traffic billed to ATI at the Reciprocal Compensation Traffic Tandem Rate for most recent billed quarter.

End Office Minutes = Total minutes of use Reciprocal Compensation Traffic billed to ATI at the Reciprocal Compensation Traffic End Office Rate for most recent billed quarter.

Total Minutes = Total minutes of use of Reciprocal Compensation Traffic delivered by ATI to Verizon for most recent billed quarter.

ATI Charge at the ATI-POI =

$$\frac{(\textit{Tandem Minutes} \times \textit{Tandem Rate}) + (\textit{End Office Minutes} \times \textit{End Office Rate})}{\textit{Total Minutes}}$$

For the first year after the Effective Date, the ATI charge shall be calculated based on the traffic data of the quarter immediately preceding such Effective Date, or if no such traffic exists, on the proportion of Reciprocal Compensation Traffic termination trunks to Verizon End Offices and to Verizon Tandems.

2. Multiple-tiered interconnection structure (if offered by ATI to any carrier)

- (a) Reciprocal Compensation Traffic to ATI Tandem: Tandem Rate
- (b) Reciprocal Compensation Traffic to terminating ATI End Office/node: End Office Rate

C. Miscellaneous Notes

1. The ATI termination rate under the single-tiered interconnection structure set forth above is intended to be a Reciprocal Compensation Traffic termination rate for Interconnection to the ATI within each LATA that is reciprocal and equal to the actual rates that will be charged by Verizon to ATI under the two-tiered Reciprocal Compensation Traffic termination rate structure described above that will apply after the first anniversary of the Effective Date.

AMENDMENT NO. 1

to the

INTERCONNECTION AGREEMENT

between

VERIZON PENNSYLVANIA INC.

and

ARMSTRONG TELECOMMUNICATIONS, INC.

This Amendment No. 1 (the "Amendment") is made by and between Verizon Pennsylvania Inc. ("Verizon"), a Pennsylvania corporation with offices at 1717 Arch Street, Philadelphia, PA 19103, and Armstrong Telecommunications, Inc., a corporation with offices at One Armstrong Place, Butler, PA 16001 ("ATI"), and shall be deemed effective on June 3, 2005 and in no event later than the date on which the Agreement (as defined below) takes effect (the "Amendment Effective Date"). Verizon and ATI are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the Commonwealth of Pennsylvania (the "Commonwealth").

WITNESSETH:

WHEREAS, Verizon and ATI, pursuant to Section 252(a)(1) of the Communications Act of 1934, as amended (the "Act"), are filing concurrently herewith for Commission approval an Interconnection Agreement under Sections 251 and 252 of the Act (the "Agreement"); and

WHEREAS, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

WHEREAS, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"); and

WHEREAS, on August 20, 2004, the FCC released an Order in WC Docket No. 04-313 and CC Docket No. 01-338 (the "Interim Rules Order") setting forth certain interim rules regarding the temporary reinstatement of unbundling obligations for certain network elements with respect to which the D.C. Circuit Decision holds that the FCC has made no lawful impairment finding under Section 251 of the Act; and

WHEREAS, on February 4, 2005, the FCC released an Order on Remand in WC Docket No. 04-313 and CC Docket No. 01-338 (the "TRRO") setting forth rules that supplanted, effective March 11, 2005, the temporary rules set forth in the Interim Rules Order and addressing the remanded issues raised in the D.C. Circuit Decision;

WHEREAS, in light of the foregoing developments, the Parties, pursuant to Section 252(a) of the Act, wish to amend the Agreement, effective as of the effective date of the Agreement, in order to give contractual effect to the provisions set forth herein; and

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

1. Amendment to Agreement. The Agreement is amended to include the following provisions, which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement or a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT").
2. General Conditions.
 - 2.1 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT: (a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs") and combinations of unbundled Network Elements ("Combinations") to ATI under the terms of this Amended Agreement only to the extent required by the Federal Unbundling Rules, and (b) Verizon may decline to provide access to UNEs and Combinations to ATI to the extent that provision of access to such UNEs or Combinations is not required by the Federal Unbundling Rules.
 - 2.2 ATI may use a UNE or a Combination only for those purposes for which Verizon is required by the Federal Unbundling Rules to provide such UNE or Combination to ATI.
 - 2.3 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, to the extent Verizon becomes obligated to provide to ATI pursuant to the Federal Unbundling Rules a Discontinued Facility or a UNE, Combination, or related service that, as of the Amendment Effective Date, Verizon is not required to provide to ATI under the Amended Agreement and the Federal Unbundling Rules, the rates, terms, conditions for such Discontinued Facility, UNE, Combination, or related service shall be as provided in an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for such rates, terms, and conditions, or (in the absence of an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for such rates, terms, and conditions) as mutually agreed by the Parties in a written amendment to the Amended Agreement. For the avoidance of doubt, notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, Verizon, unless and until such time as Verizon is required to do so by an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for the applicable rates, terms, and conditions or by a mutually agreed written amendment to the Amended Agreement setting forth the applicable rates, terms, and conditions, shall not be required under the Amended Agreement (a) to perform any routine network modification that the Agreement does not expressly and specifically require Verizon to perform (including, but not limited to, any routine network modification required under 47 C.F.R. § 51.319(a)(8) or 47 C.F.R. § 51.319(e)(5)), (b) to commingle, or to permit the commingling of, UNEs or Combinations with other wholesale services obtained from Verizon under a Verizon access tariff, separate non-251 agreement, or otherwise, or (c) to offer or provide, for any period of time not required under Section 3 of this Amendment, any facility that is or becomes a Discontinued Facility.
3. Discontinued Facilities.
 - 3.1 Generally.
 - 3.1.1 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, Verizon shall not be

obligated to offer or provide access on an unbundled basis at rates prescribed under Section 251 of the Act to any facility that is or becomes a Discontinued Facility, whether as a stand-alone UNE, as part of a Combination, or otherwise; provided, however, that in accordance with but only to the extent required by the TRRO (and only for so long as, and to the extent that, the TRRO remains effective and is not stayed, reversed, modified, or vacated), Verizon shall continue during the applicable transition period specified in the TRRO (and not beyond such period) to provide ATI's embedded base of UNEs that, as of March 11, 2005, became Discontinued Facilities by operation of the TRRO, and such embedded base of UNEs shall be subject to FCC-prescribed rate increases pursuant to Section 3.5 below. To the extent Verizon has not already ceased providing a particular Discontinued Facility to ATI, Verizon, provided it has given at least ninety (90) days written notice of discontinuance of such Discontinued Facility, will continue to provide such Discontinued Facility under the Amended Agreement only through the effective date of the notice of discontinuance, and not beyond that date.

3.1.2 To the extent a facility is (or becomes) a Discontinued Facility only as to new orders that ATI may place for such a facility, Verizon, to the extent it has not already discontinued its acceptance of such new orders and provided it has given at least ninety (90) days written notice in cases where it has not already discontinued its acceptance of such new orders, may reject such new orders on the effective date of the notice of discontinuance and thereafter. Verizon may, but shall not be required to, issue the foregoing notice in advance of the date on which the facility shall become a Discontinued Facility as to new orders that ATI may place, so as to give effect to Verizon's right to reject such new orders immediately on that date.

3.1.3 The Parties acknowledge that Verizon, prior to the Amendment Effective Date, has provided ATI with any required notices of discontinuance of certain Discontinued Facilities, and that Verizon, to the extent it has not already done so pursuant to a pre-existing or independent right it may have under the Agreement, a Verizon SGAT or tariff, or otherwise, may, at any time and without further notice to ATI, cease providing any such Discontinued Facilities.

3.1.4 This Section 3.1 is intended to limit any obligation Verizon might otherwise have to provide to ATI (or to notify ATI of the discontinuance of) any facility that is or becomes a Discontinued Facility, and nothing contained in this Section 3.1 or elsewhere in this Amendment shall be deemed to establish in the first instance or to extend any obligation of Verizon to provide any facility or Discontinued Facility. This Section 3.1 shall apply notwithstanding anything contained in the Agreement, this Amendment, or any Verizon tariff or SGAT, but without limiting any other right Verizon may have under the Agreement, this Amendment, or any Verizon tariff or SGAT to cease providing a facility that is or becomes a Discontinued Facility.

3.2 Continuation of Facilities Under Separate Arrangement. To the extent ATI wishes to continue to obtain access to a Discontinued Facility under a separate arrangement (e.g., a separate agreement at market-based rates, an arrangement under a Verizon access tariff, or resale), ATI shall have promptly undertaken and concluded such efforts as may be required to secure such arrangement prior to

the date on which Verizon is permitted to cease providing the Discontinued Facility; provided, however, that in no event shall ATI's failure to secure such an arrangement affect Verizon's right to cease providing a facility that is or becomes a Discontinued Facility. If Verizon is permitted to cease providing a Discontinued Facility under this Section 3 and ATI has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Discontinued Facility and has not separately secured from Verizon an alternative arrangement to replace the Discontinued Facility, then Verizon, to the extent it has not already done so prior to execution of this Amendment, shall reprice the subject Discontinued Facility by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge) to be equivalent to access, resale, or other analogous arrangement that Verizon shall identify in a written notice to ATI. The rates, terms, and conditions of any such arrangements shall apply and be binding upon ATI as of the date specified in the written notice issued by Verizon. The Parties acknowledge that Verizon has, in such written notices issued to ATI prior to the Amendment Effective Date, identified such arrangements to replace certain Discontinued Facilities and that Verizon, to the extent it has not already done so, may implement such arrangements without further notice.

- 3.3 Limitation With Respect to Replacement Arrangements. Notwithstanding any other provision of this Amended Agreement, any negotiations regarding any replacement arrangement or other facility or service that Verizon is not required to provide under the Federal Unbundling Rules shall be deemed not to have been conducted pursuant to the Amended Agreement, 47 U.S.C. § 252(a)(1), or 47 C.F.R. Part 51, and shall not be subject to arbitration pursuant to 47 U.S.C. § 252(b). Any reference in this Amended Agreement to Verizon's provision of a facility, service, or arrangement that Verizon is not required to provide under the Federal Unbundling Rules is solely for the convenience of the Parties and shall not be construed to require or permit arbitration of such rates, terms, or conditions pursuant to 47 U.S.C. § 252(b).
- 3.4 Pre-Existing and Independent Discontinuance Rights. Verizon's rights as to discontinuance of Discontinued Facilities pursuant to this Section 3 are in addition to, and not in limitation of, any rights Verizon may have as to discontinuance of Discontinued Facilities under the Agreement, a Verizon tariff or SGAT, or otherwise. Nothing contained herein shall be construed to prohibit, limit, or delay Verizon's exercise of any pre-existing or independent right it may have under the Agreement, a Verizon tariff or SGAT, or otherwise to cease providing a Discontinued Facility.
- 3.5 Implementation of Rate Changes. Notwithstanding any other provision of the Amended Agreement (including, but not limited to, the rates and charges set forth therein), Verizon may, but shall not be required to, implement any rate increases or new charges that may be established by the FCC in the TRRO or subsequent orders, once effective, for unbundled network elements, combinations of unbundled network elements, or related services, by issuing to ATI a schedule of such rate increases and/or new charges, provided that the rate provisions of such FCC orders are not subject to a stay issued by any court of competent jurisdiction. Any such rate increases or new charges shall take effect on the date indicated in the schedule issued by Verizon, but no earlier than the date established by the FCC, and shall be paid by ATI in accordance with the terms of the Amended Agreement. Verizon may, but shall not be required to, use a true-up to apply the rate increases or new charges effective as of the date indicated in the schedule issued by Verizon. The Parties acknowledge that Verizon, prior to the Amendment Effective Date, may have provided ATI such a schedule identifying rate increases or new charges for certain Discontinued

Facilities, and that no further notice or schedule is required for those rate increases or new charges to take effect. Any such rate increases and new charges that the FCC may establish shall be in addition to, and not in limitation of, any rate increases and new charges that the Pennsylvania Public Utility Commission may approve or that Verizon may otherwise implement under the Amended Agreement or applicable tariffs. Nothing set forth in this Section 3.5 shall be deemed an admission of Verizon (including, but not limited to, as to whether this Amendment is required in order for Verizon to charge the FCC-prescribed rate increases and new charges described herein) or limit Verizon's right to appeal, seek reconsideration of, or otherwise seek to have stayed, modified, reversed, or invalidated any limit the FCC may impose on Verizon's rates and charges.

4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4.1.
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement". Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement.
- 4.5 Reservation of Rights. Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Pennsylvania Public Utility Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.
- 4.6 Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.

4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:

- 4.7.1 Call-Related Databases. Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases.
- 4.7.2 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services.
- 4.7.3 Dark Fiber Transport. An optical transmission facility within a LATA, that Verizon has not activated by attaching multiplexing, aggregation or other electronics, between Verizon switches (as identified in the LERG) or wire centers. Dark fiber facilities between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party are not Dark Fiber Transport.
- 4.7.4 Dedicated Transport. A DS1 or DS3 transmission facility between Verizon switches (as identified in the LERG) or wire centers, within a LATA, that is dedicated to a particular end user or carrier. Transmission facilities or services provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party are not Dedicated Transport.
- 4.7.5 Discontinued Facility. Any facility that Verizon, at any time, has provided or offered to provide to ATI on an unbundled basis pursuant to the Federal Unbundling Rules (whether under the Agreement, a Verizon tariff, or a Verizon SGAT), but which by operation of law has ceased or ceases to be subject to an unbundling requirement under the Federal Unbundling Rules. By way of example and not by way of limitation, Discontinued Facilities include the following, whether as stand-alone facilities or combined with other facilities: (a) any Entrance Facility; (b) Enterprise Switching; (c) Four-Line Carve Out Switching; (d) Mass Market Switching; (e) OCn Loops and OCn Dedicated Transport; (f) DS1 Loops or DS3 Loops out of any wire center at which the Federal Unbundling Rules do not require Verizon to provide ATI with unbundled access to such Loops; (g) any DS1 Loop or DS3 Loop that exceeds the maximum number of such Loops that the Federal Unbundling Rules require Verizon to provide to ATI on an unbundled basis at a particular building location; (h) DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on any route as to which the Federal Unbundling Rules do not require Verizon to provide ATI with unbundled access to such Transport; (i) any DS1 Dedicated Transport circuit or DS3 Dedicated Transport circuit that

exceeds the number of such circuits that the Federal Unbundling Rules require Verizon to provide to ATI on an unbundled basis on a particular route; (j) Dark Fiber Loops; (k) the Feeder portion of a Loop; (l) Line Sharing; (m) any Call-Related Database other than the 911 and E911 databases; (n) Signaling; (o) Shared Transport; (p) FTTP Loops (lit or unlit); (q) Hybrid Loops (subject to exceptions for TDM and narrowband services (i.e., equivalent to DS0 capacity)); and (r) any other facility or class of facilities as to which the FCC has not made a finding of impairment that remains effective, or as to which the FCC makes (or has made) a finding of nonimpairment.

- 4.7.6 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.
- 4.7.7 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.8 DS1 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of 1.544 Mbps digital signals. This loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS1 Loop requires the electronics necessary to provide the DS1 transmission rate. DS1 Loops are sometimes also known as DS1 "Links".
- 4.7.9 DS3 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). This Loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS3 Loop requires the electronics necessary to provide the DS3 transmission rate. DS3 Loops are sometimes also known as DS3 "Links".
- 4.7.10 Enterprise Switching. Local Switching or Tandem Switching that, if provided to ATI would be used for the purpose of serving ATI's customers using DS1 or above capacity Loops.
- 4.7.11 Entrance Facility. A transmission facility (lit or unlit) or service provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party.
- 4.7.12 Federal Unbundling Rules. Any lawful requirement to provide access to unbundled network elements that is imposed upon Verizon by the FCC pursuant to both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Any reference in this Amendment to "Federal Unbundling Rules" shall not include an unbundling requirement if the unbundling requirement does not exist under both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.
- 4.7.13 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal or feeder/distribution interface.

- 4.7.14 Four-Line Carve Out Switching. Local Switching that Verizon is not required to provide pursuant to 47 C.F.R. § 51.319(d)(3)(ii).
- 4.7.15 FTTP Loop. A Loop consisting entirely of fiber optic cable, whether dark or lit, that extends from the main distribution frame (or its equivalent) in an end user's serving wire center to the demarcation point at the end user's customer premises or to a serving area interface at which the fiber optic cable connects to copper or coaxial distribution facilities that extend to the end user's customer premises demarcation point, provided that all copper or coaxial distribution facilities extending from such serving area interface are not more than 500 feet from the demarcation point at the respective end users' customer premises; provided, however, that in the case of predominantly residential multiple dwelling units (MDUs), an FTTP Loop is a Loop consisting entirely of fiber optic cable, whether dark or lit, that extends from the main distribution frame (or its equivalent) in the wire center that serves the multiunit premises: (a) to or beyond the multiunit premises' minimum point of entry (MPOE), as defined in 47 C.F.R § 68.105; or (b) to a serving area interface at which the fiber optic cable connects to copper or coaxial distribution facilities that extend to or beyond the multiunit premises' MPOE, provided that all copper or coaxial distribution facilities extending from such serving area interface are not more than 500 feet from the MPOE at the multiunit premises.
- 4.7.16 Hybrid Loop. A local Loop composed of both fiber optic cable and copper wire or cable. An FTTP Loop is not a Hybrid Loop.
- 4.7.17 Line Sharing. The process by which ATI provides xDSL service over the same copper Loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the Loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper Loop that are used to establish a complete transmission path between Verizon's main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises.
- 4.7.18 Local Switching. The line-side and trunk-side facilities associated with the line-side port, on a circuit switch in Verizon's network (as identified in the LERG), plus the features, functions, and capabilities of that switch, unbundled from loops and transmission facilities, including: (a) the line-side Port (including the capability to connect a Loop termination and a switch line card, telephone number assignment, dial tone, one primary directory listing, pre-subscription, and access to 911); (b) line and line group features (including all vertical features and line blocking options the switch and its associated deployed switch software are capable of providing that are provided to Verizon's local exchange service Customers served by that switch); (c) usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks); and (d) trunk features (including the connection between the trunk termination and a trunk card).
- 4.7.19 Mass Market Switching. Local Switching or Tandem Switching that, if provided to ATI, would be used for the purpose of serving a ATI end

user customer with DS0 Loops. Mass Market Switching does not include Four Line Carve Out Switching.

4.7.20 Signaling. Signaling includes, but is not limited to, signaling links and signaling transfer points.

4.7.21 Tandem Switching. The trunk-connect facilities on a Verizon circuit switch that functions as a tandem switch, plus the functions that are centralized in that switch, including the basic switching function of connecting trunks to trunks, unbundled from and not contiguous with loops and transmission facilities. Tandem Switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon tandem switch for the purpose of routing a call. A tandem switch does not provide basic functions such as dial tone service.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

ARMSTRONG TELECOMMUNICATIONS, INC.

VERIZON PENNSYLVANIA INC.

By: 

By: 

Printed: Dru A. Sedwick

Printed: John C. Peterson

Title: President

Title: Director - Contract Performance and Administration

Date: 6/3/05

Date: 6/7/05

ARMSTRONG EXHIBIT 9

AGREEMENT

by and between

ARMSTRONG TELECOMMUNICATIONS, INC.

and

VERIZON NORTH INC.

FOR THE COMMONWEALTH OF

PENNSYLVANIA

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AGREEMENT

PREFACE

This Agreement, including Amendment No. 1 (TRO Amendment) hereto ("Agreement") shall be deemed effective as of June 3, 2005 (the "Effective Date"), between Armstrong Telecommunications, Inc. ("ATI"), a corporation organized under the laws of the Commonwealth of Pennsylvania, with offices at One Armstrong Place, Butler, PA 16001 and Verizon North Inc. ("Verizon"), a corporation organized under the laws of the State of Wisconsin with offices at 1717 Arch Street, Philadelphia, PA 19103 (Verizon and ATI may be referred to hereinafter, each, individually as a "Party", and, collectively, as the "Parties").

GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises contained in this Agreement, and intending to be legally bound, pursuant to Section 252 of the Act, Verizon and ATI hereby agree as follows:

1. The Agreement

- 1.1 This Agreement includes: (a) the Principal Document (which shall be deemed to include Amendment No. 1 (TRO Amendment) hereto); (b) the Tariffs of each Party applicable to the Services that are offered for sale by it in the Principal Document (which Tariffs are incorporated into and made a part of this Agreement by reference); and, (c) an Order by a Party that has been accepted by the other Party.
- 1.2 Except as otherwise expressly provided in the Principal Document (including, but not limited to, the Pricing Attachment), conflicts among provisions in the Principal Document, Tariffs, and an Order by a Party that has been accepted by the other Party, shall be resolved in accordance with the following order of precedence, where the document identified in subsection "(a)" shall have the highest precedence: (a) the Principal Document; (b) the Tariffs; and, (c) an Order by a Party that has been accepted by the other Party. The fact that a provision appears in the Principal Document but not in a Tariff, or in a Tariff but not in the Principal Document, shall not be interpreted as, or deemed grounds for finding, a conflict for the purposes of this Section 1.2.
- 1.3 This Agreement constitutes the entire agreement between the Parties on the subject matter hereof, and supersedes any prior or contemporaneous agreement, understanding, or representation, on the subject matter hereof, provided, however, notwithstanding any other provision of this Agreement or otherwise, this Agreement is an amendment, extension and restatement of the Parties' prior interconnection and resale agreement(s), if any, and, as such, this Agreement is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction with respect to any prior interconnection or resale agreements and, accordingly, all monetary obligations of the Parties to one another under any prior interconnection or resale agreements shall remain in full force and effect and shall constitute monetary obligations of the Parties under this Agreement (provided, however, that nothing contained in this Agreement shall convert any claim or debt that would otherwise constitute a prepetition claim or debt in a bankruptcy case into a postpetition claim or debt). In connection with the foregoing, Verizon expressly reserves all of its rights under the Bankruptcy Code and Applicable Law to seek or oppose any relief in respect of the assumption, assumption and assignment, or rejection of any interconnection or resale agreements between Verizon and ATI.

- 1.4 Except as otherwise provisioned in the Principal Document, the Principal Document may not be waived or modified except by a written document that is signed by the Parties. Subject to the requirements of Applicable Law, a Party shall have the right to add, modify, or withdraw, its Tariff(s) at any time, without the consent of, or notice to, the other Party.

2. Term and Termination

- 2.1 This Agreement shall be effective as of the Effective Date and, unless cancelled or terminated earlier in accordance with the terms hereof, shall continue in effect until June 2, 2007 (the "Initial Term"). Thereafter, this Agreement shall continue in force and effect unless and until cancelled or terminated as provided in this Agreement.
- 2.2 Either ATI or Verizon may terminate this Agreement effective upon the expiration of the Initial Term or effective upon any date after expiration of the Initial Term by providing written notice of termination at least ninety (90) days in advance of the date of termination.
- 2.3 If either ATI or Verizon provides notice of termination pursuant to Section 2.2 and on or before the proposed date of termination either ATI or Verizon has requested negotiation of a new interconnection agreement, unless this Agreement is cancelled or terminated earlier in accordance with the terms hereof (including, but not limited to, pursuant to Section 12), this Agreement shall remain in effect until the earlier of: (a) the effective date of a new interconnection agreement between ATI and Verizon; or, (b) the date one (1) year after the proposed date of termination.
- 2.4 If either ATI or Verizon provides notice of termination pursuant to Section 2.2 and by 11:59 PM Eastern Time on the proposed date of termination neither ATI nor Verizon has requested negotiation of a new interconnection agreement, (a) this Agreement will terminate at 11:59 PM Eastern Time on the proposed date of termination, and (b) the Services being provided under this Agreement at the time of termination will be terminated, except to the extent that the Purchasing Party has requested that such Services continue to be provided pursuant to an applicable Tariff or Statement of Generally Available Terms (SGAT).

3. Glossary and Attachments

The Glossary and the following Attachments are a part of this Agreement:

Additional Services Attachment
Interconnection Attachment
Resale Attachment
Network Elements Attachment
Collocation Attachment
911 Attachment
Pricing Attachment

4. Applicable Law

- 4.1 The construction, interpretation and performance of this Agreement shall be governed by (a) the laws of the United States of America and (b) the laws of the Commonwealth of Pennsylvania, without regard to its conflicts of laws rules. All

disputes relating to this Agreement shall be resolved through the application of such laws.

- 4.2 Each Party shall remain in compliance with Applicable Law in the course of performing this Agreement.
- 4.3 Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.
- 4.4 Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects, the notifying Party's ability to perform its obligations under this Agreement.
- 4.5 If any provision of this Agreement shall be invalid or unenforceable under Applicable Law, such invalidity or unenforceability shall not invalidate or render unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 4.6 If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law. If within thirty (30) days of the effective date of such decision, determination, action or change, the Parties are unable to agree in writing upon mutually acceptable revisions to this Agreement, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction, without first pursuing dispute resolution in accordance with Section 14 of this Agreement.
- 4.7 Notwithstanding anything in this Agreement to the contrary, if, as a result of any legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or benefit, otherwise required to be provided to ATI hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit, and ATI shall reimburse Verizon for any payment previously made by Verizon to ATI that was not required by Applicable Law. Verizon will provide thirty (30) days prior written notice to ATI of any such discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply.

5. Assignment

Neither Party may assign this Agreement or any right or interest under this Agreement, nor delegate any obligation under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment or delegation in violation of this Section 5 shall be void and ineffective and constitute default of this Agreement.

6. Assurance of Payment

- 6.1 Upon request by Verizon, ATI shall, at any time and from time to time, provide to Verizon adequate assurance of payment of amounts due (or to become due) to Verizon hereunder.
- 6.2 Assurance of payment of charges may be requested by Verizon if ATI (a) prior to the Effective Date, has failed to timely pay a bill rendered to ATI by Verizon or its Affiliates, (b) on or after the Effective Date, fails to timely pay a bill rendered to ATI by Verizon or its Affiliates, (c) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy, or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.
- 6.3 Unless otherwise agreed by the Parties, the assurance of payment shall consist of an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon. The letter of credit shall be in an amount equal to two (2) months anticipated charges (including, but not limited to, both recurring and non-recurring charges), as reasonably determined by Verizon, for the Services to be provided by Verizon to ATI in connection with this Agreement. If ATI meets the condition in subsection 6.2(d) above or has failed to timely pay two or more bills rendered by Verizon or a Verizon Affiliate in any twelve (12)-month period, Verizon may, at its option, demand (and ATI shall provide) additional assurance of payment, consisting of monthly advanced payments of estimated charges as reasonably determined by Verizon, with appropriate true-up against actual billed charges no more frequently than once per Calendar Quarter.
- 6.4 [Intentionally Left Blank].
- 6.5 [Intentionally Left Blank].
- 6.6 Verizon may (but is not obligated to) draw on the letter of credit upon notice to ATI in respect of any amounts to be paid by ATI hereunder that are not paid within thirty (30) days of the date that payment of such amounts is required by this Agreement.
- 6.7 If Verizon draws on the letter of credit, upon request by Verizon, ATI shall provide a replacement or supplemental letter of credit conforming to the requirements of Section 6.3.
- 6.8 Notwithstanding anything else set forth in this Agreement, if Verizon makes a request for assurance of payment in accordance with the terms of this Section, then Verizon shall have no obligation thereafter to perform under this Agreement until such time as ATI has provided Verizon with such assurance of payment.

- 6.9 The fact that a letter of credit is requested by Verizon hereunder shall in no way relieve ATI from compliance with the requirements of this Agreement (including, but not limited to, any applicable Tariffs) as to advance payments and payment for Services, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of Services for nonpayment of any amounts payment of which is required by this Agreement.

7. Audits

- 7.1 Except as may be otherwise specifically provided in this Agreement, either Party ("Auditing Party") may audit the other Party's ("Audited Party") books, records, documents, facilities and systems for the purpose of evaluating the accuracy of the Audited Party's bills. Such audits may be performed once in each Calendar Year; provided, however, that audits may be conducted more frequently (but no more frequently than once in each Calendar Quarter) if the immediately preceding audit found previously uncorrected net inaccuracies in billing in favor of the Audited Party having an aggregate value of at least \$1,000,000.
- 7.2 *The audit shall be performed by independent certified public accountants selected and paid by the Auditing Party. The accountants shall be reasonably acceptable to the Audited Party. Prior to commencing the audit, the accountants shall execute an agreement with the Audited Party in a form reasonably acceptable to the Audited Party that protects the confidentiality of the information disclosed by the Audited Party to the accountants. The audit shall take place at a time and place agreed upon by the Parties; provided, that the Auditing Party may require that the audit commence no later than sixty (60) days after the Auditing Party has given notice of the audit to the Audited Party.*
- 7.3 Each Party shall cooperate fully in any such audit, providing reasonable access to any and all employees, books, records, documents, facilities and systems, reasonably necessary to assess the accuracy of the Audited Party's bills.
- 7.4 Audits shall be performed at the Auditing Party's expense, provided that there shall be no charge for reasonable access to the Audited Party's employees, books, records, documents, facilities and systems necessary to assess the accuracy of the Audited Party's bills.

8. Authorization

- 8.1 *Verizon represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Wisconsin and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.*
- 8.2 *ATI represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.*
- 8.3 *ATI Certification.*

Notwithstanding any other provision of this Agreement, Verizon shall have no obligation to perform under this Agreement until such time as ATI has obtained such FCC and Commission authorization as may be required by Applicable Law for conducting business in the Commonwealth of Pennsylvania. ATI shall not place any Orders under this Agreement until it has obtained such authorization. ATI shall provide proof of such authorization to Verizon upon request.

9. Billing and Payment; Disputed Amounts

- 9.1 Except as otherwise provided in this Agreement, each Party shall submit to the other Party on a monthly basis in an itemized form, statement(s) of charges incurred by the other Party under this Agreement.
- 9.2 Except as otherwise provided in this Agreement, payment of amounts billed for Services provided under this Agreement, whether billed on a monthly basis or as otherwise provided in this Agreement, shall be due, in immediately available U.S. funds, on the later of the following dates (the "Due Date"): (a) the due date specified on the billing Party's statement; or (b) twenty (20) days after the date the statement is received by the billed Party. Payments shall be transmitted by electronic funds transfer.
- 9.3 If any portion of an amount billed by a Party under this Agreement is subject to a good faith dispute between the Parties, the billed Party shall give notice to the billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. A Party may also dispute prospectively with a single notice a class of charges that it disputes. Notice of a dispute may be given by a Party at any time, either before or after an amount is paid, and a Party's payment of an amount shall not constitute a waiver of such Party's right to subsequently dispute its obligation to pay such amount or to seek a refund of any amount paid. The billed Party shall pay by the Due Date all undisputed amounts. Billing disputes shall be subject to the terms of Section 14, Dispute Resolution.
- 9.4 Charges due to the billing Party that are not paid by the Due Date, shall be subject to a late payment charge. The late payment charge shall be in an amount specified by the billing Party which shall not exceed a rate of one-and-one-half percent (1.5%) of the overdue amount (including any unpaid previously billed late payment charges) per month.
- 9.5 Although it is the intent of both Parties to submit timely statements of charges, failure by either Party to present statements to the other Party in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges, by the billing Party under this Agreement, and, except for assertion of a provision of Applicable Law that limits the period in which a suit or other proceeding can be brought before a court or other governmental entity of appropriate jurisdiction to collect amounts due, the billed Party shall not be entitled to dispute the billing Party's statement(s) based on the billing Party's failure to submit them in a timely fashion.

10. Confidentiality

- 10.1 As used in this Section 10, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:
- 10.1.1 Books, records, documents and other information disclosed in an audit pursuant to Section 7;
- 10.1.2 Any forecasting information provided pursuant to this Agreement;
- 10.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service,

Caller ID or similar service, or LIDB service, or (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

- 10.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);
- 10.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary;" and
- 10.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential or "Proprietary".

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information which the other Party has identified as Confidential Information pursuant to Sections 10.1.5 or 10.1.6.

- 10.2 Except as otherwise provided in this Agreement, the Receiving Party shall:
 - 10.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and
 - 10.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 10 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 10.
- 10.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement, and (b) one copy for archival purposes only.
- 10.4 Unless otherwise agreed, the obligations of Sections 10.2 and 10.3 do not apply to information that:
 - 10.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;

- 10.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates;
 - 10.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;
 - 10.4.4 is independently developed by the Receiving Party;
 - 10.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or
 - 10.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.
- 10.5 Notwithstanding the provisions of Sections 10.1 through 10.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.
- 10.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.
- 10.7 The provisions of this Section 10 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.
- 10.8 Each Party's obligations under this Section 10 shall survive expiration, cancellation or termination of this Agreement.

11. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

12. Default

If either Party ("Defaulting Party") fails to make a payment required by this Agreement (including, but not limited to, any payment required by Section 9.3 of undisputed amounts

to the billing Party) or materially breaches any other material provision of this Agreement, and such failure or breach continues for thirty (30) days after written notice thereof from the other Party, the other Party may, by written notice to the Defaulting Party, (a) suspend the provision of any or all Services hereunder, or (b) cancel this Agreement and terminate the provision of all Services hereunder.

13. Discontinuance of Service by ATI

- 13.1 If ATI proposes to discontinue, or actually discontinues, its provision of service to all or substantially all of its Customers, whether voluntarily, as a result of bankruptcy, or for any other reason, ATI shall send written notice of such discontinuance to Verizon, the Commission, and each of ATI's Customers. ATI shall provide such notice such number of days in advance of discontinuance of its service as shall be required by Applicable Law. Unless the period for advance notice of discontinuance of service required by Applicable Law is more than thirty (30) days, to the extent commercially feasible, ATI shall send such notice at least thirty (30) days prior to its discontinuance of service.
- 13.2 Such notice must advise each ATI Customer that unless action is taken by the ATI Customer to switch to a different carrier prior to ATI's proposed discontinuance of service, the ATI Customer will be without the service provided by ATI to the ATI Customer.
- 13.3 Should a ATI Customer subsequently become a Verizon Customer, ATI shall provide Verizon with all information necessary for Verizon to establish service for the ATI Customer, including, but not limited to, the ATI Customer's billed name, listed name, service address, and billing address, and the services being provided to the ATI Customer.
- 13.4 Nothing in this Section 13 shall limit Verizon's right to cancel or terminate this Agreement or suspend provision of Services under this Agreement.

14. Dispute Resolution

- 14.1 Except as otherwise provided in this Agreement, any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties. To initiate such negotiation, a Party must provide to the other Party written notice of the *dispute that includes both a detailed description of the dispute or alleged nonperformance and the name of an individual who will serve as the initiating Party's representative in the negotiation.* The other Party shall have ten Business Days to designate its own representative in the negotiation. The Parties' representatives shall meet at least once within 45 days after the date of the initiating Party's written notice in an attempt to reach a good faith resolution of the dispute. Upon agreement, the Parties' representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations.
- 14.2 If the Parties have been unable to resolve the dispute within 45 days of the date of the initiating Party's written notice, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction.

15. Force Majeure

- 15.1 Neither Party shall be responsible for any delay or failure in performance which results from causes beyond its reasonable control ("Force Majeure Events"), whether or not foreseeable by such Party. Such Force Majeure Events include, but are not limited to, adverse weather conditions, flood, fire, explosion, earthquake, volcanic action, power failure, embargo, boycott, war, revolution, civil commotion, act of public enemies, labor unrest (including, but not limited to, strikes, work stoppages, slowdowns, picketing or boycotts), inability to obtain equipment, parts, software or repairs thereof, acts or omissions of the other Party, and acts of God.
- 15.2 If a Force Majeure Event occurs, the non-performing Party shall give prompt notification of its inability to perform to the other Party. During the period that the non-performing Party is unable to perform, the other Party shall also be excused from performance of its obligations to the extent such obligations are reciprocal to, or depend upon, the performance of the non-performing Party that has been prevented by the Force Majeure Event. The non-performing Party shall use commercially reasonable efforts to avoid or remove the cause(s) of its non-performance and both Parties shall proceed to perform once the cause(s) are removed or cease.
- 15.3 Notwithstanding the provisions of Sections 15.1 and 15.2, in no case shall a Force Majeure Event excuse either Party from an obligation to pay money as required by this Agreement.
- 15.4 Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

16. Forecasts

In addition to any other forecasts required by this Agreement, upon request by Verizon, ATI shall provide to Verizon forecasts regarding the Services that ATI expects to purchase from Verizon, including, but not limited to, forecasts regarding the types and volumes of Services that ATI expects to purchase and the locations where such Services will be purchased.

17. Fraud

ATI assumes responsibility for all fraud associated with its Customers and accounts. Verizon shall bear no responsibility for, and shall have no obligation to investigate or make adjustments to ATI's account in cases of, fraud by ATI's Customers or other third parties.

18. Good Faith Performance

The Parties shall act in good faith in their performance of this Agreement. Except as otherwise expressly stated in this Agreement (including, but not limited to, where consent, approval, agreement or a similar action is stated to be within a Party's sole discretion), where consent, approval, mutual agreement or a similar action is required by any provision of this Agreement, such action shall not be unreasonably withheld, conditioned or delayed. If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Agreement, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

19. Headings

The headings used in the Principal Document are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of the Principal Document.

20. Indemnification

20.1 Each Party ("Indemnifying Party") shall indemnify, defend and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all Claims that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, Agents or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in connection with this Agreement.

20.2 Indemnification Process.

20.2.1 As used in this Section 20, "Indemnified Person" means a person whom an Indemnifying Party is obligated to indemnify, defend and/or hold harmless under Section 20.1.

20.2.2 An Indemnifying Party's obligations under Section 20.1 shall be conditioned upon the following:

20.2.3 The Indemnified Person: (a) shall give the Indemnifying Party notice of the Claim promptly after becoming aware thereof (including a statement of facts known to the Indemnified Person related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Person shall have the right to approve the Indemnifying Party's choice of legal counsel.

20.2.4 If the Indemnified Person fails to comply with Section 20.2.3 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Person with respect to such Claim under this Agreement.

20.2.5 Subject to 20.2.6 and 20.2.7, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

20.2.6 With respect to any Third Party Claim, the Indemnified Person shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could

affect the rights of the Indemnified Person. In so participating, the Indemnified Person shall be entitled to employ separate counsel for the defense at the Indemnified Person's expense. The Indemnified Person shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

- 20.2.7 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Person, the Indemnified Person shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Person against, the Third Party Claim for any amount in excess of such refused settlement or judgment.
- 20.2.8 The Indemnified Person shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.
- 20.2.9 The Indemnifying Party and the Indemnified Person shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.
- 20.3 Each Party agrees that it will not implead or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.
- 20.4 Each Party's obligations under this Section 20 shall survive expiration, cancellation or termination of this Agreement.

