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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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FEB 16 2000

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Chairman
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Commissioner
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Commissioner

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF U S WEST)
COMMUNICATIONS, INC.'S)
COMPLIANCE WITH § 271 OF THE)
TELECOMMUNICATIONS ACT OF)
1996)
_____)

Docket No. T-00000B-97-0238

U S WEST'S REPLY
COMMENTS IN REGARD TO
CHECKLIST ITEMS 3 AND 13

Pursuant to the Notice issued by the Arizona Corporation Commission on February 10, 2000, U S WEST Communications, Inc. ("U S WEST") hereby files its reply comments on checklist items 3 (Poles, Ducts, and Conduits) and 13 (Reciprocal Compensation). U S WEST also discusses the resolution that has been reached on Checklist Items 7 and 10.

I. CHECKLIST ITEM VII (911/E911, DIRECTORY ASSISTANCE, AND OPERATOR SERVICES) AND X (SIGNALING AND CALL RELATED DATABASES) - RESOLUTION SINCE LAST WORKSHOP

A. CHECKLIST ITEM 7(I) (911/E911)

In the January 25, 2000 workshop, the parties resolved all but a few issues regarding Checklist Item 7(I), 911/E911. The following section addresses the remaining open issues.

In that workshop, U S WEST agreed to add sections to the SGAT regarding the availability of direct access for interconnection without the use of a SPOT or ICDF frame. U S WEST agreed to incorporate into the Arizona SGAT the language of the following three sections of the Nebraska SGAT:

- 1) U S WEST will provide CLEC the same connection to the network as U S WEST uses for provision of services to U S WEST customers. The direct connection to U S WEST's network is provided to CLEC through direct use of U S WEST's existing cross connection network. CLEC and U S WEST will share the same distributing frames for similar types and speeds of equipment, where technically feasible and space permitting.
- 2) CLEC terminations will be placed on the appropriate U S WEST cross connection frames using standard engineering principles. CLEC terminations will share frame space with U S WEST terminations on U S WEST frames without a requirement for an intermediate device, such as a SPOT (Single Point of Termination) frame, and without direct access to the COSMIC™ or MDF. This provides a clear and logical demarcation point for U S WEST and CLEC.
- 3) If CLEC disagrees with the selection of the U S WEST cross connection frame, CLEC may request a tour of the U S WEST wire center cross connection frame alternatives, and may request, through the BFR process, use of an alternative frame or an alternative arrangement, such as direct connections from CLEC's collocation space to the MDF or Cosmic frame.

U S WEST also agreed to update the Interconnect and Resale Resource Guide (IRRG) and its internal operations handbook to describe the processes and procedures for CLECs to order direct access for interconnection. The updated IRRG and handbook should be available by the end of the month.

B. CHECKLIST ITEM 10 (SIGNALING AND CALL RELATED DATABASES)

The issues from Checklist Item 7(I) regarding direct access also apply to Checklist Item 10, Signaling and Call Related Databases. In addition, U S WEST agreed to add language to the SGAT to make the CLEC options for SS7 interconnection more clear and to clarify that the interconnection of signaling networks is for the mutual exchange of signaling information according to standards. U S WEST proposes to add the following language to the SGAT:

- 1) SS7 Out of Band Signaling. SS7 Out of Band Signaling is required for LIS trunks. SS7 Out-of-Band Signaling must be requested on the order for the new LIS trunks. Common Channel Signaling Access Capability Service, must be obtained by the CLEC. SS7 Out-of-Band Signaling may be obtained through the following options: 1) as set forth in this SGAT (Section 9); 2) as defined in the U S WEST FCC Tariff Number 5, Section 20; or 3) from a third party signaling provider. Each of the parties, U S WEST and CLEC, will provide for interconnection of their signaling network for the mutual exchange of signaling information in accordance with the industry standards as described in Telcordia documents, including, but not limited to, GR-905- CORE, GR-954-CORE, and U S WEST Technical Publication 77342.

C. CHECKLIST ITEMS 7(II) AND (III) (DIRECTORY ASSISTANCE AND OPERATOR SERVICES)

In the January 25, 2000 workshop, the parties resolved all but a few issues regarding Checklist Items 7(II) and (III), Directory Assistance and Operator Services. The following section addresses the remaining open issues.

At the workshop, U S WEST agreed to add language to the SGAT concerning U S WEST's provision of a process for contacting end users with nonpublished numbers in emergency situations. U S WEST proposes to add the following language to the SGAT:

U S WEST will provide a process and procedure for contacting end users with nonpublished telephone numbers in emergency situations for nonpublished telephone numbers that are included in U S WEST's directory assistance database. Such process and procedure will be available to CLEC for CLEC's use when CLEC provides its own directory assistance and purchases U S WEST's Directory Assistance List product.

U S WEST also agreed to add language to the SGAT acknowledging that U S WEST allows incidental use of DAL for CLEC's callers to its DA service. U S WEST proposes to add the following language to the SGAT (new language is underlined):

10.6.2.1 U S WEST grants to CLEC, as a competing provider of telephone exchange service and telephone toll service, a non-exclusive, non-transferable, revocable license to use the DA List Information

solely for the purpose of providing DA service to its end user customers or for other incidental use by other carriers' customers, subject to the terms and conditions of this SGAT. As it pertains to the DA List Information in this SGAT, "Directory Assistance Service" shall mean the provision, via a live operator or a mechanized system, of telephone number and address information for an identified telephone service end user or the name and/or address of the telephone service end user for an identified telephone number.

10.6.2.2 CLEC shall not use the DA List Information provided hereunder for any other purpose whatsoever. By way of example and not limitation, U S WEST's DA List Information shall not be used by CLEC for soliciting subscribers, telemarketing, creating or distributing marketing lists or other compilations of marketing information, or publishing any form of a directory.

U S WEST also agreed to add language to the SGAT about inclusion of independent companies' and CLECs' listings in U S WEST's DAL product. U S WEST proposes to add the following language to the SGAT (new language is underlined):

10.6.1.1 Directory assistance List (DA List) information consists of the name, address, and telephone number information for all end users of U S WEST and other LECs contained in U S WEST's directory assistance database.

II. CHECKLIST ITEM III: POLES, DUCTS, CONDUITS, AND RIGHTS OF WAY

U S WEST appreciates the comments of MCI and AT&T regarding checklist item 3 and its treatment in the SGAT. Indeed, some of their comments were correct and have led to voluntary changes by U S WEST of its SGAT.¹ However, others miss the mark. U S WEST will address the erroneous comments below, *seriatim*.

MCI's and AT&T's Demand to Include Rights of Way (ROW) – MCI's change was made.² However, U S WEST substituted the concept of access for the word

¹ The Second Revised SGAT Attachment 1 on checklist item 3 is attached as Exhibit 1.

² Second Revised SGAT, sections 10.8.1, 10.8.2.1, 10.8.2.4, 10.8.2.8, 10.8.2.13, 10.8.2.19, 10.8.4.1, 10.8.4.5.

“lease” in accordance with governing law.³ In addition, the obligation to provide access was made reciprocal in order to be consistent with interconnection agreements with MCI and AT&T in Arizona and with governing law.⁴ Finally, U S WEST excluded MCI language specifying specific parts of MDUs because it has no basis in existing law.

AT&T’s and Cox’s Request For MDU Access -- This comment is simply not contemplated under governing law. MDU access is not a matter of U S WEST ROW; it is a matter of property owned by a third party who may choose whether to give access. “Section 271(c)(2)(B)(iii) is limited to the requirements set forth in section 224 and thus does not require the incumbent LEC to provide access to wiring it does not control inside buildings.”⁵ The FCC further elaborated in the Local Competition Order:

The scope of a utility's ownership or control of an easement or right-of-way is a matter of state law. We cannot structure general access requirements where the resolution of conflicting claims as to a utility's control or ownership depends upon variables that cannot now be ascertained. We reiterate that the access obligations of section 224(f) apply when, as a matter of state law, the utility owns or controls the right-of-way to the extent necessary to permit such access.⁶

³ Second Revised SGAT, section 10.8.1.3. See 47 U.S.C. section 224; In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order on Reconsideration, CC Docket No. 96-98, ¶ 103 (rel. October 26, 1999) (*Order on Reconsideration*).

⁴ The principle of reciprocal access was established in the appeal of the AT&T/MCI agreement in Oregon. *U S WEST Communications, Inc. v. AT&T Communications*, 31 F.Supp.2d 839, 849-51 (D. Or. 1998). The Oregon federal court rejected the FCC’s view as contrary to the plain meaning of section 251(b)(4), which imposes access duties on all LECs. *Id.* The court also noted that this outcome was much more efficient noting that otherwise U S WEST customers would have to pay for a new set of poles down a street on which AT&T already had a set of poles. *Id.* This precedent was followed by the federal court in Arizona in *U S WEST Communications, Inc. v. Jennings*, 46 F.Supp.2d 1004, 1016-17 (D. Ariz. 1999). See *U S WEST/AT&T Interconnection Agreement*, section 47.1; *U S WEST/MCI Interconnection Agreement*, section 47.1.

⁵ *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404 (rel. December 22, 1999), ¶ 266. (*Bell Atlantic New York Order*).

⁶ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, ¶ 1179 (rel. August 8, 1996) (*First Report and Order*).

Thus, it is not “owned or controlled” by U S WEST. Moreover, MDU access is a competitive market in which CLECs are doing very well *vis a vis* U S WEST.⁷

AT&T’s Desire For Access To U S WEST Rooftops – This comment also has no basis in law. The FCC has stated that issue of rooftops is not one of ROW.⁸

MCI’s Comment Regarding Placing Innerduct – This change was made.⁹ However, U S WEST made clear that the ownership of such innerduct vests in U S WEST.¹⁰ U S WEST also did not add MCI’s language “for its own use” because it has no basis in law.

MCI’s And AT&T’s Comment Regarding CLEC Workers – MCI’s change was not made because the governing standard is “same,” not “similar,” qualifications.¹¹

⁷ U S WEST’s competitors have garnered approximately 76% of the new MDU market and an overall share of 52%.

⁸

We note that some commenters favor a broad interpretation of “pole, duct, conduit, or right-of-way” because that approach would minimize the risk that a “pathway” vital to competition could be shut off to new competitors. Others argue for a narrow construction of this statutory phrase, contending that Congress addressed access to other LEC facilities elsewhere in the 1996 Act. We recognize that an overly broad interpretation of this phrase could impact the owners and managers of small buildings, as well as small incumbent LECs, by requiring additional resources to effectively control and monitor such rights-of-way located on their properties. We do not believe that section 224(f)(1) mandates that a utility make space available on the roof of its corporate offices for the installation of a telecommunications carrier’s transmission tower, although access of this nature might be mandated pursuant to a request for interconnection or for access to unbundled elements under section 251(c)(6). The intent of Congress in section 224(f) was to permit cable operators and telecommunications carriers to “piggyback” along distribution networks owned or controlled by utilities, as opposed to granting access to every piece of equipment or real property owned or controlled by the utility.

First Report and Order, ¶ 1185.

⁹ Second Revised SGAT, section 10.8.1.2.

¹⁰ Second Revised SGAT, sections 10.8.1.2, 10.8.2.6. See *Order on Reconsideration*, ¶ 103.

¹¹ Second Revised SGAT, section 10.8.2.17. See *First Report and Order*, ¶ 1180; *Order on Reconsideration*, ¶¶ 81, 86. Almost identical language was approved in the second BellSouth 271 decision. *Application of BellSouth Corporation Pursuant to Section 271 of the Communications Act of 1934, as amended to Provide In-Region InterLATA services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order, FCC 98-271 (rel. Oct. 13, 1998), ¶ 181 (“*BellSouth Louisiana Second Order*”).

