

## INTRASTATE INTRALATA SWITCHED ACCESS AGREEMENT

This Agreement is made and entered into by and between U S WEST Communications, Inc. ("USWC"), a Colorado corporation and Kennebec Telephone Co., Inc. ("Exchange Carrier").

**WHEREAS**, USWC and Exchange Carrier have entered into an Agreement for the Purchase and Sale of Exchanges ("the Sales Agreement") dated December 7, 1994, and;

**WHEREAS**, the Parties anticipate that Closing will take place on or before \_\_\_\_\_, and;

**WHEREAS**, as set forth in the Sales Agreement in schedule 2.4, the Parties agreed to enter into an Intrastate Switched Access Agreement.

**NOW THEREFORE**, for the purchased exchanges, the Parties agree as follows:

### SECTION 1. INTRASTATE ACCESS RATES

Exchange Carrier shall file a South Dakota Public Utilities Commission ("PUC") Intrastate Tariff or contract where applicable, with Intrastate terminating and originating access rates as separate rate elements for the purchased exchanges which shall not be applicable to any other exchanges(s) operated by Exchange Carrier. Exchange Carrier will provide access bills to USWC separate from access bills for other exchanges(s) operated by Exchange Carrier. In either event (contract or tariff) the separate rate elements shall be identified and billed, if and when provided by Exchange Carrier, on a per access minute basis, as follows:

Carrier Common Line	\$0.01930
Local Switching	\$0.02300
Transport Facility	\$0.01385
Transport Termination	\$0.01385

The above service elements shall be defined as set forth in the applicable provisions of South Dakota PUC rules.

### SECTION 2. INTERMEDIATE TRANSPORT

Exchange Carrier shall establish an Intrastate Tariff or contract where applicable for Intermediate Transport service, as hereafter defined, provided by Exchange Carrier which shall be identified and billed by Exchange Carrier on a per access minute basis as follows:

Intermediate Transport	\$ .0005 per minute per mile of Intermediate Transport
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For the purpose of this Agreement, Intermediate Transport is defined as transport provided by a company or companies, other than the end office local exchange company, which is necessary to complete interconnection between the end office local exchange company and USWC facilities.

Further, the Parties understand and agree that Intermediate Transport shall only apply to transport provided from what is currently recognized as the cluster host offices of Mobridge and Winner to a point(s) of connection with USWC facilities.

No Intermediate Transport shall be paid between what is currently recognized as remote offices and their respective host office or between any such cluster associated remotes as currently exist. any Intermediate Transport provided to exchanges not included in this transaction, but utilizing facilities acquired in this transaction, shall be billed at the same rate of \$.0005 per access minute of use per mile of transport provided.

The Intermediate Transport rates and the terms and conditions set forth above shall remain in effect until May 1, 1997 or such earlier date as the Parties may mutually agree to.

### **SECTION 3. MINUTES OF USE.**

To the extent that USWC is providing recording services pursuant to a Transition Services Agreement for Host Switching services, USWC shall provide to Exchange Carrier applicable access minutes of use as referred to in Section 1 above for the purchased exchanges, and minutes of use for Intermediate Transport as referred to in Section 2 above.

### **SECTION 4. ACCOUNTING**

Exchange Carrier shall maintain separate accounting records for investments in the purchased exchanges and the depreciation expenses related to the purchased exchanges and will not reflect those investments and depreciating expenses in any other access rate development for other exchanges now operated or hereafter acquired by Exchange Carrier.

### **SECTION 5. TERM**

Except as otherwise expressly provided herein, this Agreement shall not terminate before May 1, 1997, except as the Parties may hereafter mutually agree in writing.

### **SECTION 6. SURVIVAL OF TERMS**

Except as set forth in this Agreement those terms and conditions of the Sales Agreement which by their terms survive the Close Date are incorporated herein and shall apply to this Agreement.

### **SECTION 7 . GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the Laws of the State in which services are provided under this Agreement.

#### **SECTION 8 . AGREEMENT BENEFITS PARTIES**

This Agreement benefits, and is intended to benefit, the two Parties, the Exchange Carrier and USWC. This Agreement does not in any way change, expand, or reduce any preexisting rights or obligations of any person who is not a Party to this Agreement.

#### **SECTION 9 . FORCE MAJEURE**

With the exception of payment of charges due under this Agreement, a Party shall be excused from performance if its performance is prevented by acts or events beyond the Party's reasonable control, including but not limited to, severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; computer failures; nuclear or other civil or military emergencies; or acts of legislative, judicial, executive, or administrative authorities.