21. Insurance

- 21.1 ATI shall maintain during the term of this Agreement and for a period of two years thereafter all insurance and/or bonds required to satisfy its obligations under this Agreement (including, but not limited to, its obligations set forth in Section 20 hereof) and all insurance and/or bonds required by Applicable Law. The insurance and/or bonds shall be obtained from an insurer having an A.M. Best insurance rating of at least A-, financial size category VII or greater. At a minimum and without limiting the foregoing undertaking, ATI shall maintain the following insurance:
 - 21.1.1 Commercial General Liability Insurance, on an occurrence basis, including but not limited to, premises-operations, broad form property damage, products/completed operations, contractual liability, independent contractors, and personal injury, with limits of at least \$2,000,000 combined single limit for each occurrence.

- 21.1.2 Commercial Motor Vehicle Liability Insurance covering all owned, hired and non-owned vehicles, with limits of at least \$2,000,000 combined single limit for each occurrence.
 - 21.1.3 Excess Liability Insurance, in the umbrella form, with limits of at least \$10,000,000 combined single limit for each occurrence.
 - 21.1.4 Worker's Compensation Insurance as required by Applicable Law and Employer's Liability Insurance with limits of not less than \$2,000,000 per occurrence.
 - 21.1.5 All risk property insurance on a full replacement cost basis for all of ATI's real and personal property located at any collocation site or otherwise located on or in any Verizon premises (whether owned, leased or otherwise occupied by Verizon), facility, equipment or right-of-way.
- 21.2 Any deductibles, self-insured retentions or loss limits ("Retentions") for the foregoing insurance must be disclosed on the certificates of insurance to be provided to Verizon pursuant to Sections 21.4 and 21.5, and Verizon reserves the right to reject any such Retentions in its reasonable discretion. All Retentions shall be the responsibility of ATI.
- 21.3 ATI shall name Verizon and Verizon's Affiliates as additional insureds on the foregoing liability insurance.
- 21.4 ATI shall, within two (2) weeks of the Effective Date hereof at the time of each renewal of, or material change in, ATI's insurance policies, and at such other times as Verizon may reasonably specify, furnish certificates or other proof of the foregoing insurance reasonably acceptable to Verizon. The certificates or other proof of the foregoing insurance shall be sent to: Director - Contract Performance & Administration, Verizon Wholesale Markets, 600 Hidden Ridge, HQEWMNOTICES, Irving, TX 75038.
- 21.5 ATI shall require its contractors, if any, that may enter upon the premises or access the facilities or equipment of Verizon or Verizon's affiliates to maintain insurance in accordance with Sections 21.1 through 21.3 and, if requested, to furnish Verizon certificates or other adequate proof of such insurance acceptable to Verizon in accordance with Section 21.4.
- 21.6 If ATI or ATI's contractors fail to maintain insurance as required in Sections 21.1 through 21.5, above, Verizon may (but shall not be obligated to) purchase such insurance and ATI shall reimburse Verizon for the cost of the insurance.
- 21.7 Certificates furnished by ATI or ATI's contractors shall contain a clause stating: "Verizon North Inc. shall be notified in writing at least thirty (30) days prior to cancellation of, or any material change in, the insurance."

22. Intellectual Property

- 22.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual

property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.

- 22.2 Except as stated in Section 22.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.
- 22.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.
- 22.4 ATI agrees that the Services provided by Verizon hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between Verizon and Verizon's vendors. Verizon agrees to advise ATI, directly or through a third party, of any such terms, conditions or restrictions that may limit any ATI use of a Service provided by Verizon that is otherwise permitted by this Agreement. At ATI's written request, to the extent required by Applicable Law, Verizon will use Verizon's best efforts, as commercially practicable, to obtain intellectual property rights from Verizon's vendor to allow ATI to use the Service in the same manner as Verizon that are coextensive with Verizon's intellectual property rights, on terms and conditions that are equal in quality to the terms and conditions under which Verizon has obtained Verizon's intellectual property rights. ATI shall reimburse Verizon for the cost of obtaining such rights.

23. Joint Work Product

The Principal Document is the joint work product of the Parties, has been negotiated by the Parties, and shall be fairly interpreted in accordance with its terms. In the event of any ambiguities, no inferences shall be drawn against either Party.

24. Law Enforcement

- 24.1 Each Party may cooperate with law enforcement authorities and national security authorities to the full extent required or permitted by Applicable Law in matters related to Services provided by it under this Agreement, including, but not limited to, the production of records, the establishment of new lines or the installation of new services on an existing line in order to support law enforcement and/or national security operations, and, the installation of wiretaps, trap-and-trace facilities and equipment, and dialed number recording facilities and equipment.

- 24.2 A Party shall not have the obligation to inform the other Party or the Customers of the other Party of actions taken in cooperating with law enforcement or national security authorities, except to the extent required by Applicable Law.
- 24.3 Where a law enforcement or national security request relates to the establishment of lines (including, but not limited to, lines established to support interception of communications on other lines), or the installation of other services, facilities or arrangements, a Party may act to prevent the other Party from obtaining access to information concerning such lines, services, facilities and arrangements, through operations support system interfaces.

25. Liability

- 25.1 As used in this Section 25, "Service Failure" means a failure to comply with a direction to install, restore or terminate Services under this Agreement, a failure to provide Services under this Agreement, and failures, mistakes, omissions, interruptions, delays, errors, defects or the like, occurring in the course of the provision of any Services under this Agreement.
- 25.2 Except as otherwise stated in Section 25.5, the liability, if any, of a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, to the other Party, the other Party's Customers, and to any other person, for Claims arising out of a Service Failure shall not exceed an amount equal to the pro rata applicable monthly charge for the Services that are subject to the Service Failure for the period in which such Service Failure occurs.
- 25.3 Except as otherwise stated in Section 25.5, a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, shall not be liable to the other Party, the other Party's Customers, or to any other person, in connection with this Agreement (including, but not limited to, in connection with a Service Failure or any breach, delay or failure in performance, of this Agreement) for special, indirect, incidental, consequential, reliance, exemplary, punitive, or like damages, including, but not limited to, damages for lost revenues, profits or savings, or other commercial or economic loss, even if the person whose liability is excluded by this Section has been advised of the possibility of such damages.
- 25.4 The limitations and exclusions of liability stated in Sections 25.1 through 25.3 shall apply regardless of the form of a claim or action, whether statutory, in contract, warranty, strict liability, tort (including, but not limited to, negligence of a Party), or otherwise.
- 25.5 Nothing contained in Sections 25.1 through 25.4 shall exclude or limit liability:
- 25.5.1 under Sections 20, Indemnification, or 41, Taxes.
 - 25.5.2 for any obligation to indemnify, defend and/or hold harmless that a Party may have under this Agreement.
 - 25.5.3 for damages arising out of or resulting from bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, or Toxic or Hazardous Substances, to the extent such damages are otherwise recoverable under Applicable Law;
 - 25.5.4 for a claim for infringement of any patent, copyright, trade name, trade mark, service mark, or other intellectual property interest;

- 25.5.5 under Section 258 of the Act or any order of FCC or the Commission implementing Section 258; or
- 25.5.6 under the financial incentive or remedy provisions of any service quality plan required by the FCC or the Commission.
- 25.6 In the event that the liability of a Party, a Party's Affiliate, or a director, officer or employee of a Party or a Party's Affiliate, is limited and/or excluded under both this Section 25 and a provision of an applicable Tariff, the liability of the Party or other person shall be limited to the smaller of the amounts for which such Party or other person would be liable under this Section or the Tariff provision.
- 25.7 Each Party shall, in its tariffs and other contracts with its Customers, provide that in no case shall the other Party, the other Party's Affiliates, or the directors, officers or employees of the other Party or the other Party's Affiliates, be liable to such Customers or other third-persons for any special, indirect, incidental, consequential, reliance, exemplary, punitive or other damages, arising out of a Service Failure.

26. Network Management

- 26.1 Cooperation. The Parties will work cooperatively in a commercially reasonable manner to install and maintain a reliable network. ATI and Verizon will exchange appropriate information (e.g., network information, maintenance contact numbers, escalation procedures, and information required to comply with requirements of law enforcement and national security agencies) to achieve this desired reliability. In addition, the Parties will work cooperatively in a commercially reasonable manner to apply sound network management principles to alleviate or to prevent traffic congestion and subject to Section 17, to minimize fraud associated with third number billed calls, calling card calls, and other services related to this Agreement.
- 26.2 Responsibility for Following Standards. Each Party recognizes a responsibility to follow the standards that may be agreed to between the Parties and to employ characteristics and methods of operation that will not interfere with or impair the service, network or facilities of the other Party or any third parties connected with or involved directly in the network or facilities of the other.
- 26.3 Interference or Impairment. If a Party ("Impaired Party") reasonably determines that the services, network, facilities, or methods of operation, of the other Party ("Interfering Party") will or are likely to interfere with or impair the Impaired Party's provision of services or the operation of the Impaired Party's network or facilities, the Impaired Party may interrupt or suspend any Service provided to the Interfering Party to the extent necessary to prevent such interference or impairment, subject to the following:
 - 26.3.1 Except in emergency situations (e.g., situations involving a risk of bodily injury to persons or damage to tangible property, or an interruption in Customer service) or as otherwise provided in this Agreement, the Impaired Party shall have given the Interfering Party at least ten (10) days' prior written notice of the interference or impairment or potential interference or impairment and the need to correct the condition within said time period; and taken other actions, if any, required by Applicable Law; and,
 - 26.3.2 Upon correction of the interference or impairment, the Impaired Party will promptly restore the interrupted or suspended Service. The

Impaired Party shall not be obligated to provide an out-of-service credit allowance or other compensation to the Interfering Party in connection with the suspended Service.

26.4 Outage Repair Standard. In the event of an outage or trouble in any Service being provided by a Party hereunder, the Providing Party will follow Verizon's standard procedures for isolating and clearing the outage or trouble.

27. Non-Exclusive Remedies

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

28. Notice of Network Changes

If a Party makes a change in the information necessary for the transmission and routing of services using that Party's facilities or network, or any other change in its facilities or network that will materially affect the interoperability of its facilities or network with the other Party's facilities or network, the Party making the change shall publish notice of the change at least ninety (90) days in advance of such change, and shall use reasonable efforts, as commercially practicable, to publish such notice at least one hundred eighty (180) days in advance of the change; provided, however, that if an earlier publication of notice of a change is required by Applicable Law (including, but not limited to, 47 CFR 51.325 through 51.335) notice shall be given at the time required by Applicable Law.

29. Notices

29.1 Except as otherwise provided in this Agreement, notices given by one Party to the other Party under this Agreement:

29.1.1 shall be in writing;

29.1.2 shall be delivered (a) personally, (b) by express delivery service with next Business Day delivery, (c) by First Class, certified or registered U.S. mail, postage prepaid, or (d) by facsimile telecopy, with a copy delivered in accordance with (a), (b) or (c), preceding; and

29.1.3 shall be delivered to the following addresses of the Parties:

To ATI:

Terri K. Firestein
10806 Garrison Hollow Road
Clear Spring, MD 21722
Telephone Number: (301) 842-1437
Facsimile Number: (301) 842-1439
Internet Address: tfireccg@aol.com

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 North Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

or to such other address as either Party shall designate by proper notice.

Notices will be deemed given as of the earlier of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, (c) where the notice is sent via First Class U.S. Mail, three (3) Business Days after mailing, (d) where notice is sent via certified or registered U.S. mail, the date of receipt shown on the Postal Service receipt, and (e) where the notice is sent via facsimile telecopy, if the notice is sent on a Business Day and before 5 PM. in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation.

30. Ordering and Maintenance

ATI shall use Verizon's electronic Operations Support System access platforms to submit Orders and requests for maintenance and repair of Services, and to engage in other pre-ordering, ordering, provisioning, maintenance and repair transactions. If Verizon has not yet deployed an electronic capability for ATI to perform a pre-ordering, ordering, provisioning, maintenance or repair, transaction offered by Verizon, ATI shall use such other processes as Verizon has made available for performing such transaction (including, but not limited, to submission of Orders by telephonic facsimile transmission and placing trouble reports by voice telephone transmission).

31. Performance Standards

- 31.1 Verizon shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law, including, but not limited to, *Section 251(c) of the Act*.
- 31.2 ATI shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law.

32. Point of Contact for ATI Customers

- 32.1 ATI shall establish telephone numbers and mailing addresses at which ATI Customers may communicate with ATI and shall advise ATI Customers of these telephone numbers and mailing addresses.

- 32.2 Except as otherwise agreed to by Verizon, Verizon shall have no obligation, and may decline, to accept a communication from a ATI Customer, including, but not limited to, a ATI Customer request for repair or maintenance of a Verizon Service provided to ATI.

33. Predecessor Agreements

- 33.1 Except as stated in Section 33.2 or as otherwise agreed in writing by the Parties:
- 33.1.1 Further to the provisions of Section 1 of the General Terms and Conditions of this Agreement, any prior interconnection or resale agreement between the Parties for the Commonwealth of Pennsylvania pursuant to Section 252 of the Act and in effect prior to the Effective Date is hereby amended, extended and restated; and
- 33.1.2 any Services that were purchased by one Party from the other Party under a prior interconnection or resale agreement between the Parties for the Commonwealth of Pennsylvania pursuant to Section 252 of the Act and in effect prior to the Effective Date, shall as of the Effective Date be subject to and purchased under this Agreement.
- 33.2 Except as otherwise agreed in writing by the Parties, if a Service purchased by a Party under a prior interconnection or resale agreement between the Parties pursuant to Section 252 of the Act was subject to a contractual commitment that it would be purchased for a period of longer than one month, and such period had not yet expired as of the Effective Date and the Service had not been terminated prior to the Effective Date, to the extent not inconsistent with this Agreement, such commitment shall remain in effect and the Service will be purchased under this Agreement; provided, that if this Agreement would materially alter the terms of the commitment, either Party make elect to cancel the commitment.
- 33.3 If either Party elects to cancel the commitment pursuant to the proviso in Section 33.2, the Purchasing Party shall not be liable for any termination charge that would otherwise have applied. However, if the commitment was cancelled by the Purchasing Party, the Providing Party shall be entitled to payment from the Purchasing Party of the difference between the price of the Service that was actually paid by the Purchasing Party under the commitment and the price of the Service that would have applied if the commitment had been to purchase the Service only until the time that the commitment was cancelled.

34. Publicity and Use of Trademarks or Service Marks

- 34.1 A Party, its Affiliates, and their respective contractors and Agents, shall not use the other Party's trademarks, service marks, logos or other proprietary trade dress, in connection with the sale of products or services, or in any advertising, press releases, publicity matters or other promotional materials, unless the other Party has given its written consent for such use, which consent the other Party may grant or withhold in its sole discretion.
- 34.2 Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party.
- 34.3 Any violation of this Section 34 shall be considered a material breach of this Agreement.

35. References

- 35.1 All references to Sections, Appendices and Exhibits shall be deemed to be references to Sections, Appendices and Exhibits of this Agreement unless the context shall otherwise require.
- 35.2 Unless the context shall otherwise require, any reference to a Tariff, agreement, technical or other document (including Verizon or third party guides, practices or handbooks), or provision of Applicable Law, is to such Tariff, agreement, document, or provision of Applicable Law, as amended and supplemented from time to time (and, in the case of a Tariff or provision of Applicable Law, to any successor Tariff or provision).

36. Relationship of the Parties

- 36.1 The relationship of the Parties under this Agreement shall be that of independent contractors and nothing herein shall be construed as creating any other relationship between the Parties.
- 36.2 Nothing contained in this Agreement shall make either Party the employee of the other, create a partnership, joint venture, or other similar relationship between the Parties, or grant to either Party a franchise, distributorship or similar interest.
- 36.3 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or Agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.
- 36.4 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, Agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, Agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.
- 36.5 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.
- 36.6 The relationship of the Parties under this Agreement is a non-exclusive relationship.

37. Reservation of Rights

- 37.1 Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights: (a) to appeal or otherwise seek the reversal of and changes in any arbitration decision associated with this Agreement; (b) to challenge the lawfulness of this Agreement and any provision of this Agreement; (c) to seek changes in this Agreement (including, but not limited to, changes in rates, charges and the Services that must be offered) through changes in Applicable Law; (d) to challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the Commission, the FCC, or a court of applicable jurisdiction; and (e) to collect debts owed to it under any prior interconnection or resale agreements. Nothing in this Agreement shall be

deemed to limit or prejudice any position a Party has taken or may take before the Commission, the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section shall survive the expiration, cancellation or termination of this Agreement.

- 37.2 ATI acknowledges ATI has been advised by Verizon that it is Verizon's position that this Agreement contains certain provisions which are intended to reflect Applicable Law and Commission and/or FCC arbitration decisions.

38. Subcontractors

A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement; provided, that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

39. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the Parties and their respective legal successors and permitted assigns.

40. Survival

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information (including but not limited to, Section 10), indemnification or defense (including, but not limited to, Section 20), or limitation or exclusion of liability (including, but not limited to, Section 25), and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

41. Taxes

- 41.1 In General. With respect to any purchase hereunder of Services, if any federal, state or local tax, fee, surcharge or other tax-like charge (a "Tax") is required or permitted by Applicable Law or a Tariff to be collected from the Purchasing Party by the Providing Party, then (a) the Providing Party shall properly bill the Purchasing Party for such Tax, (b) the Purchasing Party shall timely remit such Tax to the Providing Party and (c) the Providing Party shall timely remit such collected Tax to the applicable taxing authority.
- 41.2 Taxes Imposed on the Providing Party. With respect to any purchase hereunder of Services, if any federal, state or local Tax is imposed by Applicable Law on the receipts of the Providing Party, and such Applicable Law permits the Providing Party to exclude certain receipts received from sales for resale to a public utility, distributor, telephone company, local exchange carrier, telecommunications company or other communications company ("Telecommunications Company"), such exclusion being based solely on the fact that the Purchasing Party is also subject to a tax based upon receipts ("Receipts Tax"), then the Purchasing Party (a) shall provide the Providing Party with notice in writing in accordance with Section 41.6 of this Agreement of its intent to pay the Receipts Tax and (b) shall timely pay the Receipts Tax to the applicable tax authority.

- 41.3 Taxes Imposed on Customers. With respect to any purchase hereunder of Services that are resold to a third party, if any federal, state or local Tax is imposed by Applicable Law on the subscriber, end-user, Customer or ultimate consumer ("Subscriber") in connection with any such purchase, which a *Telecommunications Company is required to impose and/or collect from a Subscriber*, then the Purchasing Party (a) shall be required to impose and/or collect such Tax from the Subscriber and (b) shall timely remit such Tax to the applicable taxing authority.
- 41.4 Liability for Uncollected Tax, Interest and Penalty. If the Providing Party has not received an exemption certificate from the Purchasing Party and the Providing Party fails to bill the Purchasing Party for any Tax as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, (a) the Purchasing Party shall remain liable for such unbilled Tax and (b) the Providing Party shall be liable for any interest assessed thereon and any penalty assessed with respect to such unbilled Tax by such authority. If the Providing Party properly bills the Purchasing Party for any Tax but the Purchasing Party fails to remit such Tax to the Providing Party as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Providing Party does not collect any Tax as required by Section 41.1 because the Purchasing Party has provided such Providing Party with an exemption certificate that is later found to be inadequate by a taxing authority, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Purchasing Party fails to pay the Receipts Tax as required by Section 41.2, then, as between the Providing Party and the Purchasing Party, (x) the Providing Party shall be liable for any Tax imposed on its receipts and (y) the Purchasing Party shall be liable for any interest assessed thereon and any penalty assessed upon the Providing Party with respect to such Tax by such authority. If the Purchasing Party fails to impose and/or collect any Tax from Subscribers as required by Section 41.3, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall remain liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. With respect to any Tax that the Purchasing Party has agreed to pay, or is required to impose on and/or collect from Subscribers, the Purchasing Party agrees to indemnify and hold the Providing Party harmless on an after-tax basis for any costs incurred by the Providing Party as a result of actions taken by the applicable taxing authority to recover the Tax from the Providing Party due to the failure of the Purchasing Party to timely pay, or collect and timely remit, such Tax to such authority. In the event either Party is audited by a taxing authority, the other Party agrees to cooperate fully with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 41.5 Tax Exemptions and Exemption Certificates. If Applicable Law clearly exempts a purchase hereunder from a Tax, and if such Applicable Law also provides an exemption procedure, such as an exemption-certificate requirement, then, if the Purchasing Party complies with such procedure, the Providing Party shall not collect such Tax during the effective period of such exemption. Such exemption shall be effective upon receipt of the exemption certificate or affidavit in accordance with the terms set forth in Section 41.6. If Applicable Law clearly

exempts a purchase hereunder from a Tax, but does not also provide an exemption procedure, then the Providing Party shall not collect such Tax if the Purchasing Party (a) furnishes the Providing Party with a letter signed by an officer requesting such an exemption and citing the provision in the Applicable Law which clearly allows such exemption and (b) supplies the Providing Party with an indemnification agreement, reasonably acceptable to the Providing Party (e.g., an agreement commonly used in the industry), which holds the Providing Party harmless on an after-tax basis with respect to its forbearing to collect such Tax.

- 41.6 All notices, affidavits, exemption-certificates or other communications required or permitted to be given by either Party to the other, for purposes of this Section 41, shall be made in writing and shall be delivered in person or sent by certified mail, return receipt requested, or registered mail, or a courier-service providing proof of service, and sent to the addressees set forth in Section 29 as well as to the following:

To Verizon:

Tax Administration
Verizon Communications
1095 Avenue of the Americas
Room 3109
New York, NY 10036

To ATI:

Barbara Direnzo
One Armstrong Place
Butler, Pennsylvania 16001

Either Party may from time to time designate another address or other addressees by giving notice in accordance with the terms of this Section. Any notice or other communication shall be deemed to be given when received.

42. Technology Upgrades

Notwithstanding any other provision of this Agreement, Verizon shall have the right to *deploy, upgrade, migrate and maintain its network at its discretion*. The Parties acknowledge that Verizon, at its election, may deploy fiber throughout its network and that such fiber deployment may inhibit or facilitate ATI's ability to provide service using certain technologies. Nothing in this Agreement shall limit Verizon's ability to modify its network through the incorporation of new equipment or software or otherwise. ATI shall be solely responsible for the cost and activities associated with accommodating such changes in its own network.

43. Territory

- 43.1 This Agreement applies to the territory in which Verizon operates as an Incumbent Local Exchange Carrier in the Commonwealth of Pennsylvania. Verizon shall be obligated to provide Services under this Agreement only within this territory.
- 43.2 Notwithstanding any other provision of this Agreement, Verizon may terminate this Agreement as to a specific operating territory or portion thereof if Verizon *sells or otherwise transfers its operations in such territory or portion thereof to a third-person*. Verizon shall provide ATI with at least 90 calendar days prior written

notice of such termination, which shall be effective upon the date specified in the notice.

44. Third Party Beneficiaries

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third-persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

45. 251 and 271 Requirements

The Parties agree that the performance of the terms of this Agreement will satisfy Verizon's obligations under Section 251 of the Act, and the requirements of the Checklist under Section 271 of the Act.

46. 252(i) Obligations

To the extent required by Applicable Law, each Party shall comply with Section 252(i) of the Act. To the extent that the exercise by ATI of any rights it may have under Section 252(i) results in the rearrangement of Services by Verizon, ATI shall be solely liable for all costs associated therewith, as well as for any termination charges associated with the termination of existing Verizon Services.

47. Use of Service

Each Party shall make commercially reasonable efforts to ensure that its Customers comply with the provisions of this Agreement (including, but not limited to the provisions of applicable Tariffs) applicable to the use of Services purchased by it under this Agreement.

48. Waiver

A failure or delay of either Party to enforce any of the provisions of this Agreement, or any right or remedy available under this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement, shall in no way be construed to be a waiver of such provisions, rights, remedies or options.

49. Warranties

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

50. Withdrawal of Services

50.1 Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, Verizon may terminate its offering and/or provision of any Service under this Agreement upon thirty (30) days prior written notice to ATI.

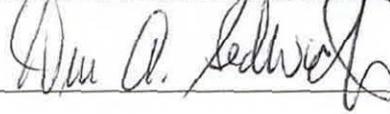
50.2 Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, Verizon may with thirty (30) days prior written notice to ATI terminate any provision of this Agreement that provides for the payment by Verizon to ATI of compensation related to traffic, including, but not limited to, Reciprocal Compensation and other types of compensation for termination of traffic delivered by Verizon to ATI. Following such termination, except as otherwise agreed in writing by the Parties, Verizon shall be obligated to provide compensation to ATI related to traffic only to the extent required by Applicable Law. If Verizon exercises its right of termination under this Section, the Parties shall negotiate in good faith appropriate substitute provisions for compensation related to traffic; provided, however, that except as otherwise voluntarily agreed by Verizon in writing in its sole discretion, Verizon shall be obligated to provide compensation to ATI related to traffic only to the extent required by Applicable Law. If within thirty (30) days after Verizon's notice of termination the Parties are unable to agree in writing upon mutually acceptable substitute provisions for compensation related to traffic, either Party may submit their disagreement to dispute resolution in accordance with Section 14 of this Agreement.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

ARMSTRONG TELECOMMUNICATIONS, INC.

VERIZON NORTH INC.

By: 

By: 

Printed: Dru A. Sedwick

Printed: John C. Peterson

Title: President

Title: Director - Contract Performance and Administration

Date: 6/3/05

Date: 4/7/05

GLOSSARY

1. General Rule

- 1.1 The provisions of Sections 1.2 through 1.4 and Section 2 apply with regard to the Principal Document. Terms used in a Tariff shall have the meanings stated in the Tariff.
- 1.2 Unless the context clearly indicates otherwise, when a term listed in this Glossary is used in the Principal Document, the term shall have the meaning stated in this Glossary. A defined term intended to convey the meaning stated in this Glossary is capitalized when used. Other terms that are capitalized, and not defined in this Glossary or elsewhere in the Principal Document, shall have the meaning stated in the Act. Additional definitions that are specific to the matters covered in a particular provision of the Principal Document may appear in that provision. To the extent that there may be any conflict between a definition set forth in this Glossary and any definition in a specific provision, the definition set forth in the specific provision shall control with respect to that provision.
- 1.3 Unless the context clearly indicates otherwise, any term defined in this Glossary which is defined or used in the singular shall include the plural, and any term defined in this Glossary which is defined or used in the plural shall include the singular.
- 1.4 The words "shall" and "will" are used interchangeably throughout the Principal Document and the use of either indicates a mandatory requirement. The use of one or the other shall not confer a different degree of right or obligation for either Party.

2. Definitions

- 2.1 Act.
The Communications Act of 1934 (47 U.S.C. §151 et seq.), as from time to time amended (including, but not limited to, by the Telecommunications Act of 1996).
- 2.2 Advanced Services.
As a general matter, shall have the meaning set forth by the FCC.
- 2.3 Affiliate.
Shall have the meaning set forth in the Act.
- 2.4 Agent.
An agent or servant.
- 2.5 Agreement.
This Agreement, as defined in Section 1 of the General Terms and Conditions.
- 2.6 Ancillary Traffic.
All traffic that is destined for ancillary services, or that may have special billing

requirements, including but not limited to the following: Directory Assistance, 911/E911, Operator Services (IntraLATA call completion), IntraLATA third party, collect and calling card, 800/888 database query, LIDB, and Voice Information Services Traffic as described in Section 5 of the Additional Services Attachment.

2.7 ANI (Automatic Number Identification).

The signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.

2.8 Applicable Law.

All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.

2.9 ASR (Access Service Request).

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of interconnection.

2.10 BFR (Bona Fide Request).

The process described in the Network Element Attachment that prescribes the terms and conditions relating to a Party's request that the other Party provide a UNE that it is not otherwise required to provide under the terms of this Agreement.

2.11 Business Day.

Monday through Friday, except for holidays observed by Verizon.

2.12 Calendar Quarter.

January through March, April through June, July through September, or October through December.

2.13 Calendar Year.

January through December.

2.14 CCS (Common Channel Signaling).

A method of transmitting call set-up and network control data over a digital signaling network separate from the public switched telephone network facilities that carry the actual voice or data content of the call.

2.15 Central Office.

A local switching system for connecting lines to lines, lines to trunks, or trunks to trunks for the purpose of originating/terminating calls over the public switched telephone network. A single Central Office may handle several Central Office codes ("NXX"). Sometimes this term is used to refer to a telephone company building in which switching systems and telephone equipment are installed.

2.16 Central Office Switch.

A switch used to provide Telecommunications Services, including, but not limited to, an End Office Switch or a Tandem Switch. A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.

2.17 Claims.

Any and all claims, demands, suits, actions, settlements, judgments, fines, penalties, liabilities, injuries, damages, losses, costs (including, but not limited to, court costs), and expenses (including, but not limited to, reasonable attorney's fees).

2.18 CLEC (Competitive Local Exchange Carrier).

Any Local Exchange Carrier other than Verizon that is operating as a Local Exchange Carrier in the territory in which Verizon operates as an ILEC in the Commonwealth of Pennsylvania. ATI is or shortly will become a CLEC.

2.19 CLLI Codes.

Common Language Location Identifier Codes.

2.20 CMDS (Centralized Message Distribution System).

The billing record and clearing house transport system that LECs use to exchange out collects and in collects as well as Carrier Access Billing System (CABS) records.

2.21 Commission.

Pennsylvania Public Utility Commission.

2.22 CPN (Calling Party Number).

A CCS parameter that identifies the calling party's telephone number.

2.23 CPNI (Customer Proprietary Network Information).

Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. § 222.

2.24 Cross Connection.

For a collocation arrangement, the facilities between the collocating Party's equipment and the equipment or facilities of the housing Party (such as the housing Party's digital signal cross connect, Main Distribution Frame, or other suitable frame or panel).

2.25 Customer.

A third party residence or business end-user subscriber to Telephone Exchange Services provided by either of the Parties.

2.26 Dark Fiber IOF (Dark Fiber Interoffice Facility).

Consists of fiber strand(s) that are located within a fiber optic cable between either (a) accessible terminals in two or more Verizon Central Offices or (b) an accessible terminal in a Verizon Central Office and an accessible terminal in a ATI Central Office, but, in either case, that has not been activated through

connection to multiplexing, aggregation or other electronics that "light it" and thereby render it capable of carrying Telecommunications Services.

2.27 Dark Fiber Loop.

Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon Wire Center, and Verizon's accessible terminal located in Verizon's main termination point at a Customer premises, such as a fiber patch panel, and that has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

2.28 Dark Fiber Sub-Loop.

Consists of fiber optic strand(s) in a Verizon fiber optic cable (a) between Verizon's accessible terminal located within a Verizon Wire Center, and Verizon's accessible terminal at a Verizon remote terminal equipment enclosure, (b) between Verizon's accessible terminal at a Verizon remote terminal equipment enclosure and Verizon's accessible terminal located in Verizon's main termination point located within a Customer premises, or (c) between Verizon's accessible terminals at Verizon remote terminal equipment enclosures, and that in all cases has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

2.29 Digital Signal Level.

One of several transmission rates in the time-division multiplex hierarchy.

2.30 DS0 (Digital Signal Level 0).

The 64kbps zero-level signal in the time-division multiplex hierarchy.

2.31 DS1 (Digital Signal Level 1).

The 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

2.32 DS3 (Digital Signal Level 3).

The 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

2.33 EMI (Exchange Message Interface).

Standard used for the interexchange of telecommunications message information between local exchange carriers and interexchange carriers for billable, non-billable, sample, settlement and study data. Data is provided between companies via a unique record layout that contains Customer billing information, account summary and tracking analysis. EMI format is contained in document SR-320 published by the Alliance for Telecom Industry Solutions.

2.34 End Office Switch or End Office.

A switching entity that is used to terminate Customer station Loops for the purpose of interconnection to each other and to trunks.

2.35 Entrance Facility.

The facilities between a Party's designated premises and the Central Office serving that designated premises.

2.36 Exchange Access.

Shall have the meaning set forth in the Act.

2.37 Extended Local Calling Scope Arrangement.

An arrangement that provides a Customer a local calling scope (Extended Area Service, "EAS"), outside of the Customer's basic exchange serving area. Extended Local Calling Scope Arrangements may be either optional or non-optional. "Optional Extended Local Calling Scope Arrangement Traffic" is traffic that under an optional Extended Local Calling Scope Arrangement chosen by the Customer terminates outside of the Customer's basic exchange serving area.

2.38 FCC.

The Federal Communications Commission.

2.39 FCC Internet Order.

Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68, (adopted April 18, 2001).

2.40 FCC Regulations.

The unstayed, effective regulations promulgated by the FCC, as amended from time to time.

2.41 House and Riser Cable.

A two-wire metallic distribution facility in Verizon's network between the minimum point of entry for a building where a premises of a Customer is located (such a point, an "MPOE") and the Rate Demarcation Point for such facility (or NID) if the NID is located at such Rate Demarcation Point).

2.42 IDLC (Integrated Digital Loop Carrier).

A subscriber Loop carrier system that integrates within the switch at a DS1 level, which is twenty-four (24) Loop transmission paths combined into a 1.544 Mbps digital signal.

2.43 ILEC (*Incumbent Local Exchange Carrier*).

Shall have the meaning stated in the Act.

2.44 Information Access.

The provision of specialized exchange telecommunications services in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services, including a provider of Internet access or Internet transmission services.

- 2.45 Inside Wire or Inside Wiring.
All wire, cable, terminals, hardware, and other equipment or materials, on the Customer's side of the Rate Demarcation Point.
- 2.46 Internet Traffic.
Any traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission.
- 2.47 InterLATA Service.
Shall have the meaning set forth in the Act.
- 2.48 IntraLATA.
Telecommunications that originate and terminate within the same LATA.
- 2.49 [Intentionally Left Blank].
- 2.50 ISDN (*Integrated Services Digital Network*).
A switched network service providing end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for digital transmission of two (2) 64 kbps bearer channels and one (1) 16 kbps data and signaling channel (2B+D). Primary Rate Interface-ISDN (PRI-ISDN) provides for digital transmission of twenty-three (23) 64 kbps bearer channels and one (1) 64 kbps data and signaling channel (23B+D).
- 2.51 IXC (Interexchange Carrier).
A Telecommunications Carrier that provides, directly or indirectly, InterLATA or IntraLATA Telephone Toll Services.
- 2.52 LATA (Local Access and Transport Area).
Shall have the meaning set forth in the Act.
- 2.53 LEC (Local Exchange Carrier).
Shall have the meaning set forth in the Act.
- 2.54 LERG (Local Exchange Routing Guide).
A *Telcordia Technologies* reference containing NPA/NXX routing and homing information.
- 2.55 LIDB (Line Information Data Base).
Line Information databases which provide, among other things, calling card validation functionality for telephone line number cards issued by Verizon and other entities and validation data for collect and third number-billed calls (e.g., data for billed number screening).
- 2.56 Line Side.
An End Office Switch connection that provides transmission, switching and

optional features suitable for Customer connection to the public switched network, including loop start supervision, ground start supervision and signaling for BRI-ISDN service.

2.57 Loop.

A transmission path that extends from a Main Distribution Frame or functionally comparable piece of equipment in a Customer's serving End Office, to the Rate Demarcation Point (or NID if installed at the Rate Demarcation Point) in or at the Customer's premises. The actual transmission facilities used to provide a Loop may utilize any of several technologies.

2.58 LSR (Local Service Request).

An industry standard form, which contains data elements and usage rules, used by the Parties to establish, add, change or disconnect resold Telecommunications Services and Network Elements.

2.59 MDF (Main Distribution Frame).

The primary point at which outside plant facilities terminate within a Wire Center, for interconnection to other Telecommunications facilities within the Wire Center. The distribution frame used to interconnect cable pairs and line trunk equipment terminating on a switching system.

2.60 Measured Internet Traffic.

Dial-up, switched Internet Traffic originated by a Customer of one Party on that Party's network at a point in a Verizon local calling area, and delivered to a Customer or an Internet Service Provider served by the other Party, on that other Party's network at a point in the same Verizon local calling area. Verizon local calling areas shall be as defined by Verizon. For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. Calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis, are not considered Measured Internet Traffic. For the avoidance of any doubt, Virtual Foreign Exchange Traffic (i.e., V/FX Traffic) (as defined in the Interconnection Attachment) does not constitute Measured Internet Traffic.

2.61 MECAB (Multiple Exchange Carrier Access Billing).

A document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an Exchange Access Service provided by two or more LECs, or by one LEC in two or more states, within a single LATA.

2.62 MECOD (Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface).

A document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for

Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR-STS-002643, establishes methods for processing orders for Exchange Access Service that is to be provided by two or more LECs.

2.63 [Intentionally Left Blank].

2.64 NANP (North American Numbering Plan).

The system of telephone numbering employed in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean islands. The NANP format is a 10-digit number that consist of a 3-digit NPA Code (commonly referred to as the area code), followed by a 3-digit NXX code and 4 digit line number.

2.65 Network Element.

Shall have the meaning stated in the Act.

2.66 NID (Network Interface Device).

The Verizon provided interface terminating Verizon's Telecommunications network on the property where the Customer's service is located at a point determined by Verizon. The NID contains an FCC Part 68 registered jack from which Inside Wire may be connected to Verizon's network.

2.67 NPA (Numbering Plan Area).

Also sometimes referred to as an area code, is the first three-digit indicator of each 10-digit telephone number within the NANP. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized Telecommunications Service that may be provided across multiple geographic NPA areas. 500, 700, 800, 888 and 900 are examples of Non-Geographic NPAs.

2.68 NXX, NXX Code, Central Office Code or CO Code.

The three-digit switch entity indicator (i.e. the first three digits of a seven-digit telephone number).

2.69 Order.

An order or application to provide, change or terminate a Service (including, but not limited to, a commitment to purchase a stated number or minimum number of lines or other Services for a stated period or minimum period of time).

2.70 Originating Switched Access Detail Usage Data.

A category 1101XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.71 POI (Point of Interconnection).

The physical location where the Parties' respective facilities physically

interconnect for the purpose of mutually exchanging their traffic. As set forth in the *Interconnection Attachment*, a *Point of Interconnection* shall be at (i) a technically feasible point on Verizon's network in a LATA and/or (ii) a fiber meet point to which the Parties mutually agree under the terms of this Agreement. By way of example, a technically feasible Point of Interconnection on Verizon's network in a LATA would include an applicable Verizon Tandem Wire Center or Verizon End Office Wire Center but, notwithstanding any other provision of this Agreement or otherwise, would not include a ATI Wire Center, ATI switch or any portion of a transport facility provided by Verizon to ATI or another party between (x) a Verizon Wire Center or switch and (y) the Wire Center or switch of ATI or another party.