However, AT&T's comment regarding discrimination was accommodated by expressly incorporating section 224 and its progeny into the SGAT.¹²

MCI's Standard for Rejection of CLEC Work – Per MCI's suggestion, U S WEST made the NESC a standard for rejection.¹³ U S WEST also added OSHA and local ordinances to the standard.

MCI's And AT&T's Comments Regarding Attaching U S WEST Pole And Attachment And/Or Innerduct Occupancy General Terms And Conditions – This change was made.¹⁴ In addition, U S WEST made clear that in the event of a conflict between the U S WEST Pole and Attachment and/or Innerduct Occupancy General Terms and conditions, on one hand, and the SGAT or section 224 and its progeny on the other, that the latter would govern.¹⁵

MCI's And AT&T's Comments Regarding The Cost Of Modifications – These changes were made.¹⁶ They reflect the current state of the law requiring modification costs generally to be borne by those who cause them.¹⁷

MCI's Desire For Automatic Extensions Of CLEC Deadlines – This change has no basis in governing law and was not made.¹⁸ Moreover, by this change, MCI is attempting to obtain an extension of all CLEC deadlines while, at the same time, seeking to shorten all of the ILEC deadlines. Therefore, this change was not made.

MCI's Desire For A Refund If It Cancels For Any Reason – Again, this change has no basis in law and was not made.¹⁹ Moreover, this change would create perverse incentives. For example, this change would allow a CLEC to obtain make-ready

¹² Second Revised SGAT, section 10.8.2.24. This is sufficient because, as the FCC, has often noted, it is impossible to provide for every possible factual scenario in one document. See *First Report and Order*, ¶¶ 1143-48.

¹³ Second Revised SGAT, section 10.8.2.10.

¹⁴ Second Revised SGAT, section 10.8.2.

¹⁵ Second Revised SGAT, section 10.8.2.24.

¹⁶ Second Revised SGAT, section 10.8.2.10.

¹⁷ See *First Report and Order*, ¶¶ 1211-16; *Order on Reconsideration*, ¶¶ 103, 105, 106.

¹⁸ Second Revised SGAT, section 10.8.2.13.

¹⁹ Second Revised SGAT, section 10.2.8.18.

work for a steeply discounted rate. The CLEC could simply order the attachment, then cancel during make-ready, then re-order the attachment and refuse to pay make-ready because the attachment is already prepared.

MCI's And AT&T's Desire To Have CLEC Rights Survive A Sale – These comments were honored, but with language more precise than that proposed by MCI.²⁰

MCI's Demand For A True-Up – This change was made to the extent it was consistent with governing law. U S WEST made the change regarding make-ready work, but only to the extent that true-ups are actually requested.²¹ However, U S WEST did not provide for true-ups on inquiry fees and field verification fees because the FCC has approved of the use of “standard quotes” for such items.²²

Finally, although MCI demanded a 30-day automatic turnaround on refunds for itself, U S WEST instead imposed a reasonable timeframe after true-up requests for both CLECs and U S WEST.²³ MCI's changes have no basis in law and violate common sense. A uniform deadline is inconsistent with the reality that all true-up requests are not created equal. Moreover, it is more efficient to require true-ups only upon request rather than on every job.

MCI's Desire Not To Pay For Cost Overruns Of Less Than 10% -- This change was not made.²⁴ It has no basis in law and discriminates against U S WEST.

MCI's Desire For A Refund If An Application Is Denied – Although it has no basis in law, this change was made, albeit with more appropriate language.²⁵ U S WEST's language allows a reasonable turnaround time for such refunds while MCI allowed for no turnaround time. Also, for reasons of efficiency, such refunds should not be automatic; rather, they should be on request only.

²⁰ Second Revised SGAT, section 10.8.2.19.

²¹ Second Revised SGAT, sections 10.8.3.3, 10.8.4.5.

²² *Order on Reconsideration*, ¶ 107.

²³ Second Revised SGAT, section 10.8.4.5.

²⁴ Second Revised SGAT, section 10.8.4.5.

²⁵ Second Revised SGAT, section 10.8.4.5.

MCI's Desire To Erase The Reservation Fee If The CLEC Eventually Uses The Space – This change was not made.²⁶ The FCC has made clear that ILECs may recover their costs.²⁷ This includes opportunity cost, which is the purpose of the reservation fee. The opportunity cost of holding space for a CLEC is not recovered in the access fee. Therefore, MCI's request to credit the reservation fee against the access fee prevents U S WEST from recovering its cost of the reservation and is therefore violative of governing law. Finally, MCI agreed to language similar to the SGAT in this regard in its interconnection agreement, and the same language appears in AT&T's interconnection agreement.²⁸

MCI's Request That The Access Fee Start Only After Completion Of Make-Ready Work – This change was not made because it is inconsistent with the interconnection agreements with MCI and AT&T, which require payment of access fees upon the expiration of a reservation or upon exercise of a right of first refusal, whichever occurs first.²⁹ The language on this topic in those agreements was negotiated after the Commission ordered that there should be compensation for periods in which space is held for a CLEC even if the CLEC is not yet attached.

MCI's Request To Pay Preparation Fees In Advance And Access Fees In Arrears – The first part of change was made.³⁰ The second was not because there is no basis in law for requiring U S WEST to wait until after performance to be paid.

MCI's And AT&T's Desire For *Carte Blanche* Authority To Make Splices In The Central Office Manhole – This comment lacks any basis in law and is in conflict with tradition and concerns of safety and reliability. However, U S WEST did replace the

²⁶ Second Revised SGAT, section 10.8.4.6.

²⁷ See, e.g., *Order on Reconsideration*, ¶ 107.

²⁸ U S WEST/MCI Interconnection Agreement, section 47.4.10; U S WEST/AT&T Interconnection Agreement, section 47.4.10.

²⁹ Second Revised SGAT, section 10.8.4.6.2. See U S WEST/MCI Interconnection Agreement, section 47.4.10.2; U S WEST/AT&T Interconnection Agreement, section 47.4.10.2.

³⁰ Second Revised SGAT, section 10.8.5.

case by case standard to allow such access where technically feasible.³¹ The simple fact is that even U S WEST attempts to avoid such splices wherever possible because of the incredibly crowded and complex maze of cables in the central office manholes.

AT&T's Comment Regarding Denials For Lack Of Capacity – These comments were accommodated by incorporating section 224 and its progeny expressly into the SGAT.³² In addition, U S WEST added the provisos that it has no duty to exercise rights it does not have or eminent domain.³³

AT&T's Comment Regarding Reservations By U S WEST – Again, this comment was accommodated by incorporating section 224 and its progeny expressly into the SGAT.³⁴

MCI's Change Regarding Access To Maps – MCI desired to change section 10.8.2.4 to require a 10-day turnaround on all map requests. This change was not made. The existing language – imposing a reasonable timeframe – is more appropriate because inquiries vary widely in scope and scale.³⁵

MCI's Desire To Limit Inspections To One Per Year – This change has no basis in law and was, therefore, not made.³⁶ Moreover, it is impractical and unduly restrictive. It is easy to conceive of a situation in which U S WEST might have good cause to inspect more than once per year, *e.g.*, a CLEC or a CLEC worker with a history of safety or reliability problems.

³¹ Second Revised SGAT, section 10.8.2.9.

³² Second Revised SGAT, section 10.8.2.24. See *First Report and Order*, ¶¶ 1161-64, 1176; *Order on Reconsideration*, ¶¶ 51 & 52.

³³ Second Revised SGAT, section 10.8.2.25. See *First Report and Order*, ¶¶ 1179, 1181; *Order on Reconsideration*, ¶ 38.

³⁴ Second Revised SGAT, section 10.8.2.24. See *First Report and Order*, ¶¶ 1169-70; *Order on Reconsideration*, ¶¶ 54, 65-72 (describing rules governing reservations by utilities).

³⁵ This section was, however, altered to be consistent with governing law. In particular, U S WEST is obligated to provide access to maps, but not the maps themselves. *BellSouth Louisiana Second Order*, ¶ 180.

³⁶ Second Revised SGAT, section 10.8.2.14.

MCI's Attempt To Expand Its Time To Cure Unauthorized Attachments –

This change also has no basis in law and was not made.³⁷ It also is unnecessary. MCI wishes to have 30 days instead of 10 to file an application in the event it has attached without permission. The application is a ministerial task and 10 days is more than sufficient especially given the fact that the CLEC is in breach. MCI also wants 30 days instead of 10 (after the application deadline) to remove its facilities if it does not file an application. Again, a total of 20 days to remove unauthorized facilities is generous, and 60 days is beyond excessive and would vitiate U S WEST's ability to maintain the integrity of its network.

III. CHECKLIST ITEM 13 - RECIPROCAL COMPENSATION

To satisfy checklist item 13, U S WEST must provide "reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2)."³⁸ Section 252(d)(2), in turn, provides that a state commission may not consider the terms and conditions for reciprocal compensation to be just and reasonable unless they: (1) provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination of calls that originate on the network facilities of the other carrier, and (2) determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.³⁹ In addition, Section 251(b)(5) of the Act imposes on all LECs "the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications."⁴⁰

The basic premise of these statutory provisions is that the originator of a local call is responsible for the costs of completing that call, including the costs associated with call transport. U S WEST meets the requirements of Section 271(c)(2)(B)(xiii) through its

³⁷ Second Revised SGAT, section 10.8.2.22.

³⁸ 47 U.S.C. Section 271(c)(2)(B)(xiii).

³⁹ 47 U.S.C. Section 252(d)(2).

⁴⁰ 47 U.S.C. Section 251(b)(5).

proposed SGAT and existing interconnection agreements, pursuant to which U S WEST and CLECs provide interconnection and reciprocal compensation for the exchange of local traffic. The reciprocal compensation rates provided for in these agreements are cost-based under Section 252(d)(2). U S WEST has made millions of dollars of payments for reciprocal compensation pursuant to existing interconnection agreements.

AT&T and MCI submitted comments suggesting that U S WEST's SGAT is not in compliance with checklist item 13. Importantly, no intervenor took issue with whether U S WEST is providing access to checklist item 13 at an "acceptable level of quality." They only took issue with U S WEST's legal obligation to provide access to Checklist Item 13 upon request. The comments of AT&T and MCI can be separated into two categories. First, they contend that U S WEST can not satisfy checklist item 13, because the SGAT excludes ISP-bound traffic in the definition of traffic that qualifies for reciprocal compensation payments. Second, they raise a number of concerns with the precise language of U S WEST's SGAT offering. These assertions are misplaced.

A. U S WEST'S DECISION TO ADOPT SGAT LANGUAGE EXCLUDING TRAFFIC TO ISP COMPORTS WITH BOTH SECTION 271 AND 251 OF THE ACT.

AT&T and MCI contend that the exclusion of ISP traffic from the definition of reciprocal compensation is unreasonable and prevents U S WEST from satisfying checklist item 13. Simply put, they are wrong. In its recent Bell Atlantic 271 decision, the FCC specifically stated that exclusion of such traffic does not impact Checklist Item 13.

U S WEST'S SGAT contains the terms and conditions that U S WEST generally offers in Arizona to comply with Section 251. Section 7.3.4.1.3 of U S WEST's SGAT contains language describing U S WEST's obligation to pay reciprocal compensation to Exchange Service (EAS/Local) Traffic.

7.3.4.1.3 As set forth above, the Parties agree that reciprocal compensation only applies to Exchange Service (EAS/Local) Traffic and further agree that the FCC has determined that traffic originated by either Party (the “Originating Party”) and delivered to the other Party, which in turn delivers the traffic to the enhanced service provider (the “Delivering Party”) is interstate in nature. . . .