#### **SECTION 10. LAWFULNESS OF AGREEMENT**

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 including the Modification of Final Judgment ("MFJ"), as issued in United States v. Western Electric Co., et al. Civil Action No. 82-0192, U.S. District Court for the District of Columbia, and all subsequent orders issued in or related to that proceeding. This Agreement shall only be effective when mandatory regulatory filing requirements are met, if applicable. If a court or a governmental agency with proper jurisdiction determines that this Agreement, or a provision of this Agreement, is unlawful, or if USWC determines this Agreement or a provision of this Agreement is inconsistent with, or contradictory to the "MFJ", this Agreement, or that provision of this Agreement shall terminate on written notice to Exchange Carrier to that effect. If a provision of this Agreement is so terminated but the Parties legally, commercially, and practicably can continue this Agreement without the terminated provision, the remainder of this Agreement shall continue in effect.

#### **SECTION 11. LIMITATION OF LIABILITY**

Under no circumstances shall either Party be liable to the other for any indirect, incidental, special, or consequential damages, including but not limited to, loss of business, loss of use, or loss of profits which arise in any way, in whole or in part, as a result of any action, error, mistake, or omission, whether or not negligence on the part of either Party occurs. One Party's liability to the other Party for direct, actual damages shall not exceed the amount required to correct the error, mistake, or omission under this Agreement.

#### **SECTION 12. WAIVER**

Any failure of a Party to assert any of its rights under any provision of this Agreement shall not constitute a waiver or a termination of such rights, this Agreement, or any of this Agreement's provisions.

**SECTION 13. AMENDMENTS TO AGREEMENT**

The Parties may by mutual agreement and execution of a written Supplement to this Agreement amend, modify, or add to the provisions of this Agreement.

**SECTION 14. ENTIRE AGREEMENT**

This Agreement, together with all Exhibits, Attachments, Notices, and any jointly-executed written Supplements to this Agreement, constitutes the entire Agreement and the complete understanding between the Parties. No other verbal or written representation of any kind affects the rights or the obligations of the Parties regarding any of the provisions in this Agreement.

**SECTION 15. INDEMNIFICATION**

Each Party to this Agreement hereby agrees to indemnify and hold harmless the other Party with respect to any third-party claims, lawsuits, damages or court actions arising from performance under this Agreement to the extent that the indemnifying Party is liable or responsible for said third-party claims, losses, damages, or court actions.

Whenever any claim shall arise for indemnification hereunder, the Party entitled to indemnification shall promptly notify the other Party of the claim and, when known, the facts constituting the basis for such claim. In the event that one Party to this Agreement disputes the other Party's right to indemnification hereunder, the Party disputing indemnification shall promptly notify the other Party of the factual basis for disputing indemnification. Indemnification shall include, but is not limited to, costs and attorney fees.

**SECTION 16. SUCCESSORS, ASSIGNMENT**

This Agreement binds the Parties, their successors, and their assigns. Either Party may assign its rights and delegate its duties under this Agreement with the express, written permission of the other Party, which permission shall not unreasonably be withheld; provided, however, that either Party may assign its rights and delegate its duties under this Agreement to its parent or its subsidiaries without prior written permission.

**SECTION 17. DISPUTE RESOLUTION**

All claims arising out of this Agreement shall be resolved by arbitration in accordance with the then current rules of the American Arbitration Association. The arbitration shall be conducted by a single arbitrator engaged in the practice of law. The arbitrator's decision and award shall be final and binding and may be entered in any court with jurisdiction.

**SECTION 18. DEFAULT**

Either Party may terminate this Agreement if the other Party defaults by failing to perform any substantial obligation on its part. In the event of default, a Party shall have ten (10) days after written notice to correct such default. This Agreement may not be terminated as a result of default unless and until written notice detailing such default is given to the defaulting Party.

**SECTION 19. NOTICES**

All notices required by or relating to this Agreement shall be in writing and shall be sent to the Parties to this Agreement at their addresses set forth below, unless the same is changed from time to time, in which event each Party shall notify the other in writing of such change. All such notices shall be deemed duly given if mailed, postage prepaid, and directed to the addresses then prevailing. If any questions arise about dates of notices, postmark dates control.

Kennebec Telephone Co., Inc.  
Delores Johnstone  
Post Office Box 158  
Kennebec, South Dakota 57544  
(605) 869-2220

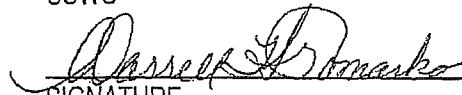
USWC  
Darrell Gomarko  
125 South Dakota Avenue, Eighth Floor  
Sioux Falls, South Dakota 57194  
(605) 339-5985

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed for and on its behalf on the day and year indicated below:

Kennebec Telephone Co., Inc.

USWC

\_\_\_\_\_  
SIGNATURE  
President/Manager  
\_\_\_\_\_  
TITLE  
\_\_\_\_\_  
DATE

USWC  
  
\_\_\_\_\_  
SIGNATURE  
Account Manager  
\_\_\_\_\_  
TITLE  
4-3-96  
\_\_\_\_\_  
DATE