2.72 Port.

A line card (or equivalent) and associated peripheral equipment on an End Office Switch that interconnects individual Loops or individual Customer trunks with the switching components of an End Office Switch and the associated switching functionality in that End Office Switch. Each Port is typically associated with one (or more) telephone number(s) that serves as the Customer's network address. The Port is part of the provision of unbundled Local Switching Element.

2.73 Principal Document.

This document, including, but not limited to, the Title Page, the Table of Contents, the Preface, the General Terms and Conditions, the signature page, this Glossary, the Attachments, and the Appendices to the Attachments.

2.74 Providing Party.

A Party offering or providing a Service to the other Party under this Agreement.

2.75 Purchasing Party.

A Party requesting or receiving a Service from the other Party under this Agreement.

2.76 Rate Center Area.

The geographic area that has been identified by a given LEC as being associated with a particular NPA-NXX code assigned to the LEC for its provision of Telephone Exchange Services. The Rate Center Area is the exclusive geographic area that the LEC has identified as the area within which it will provide Telephone Exchange Services bearing the particular NPA-NXX designation associated with the specific Rate Center Area.

2.77 Rate Center Point.

A specific geographic point, defined by a V&H coordinate, located within the Rate Center Area and used to measure distance for the purpose of billing for distance-sensitive Telephone Exchange Services and Toll Traffic. Pursuant to Telcordia Practice BR-795-100-100, the Rate Center Point may be an End Office location, or a "LEC Consortium Point Of Interconnection."

2.78 Rate Demarcation Point.

The physical point in a Verizon provided network facility at which Verizon's

responsibility for maintaining that network facility ends and the Customer's responsibility for maintaining the remainder of the facility begins, as set forth in this Agreement, Verizon's applicable Tariffs, if any, or as otherwise prescribed under Applicable Law.

2.79 Reciprocal Compensation.

The arrangement for recovering, in accordance with Section 251(b)(5) of the Act, the FCC Internet Order, and other applicable FCC orders and FCC Regulations, costs incurred for the transport and termination of Reciprocal Compensation Traffic originating on one Party's network and terminating on the other Party's network (as set forth in Section 7 of the Interconnection Attachment).

2.80 Reciprocal Compensation Traffic.

Telecommunications traffic originated by a Customer of one Party on that Party's network and terminated to a Customer of the other Party on that other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access. The determination of whether Telecommunications traffic is Exchange Access or Information Access shall be based upon Verizon's local calling areas as defined by Verizon. Reciprocal Compensation Traffic does not include the following traffic (it being understood that certain traffic types will fall into more than one (1) of the categories below that do not constitute Reciprocal Compensation Traffic): (1) any Internet Traffic; (2) traffic that does not originate and terminate within the same Verizon local calling area as defined by Verizon, and based on the actual originating and terminating points of the complete end-to-end communication; (3) Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) Optional Extended Local Calling Scope Arrangement Traffic; (5) special access, private line, Frame Relay, ATM, or any other traffic that is not switched by the terminating Party; (6) Tandem Transit Traffic; (7) Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment); or, (8) Virtual Foreign Exchange Traffic (or V/FX Traffic) (as defined in the Interconnection Attachment). For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement.

2.81 Retail Prices.

The prices at which a Service is provided by Verizon at retail to subscribers who are not Telecommunications Carriers.

2.82 Routing Point.

A specific geographic point identified by a specific V&H coordinate. The Routing Point is used to route inbound traffic to specified NPA-NXXs. The Routing Point must be located within the LATA in which the corresponding NPA-NXX is located. However, the Routing Point associated with each NPA-NXX need not be the same as the corresponding Rate Center Point, nor must it be located within the corresponding Rate Center Area, nor must there be a unique and separate Routing Point corresponding to each unique and separate Rate Center Area.

2.83 Service.

Any Interconnection arrangement, Network Element, Telecommunications Service, collocation arrangement, or other service, facility or arrangement, offered by a Party under this Agreement.

2.84 SS7 (Signaling System 7).

The common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI). Verizon and ATI currently utilize this out-of-band signaling protocol.

2.85 Subsidiary.

A corporation or other person that is controlled by a Party.

2.86 Sub-Loop Distribution Facility.

A two-wire or four-wire metallic distribution facility in Verizon's network between a Verizon feeder distribution interface ("FDI") and the Rate Demarcation Point for such facility (or NID if the NID is located at such Rate Demarcation Point).

2.87 Sub-Loop Feeder Facility.

A DS1 or DS3 transmission path over a feeder facility in Verizon's network between a Verizon End Office and either a Verizon remote terminal equipment enclosure (an "RTEE") that subtends such End Office or a Verizon FDI that subtends the End Office.

2.88 Switched Exchange Access Service.

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Exchange Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 800 access, 888 access and 900 access.

2.89 Tandem Switch.

A switching entity that has billing and recording capabilities and is used to connect and switch trunk circuits between and among End Office Switches and between and among End Office Switches and carriers' aggregation points, points of termination, or points of presence, and to provide Switched Exchange Access Services.

2.90 Tariff.

2.90.1 Any applicable Federal or state tariff of a Party, as amended from time-to-time; or

2.90.2 Any standard agreement or other document, as amended from time-to-time, that sets forth the generally available terms, conditions and prices under which a Party offers a Service.

The term "Tariff" does not include any Verizon statement of generally available terms (SGAT) which has been approved or is pending approval by the Commission pursuant to Section 252(f) of the Act.

2.91 Telcordia Technologies.

Telcordia Technologies, Inc., formerly known as Bell Communications Research, Inc. (Bellcore).

2.92 Telecommunications Carrier.

Shall have the meaning set forth in the Act.

2.93 Telecommunications Services.

Shall have the meaning set forth in the Act.

2.94 Telephone Exchange Service.

Shall have the meaning set forth in the Act.

2.95 Terminating Switched Access Detail Usage Data.

A category 1101XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.96 Third Party Claim.

A Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party.

2.97 Toll Traffic.

Traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network and is not Reciprocal Compensation Traffic, Measured Internet Traffic, or Ancillary Traffic. Toll Traffic may be either "IntraLATA Toll Traffic" or "InterLATA Toll Traffic", depending on whether the originating and terminating points are within the same LATA.

2.98 Toxic or Hazardous Substance.

Any substance designated or defined as toxic or hazardous under any "Environmental Law" or that poses a risk to human health or safety, or the environment, and products and materials containing such substance. "Environmental Laws" means the Comprehensive Environmental Response, Compensation, and Liability Act, the Emergency Planning and Community Right-to-Know Act, the Water Pollution Control Act, the Air Pollution Control Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, the Occupational Safety and Health Act, and all other Federal, State or local laws or governmental regulations or requirements, that are similar to the above-referenced laws or that otherwise govern releases, chemicals, products, materials or wastes that may pose risks to human health or safety, or the environment, or that relate to the protection of wetlands or other natural resources.

2.99 Traffic Factor 1.

For traffic exchanged via Interconnection Trunks, a percentage calculated by dividing the number of minutes of interstate traffic (excluding Measured Internet Traffic) by the total number of minutes of interstate and intrastate traffic. (*Interstate Traffic Total Minutes of Use* {excluding *Measured Internet Traffic*

Total Minutes of Use} ÷ {Interstate Traffic Total Minutes of Use + Intrastate Traffic Total Minutes of Use} x 100). Until the form of a Party's bills is updated to use the term "Traffic Factor 1," the term "Traffic Factor 1" may be referred to on the Party's bills and in billing related communications as "Percent Interstate Usage" or "PIU."

2.100 Traffic Factor 2.

For traffic exchanged via Interconnection Trunks, a percentage calculated by dividing the combined total number of minutes of Reciprocal Compensation Traffic and Measured Internet Traffic by the combined total number of minutes of intrastate traffic and Measured Internet Traffic. ($\frac{\text{Reciprocal Compensation Traffic Total Minutes of Use} + \text{Measured Internet Traffic Total Minutes of Use}}{\text{Intrastate Traffic Total Minutes of Use} + \text{Measured Internet Traffic Total Minutes of Use}} \times 100$). Until the form of a Party's bills is updated to use the term "Traffic Factor 2," the term "Traffic Factor 2" may be referred to on the Party's bills and in billing related communications as "Percent Local Usage" or "PLU."

2.101 Trunk Side.

A Central Office Switch connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, to another carrier's network. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.

2.102 UDLC (Universal Digital Loop Carrier).

UDLC arrangements consist of a Central Office Terminal and a Remote Terminal located in the outside plant or at a customer premises. The Central Office and the Remote Terminal units perform analog to digital conversions to allow the feeding facility to be digital. UDLC is deployed where the types of services to be provisioned by the systems cannot be integrated such as non-switched services and UNE Loops.

2.103 V and H Coordinates Method.

A method of computing airline miles between two points by utilizing an established formula that is based on the vertical and horizontal coordinates of the two points.

2.104 Voice Grade.

Either an analog signal of 300 to 3000 Hz or a digital signal of 56/64 kilobits per second. When referring to digital Voice Grade service (a 56-64 kbps channel), the terms "DS0" or "sub-DS1" may also be used.

2.105 Wire Center.

A building or portion thereof which serves as the premises for one or more Central Office Switches and related facilities.

2.106 xDSL.

As defined and offered in this Agreement. The small "x" before the letters DSL signifies reference to DSL as a generic transmission technology, as opposed to a

specific DSL "flavor."

ADDITIONAL SERVICES ATTACHMENT

1. Alternate Billed Calls

- 1.1 The Parties will engage in settlements of intraLATA intrastate alternate-billed calls (*e.g.*, collect, calling card, and third-party billed calls) originated or authorized by their respective Customers in accordance with an arrangement mutually agreed to by the Parties.

2. Dialing Parity - Section 251(b)(3)

Each Party shall provide the other Party with nondiscriminatory access to such services and information as are necessary to allow the other Party to implement local Dialing Parity in accordance with the requirements of Section 251(b)(3) of the Act.

3. Directory Assistance (DA) and Operator Services (OS)

- 3.1 Either Party may request that the other Party provide the requesting Party with nondiscriminatory access to the other Party's directory assistance services (DA), IntraLATA operator call completion services (OS), and/or directory assistance listings database. If either Party makes such a request, the Parties shall enter into a mutually acceptable written agreement for such access.
- 3.2 ATI shall arrange, at its own expense, the trunking and other facilities required to transport traffic to and from the designated DA and OS switch locations.

4. Directory Listing and Directory Distribution

To the extent required by Applicable Law, Verizon will provide directory services to ATI. Such services will be provided in accordance with the terms set forth herein.

4.1 Listing Information.

As used herein, "Listing Information" means a ATI Customer's primary name, address (*including city, state and zip code*), telephone number(s), the delivery address and number of directories to be delivered, and, in the case of a business Customer, the primary business heading under which the business Customer desires to be placed, and any other information Verizon deems necessary for the publication and delivery of directories.

4.2 Listing Information Supply.

ATI shall provide to Verizon on a regularly scheduled basis, at no charge, and in a format required by Verizon or by a mutually agreed upon industry standard (*e.g.*, Ordering and Billing Forum developed) all Listing Information and the service address for each ATI Customer whose service address location falls within the geographic area covered by the relevant Verizon directory. ATI shall also provide to Verizon on a daily basis: (a) information showing ATI Customers who have disconnected or terminated their service with ATI; and (b) delivery information for each non-listed or non-published ATI Customer to enable Verizon to perform its directory distribution responsibilities. Verizon shall promptly provide to ATI (normally within forty-eight (48) hours of receipt by Verizon, excluding non-business days) a query on any listing that is not acceptable.

4.3 Listing Inclusion and Distribution.

Verizon shall include each ATI Customer's primary listing in the appropriate alphabetical directory and, for business Customers, in the appropriate classified (Yellow Pages) directory in accordance with the directory configuration, scope and schedules determined by Verizon in its sole discretion, and shall provide *initial distribution of such directories to such ATI Customers in the same manner* it provides initial distribution of such directories to its own Customers. "Primary Listing" means a Customer's primary name, address, and telephone number. Listings of ATI's Customers shall be interfiled with listings of Verizon's Customers and the Customers of other LECs included in the Verizon directories. ATI shall pay Verizon's *tariffed charges for additional, foreign, and other listings products* (as documented in local Tariff) for ATI's Customers.

4.4 Verizon Information.

Upon request by ATI, Verizon shall make available to ATI the following information to the extent that Verizon provides such information to its own business offices: a directory list of relevant NXX codes, directory and Customer Guide close dates, and Yellow Pages headings. Verizon shall also make available to ATI, upon written request, a copy of Verizon's alphabetical listings standards and specifications handbook.

4.5 Confidentiality of Listing Information.

Verizon shall accord ATI Listing Information the same level of confidentiality that Verizon accords its own listing information, and shall use such Listing Information solely for the purpose of providing directory-related services; provided, however, that should Verizon elect to do so, it may use or license ATI Listing Information for *directory publishing, direct marketing, or any other purpose for which Verizon uses or licenses its own listing information*, so long as ATI Customers are not separately identified as such; and provided further that ATI may identify those of its Customers who request that their names not be sold for direct marketing purposes and Verizon shall honor such requests to the same extent that it does for its own Customers. *Verizon shall not be obligated to compensate ATI for Verizon's use or licensing of ATI Listing Information.*

4.6 Accuracy.

Both Parties shall use commercially reasonable efforts to ensure the accurate publication of ATI Customer listings. At ATI's request, Verizon shall provide ATI with a report of all ATI Customer listings in a reasonable timeframe prior to the service order close date for the applicable directory. Verizon shall process any corrections made by ATI with respect to its listings, provided such corrections are received prior to the close date of the particular directory.

4.7 Indemnification.

ATI shall adhere to all practices, standards, and ethical requirements established by Verizon with regard to listings. By providing Verizon with Listing Information, ATI warrants to Verizon that ATI has the right to provide such Listing Information to Verizon on behalf of its Customers. ATI shall make commercially reasonable efforts to ensure that any *business or person to be listed is authorized and has the right (a) to provide the product or service offered, and (b) to use any personal or corporate name, trade name, trademark, service mark or language used in the listing.* ATI agrees to release, defend, hold harmless and indemnify Verizon from and against any and all claims, losses, damages, suits, or other actions, or any *liability whatsoever, suffered, made, instituted, or asserted by any person arising*

out of Verizon's publication or dissemination of the Listing Information as provided by ATI hereunder.

4.8 Liability.

Verizon's liability to ATI in the event of a Verizon error in or omission of a ATI Customer listing shall not exceed the amount to which Verizon would be liable to its own Customer for such error or omission. ATI agrees to take all reasonable steps, including, but not limited to, entering into appropriate contractual provisions with its Customers, to ensure that its and Verizon's liability to ATI's Customers in the event of a Verizon error in or omission of a listing shall be subject to the same limitations of liability applicable between Verizon and its own Customers as set forth in Verizon's applicable Tariffs.

4.9 Service Information Pages.

Verizon shall include all ATI NXX codes associated with the geographic areas to which each directory pertains, to the extent it does so for Verizon's own NXX codes, in any lists of such codes that are contained in the general reference portion of each directory. ATI's NXX codes shall appear in such lists in the same manner as Verizon's NXX information. In addition, when ATI is authorized to, and is offering, local service to Customers located within the geographic area covered by a specific directory, at ATI's request, Verizon shall include, at no charge, in the "Customer Guide" or comparable section of the applicable alphabetical directories, ATI's critical contact information for ATI's installation, repair and Customer service, as provided by ATI. Such critical contact information shall appear alphabetically by local exchange carrier and in accordance with Verizon's generally applicable policies. ATI shall be responsible for providing the necessary information to Verizon by the applicable close date for each affected directory.

4.10 Directory Publication.

Nothing in this Agreement shall require Verizon to publish a directory where it would not otherwise do so.

4.11 Other Directory Services.

ATI acknowledges that if ATI desires directory services in addition to those described herein, such additional services must be obtained under separate agreement with Verizon's directory publishing company.

5. Voice Information Service Traffic

- 5.1 For purposes of this Section 5, (a) Voice Information Service means a service that provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public, and (b) Voice Information Service Traffic means intraLATA switched voice traffic, delivered to a Voice Information Service. Voice Information Service Traffic does not include any form of Internet Traffic. Voice Information Service Traffic also does not include 555 traffic or similar traffic with AIN service interfaces, which traffic shall be subject to separate arrangements between the Parties. Voice Information Service Traffic is not subject to Reciprocal Compensation charges under Section 7 of the Interconnection Attachment.

- 5.2 If a ATI Customer is served by resold Verizon dial tone line Telecommunications Service or a Verizon Local Switching UNE, to the extent reasonably feasible, Verizon will route Voice Information Service Traffic originating from such Service or UNE to the appropriate Voice Information Service connected to Verizon's network unless a feature blocking such Voice Information Service Traffic has been installed. For such Voice Information Service Traffic, ATI shall pay to Verizon without discount any Voice Information Service provider charges billed by Verizon to ATI. ATI shall pay Verizon such charges in full regardless of whether or not ATI collects such charges from its Customer.
- 5.3 ATI shall have the option to route Voice Information Service Traffic that originates on its own network to the appropriate Voice Information Service connected to Verizon's network. In the event ATI exercises such option, ATI will establish, at its own expense, a dedicated trunk group to the Verizon Voice Information Service serving switch. *This trunk group will be utilized to allow ATI to route Voice Information Service Traffic originated on its network to Verizon.* For such Voice Information Service Traffic, unless ATI has entered into a written agreement with Verizon under which ATI will collect from ATI's Customer and remit to Verizon the Voice Information Service provider's charges, ATI shall pay to Verizon without discount any Voice Information Service provider charges billed by Verizon to ATI. ATI shall pay Verizon such charges in full regardless of whether or not ATI collects such charges from its own Customer.

6. Intercept and Referral Announcements

- 6.1 When a Customer changes its service provider from Verizon to ATI, or from ATI to Verizon, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides the Customer's new number or other appropriate information, to the extent known to the Party formerly providing service. Notwithstanding the foregoing, a Party shall not be obligated under this Section to provide a Referral Announcement if the Customer owes the Party unpaid overdue amounts or the Customer requests that no Referral Announcement be provided.
- 6.2 Referral Announcements shall be provided, in the case of business Customers, for a period of not less than one hundred and twenty (120) days after the date the Customer changes its telephone number, and, in the case of residential Customers, not less than thirty (30) days after the date the Customer changes its telephone number; provided that if a longer time period is required by Applicable Law, such longer time period shall apply. Except as otherwise provided by Applicable Law, the period for a referral may be shortened by the Party formerly providing service if a number shortage condition requires reassignment of the telephone number.
- 6.3 *This referral announcement will be provided by each Party at no charge to the other Party; provided that the Party formerly providing service may bill the Customer its standard Tariff charge, if any, for the referral announcement.*

7. Originating Line Number Screening (OLNS)

Upon ATI's request, Verizon will update its database used to provide originating line number screening (the database of information which indicates to an operator the acceptable billing methods for calls originating from the calling number (e.g., penal institutions, COCOTS).

8. Operations Support Systems (OSS) Services

8.1 Definitions.

The terms listed below shall have the meanings stated below:

- 8.1.1 Verizon Operations Support Systems: Verizon systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing.
- 8.1.2 Verizon OSS Services: Access to Verizon Operations Support Systems functions. The term "Verizon OSS Services" includes, but is not limited to: (a) Verizon's provision of ATI Usage Information to ATI pursuant to Section 8.3 of this Attachment; and, (b) "Verizon OSS Information", as defined in Section 8.1.4 of this Attachment.
- 8.1.3 Verizon OSS Facilities: Any gateways, interfaces, databases, facilities, equipment, software, or systems, used by Verizon to provide Verizon OSS Services to ATI.
- 8.1.4 Verizon OSS Information: Any information accessed by, or disclosed or provided to, ATI through or as a part of Verizon OSS Services. The term "Verizon OSS Information" includes, but is not limited to: (a) any Customer Information related to a Verizon Customer or a ATI Customer accessed by, or disclosed or provided to, ATI through or as a part of Verizon OSS Services; and, (b) any ATI Usage Information (as defined in Section 8.1.6 of this Attachment) accessed by, or disclosed or provided to, ATI.
- 8.1.5 Verizon Retail Telecommunications Service: Any Telecommunications Service that Verizon provides at retail to subscribers that are not Telecommunications Carriers. The term "Verizon Retail Telecommunications Service" does not include any Exchange Access service (as defined in Section 3(16) of the Act, 47 U.S.C. § 153(16)) provided by Verizon.
- 8.1.6 ATI Usage Information: For a Verizon Retail Telecommunications Service purchased by ATI pursuant to the Resale Attachment, the usage information that Verizon would record if Verizon was furnishing such Verizon Retail Telecommunications Service to a Verizon end-user retail Customer. For a Verizon Local Switching Network Element purchased by ATI pursuant to the Network Element Attachment, the usage information that Verizon would record if Verizon was using such Local Switching Network Element to furnish a Verizon Retail Telecommunications Service to a Verizon end-user retail Customer.
- 8.1.7 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or the purchase by a Customer of the services or products of a Party.

8.2 Verizon OSS Services.

- 8.2.1 Upon request by ATI, Verizon shall provide to ATI Verizon OSS Services. Such Verizon OSS Services will be provided in accordance with, but only to the extent required by, Applicable Law.
- 8.2.2 Subject to the requirements of Applicable Law, Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services that will be offered by Verizon, shall be as determined

by Verizon. Subject to the requirements of Applicable Law, Verizon shall have the right to change Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services, from time-to-time, without the consent of ATI.

8.2.3 To the extent required by Applicable Law, in providing Verizon OSS Services to ATI, Verizon will comply with Verizon's applicable OSS Change Management Guidelines, as such Guidelines are modified from time-to-time, including, but not limited to, the provisions of the Guidelines related to furnishing notice of changes in Verizon OSS Services. Verizon's OSS Change Management Guidelines will be set out on a Verizon website.

8.3 ATI Usage Information.

8.3.1 Upon request by ATI, Verizon shall provide to ATI ATI Usage Information. Such ATI Usage Information will be provided in accordance with, but only to the extent required by, Applicable Law.

8.3.2 ATI Usage Information will be available to ATI through the following:

8.3.2.1 Daily Usage File on Data Tape.

8.3.2.2 Daily Usage File through Network Data Mover (NDM).

8.3.3 ATI Usage Information will be provided in an Alliance for Telecommunications Industry Solutions EMI format.

8.3.4 Daily Usage File Data Tapes provided pursuant to Section 8.3.2.1 of this Attachment will be issued each Business Day.

8.3.5 Except as stated in this Section 8.3, subject to the requirements of Applicable Law, the manner in which, and the frequency with which, ATI Usage Information will be provided to ATI shall be determined by Verizon.

8.4 Access to and Use of Verizon OSS Facilities.

8.4.1 Verizon OSS Facilities may be accessed and used by ATI only to the extent necessary for ATI's access to and use of Verizon OSS Services pursuant to this Agreement.

8.4.2 Verizon OSS Facilities may be accessed and used by ATI only to provide Telecommunications Services to ATI Customers.

8.4.3 ATI shall restrict access to and use of Verizon OSS Facilities to ATI. This Section 8 does not grant to ATI any right or license to grant sublicenses to other persons, or permission to other persons (except ATI's employees, agents and contractors, in accordance with Section 8.4.7 of this Attachment), to access or use Verizon OSS Facilities.

8.4.4 ATI shall not (a) alter, modify or damage the Verizon OSS Facilities (including, but not limited to, Verizon software), (b) copy, remove, derive, reverse engineer, or decompile, software from the Verizon OSS Facilities, or (c) obtain access through Verizon OSS Facilities to Verizon databases, facilities, equipment, software, or systems, which are not offered for ATI's use under this Section 8.

- 8.4.5 ATI shall comply with all practices and procedures established by Verizon for access to and use of Verizon OSS Facilities (including, but not limited to, Verizon practices and procedures with regard to security and use of access and user identification codes).
- 8.4.6 All practices and procedures for access to and use of Verizon OSS Facilities, and all access and user identification codes for Verizon OSS Facilities: (a) shall remain the property of Verizon; (b) shall be used by ATI only in connection with ATI's use of Verizon OSS Facilities permitted by this Section 8; (c) shall be treated by ATI as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions; and, (d) shall be destroyed or returned by ATI to Verizon upon the earlier of request by Verizon or the expiration or termination of this Agreement.
- 8.4.7 ATI's employees, agents and contractors may access and use Verizon OSS Facilities only to the extent necessary for ATI's access to and use of the Verizon OSS Facilities permitted by this Agreement. Any access to or use of Verizon OSS Facilities by ATI's employees, agents, or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.3.2 of this Attachment.
- 8.5 Verizon OSS Information.
- 8.5.1 Subject to the provisions of this Section 8, in accordance with, but only to the extent required by, Applicable Law, Verizon grants to ATI a non-exclusive license to use Verizon OSS Information.
- 8.5.2 All Verizon OSS Information shall at all times remain the property of Verizon. Except as expressly stated in this Section 8, ATI shall acquire no rights in or to any Verizon OSS Information.
- 8.5.3 The provisions of this Section 8.5.3 shall apply to all Verizon OSS Information, except (a) ATI Usage Information, (b) CPNI of ATI, and (c) CPNI of a Verizon Customer or a ATI Customer, to the extent the Customer has authorized ATI to use the CPNI.
- 8.5.3.1 Verizon OSS Information may be accessed and used by ATI only to provide Telecommunications Services to ATI Customers.
- 8.5.3.2 ATI shall treat Verizon OSS Information that is designated by Verizon, through written or electronic notice (including, but not limited to, through the Verizon OSS Services), as "Confidential" or "Proprietary" as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions.
- 8.5.3.3 Except as expressly stated in this Section 8, this Agreement does not grant to ATI any right or license to grant sublicenses to other persons, or permission to other persons (except ATI's employees, agents or contractors, in accordance with Section 8.5.3.4 of this Attachment), to access, use or disclose Verizon OSS Information.

- 8.5.3.4 ATI's employees, agents and contractors may access, use and disclose Verizon OSS Information only to the extent necessary for ATI's access to, and use and disclosure of, Verizon OSS Information permitted by this Section 8. Any access to, or use or disclosure of, Verizon OSS Information by ATI's employees, agents or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.3.2 of this Attachment.
- 8.5.3.5 ATI's license to use Verizon OSS Information shall expire upon the earliest of: (a) the time when the Verizon OSS Information is no longer needed by ATI to provide *Telecommunications Services to ATI Customers*; (b) termination of the license in accordance with this Section 8; or (c) expiration or termination of this Agreement.
- 8.5.3.6 All Verizon OSS Information received by ATI shall be destroyed or returned by ATI to Verizon, upon expiration, suspension or termination of the license to use such Verizon OSS Information.
- 8.5.4 Unless sooner terminated or suspended in accordance with this Agreement or this Section 8 (including, but not limited to, Section 2.2 of the General Terms and Conditions and Section 8.6.1 of this Attachment), ATI's access to Verizon OSS Information through Verizon OSS Services shall terminate upon the expiration or termination of this Agreement.
- 8.5.5 Audits.
 - 8.5.5.1 Verizon shall have the right (but not the obligation) to audit ATI to ascertain whether ATI is complying with the requirements of Applicable Law and this Agreement with regard to ATI 's access to, and use and disclosure of, Verizon OSS Information.
 - 8.5.5.2 Without in any way limiting any other rights Verizon may have under this Agreement or Applicable Law, Verizon shall have the right (but not the obligation) to monitor ATI 's access to and use of Verizon OSS Information which is *made available by Verizon to ATI pursuant to this Agreement*, to ascertain whether ATI is complying with the requirements of Applicable Law and this Agreement, with regard to ATI 's access to, and use and disclosure of, such Verizon OSS Information. The foregoing right shall include, but not be limited to, the right (but not the obligation) to electronically monitor ATI 's access to and use of Verizon OSS Information which is made available by Verizon to ATI through Verizon OSS Facilities.
 - 8.5.5.3 Information obtained by Verizon pursuant to this Section 8.5.5 shall be treated by Verizon as *Confidential Information* of ATI pursuant to Section 10 of the General Terms and Conditions; provided that, Verizon shall have the right (but not the obligation) to use and disclose information obtained by Verizon pursuant to Section 8.5.5 of this Attachment to

enforce Verizon's rights under this Agreement or Applicable Law.

8.5.6 ATI acknowledges that the Verizon OSS Information, by its nature, is updated and corrected on a continuous basis by Verizon, and therefore that Verizon OSS Information is subject to change from time to time.

8.6 Liabilities and Remedies.

8.6.1 Any breach by ATI, or ATI's employees, agents or contractors, of the provisions of Sections 8.4 or 8.5 of this Attachment shall be deemed a *material breach of this Agreement*. In addition, if ATI or an employee, agent or contractor of ATI at any time breaches a provision of Sections 8.4 or 8.5 of this Attachment and such breach continues for more than ten (10) days after written notice thereof from Verizon, then, except as otherwise required by Applicable Law, Verizon shall have the right, upon notice to ATI, to suspend the license to use Verizon OSS Information granted by Section 8.5.1 of this Attachment and/or the provision of Verizon OSS Services, in whole or in part.

8.6.2 ATI agrees that Verizon would be irreparably injured by a breach of Sections 8.4 or 8.5 of this Attachment by ATI or the employees, agents or contractors of ATI, and that Verizon shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any such breach. Such remedies shall not be deemed to be the exclusive remedies for any such breach, but shall be in addition to any other remedies available under this Agreement or at law or in equity.

8.7 Relation to Applicable Law.

The provisions of Sections 8.4, 8.5 and 8.6 of this Attachment with regard to the confidentiality of information shall be in addition to and not in derogation of any provisions of Applicable Law with regard to the confidentiality of information, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by Verizon of any right with regard to protection of the confidentiality of the information of Verizon or Verizon Customers provided by Applicable Law.

8.8 Cooperation.

ATI, at ATI's expense, shall reasonably cooperate with Verizon in using Verizon OSS Services. Such cooperation shall include, but not be limited to, the following:

8.8.1 Upon request by Verizon, ATI shall by no later than the fifteenth (15th) day of the last month of each Calendar Quarter submit to Verizon reasonable, good faith estimates of the volume of each type of OSS transaction that ATI anticipates submitting in each week of the next Calendar Quarter.

8.8.2 ATI shall reasonably cooperate with Verizon in submitting orders for Verizon Services and otherwise using the Verizon OSS Services, in order to avoid exceeding the capacity or capabilities of such Verizon OSS Services.

8.8.3 ATI shall participate in cooperative testing of Verizon OSS Services and shall provide assistance to Verizon in identifying and correcting mistakes, omissions, interruptions, delays, errors, defects, faults, failures, or other deficiencies, in Verizon OSS Services.

8.9 Verizon Access to Information Related to ATI Customers.

8.9.1 Verizon shall have the right to access, use and disclose information related to ATI Customers that is in Verizon's possession (including, but not limited to, in Verizon OSS Facilities) to the extent such access, use and/or disclosure has been authorized by the ATI Customer in the manner required by Applicable Law.

8.9.2 Upon request by Verizon, ATI shall negotiate in good faith and enter into a contract with Verizon, pursuant to which Verizon may obtain access to ATI's operations support systems (including, systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing) and information contained in such systems, to permit Verizon to obtain information related to ATI Customers (as authorized by the applicable ATI Customer), to permit Customers to transfer service from one Telecommunications Carrier to another, and for such other purposes as may be permitted by Applicable Law.

8.10 Verizon Pre-OSS Services.

8.10.1 As used in this Section 8, "Verizon Pre-OSS Service" means a service which allows the performance of an activity which is comparable to an activity to be performed through a Verizon OSS Service and which Verizon offers to provide to ATI prior to, or in lieu of, Verizon's provision of the Verizon OSS Service to ATI. The term "Verizon Pre-OSS Service" includes, but is not limited to, the activity of placing orders for Verizon Services through a telephone facsimile communication.

8.10.2 Subject to the requirements of Applicable Law, the Verizon Pre-OSS Services that will be offered by Verizon shall be as determined by Verizon and Verizon shall have the right to change Verizon Pre-OSS Services, from time-to-time, without the consent of ATI.

8.10.3 Subject to the requirements of Applicable Law, the rates for Verizon Pre-OSS Services shall be as determined by Verizon and shall be subject to change by Verizon from time to time.

8.10.4 The provisions of Sections 8.4 through 8.8 of this Attachment shall also apply to Verizon Pre-OSS Services. For the purposes of this Section 8.10: (a) references in Sections 8.4 through 8.8 of this Attachment to Verizon OSS Services shall be deemed to include Verizon Pre-OSS Services; and, (b) references in Sections 8.4 through 8.8 of this Attachment to Verizon OSS Information shall be deemed to include information made available to ATI through Verizon Pre-OSS Services.

8.11 Cancellations.

Verizon may cancel orders for service which have had no activity within thirty-one (31) consecutive calendar days after the original service due date.

9. Poles, Ducts, Conduits and Rights-of-Way

- 9.1 Verizon shall afford ATI non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by Verizon. Such access shall be provided in accordance with, but only to the extent required by, Applicable Law, pursuant to Verizon's applicable Tariffs, or, in the absence of an applicable Verizon Tariff, Verizon's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties.
- 9.2 ATI shall afford Verizon non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by ATI. Such access shall be provided pursuant to ATI's applicable Tariffs, or, in the absence of an applicable ATI Tariff, ATI's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties. The terms, conditions and prices offered to Verizon by ATI for such access shall be no less favorable than the terms, conditions and prices offered to ATI by Verizon for access to poles, ducts, conduits and rights of way owned or controlled by Verizon.

10. Telephone Numbers

- 10.1 This Section applies in connection with ATI Customers served by Telecommunications Services provided by Verizon to ATI for resale or a Local Switching Network Element provided by Verizon to ATI.
- 10.2 ATI's use of telephone numbers shall be subject to Applicable Law the rules of the North American Numbering Council and the North American Numbering Plan Administrator, the applicable provisions of this Agreement (including, but not limited to, this Section 10), and Verizon's practices and procedures for use and assignment of telephone numbers, as amended from time-to-time.
- 10.3 Subject to Sections 10.2 and 10.4 of this Attachment, if a Customer of either Verizon or ATI who is served by a Verizon Telecommunications Service ("VTS") or a Verizon Local Switching Network Element ("VLSNE") changes the LEC that serves the Customer using such VTS or VLSNE (including a change from Verizon to ATI, from ATI to Verizon, or from ATI to a LEC other than Verizon), after such change, the Customer may continue to use with such VTS or VLSNE the telephone numbers that were assigned to the VTS or VLSNE for the use of such Customer by Verizon immediately prior to the change.
- 10.4 Verizon shall have the right to change the telephone numbers used by a Customer if at any time: (a) the Customer requests service at a new location, that is not served by the Verizon switch and the Verizon rate center from which the Customer previously had service; (b) continued use of the telephone numbers is not technically feasible; or, (c) in the case of Telecommunications Service provided by Verizon to ATI for resale, the type or class of service subscribed to by the Customer changes.
- 10.5 If service on a VTS or VLSNE provided by Verizon to ATI under this Agreement is terminated and the telephone numbers associated with such VTS or VLSNE have not been ported to a ATI switch, the telephone numbers shall be available for reassignment by Verizon to any person to whom Verizon elects to assign the telephone numbers, including, but not limited to, Verizon, Verizon Customers, ATI, or Telecommunications Carriers other than Verizon and ATI.

10.6 *ATI may reserve telephone numbers only to the extent Verizon's Customers may reserve telephone numbers.*

11. Routing for Operator Services and Directory Assistance Traffic

For a Verizon Telecommunications Service dial tone line purchased by ATI for resale pursuant to the Resale Attachment, upon request by ATI, Verizon will establish an arrangement that will permit ATI to route the ATI Customer's calls for operator and directory assistance services to a provider of operator and directory assistance services selected by ATI. Verizon will provide this routing arrangement in accordance with, but only to the extent required by, Applicable Law. Verizon will provide this routing arrangement pursuant to an appropriate written request submitted by ATI and a mutually agreed-upon schedule. This routing arrangement will be implemented at ATI's expense, with charges determined on an individual case basis. In addition to charges for initially establishing the routing arrangement, ATI will be responsible for ongoing monthly and/or usage charges for the routing arrangement. ATI shall arrange, at its own expense, the trunking and other facilities required to transport traffic to ATI's selected provider of operator and directory assistance services.

12. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

INTERCONNECTION ATTACHMENT

1. General

Each Party shall provide to the other Party, in accordance with this Agreement, but only to the extent required by Applicable Law, interconnection at (i) any technically feasible Point(s) of Interconnection on Verizon's network in a LATA and/or (ii) a fiber meet point to which the Parties mutually agree under the terms of this Agreement, for the transmission and routing of Telephone Exchange Service and Exchange Access. By way of example, a technically feasible Point of Interconnection on Verizon's network in a LATA would include an applicable Verizon Tandem Wire Center or Verizon End Office Wire Center but, notwithstanding any other provision of this Agreement or otherwise, would not include a ATI Wire Center, ATI switch or any portion of a transport facility provided by Verizon to ATI or another party between (x) a Verizon Wire Center or switch and (y) the Wire Center or switch of ATI or another party. For brevity's sake, the foregoing examples of locations that, respectively, are and are not "on Verizon's network" shall apply (and are hereby incorporated by reference) each time the term "on Verizon's network" is used in this Agreement.

2. Points of Interconnection and Trunk Types

2.1 Point(s) of Interconnection.

- 2.1.1 Each Party, at its own expense, shall provide transport facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA selected by ATI.

2.2 Trunk Types.

- 2.2.1 In interconnecting their networks pursuant to this Attachment, the Parties will use, as appropriate, the following separate and distinct trunk groups:
 - 2.2.1.1 Interconnection Trunks for the transmission and routing of Reciprocal Compensation Traffic, translated LEC IntraLATA toll free service access code (e.g., 800/888/877) traffic, and IntraLATA Toll Traffic, between their respective Telephone Exchange Service Customers, Tandem Transit Traffic, and, Measured Internet Traffic, all in accordance with Sections 5 through 8 of this Attachment;
 - 2.2.1.2 Access Toll Connecting Trunks for the transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code (e.g., 800/888/877) traffic, between ATI Telephone Exchange Service Customers and purchasers of Switched Exchange Access Service via a Verizon access Tandem in accordance with Sections 9 through 11 of this Attachment; and
 - 2.2.1.3 Miscellaneous Trunk Groups as mutually agreed to by the Parties, including, but not limited to: (a) choke trunks for traffic congestion and testing; and, (b) untranslated IntraLATA/InterLATA toll free service access code (e.g. 800/888/877) traffic.