U S WEST is within its rights in excluding ISP traffic from the definition of reciprocal compensation. State commissions across the country have required local exchange companies to pay reciprocal compensation for ISP traffic, because they found that the terms of their initial interconnection agreements did not expressly exclude ISP traffic from the definition of local traffic. U S WEST’s SGAT has addressed this issue by expressly excluding traffic to enhanced service providers.

The FCC permits this approach. In the Bell Atlantic New York 271 Order, the FCC stated: “Inter-carrier compensation for ISP bound traffic, however, is not governed by section 251(b)(5), and, therefore, is not a checklist item.”⁴¹ Since inter-carrier compensation for ISP bound traffic is not a checklist item, it can not comprise grounds for a determination that U S WEST does not comply with checklist item 13.

The language excluding ISP-bound traffic from the definition of local traffic is contained in U S WEST’s SGAT. To approve the SGAT, it must comply with Section 251. *See* Section 252(f)(2). Thus, by implication, AT&T and MCI suggest that the SGAT language excluding ISP bound from the definition of local traffic violates Section 251. Again, they are wrong. The FCC has ruled that ISP-bound traffic is non-local interstate traffic.⁴² In the Bell Atlantic New York Order, the FCC stated: “Inter-carrier compensation for ISP bound traffic, however, is not governed by section 251(b)(5), and, therefore, is not a checklist item.” Consequently, Section 251 is not implicated here.

⁴¹ *Bell Atlantic New York Order*, ¶ 377.

⁴² *Implementation of the Local Competition Provisions in the . . . Act*, CC Docket No. 96-98, fn. 85 (Feb. 26, 1999).

Thus, U S WEST's decision to adopt language excluding traffic to enhanced service providers from local traffic complies with both Section 271 and Section 251.

A. U S WEST'S SGAT LANGUAGE COMPLIES WITH SECTIONS 271 AND 251.

AT&T and MCI contend that language within U S WEST's SGAT prevent U S WEST from satisfying checklist item 13. U S WEST has agreed to two of the changes proposed by MCI. The balance of U S WEST's SGAT already complies with Section 271 and Section 251.

REBUTTAL TO MCI COMMENTS

1. Sections 4.1.1.1, 4.11.2 and 7.3.4.1.2.

U S WEST opposes MCI's proposed changes, which seek to define a CLEC's switch as a tandem switch for purposes of reciprocal compensation if the CLEC's switch "has the capability of serving the same geographic area" as U S WEST's tandem. As set forth below, MCI's proposed change is inconsistent with the plain language of the FCC's reciprocal compensation rules.

47 C.F.R. § 51.711(a)(3) provides that a CLEC's switch is to be accorded the tandem rate only if it actually serves the same geographic area as an incumbent's tandem switch:

Where the switch of a carrier other than an incumbent LEC *serves* a geographic area comparable to the area *served* by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than the incumbent LEC is the incumbent LEC's tandem interconnection rate.⁴³

The Local Competition Order also provides that the relevant inquiry is the geographic area the CLEC switch actually serves, not could serve:

⁴³ 47 C.F.R. § 51.711(a)(3) (emphasis added).

Where the interconnecting carrier's switch *serves* a geographic area comparable to that *served* by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate.⁴⁴

In *MCI Telecommunications Corp. v. Michigan Bell Tel. Co.*, Case No. 97-74362, slip op. at 41-42 (E.D. Mich. Sept. 30, 1999), the court held that 47 C.F.R. § 51.711(a)(3) requires a CLEC to establish that its switch actually serves the same geographic area as the U S WEST'S tandem to receive the tandem switch rate:

The FCC rule provides that where the competing carrier's switch serves a geographic area comparable to that served by the incumbent carrier's tandem switch, the rate to be charged is the tandem interconnection rate. The rule focuses *on the area currently being served by the competing carrier, not the area the competing carrier may in the future serve*. To interpret the rule [otherwise] would require the state commission to speculate about the future capability of a competing carrier.⁴⁵

Similarly, in *MCI Telecommunications Corp. v. Illinois Bell Tel. Co.*, No. 97 C 2225, 1999 U.S. Dist. LEXIS 11418 (N.D. Ill. June 28, 1999), the court held that focusing on the actual geographic area the CLEC's switch serves, including where customers are located, and rejecting conclusory statements and speculation about current and potential service reach is entirely proper.⁴⁶ The rule's focus on the actual area served makes sense: either the *actual* geographic area served by the CLEC switch must be compared with the *actual* geographic area served by the incumbent's switch or the *capability* of the CLEC's switch must be compared with the *capability* of the incumbent's tandem. Any other comparison compares apples to oranges.

Because both Rule 711(a)(3) and Local Competition Order ¶ 1090 require geographic comparability to be based on the area the CLEC's switch "serves," not "could

⁴⁴ Local Competition Order ¶ 1090 (emphasis added).

⁴⁵ Id. (first emphasis original; second added).

⁴⁶ Id. at *21-23.

serve," "may serve," or "has the capability to serve," MCI's proposed SGAT language is inconsistent with the FCC's reciprocal compensation rules.

2. Section 4.22

MCI proposes a change in the definition of “exchange service” and “EAS” that have been generally accepted in U S WEST’s territory. MCI asserts that U S WEST should not be able to define its local calling area. This is not the issue. CLEC has the opportunity to define its own local calling area and to charge its end-user customers accordingly. However, for reciprocal compensation there should be an apples-to apples comparison for purposes of payment. Reciprocal, by definition, means “equivalent.” MCI’s proposed change would require U S WEST to pay reciprocal compensation for calls that terminate in MCI’s local calling area even if that meant the entire LATA. This is simply unfair and is certainly not “reciprocal.”

3. Section 7.3.1 and 7.3.6

MCI recommends that each party’s switched access rates for intraLATA toll apply. IntraLATA toll is not local traffic and, therefore, does not affect either checklist item 13 or Section 251. Reciprocal compensation applies to local traffic.⁴⁷ As a result, the proposed change is unnecessary.

4. Section 7.3.1.1.2

MCI contends that the Entrance Facility (“EF”) should be ratcheted for private line transport to reflect local usage. MCI’s proposed change runs contrary to the FCC’s UNE remand decision, which specifically addresses converting private line facilities to UNEs. The order says that all special access circuits that do not carry “a significant

⁴⁷ *Implementation of the Local Competition Provisions in the . . . Act*, CC Docket No. 96-98, ¶1 (rel. Feb. 26, 1999).

amount of local exchange traffic” are not subject to conversion.⁴⁸ Similarly, only preexisting combinations of elements need to be converted; therefore, tariff rates, not TELRIC rates, apply to new connects of private lines.

5. Sections 7.3.1.1.3.1 and 7.3.2.3

MCI contends that changes need to be made to these provisions because they exclude payment of reciprocal compensation for ISP-bound traffic. U S WEST rejects this proposed change for the reasons discussed above.

6. Sections 7.3.1.2.2, 7.3.2.4, and 7.3.3.1

MCI contends that it should not be required to pay U S WEST for the cost of EICTs and Multiplexing when the CLEC interconnects through collocation. MCI also asserts that it should not be required to pay nonrecurring charges for trunk installation. In all three instances MCI is attempting to relitigate the cost docket. The decision from the permanent cost docket established the utilization rates for EICTs; the rates for multiplexing; and the nonrecurring rates for trunk installation. Thus, these issues have already been reviewed and decided by the Commission.

7. Section 7.3.4.1.3

MCI contends that this provision should be stricken in its entirety, because its “sole purpose” is to exclude ISP traffic from reciprocal compensation payments. U S WEST rejects this proposed change for the reasons discussed above.

8. Section 7.3.4.2.2

⁴⁸ *In the Matter of Implementation of the Local Competition Provisions of the . . . Act, Supplemental Order*, CC Docket No. 96-98, ¶2 (rel. Nov. 24, 1999).

MCI requests clarification of this provision. Section 7.3.4.2.2 states: "Mileage shall be measured for the tandem transmission rate elements based on V&H coordinates between the local tandem and terminating end office." This language is clear and consistent with switched access. Therefore, U S WEST declines MCI's request.

9. Sections 7.3.7.1 and 7.3.7.3

U S WEST accepts MCI's proposed change to Sections 7.3.7.1 and 7.3.7.3. These changes will be reflected in its next revision to the SGAT.

10. Section 7.3.8

MCI proposes two changes. U S WEST accepts one and rejects the other. U S WEST's agreed upon provision with MCI's proposed change reads:

1. . . . If either Party fails to provide CPN (~~valid originating information~~) or reasonable alternative (i.e. charge-to-number), and cannot substantiate technical restrictions (*i.e.*, MF signaling) such traffic will be billed as Switched Access. Traffic sent without CPN (valid originating information) will be handled in the following manner. Transiting provider will be responsible for only its portion of this traffic, which will not exceed more than 5% of the total Exchange Service (EAS/Local) and Exchange Access (IntraLATA Toll) traffic delivered to the other party.

This compromise offers parties an alternative to providing CPN information, while maintaining each party's obligation to provide proper signaling information.

REBUTTAL TO AT&T COMMENTS

1. Section 7.3.1.1.3

AT&T suggests that this provision confuses interconnection trunks with Local Interconnection Service. It also suggests that U S WEST improperly assumes that the

CLEC must have a Point of Interconnection (“POI”) at every U S WEST wire center. Both points are ill founded.

First, there is no distinction between LIS trunks and interconnection trunks. Throughout the SGAT, the terms “LIS trunk” and interconnection trunks are used interchangeably. All CLECs and the Commission know this. Thus, there is no need to make any change to the SGAT.

Second, AT&T misstates the SGAT when it asserts that U S WEST requires a POI per wire center. The SGAT actually requires a POI per “calling area.” In a large metropolitan area, a calling area may include multiple wire centers. And, in the event a CLEC, like AT&T, wants U S WEST to extend facilities from each wire center or calling area in a LATA to a single point – presumably at the CLEC’s switch – the SGAT provides for this as well.⁴⁹

2. Section 7.3.1

AT&T contends that because this provision excludes the use of third party transit providers for the exchange of traffic “absent a separately negotiated agreement,” U S WEST must provide specific language indicating the type of agreements that will be allowed. Section 7.3.1 is designed for the unlikely situation when a carrier such as AT&T hires a third party to deliver its traffic to U S WEST. In this situation, it would be unclear to whom U S WEST should bill its reciprocal compensation payments; therefore, U S WEST, AT&T, and the third party would have to negotiate a separate agreement. This situation has never arisen. Therefore, U S WEST does not have a standard agreement to provide to the Commission.

3. Sections 7.3.1.1.3.1, 7.3.2.3(a), and 7.3.4.1.3

⁴⁹ SGAT Section 7.1.2.4.

AT&T contends that changes need to be made to these provisions, because they do not include payment of reciprocal compensation for ISP-bound traffic. U S WEST rejects this proposed change for the reasons discussed above.

4. Section 7.3.4.2.3

AT&T argues that “the host switch for a remote office be considered as a tandem switch.” Therefore AT&T assumes that tandem switched rates will apply. AT&T’s assertion is incorrect. This is not what the SGAT says. U S WEST does not charge “tandem switching” rates, but “tandem transmission” rates as set forth in Appendix A.

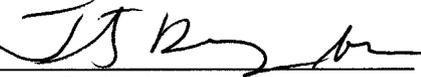
IV. CONCLUSION

AT&T, MCI, and Cox raise issues relating to checklist items 3 and 13. U S WEST has adopted many of their proposed changes related to checklist item 3. The remainder of their proposed changes, whether they relate to checklist item 3 or 13, are simply not necessary to meet Sections 271 or 251 of the Act. U S WEST offers non-discriminatory access to poles, ducts, conduits, and rights of way owned or controlled by U S WEST at just and reasonable rates in accordance with the requirements of 224 so it satisfies checklist item 3. U S WEST has met its obligation to pay reciprocal compensation pursuant to the Act, FCC, and Arizona Corporate Commission Orders so it satisfies checklist item 13. Finally, the SGAT complies with Section 251 so U S WEST can rely upon it to establish concrete, legal obligations to offer checklist items 3 and 13.