- 2.2.2 Other types of trunk groups may be used by the Parties as provided in other Attachments to this Agreement (e.g., 911/E911 Trunks; Information Services Trunks) or in other separate agreements between the Parties (e.g., Directory Assistance Trunks, Operator Services Trunks, BLV/BLVI Trunks or Trunks for 500/555 traffic).
 - 2.2.3 In accordance with the terms of this Agreement, the Parties will deploy One-Way Interconnection Trunks (trunks with traffic going in one direction, including one-way trunks and uni-directional two-way trunks) and/or Two-Way Interconnection Trunks (trunks with traffic going in both directions).
 - 2.2.4 ATI shall establish, at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA, separate Interconnection Trunk group(s) between such POI(s) and each Verizon Tandem in a LATA with a subtending End Office(s) to which ATI originates calls for Verizon to terminate.
 - 2.2.5 In the event the volume of traffic between a Verizon End Office and a technically feasible Point of Interconnection on Verizon's network in a LATA, which is carried by a Final Tandem Interconnection Trunk group, exceeds the Centium Call Second (Hundred Call Second) busy hour equivalent of one (1) DS1 at any time and/or 200,000 minutes of use for a single month: (a) if One-Way Interconnection Trunks are used, the originating Party shall promptly establish new or augment existing End Office One-Way Interconnection Trunk groups between the Verizon End Office and the technically feasible Point of Interconnection on Verizon's network; or, (b) if Two-Way Interconnection Trunks are used, ATI shall promptly submit an ASR to Verizon to establish new or augment existing End Office Two-Way Interconnection Trunk group(s) between that Verizon End Office and the technically feasible Point of Interconnection on Verizon's network.
 - 2.2.6 Except as otherwise agreed in writing by the Parties, the total number of Tandem Interconnection Trunks between a technically feasible Point of Interconnection on Verizon's network and a Verizon Tandem will be limited to a maximum of 240 trunks. In the event that the volume of traffic between a technically feasible Point of Interconnection on Verizon's network and a Verizon Tandem exceeds, or reasonably can be expected to exceed, the capacity of the 240 trunks, ATI shall promptly submit an ASR to Verizon to establish new or additional End Office Trunks to insure that the volume of traffic between the technically feasible Point of Interconnection on Verizon's network and the Verizon Tandem does not exceed the capacity of the 240 trunks.
- 2.3 One-Way Interconnection Trunks.
- 2.3.1 Where the Parties use One-Way Interconnection Trunks for the delivery of traffic from ATI to Verizon, ATI, at ATI's own expense, shall:
 - 2.3.1.1 provide its own facilities for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA; and/or
 - 2.3.1.2 obtain transport for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in

a LATA (a) from a third-party, or, (b) if Verizon offers such transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon; and/or

- 2.3.2 For each Tandem or End Office One-Way Interconnection Trunk group for delivery of traffic from ATI to Verizon with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, ATI will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%). In the event ATI fails to submit an ASR to disconnect One-Way Interconnection Trunks as required by this Section, Verizon may bill (and to ATI shall pay) for the excess Interconnection Trunks at the rates set forth in the Pricing Attachment.
- 2.3.3 Where the Parties use One-Way Interconnection Trunks for the delivery of traffic from Verizon to ATI, Verizon, at Verizon's own expense, shall provide its own facilities for delivery of the traffic to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA.
- 2.4 Two-Way Interconnection Trunks.
 - 2.4.1 Where the Parties use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and ATI, ATI, at its own expense, shall:
 - 2.4.1.1 provide its own facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA; and/or
 - 2.4.1.2 obtain transport to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA (a) from a third-party, or, (b) if Verizon offers such transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon.
 - 2.4.2 Where the Parties use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and ATI, Verizon, at its own expense, shall provide its own facilities to the technically feasible Point(s) of Interconnection on Verizon's network in a LATA.
 - 2.4.3 Prior to establishing any Two-Way Interconnection Trunks, ATI shall meet with Verizon to conduct a joint planning meeting ("Joint Planning Meeting"). At that Joint Planning Meeting, each Party shall provide to the other Party originating Centium Call Second (Hundred Call Second) information, and the Parties shall mutually agree on the appropriate initial number of End Office and Tandem Two-Way Interconnection Trunks and the interface specifications at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA at which the Parties interconnect for the exchange of traffic. Where the Parties have agreed to convert existing One-Way Interconnection Trunks to Two-Way Interconnection Trunks, at the Joint Planning Meeting, the Parties shall also mutually agree on the conversion process and project intervals for conversion of such One-Way Interconnection Trunks to Two-Way Interconnection Trunks.
 - 2.4.4 On a semi-annual basis, ATI shall submit a good faith forecast to Verizon of the number of End Office and Tandem Two-Way

Interconnection Trunks that ATI anticipates Verizon will need to provide during the ensuing two (2) year period for the exchange of traffic between ATI and Verizon. ATI's trunk forecasts shall conform to the Verizon CLEC trunk forecasting guidelines as in effect at that time.

- 2.4.5 The Parties shall meet (telephonically or in person) from time to time, as needed, to review data on End Office and Tandem Two-Way Interconnection Trunks to determine the need for new trunk groups and to plan any necessary changes in the number of Two-Way Interconnection Trunks.
- 2.4.6 Two-Way Interconnection Trunks shall have SS7 Common Channel Signaling. The Parties agree to utilize B8ZS and Extended Super Frame (ESF) DS1 facilities, where available.
- 2.4.7 With respect to End Office Two-Way Interconnection Trunks, both Parties shall use an economic Centium Call Second (Hundred Call Second) equal to five (5).
- 2.4.8 Two-Way Interconnection Trunk groups that connect to a Verizon access Tandem shall be engineered using a design blocking objective of Neal-Wilkinson B.005 during the average time consistent busy hour. Two-Way Interconnection Trunk groups that connect to a Verizon local Tandem shall be engineered using a design blocking objective of Neal-Wilkinson B.01 during the average time consistent busy hour. Verizon and ATI shall engineer Two-Way Interconnection Trunks using BOC Notes on the LEC Networks SR-TSV-002275.
- 2.4.9 The performance standard for final Two-Way Interconnection Trunk groups shall be that no such Interconnection Trunk group will exceed its design blocking objective (B.005 or B.01, as applicable) for three (3) consecutive calendar traffic study months.
- 2.4.10 ATI shall determine and order the number of Two-Way Interconnection Trunks that are required to meet the applicable design blocking objective for all traffic carried on each Two-Way Interconnection Trunk group. ATI shall order Two-Way Interconnection Trunks by submitting ASRs to Verizon setting forth the number of Two-Way Interconnection Trunks to be installed and the requested installation dates within Verizon's effective standard intervals or negotiated intervals, as appropriate. ATI shall complete ASRs in accordance with OBF Guidelines as in effect from time to time.
- 2.4.11 Verizon may (but shall not be obligated to) monitor Two-Way Interconnection Trunk groups using service results for the applicable design blocking objective. If Verizon observes blocking in excess of the applicable design objective on any Tandem Two-Way Interconnection Trunk group and ATI has not notified Verizon that it has corrected such blocking, Verizon may submit to ATI a Trunk Group Service Request directing ATI to remedy the blocking. Upon receipt of a Trunk Group Service Request, ATI will complete an ASR to establish or augment the End Office Two-Way Interconnection Trunk group(s), or, if mutually agreed, to augment the Tandem Two-Way Interconnection Trunk group with excessive blocking and submit the ASR to Verizon within five (5) Business Days.

- 2.4.12 The Parties will review all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of seventy percent (70%), or greater, to determine whether those groups should be augmented. ATI will promptly augment all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of eighty percent (80%) by submitting ASRs for additional trunks sufficient to attain a utilization level of approximately seventy percent (70%), unless the Parties agree that additional trunking is not required. For each Tandem Two-Way Interconnection Trunk group with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, ATI will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%) for each respective group, unless the Parties agree that the Two-Way Interconnection Trunks should not be disconnected. In the event ATI fails to submit an ASR for Two-Way Interconnection Trunks in conformance with this Section, Verizon may bill ATI for the excess Interconnection Trunks at the applicable Verizon rates.
- 2.4.13 Because Verizon will not be in control of when and how many Two-Way Interconnection Trunks are established between its network and ATI's network, Verizon's performance in connection with these Two-Way Interconnection Trunk groups shall not be subject to any performance measurements and remedies under this Agreement, and, except as otherwise required by Applicable Law, under any FCC or Commission approved carrier-to-carrier performance assurance guidelines or plan.
- 2.4.14 ATI will route its traffic to Verizon over the End Office and Tandem Two-Way Interconnection Trunks in accordance with SR-TAP-000191, including but not limited to those standards requiring that a call from ATI to a Verizon End Office will first be routed to the End Office Interconnection Trunk group between ATI and the Verizon End Office.

3. Alternative Interconnection Arrangements

- 3.1 In addition to the foregoing methods of Interconnection, and subject to mutual agreement of the Parties, the Parties may agree to establish a Fiber Meet arrangement.
- 3.2 The establishment of any Fiber Meet arrangement is expressly conditioned upon the Parties' reaching prior written agreement on routing, appropriate sizing and forecasting, equipment, ordering, provisioning, maintenance, repair, testing, augment, and compensation, procedures and arrangements, reasonable distance limitations, and on any other arrangements necessary to implement the Fiber Meet arrangement.
- 3.3 Except as otherwise agreed by the Parties, Fiber Meet arrangements shall be used only for the termination of Reciprocal Compensation Traffic, Measured Internet Traffic, and IntraLATA Toll Traffic.

4. Initiating Interconnection

- 4.1 If ATI determines to offer Telephone Exchange Services and to interconnect with Verizon in any LATA in which Verizon also offers Telephone Exchange Services and in which the Parties are not already interconnected pursuant to this Agreement, ATI shall provide written notice to Verizon of the need to establish Interconnection in such LATA pursuant to this Agreement.

- 4.2 The notice provided in Section 4.1 of this Attachment shall include (a) the initial Routing Point(s); (b) the applicable technically feasible Point(s) of Interconnection on Verizon's network to be established in the relevant LATA in accordance with this Agreement; (c) ATI's intended Interconnection activation date; (d) a forecast of ATI's trunking requirements conforming to Section 14.2 of this Attachment; and (e) such other information as Verizon shall reasonably request in order to facilitate Interconnection.
- 4.3 The interconnection activation date in the new LATA shall be mutually agreed to by the Parties after receipt by Verizon of all necessary information as indicated above. Within ten (10) Business Days of Verizon's receipt of ATI's notice provided for in Section 4.1 of this Attachment, Verizon and ATI shall confirm the technically feasible Point of Interconnection on Verizon's network in the new LATA and the mutually agreed upon Interconnection activation date for the new LATA.

5. Transmission and Routing of Telephone Exchange Service Traffic

5.1 Scope of Traffic.

Section 5 prescribes parameters for Interconnection Trunks used for Interconnection pursuant to Sections 2 through 4 of this Attachment.

5.2 Trunk Group Connections and Ordering.

5.2.1 For both One-Way and Two-Way Interconnection Trunks, if ATI wishes to use a technically feasible interface other than a DS1 or a DS3 facility at the POI, the Parties shall negotiate reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such arrangement; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

5.2.2 When One-Way or Two-Way Interconnection Trunks are provisioned using a DS3 interface facility, if ATI orders the multiplexed DS3 facilities to a Verizon Central Office that is not designated in the NECA 4 Tariff as the appropriate Intermediate Hub location (i.e., the Intermediate Hub location in the appropriate Tandem subtending area based on the LERG), and the provision of such facilities to the subject Central Office is technically feasible, the Parties shall negotiate in good faith reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such arrangement; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

5.2.3 Each Party will identify its Carrier Identification Code, a three or four digit numeric code obtained from Telcordia, to the other Party when ordering a trunk group.

5.2.4 When SS7 signaling is not used, unless mutually agreed to by both Parties, each Party will outpulse ten (10) digits to the other Party.

5.2.5 Each Party will use commercially reasonable efforts to monitor trunk groups under its control and to augment those groups using generally

accepted trunk-engineering standards so as to not exceed blocking objectives. Each Party agrees to use modular trunk-engineering techniques for trunks subject to this Attachment.

5.3 Switching System Hierarchy and Trunking Requirements.

For purposes of routing ATI traffic to Verizon, the subtending arrangements between Verizon Tandem Switches and Verizon End Office Switches shall be the same as the Tandem/End Office subtending arrangements Verizon maintains for the routing of its own or other carriers' traffic (i.e., traffic will be routed to the appropriate Verizon Tandem subtended by the terminating End Office serving the Verizon Customer). For purposes of routing Verizon traffic to ATI, the subtending arrangements between ATI Tandem Switches and ATI End Office Switches shall be the same as the Tandem/End Office subtending arrangements that ATI maintains for the routing of its own or other carriers' traffic.

5.4 Signaling.

Each Party will provide the other Party with access to its databases and associated signaling necessary for the routing and completion of the other Party's traffic in accordance with the provisions contained in the Unbundled Network Element Attachment or applicable access tariff.

5.5 Grades of Service.

The Parties shall initially engineer and shall monitor and augment all trunk groups consistent with the Joint Process as set forth in Section 14.1 of this Attachment.

6. Traffic Measurement and Billing over Interconnection Trunks

6.1 For billing purposes, each Party shall pass Calling Party Number (CPN) information on at least ninety-five percent (95%) of calls carried over the Interconnection Trunks.

6.1.1 As used in this Section 6, "Traffic Rate" means the applicable Reciprocal Compensation Traffic rate, Measured Internet Traffic rate, intrastate Switched Exchange Access Service rate, interstate Switched Exchange Access Service rate, or intrastate/interstate Tandem Transit Traffic rate, as provided in the Pricing Attachment, an applicable Tariff, or, for Measured Internet Traffic, the FCC Internet Order.

6.1.2 If the originating Party passes CPN on ninety-five percent (95%) or more of its calls, the receiving Party shall bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. For any remaining (up to 5%) calls without CPN information, the receiving Party shall bill the originating Party for such traffic at the Traffic Rate applicable to each relevant minute of traffic, in direct proportion to the minutes of use of calls passed with CPN information.

6.1.3 If the originating Party passes CPN on less than ninety-five percent (95%) of its calls and the originating Party chooses to combine Reciprocal Compensation Traffic and Toll Traffic on the same trunk group, the receiving Party shall bill the higher of its interstate Switched Exchange Access Service rates or its intrastate Switched Exchange

Access Services rates for all traffic that is passed without CPN, unless the Parties agree that other rates should apply to such traffic.

- 6.2 At such time as a receiving Party has the capability, on an automated basis, to use such CPN to classify traffic delivered over Interconnection Trunks by the other Party by Traffic Rate type (e.g., Reciprocal Compensation Traffic/Measured Internet Traffic, intrastate Switched Exchange Access Service, interstate *Switched Exchange Access Service*, or *intrastate/interstate Tandem Transit Traffic*), such receiving Party shall bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. If the receiving Party lacks the capability, on an automated basis, to use CPN information on an automated basis to classify traffic delivered by the other Party by Traffic Rate type, the originating Party will supply Traffic Factor 1 and Traffic Factor 2. The Traffic Factors shall be supplied in writing by the originating Party within thirty (30) days of the Effective Date and shall be updated in writing by the originating Party quarterly. Measurement of billing minutes for purposes of determining terminating compensation shall be in conversation seconds (the time in seconds that the Parties equipment is used for a completed call, measured from the receipt of answer supervision to the receipt of disconnect supervision). Measurement of billing minutes for originating toll free service access code (e.g., 800/888/877) calls shall be in accordance with applicable Tariffs. Determination as to whether traffic is *Reciprocal Compensation Traffic* or *Measured Internet Traffic* shall be made in accordance with Paragraphs 8 and 79, and other applicable provisions, of the FCC Internet Order (including, but not limited to, in accordance with the rebuttable presumption established by the FCC Internet Order that traffic delivered to a carrier that exceeds a 3:1 ratio of terminating to originating traffic is *Measured Internet Traffic*, and in accordance with the process established by the FCC Internet Order for rebutting such presumption before the Commission).
- 6.3 Each Party reserves the right to audit all Traffic, up to a maximum of two audits per Calendar Year, to ensure that rates are being applied appropriately; provided, however, that either Party shall have the right to conduct additional audit(s) if the preceding audit disclosed material errors or discrepancies. Each Party agrees to provide the necessary Traffic data in conjunction with any such audit in a timely manner.
- 6.4 *Nothing in this Agreement shall be construed to limit either Party's ability to designate the areas within which that Party's Customers may make calls which that Party rates as "local" in its Customer Tariffs.*
- 6.5 If and, to the extent that, a ATI Customer receives V/FX Traffic, ATI shall promptly provide notice thereof to Verizon (such notice to include, without limitation, the specific telephone number(s) that the Customer uses for V/FX Traffic, as well as the LATA in which the Customer's station is actually physically located) and shall not bill Verizon *Reciprocal Compensation*, *intercarrier compensation* or any other charges for calls placed by Verizon's Customers to such ATI Customers.

7. Reciprocal Compensation Arrangements Pursuant to Section 251(b)(5) of the Act

7.1 Reciprocal Compensation.

The Parties shall exchange *Reciprocal Compensation Traffic* at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA designated in accordance with the terms of this Agreement. The Party originating *Reciprocal Compensation Traffic* shall compensate the terminating Party for the transport

and termination of such traffic to its Customer in accordance with Section 251(b)(5) of the Act at the equal and symmetrical rates stated in the Pricing Attachment; it being understood and agreed that Verizon shall charge (and ATI shall pay Verizon) the End Office Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic ATI physically delivers to a POI at the Verizon Wire Center in which the terminating Verizon End Office is located, and otherwise that Verizon shall charge (ATI shall pay Verizon) the Tandem Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic ATI delivers to Verizon; it also being understood and agreed that ATI shall charge (and Verizon shall pay ATI) the End Office Reciprocal Compensation rate set forth in the Pricing Attachment for Reciprocal Compensation Traffic Verizon delivers to ATI, unless Verizon is required under Applicable Law to pay the Tandem Reciprocal Compensation rate set forth in the Pricing Attachment. These rates are to be applied at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA at which the Parties interconnect, whether such traffic is delivered by Verizon for termination by ATI, or delivered by ATI for termination by Verizon. No additional charges shall be assessed by the terminating Party for the transport and termination of such traffic from the technically feasible Point(s) of Interconnection on Verizon's network in a LATA to its Customer; provided, however, for the avoidance of any doubt, ATI shall also pay Verizon, at the rates set forth in the Pricing Attachment, for any multiplexing, cross connects or other collocation related Services that ATI obtains from Verizon. When such Reciprocal Compensation Traffic is delivered over the same Interconnection Trunks as Toll Traffic, any port, transport or other applicable access charges related to the delivery of Toll Traffic from the technically feasible Point of Interconnection on Verizon's network in a LATA to the terminating Party's Customer shall be prorated so as to apply only to the Toll Traffic. The designation of traffic as Reciprocal Compensation Traffic for purposes of Reciprocal Compensation shall be based on the actual originating and terminating points of the complete end-to-end communication.

7.2 *Traffic Not Subject to Reciprocal Compensation.*

- 7.2.1 Reciprocal Compensation shall not apply to interstate or intrastate Exchange Access (including, without limitation, Virtual Foreign Exchange Traffic (i.e., V/FX Traffic), Information Access, or exchange services for Exchange Access or Information Access.
- 7.2.2 Reciprocal Compensation shall not apply to Internet Traffic.
- 7.2.3 Reciprocal Compensation shall not apply to Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis.
- 7.2.4 Reciprocal Compensation shall not apply to Optional Extended Local Calling Area Traffic.
- 7.2.5 Reciprocal Compensation shall not apply to special access, private line, or any other traffic that is not switched by the terminating Party.
- 7.2.6 Reciprocal Compensation shall not apply to Tandem Transit Traffic.
- 7.2.7 Reciprocal Compensation shall not apply to Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment).

7.2.8 Reciprocal Compensation shall not apply to traffic that is not subject to Reciprocal Compensation under Section 251(b)(5) of the Act.

7.2.9 Reciprocal Compensation shall not apply to Virtual Foreign Exchange Traffic (i.e., V/FX Traffic). As used in this Agreement, "Virtual Foreign Exchange Traffic" or "V/FX Traffic" is defined as calls in which a ATI Customer is assigned a telephone number with an NXX Code (as set forth in the LERG) associated with an exchange that is different than the exchange (as set forth in the LERG) associated with the actual physical location of such Customer's station. For the avoidance of any doubt, ATI shall pay Verizon's originating access charges for all V/FX Traffic originated by a Verizon Customer, and ATI shall pay Verizon's terminating access charges for all V/FX Traffic originated by a ATI Customer.

7.3 The Reciprocal Compensation rates (including, but not limited to, the Reciprocal Compensation per minute of use charges) billed by ATI to Verizon shall not exceed the Reciprocal Compensation rates (including, but not limited to, Reciprocal Compensation per minute of use charges) billed by Verizon to ATI.

8. Other Types of Traffic

8.1 Notwithstanding any other provision of this Agreement or any Tariff: (a) the Parties' rights and obligations with respect to any intercarrier compensation that may be due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC orders and FCC Regulations; and, (b) a Party shall not be obligated to pay any intercarrier compensation for Internet Traffic that is in excess of the intercarrier compensation for Internet Traffic that such Party is required to pay under the FCC Internet Order and other applicable FCC orders and FCC Regulations.

8.2 Subject to Section 8.1 of this Attachment, interstate and intrastate Exchange Access, Information Access, exchange services for Exchange Access or Information Access, and Toll Traffic, shall be governed by the applicable provisions of this Agreement and applicable Tariffs.

8.3 For any traffic originating with a third party carrier and delivered by ATI to Verizon, ATI shall pay Verizon the same amount that such third party carrier would have been obligated to pay Verizon for termination of that traffic at the location the traffic is delivered to Verizon by ATI.

8.4 Any traffic not specifically addressed in this Agreement shall be treated as required by the applicable Tariff of the Party transporting and/or terminating the traffic.

8.5 The Parties may also exchange Internet Traffic at the technically feasible Point(s) of Interconnection on Verizon's network in a LATA established hereunder for the exchange of Reciprocal Compensation Traffic. Any intercarrier compensation that may be due in connection with the Parties' exchange of Internet Traffic shall be applied at such technically feasible Point of Interconnection on Verizon's network in a LATA in accordance with the FCC Internet Order.

9. Transmission and Routing of Exchange Access Traffic

9.1 Scope of Traffic.

Section 9 prescribes parameters for certain trunks to be established over the

Interconnections specified in Sections 2 through 5 of this Attachment for the transmission and routing of traffic between ATI Telephone Exchange Service Customers and Interexchange Carriers ("Access Toll Connecting Trunks"), in any case where ATI elects to have its End Office Switch subtend a Verizon Tandem. This includes casually-dialed (1010XXX and 101XXXX) traffic.

9.2 Access Toll Connecting Trunk Group Architecture.

9.2.1 If ATI chooses to subtend a Verizon access Tandem, ATI's NPA/NXX must be assigned by ATI to subtend the same Verizon access Tandem that a Verizon NPA/NXX serving the same Rate Center Area subtends as identified in the LERG.

9.2.2 ATI shall establish Access Toll Connecting Trunks pursuant to applicable access Tariffs by which it will provide Switched Exchange Access Services to Interexchange Carriers to enable such Interexchange Carriers to originate and terminate traffic to and from ATI's Customers.

9.2.3 The Access Toll Connecting Trunks shall be two-way trunks. Such trunks shall connect the End Office ATI utilizes to provide Telephone Exchange Service and Switched Exchange Access to its Customers in a given LATA to the access Tandem(s) Verizon utilizes to provide Exchange Access in such LATA.

9.2.4 Access Toll Connecting Trunks shall be used solely for the transmission and routing of Exchange Access to allow ATI's Customers to connect to or be connected to the interexchange trunks of any Interexchange Carrier which is connected to a Verizon access Tandem.

10. Meet-Point Billing Arrangements

10.1 ATI and Verizon will establish Meet-Point Billing (MPB) arrangements in order to provide a common transport option to Switched Exchange Access Services customers via a Verizon access Tandem Switch in accordance with the Meet Point Billing guidelines contained in the OBF's MECAB and MECOD documents, except as modified herein, and in Verizon's applicable Tariffs. The arrangements described in this Section 10 are intended to be used to provide Switched Exchange Access Service where the transport component of the Switched Exchange Access Service is routed through an access Tandem Switch that is provided by Verizon.

10.2 In each LATA, the Parties shall establish MPB arrangements for the applicable ATI Routing Point/Verizon Serving Wire Center combinations.

10.3 Interconnection for the MPB arrangement shall occur at each of the Verizon access Tandems in the LATA, unless otherwise agreed to by the Parties.

10.4 ATI and Verizon will use reasonable efforts, individually and collectively, to maintain provisions in their respective state access Tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor Tariff sufficient to reflect the MPB arrangements established pursuant to this Agreement.

- 10.5 In general, there are four alternative Meet-Point Billing arrangements possible, which are: Single Bill/Single Tariff, Multiple Bill/Single Tariff, Multiple Bill/Multiple Tariff, and Single Bill/Multiple Tariff, as outlined in the OBF MECAB Guidelines.

Each Party shall implement the "Multiple Bill/Single Tariff" or "Multiple Bill/Multiple Tariff" option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party. Alternatively, in former Bell Atlantic service areas, upon agreement of the Parties, each Party may use the New York State Access Pool on its behalf to implement the Single Bill/Multiple Tariff or Single Bill/Single Tariff option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party.

- 10.6 The rates to be billed by each Party for the portion of the MPB arrangement provided by it shall be as set forth in that Party's applicable Tariffs, or other document that contains the terms under which that Party's access services are offered. For each ATI Routing Point/Verizon Serving Wire Center combination, the MPB billing percentages for transport between the ATI Routing Point and the Verizon Serving Wire Center shall be calculated in accordance with the formula set forth in Section 10.17 of this Attachment.
- 10.7 Each Party shall provide the other Party with the billing name, billing address, and Carrier Identification Code (CIC) of the IXC, and identification of the Verizon Wire Center serving the IXC in order to comply with the MPB notification process as outlined in the MECAB document.
- 10.8 Verizon shall provide ATI with the Terminating Switched Access Detail Usage Data (EMI category 1101XX records) recorded at the Verizon access Tandem on cartridge or via such other media as the Parties may agree to, no later than ten (10) Business Days after the date the usage occurred.
- 10.9 ATI shall provide Verizon with the Originating Switched Access Detail Usage Data (EMI category 1101XX records) on cartridge or via such other media as the Parties may agree, no later than ten (10) Business Days after the date the usage occurred.
- 10.10 All usage data to be provided pursuant to Sections 10.8 and 10.9 of this Attachment shall be sent to the following addresses:

To ATI:

Barbara Direnzo
One Armstrong Place
Butler, Pennsylvania 16001

For Verizon (Former GTE service area):

Verizon Data Services
ATTN: MPB
1 East Telecom Parkway
Dock D
Temple Terrace, FL 33637

Either Party may change its address for receiving usage data by notifying the other Party in writing pursuant to Section 29 of the General Terms and Conditions.

- 10.11 ATI and Verizon shall coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers or Operating Company Number ("OCN"), as appropriate, for the MPB arrangements described in this Section 10. Each Party shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number, or if the OCN changes.
- 10.12 Each Party agrees to provide the other Party with notification of any errors it discovers in MPB data within thirty (30) calendar days of the receipt of the original data. The other Party shall attempt to correct the error and resubmit the data within ten (10) Business Days of the notification. In the event the errors cannot be corrected within such ten- (10) Business-Day period, the erroneous data will be considered lost. In the event of a loss of data, whether due to uncorrectable errors or otherwise, both Parties shall cooperate to reconstruct the lost data and, if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon prior usage data.
- 10.13 Either Party may request a review or audit of the various components of access recording up to a maximum of two (2) audits per calendar year. All costs associated with each review and audit shall be borne by the requesting Party. Such review or audit shall be conducted subject to Section 7 of the General Terms and Conditions and during regular business hours. A Party may conduct additional audits, at its expense, upon the other Party's consent, which consent shall not be unreasonably withheld.
- 10.14 Except as expressly set forth in this Agreement, nothing contained in this Section 10 shall create any liability for damages, losses, claims, costs, injuries, expenses or other liabilities whatsoever on the part of either Party.
- 10.15 MPB will apply for all traffic bearing the 500, 900, toll free service access code (e.g. 800/888/877) (to the extent provided by an IXC) or any other non-geographic NPA which may be designated for such traffic in the future.
- 10.16 In the event ATI determines to offer Telephone Exchange Services in a LATA in which Verizon operates an access Tandem Switch, Verizon shall permit and enable ATI to subten the Verizon access Tandem Switch(es) designated for the Verizon End Offices in the area where there are located ATI Routing Point(s) associated with the NPA NXX(s) to/from which the Switched Exchange Access Services are homed.
- 10.17 Except as otherwise mutually agreed by the Parties, the MPB billing percentages for each Routing Point/Verizon Serving Wire Center combination shall be calculated according to the following formula, unless as mutually agreed to by the Parties:

$$a / (a + b) = \text{ATI Billing Percentage}$$

and

$$b / (a + b) = \text{Verizon Billing Percentage}$$

where:

a = the airline mileage between ATI Routing Point and the actual point of interconnection for the MPB arrangement; and

b = the airline mileage between the Verizon Serving Wire Center and

the actual point of interconnection for the MPB arrangement.

- 10.18 ATI shall inform Verizon of each LATA in which it intends to offer Telephone Exchange Services and its calculation of the billing percentages which should apply for such arrangement. Within ten (10) Business Days of ATI's delivery of notice to Verizon, Verizon and ATI shall confirm the Routing Point/Verizon Serving Wire Center combination and billing percentages.

11. Toll Free Service Access Code (e.g., 800/888/877) Traffic

The following terms shall apply when either Party delivers toll free service access code (e.g., 800/877/888)("8YY") calls to the other Party. For the purposes of this Section 11, the terms "translated" and "untranslated" refers to those toll free service access code calls that have been queried ("translated") or have not been queried ("untranslated") to an 8YY database. Except as otherwise agreed to by the Parties, all ATI originating "untranslated" 8YY traffic will be routed over a separate One-Way Trunk group.

- 11.1 When ATI delivers translated 8YY calls to Verizon for completion,

11.1.1 to an IXC, ATI shall:

11.1.1.1 provide an appropriate EMI record to Verizon for processing and Meet Point Billing in accordance with Section 10 of this Attachment; and

11.1.1.2 bill the IXC the ATI query charge associated with the call.

11.1.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, ATI shall:

11.1.2.1 provide an appropriate EMI record to the toll free service access code service provider; and

11.1.2.2 bill to the toll free service access code service provider the ATI's Tariffed Feature Group D ("FGD") Switched Exchange Access or Reciprocal Compensation rates, as applicable, and the ATI query charge; and

11.1.2.3 Verizon shall bill applicable Tandem Transit Service charges and associated passthrough charges to ATI.

- 11.2 When Verizon performs the query and delivers translated 8YY calls, originated by Verizon's or another LEC's Customer,

11.2.1 to ATI in its capacity as a toll free service access code service provider, Verizon shall:

11.2.1.1 bill ATI the Verizon query charge associated with the call as specified in the Pricing Attachment; and

11.2.1.2 provide an appropriate EMI record to ATI; and

11.2.1.3 bill ATI Verizon's Tariffed FGD Switched Exchange Access or Reciprocal Compensation rates as applicable.

- 11.3 When ATI: delivers untranslated 8YY calls to Verizon for completion,

11.3.1 to an IXC, Verizon shall:

- 11.3.1.1 query the call and route the call to the appropriate IXC; and
 - 11.3.1.2 provide an appropriate EMI record to ATI to facilitate billing to the IXC; and
 - 11.3.1.3 bill the IXC the Verizon query charge associated with the call and any other applicable Verizon charges.
- 11.3.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, Verizon shall:
- 11.3.2.1 query the call and route the call to the appropriate LEC toll free service access code service provider; and
 - 11.3.2.2 provide an appropriate EMI record to ATI; to facilitate billing to the LEC toll free service access code service provider; and
 - 11.3.2.3 bill the LEC toll free service access code service provider the query charge associated with the call and any other applicable Verizon charges.
- 11.4 Verizon will not direct untranslated toll free service access code call to ATI.

12. Tandem Transit Traffic

- 12.1 As used in this Section 12, Tandem Transit Traffic is Telephone Exchange Service traffic that originates on ATI's network, and is transported through a Verizon Tandem to the Central Office of a CLEC, ILEC other than Verizon, Commercial Mobile Radio Service (CMRS) carrier, or other LEC, that subtends the relevant Verizon Tandem to which ATI delivers such traffic. Neither the originating nor terminating customer is a Customer of Verizon. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide (LERG). Switched Exchange Access Service traffic is not Tandem Transit Traffic.
- 12.2 Tandem Transit Traffic Service provides ATI with the transport of Tandem Transit Traffic as provided below.
- 12.3 Tandem Transit Traffic may be routed over the Interconnection Trunks described in Sections 2 through 6 of this Attachment. ATI shall deliver each Tandem Transit Traffic call to Verizon with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of CLASS Features and billing functions.
- 12.4 ATI shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic arrangement (either via written agreement or mutual Tariffs) with any CLEC, ILEC, CMRS carrier, or other LEC, to which it delivers Telephone Exchange Service traffic that transits Verizon's Tandem Office. If ATI does not enter into and provide notice to Verizon of the above referenced arrangement within 180 days of the initial traffic exchange with relevant third party carriers, then ATI will pay a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment, in addition to the Tandem Transit Traffic Service charges set forth in the Pricing Attachment.
- 12.5 ATI shall pay Verizon for Transit Service that ATI originates at the rate specified in the Pricing Attachment. Verizon reserves the right to assess to ATI any additional charges or costs the receiving CLEC, ILEC, CMRS carrier, or other

LEC, imposes or levies on Verizon for the delivery or termination of such traffic, including any Switched Exchange Access Service charges. Payment of any terminating charges (access or otherwise) is the responsibility of ATI.

- 12.6 Except as set forth in this Section 12.6, Verizon will not provide Tandem Transit Traffic Service for Tandem Transit Traffic volumes that exceed the CCS busy hour equivalent of 200,000 combined minutes of use to a particular CLEC, ITC, CMRS carrier or other LEC for any month (the "Threshold Level"). At such time that ATI's Tandem Transit Traffic exceeds the Threshold Level, upon receipt of a written request from ATI, Verizon shall continue to provide Tandem Transit Service to ATI (for the carrier in respect to which the Threshold Level has been reached) for a period equal to sixty (60) days after the date upon which the Threshold Level was reached for the subject carrier (the "Transition Period"). During the Transition Period, in addition to any and all Tandem Transit Traffic rates and charges as provided in Section 12.5 hereof, ATI shall pay Verizon (a) a monthly "Transit Service Trunking Charge" for each subject carrier, as set forth in the Pricing Attachment, and (b) a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment. Upon ATI's receipt of Verizon's notice that the Threshold Level has been reached with respect to a specific carrier, ATI shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic agreement with such carrier for the purpose of seeking direct interconnection. If Verizon believes that ATI has not exercised good faith efforts promptly to obtain such agreement, Verizon may use the Dispute Resolution processes of this Agreement. If, at the end of the Transition Period Verizon does not terminate the Transit Traffic Service to ATI, ATI shall continue to pay Verizon (i) a monthly "Transit Service Trunking Charge" for each subject carrier, as set forth in the Pricing Attachment, and (ii) a monthly "Transit Service Billing Fee", as set forth in the Pricing Attachment.
- 12.7 If or when a third party carrier's Central Office subtends a ATI Central Office, then ATI shall offer to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to ATI as defined in this Section 12 such that Verizon may terminate calls to a Central Office of a CLEC, ILEC, CMRS carrier, or other LEC, that subtends a ATI Central Office ("Reciprocal Tandem Transit Service"). ATI shall offer such Reciprocal Transit Service arrangements under terms and conditions no less favorable than those provided in this Section 12.
- 12.8 Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it originates, or from which it terminates, traffic.

13. Number Resources, Rate Center Areas and Routing Points

- 13.1 Nothing in this Agreement shall be construed to limit or otherwise adversely affect in any manner either Party's right to employ or to request and be assigned any Central Office Codes ("NXX") pursuant to the Central Office Code Assignment Guidelines and any relevant FCC or Commission orders, as may be amended from time to time, or to establish, by Tariff or otherwise, Rate Center Areas and Routing Points corresponding to such NXX codes.
- 13.2 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to information provided on ASRs as well as the LERG in order to recognize and route traffic to the other Party's assigned NXX codes. Except as expressly set forth in this Agreement, neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

- 13.3 Unless otherwise required by Commission order, the Rate Center Areas will be the same for each Party. During the term of this Agreement, ATI shall adopt the Rate Center Area and Rate Center Points that the Commission has approved for Verizon within the LATA and Tandem serving area. ATI shall assign whole NPA-NXX codes to each Rate Center Area unless otherwise ordered by the FCC, the Commission or another governmental entity of appropriate jurisdiction, or the LEC industry adopts alternative methods of utilizing NXXs.
- 13.4 ATI will also designate a Routing Point for each assigned NXX code. ATI shall designate one location for each Rate Center Area in which the ATI has established NXX code(s) as the Routing Point for the NPA-NXXs associated with that Rate Center Area, and such Routing Point shall be within the same LATA as the Rate Center Area but not necessarily within the Rate Center Area itself. Unless specified otherwise, calls to subsequent NXXs of ATI will be routed in the same manner as calls to ATI's initial NXXs.
- 13.5 Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended, and nothing in this Agreement shall be construed, to in any way constrain ATI's choices regarding the size of the local calling area(s) that ATI may establish for its Customers, which local calling areas may be larger than, smaller than, or identical to Verizon's local calling areas.

14. Joint Network Implementation and Grooming Process; and Installation, Maintenance, Testing and Repair

14.1 Joint Network Implementation and Grooming Process.

Upon request of either Party, the Parties shall jointly develop an implementation and grooming process (the "Joint Grooming Process" or "Joint Process") which may define and detail, inter alia:

- 14.1.1 standards to ensure that Interconnection Trunks experience a grade of service, availability and quality which is comparable to that achieved on interoffice trunks within Verizon's network and in accord with all appropriate relevant industry-accepted quality, reliability and availability standards. Except as otherwise stated in this Agreement, trunks provided by either Party for Interconnection services will be engineered using a design-blocking objective of B.01.
- 14.1.2 the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the trunk groups, including, but not limited to, standards and procedures for notification and discoveries of trunk disconnects;
- 14.1.3 disaster recovery provision escalations;
- 14.1.4 additional technically feasible Point(s) of Interconnection on Verizon's network in a LATA as provided in Section 2 of this Attachment; and
- 14.1.5 such other matters as the Parties may agree, including, e.g., End Office to End Office high usage trunks as good engineering practices may dictate.