Dated this 16th day of February, 2000.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "C. Kallenbach", is written over a horizontal line.

ATTACHMENT 1

**STATEMENT OF GENERALLY AVAILABLE
TERMS AND CONDITIONS FOR INTERCONNECTION,
UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES,
AND RESALE OF TELECOMMUNICATION SERVICES
PROVIDED BY
U S WEST COMMUNICATIONS, INC.
IN THE STATE OF ARIZONA
(SECOND REVISED)**

* * *

10.8 Access to Poles, Ducts, Conduits, and Rights of Way

10.8.1 Description

10.8.1.1 Pole Attachments - Each party will provide the other with access to available pole attachment space for the placing of facilities for the purpose of transmitting Telecommunications Services.

- a) Ducts and Conduits - Each party will provide the other with access to available underground ducts/conduits to CLEC for the purpose of placing CLEC's facilities for transmitting Telecommunications Services. A spare conduit will be leased for copper facilities only, and an innerduct for the purpose of placing fiber. CLEC may place innerduct in an empty conduit; ownership of such innerduct shall vest to U S WEST.
- b) Rights of Way (ROW) – Where it has sufficient ownership or control to do so, each party will provide the other access to available ROW for the purpose of placing CLEC's facilities for transmitting Telecommunication Services. ROW includes land or other property owned or controlled by U S WEST and may run under, on, above, across, along or through public or private property or enter multi-unit buildings.

10.8.2 Terms and Conditions

U S WEST shall provide CLEC non-discriminatory access to poles, ducts, conduit and rights of way on terms and conditions found in the U S WEST Pole and Attachment and/or Innerduct Occupancy General Terms and Conditions, attached hereto as Attachment I. U S WEST will not favor itself over CLEC when provisioning access to poles, ducts, conduits and rights of way. U S WEST shall not give itself preference when assigning space.

10.8.2.1 Subject to the provisions of this SGAT, U S WEST agrees to issue to CLEC authorization for CLEC to attach, operate, maintain, rearrange, transfer and remove at its sole expense its facilities on poles/innerduct or ROW owned or controlled in whole or in part by U S WEST, subject to Orders placed by CLEC.

Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements.

10.8.2.2 U S WEST will rely on such codes as the National Electrical Safety Code (NESC) to prescribe standards with respect to capacity, safety, reliability, and general engineering principles.

10.8.2.3 Federal requirements, such as those imposed by Federal Energy Regulatory Commission (FERC) and Occupational Safety and Health Administration (OSHA), will continue to apply to the extent such requirements affect requests for attachments or occupancy to U S WEST facilities under Section 224(f)(1) of the Act.

10.8.2.4 CLEC shall provide access to a map of the requested poles/innerduct route, including estimated distances between major points, the identification and location of the poles/innerduct and ROW and a description of CLEC's facilities. U S WEST agrees to provide to CLEC access to relevant plats, maps, engineering records and other data within a reasonable time of receiving a bona fide request for such information.

10.8.2.5 Except as expressly provided herein or in the Pole Attachment Act of 1934 as amended and its regulations and rules, nothing herein shall be construed to compel U S WEST to construct, install, modify or place any poles/innerduct or other facility for use by CLEC.

10.8.2.6 U S WEST retains the right to determine the availability of space on poles/innerduct consistent with 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224. In the event U S WEST determines that rearrangement of the existing facilities on poles/innerduct is required before CLEC's facilities can be accommodated, the actual cost of such modification will be included in CLEC's nonrecurring charges for the associated Order ("Make-Ready fee"). When modifications to a U S WEST spare conduit include the placement of innerduct, U S WEST or CLEC will install the number of innerduct required to fill the duct to its full capacity; ownership of such innerduct shall vest to U S WEST.

10.8.2.7 U S WEST shall make manhole ingress and egress for Innerduct access available to CLEC. U S WEST will perform a feasibility study to determine whether to provide a stub out via the pre-constructed knock out within the manhole, or to perform a core drill of the manhole.

10.8.2.8 Where such authority does not already exist, CLEC shall be responsible for obtaining the necessary legal authority to occupy ROW and/or poles/innerduct on governmental, federal, Native American, and private rights of way. CLEC shall obtain any permits, licenses, bonds, or other necessary legal authority and permission, at CLEC's sole expense, in order to perform its obligations under this SGAT. CLEC shall contact all owners of public and private rights-of-way to obtain the permission required to perform the work prior to entering the property or starting any work thereon. CLEC shall comply with all conditions of rights-of-way and permits. Once such permission is obtained, all such work may be performed by U S WEST or CLEC at the option of CLEC.

10.8.2.9 Access to a U S WEST Central Office manhole will be permitted where technically feasible. If space is available, U S WEST will allow access through the Central Office manhole to the POI (Point of Interconnection). No splices will be allowed in the Central Office manhole.

10.8.2.10 If CLEC requests U S WEST to replace or modify existing poles/innerduct to increase its strength or capacity for the sole benefit of CLEC, CLEC shall pay U S WEST the total actual replacement cost, U S WEST's actual cost to transfer its attachments to new poles/innerduct, as necessary, and the actual cost for removal (including destruction fees) of the replaced poles/innerduct, if necessary. Ownership of new poles/innerduct shall vest to U S WEST. Upon request, U S WEST shall permit CLEC to install poles/innerduct. U S WEST reserves the right to reject any non-conforming replacement poles/innerduct installed by CLEC that do not conform to the NESC, OSHA or local ordinances. To the extent that a modification is incurred for the benefit of multiple parties, CLEC shall pay a proportionate share of the total actual cost based on the ratio of the amount of new space occupied by the facilities to the total amount of space occupied by all parties including U S WEST or its affiliates joining the modification. Parties who do not initiate, request or receive additional space from a modification, are not required to share in the cost of the modification. CLEC, U S WEST or any other party that uses a modification as an opportunity to bring its facilities into compliance with applicable safety or other requirements will be deemed to be sharing in the modification and will be responsible for its share of the modification cost. U S WEST does not and will not favor itself over other carriers when provisioning access to poles, innerduct and rights-of-way.

10.8.2.11 Notification of modifications initiated by or on behalf of U S WEST and at U S WEST's expense shall be provided to CLEC at least sixty (60) calendar days prior to beginning modifications. Such notification shall include a brief description of the nature and scope of the modification. If CLEC does not respond to a requested rearrangement of its facilities within sixty (60) days after receipt of written notice from U S WEST requesting rearrangement, U S WEST may perform or have performed such rearrangement and CLEC shall pay the actual cost thereof. No such notice shall be required in emergency situations or for routine maintenance of poles/innerduct completed at U S WEST's expense.

10.8.2.12 U S WEST reserves the right to make an on-site/final construction inspection of CLEC's facilities occupying the poles/innerduct system. CLEC shall reimburse U S WEST for the actual cost of such inspection except where specified in this Section.

10.8.2.13 When final construction inspection by U S WEST has been completed, CLEC shall correct such non-complying conditions within the reasonable period of time specified by U S WEST in its written notice. If corrections are not completed within the specified reasonable period, occupancy authorizations for the ROW, poles/innerduct system where non-complying conditions remain uncorrected shall suspend forthwith, regardless of whether CLEC has energized the facilities occupying said poles/innerduct or ROW system and CLEC shall remove its facilities from said poles/innerduct or ROW in

accordance with the provisions of this Section U S WEST may deny further occupancy authorization to CLEC until such non-complying conditions are corrected or until CLEC's facilities are removed from the poles/innerduct system where such non-complying conditions exist. If agreed between both Parties, U S WEST shall perform or have performed such corrections and CLEC shall pay U S WEST the actual cost of performing such work. Subsequent inspections to determine if appropriate corrective actions have been taken may be made by U S WEST.

10.8.2.14 Once CLEC's facilities begin occupying the poles/innerduct or ROW system, U S WEST may perform periodic inspections. U S WEST shall bear the cost of such inspections unless the results of the inspection reveal any violation or hazard, or that CLEC has in any other way failed to comply with the provisions of this SGAT; in which case CLEC shall reimburse U S WEST the costs of inspections and re-inspections, as required. CLEC's representative may accompany U S WEST on such field inspections. The cost of periodic inspection or any special inspections found necessary due to the existence of sub-standard or unauthorized occupancies shall be billed separately.

10.8.2.15 The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to CLEC upon completion of the inspections.

10.8.2.16 Final construction, subsequent, and periodic inspections or the failure to make such inspections, shall not impose any liability of any kind upon U S WEST nor relieve CLEC of any responsibilities, obligations, or liability assigned under this SGAT.

10.8.2.17 CLEC may use individual workers of its choice to perform any work necessary for the attaching of its facilities so long as such workers have the same qualifications and training as U S WEST's workers. CLEC may use any contractor approved by U S WEST to perform Make-Ready Work.

10.8.2.18 If U S WEST terminates an order for cause, or if CLEC terminates an order without cause, CLEC shall pay termination charges equal to the amount of fees and charges remaining on the terminated order(s) and shall remove its facilities from the poles/innerduct within sixty (60) calendar days, or cause U S WEST to remove its facilities from the poles/innerduct at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this SGAT to U S WEST until CLEC's facilities are physically removed. "Cause" as used herein shall include but not be limited to CLEC's use of its facilities in violation of any law or in aid of any unlawful act or making an unauthorized modification to U S WEST's poles/innerduct.

10.8.2.19 U S WEST may abandon or sell any ROW or poles/innerduct at any time by giving written notice to CLEC. Any poles, innerduct or ROW will be sold subject to all existing legal obligations to CLEC. Upon abandonment of poles/innerduct or ROW, and with the concurrence of the other joint user(s), if necessary, CLEC shall, within sixty (60) calendar days of such notice, either: 1) continue to occupy the poles/innerduct or ROW pursuant to its existing rights under this SGAT of the poles/innerduct or ROW is purchased by another party, 2)

purchase the ROW and/or poles/innerduct from U S WEST at the current market value, or 3) remove its facilities therefrom. Failure to explicitly elect one of the foregoing options within sixty (60) calendar days shall be deemed an election to purchase the poles/innerduct at the current market value.

10.8.2.20 CLEC's facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated by reference, and any governing authority having jurisdiction. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain facilities in accordance with the above requirements or failure to correct as provided in Section 10.8.2.13 shall be cause for termination of the Order. U S WEST's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate U S WEST premises CLEC's standard maintenance practices for facilities shall be made available to U S WEST upon request. CLEC shall in a timely manner comply with all requests from U S WEST to bring its facilities into compliance with these terms and conditions.

10.8.2.21 Should U S WEST under the provisions of this SGAT remove CLEC's facilities from the poles/innerduct covered by any Order, U S WEST will deliver the facilities removed upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due U S WEST. If CLEC removes facilities from poles/innerduct for other than repair or maintenance purposes, no replacement on the poles/innerduct shall be made until all outstanding charges due U S WEST for previous occupancy have been paid in full. CLEC shall advise U S WEST in writing as to the date on which the removal of facilities from the poles/innerduct has been completed.

10.8.2.22 If any facilities are found attached to poles/innerduct for which no agreement is in effect, U S WEST, without prejudice to its other rights or remedies under this SGAT, may assess a charge and CLEC agrees to pay a charge of \$200.00 per pole or \$200 per innerduct run between two manholes, plus payment as specified in this Section. CLEC is required to submit in writing, within ten (10) days after receipt of written notification from U S WEST of the unauthorized occupancy, a poles/innerduct application. If such application is not received by U S WEST within the specified time period, CLEC will be required to remove its unauthorized facility within ten (10) days of the final date for submitting the required application, or U S WEST may remove CLEC's facilities without liability, and the cost of such removal shall be borne by CLEC.

- a) No act or failure to act by U S WEST with regard to an unauthorized occupancy shall be deemed as the authorization of the occupancy. Any subsequently issued authorization shall not operate retroactively or constitute a waiver by U S WEST of any of its rights or privileges under this SGAT or otherwise. CLEC shall be subject to all liabilities of the SGAT in regard to said unauthorized occupancy from its inception.

- b) U S WEST will provide CLEC nondiscriminatory access to poles, ducts, conduits and ROW pursuant to 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224. In the event of a conflict between this SGAT, on one hand, and 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224, on the other, 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224 shall govern. Further, in the event of a conflict between Attachment I, on one hand, and this SGAT or 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224, on the other, this SGAT or 47 USC § 224 and FCC rules and regulations pursuant to 47 USC § 224 shall govern.
- c) Nothing in this SGAT shall require U S WEST to exercise eminent domain on behalf of CLEC.

10.8.3 Rate Elements

U S WEST fees for attachments are in accordance with Section 224 of the Act and FCC rules promulgated thereunder, as well as the rates established by the Commission including the following rates, are reflected in Exhibit A.

10.8.3.1 Inquiry Fee. A pre-paid non-refundable charge used to recover the costs associated with performing an internal record review to determine if a requested route and/or facility is available for lease.

10.8.3.2 Field Verification Fee. A pre-paid non-refundable charge which recovers the estimated actual costs for a field survey verification required for a route and to determine scope of any required make-ready work. The estimated pre-paid fee shall be billed in advance.

10.8.3.3 Make-Ready Work. A pre-paid non-refundable (other than true-up) charge which recovers the cost of necessary work required to make the requested facility available for lease. For innerduct leases, this could include, but is not limited to, the placing of innerduct in conduit/duct systems or core drilling of manholes. For pole attachment requests, this could include, but is not limited to, the replacement of poles to meet required clearances over roads or land. The estimated pre-paid fee shall be billed in advance.

10.8.3.4 Pole Attachment Fee. An annual fee which is charged for the occupancy of one foot of pole space (except for antenna attachment which requires two feet).

10.8.3.5 Innerduct Occupancy Fee. An annual fee which is charged for the occupancy of an innerduct on a per foot basis.

10.8.4 Ordering

The Ordering Process has distinct steps for ROW, Innerduct and Pole Attachment:

10.8.4.1 Inquiry. Upon request for ROW access, Pole Attachment or Innerduct Occupancy, U S WEST will provide CLEC with a document of General Information for Pole Attachment and Innerduct Occupancy along with a

description of the application process. The CLEC will review the documents and provide U S WEST with maps of the desired area indicating the routes and entrance points for attachment or occupancy. The CLEC will include the appropriate Inquiry Fee with its inquiry.

10.8.4.2 Inquiry Reviews.

- a) Inquiry Review – Innerduct. U S WEST will complete the database inquiry and prepare a duct structure diagram (referred to as a “Flatline”) which shows distances and access points (such as manholes). Along with the Flatline will be estimated costs for field verification of available facilities. These materials will be provided to the CLEC within ten (10) calendar days or within the time frames of the applicable federal or state law, rule or regulation. This time frame is applicable to the standard inquiry of thirty (30) Utility Holes or fewer. An inquiry which exceeds the standard will have negotiated completion dates.
- b) Inquiry Review – Poles. U S WEST will provide the name and contact number for the appropriate local field engineer for joint validation of the poles and route within ten (10) calendar days of the request. The U S WEST field engineer will be informed of CLEC’s needs and will report back on the number of poles, pole condition and Make-Ready work, if desired. A statement of the Make-Ready costs, number of poles and lease rates will be provided to CLEC within thirty-five (35) calendar days of the completion of the joint survey when 100 or fewer poles are involved. The Pole quotation shall be valid for ninety (90) calendar days. U S WEST will charge CLEC for field engineer time.

10.8.4.3 Request – Innerduct. CLEC will review the Inquiry results and determine whether to proceed with verification. If desired, CLEC will sign and return Attachment 1 of the General Information document along with a check for the estimated verification costs. Upon payment of the estimated verification costs, U S WEST will provide the requested information which may or may not include the following as appropriate: a review of public and internal right-of-way records for restrictions and to identify to CLEC what additional right of way permission is required; a field survey and site investigation of the innerduct, including the preparation of distances and drawings, to determine availability of existing innerduct; identification of Make-ready costs required to provide innerduct; the schedule in which the Make-ready work will be completed; and, the annual recurring prices associated with the attachment of facilities. Such estimates shall be provided and shall be completed within thirty-five (35) calendar days for a standard inquiry of thirty (30) Utility Hole sections or less, or as negotiated between U S WEST and CLEC identified in the Cost Quotation.

- a) Order – Poles and Innerduct. Upon completion of the procedures described above, U S WEST shall provide CLEC a statement of Make-ready costs and yearly lease rates. The review, signing and return of Attachment 2 of the General Information document along with payment of the Make-ready and prorated lease charges for the current year shall be accepted as an Order for the attachment or occupancy. Upon receipt of the accepted Order from CLEC and applicable payment for the Make-ready fees identified, U S WEST will assign CLEC's requested space and complete the make-ready work which may be required. U S WEST will notify CLEC when poles/innerduct are ready for attachment of facilities.
- b) Estimates of Make-ready in the Order are used to cover actual Make-Ready costs. However, if U S WEST requests, CLEC will be responsible for payment within a reasonable time of the actual costs determined if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit for the difference will be issued within a reasonable time following a request therefor. If U S WEST denies the poles/innerduct, ROW request, U S WEST shall do so in writing, within forty-five (45) days following the request, specifying the reasons for denial along with all relevant evidence and supporting information and will also refund the difference between the costs incurred and those prepaid by CLEC, if any, upon request within a reasonable time of such denial.

10.8.4.6 For the period beginning at the time of the making of a granted inquiry and ending ninety (90) days following the grant of an inquiry, U S WEST shall reserve such available poles, ducts, conduit, and right of way for CLEC that CLEC may reasonably request. CLEC shall pay an appropriate reservation fee mutually agreed upon by the Parties for such reservation and shall elect whether to accept the poles, ducts, conduits, or right of way within the ninety (90) day period following the granting of the inquiry. CLEC may accept such facilities by sending written notice to U S WEST.

10.8.4.6.1 During the reservation period, if another party, including U S WEST, makes a bona fide and good faith request for the use of any poles, ducts, conduits or right of way that CLEC has previously reserved, CLEC shall have a "right of first refusal" over these facilities. If CLEC chooses to exercise its right of first refusal, it shall do so by providing U S WEST written notice of same within ten (10) business days following receipt of written notice from U S WEST advising CLEC of the bona fide and good faith request.

10.8.4.6.2 To ensure proper use of reserved facilities, after the expiration of the reservation period or upon exercise of its right of first refusal, whichever occurs earlier, CLEC must begin paying the rates for access (whether or not it has actually installed or attached facilities) and shall begin construction on the facility within six (6) months or release its reservation.

10.8.4.6.3 After acceptance by CLEC, CLEC shall have six (6) months to begin attachment and/or installation of its facilities to the poles, ducts, conduit and right of way or request U S WEST to begin Make-Ready or other construction activities. Any such construction, installation or Make-Ready by CLEC shall be completed by the end of one (1) year after written notice of acceptance. CLEC shall not be in default of the six-month or one-year requirement above if such default is caused in any way by any action, inaction or delay on the part of U S WEST or its affiliates or subsidiaries.

10.8.5 Billing

CLEC agrees to pay U S WEST poles/innerduct preparation charges in advance and usage fees in arrears ("Fees") as specified in the Request and Order (Attachment 1 and Attachment 2 of the General Information Document). Fees will be computed in compliance with applicable local, state and federal guidelines. Such Fees will be assessed on an annual basis. Annual Fees will be assessed as of January 1 of each year and shall be paid within 30 days following receipt of invoices therefor. Fees are not refundable except as expressly provided herein.

10.8.6 Maintenance and Repair

In the event of any service outage affecting both U S WEST and CLEC, repairs shall be effectuated on a nondiscriminatory basis as established by local, state or federal requirements. Where such requirements do not exist, repairs shall be made in the following order: electrical, telephone (EAS/Local), telephone (long distance), and cable television, or as mutually agreed to by the users of the affected poles/innerduct.

DRAFT Date General Information Provided by USW: _____
General Agreement Number : _____
BAN Number(must be assigned before processing): _____

**REVISED U S WEST POLE ATTACHMENT AND/OR INNERDUCT OCCUPANCY
GENERAL INFORMATION: EFFECTIVE 1/10/00**

1. **PURPOSE.** The purpose of this General Information document is to share information and provide or deny permission to attach and maintain Co-Provider's facilities ("Facilities") to U S WEST Communications, Inc.'s ("USW") Poles or place Facilities on or within USW's Innerduct (collectively "Poles/Innerduct"). This General Information is necessary to determine if USW can meet the needs of the Co-Provider's request but does not guarantee that physical space or access is currently available. Permission will be granted on a first-come, first-serve basis on the terms and conditions set forth in the appropriate agreement pertaining to "Poles/Innerduct". Quotes are effective for thirty (30) days.
2. **PROCESS.** The USW process is designed to provide the Co-Provider the information so as to assist Co-Provider and USW to make Poles and Innerduct decisions in a cost-efficient manner. The Process has these distinct steps:
 - 2.1 **Inquiry Attachment 1.A (Database Search).** The Co-Provider is requested to review this document and return Form 1.A along with two copies of a map and the nonrefundable Inquiry Preparation Fee, calculated in the amount of One Hundred Fourteen Dollars (\$114.00) per mile (with a One Hundred Fourteen Dollar minimum) for Pole Review, or the Innerduct Review Fee in the amount of One Hundred Seventy One Dollars (\$171.00) per mile (with a One Hundred Seventy One Dollar minimum). These fees are intended to cover USW's expenses associated with performing an internal record (database) review, preparing a cost estimate for the required field survey, public record review, setting up an account, and determining time frames for completion of each task to meet the Co-Provider's Request. Please be sure a BAN number is assigned by the Product Manager (call 303-896-0789) before sending form 1.A.

As indicated on Form 1. A, a copy of the signed form and maps of the desired route should be sent to the Product Manager while the fee should be sent to the U S WEST CLEC Joint Use Manager with the original signed form 1.A. The map should clearly show street names and highways along the entire route, and specific locations of entry and exit of the duct/pole system. Area Maps should be equal to the best street maps available. U S WEST Central Offices should be identified where possible. Faxes are not acceptable.

USW will complete the Inquiry review and prepare and return a Innerduct Permit Processing Costs Quotation (Attachment 1.B) to the Co-Provider generally within ten (10) days or the applicable federal or state law, rule or regulation that governs this Agreement in the state in which Innerduct attachment is requested. In the case of poles, USW will assign a Field Engineer and provide his/her name and phone number to the Co-Provider. The Field engineer will check the local database and be available for a joint verification with the Co-Provider. This time frame is applicable to the standard inquiry of one hundred (100) Poles or fewer, or thirty (30) Utility Hole sections or fewer. The Poles/Innerduct Quotation will be valid for thirty (30) calendar days from the date of quotation. The Inquiry step results only in the location and mapping of USW facilities and does not indicate whether space is available. The resulting information is provided with Attachment 1.B.