14.2 Forecasting Requirements for Trunk Provisioning.

Within ninety (90) days of executing this Agreement, ATI shall provide Verizon a two (2)-year traffic forecast. This initial forecast will provide the amount of traffic

to be delivered to and from Verizon over each of the Interconnection Trunk groups over the next eight (8) quarters. The forecast shall be updated and provided to Verizon on an as-needed basis but no less frequently than semiannually. All forecasts shall comply with the Verizon CLEC Interconnection Trunking Forecast Guide and shall include, at a minimum, Access Carrier Terminal Location (ACTL), traffic type (Reciprocal Compensation Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for applicable Verizon Tandem and End Office switches to which ATI wishes to send traffic and the technically feasible Points of Interconnection on Verizon's network in a LATA at which the Parties will interconnect), interface type (e.g., DS1), and trunks in service each year (cumulative).

14.2.1 Initial Forecasts/Trunking Requirements. Because Verizon's trunking requirements will, at least during an initial period, be dependent on the Customer segments and service segments within Customer segments to whom ATI decides to market its services, Verizon will be largely dependent on ATI to provide accurate trunk forecasts for both inbound (from Verizon) and outbound (to Verizon) traffic. Verizon will, as an initial matter, provide the same number of trunks to terminate Reciprocal Compensation Traffic to ATI as ATI provides to terminate Reciprocal Compensation Traffic to Verizon. At Verizon's discretion, when ATI expressly identifies particular situations that are expected to produce traffic that is substantially skewed in either the inbound or outbound direction, Verizon will provide the number of trunks ATI suggests; provided, however, that in all cases Verizon's provision of the forecasted number of trunks to ATI is conditioned on the following: that such forecast is based on reasonable engineering criteria, there are no capacity constraints, and ATI's previous forecasts have proven to be reliable and accurate.

14.2.1.1 Monitoring and Adjusting Forecasts. Verizon will, for ninety (90) days, monitor traffic on each trunk group that it establishes at ATI's suggestion or request pursuant to the procedures identified in Section 14.2 of this Attachment. At the end of such ninety-(90) day period, Verizon may disconnect trunks that, based on reasonable engineering criteria and capacity constraints, are not warranted by the actual traffic volume experienced. If, after such initial ninety (90) day period for a trunk group, Verizon determines that any trunks in the trunk group in excess of two (2) DS1s are not warranted by actual traffic volumes (considering engineering criteria for busy Centium Call Second (Hundred Call Second) and blocking percentages), then Verizon may hold ATI financially responsible for the excess facilities and disconnect such excess facilities.

14.2.1.2 In subsequent periods, Verizon may also monitor traffic for ninety (90) days on additional trunk groups that ATI suggests or requests Verizon to establish. If, after any such (90) day period, Verizon determines that any trunks in the trunk group are not warranted by actual traffic volumes (considering engineering criteria for busy hour Centium Call Second (Hundred Call Second) and blocking percentages), then Verizon may hold ATI financially responsible for the excess facilities. At any time during the relevant ninety-(90)

day period, ATI may request that Verizon disconnect trunks to meet a revised forecast. In such instances, Verizon may hold ATI financially responsible for the disconnected trunks retroactive to the start of the ninety (90) day period through the date such trunks are disconnected.

15. Number Portability - Section 251(B)(2)

15.1 Scope.

The Parties shall provide Number Portability (NP) in accordance with rules and regulations as from time to time prescribed by the FCC.

15.2 Procedures for Providing LNP ("Long-term Number Portability").

The Parties will follow the LNP provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF. The Parties shall provide LNP on a reciprocal basis.

15.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Telephone Exchange Service(s) it will now receive from Party B. After Party B has received authorization from the Customer in accordance with Applicable Law and sends an LSR to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.

15.2.2 When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

15.2.3 When a Customer of Party A ports their telephone numbers to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

15.2.4 When a Customer of Party A ports their telephone numbers to Party B, in the process of porting the Customer's telephone numbers, Party A shall implement the ten-digit trigger feature where it is available. When Party A receives the porting request, the unconditional trigger shall be applied to the Customer's line before the due date of the porting activity. When the ten-digit unconditional trigger is not available, Party A and Party B must coordinate the disconnect activity.

- 15.2.5 The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP capable switches.
- 15.2.6 Where LNP is commercially available, the NXXs in the office shall be defined as portable, except as noted in 15.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable LNP capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.
- 15.2.7 All NXXs assigned to LNP capable switches are to be designated as portable unless a NXX(s) has otherwise been designated as non-portable. Non-portable NXXs include NXX codes assigned to paging, cellular and wireless services; codes assigned for internal testing and official use and any other NXX codes required to be designated as non-portable by the rules and regulations of the FCC. NXX codes assigned to mass calling on a choked network may not be ported using LNP technology but are portable using methods established by the NANC and adopted by the FCC. On a prospective basis, newly assigned codes in switches capable of porting shall become commercially available for porting with the effective date in the network.
- 15.2.8 Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier for the other Party in the event that either Party is unable to perform the routing necessary for LNP.
- 15.3 Procedures for Providing NP Through Full NXX Code Migration.
- Where a Party has activated an entire NXX for a single Customer, or activated at least eighty percent (80%) of an NXX for a single Customer, with the remaining numbers in that NXX either reserved for future use by that Customer or otherwise unused, if such Customer chooses to receive Telephone Exchange Service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead times for movements of NXXs from one switch to another. Neither Party shall charge the other in connection with this coordinated transfer.
- 15.4 Procedures for Providing INP (Interim Number Portability).
- The Parties shall provide Interim Number Portability (INP) in accordance with rules and regulations prescribed from time to time by the FCC and state regulatory bodies, the Parties respective company procedures, and as set forth in this Section 15.4. The Parties shall provide INP on a reciprocal basis.
- 15.4.1 In the event that either Party, Party B, wishes to serve a Customer currently served at an End Office of the other Party, Party A, and that End Office is not LNP-capable, Party A shall make INP available only where LNP is not commercially available or not required by FCC orders and regulations. INP will be provided by remote call forwarding

(RCF) and/or direct inward dialing (DID) technology, which will forward terminating calls to Party B's End Office. Party B shall provide Party A with an appropriate "forward-to" number.

- 15.4.2 Prices for INP and formulas for sharing Terminating access revenues associated with INP shall be provided where applicable, upon request by either Party.
- 15.4.3 Either Party wishing to use DID to provide for INP must request a dedicated trunk group from the End Office where the DID numbers are currently served to the new serving-End Office. If there are no existing facilities between the respective End Offices, the dedicated facilities and transport trunks will be provisioned as unbundled service through the ASR provisioning process. The requesting party will reroute the DID numbers to the pre-positioned trunk group using the LSR provisioning process. DID trunk rates are contained in the Parties' respective tariffs.
- 15.4.4 The Parties Agree that, per FCC 98-275, Paragraph 16, effective upon the date LNP is available at any End Office of one Party, Party A, providing INP for Customers of the other Party, Party B, no further orders will be accepted for new INP at that End Office. Orders for new INP received prior to that date, and change orders for existing INP, shall be worked by Party A. Orders for new INP received by Party A on or after that date shall be rejected. Existing INP will be grandfathered, subject to Section 15.4.5 of this Attachment.
- 15.4.5 In offices equipped with LNP prior to September 1, 1999 for former Bell Atlantic offices and October 1, 2000 for former GTE offices, the Parties agree to work together to convert all existing INP-served Customers to LNP by December 31, 2000 in accordance with a mutually agreed to conversion process and schedule. If mutually agreed to by the Parties, the conversion period may be extended one time by no more than 90 days from December 31, 2000.
- 15.4.6 Upon availability of LNP after October 1, 2000 at an End Office of either Party, both Parties agree to work together to convert the existing INP-served Customers to LNP by no later than 90 days from the date of LNP availability unless otherwise agreed to by the Parties.
- 15.4.7 When, through no fault of Verizon's, all INP has not been converted to LNP at the end of the agreed to conversion period, then the remaining INPs will be changed to a functionally equivalent tariff service and billed to ATI at the tariff rate(s) for the subject jurisdiction.

15.5 Procedures for LNP Request.

The Parties shall provide for the requesting of End Office LNP capability on a reciprocal basis through a written request. The Parties acknowledge that Verizon has deployed LNP throughout its network in compliance with FCC 96-286 and other applicable FCC Regulations.

- 15.5.1 If Party B desires to have LNP capability deployed in an End Office of Party A, which is not currently capable, Party B shall issue a LNP request to Party A. Party A will respond to the Party B, within ten (10) days of receipt of the request, with a date for which LNP will be available in the requested End Office. Party A shall proceed to

provide for LNP in compliance with the procedures and timelines set forth in FCC 96-286, Paragraph 80, and FCC 97-74, Paragraphs 65 through 67.

- 15.5.2 The Parties acknowledge that each can determine the LNP-capable End Offices of the other through the Local Exchange Routing Guide (LERG). In addition the Parties shall make information available upon request showing their respective LNP-capable End Offices, as set forth in this Section 15.5.

16. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

17. Transport and Termination of Indirect Interconnection Traffic

- 17.1 Network Interconnection Architecture Traffic to be Exchanged.

The Parties shall reciprocally terminate mandatory EAS, optional EAS and IntraLATA Toll originating on each other's networks utilizing Indirect Network Interconnections.

- 17.2 Network Interconnection Architecture.

Each Party will plan, design, construct and maintain the facilities within their respective systems as are necessary and proper for the provision of traffic covered by this Agreement. These facilities include but are not limited to, a sufficient number of trunks to the point of interconnection with the tandem company, and sufficient interoffice and interexchange facilities and trunks between its own central offices to adequately handle traffic between all central offices within the service areas at a P.01 grade of service or better.

The provisioning and engineering of such services and facilities will comply with generally accepted industry methods and practices, and will observe the rules and regulations of the lawfully established tariffs applicable to the services provided.

- 17.3 Operator Services Calls.

Each Party agrees to coordinate the interconnection of their operator service bureau with the operator service bureau of the other Party in order to provide for the exchange of miscellaneous services, e.g. Busy Line Verification/Interrupt, Directory Assistance, Call Completions.

- 17.4 Traffic Recording.

The traffic recording and identification functions required to provide the services specified hereunder shall be performed by the Parties except for the functions performed by the tandem company on behalf of a Party. Each Party will calculate terminating minutes of use based on standard Automatic Message Accounting recordings made within each Party's network or by the tandem

company. The Parties agree they will, to the extent feasible, make every attempt to accurately capture and report the actual usage interchanged between them for use *in calculating the necessary compensation under this Agreement*. In the event detailed terminating billing records are not available, summary billing reports may be used.

RESALE ATTACHMENT

1. General

Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, Verizon's Telecommunications Services for resale by ATI; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide Telecommunications Services to ATI only to the extent required by Applicable Law and may decline to provide a Telecommunications Service to ATI to the extent that provision of such Telecommunications Service is not required by Applicable Law.

2. Use of Verizon Telecommunications Services

- 2.1 Verizon Telecommunications Services may be purchased by ATI under this Resale Attachment only for the purpose of resale by ATI as a Telecommunications Carrier. Verizon Telecommunications Services to be purchased by ATI for other purposes (including, but not limited to, ATI's own use) must be purchased by ATI pursuant to other applicable Attachments to this Agreement (if any), or separate written agreements, including, but not limited to, applicable Verizon Tariffs.
- 2.2 ATI shall not resell:
- 2.2.1 Residential service to persons not eligible to subscribe to such service from Verizon (including, but not limited to, business or other nonresidential Customers);
 - 2.2.2 Lifeline, Link Up America, or other means-tested service offerings, to persons not eligible to subscribe to such service offerings from Verizon;
 - 2.2.3 Grandfathered or discontinued service offerings to persons not eligible to subscribe to such service offerings from Verizon; or
 - 2.2.4 Any other Verizon service in violation of a restriction stated in this Agreement (including, but not limited to, a Verizon Tariff) that is not prohibited by Applicable Law.
 - 2.2.5 In addition to any other actions taken by ATI to comply with this Section 2.2, ATI shall take those actions required by Applicable Law to determine the eligibility of ATI Customers to purchase a service, including, but not limited to, obtaining any proof or certification of eligibility to purchase Lifeline, Link Up America, or other means-tested services, required by Applicable Law. ATI shall indemnify Verizon from any Claims resulting from ATI's failure to take such actions required by Applicable Law.
 - 2.2.6 Verizon may perform audits to confirm ATI's conformity to the provisions of this Section 2.2. Such audits may be performed twice per calendar year and shall be performed in accordance with Section 7 of the General Terms and Conditions.

- 2.3 ATI shall be subject to the same limitations that Verizon's Customers are subject to with respect to any Telecommunications Service that Verizon grandfathers or discontinues offering. Without limiting the foregoing, except to the extent that Verizon follows a different practice for Verizon Customers in regard to a grandfathered Telecommunications Service, such grandfathered Telecommunications Service: (a) shall be available only to a Customer that already has such Telecommunications Service; (b) may not be moved to a new service location; and (c) will be furnished only to the extent that facilities continue to be available to provide such Telecommunications Service.
- 2.4 ATI shall not be eligible to participate in any Verizon plan or program under which Verizon Customers may obtain products or services, which are not Verizon Telecommunications Services, in return for trying, agreeing to purchase, purchasing, or using Verizon Telecommunications Services.
- 2.5 In accordance with 47 CFR § 51.617(b), Verizon shall be entitled to all charges for Verizon Exchange Access services used by interexchange carriers to provide service to ATI Customers.

3. Availability of Verizon Telecommunications Services

- 3.1 Verizon will provide a Verizon Telecommunications Service to ATI for resale pursuant to this Attachment where and to the same extent, but only where and to the same extent that such Verizon Telecommunications Service is provided to Verizon's Customers.
- 3.2 Except as otherwise required by Applicable Law, subject to Section 3.1 of this Attachment, Verizon shall have the right to add, modify, grandfather, discontinue or withdraw Verizon Telecommunications Services at any time, without the consent of ATI.
- 3.3 To the extent required by Applicable Law, the Verizon Telecommunications Services to be provided to ATI for resale pursuant to this Attachment will include a Verizon Telecommunications Service customer-specific contract service arrangement ("CSA") (such as a customer specific pricing arrangement or individual case based pricing arrangement) that Verizon is providing to a Verizon Customer at the time the CSA is requested by ATI.

4. Responsibility for Charges

- 4.1 ATI shall be responsible for and pay to Verizon all charges for any Telecommunications Services provided by Verizon or provided by persons other than Verizon and billed for by Verizon, that are ordered, activated or used by ATI, ATI Customers or any other persons, through, by means of, or in association with, Telecommunications Services provided by Verizon to ATI pursuant to this Resale Attachment.
- 4.2 Upon request by ATI, Verizon will provide for use on resold Verizon retail Telecommunications Service dial tone lines purchased by ATI such Verizon retail Telecommunications Service call blocking and call screening services as Verizon provides to its own end user retail Customers, where and to the extent Verizon provides such Verizon retail Telecommunications Service call blocking services to Verizon's own end user retail Customers. ATI understands and agrees that certain of Verizon's call blocking and call screening services are not guaranteed to block or screen all calls and that notwithstanding ATI's purchase of such blocking or screening services, ATI's end user Customers or other persons ordering, activating or using Telecommunications Services on the resold dial tone

lines may complete or accept calls which ATI intended to block. Notwithstanding the foregoing, ATI shall be responsible for and shall pay Verizon all charges for Telecommunications Services provided by Verizon or provided by persons other than Verizon and billed for by Verizon in accordance with the terms of Section 4.1 above.

5. Operations Matters

5.1 Facilities.

- 5.1.1 Verizon and its suppliers shall retain all of their right, title and interest in all facilities, equipment, software, information, and wiring used to provide Verizon Telecommunications Services.
- 5.1.2 Verizon shall have access at all reasonable times to ATI Customer locations for the purpose of installing, inspecting, maintaining, repairing, and removing, facilities, equipment, software, and wiring used to provide the Verizon Telecommunications Services. ATI shall, at ATI's expense, obtain any rights and authorizations necessary for such access.
- 5.1.3 Except as otherwise agreed to in writing by Verizon, Verizon shall not be responsible for the installation, inspection, repair, maintenance, or removal of facilities, equipment, software, or wiring provided by ATI or ATI Customers for use with Verizon Telecommunications Services.

5.2 Branding.

- 5.2.1 Except as stated in Section 5.2.2 of this Attachment, in providing Verizon Telecommunications Services to ATI, Verizon shall have the right (but not the obligation) to identify the Verizon Telecommunications Services with Verizon's trade names, trademarks and service marks ("Verizon Marks"), to the same extent that these Services are identified with Verizon's Marks when they are provided to Verizon's Customers. Any such identification of Verizon's Telecommunications Services shall not constitute the grant of a license or other right to ATI to use Verizon's Marks.
- 5.2.2 To the extent required by Applicable Law, upon request by ATI and at prices, terms and conditions to be negotiated by ATI and Verizon, Verizon shall provide Verizon Telecommunications Services for resale that are identified by ATI's trade name, or that are not identified by trade name, trademark or service mark.
- 5.2.3 If Verizon uses a third-party contractor to provide Verizon Operator Services or Verizon Directory Assistance Services, ATI will be responsible for entering into a direct contractual arrangement with the third-party contractor at ATI's expense (a) to obtain identification of Verizon Operator Services or Verizon Directory Assistance Services purchased by ATI for resale with ATI's trade name, or (b) to obtain removal of Verizon Marks from Verizon Operator Services or Verizon Directory Assistance Services purchased by ATI for resale.

6. Rates and Charges

The rates and charges for Verizon Telecommunication Services purchased by ATI for resale pursuant to this Attachment shall be as provided in this Attachment and the Pricing

Attachment.

7. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

NETWORK ELEMENTS ATTACHMENT

1. General

- 1.1 Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide unbundled Network Elements (UNEs) and Combinations to ATI only to the extent required by Applicable Law and may decline to provide UNEs or Combinations to ATI to the extent that provision of such UNEs or Combinations is not required by Applicable Law.
- 1.2 Verizon shall be obligated to combine UNEs that are not already combined in Verizon's network only to the extent required by Applicable Law. Except as otherwise required by Applicable Law: (a) Verizon shall be obligated to provide a UNE or Combination pursuant to this Agreement only to the extent such UNE or Combination, and the equipment and facilities necessary to provide such UNE or Combination, are available in Verizon's network; and (b) Verizon shall have no obligation to construct or deploy new facilities or equipment to offer any UNE or Combination.
- 1.3 ATI may use a UNE or Combination only for those purposes for which Verizon is required by Applicable Law to provide such UNE or Combination to ATI. Without limiting the foregoing, ATI may use a UNE or Combination (a) only to provide a Telecommunications Service and (b) to provide Exchange Access services only to the extent that Verizon is required by Applicable Law to provide such UNE or Combination to ATI in order to allow ATI to provide such Exchange Access services.
- 1.4 Notwithstanding any other provision of this Agreement:
 - 1.4.1 To the extent Verizon is required by a change in Applicable Law to provide to ATI a UNE or Combination that is not offered under this Agreement to ATI as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be available and how it will be used, and terms, conditions and prices for pre-ordering, ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed in writing by the Parties.
 - 1.4.2 Verizon shall not be obligated to provide to ATI, and ATI shall not request from Verizon, access to a proprietary advanced intelligent network service.
- 1.5 Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to ATI, and the Commission, the FCC, a court or other governmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to ATI. If Verizon terminates its provision of a UNE or a Combination to ATI

pursuant to this Section 1.5 and ATI elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with ATI to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of ATI; and, (b) ATI shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.

- 1.6 Nothing contained in this Agreement shall be deemed to constitute an agreement by Verizon that any item identified in this Agreement as a Network Element is (i) a Network Element under Applicable Law, or (ii) a Network Element Verizon is required by Applicable Law to provide to ATI on an unbundled basis or in combination with other Network Elements.
- 1.7 If as the result of ATI Customer actions (i.e., Customer Not Ready ("CNR")), Verizon cannot complete requested work activity when a technician has been dispatched to the ATI Customer premises, ATI will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the applicable Service Order charge as provided in the Pricing Attachment and the Premises Visit Charge as provided in Verizon's applicable retail or wholesale Tariff.

2. Verizon's Provision of Network Elements

Subject to the conditions set forth in Section 1 of this Attachment, in accordance with, but only to the extent required by, Applicable Law, Verizon shall provide ATI access to the following:

- 2.1 Loops, as set forth in Section 3 of this Attachment;
- 2.2 Line Sharing, as set forth in Section 4 of this Attachment;
- 2.3 Line Splitting, as set forth in Section 5 of this Attachment;
- 2.4 Sub-Loops, as set forth in Section 6 of this Attachment;
- 2.5 Inside Wire, as set forth in Section 7 of this Attachment;
- 2.6 Dark Fiber, as set forth in Section 8 of this Attachment;
- 2.7 Network Interface Device, as set forth in Section 9 of this Attachment;
- 2.8 Switching Elements, as set forth in Section 10 of this Attachment;
- 2.9 Interoffice Transmission Facilities (IOF), as set forth in Section 11 of this Attachment;
- 2.10 Signaling Networks and Call-Related Databases, as set forth in Section 12 of this Attachment;
- 2.11 Operations Support Systems, as set forth in Section 13 of this Attachment; and
- 2.12 Other UNEs in accordance with Section 14 of this Attachment.

3. Loop Transmission Types

- 3.1 Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall allow ATI to access Loops unbundled from local switching and local transport, in accordance with this Section 3 and the rates and charges provided in the Pricing Attachment. Verizon shall allow ATI access to Loops in accordance with, but

only to extent required by, Applicable Law. The available Loop types are as set forth below:

- 3.1.1 "2 Wire Analog Voice Grade Loop" or "Analog 2W" provides an effective 2-wire channel with 2-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals and loop-start signaling. This Loop type is more fully described in Verizon Technical Reference (TR)-72565, as revised from time-to-time. If "Customer-Specified Signaling" is requested, the Loop will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, and no signaling. Customer specified signaling is more fully described in Verizon TR-72570, as revised from time-to-time. Verizon will not build new facilities.
- 3.1.2 "4-Wire Analog Voice Grade Loop" or "Analog 4W" provides an effective 4-wire channel with 4-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals. This Loop type will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, duplex, and no signaling. This Loop type is more fully described in Verizon TR-72570, as revised from time-to-time. Verizon will not build new facilities.
- 3.1.3 "2-Wire ISDN Digital Grade Loop" or "BRI ISDN" provides a channel with 2-wire interfaces at each end that is suitable for the transport of 160 kbps digital services using the ISDN 2B1Q line code. This Loop type is more fully described in American National Standards Institute (ANSI) T1.601-1998 and Verizon TR 72575, as revised from time-to-time. In some cases loop extension equipment may be necessary to bring the line loss within acceptable levels. Verizon will provide loop extension equipment only upon request. A separate charge will apply for loop extension equipment. The 2-Wire ISDN Digital Grade Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using 2-wire ISDN ordering codes to provide similar capability. Verizon will not build new facilities.
- 3.1.4 "2-Wire ADSL-Compatible Loop" or "ADSL 2W" provides a channel with 2-wire interfaces at each end that is suitable for the transport of digital signals up to 8 Mbps toward the Customer and up to 1 Mbps from the Customer. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. ADSL-Compatible Loops will be available only where existing copper facilities are available and meet applicable specifications. Verizon will not build new facilities. The upstream and downstream ADSL power spectral density masks and dc line power limits in Verizon TR 72575, as revised from time-to-time, must be met. The 2-Wire ADSL-Compatible Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using 2-wire ADSL ordering codes to provide similar capability.
- 3.1.5 "2-Wire HDSL-Compatible Loop" or "HDSL 2W" consists of a single 2-wire non-loaded, twisted copper pair that meets the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575,

as revised from time-to-time, must be met. 2-Wire HDSL-Compatible Loops will be provided only where existing facilities are available and can meet applicable specifications. The 2-Wire HDSL-Compatible Loop is available only in the former Bell Atlantic Service areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using 2-Wire HDSL ordering codes to provide similar capability. Verizon will not build new facilities.

- 3.1.6 "4-Wire HDSL-Compatible Loop" or "HDSL 4W" consists of two 2-wire non-loaded, twisted copper pairs that meet the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575, as revised from time-to-time, must be met. 4-Wire HDSL-Compatible Loops will be provided only where existing facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.7 "2-Wire IDSL-Compatible Metallic Loop" consists of a single 2-wire non-loaded, twisted copper pair that meets revised resistance design criteria. This Loop is intended to be used with very-low band symmetric DSL systems that meet the Class 1 signal power limits and other criteria in the T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3) and are not compatible with 2B1Q 160 kbps ISDN transport systems. The actual data rate achieved depends upon the performance of CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3, as revised from time-to-time. This loop cannot be provided via UDLC. The 2-Wire IDSL-Compatible Metallic Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop using ISDN ordering codes to provide similar capability. IDLC-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.8 "2-Wire SDSL-Compatible Loop", is intended to be used with low band symmetric DSL systems that meet the Class 2 signal power limits and other criteria in the T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3). This Loop consists of a single 2-wire non-loaded, twisted copper pair that meets Class 2 length limit in T1E1.4/2000-002R3. The data rate achieved depends on the performance of the CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3, as revised from time-to-time. The 2-Wire SDSL-Compatible Loop is available only in the former Bell Atlantic Service Areas. In the former GTE Service Areas only, ATI may order a 2-Wire Digital Compatible Loop to provide similar capability. SDSL-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new facilities.
- 3.1.9 "4-Wire 56 kbps Loop" is a 4-wire Loop that provides a transmission path that is suitable for the transport of digital data at a synchronous rate of 56 kbps in opposite directions on such Loop simultaneously. A 4-Wire 56 kbps Loop consists of two pairs of non-loaded copper wires

with no intermediate electronics or it consists of universal digital loop carrier with 56 kbps DDS dataport transport capability. Verizon shall provide 4-Wire 56 kbps Loops to ATI in accordance with, and subject to, the technical specifications set forth in Verizon TR-72575, as revised from time-to-time. Verizon will not build new facilities.

- 3.1.10 "DS-1 Loops" provide a digital transmission channel suitable for the transport of 1.544 Mbps digital signals. This Loop type is more fully described in Verizon TR 72575, as revised from time to time. The DS-1 Loop includes the electronics necessary to provide the DS-1 transmission rate. A DS-1 Loop will be provided only where the electronics necessary to provide the DS-1 transmission rate are at the requested installation date currently available for the requested DS-1 Loop. Verizon will not install new electronics. If the electronics necessary to provide Clear Channel (B8ZS) signaling are at the requested installation date currently available for a requested DS-1 Loop, upon request by ATI, the DS-1 Loop will be furnished with Clear Channel (B8ZS) signaling. Verizon will not install new electronics to furnish Clear Channel (B8ZS) signaling.
- 3.1.11 "DS-3 Loops" will support the transmission of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS-1 channels). This Loop type is more fully described in Verizon TR 72575, as revised from time to time. The DS-3 Loop includes the electronics necessary to provide the DS-3 transmission rate. A DS-3 Loop will be provided only where the electronics necessary to provide the DS-3 transmission rate are at the requested installation date currently available for the requested DS-3 Loop. Verizon will not install new electronics and Verizon will not build new facilities.
- 3.1.12 In the former Bell Atlantic Service Areas only, "Digital Designed Loops" are comprised of designed loops that meet specific ATI requirements for metallic loops over 18k ft. or for conditioning of ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loops. "Digital Designed Loops" may include requests for:
 - 3.1.12.1 a 2W Digital Designed Metallic Loop with a total loop length of 18k to 30k ft., unloaded, with the option to remove bridged tap;
 - 3.1.12.2 a 2W ADSL Loop of 12k to 18k ft. with an option to remove bridged tap (such a Loop with the bridged tap so removed shall be deemed to be a "2W ADSL Compatible Loop");
 - 3.1.12.3 a 2W ADSL Loop of less than 12k ft. with an option to remove bridged tap (such a Loop with the bridged tap so removed shall be deemed to be a "2W ADSL Compatible Loop");
 - 3.1.12.4 a 2W HDSL Loop of less than 12k ft. with an option to remove bridged tap;
 - 3.1.12.5 a 4W HDSL Loop of less than 12k ft with an option to remove bridged tap;
 - 3.1.12.6 a 2 W Digital Designed Metallic Loop with Verizon-placed ISDN loop extension electronics;

- 3.1.12.7 a 2W SDSL Loop with an option to remove bridged tap; and
- 3.1.12.8 a 2W IDSL Loop of less than 18k ft. with an option to remove bridged tap;
- 3.1.13 Verizon shall make Digital Designed Loops available ATI at the rates as set forth in the Pricing Attachment.
- 3.1.14 In the former GTE Service Areas only, "Conditioned Loops" are comprised of designed loops that meet specific ATI requirements for metallic loops over 12k ft. or for conditioning of 2-wire or 4-wire digital or BRI ISDN Loops. "Conditioned Loops" may include requests for:
 - 3.1.14.1 a 2W Digital Loop with a total loop length of 12k to 30k ft., unloaded, with the option to remove bridged tap (such a Loop, unloaded, with bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.2 a 2W Digital Loop of 12k to 18k ft. with an option to remove load coils and/or bridged tap (such a Loop with load coils and/or bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.3 a 2W Digital or 4W Digital Loop of less than 12k ft. with an option to remove bridged tap (such a 2W Loop with bridged tap so removed shall be deemed to be a "2W Digital Compatible Loop");
 - 3.1.14.4 a 2W Digital Loop with Verizon-placed ISDN loop extension electronics (such a Loop with ISDN loop extension electronics so placed shall be deemed to be a "2W Digital Compatible Loop").
- 3.1.15 Verizon shall make Conditioned Loops available to ATI at the rates as set forth in the Pricing Attachment.
- 3.2 The following ordering procedures shall apply to xDSL Compatible Loops, Digital Designed and Conditioned Loops:
 - 3.2.1 ATI shall place orders for xDSL Compatible Loops, Digital Designed and Conditioned Loops by delivering to Verizon a valid electronic transmittal Service Order or other mutually agreed upon type of Service Order. Such Service Order shall be provided in accordance with industry format and specifications or such format and specifications as may be agreed to by the Parties.
 - 3.2.2 In former Bell Atlantic Service Areas, Verizon is conducting a mechanized survey of existing Loop facilities, on a Central Office by Central Office basis, to identify those Loops that meet the applicable technical characteristics established by Verizon for compatibility with xDSL Compatible or BRI ISDN signals. The results of this survey will be stored in a mechanized database and made available to ATI as the process is completed in each Central Office. ATI must utilize this mechanized loop qualification database, where available, in advance of submitting a valid electronic transmittal Service Order for an xDSL Compatible or BRI ISDN Loop. Charges for mechanized loop qualification information are set forth in the Pricing Attachment. In

former GTE Service Areas, Verizon provides access to mechanized xDSL loop qualification information to help identify those loops that meet applicable technical characteristics for compatibility with xDSL Services that the CLEC may wish to offer to its end user Customers. ATI must access Verizon's mechanized loop qualification system through the use of the on-line computer interface at www.verizon.com/wise in advance of submitting a valid electronic transmittal Service Order for xDSL service arrangements. The loop qualification information provided by Verizon gives ATI the ability to determine loop composition, loop length and may provide other loop characteristics, when present, that may indicate incompatibility with xDSL Services such as load coils or Digital Loop Carrier. Information provided by the mechanized loop qualification system also indicates whether loop conditioning may be necessary. It is the responsibility of ATI to evaluate the loop qualification information provided by Verizon and determine whether a loop meets ATI requirements for xDSL Service, including determining whether conditioning should be ordered, prior to submitting an Order.

- 3.2.3 If the Loop is not listed in the mechanized database described in Section 3.2.2 of this Attachment, ATI must request a manual loop qualification, where such qualification is available, prior to submitting a valid electronic Service Order for an xDSL Compatible or BRI ISDN Loop. In general, Verizon will complete a manual loop qualification request within three (3) Business Days, although Verizon may require additional time due to poor record conditions, spikes in demand, or other unforeseen events. The manual loop qualification process is currently available in the former Bell Atlantic Service Areas only.
- 3.2.4 If a query to the mechanized loop qualification database or manual loop qualification indicates that a Loop does not qualify (e.g., because it does not meet the applicable technical parameters set forth in the Loop descriptions above), ATI may request an Engineering Query, where available, as described in Section 3.2.7 of this Attachment, to determine whether the result is due to characteristics of the loop itself (e.g., specific number and location of bridged taps, the specific number of load coils, or the gauge of the cable).
- 3.2.5 Once a Loop has been pre-qualified, ATI will submit a Service Order pursuant to Section 3.2.1 of this Attachment if it wishes to obtain the Loop.
 - 3.2.5.1 If the Loop is determined to be xDSL Compatible and if the Loop serving the serving address is usable and available to be assigned as a xDSL Compatible Loop, Verizon will initiate standard Loop provisioning and installation processes, and standard Loop provisioning intervals will apply.
 - 3.2.5.2 If the Loop is determined to be xDSL Compatible, but the Loop serving the service address is unusable or unavailable to be assigned as an xDSL Compatible Loop, Verizon will search the Customer's serving terminal for a suitable spare facility. If an xDSL Compatible Loop is found within the serving terminal, Verizon will perform a Line and Station Transfer (or "pair swap") whereby the Verizon technician will transfer the Customer's existing service from one existing

Loop facility onto an alternate existing xDSL Compatible Loop facility serving the same location. Verizon performs Line and Station Transfers in accordance with the procedures developed in the DSL Collaborative in the State of New York, NY PSC Case 00-C-0127. Standard intervals do not apply when Verizon performs a Line and Station Transfer, and additional charges shall apply as set forth in the Pricing Attachment.

- 3.2.6 If ATI submits a Service Order for an xDSL Compatible or BRI ISDN Loop that has not been prequalified, Verizon will query the Service Order back to ATI for qualification and will not accept such Service Order until the Loop has been prequalified on a mechanized or manual basis. If ATI submits a Service Order for an xDSL Compatible or BRI ISDN Loop that is, in fact, not compatible with the requested service (e.g. ADSL, HDSL etc.) in its existing condition, Verizon will respond back to ATI with a "Nonqualified" indicator and with information showing whether the non-qualified result is due to the presence of load coils, presence of digital loop carrier, or loop length (including bridged tap).
- 3.2.7 Where ATI has followed the prequalification procedure described above and has determined that a Loop is not compatible with xDSL technologies or BRI ISDN service in its existing condition, it may either request an Engineering Query, where available, to determine whether conditioning may make the Loop compatible with the applicable service; or if ATI is already aware of the conditioning required (e.g., where ATI has previously requested a qualification and has obtained loop characteristics), ATI may submit a Service Order for a Digital Designed Loop. Verizon will undertake to condition or extend the Loop in accordance with this Section 3.2 of this Attachment upon receipt of ATI's valid, accurate and pre-qualified Service Order for a Digital Designed Loop.
- 3.2.8 The Parties will make reasonable efforts to coordinate their respective roles in order to minimize provisioning problems. In general, where conditioning or loop extensions are requested by ATI, an interval of eighteen (18) Business Days will be required by Verizon to complete the loop analysis and the necessary construction work involved in conditioning and/or extending the loop as follows:
- 3.2.8.1 Three (3) Business Days will be required following receipt of ATI's valid, accurate and pre-qualified Service Order for a Digital Designed or Conditioned Loop to analyze the loop and related plant records and to create an Engineering Work Order.
- 3.2.8.2 Upon completion of an Engineering Work Order, Verizon will initiate the construction order to perform the changes/modifications to the Loop requested by ATI. Conditioning activities are, in most cases, able to be accomplished within fifteen (15) Business Days. Unforeseen conditions may add to this interval.

After the engineering and conditioning tasks have been completed, the standard Loop provisioning and installation process will be initiated, subject to Verizon's standard provisioning intervals.

- 3.2.9 If ATI requires a change in scheduling, it must contact Verizon to issue a supplement to the original Service Order. If ATI cancels the request for conditioning after a loop analysis has been completed but prior to the commencement of construction work, ATI shall compensate Verizon for an *Engineering Work Order charge as set forth in the Pricing Attachment*. If ATI cancels the request for conditioning after the loop analysis has been completed and after construction work has started or is complete, ATI shall compensate Verizon for an *Engineering Work Order charge as well as the charges associated with the conditioning tasks performed as set forth in the Pricing Attachment*.
- 3.3 Conversion of Live Telephone Exchange Service to Analog 2W Loops.
- 3.3.1 The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to ATI Telephone Exchange Services provisioned over *Analog 2W unbundled Local Loops ("Analog 2W Loops)* to be provided by Verizon to ATI:
- 3.3.1.1 Coordinated cutover charges shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops. *When an outside dispatch is required to perform a conversion, additional charges may apply. If ATI does not request a coordinated cutover, Verizon will process ATI's order as a new installation subject to applicable standard provisioning intervals.*
- 3.3.1.2 ATI shall request Analog 2W Loops for coordinated cutover from Verizon by delivering to Verizon a valid electronic Local Service Request ("LSR"). Verizon agrees to accept from ATI the date and time for the conversion designated on the LSR ("Scheduled Conversion Time"), provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force is not available, ATI and Verizon shall mutually agree on a New Conversion Time, as defined below. ATI shall designate the Scheduled Conversion Time subject to Verizon standard provisioning intervals as stated in the Verizon CLEC Handbook, as may be revised from time to time. Within three (3) Business Days of Verizon's receipt of such valid LSR, or as otherwise required by Applicable Law, Verizon shall provide ATI the scheduled due date for conversion of the *Analog 2W Loops covered by such LSR*.
- 3.3.1.3 ATI shall provide dial tone at the ATI collocation site at least forty-eight (48) hours prior to the Scheduled Conversion Time.
- 3.3.1.4 Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New

Conversion Time may not be rescheduled more than one (1) time in a Business Day, and any two New Conversion Times for a particular Analog 2W Loop shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.

3.3.1.5 If the New Conversion Time is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:

3.3.1.5.1 If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be credited upon request from ATI; and

3.3.1.5.2 If ATI requests to reschedule outside the one (1) hour time frame above, ATI shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.

3.3.1.6 If ATI is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and ATI will reschedule and, upon request from ATI, Verizon will credit the Analog 2W Loop Service Order Charge for the original Scheduled Conversion Time.

3.3.1.7 The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the Analog 2W Loops to ATI is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a negotiated interval.

3.3.1.8 Conversions involving LNP will be completed according to North American Numbering Council (NANC) standards, via the regional Number Portability Administration Center (NPAC).

3.3.1.9 If ATI requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.

3.4 Cooperative Testing.

In the former Bell Atlantic Service Areas only, ATI may request Cooperative Testing in conjunction with its request for an xDSL Compatible Loop or Digital

Designed Loop. "Cooperative Testing" is a procedure whereby a Verizon technician and a ATI technician jointly verify that an xDSL Compatible Loop or Digital Designed Loop is properly installed and operational prior to Verizon's completion of the order. ATI may request, at its option, Cooperative Testing by entering a toll-free (e.g. 800/888/877) number in the Remarks field of the LSR of an xDSL Compatible or Digital Designed Loop Service Order, and the Verizon technician will call the toll-free number to perform the Cooperative Test. When both the Verizon and ATI technicians agree that the Loop test shows that the Loop is operational, the ATI technician will provide the Verizon technician with a serial number to acknowledge that the Loop is operational. Charges for Cooperative Testing are as set forth in the Pricing Attachment.

- 3.5 Verizon shall provide ATI access to its Loops at each of Verizon's Wire Centers for Loops terminating in that Wire Center. In addition, if ATI orders one or more Loops provisioned via Integrated Digital Loop Carrier or Remote Switching technology deployed as a Loop concentrator, Verizon shall, where available, move the requested Loop(s) to a spare physical Loop, if one is existing and available, at no additional charge to ATI. If, however, no spare physical Loop is available, Verizon shall within three (3) Business Days of ATI's request notify ATI of the lack of available facilities. Upon request and to the extent required by Applicable Law, Verizon will provide ATI access to the unbundled Local Loop through the demultiplexing of the integrated digitized Loop(s). Upon request and to the extent required by Applicable Law, Verizon will provide ATI access to the unbundled Local Loop at the Loop concentration site point. Notwithstanding anything to the contrary in this Agreement, standard provisioning intervals shall not apply to Loops provided under this Section 3.5.

4. Line Sharing

- 4.1 "Line Sharing" is an arrangement by which Verizon facilitates ATI's provision of ADSL (in accordance with T1.413), Splitterless ADSL (in accordance with T1.419), RADSL (in accordance with TR # 59), Multiple Virtual Line (MVL) (a proprietary technology), or any other xDSL technology that is presumed to be acceptable for shared line deployment in accordance with FCC Regulations, to a particular Customer location over an existing copper Loop that is being used simultaneously by Verizon to provide analog circuit-switched Voice Grade service to that Customer by making available to ATI, solely for ATI's own use, the frequency range above the voice band on the same copper Loop required by ATI to provide such services. This Section 4 addresses line sharing over loops that are entirely copper loops.
- 4.2 Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall provide Line Sharing to ATI for ATI's provision of ADSL (in accordance with T1.413), Splitterless ADSL (in accordance with T1.419), RADSL (in accordance with TR # 59), MVL (a proprietary technology), or any other xDSL technology that is presumed to be acceptable for shared line deployment in accordance with FCC Regulations. Verizon shall provide Line Sharing to ATI in accordance with, but only to the extent required by, Applicable Law. In order for a Loop to be eligible for Line Sharing, the following conditions must be satisfied for the duration of the Line Sharing arrangement: (i) the Loop must consist of a copper loop compatible with an xDSL service that is presumed to be acceptable for shared-line deployment in accordance with FCC Regulations; (ii) Verizon must be providing simultaneous circuit-switched analog Voice Grade service to the Customer served by the Loop in question; (iii) the Verizon Customer's dial tone must originate from a Verizon End Office Switch in the Wire Center where the Line Sharing arrangement is being requested; and (iv) the xDSL technology to be

deployed by ATI on that Loop must not significantly degrade the performance of other services provided on that Loop.

- 4.3 Verizon shall make Line Sharing available to ATI at the rates and charges set forth in the Pricing Attachment. In addition to the recurring and non-recurring charges shown in the Pricing Attachment for Line Sharing itself, the following rates shown in the Pricing Attachment and in Verizon's applicable Tariffs are among those that may apply to a Line Sharing arrangement: (i) prequalification charges to determine whether a Loop is xDSL compatible (i.e., compatible with an xDSL service that is presumed to be acceptable for shared-line deployment in accordance with FCC Regulations); (ii) engineering query charges, engineering work order charges, or Loop conditioning (Digital Designed or Conditioned Loop) charges; (iii) charges associated with collocation activities requested by ATI; and (iv) misdirected dispatch charges, charges for installation or repair, manual intervention surcharges, trouble isolation charges, and pair swap/line and station transfer charges.
- 4.4 The following ordering procedures shall apply to Line Sharing:
- 4.4.1 To determine whether a Loop qualifies for Line Sharing, the Loop must first be prequalified to determine if it is xDSL compatible. ATI must utilize the Loop qualification processes described in the terms applicable to xDSL Compatible Loops, Digital Designed Loops and Conditioned Loops to make this determination.
- 4.4.2 ATI shall place orders for Line Sharing by delivering to Verizon a valid electronic transmittal Service Order or other mutually agreed upon type of Service Order. Such Service Order shall be provided in accordance with industry format and specifications or such format and specifications as may be agreed to by the Parties.
- 4.4.3 If the Loop is prequalified by ATI through the Verizon Loop prequalification tools, and if a positive response is received and followed by receipt of ATI's valid, accurate and pre-qualified Service Order for Line Sharing, Verizon will return an LSR confirmation within twenty-four (24) hours (weekends and holidays excluded) for LSRs with less than six (6) loops and within 72 hours (weekends and holidays excluded) for LSRs with six (6) or more loops. In such case, Verizon shall initiate provisioning and installation in accordance with the terms pertaining to xDSL Compatible Loops, Digital Designed Loops and Conditioned Loops pursuant to Section 3.2.5 of this Attachment.
- 4.4.4 If the Loop requires qualification manually or through an Engineering Query, three (3) additional Business Days will generally be required to obtain Loop qualification results before an order confirmation can be returned following receipt of ATI's valid, accurate request. Verizon may require additional time to complete the Engineering Query where there are poor record conditions, spikes in demand, or other unforeseen events.
- 4.4.5 If conditioning is required to make a Loop capable of supporting Line Sharing and ATI orders such conditioning, then Verizon shall provide such conditioning in accordance with the terms of this Agreement pertaining to Digital Designed or Conditioned Loops; provided, however, that Verizon shall not be obligated to provide Loop conditioning if Verizon establishes, in the manner required by

Applicable Law, that such conditioning is likely to degrade significantly the Voice-Grade service being provided to Verizon's Customers over such Loops.

- 4.4.6 The standard Loop provisioning and installation process will be initiated for the Line Sharing arrangement only once the requested engineering and conditioning tasks have been completed on the Loop. Scheduling changes and charges associated with order cancellations *after conditioning work has been initiated are addressed in the terms* pertaining to Digital Designed and Conditioned Loops, as referenced in Section 4.4.5 of this Attachment. The standard provisioning interval for the Line Sharing arrangement shall be as set out in the Verizon Product Interval Guide; provided that the standard provisioning interval for the Line Sharing arrangement shall not exceed the shortest of the following intervals: (a) six (6) Business Days; (b) the standard provisioning interval for the Line Sharing arrangement that is stated in an applicable Verizon Tariff; or, (c) the standard provisioning interval for the Line Sharing arrangement that is required by Applicable Law, if any. The standard provisioning interval for the Line Sharing arrangement shall commence only once any requested engineering and conditioning tasks have been completed. The standard provisioning interval shall not apply where a Line and Station Transfer is performed pursuant to Section 3.2.5.2. In no event shall the Line Sharing interval offered to ATI be longer than the interval offered to any similarly situated Affiliate of Verizon.
- 4.4.7 ATI must provide all required collocation, CFA, Special Bill Number (SBN) and NC/NCI information when a Line Sharing Arrangement is ordered. Collocation augments required, either at the Point of Termination (POT) Bay, collocation node, or for splitter placement, must be ordered using standard collocation applications and procedures, unless otherwise agreed to by the Parties or specified in this Agreement.
- 4.4.8 The Parties recognize that Line Sharing is an offering that requires both Parties to make reasonable efforts to coordinate their respective roles in order to minimize provisioning problems and facility issues. ATI will provide reasonable, timely, and accurate forecasts of its Line Sharing requirements, including splitter placement elections and ordering preferences. *These forecasts are in addition to projections provided for other stand-alone unbundled Loop types.*
- 4.5 To the extent required by Applicable Law, ATI shall provide Verizon with information regarding the type of xDSL technology that it deploys on each shared Loop. Where any proposed change in technology is planned on a shared Loop, ATI must provide this information to Verizon in order for Verizon to update Loop records and anticipate effects that the change may have on the Voice Grade service and other Loops in the same or adjacent binder groups.
- 4.6 As described more fully in Verizon Technical Reference 72575, the xDSL technology used by ATI for Line Share Arrangements shall operate within the Power Spectral Density (PSD) limits set forth in T1.413-1998 (ADSL), T1.419-2000 (Splitterless ADSL), or TR59-1999 (RADSL), and MVL (a proprietary technology) shall operate within the 0 to 4 kHz PSD limits of T1.413-1998 and within the transmit PSD limits of T1.601-1998 for frequencies above 4 kHz, provided that the MVL PSD associated with audible frequencies above 4 kHz shall be sufficiently attenuated to preclude significantly degrading voice services.

ATI's deployment of additional Advanced Services shall be subject to the applicable FCC Regulations.

- 4.7 ATI may only access the high frequency portion of a Loop in a Line Sharing arrangement through an established collocation arrangement at the Verizon Serving Wire Center that contains the End Office Switch through which Voice Grade service is provided to Verizon's Customer. ATI is responsible for providing, through one of the splitter options described below, a splitter at that Wire Center that complies with ANSI specification T1.413, employs Direct Current (DC) blocking capacitors or equivalent technology to assist in isolating high bandwidth trouble resolution and maintenance to the high frequency portion of the frequency spectrum, and operates so that the analog voice "dial tone" stays active when the splitter card is removed for testing or maintenance. ATI is also responsible for providing its own Digital Subscriber Line Access Multiplexer (DSLAM) equipment in the collocation arrangement and any necessary Customer Provided Equipment (CPE) for the xDSL service it intends to provide (including CPE splitters, filters and/or other equipment necessary for the end user to receive separate voice and data services across the shared Loop).

Two splitter configurations are available. In both configurations, the splitter must be provided by ATI and must satisfy the same NEBS requirements that Verizon imposes on its own splitter equipment or the splitter equipment of any Verizon Affiliate. ATI must designate which splitter option it is choosing on the collocation application or augment. Regardless of the option selected, the splitter arrangements must be installed before ATI submits an order for Line Sharing.

Splitter Option A (Splitter Option 1): Splitter in ATI Collocation Area

In this configuration, the ATI-provided splitter (ANSI T1.413 or MVL compliant) is provided, installed and maintained by ATI in its own collocation space within the Customer's serving End Office. The Verizon-provided dial tone is routed through the splitter in the ATI collocation area. Any rearrangements will be the responsibility of ATI.

Splitter Option C (Splitter Option 2): Splitter in Verizon Area

In this configuration, Verizon inventories and maintains a ATI-provided splitter (ANSI T1.413 or MVL compliant) in Verizon space within the Customer's serving End Office. The splitters will be installed shelf-at-a-time.

In those serving End Offices where Verizon employs the use of a POT Bay for interconnection of ATI's collocation arrangement with Verizon's network, the splitter will be installed (mounted) in a relay rack between the POT Bay and the MDF. The demarcation point is at the splitter end of the cable connecting the POT Bay and the splitter. Installation of the splitter will be performed by Verizon or, at ATI's election, by a Verizon-approved vendor designated by ATI.

In those serving End Offices where Verizon does not employ a POT Bay for interconnection of ATI's collocation arrangement with Verizon's network, the ATI provided splitter will be installed (mounted) in a relay rack between the ATI collocation arrangement and the MDF. The demarcation point is at the splitter end of the cable connecting the ATI collocation arrangement and the splitter. Installation of the splitter will be performed by Verizon, or, at ATI's election, by a Verizon-approved vendor designated by ATI.

In either scenario, Verizon will control the splitter and will direct any required activity. Where a POT Bay is employed, Verizon will also perform all POT Bay work required in this configuration. Verizon will provide a splitter inventory to ATI upon completion of the required work.

- 4.7.1 Where a new splitter is to be installed as part of an initial collocation implementation, the splitter installation may be ordered as part of the initial collocation application. Associated collocation charges (application and engineering fees) apply. ATI must submit a new collocation application, with the application fee, to Verizon detailing its request. Except as otherwise required by Applicable Law, standard collocation intervals will apply.
- 4.7.2 Where a new splitter is to be installed as part of an existing collocation arrangement, or where the existing collocation arrangement is to be augmented (e.g., with additional terminations at the POT Bay or ATI's collocation arrangement to support Line Sharing), the splitter installation or augment may be ordered via an application for collocation augment. Associated collocation charges (application and engineering fees) apply. ATI must submit the application for collocation augment, with the application fee, to Verizon. Unless a longer interval is stated in Verizon's applicable Tariff, an interval of seventy-six (76) Business Days shall apply.
- 4.8 ATI will have the following options for testing shared Loops:
 - 4.8.1 In serving End Offices where Verizon employs a POT Bay for interconnection of ATI collocation arrangement with Verizon's network, the following options shall be available to ATI.
 - 4.8.1.1 Under Splitter Option A, ATI may conduct its own physical tests of the shared Loop from ATI's collocation area. If it chooses to do so, ATI may supply and install a test head to facilitate such physical tests, provided that: (a) the test head satisfies the same NEBS requirements that Verizon imposes on its own test head equipment or the test head equipment of any Verizon Affiliate; and (b) the test head does not interrupt the voice circuit to any greater degree than a conventional MLT test. Specifically, the ATI-provided test equipment may not interrupt an in-in-progress voice connection and must automatically restore any circuits tested in intervals comparable to MLT. This optional ATI-provided test head will be installed in ATI's collocation area between the "line" port of the splitter and the POT Bay in order to conduct remote physical tests of the shared Loop.
 - 4.8.1.2 Under Splitter Option C, upon request by ATI, either Verizon or, at ATI's election, a Verizon-approved vendor selected by ATI will install a ATI-provided test head to enable ATI to conduct remote physical tests of the shared Loop. This optional ATI-provided test head will be installed at a point between the "line" port of the splitter and the Verizon-provided test head that is used by Verizon to conduct its own Loop testing. The ATI-provided test head must satisfy the same NEBS requirements that Verizon imposes on its own test head equipment or the test head

equipment of any Verizon Affiliate, and may not interrupt the voice circuit to any greater degree than a conventional MLT test. Specifically, the ATI-provided test equipment may not interrupt an in-progress voice connection and must automatically restore any circuits tested in intervals comparable to MLT. Verizon will inventory, control and maintain the ATI-provided test head, and will direct all required activity.

- 4.8.1.3 Under either Splitter Option, if Verizon has installed its own test head, Verizon will conduct tests of the shared Loop using a Verizon-provided test head, and, upon request, will provide these test results to ATI during normal trouble isolation procedures in accordance with reasonable procedures.
 - 4.8.1.4 Under either Splitter Option, upon request by ATI, Verizon will make MLT access available to ATI via RETAS after the Service Order has been completed. ATI will utilize the circuit number to initiate a test.
 - 4.8.1.5 Where Verizon has deployed Wideband Test equipment (i.e., Verizon-East), under either Splitter Option, upon request by ATI, Verizon shall perform a Wideband Test to diagnose troubles and provide ATI with the test results during the trouble shooting process. Charges for Wideband Testing are as set forth in the Pricing Attachment.
- 4.8.2 In those serving End Offices where Verizon has not employed a POT Bay for interconnection of ATI's collocation arrangement with Verizon's network, ATI will not be permitted to supply its own test head. Instead, Verizon will make a testing system available to ATI through use of the on-line computer interface test system at www.verizon.com/wise.
- 4.8.3 The Parties will continue to work cooperatively on testing procedures. To this end, in situations where ATI has attempted to use one or more of the foregoing testing options but is still unable to resolve the error or trouble on the shared Loop, Verizon and ATI will each dispatch a technician to an agreed-upon point to conduct a joint meet test to *identify and resolve the error or trouble*. Verizon may assess a charge for a misdirected dispatch only if the error or trouble is determined to be one that ATI should reasonably have been able to isolate and diagnose through one of the testing options available to ATI above. The Parties will mutually agree upon the specific procedures for conducting joint meet tests.
- 4.8.4 Verizon and ATI each have a responsibility to educate the Customer regarding which service provider should be called for problems with their respective service offerings. Verizon will retain primary responsibility for voice band trouble tickets, including repairing analog Voice Grade services and the physical line between the NID at the Customer premises and the point of demarcation in the Central Office. ATI will be responsible for repairing services it offers over the Line Sharing arrangement. Each Party will be responsible for maintaining its own equipment. If a splitter or test head that ATI has provided to Verizon malfunctions, ATI shall provide a replacement splitter or test head to Verizon. Before either Party initiates any activity on a shared

Loop that may cause a disruption of the service of the other Party, that Party shall first make a good faith effort to notify the other Party of the possibility of a service disruption. Verizon and ATI will work together to address Customer initiated repair requests and to prevent adverse impacts to the Customer.

4.8.5 When Verizon provides Inside Wire maintenance services to the Customer, Verizon will only be responsible for testing and repairing the *Inside Wire for voice-grade services*. Verizon will not test, dispatch a technician, repair, or upgrade Inside Wire to clear trouble calls associated with ATI's Advanced Services. Verizon will not repair any CPE provided by ATI. Before a trouble ticket is issued to Verizon, ATI shall validate whether the Customer is experiencing a trouble that arises from ATI's service. If the problem reported is isolated to the analog voice-grade service provided by Verizon, a trouble ticket may be issued to Verizon.

4.8.6 In the case of a trouble reported by the Customer on its Voice Grade service, if Verizon determines the reported trouble arises from ATI's equipment, splitter problems, or ATI's activities, Verizon will:

4.8.6.1 Notify ATI and request that ATI immediately test the trouble on ATI's service.

4.8.6.2 If the Customer's Voice Grade service is so degraded that the Customer cannot originate or receive Voice Grade calls, and ATI has not cleared its trouble within a reasonable time frame, Verizon may take unilateral steps to temporarily restore the Customer's Voice Grade service if Verizon determines in good faith that the cause of the voice interruption is ATI's service. Where the Customer's Voice Grade service is degraded by ATI's particular technology deployment, Verizon will, to the extent required by Applicable Law, establish before the Commission that ATI's particular technology deployment is causing the significant degradation and, upon Verizon having done so, ATI will discontinue deployment (or use) of that technology and will migrate its Customers to technologies that will not significantly degrade the performance of other such services.

4.8.6.3 Upon completion of the steps in Sections 4.8.6.1 and 4.8.6.2 of this Attachment, Verizon may temporarily remove the ATI-provided splitter from the Customer's Loop and switch port if Verizon determines in good faith that the cause of the voice interruption is ATI's service.

4.8.6.4 Upon notification from ATI that the malfunction in ATI's service has been cleared, Verizon will restore ATI's service by restoring the splitter on the Customer's Loop.

4.8.6.5 Upon completion of the above steps, ATI will be charged a Trouble Isolation Charge (TIC) to recover Verizon's costs of isolating and temporarily removing the malfunctioning ATI service from the Customer's line if the cause of the voice interruption was ATI's service.

- 4.8.6.6 Verizon shall not be liable to ATI, the Customer, or any other person, for damages of any kind for disruptions to ATI's service that are the result of the above steps taken in good faith to restore the end user's voice-grade POTS service, and ATI shall indemnify Verizon from any Claims that result from such steps.

5. Line Splitting

CLECs may provide integrated voice and data services over the same Loop by engaging in "Line Splitting" as set forth in paragraph 18 of the FCC's Line Sharing Reconsideration Order (CC Docket Nos. 98-147, 96-98), released January 19, 2001. Any Line Splitting between two CLECs shall be accomplished by prior negotiated arrangement between those CLECs. To achieve a Line Splitting capability, CLECs may utilize supporting Verizon OSS to order and combine in a Line Splitting configuration an unbundled xDSL Compatible Loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects, under the terms and conditions set forth in their Interconnection Agreement(s). The participating CLECs shall provide any splitters used in a Line Splitting configuration. CLECs seeking to migrate existing UNE platform configurations to a Line Splitting configuration using the same Network Elements utilized in the pre-existing platform arrangement, or seeking to migrate a Line Sharing arrangement to a Line Splitting configuration using the existing Loop, a Verizon Local Switching Network Element, and the existing central office wiring configuration, may do so consistent with such implementation schedules, terms, conditions and guidelines as are agreed upon for such migrations in the ongoing DSL Collaborative in the State of New York, NY PSC Case 00-C-0127, allowing for local jurisdictional and OSS differences.

6. Sub-Loop

Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall allow ATI to access Sub-Loops unbundled from local switching and transport, in accordance with the terms of this Section 6 and the rates and charges set forth in the Pricing Attachment. Verizon shall allow ATI access to Sub-Loops in accordance with, but only to the extent required by, Applicable Law. The available Sub-Loop types are as set forth below.

6.1 Unbundled Sub-Loop Arrangement— Distribution (USLA).

Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to a Sub-Loop Distribution Facility in accordance with, and subject to, the terms and provisions of this Section 6.1, the rates set forth in the Pricing Attachment, and the rates, terms and conditions set forth in Verizon's applicable Tariffs. Verizon shall provide ATI with access to a Sub-Loop Distribution Facility in accordance with, but only to the extent required by, Applicable Law.

- 6.1.1 ATI may request that Verizon reactivate (if available) an unused drop and NID or provide ATI with access to a drop and NID that, at the time of ATI's request, Verizon is using to provide service to the Customer (as such term is hereinafter defined).
- 6.1.2 ATI may obtain access to a Sub-Loop Distribution Facility only at an FDI, through any method required by Applicable Law, in addition to existing methods such as from a Telecommunications outside plant

interconnection cabinet (TOPIC) or, if ATI is collocated at a remote terminal equipment enclosure and the FDI for such Sub-Loop Distribution Facility is located in such enclosure, from the collocation arrangement of ATI at such terminal. If ATI obtains access to a Sub-Loop Distribution Facility from a TOPIC, ATI shall install a TOPIC on an easement or Right of Way obtained by ATI within 100 feet of the Verizon FDI to which such Sub-Loop Distribution Facility is connected. A TOPIC must comply with applicable industry standards. Subject to the terms of applicable Verizon easements, Verizon shall furnish and place an interconnecting cable between a Verizon FDI and a ATI TOPIC and Verizon shall install a termination block within such TOPIC. Verizon shall retain title to and maintain the interconnecting cable. Verizon shall not be responsible for building, maintaining or servicing the TOPIC and shall not provide any power that might be required by ATI for any of ATI's electronics in the TOPIC. ATI shall provide any easement, Right of Way or trenching or supporting structure required for any portion of an interconnecting cable that runs beyond a Verizon easement.

6.1.3 ATI may request from Verizon by submitting a loop make-up engineering query to Verizon, and Verizon shall provide to ATI, the following information regarding a Sub-Loop Distribution Facility that serves an identified Customer: the Sub-Loop Distribution Facility's length and gauge; whether the Sub-Loop Distribution Facility has *loading and bridged tap*; the amount of bridged tap (if any) on the Sub-Loop Distribution Facility; and, the location of the FDI to which the Sub-Loop Distribution Facility is connected.

6.1.4 To order access to a Sub-Loop Distribution Facility from a TOPIC, ATI must first request that Verizon connect the Verizon FDI to which the Sub-Loop Distribution Facility is connected to a ATI TOPIC. To make such a request, ATI must submit to Verizon an application (a "Sub-Loop Distribution Facility Interconnection Application") that identifies the FDI at which ATI wishes to access the Sub-Loop Distribution Facility. A Sub-Loop Distribution Facility Interconnection Application shall state the location of the TOPIC, the size of the interconnecting cable and a description of the cable's supporting structure. A Sub-Loop Distribution Facility Interconnection Application shall also include a five-year forecast of ATI's demand for access to Sub-Loop Distribution Facilities at the requested FDI. ATI must submit the application fee set forth in the Pricing Attachment attached hereto and Verizon's applicable Tariffs (a "Sub-Loop Distribution Facility Application Fee") with Sub-Loop Distribution Facility Interconnection Application. ATI must submit Sub-Loop Interconnection Applications to:

ATI's Account Manager

6.1.5 Within sixty (60) days after it receives a complete Sub-Loop Distribution Facility Interconnection Application for access to a Sub-Loop Distribution Facility and the Sub-Loop Distribution Facility Application Fee for such application, Verizon shall provide to ATI a work order that describes the work that Verizon must perform to provide such access (a "Sub-Loop Distribution Facility Work Order") and a statement of the cost of such work (a "Sub-Loop Distribution Facility Interconnection Cost Statement").

- 6.1.6 ATI shall pay to Verizon fifty percent (50%) of the cost set forth in a Sub-Loop Distribution Facility Interconnection Cost Statement within sixty (60) days of ATI's receipt of such statement and the associated Sub-Loop Distribution Facility Work Order, and Verizon shall not be obligated to perform any of the work set forth in such order until Verizon has received such payment. A Sub-Loop Distribution Facility Interconnection Application shall be deemed to have been withdrawn if ATI breaches its payment obligation under this Section. Upon Verizon's completion of the work that Verizon must perform to provide ATI with access to a Sub-Loop Distribution Facility, Verizon shall bill ATI, and ATI shall pay to Verizon, the balance of the cost set forth in the Sub-Loop Distribution Facility Interconnection Cost Statement for such access.
- 6.1.7 After Verizon has completed the installation of the interconnecting cable to a ATI TOPIC and ATI has paid the full cost of such installation, ATI can request the connection of Verizon Sub-Loop Distribution Facilities to the ATI TOPIC. At the same time, ATI shall advise Verizon of the services that ATI plans to provide over the Sub-Loop Distribution Facility, request any conditioning of the Sub-Loop Distribution Facility and assign the pairs in the interconnecting cable. ATI shall run any crosswires within the TOPIC.
- 6.1.8 If ATI requests that Verizon reactivate an unused drop and NID, then ATI shall provide dial tone (or its DSL equivalent) on the ATI side of the applicable Verizon FDI at least twenty-four (24) hours before the due date. On the due date, a Verizon technician will run the appropriate cross connection to connect the Verizon Sub-Loop Distribution Facility to the ATI dial tone or equivalent from the TOPIC. If ATI requests that Verizon provide ATI with access to a Sub-Loop Distribution Facility that, at the time of ATI's request, Verizon is using to provide service to a Customer, then, after ATI has looped two interconnecting pairs through the TOPIC and at least twenty four (24) hours before the due date, a Verizon technician shall crosswire the dial tone from the Verizon central office through the Verizon side of the TOPIC and back out again to the Verizon FDI and Verizon Sub-Loop Distribution Facility using the "loop through" approach. On the due date, ATI shall disconnect Verizon's dial tone, crosswire its dial tone to the Sub-Loop Distribution Facility and submit ATI's long-term number portability request.
- 6.1.9 Verizon will not provide access to a Sub-Loop Distribution Facility if Verizon is using the loop of which the Sub-Loop Distribution Facility is a part to provide line sharing service to another CLEC or a service that uses derived channel technology to a Customer unless such other CLEC first terminates the Verizon-provided line sharing or such Customer first disconnects the service that utilizes derived channel technology.
- 6.1.10 Verizon shall provide ATI with access to a Sub-Loop Distribution Facility in accordance with negotiated intervals
- 6.1.11 Verizon shall repair and maintain a Sub-Loop Distribution Facility at the request of ATI and subject to the time and material rates set forth in Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs. ATI accepts responsibility for initial trouble isolation for Sub-Loop Distribution Facilities and providing Verizon with

appropriate dispatch information based on its test results. If (a) ATI reports to Verizon a Customer trouble, (b) ATI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon Sub-Loop Distribution Facility facilities or equipment in whole or in part, ATI shall pay Verizon the charges set forth in the Pricing Attachment and Verizon's applicable Tariffs for time associated with said dispatch. In addition, these charges also apply when the Customer contact as designated by ATI is not available at the appointed time. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to ATI by Verizon. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to ATI by Verizon.

6.2 Unbundled Feeder Sub-Loop – Element (UFSE).

6.2.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to a Sub-Loop Feeder Facility in accordance with, and subject to, the terms and provisions of this Section 6.2, the rates and charges provided in the Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs.

6.2.2 *ATI may obtain access to a Sub-Loop Feeder Facility through any method required by Applicable Law, in addition to existing methods such as from a ATI collocation arrangement in the Verizon End Office where such Sub-Loop Feeder Facility originates, in which case Verizon shall terminate a Sub-Loop Feeder Facility in an RTEE that subtends such End Office only if ATI has a collocation arrangement in such RTEE. Upon ATI's request, Verizon will connect a Sub-Loop Feeder Facility to a ATI collocation arrangement in the Verizon End Office where the Sub-Loop Feeder Facility originates and to either a ATI collocation arrangement in the Verizon RTEE that subtends such End Office or a Telecommunications Carrier Outside Plant Cabinet (such a cabinet, a "TOPIC") located within 100 feet of the FDI that subtends the End Office and that ATI has established in accordance with, and subject to the terms and provisions of, an agreement between Verizon and ATI that governs the establishment of such TOPIC. Verizon shall connect a Sub-Loop Feeder Facility to the point of termination bay of a ATI collocation arrangement in a Verizon Central Office or to a ATI TOPIC, by installing appropriate cross connections and Verizon shall be solely responsible for installing such cross connections. ATI may obtain access to a Sub-Loop Feeder Facility between an End Office and an RTEE or an FDI only if DS1 or DS3-capable transmission facilities are available and not in use between such office and RTEE or FDI.*

6.2.3 ATI shall run any crosswires within a ATI physical collocation arrangement and a ATI TOPIC and ATI will have sole responsibility for identifying to Verizon where a Sub-Loop Feeder Facility should be connected to a ATI collocation arrangement. ATI shall be solely responsible for providing power and space for any cross connects and

other equipment that Verizon installs in a TOPIC, and ATI shall not bill Verizon, and Verizon shall not pay ATI, for providing such power and space.

- 6.2.4 Verizon shall not be obligated to provide to ATI any multiplexing at an RTEE or at a TOPIC. If ATI requests access to a Sub-Loop Feeder Facility and a Sub-Loop Distribution Facility that are already combined, such combination shall be deemed to be a loop and Verizon shall provide such loop to ATI in accordance with, but only to the extent required by, the terms, provisions and rates in this Agreement that govern loops, if any.
- 6.2.5 Verizon shall provide ATI with access to Sub-Loop Feeder Facility in accordance with negotiated intervals.
- 6.2.6 Verizon shall repair and maintain a Sub-Loop Feeder Facility at the request of ATI and subject to the time and material rates set forth in the Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs. ATI may not rearrange, disconnect, remove or attempt to repair or maintain any Verizon equipment or facilities without the prior written consent of Verizon. ATI accepts responsibility for initial trouble isolation for Sub-Loop Feeder Facilities and providing Verizon with appropriate dispatch information based on its test results. If (a) ATI reports to Verizon a trouble, (b) ATI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Sub-Loop Feeder Facilities or equipment in whole or in part, then ATI shall pay Verizon the charges set forth in Pricing Attachment and Verizon's applicable Tariffs for time associated with said dispatch. In addition, these charges also apply when a ATI contact as designated by ATI is not available at the appointed time. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to ATI by Verizon. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to ATI by Verizon.

6.3 Collocation in Remote Terminals.

To the extent required by Applicable Law, Verizon shall allow ATI to collocate equipment in a Verizon remote terminal equipment enclosure in accordance with, and subject to, the rates, terms and conditions set forth in the Collocation Attachment and the Pricing Attachment.

7. Inside Wire

7.1 House and Riser.

[This Section Intentionally Left Blank].

8. Dark Fiber

- 8.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to unbundled Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF in accordance with, and

subject to, the rates, terms and conditions provided in the Pricing Attachment and rates, terms and conditions of Verizon's applicable Tariffs. Access to unbundled Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will be provided by Verizon only where existing facilities are available. Access to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will be provided in accordance with, but only to the extent required by, Applicable Law. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF consist of Verizon optical transmission facilities without attached multiplexers, aggregation or other electronics. To the extent Verizon's Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF contain any lightwave repeaters (e.g., regenerators or optical amplifiers) installed thereon, Verizon shall not remove the same. Except as otherwise required by Applicable Law, the following terms and conditions apply to Verizon's Dark Fiber offerings.

8.2 In addition to the other terms and conditions of this Agreement, the following terms and conditions shall apply to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF:

8.2.1 Verizon shall be required to provide a Dark Fiber Loop only where one end of the Dark Fiber Loop terminates at a Verizon accessible terminal in Verizon's Central Office that can be cross-connected to ATI's collocation arrangement located in that same Verizon Central Office and the other end terminates at Verizon's accessible terminal located in Verizon's main termination point in the Customer premises in the same serving wire center. Verizon shall be required to provide a Dark Fiber Sub-Loop only where (1) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal in Verizon's Central Office that can be cross-connected to ATI's collocation arrangement located in that same Verizon Central Office and the other end terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure, or (2) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal located at Verizon's main termination point located within the Customer premises and the other end terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure, or (3) one end of the Dark Fiber Sub-Loop terminates at Verizon's accessible terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure and the other end terminates at Verizon's accessible terminal at another Verizon remote terminal equipment enclosure that can be cross-connected to ATI's collocation arrangement or adjacent structure. A ATI demarcation point at a Customer premises shall be established in the main telco room of the Customer premises if Verizon is located in that room or, if the building does not have a main telco room or if Verizon is not located in that room, then at a location to be determined by Verizon. A ATI demarcation point at a Customer premises shall be established at a location that is no more than thirty (30) feet from Verizon's accessible terminal on which the Dark Fiber Loop or Dark Fiber Sub-Loop terminates. Verizon shall connect a Dark Fiber Loop or Dark Fiber Sub-Loop to the ATI demarcation point by installing a fiber jumper no greater than thirty (30) feet in length.

- 8.2.2 ATl may access a Dark Fiber Loop, a Dark Fiber Sub-Loop, or Dark Fiber IOF only at a pre-existing Verizon accessible terminal of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, and ATl may not access a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF at any other point, including, but not limited to, a splice point or case. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF are not available to ATl unless such Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF are already terminated on an existing Verizon accessible terminal. Unused fibers located in a cable vault or a controlled environment vault, manhole or other location outside the Verizon Wire Center, and not terminated to a fiber patch panel, are not available to ATl.
- 8.2.3 Except if and, to the extent required by, Applicable Law, Verizon will not perform splicing (e.g., introduce additional splice points or open existing splice points or cases) to accommodate ATl's request.
- 8.2.4 Verizon shall perform all work necessary to install (1) a cross connect or a fiber jumper from a Verizon accessible terminal to a ATl collocation arrangement or (2) from a Verizon accessible terminal to ATl's demarcation point at a Customer premises or ATl Central Office.
- 8.2.5 A "Dark Fiber Inquiry Form" must be submitted prior to submitting an ASR. Upon receipt of ATl's completed Dark Fiber Inquiry Form, Verizon will initiate a review of its cable records to determine whether Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF may be available between the locations and in the quantities specified. *Verizon will respond within fifteen (15) Business Days from receipt of the ATl's Dark Fiber Inquiry Form, indicating whether Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF may be available (if so available, an "Acknowledgement") based on the records search except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. The Dark Fiber Inquiry is a record search and does not guarantee the availability of Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF. Where a direct Dark Fiber IOF route is not available, Verizon will provide, where available, Dark Fiber IOF via a reasonable indirect route that passes through intermediate Verizon Central Offices at the rates set forth in the Pricing Attachment. Verizon reserves the right to limit the number of intermediate Verizon Central Offices on an indirect route consistent with limitations in Verizon's network design and/or prevailing industry practices for optical transmission applications. Any limitations on the number of intermediate Verizon Central Offices will be discussed with ATl. If access to Dark Fiber IOF is not available, Verizon will notify ATl, within fifteen (15) Business Days, that no spare Dark Fiber IOF is available over the direct route nor any reasonable alternate indirect route, except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. Where no available route was found during the record review, Verizon will identify the first blocked segment on each alternate indirect route and which segment(s) in the alternate indirect route are available prior to encountering a blockage on that route, at the rates set forth in the Pricing Attachment.*
- 8.2.5.1 ATl shall indicate on the Dark Fiber Inquiry Form whether the available Dark Fiber should be reserved, at the rates set

forth in the Pricing Attachment, pending receipt of an order for the Dark Fiber.

- 8.2.5.2 Upon request from ATI as indicated on the Dark Fiber Inquiry Form, Verizon shall hold such requested Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF for ATI's use for ten (10) Business Days from ATI's receipt of Acknowledgement and may not allow any other party (including Verizon) to use such fiber during that time period.
- 8.2.5.3 ATI shall submit an order for the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF as soon as possible using the standard ordering process or parallel provisioning process as described in Section 8.2.5.5. The standard ordering process shall be used when ATI does not have additional requirements for collocation. The parallel provisioning process shall be used when ATI requires new collocation facilities or changes to existing collocation arrangements.
- 8.2.5.4 If no order is received from ATI for the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF within ten (10) Business Days from ATI's receipt of Acknowledgement, Verizon shall return to spare the reserved Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that Verizon previously notified ATI are available. Should ATI submit an order to Verizon after the ten (10) Business Day reservation period for access to a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that Verizon has previously notified ATI was available, ATI assumes all risk that such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will no longer be available.
- 8.2.5.5 Upon ATI's request, the Parties will conduct parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF in accordance with the following terms and conditions:
 - 8.2.5.5.1 ATI will use existing interfaces and Verizon's current applications and order forms to request collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF.
 - 8.2.5.5.2 Verizon will parallel process ATI's requests for collocation, including augments, and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF.
 - 8.2.5.5.3 Before ATI submits a request for parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, ATI will:
 - 8.2.5.5.3.1 submit a Dark Fiber Inquiry Form and receive an Acknowledgement from Verizon; and
 - 8.2.5.5.3.2 submit a collocation application for the Verizon Central Office(s)

where the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF terminates and receive confirmation from Verizon that ATI's collocation application has been accepted.