- 2.2 **Request Attachment 1.B (Verification).** Upon review and acceptance of signed Attachment 1.B and payment of the estimated verification costs by the Co-Provider, USW will conduct facilities verification and provide the requested information which may or may not include the following: a review of public and internal USW right-of-ways records for restrictions, identification of additional rights-of-way required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability on existing Innerduct; identification of any make-ready costs required to be paid by the Co-Provider, if applicable, prior to installing its facilities. In the case of Poles, form 1.B orders the field verification which may be done jointly. Such work shall be completed within thirty-five (35) days for a standard inquiry of one hundred (100) poles (or fewer), or thirty (30) Utility Hole sections (or fewer), or as negotiated between USW and Co-Provider and identified in Attachment 1.B. A copy of the signed Form 1.B should be sent to the Product Manager while the appropriate fees should be sent to the USW-CLEC Joint Use Manager with the original signed 1.B form. Upon completion of the verification, Attachment 2 will be sent to the Co-Provider by USW.
- 2.3 **Order Attachment 2 (Lease).** Upon completion of the inquiry and verification work described in Section 2.2 above, USW will provide the Co-Provider a Poles/Innerduct Order (Attachment 2) containing annual recurring charges, estimated Make-ready costs. Upon receipt of the executed Attachment 2 Order form from the Co-Provider and

applicable payment for the Make-ready fees identified, USW will assign the Co-Provider's requested space and complete the Make-ready work which may be required. USW will notify Co-Provider when Poles/Innerduct are ready for attachment of Facilities. A copy of the signed Attachment 2 form should go to the Product Manager while the payment should go to the Joint Use Manager along with the original signed Attachment 2.

NOTE: Make-ready work concerns USW labor only. For Poles it involves rearrangement to accommodate the new attachment. For Innerduct, it involves placing the standard three innerducts in the conduit to accommodate fiber cable where spare conduit exists. Segments without conduit space are considered "blocked". USW will repair or clear damaged facilities, but may not construct new facilities.

Construction work to place conduit or replace poles may be required where facilities are blocked. The Co-Provider may contract separately with a USW-approved contractor to complete the construction provided a USW inspector inspects the work during and after construction. Construction attaching to or entering USW-owned structure must conform to USW standards. If other parties benefit from construction, the costs may be divided among the beneficiaries. Construction costs are not included in Attachment 2. The Co-Provider is not encouraged to sign the lease agreement (Attachment 2) until provisions have been made for construction.

- 2.4 Provision of Poles/Innerduct. USW agrees to issue to Co-Provider for any lawful telecommunications purpose, a nonexclusive, revocable Order authorizing Co-Provider to install, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned in whole or in part by USW. USW provides access to Poles/Innerduct in accordance with the applicable federal, state, or local law, rule, or regulation, incorporated herein by this reference, and said body of law, which governs this Agreement in the state in which Poles/Innerduct is provided. Any and all rights granted to Co-Provider shall be subject to and subordinate to any future federal, state, and/or local requirements. Nothing in this General Information shall be construed to require or compel USW to construct, install, modify, or place any Poles/Innerduct or other facility for use by the Co-Provider.

The costs included in the Poles/Innerduct Permit Processing Costs Quotation are used to cover the costs incurred by USW in determining if Poles/Innerduct space is available to meet the Co-Provider's request; however, the Co-Provider must agree and will be responsible for payment of the actual costs incurred if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit can be provided upon request. If USW denies access to the Poles/Innerduct Request, or section thereof, USW shall do so in writing, specifying the reasons for denial along with the information upon which such denial is premised within 45 days of the initial inquiry.

3. DISPUTE RESOLUTION

- a. Other than those claims over which a federal or state regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.
- b. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.
- c. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.
- d. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

ATTACHMENT 1. A

General Agreement No. _____

BAN Number (must be assigned before processing): _____

Poles/Innerduct Inquiry Preparation Fee

Date Submitted: _____

Date Replied to Co-Provider: _____

Co-Provider Name: _____ Contact name: _____

Address: _____ Phone Number: _____

e-mail address: _____

State or location of inquiry: _____

**Poles/Innerduct Permit Database Search Costs Quotation
(One Mile Minimum)**

	<u>Costs</u>	<u>Est. Miles</u>	<u>Total</u>
1. Pole Database & Field Engineer inquiry	\$ 114.00 per mile	_____	\$ _____
2. Innerduct Database inquiry	\$ 171.00 per mile	_____	\$ _____
3. Estimated Interval for Completion of Items 1or 2: _____ 10 _____ Days			
4. Additional requirements of Co-Provider: _____			

This Inquiry will result in a drawing of the duct or innerduct structure fitting the requested route, if available, and a quote of the charges for field verification. In the case of Poles, the name and telephone number of the Field Engineer will be provided so that the Co-Provider may contact the USW Field engineer and discuss attachment plans. If a field verification of the poles is required, Attachment 1.B must be completed and the appropriate charges paid. Innerduct verification is always needed.

By signing below and providing payment of the Estimated Costs identified above, the Co-Provider desires USW to proceed with the processing of its database search and acknowledges receipt of this General Information, including the General Terms and Conditions under which USW offers such Poles/Innerduct.

 U S WEST Communications, Inc.	
Signature	U S WEST Communications, Inc.

Signature		Signature
		JOHN CARVETH
Name Typed or Printed		Name Typed or Printed
		PRODUCT MANAGER
Title		Title
Date		Date

This signed form (original) should be sent with a check for the Inquiry amount (\$114 per mile or \$171 per mile) to:

Pam Fisher, U S WEST CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112
303-792-6990

A copy of this form should be sent with two acceptably-detailed maps showing the requested route to:

John Carveth, U S WEST Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202
303-896-0789

ATTACHMENT 1.B

General Agreement No. _____
 BAN Number: _____

Poles/Innerduct Verification Costs Quotation

Date Nonrefundable Received: _____

Date Replied to Co-Provider: _____

****NOTE: THIS ATTACHMENT WILL BE COMPLETED BY USW AND SENT TO THE CO-PROVIDER FOR SIGNATURE AFTER THE DATABASE INQUIRY IS COMPLETE.****

	Estimated Costs	Number	Total Charge
1. Pole Field Survey (10 pole minimum)	\$5.00 per pole	_____	_____
2. Innerduct Field Survey	\$406.00 per Manhole	_____	_____
3. Estimated Interval for Completion of Items 1 or 2: _____			Working Days
4. Additional requirements of Co-Provider: _____			

Comments: _____

By signing below and providing payment of the Total Estimated Costs identified above, the Co-Provider desires USW to proceed with the processing of its field survey and acknowledges receipt of this General Information, including the General Terms and Conditions under which USW offers such Poles/Innerduct. The Co-Provider acknowledges the above costs are estimates only and Co-Provider may be financially responsible for final actual costs which exceed this estimate, or receive credit if requested.

	U S WEST Communications, Inc.
Signature	Signature
	JOHN CARVETH
Name Typed or Printed	Name Typed or Printed
	PRODUCT MANAGER
Title	Title
Date	Date

A copy of this form signed form should be sent to:

John Carveth, U S WEST Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202

The original signed form should be sent with a check for the verification amount to:

Pam Fisher, U S WEST CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112

**ATTACHMENT 2
Poles/Innerduct Order**

General Agreement No _____
BAN Number: _____

NOTE: THIS FORM WILL BE COMPLETED BY USW AND SENT TO CO-PROVIDER FOR SIGNATURE

Make-ready Work required: Yes () No () Date Received: _____

If Yes is checked, estimated Make-ready costs: \$ _____

Note: Make-Ready charges do not include construction work to enhance infrastructure

The following Attachments are hereby incorporated by reference into this Order:

1. Term - Effective Date - _____.
2. Summary of Field Results (including Make-Ready work if required).
3. When placing fiber, Co-Provider must:
 - a. provide USW representative, a final design showing splice, racking and slack locations in USW utility holes.
 - b. tag all equipment located in/on USW's facilities from beginning of the route to the end, and at the entrance and exit of each utility hole with the following information: (1) Co-Provider's Name and Contact Number, (2) Contract Number and Date of Contract, (3) Number of Fibers in the Innerduct and Color of Occupied Innerduct.

Annual Recurring Charges for this Permit:

	<u>Annual Charge</u>	<u>Quantity</u>	<u>Total Annual Charge</u>
1. Per Pole Attached	\$ _____/Foot/Pole	_____	\$ _____
2. Per Innerduct Foot	\$ _____/Foot	_____	\$ _____
Total Annual Recurring Charges			\$ _____

For Poles, quantity is based on the number of vertical feet used (One cable attachment = one foot). If you choose not to place an order at this time, these Poles/Innerduct will be assigned on a first come-first served basis.

Additional Comments: THE ESTIMATED COSTS ARE FOR THE INSTALLATION OF INNERDUCT OR REARRANGEMENT PER THE WORK SHEETS. THE ANNUAL RECURRING CHARGE FOR YEAR 2000 HAS BEEN PRORATED TO _____ (_____/DAY * _____ DAYS). PLEASE PROVIDE PAYMENT FOR THE MAKE-READY COSTS AND THE PRORATED 2000 RECURRING FEE ALONG WITH THIS SIGNED ORDER _____

By signing below and providing payment of the Make-ready costs and the first year's prorated Annual Recurring Charge, the Co-Provider desires USW to proceed with the Make-ready Work identified herein and acknowledges receipt of the General Terms and Conditions under which USW offers such Poles/Innerduct. By signing this document you are leasing the available space.

Return this signed form and check to: Pam Fisher, U S WEST CLEC Joint Use, Suite 101, 6912 S. Quentin, Englewood, CO 80112

Send a copy to: John Carveth, Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202

U S WEST Field Engineer: _____ Phone Number: _____

	U S WEST Communications, Inc.
Signature	Signature
	JOHN CARVETH
Name Typed or Printed	Name Typed or Printed
	PRODUCT MANAGER

Title		Title
Date		Date

ATTACHMENT 3

General Agreement No. _____

U S WEST POLE AND ATTACHMENT AND/OR INNERDUCT OCCUPANCY GENERAL TERMS AND CONDITIONS

This is an Agreement between _____ (“Co-Provider”) and **U S WEST Communications, Inc.** (“USW”), for one or more Orders for the Co-Provider to install/attach and maintain their communications facilities (“Facilities”) to USW’s Poles and/or placement of Facilities on or within USW’s Innerduct (collectively “Poles/Innerduct”) described in the General Information and Co-Provider Map, which are incorporated herein by this reference (singularly “Order” or collectively, “Orders”).

1. SCOPE.

- 1.1 Subject to the provisions of this Agreement, USW agrees to issue to Co-Provider for any lawful telecommunications purpose, one or more nonexclusive, revocable Orders authorizing Co-Provider to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned in whole or in part by USW. Any and all rights granted to Co-Provider shall be subject to and subordinate to any future local, state and/or federal requirements.
- 1.2 Except as expressly provided herein, nothing in this Agreement shall be construed to require or compel USW to construct, install, modify, or place any Poles/Innerduct or other facility for use by Co-Provider.
- 1.3 USW agrees to provide access to Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

2. TERM. Any Order issued under this Agreement shall continue in effect for the term specified in the Order. This Agreement shall continue during such time Co-Provider is providing Poles/Innerduct attachments under any Order to this Agreement.

3. TERMINATION WITHOUT CAUSE.

- 3.1 Co-Provider may terminate this Agreement (which will have the effect of terminating all Orders hereunder), or any individual Order(s) hereunder, without cause, by providing notice of such termination in writing and by certified Mail to USW. The written notice for termination without cause shall be dated as of the day it is mailed and shall be effective no sooner than one hundred twenty (120) calendar days from the date of such notice.
- 3.2 Termination of this Agreement or any Order hereunder does not release either party from any liability under this Agreement that may have accrued or that arises out of any claim that may have been accruing at the time of termination, including indemnity, warranties, and confidential information.
- 3.3 If USW terminates this Agreement for Cause, or if Co-Provider terminates this Agreement without Cause, Co-Provider shall pay termination charges equal to the amount of fees and charges remaining on the terminated Order(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause USW to remove its Facilities from the Poles/Innerduct at Co-Provider’s expense; provided, however, that Co-Provider shall be liable for and pay all fees and charges provided for in this Agreement to USW until Co-Provider’s Facilities are physically removed. Notwithstanding anything herein to the contrary, upon the termination of this Agreement for any reason whatsoever, all Orders hereunder shall simultaneously terminate.
- 3.4 If this Agreement or any Order is terminated for reasons other than Cause, then Co-Provider shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that Co-Provider shall be liable for and pay all fees and charges provided for in this Agreement to USW until Co-Provider’s Facilities are physically removed.
- 3.5 USW may abandon or sell any Poles/Innerduct at any time by giving written notice to the Co-Provider. Upon abandonment of Poles/Innerduct, and with the concurrence of the other Co-Provider(s), if necessary, Co-Provider shall, within sixty (60) days of such notice, either apply for usage with the new owner or purchase the Poles/Innerduct from USW, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

4. CHARGES AND BILLING.

- 4.1. Co-Provider agrees to pay USW Poles/Innerduct usage fees ("Fees") as specified in the Order. Fees will be computed in compliance with applicable local, state and Federal law, regulations and guidelines. Such Fees will be assessed, in advance on an annual basis. Annual Fees will be assessed as of January 1st of each year. Fees are not refundable except as expressly provided herein. Co-Provider shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.
- 4.2. USW has the right to revise Fees, at its sole discretion, upon written notice to Co-Provider within at least sixty (60) days prior to the end of any annual billing period.

5. INSURANCE. The Co-Provider shall obtain and maintain at its own cost and expense the following insurance during the life of the Contract:

- 5.1. Workers' Compensation and/or Longshoremen's and Harbor Workers Compensation insurance with (1) statutory limits of coverage for all employees as required by statute; and (2) although not required by statute, coverage for any employee on the job site; and (3) Stop Gap liability or employer's liability insurance with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.
- 5.2. General liability insurance providing coverage for underground hazard coverage (commonly referred to as "U" coverage), products/completed operations, premises operations, independent contractor's protection (required if contractor subcontracts the work), broad form property damage and contractual liability with respect to liability assumed by the Co-Provider hereunder. This insurance shall also include: (1) explosion hazard coverage (commonly referred to as "X" coverage) if the work involves blasting and (2) collapse hazard coverage (commonly referred to as "C" coverage) if the work may cause structural damage due to excavation, burrowing, tunneling, caisson work, or under-pinning. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
- 5.3. Comprehensive automobile liability insurance covering the use and maintenance of owned, non-owned and hired vehicles. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
- 5.4. USW may require the Co-Provider from time-to-time during the life of the Contract to obtain additional insurance with coverage or limits in addition to those described above. However, the additional premium costs of any such additional insurance required by USW shall be borne by USW, and the Co-Provider shall arrange to have such costs billed separately and directly to USW by the insuring carrier(s). USW shall be authorized by the Co-Provider to confer directly with the agent(s) of the insuring carrier(s) concerning the extent and limits of the Co-Provider's insurance coverage in order to assure the sufficiency thereof for purposes of the work performable under the Contract and to assure that such coverage as a whole with respect to the work performable are coordinated from the standpoint of adequate coverage at the least total premium costs.
- 5.5. The insuring carrier(s) and the form of the insurance policies shall be subject to approval by USW. The Co-Provider shall forward to USW, certificates of such insurance issued by the insuring carrier(s). The insuring carrier(s) may use the ACORD form, which is the Insurance Industries certificate of insurance form. The insurance certificates shall provide that: (1) USW is named as an additional insured; (2) thirty (30) calendar days prior written notice of cancellation of, or material change or exclusions in, the policy to which the certificates relate shall be given to USW; (3) certification that underground hazard coverage (commonly referred to as "U" coverage) is part of the coverage; and (4) the words "pertains to all operations and projects performed on behalf of the certificate holder" are included in the description portion of the certificate. The Co-Provider shall not commence work hereunder until the obligations of the Co-Provider with respect to insurance have been fulfilled. The fulfillment of such obligations shall not relieve the Co-Provider of any liability hereunder or in any way modify the Co-Provider's obligations to indemnify USW.
- 5.6. Whenever any work is performed requiring the excavation of soil or use of heavy machinery within fifty (50) feet of railroad tracks or upon railroad right-of-way, a Railroad Protective Liability Insurance policy will be required. Such policy shall be issued in name of the Railroad with standard limits of Two Million Dollars (\$2,000,000.00) per

occurrence combined single limit for bodily injury, property damage or physical damage to property with an aggregate limit of Six Million Dollars (\$6,000,000.00). In addition, said policy shall name USW and the Co-Provider/SubCo-Provider on the declarations page with respect to its interest in these specific job. Said insurance policy shall be in form and substance satisfactory both to the USW and the Railroad and shall be delivered to and approved by both parties prior to the entry upon or use of the Railroad Property.

- 5.7 Whenever any work must be performed in the Colorado State Highway right-of-way, policies and certificates of insurance shall also name the State of Colorado as an additional insured. Like coverage shall be furnished by or on behalf of any subcontractor. Copies of said certificates must be available on site during the performance of the work.

6. CONSTRUCTION AND MAINTENANCE OF FACILITIES.

- 6.1 USW retains the right, in its sole judgment, to determine the availability of space on Poles/Innerduct. When modifications to a USW spare conduit include the placement of innerduct, USW retains the right to install the number of innerducts required to occupy the conduit structure to its full capacity. In the event USW determines that rearrangement of the existing facilities on Poles/Innerduct is required before Co-Provider's Facilities can be accommodated, the cost of such modification will be included in the Co-Provider's nonrecurring charges for the associated Poles/Innerduct Order.
- 6.2 Co-Provider shall be responsible for obtaining the necessary underlying legal authority to occupy Poles/Innerduct on governmental, federal, Native American, and private rights of way, as applicable, and USW does not warrant or represent that providing Co-Provider with access to the Poles/Innerduct in any way constitutes such legal right. The Co-Provider shall obtain any necessary permits, licenses, bonds, or other legal authority and permission, at the Co-Provider's sole expense, in order to perform its obligations under this Agreement. The Co-Provider shall contact all owners of public and private rights-of-way, as necessary, to obtain written permission required to perform the work prior to entering the property or starting any work thereon and shall provide USW with written documentation of such legal authority prior to placement of its facilities on or in the Poles/Innerduct. The Co-Provider shall comply with all conditions of rights-of-way and Orders.
- 6.3 Co-Provider's Facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated herein by reference, and any governing authority having jurisdiction of the subject matter of this Agreement. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain Facilities in accordance with the above requirements shall be Cause as referenced in Section 3 to this Agreement for termination of the Order in question. Termination of more than two (2) Orders in any twelve-month period pursuant to the foregoing sentence shall be Cause as referenced in Section 3 for termination of this Agreement. USW's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate USW premises. Co-Provider's procedures governing its standards maintenance practices for Facilities shall be made available to USW upon written request. Co-Provider shall within thirty (30) days comply and provide the requested information to USW to bring their facilities into compliance with these terms and conditions.
- 6.4. In the event of any service outage affecting both USW and Co-Provider, repairs shall be effectuated on a priority basis as established by local, state or federal requirements, or where such requirement do not exist, repairs shall be made in the following order: electrical, telephone (local), telephone (long distance), and cable television, or as mutually agreed to by the users of the effected Poles/Innerduct.
- 6.5 In the event of an infrastructure outage, the Co-Provider should contact their Network Maintenance Center at 1-800-223-7881 or the Co-Provider may contact their Account Manager at the Interconnect Service Center.

7. MODIFICATION TO EXISTING POLES/INNERDUCT.

- 7.1. If Co-Provider requests USW to replace or modify existing Poles/Innerduct to increase its strength or capacity for the benefit of the Co-Provider and USW determines in its sole discretion to provide the requested capacity, the Co-Provider shall pay USW the total replacement cost, USW's cost to transfer its attachments, as necessary, and the cost for removal (including destruction fees) of any replaced Poles/Innerduct, if such is necessary. Ownership of new Poles/Innerduct shall vest in USW. To the extent that a modification is incurred for the benefit of multiple parties, Co-Provider shall pay a proportionate share of the total cost as outlined above, based on the ratio of the

amount of new space occupied by the Facilities to the total amount of space occupied by all parties joining the modification. Modifications that occur in order to bring Poles/Innerduct into compliance with applicable safety or other requirements shall be deemed to be for the benefit of the multiple parties and Co-Provider shall be responsible for its pro rata share of the modification cost. Except as set forth herein, Co-Provider shall have no obligation to pay any of the cost of replacement or modification of Poles/Innerduct requested solely by third parties.

7.2 Written notification of modification initiated by or on behalf of USW shall be provided to Co-Provider at least sixty (60) days prior to beginning modifications if such modifications are not the result of an emergency situation. Such notification shall include a brief description of the nature and scope of the modification. If Co-Provider does not rearrange its facilities within sixty (60) days after receipt of written notice from USW requesting such rearrangement, USW may perform or cause to have performed such rearrangement and Co-Provider shall pay for cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/Innerduct.

8. INSPECTION OF FACILITIES. USW reserves the right to make final construction, subsequent and periodic inspections of Co-Provider's facilities occupying the Poles/Innerduct system. Co-Provider shall reimburse USW for the cost of such inspections except as specified in Section 8 hereof.

- 8.1. Co-Provider shall provide written notice to USW, at least fifteen (15) days in advance, of the locations where Co-Provider's plant is to be constructed.
- 8.2. The Co-Provider shall forward Exhibit A, entitled "Pulling In Report" attached hereto and incorporated herein by this reference, to USW within five (5) business days of the date(s) of the occupancy.
- 8.3. USW shall provide written notification to Co-Provider within seven (7) days of the date of completion of a final construction inspection.
- 8.4. Where final construction inspection by USW has been completed, Co-Provider shall be obligated to correct non-complying conditions within thirty (30) days of receiving written notice from USW. In the event the corrections are not completed within the thirty (30)-day period, occupancy authorization for the Poles/Innerduct system where non-complying conditions remain uncorrected shall terminate immediately, regardless of whether Co-Provider has energized the facilities occupying said Poles/Innerduct system, unless USW has provided Co-Provider a written extension to comply. Co-Provider shall remove its facilities from said Poles/Innerduct in accordance with the provisions set forth in Section 10 of this Agreement. No further occupancy authorization shall be issued to Co-Provider until such non-complying conditions are corrected or until Co-Provider's facilities are removed from the Pole/Conduit system where such non-complying conditions exist. If agreed to in writing, by both parties, USW shall perform such corrections and Co-Provider shall pay USW the cost of performing such work. Subsequent inspections to determine if appropriate corrective action has been taken may be made by USW.
- 8.5. Once the Co-Providers facilities occupy USW Poles/Innerduct system and Exhibit A has been received by USW, USW may perform periodic inspections. The cost of such inspections shall be borne by USW, unless the inspection reveals any violations, hazards, or conditions indicating that Co-Provider has failed to comply with the provisions set forth in this Agreement, in which case the Co-Provider shall reimburse USW for full costs of inspection, and re-inspection to determine compliance as required. A Co-Provider representative may accompany USW on field inspections scheduled specifically for the purpose of inspecting Co-Provider's Facilities; however, Co-Provider's costs associated with its participation in such inspections shall be borne by Co-Provider. USW shall have no obligation to notify Co-Provider, and Co-Provider shall have no right to attend, any routine field inspections.
- 8.6. The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to the Co-Provider within thirty (30) days upon completion of the inspection.
- 8.7. Final construction, subsequent and periodic inspections or the failure to make such inspections, shall not impose any liability of any kind upon USW, and shall not relieve Co-Provider of any responsibilities, obligations, or liability arising under this Agreement.