- 8.2.5.5.4 ATI will prepare requests for parallel provisioning of collocation and Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF in the manner and form reasonably specified by Verizon.
 - 8.2.5.5.5 If Verizon rejects ATI's Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request, ATI may cancel its collocation application within five (5) Business Days of such rejection and receive a refund of the collocation application fee paid by ATI, less the costs Verizon incurred to date.
 - 8.2.5.5.6 If Verizon accepts ATI's Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request, Verizon will parallel provision the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF to a temporary location in Verizon's Central Office(s). Verizon will charge and ATI will pay for parallel provisioning of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF at the rates specified in the Pricing Attachment beginning on the date that Verizon accepts each Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF request.
 - 8.2.5.5.7 Within ten (10) days after Verizon completes a ATI collocation application, ATI shall submit a *Dark Fiber change request to reposition Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF from the temporary location in that Verizon Central Office(s) to the permanent location at ATI's collocation arrangement in such Verizon Central Office(s)*. ATI will prepare such request(s) in the manner and form specified by Verizon.
 - 8.2.5.5.8 If ATI cancels its collocation application, ATI must also submit a cancellation for the unbundled Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF provisioned to the temporary location in the Verizon Central Office(s).
- 8.2.6 ATI shall order Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF by sending to Verizon a separate ASR for each A to Z route.
- 8.2.7 Where a collocation arrangement can be accomplished in a Verizon premises, access to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that terminate in a Verizon premises must be

accomplished via a collocation arrangement in that Verizon premises. In circumstances where a collocation arrangement cannot be accomplished in a Verizon premises, the Parties agree to negotiate for possible alternative arrangements.

- 8.2.8 A Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will be offered to ATI in the condition that it is available in Verizon's network at the time that ATI submits its request (i.e., "as is"). In addition, Verizon shall not be required to convert lit fiber to a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF for ATI's use.
- 8.2.9 Spare wavelengths on fiber strands, where Wave Division Multiplexing (WDM) or Dense Wave Division Multiplexing (DWDM) equipment is deployed, are not considered to be Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, and, therefore, will not be offered to ATI as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.
- 8.2.10 *Fiber that has been assigned to fulfill a Customer order for maintenance purposes or for Verizon's lit fiber optic systems will not be offered to ATI as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.*
- 8.2.11 ATI shall be responsible for providing all transmission, terminating and lightwave repeater equipment necessary to light and use Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF.
- 8.2.12 *ATI may not resell Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, purchased pursuant to this Agreement to third parties.*
- 8.2.13 Except to the extent that Verizon is required by Applicable Law to provide Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF to ATI for use for Special or Switched Exchange Access Services, ATI shall not use Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, *for Special or Switched Exchange Access Services.*
- 8.2.14 In order to preserve the efficiency of its network, Verizon may, upon a showing of need to the Commission, limit ATI to leasing up to a maximum of twenty-five percent (25%) of the Fiber Loops, Fiber Sub-Loops or Fiber IOF in any given segment of Verizon's network. In addition, except as otherwise required by Applicable Law, Verizon may take any of the following actions, notwithstanding anything to the contrary in this Agreement:
- 8.2.14.1 Revoke Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF leased to ATI upon a showing of need to the Commission and twelve (12) months' advance written notice to ATI; and
- 8.2.14.2 Verizon reserves and shall not waive, Verizon's right to *claim before the Commission that Verizon should not have to fulfill a ATI order for Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF because that request would strand an unreasonable amount of fiber capacity, disrupt or degrade service to Customers or carriers other than ATI, or impair Verizon's ability to meet a legal obligation.*

- 8.2.15 Except as expressly set forth in this Agreement, ATI may not reserve Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.
- 8.2.16 ATI shall be solely responsible for: (a) determining whether or not the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF accommodate the requirements of ATI; (b) obtaining any Rights of Way, governmental or private property permit, *easement or other authorization or approval required for access to the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF*; (c) installation of fiber optic transmission equipment needed to power the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF to transmit Telecommunications Services traffic; (d) installation of a demarcation point in a building where a Customer is located; and (e) except as set forth with respect to the parallel provisioning process addressed above, ATI's collocation arrangements with any proper optical cross connects or other equipment that ATI needs to access Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF before it submits an order for such access. ATI hereby represents and warrants that it shall have all such rights of way, *authorizations and the like applicable to the geographic location at which it wishes to establish a demarcation point for a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF*, on or before the date that ATI places an order for the applicable Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, and that it shall maintain the same going forward.
- 8.2.17 ATI is responsible for trouble isolation before reporting trouble to Verizon. Verizon will restore continuity to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that have been broken. Verizon will not repair a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that is capable of transmitting light, even if the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF have changed.
- 8.2.18 ATI is responsible for all work activities at the Customer premises. Except as otherwise required by Applicable Law, all negotiations with the premises owner are solely the responsibility of ATI.
- 8.2.19 ATI may request the following, which shall be provided on a time and materials basis (as set forth in the Pricing Attachment):
- 8.2.19.1 A fiber layout map that shows the streets within a Verizon Wire Center where there are existing Verizon fiber cable sheaths. Verizon shall provide such maps to ATI subject to the agreement of ATI, in writing, to treat the maps as *confidential and to use them for preliminary design purposes only*. ATI acknowledges that fiber layout maps do not show whether or not spare Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF are available. Verizon shall provide fiber layout maps to ATI subject to a negotiated interval.
- 8.2.19.2 A field survey that shows the availability of Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF between two or more Verizon Central Offices, a Verizon Central Office and a ATI Central Office or a Verizon End Office and the premises of a Customer, shows whether or not such Dark Fiber Loop(s), Dark Fiber Sub-Loop(s), or Dark Fiber

IOF are defective, shows whether or not such Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF have been used by Verizon for emergency restoration activity and tests the transmission characteristics of Verizon's Dark Fiber Loop(s), Dark Fiber Sub-Loop(s) or Dark Fiber IOF. If a field survey shows that a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF is available, ATI may reserve the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, as applicable, for ten (10) Business Days from receipt of Verizon's field survey results. If ATI submits an order for access to such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF after passage of the foregoing ten (10) Business Day reservation period, Verizon does not guarantee or warrant the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will be available when Verizon receives such order, and ATI assumes all risk that the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will not be available. Verizon shall perform a field survey subject to a negotiated interval. If a ATI submits an order for a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF without first obtaining the results of a field survey of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, ATI assumes all risk that the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will not be compatible with ATI's equipment, including, but not limited to, order cancellation charges.

9. Network Interface Device

- 9.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall permit ATI to connect a ATI Loop to the Inside Wiring of a Customer's premises through the use of a Verizon NID in accordance with this Section 9 and the rates and charges provided in the Pricing Attachment. Verizon shall provide ATI with access to NIDs in accordance with, but only to the extent required by, Applicable Law. ATI may access a Verizon NID either by means of a connection (but only if the use of such connection is technically feasible) from an adjoining ATI NID deployed by ATI or, if an entrance module is available in the Verizon NID, by connecting a ATI Loop to the Verizon NID. When necessary, Verizon will rearrange its facilities to provide access to an existing Customer's Inside Wire. An entrance module is available only if facilities are not connected to it.
- 9.2 In no case shall ATI access, remove, disconnect or in any other way rearrange Verizon's Loop facilities from Verizon's NIDs, enclosures, or protectors.
- 9.3 In no case shall ATI access, remove, disconnect or in any other way rearrange, a Customer's Inside Wiring from Verizon's NIDs, enclosures, or protectors where such Customer Inside Wiring is used in the provision of ongoing Telecommunications Service to that Customer.
- 9.4 In no case shall ATI remove or disconnect ground wires from Verizon's NIDs, enclosures, or protectors.
- 9.5 In no case shall ATI remove or disconnect NID modules, protectors, or terminals from Verizon's NID enclosures.
- 9.6 Maintenance and control of premises Inside Wiring is the responsibility of the Customer. Any conflicts between service providers for access to the Customer's

Inside Wiring must be resolved by the person who controls use of the wiring (e.g., the Customer).

- 9.7 When ATI is connecting a ATI-provided Loop to the Inside Wiring of a Customer's premises through the Customer's side of the Verizon NID, ATI does not need to submit a request to Verizon and Verizon shall not charge ATI for access to the Verizon NID. In such instances, ATI shall comply with the provisions of Sections 9.2 through 9.7 of this Attachment and shall access the Customer's Inside Wire in the manner set forth in Section 9.8 of this Attachment.
- 9.8 Due to the wide variety of NIDs utilized by Verizon (based on Customer size and environmental considerations), ATI may access the Customer's Inside Wiring, acting as the agent of the Customer by any of the following means:
- 9.8.1 Where an adequate length of Inside Wiring is present and environmental conditions permit, ATI may remove the Inside Wiring from the Customer's side of the Verizon NID and connect that Inside Wiring to ATI's NID.
- 9.8.2 Where an adequate length of Inside Wiring is not present or environmental conditions do not permit, ATI may enter the Customer side of the Verizon NID enclosure for the purpose of removing the Inside Wiring from the terminals of Verizon's NID and connecting a connectorized or spliced jumper wire from a suitable "punch out" hole of such NID enclosure to the Inside Wiring within the space of the Customer side of the Verizon NID. Such connection shall be electrically insulated and shall not make any contact with the connection points or terminals within the Customer side of the Verizon NID.
- 9.8.3 ATI may request Verizon to make other rearrangements to the Inside Wiring terminations or terminal enclosure on a time and materials cost basis to be charged to the requesting party (i.e. ATI, its agent, the building owner or the Customer). If ATI accesses the Customer's Inside Wiring as described in this Section 9.8.3, time and materials charges will be billed to the requesting party (i.e. ATI, its agent, the building owner or the Customer).

10. Unbundled Switching Elements

- 10.1 Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall make available to ATI the local switching element and Tandem switching element unbundled from transport, local Loop transmission, or other services, in accordance with this Section 10 and the rates and charges provided in the Pricing Attachment. Verizon shall provide ATI with access to the local switching element and the Tandem switching element in accordance with, but only to the extent required by, Applicable Law.
- 10.2 Local Switching.
- 10.2.1 The unbundled local switching element includes line side and trunk side facilities (e.g. line and trunk side Ports such as analog and ISDN line side Ports and DS1 trunk side Ports), plus the features, functions, and capabilities of the switch. It consists of the line-side Port (including connection between a Loop termination and a switch line card, telephone number assignment, basic intercept, one primary directory listing, presubscription, and access to 911, operator services,

and directory assistance), line and line group features (including all vertical features and line blocking options that the switch and its associated deployed switch software is capable of providing and are currently offered to Verizon's local exchange Customers), usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks), and trunk features (including the connection between the trunk termination and a trunk card).

- 10.2.2 Verizon shall offer, as an optional chargeable feature, usage tapes in accordance with Section 8 of the Additional Services Attachment.
- 10.2.3 ATI may request activation or deactivation of features on a per-port basis at any time, and shall compensate Verizon for the non-recurring charges associated with processing the order. ATI may submit a *Bona Fide Request in accordance with Section 14.3 of this Attachment* for other switch features and functions that the switch is capable of providing, but which Verizon does not currently provide, or for customized routing of traffic other than operator services and/or directory assistance traffic. Verizon shall develop and provide these *requested services where technically feasible with the agreement of* ATI to pay the recurring and non-recurring costs of developing, installing, updating, providing and maintaining these services.

10.3 Network Design Request (NDR).

Prior to submitting any order for unbundled local switching (as a UNE or in combination with other UNEs), ATI shall complete the NDR process. As part of the NDR process, ATI shall request standardized or customized routing of its Customer traffic in conjunction with the provision of unbundled Local Switching.

If ATI selects customized routing, ATI shall define the routing plan and Verizon shall implement such plan, subject to technical feasibility constraints. Time and Material Charges may apply.

10.4 Tandem Switching.

The unbundled Tandem switching element includes trunk-connect facilities, the basic switching function of connecting trunks to trunks, and the functions that are centralized in Tandem Switches. Unbundled Tandem switching creates a *temporary transmission path between interoffice trunks that are interconnected at* a Verizon access Tandem for the purpose of routing a call or calls.

11. Unbundled Interoffice Facilities

- 11.1 *Subject to the conditions set forth in Section 1 of this Attachment, where facilities are available, at ATI's request, Verizon shall provide ATI with interoffice facilities (IOF) unbundled from other Network Elements at the rates set forth in the Pricing Attachment; provided, however, that Verizon shall offer unbundled shared IOF only to the extent that ATI also purchases unbundled Local Switching capability from Verizon in accordance with Section 10 of this Attachment. Verizon shall provide ATI with such IOF in accordance with, but only to the extent required by, Applicable Law. Verizon will not install new electronics, and Verizon will not build new facilities.*
- 11.2 *If and, to the extent that, ATI has purchased (or purchases) transport from Verizon under a Verizon tariff or otherwise, and ATI has a right under Applicable Law to convert (and wishes to convert) such transport to unbundled IOF under*

this Agreement, it shall give Verizon written notice of such request (including, without limitation, through submission of ASRs if Verizon so requests) and provide to Verizon all information (including, without limitation, a listing of the specific circuits in question) that Verizon reasonably requires to effectuate such conversion. In the case of any such conversion, ATI shall pay any and all conversion charges (e.g., non-recurring charges), as well as any and all termination liabilities, minimum service period charges and like charges in accordance with Verizon's applicable tariffs.

12. Signaling Networks and Call-Related Databases

- 12.1 Subject to the conditions set forth in Section 1 of this Attachment and upon request by ATI, Verizon shall provide ATI with access to databases and associated signaling necessary for call routing and completion by providing SS7 Common Channel Signaling ("CCS") Interconnection, and Interconnection and access to toll free service access code (e.g., 800/888/877) databases, LIDB, and any other necessary databases, in accordance with this Section 12 and the rates and charges provided in the Pricing Attachment. Such access shall be provided by Verizon in accordance with, but only to the extent required by, Applicable Law.
- 12.2 ATI shall provide Verizon with CCS Interconnection required for call routing and completion, and the billing of calls which involve ATI's Customers, at non-discriminatory rates (subject to the provisions of the Pricing Attachment), terms and conditions, provided further that if the ATI information Verizon requires to provide such call-related functionality is resident in a database, ATI will provide Verizon with the access and authorization to query ATI's information in the databases within which it is stored.
- 12.3 Alternatively, either Party ("Purchasing Party") may secure CCS Interconnection from a commercial SS7 hub provider (third party signaling provider) to transport signaling messages to and from the Verizon CCS network, and in that case the other Party will permit the Purchasing Party to access the same databases as would have been accessible if the Purchasing Party had connected directly to the other Party's CCS network. If a third party signaling provider is selected by ATI to transport signaling messages, that third party provider must present a letter of agency to Verizon, prior to the testing of the interconnection, authorizing the third party to act on behalf of ATI.
- 12.4 Regardless of the manner in which ATI obtains CCS Interconnection, ATI shall comply with Verizon's SS7 certification process prior to establishing CCS Interconnection with Verizon.
- 12.5 The Parties will provide CCS Signaling to each other, where and as available, in conjunction with all Reciprocal Compensation Traffic, Toll Traffic, Meet Point Billing Traffic, and Transit Traffic. The Parties will cooperate on the exchange of TCAP messages to facilitate interoperability of CCS-based features between their respective networks, including all CLASS Features and functions, to the extent each Party offers such features and functions to its Customers. All CCS Signaling parameters will be provided upon request (where available), including called party number, Calling Party Number, originating line information, calling party category, and charge number. All privacy indicators will be honored as required under applicable law.
- 12.6 The Parties will follow all OBF-adopted standards pertaining to CIC/OZZ codes.
- 12.7 Where CCS Signaling is not available, in-band multi-frequency ("MF") wink start signaling will be provided. Any such MF arrangement will require a separate

local trunk circuit between the Parties' respective switches in those instances where the Parties have established End Office to End Office high usage trunk groups. In such an arrangement, each Party will out pulse the full ten-digit telephone number of the called Party to the other Party.

- 12.8 The Parties acknowledge that there is a network security risk associated with interconnection with the public Internet Protocol network, including, but not limited to, the risk that interconnection of ATI signaling systems to the public Internet Protocol network may expose ATI and Verizon signaling systems and information to interference by third parties. ATI shall notify Verizon in writing sixty (60) days in advance of installation of any network arrangement that may expose signaling systems or information to access through the public Internet Protocol network. ATI shall take commercially reasonable efforts to protect its signaling systems and Verizon's signaling systems from interference by unauthorized persons.
- 12.9 Each Party shall provide trunk groups, where available and upon reasonable request, that are configured utilizing the B8ZS ESF protocol for 64 kbps clear channel transmission to allow for ISDN interoperability between the Parties' respective networks.
- 12.10 The following publications describe the practices, procedures and specifications generally utilized by Verizon for signaling purposes and are listed herein to assist the Parties in meeting their respective Interconnection responsibilities related to Signaling:
- 12.10.1 Telcordia Generic Requirements, GR-905-CORE, Issue 1, March, 1995, and subsequent issues and amendments; and
- 12.10.2 Where applicable, Verizon Supplement Common Channel Signaling Network Interface Specification (Verizon-905).
- 12.11 Each Party shall charge the other Party mutual and reciprocal rates for any usage-based charges for CCS Signaling, toll free service access code (e.g., 800/888/877) database access, LIDB access, and access to other necessary databases, as follows: Verizon shall charge ATI in accordance with the Pricing Attachment and the terms and conditions in applicable Tariffs. ATI shall charge Verizon rates equal to the rates Verizon charges ATI, unless ATI's Tariffs for CCS signaling provide for lower generally available rates, in which case ATI shall charge Verizon such lower rates. Notwithstanding the foregoing, to the extent a Party uses a third party vendor for the provision of CCS Signaling, such charges shall apply only to the third party vendor.

13. Operations Support Systems

Subject to the conditions set forth in Section 1 of this Attachment and in Section 8 of the Additional Services Attachment, Verizon shall provide ATI with access via electronic interfaces to databases required for pre-ordering, ordering, provisioning, maintenance and repair, and billing. Verizon shall provide ATI with such access in accordance with, but only to the extent required by, Applicable Law. All such transactions shall be submitted by ATI through such electronic interfaces.

14. Availability of Other Network Elements on an Unbundled Basis

- 14.1 Any request by ATI for access to a Verizon Network Element that is not already available and that Verizon is required by Applicable Law to provide on an unbundled basis shall be treated as a Network Element Bona Fide Request

pursuant to Section 14.3, of this Attachment. ATI shall provide Verizon access to its Network Elements as mutually agreed by the Parties or as required by Applicable Law.

- 14.2 Notwithstanding anything to the contrary in this Section 14, a Party shall not be required to provide a proprietary Network Element to the other Party under this Section 14 except as required by Applicable Law.
- 14.3 Network Element Bona Fide Request (BFR).
- 14.3.1 Each Party shall promptly consider and analyze access to a new unbundled Network Element in response to the submission of a Network Element Bona Fide Request by the other Party hereunder. The Network Element Bona Fide Request process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) ¶¶ 259 and n.603 or subsequent orders.
- 14.3.2 A Network Element Bona Fide Request shall be submitted in writing and shall include a technical description of each requested Network Element.
- 14.3.3 The requesting Party may cancel a Network Element Bona Fide Request at any time, but shall pay the other Party's reasonable and demonstrable costs of processing and/or implementing the Network Element Bona Fide Request up to the date of cancellation.
- 14.3.4 Within ten (10) Business Days of its receipt, the receiving Party shall acknowledge receipt of the Network Element Bona Fide Request.
- 14.3.5 Except under extraordinary circumstances, within thirty (30) days of its receipt of a Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a preliminary analysis of such Network Element Bona Fide Request. The preliminary analysis shall confirm that the receiving Party will offer access to the Network Element or will provide a detailed explanation that access to the Network Element is not technically feasible and/or that the request does not qualify as a Network Element that is required to be provided by Applicable Law.
- 14.3.6 If the receiving Party determines that the Network Element Bona Fide Request is technically feasible and access to the Network Element is required to be provided by Applicable Law, it shall promptly proceed with developing the Network Element Bona Fide Request upon receipt of written authorization from the requesting Party. When it receives such authorization, the receiving Party shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals. Unless the Parties otherwise agree, the Network Element requested must be priced in accordance with Section 252(d)(1) of the Act.
- 14.3.7 As soon as feasible, but not more than ninety (90) days after its receipt of authorization to proceed with developing the Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a Network Element Bona Fide Request quote which will include, at a minimum, a description of each Network Element, the availability, the applicable rates, and the installation intervals.

- 14.3.8 Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for the Network Element Bona Fide Request pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.
- 14.3.9 If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, or is failing to act in accordance with Section 251 of the Act, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.

15. Maintenance of Network Elements

If (a) ATI reports to Verizon a Customer trouble, (b) ATI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon's facilities or equipment in whole or in part, then ATI shall pay Verizon a charge set forth in the Pricing Attachment for time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by ATI is not available at the appointed time. ATI accepts responsibility for initial trouble isolation and providing Verizon with appropriate dispatch information based on its test results. If, as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Pricing Attachment will be assessed per occurrence to ATI by Verizon. If as the result of ATI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Pricing Attachment will be assessed per occurrence to ATI by Verizon. Verizon agrees to respond to ATI trouble reports on a non-discriminatory basis consistent with the manner in which it provides service to its own retail Customers or to any other similarly situated Telecommunications Carrier.

16. Combinations

Subject to the conditions set forth in Section 1 of this Attachment, Verizon shall be obligated to provide a Combination only to the extent provision of such Combination is required by Applicable Law. To the extent Verizon is required by Applicable Law to provide a Combination to ATI, Verizon shall provide such Combination in accordance with, and subject to, requirements established by Verizon that are consistent with Applicable Law (such requirements, the "Combo Requirements"). Verizon shall make the Combo Requirements publicly available in an electronic form.

17. Rates and Charges

The rates and charges for UNEs, Combinations and other services, facilities and arrangements, offered under this Attachment shall be as provided in this Attachment and the Pricing Attachment.

18. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

COLLOCATION ATTACHMENT

1. **Verizon's Provision of Collocation**

Verizon shall provide to ATI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, collocation for the purpose of facilitating ATI's interconnection with facilities or services of Verizon or access to Unbundled Network Elements of Verizon; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide collocation to ATI only to the extent required by Applicable Law and may decline to provide collocation to ATI to the extent that provision of collocation is not required by Applicable Law. Subject to the foregoing, Verizon shall provide collocation to ATI in accordance with the rates, terms and conditions set forth in Verizon's collocation Tariff, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective.

911 ATTACHMENT

1. 911/E-911 Arrangements

- 1.1 *ATI may, at its option, interconnect to the Verizon 911/E-911 Selective Router or 911 Tandem Offices, as appropriate, that serve the areas in which ATI provides Telephone Exchange Services, for the provision of 911/E-911 services and for access to all subtending Public Safety Answering Points (PSAP). In such situations, Verizon will provide ATI with the appropriate CLLI codes and specifications of the Tandem Office serving area. In areas where E-911 is not available, ATI and Verizon will negotiate arrangements to connect ATI to the 911 service in accordance with applicable state law.*
- 1.2 *Path and route diverse Interconnections for 911/E-911 shall be made at the technically feasible Point of Interconnection on Verizon's network at which the Parties interconnect, or other points as necessary and mutually agreed, and as required by law or regulation.*
- 1.3 *Within thirty (30) days of its receipt of a complete and accurate request from ATI, to include all required information and applicable forms, and to the extent authorized by the relevant federal, state, and local authorities, Verizon will provide ATI, where Verizon offers 911 service, with the following at a reasonable fee, if applicable:*
 - 1.3.1 *a file via electronic medium containing the Master Street Address Guide ("MSAG") for each county within the LATA(s) where ATI is providing, or represents to Verizon that it intends to provide within sixty (60) days of ATI's request, local exchange service, which MSAG shall be updated as the need arises and a complete copy of which shall be made available on an annual basis. A letter is required from the PSAP director before the release of the MSAG by Verizon to ATI;*
 - 1.3.2 *a list of the address and CLLI code of each 911/E-911 selective router or 911 Tandem office(s) in the area in which ATI plans to offer Telephone Exchange Service;*
 - 1.3.3 *a list of geographical areas, e.g., LATAs, counties or municipalities, with the associated 911 tandems, as applicable.*
 - 1.3.4 *a list of Verizon personnel who currently have responsibility for 911/E-911 requirements, including a list of escalation contacts should the primary contacts be unavailable.*
 - 1.3.5 *any special 911 trunking requirements for each 911/E-911 selective router or 911 Tandem Office, where available, and;*
 - 1.3.6 *prompt return of any ATI 911/E-911 data entry files containing errors, so that ATI may ensure the accuracy of the Customer records.*

2. Electronic Interface

ATI shall use, where available, the appropriate Verizon electronic interface, through which ATI shall input and provide a daily update of 911/E-911 database information related to appropriate ATI Customers. In those areas where an electronic interface is not available, ATI shall provide Verizon with all appropriate 911/E-911 information such as name, address, and telephone number via facsimile for Verizon's entry into the 911/E-

911 database system. Any 911/E-911-related data exchanged between the Parties prior to the availability of an electronic interface shall conform to Verizon standards, whereas 911/E-911-related data exchanged electronically shall conform to the National Emergency Number Association standards (NENA). ATI may also use the electronic interface, where available, to query the 911/E-911 database to verify the accuracy of ATI Customer information.

3. 911 Interconnection

Verizon and ATI will use commercially reasonable efforts to facilitate the prompt, robust, reliable and efficient interconnection of ATI systems to the 911/E-911 platforms and/or systems.

4. 911 Facilities

ATI shall be responsible for providing facilities from the ATI End Office to the 911 Tandem or selective router. ATI shall deploy diverse routing of 911 trunk pairs to the 911 tandem or selective router.

5. Local Number Portability for use with 911

The Parties acknowledge that until Local Number Portability (LNP) with full 911/E-911 compatibility is utilized for all ported telephone numbers, the use of Interim Number Portability ("INP") creates a special need to have the Automatic Location Identification (ALI) screen reflect two numbers: the "old" number and the "new" number assigned by ATI. Therefore, for those ported telephone numbers using INP, ATI will provide the 911/E-911 database with both the forwarded number and the directory number, as well as all other required information including the appropriate address information for the Customer for entry into the 911/E-911 database system. Further, ATI will outpulse the telephone number to which the call has been forwarded (that is, the Customer's ANI) to the 911 Tandem office or selective router. ATI will include their NENA five character Company Identification ("COID") for inclusion in the ALI display.

5.1 ATI is required to enter data into the 911/E-911 database under the NENA Standards for LNP. This includes, but is not limited to, using ATI's NENA COID to lock and unlock records and the posting of ATI's NENA COID to the ALI record where such locking and migrating feature for 911/E-911 records are available or as defined by local standards.

6. PSAP Coordination

Verizon and ATI will work cooperatively to arrange meetings with PSAPs to answer any technical questions the PSAPs, or county or municipal coordinators may have regarding the 911/E-911 arrangements.

7. 911 Compensation

ATI will compensate Verizon for connections to its 911/E-911 platform and/or system pursuant to the rate schedule included in the Pricing Attachment.

8. 911 Rules and Regulations

ATI and Verizon will comply with all applicable rules and regulations (including 911 taxes and surcharges as defined by local requirements) pertaining to the provision of 911/E-911 services in the Commonwealth of Pennsylvania.

9. Good Faith Performance

If and, to the extent that, Verizon, prior to the Effective Date of this Agreement, has not provided in the Commonwealth of Pennsylvania a Service offered under this Attachment, Verizon reserves the right to negotiate in good faith with ATI reasonable terms and conditions (including, without limitation, rates and implementation timeframes) for such Service; and, if the Parties cannot agree to such terms and conditions (including, without limitation, rates and implementation timeframes), either Party may utilize the Agreement's dispute resolution procedures.

PRICING ATTACHMENT

1. General

- 1.1 As used in this Attachment, the term "Charges" means the rates, fees, charges and prices for a Service.
- 1.2 Except as stated in Section 2 or Section 3 of this Attachment, Charges for Services shall be as stated in this Section 1.
- 1.3 The Charges for a Service shall be the Charges for the Service stated in the Providing Party's applicable Tariff.
- 1.4 In the absence of Charges for a Service established pursuant to Section 1.3 of this Attachment, the Charges shall be as stated in Appendix A of this Pricing Attachment. For rate elements provided in Appendix A of this Pricing Attachment that do not include a Charge, either marked as "TBD" or otherwise, Verizon is developing such Charges and has not finished developing such Charges as of the Effective Date of this Agreement ("Effective Date"). When Verizon finishes developing such a Charge, Verizon shall notify ATI in writing of such Charge in accordance with, and subject to, the notices provisions of this Agreement and thereafter shall bill ATI, and ATI shall pay to Verizon, for Services provided under this Agreement on the Effective Date and thereafter in accordance with such Charge. Any notice provided by Verizon to ATI pursuant to this Section 1.4 shall be deemed to be a part of Appendix A of this Pricing Attachment immediately after Verizon sends such notice to ATI and thereafter.
- 1.5 The Charges stated in Appendix A of this Pricing Attachment shall be automatically superseded by any applicable Tariff Charges. The Charges stated in Appendix A of this Pricing Attachment also shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a Tariff that has been filed with the Commission or the FCC), provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.
- 1.6 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.5 of this Attachment, if Charges for a Service are otherwise expressly provided for in this Agreement, such Charges shall apply.
- 1.7 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.6 of this Attachment, the Charges for the Service shall be the Providing Party's FCC or Commission approved Charges.
- 1.8 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.7 of this Attachment, the Charges for the Service shall be mutually agreed to by the Parties in writing.

2. Verizon Telecommunications Services Provided to ATI for Resale Pursuant to the Resale Attachment

- 2.1 Verizon Telecommunications Services for which Verizon is Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.

- 2.1.1 The Charges for a Verizon Telecommunications Service purchased by ATI for resale for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Retail Price for such Service set forth in Verizon's applicable Tariffs (or, if there is no Tariff Retail Price for such Service, Verizon's Retail Price for the Service that is generally offered to Verizon's Customers), less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act, the applicable wholesale discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.2 The Charges for a Verizon Telecommunications Service Customer Specific Arrangement ("CSA") purchased by ATI for resale pursuant to Section 3.3 of the Resale Attachment for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Retail Price for the CSA, less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act, the applicable discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act. Notwithstanding the foregoing, in accordance with, and to the extent permitted by Applicable Law, Verizon may establish a wholesale discount for a CSA that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to ATI for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.3 Notwithstanding Sections 2.1 and 2.2 of this Attachment, in accordance with, and to the extent permitted by Applicable Law, Verizon may at any time establish a wholesale discount for a Telecommunications Service (including, but not limited to, a CSA) that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to ATI for resale pursuant to Section 251(c)(4) of the Act.
- 2.1.4 The wholesale discount stated in Appendix A shall be automatically superseded by any new wholesale discount when such new wholesale discount is required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC, provided such new wholesale discount is not subject to a stay issued by any court of competent jurisdiction.
- 2.1.5 The wholesale discount provided for in Sections 2.1.1 through 2.1.3 of this Attachment shall not be applied to:
- 2.1.5.1 Short term promotions as defined in 47 CFR § 51.613;

- 2.1.5.2 Except as otherwise provided by Applicable Law, Exchange Access services;
 - 2.1.5.3 Subscriber Line Charges, Federal Line Cost Charges, end user common line Charges, taxes, and government Charges and assessment (including, but not limited to, 9-1-1 Charges and Dual Party Relay Service Charges).
 - 2.1.5.4 Any other service or Charge that the Commission, the FCC, or other governmental entity of appropriate jurisdiction determines is not subject to a wholesale discount under Section 251(c)(4) of the Act.
- 2.2 Verizon Telecommunications Services for which Verizon is Not Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.
- 2.2.1 The Charges for a Verizon Telecommunications Service for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges stated in Verizon's Tariffs for such Verizon Telecommunications Service (or, if there are no Verizon Tariff Charges for such Service, Verizon's Charges for the Service that are generally offered by Verizon).
 - 2.2.2 The Charges for a Verizon Telecommunications Service customer specific contract service arrangement ("CSA") purchased by ATI pursuant to Section 3.3 of the Resale Attachment for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges provided for in the CSA and any other Charges that Verizon could bill the person to whom the CSA was originally provided (including, but not limited to, applicable Verizon Tariff Charges).
- 2.3 Other Charges.
- 2.3.1 ATI shall pay, or collect and remit to Verizon, without discount, all Subscriber Line Charges, Federal Line Cost Charges, and end user common line Charges, associated with Verizon Telecommunications Services provided by Verizon to ATI.

3. **ATI Prices**

Notwithstanding any other provision of this Agreement, the Charges that ATI bills Verizon for ATI's Services shall not exceed the Charges for Verizon's comparable Services, except to the extent that ATI's cost to provide such ATI's Services to Verizon exceeds the Charges for Verizon's comparable Services and ATI has demonstrated such cost to Verizon, or, at Verizon's request, to the Commission or the FCC.

4. **Section 271**

If Verizon is a Bell Operating Company (as defined in the Act) and in order to comply with Section 271(c)(2)(B) of the Act provides a Service under this Agreement that Verizon is not required to provide by Section 251 of the Act, Verizon shall have the right to establish Charges for such Service in a manner that differs from the manner in which under Applicable Law (including, but not limited to, Section 252(d) of the Act) Charges must be set for Services provided under Section 251.

5. **Regulatory Review of Prices**

Notwithstanding any other provision of this Agreement, each Party reserves its respective rights to institute an appropriate proceeding with the FCC, the Commission or other governmental body of appropriate jurisdiction: (a) with regard to the Charges for its Services (including, but not limited to, a proceeding to change the Charges for its services, whether provided for in any of its Tariffs, in Appendix A, or otherwise); and (b) with regard to the Charges of the other Party (including, but not limited to, a proceeding to obtain a reduction in such Charges and a refund of any amounts paid in excess of any Charges that are reduced).

APPENDIX A TO THE PRICING ATTACHMENT^{1 2}

V1.4

I. Rates and Charges for Transport and Termination of Traffic³

A. Reciprocal Compensation Traffic Termination

Reciprocal Compensation Traffic End Office Rate: **\$0.0030000♦** per minute of use.

Reciprocal Compensation Traffic Tandem Rate: **\$0.0079536♦** per minute of use.

B. The Tandem Transit Service Charge is **\$0.0047856♦** per minute of use.

Transit Service Billing Fee – Five percent (5%) of the Tandem Transit Traffic Service Charges assessed during the billing period for Tandem Transit Traffic exchanged with the relevant third party carriers.

Transit Service Trunking Charge (for each relevant third party carrier) – For each DS1 equivalent volume⁴ (or portion thereof) of Tandem Transit Traffic exchanged with the relevant third party carrier during a monthly billing period: an amount equal to the total monthly rate for 24 channels (DS1 equivalent) for Switched

¹ This Appendix may contain rates for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Agreement (e.g., services, facilities, arrangements and the like for which an unbundling requirement does not exist under 47 U.S.C. Section 251(c)(3)). Notwithstanding any such rates (and/or references) and, for the avoidance of any doubt, nothing in this Appendix shall be deemed to require Verizon to provide a service, facility, arrangement or the like that the Agreement does not require Verizon to provide, or to provide a service, facility, arrangement or the like upon rates, terms or conditions other than those that may be required by the Agreement.

All rates and charges set forth in this Appendix shall apply until such time as they are replaced by new rates and/or charges as the Commission or the FCC may approve or allow to go into effect from time to time, subject however, to any stay or other order issued by any court of competent jurisdiction. In addition to any rates and charges set forth herein, Verizon, effective as of March 11, 2005, may, but shall not be required to, charge (and ATI shall pay) any rates and charges that apply to a CLEC's embedded base of certain UNEs pursuant to the FCC's Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338 (FCC rel. Feb. 4, 2005), the foregoing being without limitation of other rates and charges that may apply under subsequent FCC orders or otherwise.

² Certain of the rates and charges set forth within, as indicated by a "diamond" (♦), are arbitrated rates taken from the previously arbitrated Interconnection, Resale and Unbundling Agreement between GTE and AT&T Communications, which was approved by the Commission in an Interim Order dated December 5, 1996, in Docket A-310125F0002. Verizon has agreed to use and to incorporate herein such arbitrated rates subject to the following: The Parties expressly agree (1) that such arbitrated rates shall not be deemed to have been voluntarily negotiated by the Parties, and (2) that, for purposes of calculating Reciprocal Compensation Traffic, the arbitrated rates shall not apply to Internet Traffic, as set forth more fully in the Interconnection Attachment of this Agreement. The foregoing shall not, in any way, limit any other term, condition, limitation or reservation of right in the Agreement that applies to rates, including, but not limited to the Reservation of Rights language of the General Terms and Conditions. The Parties further agree that the Commission's Order in Docket A-310125F0002, to the extent such Order established the arbitrated rates, shall be deemed an "arbitration decision associated with this Agreement" under the General Terms and Conditions.

³ All rates and charges specified herein are pertaining to the Interconnection Attachment.

⁴ A CCS busy hour equivalent of 200,000 combined minutes of use.

Access, Access Tandem Dedicated Trunk Port DS1, as set forth in Verizon Tariff FCC No. 14, as amended from time to time.

- C. Entrance Facility and Transport for Interconnection Charges: **See Intrastate Special Access Tariff**

II. Services Available for Resale

The avoided cost discount for all Resale services is 22.80%.

Non-Recurring Charges (NRCs) for Resale Services

Pre-ordering

CLEC Account Establishment Per CLEC	\$273.71
Customer Record Search Per Account	\$ 11.72

Ordering and Provisioning

Engineered Initial Service Order (ISO) - New Service	\$282.17
Engineered Initial Service Order - As Specified	\$103.84
Engineered Subsequent Service Order	\$ 61.73
Non-Engineered Initial Service Order - New Service	\$ 38.02
Non-Engineered Initial Service Order - Changeover	\$ 21.01
Non-Engineered Initial Service Order - As Specified	\$ 68.20
Non-Engineered Subsequent Service Order	\$ 18.84
Central Office Connect	\$ 5.42
Outside Facility Connect	\$ 67.77
Manual Ordering Charge	\$ 11.93

Product Specific

NRCs, other than those for Pre-ordering, Ordering and Provisioning, and Custom Handling as listed in this Appendix, will be charged from the appropriate retail tariff. No discount applies to such NRCs.

Custom Handling

Service Order Expedite:

Engineered	\$ 36.65
Non-Engineered	\$ 11.07

Coordinated Conversions:

ISO	\$ 14.33
Central Office Connection	\$ 9.61
Outside Facility Connection	\$ 8.12

Hot Coordinated Conversion First Hour:

ISO	\$ 24.22
Central Office Connection	\$ 38.44
Outside Facility Connection	\$ 32.49

Hot Coordinated Conversion per Additional Quarter Hour:

ISO	\$ 4.95
Central Office Connection	\$ 9.61
Outside Facility Connection	\$ 8.12

Application of NRCs

Pre-ordering:

CLEC Account Establishment is a one-time charge applied the first time that ATI orders any service from this Agreement.