9. UNAUTHORIZED FACILITIES

- 9.1 If any facilities are found attached to Poles/Innerduct for which no Order is in effect, USW, without prejudice to any other rights or remedies under this Agreement, shall assess an unauthorized attachment administrative fee of Two Hundred Dollars (\$200.00) per attachment per Pole or innerduct run between manholes, and require the Co-

Provider to submit in writing, within ten (10) day after receipt of written notification from USW of the unauthorized occupancy, a Poles/Innerduct application. If such application is not received by USW within the specified time period, the Co-Provider will be required to remove its unauthorized facility within ten (10) days of the final date for submitting the required application, USW may remove the Co-Provider's facilities without liability, and the cost of such removal shall be borne by the Co-Provider.

9.2 For the purpose of determining the applicable charge, the unauthorized Poles/Innerduct occupancy shall be treated as having existed for a period of five (5) years prior to its discovery, and the charges, as specified in Section 4, shall be due and payable forthwith whether or not Co-Provider is ordered to continue the occupancy of the Poles/Innerduct system.

9.3. No act or failure to act by USW with regard to an unauthorized occupancy shall be deemed to constitute the authorization of the occupancy; any authorization that may be granted subsequently shall not operate retroactively or constitute a waiver by USW of any of its rights of privileges under this Agreement or otherwise.

10. **REMOVAL OF FACILITIES.** Should USW, under the provisions of this Agreement, remove Co-Provider's Facilities from the Poles/Innerduct covered by any Order (or otherwise), USW will deliver the Facilities removed upon payment by Co-Provider of the cost of removal, storage and delivery, and all other amounts due USW. If payment is not received by USW within thirty (30) days, Co-Provider will be deemed to have abandoned such facilities, and USW may dispose of said facilities as it determines to be appropriate. If USW must dispose of said facilities, such action will not relieve Co-Provider of any other financial responsibility associated with such removal as provided herein. If Co-Provider removes its Facilities from Poles/Innerduct for reasons other than repair or maintenance purposes, the Co-Provider shall have no right to replace such facilities on the Poles/Innerduct until such time as all outstanding charges due to USW for previous occupancy have been paid in full. Co-Provider shall submit Exhibit B, entitled "Notification of Surrender of Modification of Conduit Occupancy License by Co-Provider," or Exhibit C, entitled "Notification of Surrender of Modification of Pole Attachment by Co-Provider," each as attached hereto, advising USW as to the date on which the removal of Facilities from each Poles/Innerduct has been completed.

11. **INDEMNIFICATION AND LIMITATION OF LIABILITIES.** Co-Provider shall indemnify and hold harmless USW, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all liabilities, claims, judgments, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (1) infringement, or alleged infringement, of any patent rights or claims caused, or alleged to have been caused, by the use of any apparatus, appliances, equipment, or parts thereof, furnished, installed or utilized by the Co-Provider; (2) actual or alleged fault or negligence of the Co-Provider, its officers, employees, agents, subcontractors and/or representatives; (3) furnishing, performance, or use of any material supplied by Co-Provider under this Contract or any product liability claims relating to any material supplied by Co-Provider under this Contract; (4) failure of Co-Provider, its officers, employees, agents, subcontractors and/or representatives to comply with any term of this Contract or any applicable local, state, or federal law or regulation, including but not limited to the OSH Act and environmental protection laws; (5) assertions under workers' compensation or similar employee benefit acts by Co-Provider or its employees, agents, subcontractors, or subcontractors' employees or agents; (6) the acts or omissions (other than the gross negligence or willful misconduct) of USW, its officers, employees, agents, and representatives, except as otherwise provided in paragraphs 11.3 and 11.4 below; and/or, (7) any economic damages that may rise, including damages for delay or other related economic damages that the USW or third parties may suffer or allegedly suffer as a result of the performance or failure to perform work by the Co-Provider. If both USW and the Co-Provider are sued as a result of or in connection with the performance of work arising out of this Contract, the parties hereby agree that the defense of the case (including the costs of the defense and attorneys' fees) shall be the responsibility of the Co-Provider, if USW desires. USW shall give the Co-Provider reasonable written notice of all such claims and any suits alleging such claims and shall furnish upon the Co-Provider's request and at the Co-Provider's expense all information and assistance available to the USW for such defense. The parties shall employ Article 13, Dispute Resolution, to resolve any dispute concerning the proportional fault and liability after the underlying case is terminated.

11.1 IF WORK IS PERFORMED IN THE STATE OF WASHINGTON UNDER THIS GENERAL CONTRACT, THE CO-PROVIDER ACKNOWLEDGES AND AGREES THAT THIS INDEMNIFICATION OBLIGATION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL CLAIMS AGAINST USW BY AN EMPLOYEE OR FORMER EMPLOYEE OF THE CO-PROVIDER, AND THE CO-PROVIDER EXPRESSLY WAIVES ALL IMMUNITY AND LIMITATION ON LIABILITY UNDER ANY INDUSTRIAL INSURANCE ACT, OTHER WORKERS' COMPENSATION ACT, DISABILITY BENEFIT ACT, OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION WHICH WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH A CLAIM.

11.2 Except as expressly provided herein, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT; provided, however, there shall be no limitation on a party's liability to the other for any fines or penalties imposed on the other party by any court of competent jurisdiction or federal, state or local administrative agency resulting from the failure of the party to comply with any term or condition of this Contract or any valid and applicable law, rule or regulation.

11.3 FOR ANY WORK PERFORMED IN ARIZONA, IDAHO, SOUTH DAKOTA, UTAH OR WASHINGTON, SECTION 11(6) SHALL NOT EXTEND TO THE SOLE NEGLIGENCE OF USW BUT SHALL EXTEND TO THE NEGLIGENCE OF USW WHEN CONCURRENT WITH THAT OF THE CO-PROVIDER.

11.4 FOR ANY WORK PERFORMED IN THE STATES OF MINNESOTA, NEBRASKA, NEW MEXICO, OR OREGON, ARTICLE 11 SHALL NOT APPLY, EXCEPT THAT SECTION 11 SHALL APPLY FOR WORK PERFORMED IN MINNESOTA FOR MAINTENANCE OR REPAIR OF MACHINERY, EQUIPMENT, OR OTHER SUCH DEVICES, USED AS PART OF A MANUFACTURING, COVERING, OR OTHER PRODUCTION PROCESS INDULGING ELECTRIC, GAS, STEAM, AND TELEPHONE UTILITY EQUIPMENT USED FOR PRODUCTION, TRANSMISSION, OR DISTRIBUTION PURPOSES.

12. **FORCE MAJURE**

12.1 The Co-Provider shall be excused from its performance as to any Order if prevented by acts or events beyond the Co-Provider's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

12.2 If such contingency occurs, USW may elect:

12.2.1 To terminate this Agreement as to the Order in question; or

12.2.2 To terminate already-assigned specific work assignment(s) the Co-Provider is unable to perform, or any part thereof, and to assign new specific work assignments to other parties for the duration of the cause of the delay; or

12.2.3 To suspend already-assigned specific work assignment(s) the Co-Provider is unable to perform, or any part thereof, for the duration of the cause of the delay; and to assign new specific work assignments to other parties for the duration of the cause of the delay.

12.3 USW shall be deemed to have elected Section 12.2.3 above unless written notice of termination is given by USW after the contingency occurs. With respect to USW's election of Section 12.2.3 above:

12.3.1 USW shall give the Co-Provider written notice of the work to be performed by such other party prior to its performance and shall deduct from the Co-Provider's price the cost of the work or services actually performed by such other parties.

12.3.2 The Co-Provider shall resume performance, and complete any work not performed or to be performed by another party, once the delaying cause ceases.

12.3.3 If appropriate, at the USW's discretion, the time for completion of specific work assignment(s) shall be extended up to the length of time the contingency endured.

12.4 USW shall be excused from its performance if prevented by acts or events beyond the USW's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

13. **DISPUTE RESOLUTION.**

13.1. Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American

Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

- 13.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.
- 13.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.
- 13.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

14. **LAWFULNESS.** This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Poles/Innerduct is provided.

15. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

16. **GENERAL PROVISIONS.**

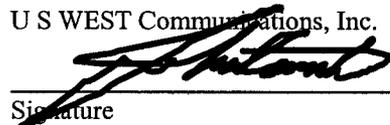
- 16.1 Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.
- 16.2 This Agreement shall not be assignable by Co-Provider without the express written consent of USW, which shall not be unreasonably withheld. Assignment of this Agreement by Co-Provider to Co-Provider's subsidiary or affiliate shall be presumed to be reasonable; provided, however, that Co-Provider must obtain USW's consent in any event.
- 16.3 This Agreement benefits Co-Provider and USW. There are no third party beneficiaries.
- 16.4 This Agreement constitutes the entire understanding between Co-Provider and USW with respect to Service provided herein and supersedes any prior agreements or understandings.

The parties hereby execute and authorize this Agreement as of the latest date shown below:

Co-Provider

U S WEST Communications, Inc.

Signature



Signature

Name Typed or Printed

JOHN CARVETH

Name Typed or Printed

Title

PRODUCT MANAGER

Title

Date

Date

Address for Notices

Address for Notices

Contact:

Phone: _____

FAX: _____

U S WEST Communications, Inc.
1801 California, Rm. 2330
Denver, CO 80202

Contact: JOHN CARVETH

Phone: 303-896-0789

FAX: 303-896-9022

PULLING IN REPORT

_____ 19 ____

U S WEST Communications, Inc.

This is to advise you that pursuant to General Agreement No. _____ granted to us under the terms of the Innerduct Agreement dated _____, 1999 we have completed installation of the following cable into the following ducts.

Municipality

<u>Location</u>			
<u>From</u>	<u>To</u>	<u>Cable and</u>	<u>Date</u>
<u>Manhole at</u>	<u>Manhole at</u>	<u>Equipment Installed</u>	

Name of Co-Provider

By: _____

Title: _____

Receipt of the above report is hereby acknowledged _____, 19 ____.

U S WEST Communications, Inc.

By: _____

Title: _____

1. Reports shall be submitted in duplicate.
2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.
3. Sketch to be furnished showing duct used. Must be same duct assigned to Licensee by Licensor as shown on Exhibit ____, unless a change has been previously authorized in writing by Licensor.

Co-Provider

NOTIFICATION OF SURRENDER OR MODIFICATION
OF POLE ATTACHMENT ORDER BY CO-PROVIDER

Street Address _____
City and State _____
Date _____

U S WEST, Inc.

In accordance with the terms and conditions of the Agreement between USW and Co-Provider, dated _____, 19__ , notice is hereby given that the licenses covering attachments to the following poles and/or anchors, and/or utilization of anchor/guy strand is surrendered (or modified as indicated in Co-Provider's prior notification to USW, dated _____, 19__) effective _____.

	POLE NO.	ASSOC. POLE NO.	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD OR MODIFIED
1.		A A/GS -			
2.		A A/GS -			
3.		A A/GS -			
4.		A A/GS -			
5.		A A/GS -			
6.		A A/GS -			
7.		A A/GS -			
8.		A A/GS -			
9.		A A/GS -			
10.		A A/GS -			
11.		A A/GS -			
12.		A A/GS -			
13.		A A/GS -			

Date Notification Received _____
Date Modification Received _____
By: _____

Name of Co-Provider

Discontinued:

By: _____

Poles _____
Anchors _____
Anchor/Guy Strands _____

Its: _____