Customer Record Search applies when ATI requests a summary of the services currently subscribed to by the end-user.

Ordering and Provisioning:

Engineered Initial Service Order - New Service applies per Local Service Request (LSR) when engineering work activity is required to complete the order, e.g. digital loops.

Non-Engineered Initial Service Order - New Service applies per LSR when no engineering work activity is required to complete the order, e.g. analog loops.

Initial Service Order - As Specified (Engineered or Non-Engineered) applies only to Complex Services for services migrating from Verizon to ATI. Complex Services are services that require a data gathering form or has special instructions.

Non-Engineered Initial Service Order - Changeover applies only to Basic Services for services migrating from Verizon to ATI. End-user service may remain the same or change.

Central Office Connect applies in addition to the ISO when physical installation is required at the central office.

Outside Facility Connect applies in addition to the ISO when incremental fieldwork is required.

Manual Ordering Charge applies to orders that require Verizon to manually enter ATI's order into Verizon's Secure Integrated Gateway System (SIGS), e.g. faxed orders and orders sent via physical or electronic mail.

Custom Handling (These NRCs are in addition to any Preordering or Ordering and Provisioning NRCs):

Service Order Expedite (Engineered or Non-Engineered) applies if ATI requests service prior to the standard due date intervals.

Coordinated Conversion applies if ATI requests notification and coordination of service cut over prior to the service becoming effective.

Hot Coordinated Conversion First Hour applies if ATI requests real-time coordination of a service cut-over that takes one hour or less.

Hot Coordinated Conversion Per Additional Quarter Hour applies, in addition to the Hot Coordinated Conversion First Hour, for every 15-minute segment of real-time coordination of a service cut-over that takes more than one hour.

III. Prices for Unbundled Network Elements

Monthly Recurring Charges

Local Loop

2 Wire Analog Loop (inclusive of NID)	
Density Cell 3	\$ 11.76 ♦
Density Cell 4	\$ 15.10 ♦
4 Wire Analog Loop (inclusive of NID)	\$ 52.99
2 Wire Digital Loop (inclusive of NID)	
Density Cell 3	\$ 11.76 ♦
Density Cell 4	\$ 15.10 ♦
4 Wire Digital Loop (inclusive of NID)	\$ 52.99
DS-1 Loop	\$ 81.68
DS-3 Loop	\$ 816.76
Supplemental Features:	
ISDN-BRI Line Loop Extender	\$ 5.00
DS1 Clear Channel Capability	\$ 23.81

Sub-Loop

2-Wire Feeder	\$ 13.46
2-Wire Distribution	\$ 29.80
4-Wire Feeder	\$ 28.31
4-Wire Distribution	\$ 51.85
2-Wire Drop	\$ 6.60
4-Wire Drop	\$ 6.87
Inside Wire	BFR

Network Interface Device (leased separately)

Basic NID:	\$ 0.59 ♦
Complex (12 x) NID	\$ 1.10

Switching

Port	
Basic Analog Line Side Port	\$ 3.90
Coin Line Side Port	\$ 7.57
ISDN BRI Digital Line Side Port	\$ 15.02
DS-1 Digital Trunk Side Port	\$ 104.32
ISDN PRI Digital Trunk Side Port	\$ 131.26

Usage Charges (must purchase Port)	
Local Central Office Switching	
(Overall Average MOU)	\$ 0.0030000
Common Shared Transport	
Transport Facility (Average MOU/ALM)	\$ 0.0000560
Transport Termination (Average MOU/Term)	\$ 0.0001680
Tandem Switching (Average MOU)	\$ 0.0045000
Terminating to Originating Ratio	1.00

Dedicated Transport Facilities

CLEC Dedicated Transport	
CDT 2 Wire	\$ 13.55
CDT 4 Wire	\$ 21.70
CDT DS1	\$ 42.03
CDT DS3 Optical Interface	\$ 703.38 ♦
CDT DS3 Electrical Interface	\$ 762.00 ♦
Interoffice Dedicated Transport	
IDT DS0 Transport Facility per ALM	\$.30
IDT DS0 Transport Termination	\$ 10.55
IDT DS1 Transport Facility per ALM	\$ 5.30
IDT DS1 Transport Termination	\$ 51.05
IDT DS3 Transport Facility per ALM	\$ 24.32
IDT DS3 Transport Termination	\$ 65.52
Multiplexing	
DS1 to Voice Multiplexing	\$ 191.11
DS3 to DS1 Multiplexing	\$ 425.00 ♦
DS1 Clear Channel Capability	\$ 23.81

Unbundled Dark Fiber

Unbundled Dark Fiber Loops/Sub-Loops	
Dark Fiber Loop	\$ 67.13
Dark Fiber Sub-Loop - Feeder	\$ 53.17
Dark Fiber Sub-Loop - Distribution	\$ 13.96
Unbundled Dark Fiber Dedicated Transport	
Dark Fiber IDT -Facility	\$ 24.80
Dark Fiber IDT -Termination	\$ 6.34
Intermediate Office Cross Connect	TBD

UNE-P Pricing

MRCs. The MRC for a UNE-P will generally be equal to the sum of the MRCs for the combined UNEs (e.g. the total of the UNE loop charge plus the UNE port charges in the Agreement (see Note A) plus: UNE local switching (per minute originating usage plus T/O factor to determine terminating minutes) based on UNE local switching rates in the Agreement plus UNE shared transport and tandem switching (based on factors for percent interoffice and tandem switch usage, plus assumed transport mileage of 10 miles and 2 terms) based on UNE shared transport rates in the Agreement plus UNE Vertical Services charges (optional per line charges, if allowed by the Agreement).

(Note A): UNE platforms are available in four loop/port configurations as shown below. If the price for any component of these platforms is not set forth herein, Verizon will use the ICB process to determine the appropriate price and TBD pricing shall apply.

UNE Basic Analog Voice Grade Platform consists of the following components:
UNE 2-wire Analog loop; and
UNE Basic Analog Line Side port

UNE ISDN BRI Platform consists of the following components:
UNE 2-wire Digital loop; and
UNE ISDN BRI Digital Line Side port

UNE ISDN PRI Platform consists of the following components:
UNE DS1 loop; and
UNE ISDN PRI Digital Trunk Side port

UNE DS1 Platform consists of the following components:
UNE DS1 loop; and
UNE DS1 Digital Trunk Side port

NRCs. Optional NRCs will apply as ordered by the CLEC including such charges as Expedites, Coordinated Conversions, loop Conditioning, etc.

EEL Pricing

MRCs. The MRCs for an EEL will generally be equal to the applicable MRCs for UNEs and Multiplexing that comprise an EEL arrangement (e.g. UNE Loop, IDT, CDT, Multiplexing, & Clear Channel Capability).

Line Splitting⁵

Except as noted in the following paragraph, the provider of voice services in a Line Splitting arrangement ("VLEC") will be billed for all charges associated with the Network Elements and other Verizon services, facilities and arrangements, used in conjunction with the Line Splitting arrangement ("Line Splitting Arrangement"), regardless of which CLEC in the Line Splitting Arrangement orders the Network Elements or other Verizon services, facilities or arrangements. These charges include, but are not limited to, all applicable non-recurring charges and monthly recurring charges related to such Line Splitting Arrangement, including but not limited to UNE-P (2-wire digital UNE loop or 2-wire ADSL capable UNE loop, UNE switch port, UNE local switching usage, UNE local transport and usage rates), testing, pre-qualification, OSS, line conditioning, CLEC account establishment and misdirected trouble charges.

The CLEC with the applicable collocation arrangement will be billed for splitter establishment and collocation related charges.

⁵ Rates for the individual line splitting components are contained in existing terms for Unbundled Network Elements and Collocation.

NON-RECURRING CHARGES – LOOP AND PORT

Service Ordering (Loop or Port)	
Initial Service Order, per order	\$ 41.50
Transfer of Service Charge, per order	\$ 24.00
Subsequent Service Order, per order	\$ 24.00
Installation	
Unbundled Loop, per loop	\$ 29.50
Unbundled Port, per port	\$ 29.50
Loop Facility Charge, per order (See Note 1)	\$ 71.25
Customer Service Record Search	\$ 4.21

CUSTOM HANDLING

Coordinated Conversions:

ISO	\$ 13.95
Central Office Connection	\$ 9.61
Outside Facility Connection	\$ 8.12

Hot Coordinated Conversions First Hour:

ISO	\$ 23.52
Central Office Connection	\$ 38.44
Outside Facility Connection	\$ 32.49

Hot Coordinated Conversions per Additional Quarter Hour:

ISO	\$ 4.79
Central Office Connection	\$ 9.61
Outside Facility Connection	\$ 8.12

Note 1: The Loop Facility Charge will apply when fieldwork is required for establishment of a new unbundled loop service.

NON-RECURRING CHARGES

LOCAL WHOLESALE SERVICES	Ordering 100% Manual	Ordering Semi- Mech.	Provisioning Initial Unit	Addtl Unit
UNBUNDLED NID				
Exchange – Basic	\$ 27.06	\$ 18.83	\$ 33.99	N/A
UNBUNDLED SUB-LOOP				
Exchange - FDI Feeder Interconnection - Initial	\$ 36.32	\$ 26.88	\$ 46.20	\$ 24.97
Exchange - FDI Feeder Interconnection - Subsequent	\$ 15.01	\$ 11.83	\$ 16.99	\$ 7.22
Exchange - FDI Distribution Interconnection - Initial	\$ 36.32	\$ 26.88	\$ 61.90	\$ 30.36
Exchange - FDI Distribution Interconnection - Subsequent	\$ 15.01	\$ 11.83	\$ 16.99	\$ 7.22
Exchange - Serving Terminal Interconnection - Initial	\$ 36.32	\$ 26.88	\$ 28.99	\$ 15.51
Exchange - Serving Terminal Interconnection - Subsequent	\$ 15.01	\$ 11.83	\$ 13.23	\$ 6.41
UNBUNDLED DARK FIBER				
Advanced - Service Inquiry Charge	\$405.87	\$405.65	N/A	N/A
Advanced - Interoffice Dedicated Transport - Initial	\$ 64.80	\$ 64.57	\$267.28	\$224.68
Advanced - Unbundled Loop - Initial	\$ 64.80	\$ 64.57	\$261.86	\$220.43
Advanced - Sub-Loop Feeder - Initial	\$ 64.80	\$ 64.57	\$261.86	\$220.43
Advanced - Sub-Loop Distribution - Initial	\$ 64.80	\$ 64.57	\$264.84	\$216.19
Dark Fiber Records Review (with reservation)	TBD			
Intermediate Office Cross Connect	TBD			
Dark Fiber Optional Engineering Services	TBD			
ENHANCED EXTENDED LOOPS (EELs) Loop portion (In addition, IDT and CDT charges apply if applicable to the EEL arrangement				
Advanced - Basic (2-wire and 4-wire) - Initial	\$ 88.39	\$ 56.13	\$ 29.50	N/A
Advanced - Basic (2-wire and 4-wire) - Subsequent	\$ 38.02	\$ 21.89	\$ 29.50	N/A
DS1/DS3 - Initial	\$ 97.94	\$ 65.68	\$ 29.50	N/A
DS1/DS3 - Subsequent	\$ 38.02	\$ 21.89	\$ 29.50	N/A
DS3 to DS1 Multiplexer	N/A	N/A	\$450.00	N/A
DS1 to DS0 Multiplexer	N/A	N/A	\$800.00	N/A
CHANGEOVER CHARGE - (Conversion from Special Access to EELs or Transport)				
Advanced - Basic (2-wire and 4-wire) Changeover (As Is)	\$161.87	\$ 99.77	\$ 41.64	N/A
Advanced - Basic (2-wire and 4-wire) Changeover (As Is)- Additional MOG (Mass Order Generator) Only	\$ 7.52	\$ 4.56	\$ 41.64	N/A
Advanced - Complex (DS1 and above) Changeover (As Is)	\$179.37	\$117.27	\$ 41.64	N/A
Advanced - Complex (DS1 and above) Changeover (As Is)- Additional MOG (Mass Order Generator) Only	\$ 7.52	\$ 4.56	\$ 41.64	N/A

LOOP CONDITIONING⁶
(No charge for loops 12,000 feet or less)

Loop Conditioning - Bridged Tap	N/A	N/A	\$318.71	\$ 34.88
Loop Conditioning - Load Coils	N/A	N/A	\$249.91	N/A
Loop Conditioning - Load Coils / Bridged Tap	N/A	N/A	\$568.62	\$ 34.88

UNE PLATFORM

Exchange - Basic - Initial	\$ 31.57	\$ 22.13	\$ 28.23	\$ 26.58
Exchange - Basic - Subsequent	\$ 16.44	\$ 13.26	\$ 1.08	\$ 1.08
Exchange - Basic - Changeover	\$ 19.93	\$ 15.54	\$ 0.90	\$ 0.90
Exchange - Complex Non-Digital - Initial	\$ 41.35	\$ 27.53	\$162.41	\$ 31.70
Exchange - Complex Non-Digital - Subsequent (Port Feature)	\$ 16.44	\$ 13.26	\$ 5.89	\$ 5.89
Exchange - Complex Non-Digital - Subsequent (Switch Feature Group)	\$ 20.82	\$ 13.26	\$ 22.73	\$ 22.73
Exchange - Complex Non-Digital - Changeover (As Is)	\$ 22.35	\$ 17.96	\$ 3.61	\$ 3.61
Exchange - Complex Non-Digital - Changeover (As Specified)	\$ 30.08	\$ 21.31	\$ 20.97	\$ 3.61
Exchange - Complex Digital - Initial	\$ 41.35	\$ 27.53	\$205.75	\$ 28.18
Exchange - Complex Digital - Subsequent (Port Feature)	\$ 16.44	\$ 13.26	\$ 5.15	\$ 5.15
Exchange - Complex Digital - Subsequent (Switch Feature Group)	\$ 20.82	\$ 13.26	\$ 22.73	\$ 22.73
Exchange - Complex Digital - Changeover (As Is)	\$ 22.35	\$ 17.96	\$ 4.18	\$ 4.18
Exchange - Complex Digital - Changeover (As Specified)	\$ 30.08	\$ 21.31	\$ 80.98	\$ 4.18
Advanced - Complex - Initial	\$ 48.35	\$ 34.53	\$681.24	\$303.66
Advanced - Complex - Subsequent	\$ 20.82	\$ 13.26	\$ 65.81	\$ 48.47
Advanced - Complex - Changeover (As Is)	\$ 24.06	\$ 19.67	\$ 51.51	\$ 34.17
Advanced - Complex - Changeover (As Specified)	\$ 37.08	\$ 28.31	\$ 82.31	\$ 64.97

INTEROFFICE DEDICATED TRANSPORT (IDT) (Also applies to IDT portion of an EEL arrangement)

Advanced - Basic (2-wire and 4-wire) - Initial	\$ 95.49	\$ 63.01	\$428.58	N/A
Advanced - Basic (2-wire and 4-wire) - Subsequent	\$ 45.12	\$ 28.77	\$ 58.20	N/A
Advanced - Complex (DS1 and above) - Initial	\$105.04	\$ 72.56	\$584.49	N/A
Advanced - Complex (DS1 and above) - Subsequent	\$ 45.12	\$ 28.77	\$ 86.80	N/A

CLEC DEDICATED TRANSPORT (CDT) (Also applies to CDT portion of an EEL arrangement)

Entrance Facility/Dedicated Transport DS0 - Initial	\$ 95.49	\$ 63.01	\$390.08	N/A
Entrance Facility/Dedicated Transport DS0 - Subsequent	\$ 45.12	\$ 28.77	\$ 58.20	N/A
Entrance Facility/Dedicated Transport DS1/DS3 - Initial	\$105.04	\$ 72.56	\$515.03	N/A
Entrance Facility/Dedicated Transport DS1/DS3 - Subsequent	\$ 45.12	\$ 28.77	\$ 86.80	N/A
Clear Channel Capability	N/A	N/A	\$ 90.00	N/A

⁶ These charges are interim and subject to retroactive true-up back to the Effective Date of this Agreement.

SIGNALING SYSTEM 7 (SS7)

Facilities and Trunks - Initial	\$237.67	\$205.19	\$568.54	N/A
Facilities and Trunks - Subsequent (with Engineering Review)	\$ 71.58	\$ 55.23	\$213.12	N/A
Facilities and Trunks - Subsequent (w/o Engineering Review)	\$ 71.58	\$ 55.23	\$ 67.28	N/A
Trunks Only - Initial	\$126.13	\$ 93.65	\$505.41	N/A
Trunks Only - Subsequent (with Engineering Review)	\$ 49.46	\$ 33.11	\$202.03	N/A
Trunks Only - Subsequent (w/o Engineering Review)	\$ 49.46	\$ 33.11	\$ 67.28	N/A
STP Ports (SS7 Links)	\$237.67	\$205.19	\$438.81	N/A

CUSTOMIZED ROUTING

BFR BFR BFR BFR

EXPEDITES

Exchange Products	\$ 3.36	\$ 3.36	N/A	N/A
Advanced Products	\$ 25.80	\$ 25.80	N/A	N/A

OTHER*

Design Change Charge - EELs and Transport	\$27.00	\$27.00	N/A	N/A
CLEC Account Establishment (per CLEC)	\$166.32	\$166.32	N/A	N/A

LINE SHARING - CLEC OWNED SPLITTER*

CLEC Splitter Connection - Initial	\$ 32.19	\$ 22.52	\$ 53.04	\$ 47.29
CLEC Splitter Connection - Subsequent	\$ 13.24	\$ 9.83	\$ 14.49	\$ 13.53

Application of NRCs

Preordering:

CLEC Account Establishment is a one-time charge applied the first time that ATI orders any service from this Agreement.

Customer Record Search applies when ATI requests a summary of the services currently subscribed to by the end-user.

Ordering and Provisioning:

Initial Service Order (ISO) applies to each Local Service Request (LSR) and Access Service Request (ASR) for new service. Charge is Manual (e.g. for a faxed order) or Semi-Mechanized (e.g. for an electronically transmitted order) based upon the method of submission used by the CLEC.

Subsequent Service Order applies to each LSR/ASR for modifications to an existing service. Charge is Manual or Semi-Mechanized based upon the method of submission used by the CLEC.

Advanced ISO applies per LSR/ASR when engineering work activity is required to complete the order.

Exchange ISO applies per LSR/ASR when no engineering work activity is required to complete the order.

Provisioning – Initial Unit applies per ISO for the first unit installed. The *Additional Unit applies for each additional unit installed on the same ISO.*

Basic Provisioning applies to services that can be provisioned using standard network components maintained in inventory without specialized instructions for switch translations, routing, and service arrangements.

Complex Provisioning applies to services that require special instruction for the provisioning of the service to meet the customer's needs.

Examples of services and their Ordering/Provisioning category that applies:

Exchange-Basic: 2-Wire Analog, 4-Wire Analog, Standard Sub-Loop Distribution, Standard Sub-Loop Feeder, Drop and NID.

Exchange-Complex: Non-loaded Sub-Loop Distribution, Non-load Sub-Loop Feeder, Loop Conditioning, Customized Routing, ISDN BRI Digital Line Side Port and Line Sharing.

Advanced-Basic: 2-Wire Digital Loop, 4-Wire Digital Loop

Advanced-Complex: DS1 Loop, DS3 Loop, Dark Fiber, EELs, and ISDN PRI Digital Trunk Side Port

Conditioning applies in addition to the ISO, for each Loop or Sub-Loop UNE for the installation and grooming of Conditioning requests.

DS1 Clear Channel Capability applies in addition to the ISO, per DS1 for the installation and grooming of DS1 Clear Channel Capability requests.

Changeover Charge applies to UNE-P and EEL orders when an existing retail, resale, or special access service is already in place.

Service Inquiry – Dark Fiber applies per service inquiry when a CLEC requests Verizon to determine the availability of dark fiber on a specific route.

EELs - The NRCs that generally apply to an EEL arrangement are applicable ordering & provisioning charges for EEL Loops, IDT, CDT, Multiplexing and Clear Channel Capability

Custom Handling (These NRCs are in addition to any Preordering or Ordering and Provisioning NRCs):

Service Order Expedite applies if ATI requests service prior to the standard due date intervals and the expedite request can be met by Verizon.

Coordinated Conversion applies if ATI requests notification and coordination of service cut-over prior to the service becoming effective.

Hot Coordinated Conversion First Hour applies if ATI requests real-time coordination of a service cut-over that takes one hour or less.

Hot Coordinated Conversion Per Additional Quarter Hour applies, in addition to the Hot Coordinated Conversion First Hour, for every 15-minute segment of real-time coordination of a service cut-over that takes more than one hour.

Design Change Charge applies to EELs & Transport orders for design changes requested by the CLEC.

IV. Rates and Charges for 911

See State Tariff.

V. Collocation Rates

See PA Intrastate Access Tariff, PUC #9.

AMENDMENT NO. 1

to the

INTERCONNECTION AGREEMENT

between

VERIZON NORTH INC.

and

ARMSTRONG TELECOMMUNICATIONS, INC.

This Amendment No. 1 (the "Amendment") is made by and between Verizon North Inc. ("Verizon"), a Wisconsin corporation with offices at 8001 West Jefferson, Ft. Wayne, IN 46804, and Armstrong Telecommunications, Inc., a corporation with offices at One Armstrong Place, Butler, PA 16001 ("ATI"), and shall be deemed effective on June 3, 2005 and in no event later than the date on which the Agreement (as defined below) takes effect (the "Amendment Effective Date"). Verizon and ATI are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the Commonwealth of Pennsylvania (the "Commonwealth").

WITNESSETH:

WHEREAS, Verizon and ATI, pursuant to Section 252(a)(1) of the Communications Act of 1934, as amended (the "Act"), are filing concurrently herewith for Commission approval an Interconnection Agreement under Sections 251 and 252 of the Act (the "Agreement"); and

WHEREAS, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

WHEREAS, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"); and

WHEREAS, on August 20, 2004, the FCC released an Order in WC Docket No. 04-313 and CC Docket No. 01-338 (the "Interim Rules Order") setting forth certain interim rules regarding the temporary reinstatement of unbundling obligations for certain network elements with respect to which the D.C. Circuit Decision holds that the FCC has made no lawful impairment finding under Section 251 of the Act; and

WHEREAS, on February 4, 2005, the FCC released an Order on Remand in WC Docket No. 04-313 and CC Docket No. 01-338 (the "TRRO") setting forth rules that supplanted, effective March 11, 2005, the temporary rules set forth in the Interim Rules Order and addressing the remanded issues raised in the D.C. Circuit Decision;

WHEREAS, in light of the foregoing developments, the Parties, pursuant to Section 252(a) of the Act, wish to amend the Agreement, effective as of the effective date of the Agreement, in order to give contractual effect to the provisions set forth herein; and

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

1. Amendment to Agreement. The Agreement is amended to include the following provisions, which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement or a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT").
2. General Conditions.
 - 2.1 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT: (a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs") and combinations of unbundled Network Elements ("Combinations") to ATI under the terms of this Amended Agreement only to the extent required by the Federal Unbundling Rules, and (b) Verizon may decline to provide access to UNEs and Combinations to ATI to the extent that provision of access to such UNEs or Combinations is not required by the Federal Unbundling Rules.
 - 2.2 ATI may use a UNE or a Combination only for those purposes for which Verizon is required by the Federal Unbundling Rules to provide such UNE or Combination to ATI.
 - 2.3 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, to the extent Verizon becomes obligated to provide to ATI pursuant to the Federal Unbundling Rules a Discontinued Facility or a UNE, Combination, or related service that, as of the Amendment Effective Date, Verizon is not required to provide to ATI under the Amended Agreement and the Federal Unbundling Rules, the rates, terms, conditions for such Discontinued Facility, UNE, Combination, or related service shall be as provided in an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for such rates, terms, and conditions, or (in the absence of an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for such rates, terms, and conditions) as mutually agreed by the Parties in a written amendment to the Amended Agreement. For the avoidance of doubt, notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, Verizon, unless and until such time as Verizon is required to do so by an applicable Verizon tariff that Verizon, after the Amendment Effective Date, establishes or revises to provide for the applicable rates, terms, and conditions or by a mutually agreed written amendment to the Amended Agreement setting forth the applicable rates, terms, and conditions, shall not be required under the Amended Agreement (a) to perform any routine network modification that the Agreement does not expressly and specifically require Verizon to perform (including, but not limited to, any routine network modification required under 47 C.F.R. § 51.319(a)(8) or 47 C.F.R. § 51.319(e)(5)), (b) to commingle, or to permit the commingling of, UNEs or Combinations with other wholesale services obtained from Verizon under a Verizon access tariff, separate non-251 agreement, or otherwise, or (c) to offer or provide, for any period of time not required under Section 3 of this Amendment, any facility that is or becomes a Discontinued Facility.
3. Discontinued Facilities.
 - 3.1 Generally.
 - 3.1.1 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, Verizon shall not be

obligated to offer or provide access on an unbundled basis at rates prescribed under Section 251 of the Act to any facility that is or becomes a Discontinued Facility, whether as a stand-alone UNE, as part of a Combination, or otherwise; provided, however, that in accordance with but only to the extent required by the TRRO (and only for so long as, and to the extent that, the TRRO remains effective and is not stayed, reversed, modified, or vacated), Verizon shall continue during the applicable transition period specified in the TRRO (and not beyond such period) to provide ATI's embedded base of UNEs that, as of March 11, 2005, became Discontinued Facilities by operation of the TRRO, and such embedded base of UNEs shall be subject to FCC-prescribed rate increases pursuant to Section 3.5 below. To the extent Verizon has not already ceased providing a particular Discontinued Facility to ATI, Verizon, provided it has given at least ninety (90) days written notice of discontinuance of such Discontinued Facility, will continue to provide such Discontinued Facility under the Amended Agreement only through the effective date of the notice of discontinuance, and not beyond that date.

3.1.2 To the extent a facility is (or becomes) a Discontinued Facility only as to new orders that ATI may place for such a facility, Verizon, to the extent it has not already discontinued its acceptance of such new orders and provided it has given at least ninety (90) days written notice in cases where it has not already discontinued its acceptance of such new orders, may reject such new orders on the effective date of the *notice of discontinuance and thereafter*. Verizon may, but shall not be required to, issue the foregoing notice in advance of the date on which the facility shall become a Discontinued Facility as to new orders that ATI may place, so as to give effect to Verizon's right to reject such new orders immediately on that date.

3.1.3 The Parties acknowledge that Verizon, prior to the Amendment Effective Date, has provided ATI with any required notices of discontinuance of certain Discontinued Facilities, and that Verizon, to the extent it has not already done so pursuant to a pre-existing or independent right it may have under the Agreement, a Verizon SGAT or tariff, or otherwise, may, at any time and without further notice to ATI, cease providing any such Discontinued Facilities.

3.1.4 This Section 3.1 is intended to limit any obligation Verizon might otherwise have to provide to ATI (or to notify ATI of the discontinuance of) any facility that is or becomes a Discontinued Facility, and nothing contained in this Section 3.1 or elsewhere in this Amendment shall be deemed to establish in the first instance or to extend any obligation of Verizon to provide any facility or Discontinued Facility. This Section 3.1 shall apply notwithstanding anything contained in the Agreement, this Amendment, or any Verizon tariff or SGAT, but without limiting any other right Verizon may have under the Agreement, this Amendment, or any Verizon tariff or SGAT to cease providing a facility that is or becomes a Discontinued Facility.

3.2 Continuation of Facilities Under Separate Arrangement. To the extent ATI wishes to continue to obtain access to a Discontinued Facility under a separate arrangement (e.g., a separate agreement at market-based rates, an arrangement under a Verizon access tariff, or resale), ATI shall have promptly undertaken and concluded such efforts as may be required to secure such arrangement prior to

the date on which Verizon is permitted to cease providing the Discontinued Facility; provided, however, that in no event shall ATI's failure to secure such an arrangement affect Verizon's right to cease providing a facility that is or becomes a Discontinued Facility. If Verizon is permitted to cease providing a Discontinued Facility under this Section 3 and ATI has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Discontinued Facility and has not separately secured from Verizon an alternative arrangement to replace the Discontinued Facility, then Verizon, to the extent it has not already done so prior to execution of this Amendment, shall reprice the subject Discontinued Facility by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge) to be equivalent to access, resale, or other analogous arrangement that Verizon shall identify in a written notice to ATI. The rates, terms, and conditions of any such arrangements shall apply and be binding upon ATI as of the date specified in the written notice issued by Verizon. The Parties acknowledge that Verizon has, in such written notices issued to ATI prior to the Amendment Effective Date, identified such arrangements to replace certain Discontinued Facilities and that Verizon, to the extent it has not already done so, may implement such arrangements without further notice.

- 3.3 Limitation With Respect to Replacement Arrangements. Notwithstanding any other provision of this Amended Agreement, any negotiations regarding any replacement arrangement or other facility or service that Verizon is not required to provide under the Federal Unbundling Rules shall be deemed not to have been conducted pursuant to the Amended Agreement, 47 U.S.C. § 252(a)(1), or 47 C.F.R. Part 51, and shall not be subject to arbitration pursuant to 47 U.S.C. § 252(b). Any reference in this Amended Agreement to Verizon's provision of a facility, service, or arrangement that Verizon is not required to provide under the Federal Unbundling Rules is solely for the convenience of the Parties and shall not be construed to require or permit arbitration of such rates, terms, or conditions pursuant to 47 U.S.C. § 252(b).
- 3.4 Pre-Existing and Independent Discontinuance Rights. Verizon's rights as to discontinuance of Discontinued Facilities pursuant to this Section 3 are in addition to, and not in limitation of, any rights Verizon may have as to discontinuance of Discontinued Facilities under the Agreement, a Verizon tariff or SGAT, or otherwise. Nothing contained herein shall be construed to prohibit, limit, or delay Verizon's exercise of any pre-existing or independent right it may have under the Agreement, a Verizon tariff or SGAT, or otherwise to cease providing a Discontinued Facility.
- 3.5 Implementation of Rate Changes. Notwithstanding any other provision of the Amended Agreement (including, but not limited to, the rates and charges set forth therein), Verizon may, but shall not be required to, implement any rate increases or new charges that may be established by the FCC in the TRRO or subsequent orders, once effective, for unbundled network elements, combinations of unbundled network elements, or related services, by issuing to ATI a schedule of such rate increases and/or new charges, provided that the rate provisions of such FCC orders are not subject to a stay issued by any court of competent jurisdiction. Any such rate increases or new charges shall take effect on the date indicated in the schedule issued by Verizon, but no earlier than the date established by the FCC, and shall be paid by ATI in accordance with the terms of the Amended Agreement. Verizon may, but shall not be required to, use a true-up to apply the rate increases or new charges effective as of the date indicated in the schedule issued by Verizon. The Parties acknowledge that Verizon, prior to the Amendment Effective Date, may have provided ATI such a schedule identifying rate increases or new charges for certain Discontinued

Facilities, and that no further notice or schedule is required for those rate increases or new charges to take effect. Any such rate increases and new charges that the FCC may establish shall be in addition to, and not in limitation of, any rate increases and new charges that the Pennsylvania Public Utility Commission may approve or that Verizon may otherwise implement under the Amended Agreement or applicable tariffs. Nothing set forth in this Section 3.5 shall be deemed an admission of Verizon (including, but not limited to, as to whether this Amendment is required in order for Verizon to charge the FCC-prescribed rate increases and new charges described herein) or limit Verizon's right to appeal, seek reconsideration of, or otherwise seek to have stayed, modified, reversed, or invalidated any limit the FCC may impose on Verizon's rates and charges.

4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4.1.
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement". Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement.
- 4.5 Reservation of Rights. Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Pennsylvania Public Utility Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.
- 4.6 Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.

- 4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:
- 4.7.1 Call-Related Databases. Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases.
- 4.7.2 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services.
- 4.7.3 Dark Fiber Transport. An optical transmission facility within a LATA, that Verizon has not activated by attaching multiplexing, aggregation or other electronics, between Verizon switches (as identified in the LERG) or wire centers. Dark fiber facilities between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party are not Dark Fiber Transport.
- 4.7.4 Dedicated Transport. A DS1 or DS3 transmission facility between Verizon switches (as identified in the LERG) or wire centers, within a LATA, that is dedicated to a particular end user or carrier. Transmission facilities or services provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party are not Dedicated Transport.
- 4.7.5 Discontinued Facility. Any facility that Verizon, at any time, has provided or offered to provide to ATI on an unbundled basis pursuant to the Federal Unbundling Rules (whether under the Agreement, a Verizon tariff, or a Verizon SGAT), but which by operation of law has ceased or ceases to be subject to an unbundling requirement under the Federal Unbundling Rules. By way of example and not by way of limitation, Discontinued Facilities include the following, whether as stand-alone facilities or combined with other facilities: (a) any Entrance Facility; (b) Enterprise Switching; (c) Four-Line Carve Out Switching; (d) Mass Market Switching; (e) OCn Loops and OCn Dedicated Transport; (f) DS1 Loops or DS3 Loops out of any wire center at which the Federal Unbundling Rules do not require Verizon to provide ATI with unbundled access to such Loops; (g) any DS1 Loop or DS3 Loop that exceeds the maximum number of such Loops that the Federal Unbundling Rules require Verizon to provide to ATI on an unbundled basis at a particular building location; (h) DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on any route as to which the Federal Unbundling Rules do not require Verizon to provide ATI with unbundled access to such Transport; (i) any DS1 Dedicated Transport circuit or DS3 Dedicated Transport circuit that

exceeds the number of such circuits that the Federal Unbundling Rules require Verizon to provide to ATI on an unbundled basis on a particular route; (j) Dark Fiber Loops; (k) the Feeder portion of a Loop; (l) Line Sharing; (m) any Call-Related Database other than the 911 and E911 databases; (n) Signaling; (o) Shared Transport; (p) FTTP Loops (lit or unlit); (q) Hybrid Loops (subject to exceptions for TDM and narrowband services (i.e., equivalent to DS0 capacity)); and (r) any other facility or class of facilities as to which the FCC has not made a finding of impairment that remains effective, or as to which the FCC makes (or has made) a finding of nonimpairment.

- 4.7.6 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.
- 4.7.7 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.8 DS1 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of 1.544 Mbps digital signals. This loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS1 Loop requires the electronics necessary to provide the DS1 transmission rate. DS1 Loops are sometimes also known as DS1 "Links".
- 4.7.9 DS3 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). This Loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS3 Loop requires the electronics necessary to provide the DS3 transmission rate. DS3 Loops are sometimes also known as DS3 "Links".
- 4.7.10 Enterprise Switching. Local Switching or Tandem Switching that, if provided to ATI would be used for the purpose of serving ATI's customers using DS1 or above capacity Loops.
- 4.7.11 Entrance Facility. A transmission facility (lit or unlit) or service provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of ATI or a third party.
- 4.7.12 Federal Unbundling Rules. Any lawful requirement to provide access to unbundled network elements that is imposed upon Verizon by the FCC pursuant to both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Any reference in this Amendment to "Federal Unbundling Rules" shall not include an unbundling requirement if the unbundling requirement does not exist under both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.
- 4.7.13 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal or feeder/distribution interface.

- 4.7.14 Four-Line Carve Out Switching. Local Switching that Verizon is not required to provide pursuant to 47 C.F.R. § 51.319(d)(3)(ii).
- 4.7.15 FTTP Loop. A Loop consisting entirely of fiber optic cable, whether dark or lit, that extends from the main distribution frame (or its equivalent) in an end user's serving wire center to the demarcation point at the end user's customer premises or to a serving area interface at which the fiber optic cable connects to copper or coaxial distribution facilities that extend to the end user's customer premises demarcation point, provided that all copper or coaxial distribution facilities extending from such serving area interface are not more than 500 feet from the demarcation point at the respective end users' customer premises; provided, however, that in the case of predominantly residential multiple dwelling units (MDUs), an FTTP Loop is a Loop consisting entirely of fiber optic cable, whether dark or lit, that extends from the main distribution frame (or its equivalent) in the wire center that serves the multiunit premises: (a) to or beyond the multiunit premises' minimum point of entry (MPOE), as defined in 47 C.F.R § 68.105; or (b) to a serving area interface at which the fiber optic cable connects to copper or coaxial distribution facilities that extend to or beyond the multiunit premises' MPOE, provided that all copper or coaxial distribution facilities extending from such serving area interface are not more than 500 feet from the MPOE at the multiunit premises.
- 4.7.16 Hybrid Loop. A local Loop composed of both fiber optic cable and copper wire or cable. An FTTP Loop is not a Hybrid Loop.
- 4.7.17 Line Sharing. The process by which ATI provides xDSL service over the same copper Loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the Loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper Loop that are used to establish a complete transmission path between Verizon's main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises.
- 4.7.18 Local Switching. The line-side and trunk-side facilities associated with the line-side port, on a circuit switch in Verizon's network (as identified in the LERG), plus the features, functions, and capabilities of that switch, unbundled from loops and transmission facilities, including: (a) the line-side Port (including the capability to connect a Loop termination and a switch line card, telephone number assignment, dial tone, one primary directory listing, pre-subscription, and access to 911); (b) line and line group features (including all vertical features and line blocking options the switch and its associated deployed switch software are capable of providing that are provided to Verizon's local exchange service Customers served by that switch); (c) usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks); and (d) trunk features (including the connection between the trunk termination and a trunk card).
- 4.7.19 Mass Market Switching. Local Switching or Tandem Switching that, if provided to ATI, would be used for the purpose of serving a ATI end

user customer with DS0 Loops. Mass Market Switching does not include Four Line Carve Out Switching.

4.7.20 Signaling. Signaling includes, but is not limited to, signaling links and signaling transfer points.

4.7.21 Tandem Switching. The trunk-connect facilities on a Verizon circuit switch that functions as a tandem switch, plus the functions that are centralized in that switch, including the basic switching function of connecting trunks to trunks, unbundled from and not contiguous with loops and transmission facilities. Tandem Switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon tandem switch for the purpose of routing a call. A tandem switch does not provide basic functions such as dial tone service.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

ARMSTRONG TELECOMMUNICATIONS, INC.

VERIZON NORTH INC.

By: 

By: 

Printed: Dru A. Sedwick

Printed: John C. Peterson

Title: President

Title: Director - Contract Performance and Administration

Date: 4/3/05

Date: 4/7/05