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May 12, 1998

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William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57510

RECEIVED

MAY 14 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

**Re: In the Matter of the Joint Application for Approval of an Interconnection Agreement Between Midwest Wireless Communications, L.L.C. and U S WEST Communications, Inc. Pursuant to 47 U.S.C. § 252(e)**

Dear Mr. Bullard:

On behalf of Midwest Wireless Communications, L.L.C. and U S WEST Communications, Inc., I am enclosing the original and ten (10) copies of a Type 2 Wireless Interconnection Service Agreement ("Agreement"). Midwest Wireless and U S WEST have entered into the Agreement through voluntary negotiations without resort to mediation or arbitration. The Agreement is jointly submitted for Commission approval pursuant to 47 U.S.C. § 252(e).

The Commission is to be required approve an interconnection agreement reached through voluntary negotiation, unless the Commission finds (a) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (b) the implementation of such agreement or portion is not consistent with the public interest, convenience or necessity. Sec. 47 U.S.C. § 252(e)(2). Midwest Wireless and U S WEST submit that the Agreement provides no basis for a finding of discrimination or contravention of the public interest. First, the Agreement does not discriminate against any other telecommunications carrier. Many of the services and facilities to be provided by U S WEST to Midwest Wireless under the Agreement may be provided pursuant to U S WEST's tariffs. If approved by the Commission, the Agreement will be subject to adoption by other interested carriers pursuant to 47 U.S.C. § 252(i). Second, the Agreement is consistent with the public interest as identified in the pro-competitive policies of the Federal Communications Commission ("FCC"). The terms of the Agreement are equitable and

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William Bullard, Jr.

May 12, 1998

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commercially reasonable as demonstrated by the voluntary negotiations of the parties. The Agreement will permit interconnection and the mutual exchange of traffic between Midwest Wireless and U S WEST consistent with the Telecommunications Act of 1996 and the regulations of the FCC. Expedient approval of the Interconnection Agreement will facilitate competition in U S WEST's local exchange service areas of South Dakota.

All communications regarding this joint application should be addressed to the following representatives:

**Midwest Wireless:**

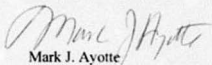
Mark J. Ayotte  
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2200 First National Bank Building  
St. Paul, MN 55101  
(612) 223-6561

**U S WEST:**

Ed Lopez  
U S WEST Communications, Inc.  
1801 California Street, Suite 5100  
Denver, CO 80202  
(303) 672-2783

Accordingly, Midwest Wireless and U S WEST request the Commission to issue an order approving the Agreement at the earliest possible date.

Very truly yours,



Mark J. Ayotte

MJA:ms  
Enclosures

cc: Ed Lopez, U S WEST  
Steve Dea, U S WEST  
Midwest Wireless Communications

RECEIVED

MAY 14 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

**TYPE 2 WIRELESS INTERCONNECTION  
AGREEMENT**

**BETWEEN**

**U S WEST Communications, Inc.**

**AND**

**Midwest Wireless Communications L.L.C.  
and**

**SWITCH 2000 L.L.C.**

**(upon becoming a wholly owned subsidiary of  
Midwest Wireless Communications L.L.C.)**

**in the State of  
South Dakota**

**Agreement Number  
DEN-980410-1001**



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## WIRELESS INTERCONNECTION SERVICE AGREEMENT

This Wireless Interconnection Agreement, is between Midwest Wireless Communications LLC and SWITCH 2000 LLC (upon SWITCH 2000 LLC becoming a wholly owned subsidiary of Midwest Wireless Communications LLC.) ("Carrier") and US WEST Communications, Inc. ("USWC"), a Colorado corporation.

Carrier is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service ("CMRS") provider. USWC and Carrier both agree to interconnect their facilities and exchange traffic for the benefit of the Parties. Services provided by USWC to Carrier under this Agreement are provided pursuant to Carrier's role as a CMRS provider.

### 1. RECITALS

- 1.1 Pursuant to this Agreement for Wireless Interconnection ("Agreement"), Carrier, a Commercial Mobile Radio Service provider and USWC (collectively, "the Parties") will extend certain arrangements to one another for the purpose of offering Wireless to Wireline or Wireline to Wireless services within each LATA in which they both operate within the state of South Dakota. This Agreement includes terms, conditions, and prices for Wireless network Interconnection, access to unbundled network elements, and ancillary network services. It will be submitted to the South Dakota Public Utilities Commission. Notwithstanding this mutual commitment, however, the Parties enter into this Agreement without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory, or other public forum addressing any matters, including matters related to the types of arrangements prescribed by this Agreement.
- 1.2 The Parties have agreed to certain provisions in this Agreement, based, in large part, on the existing state of the law, rules, regulations and interpretations thereof, as of the date hereof (the "Existing Rules"). To the extent that certain of the Existing Rules are changed and modified, then this Agreement shall be amended to reflect such different term(s), condition(s), or covenant(s). Where the Parties fail to agree upon such an amendment, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement.

### 2. SCOPE OF AGREEMENT

- 2.1 The Agreement also sets forth the terms, conditions and prices under which the Parties agree to provide Type 2 Interconnection for CMRS carriers only in association with CMRS services and reciprocal compensation for the exchange of traffic between USWC and Carrier for purposes of offering telecommunications services. Unless otherwise provided in this Agreement, the Parties will perform all of their obligations hereunder throughout, to the extent provided in the Appendices attached hereto. The Agreement includes all accompanying appendices.
- 2.2 In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistently with the intent of the Act. Where notice,

approval or similar action by a Party is permitted or required by any provision of this Agreement, (including, without limitation, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

2.3. Acknowledgment of Deferred Issues

2.3.1. Carrier acknowledges it is USWC's position that USWC's existing telecommunications network represents substantial investment made as a result of its carrier-of-last-resort obligation and that such network allows Carrier's end users to interconnect with significantly more business and residential Customers than vice versa. Carrier further acknowledges USWC believes that a separate transitional element is necessary to compensate USWC for the value of its network in this Agreement, that under the Act, the FCC will establish a proceeding to address Universal Service Support, and that the Act also empowers the state Commission to establish a separate proceeding on universal service issues. Carrier further acknowledges that USWC believes that USWC is entitled to receive additional compensation for costs of implementing various provisions of the Act, and that USWC shall seek such additional recovery through future state and/or federal regulatory proceedings.

2.3.2. In consideration of Carrier's willingness to interconnect on the terms set forth in this Agreement, and without prejudice to the position it may take in the FCC docket or before any state Commission, USWC agrees to await the outcome of such proceedings, rather than seek universal service support from Carrier at this time.

3. DEFINITIONS

- 3.1. "Access Tandem" means a USWC switching system which switches calls between end offices.
- 3.2. "Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or a Commission within its state of jurisdiction.
- 3.3. "Automatic Number Identification" or "ANI" means a Feature Group D signaling parameter which refers to the number transmitted through a network identifying the billing number of the calling party.
- 3.4. "Basic Exchange Telecommunications Service" means a service offered to end users which provides the end user with a telephonic connection to, and a unique local telephone number address on, the public switched telecommunications network, and which enables such end user to generally place calls to, or receive calls from, other stations on the public switched telecommunications network. Basic residence and business line services are Basic Exchange Telecommunications Services. As used solely in the context of this statement and unless otherwise agreed, Basic Exchange Telecommunications Service

includes access to ancillary services such as 911, directory assistance and operator services.

- 3.5. "Calling Party Number" or "CPN" is a Common Channel Signaling ("CCS") parameter which refers to the number transmitted through a network identifying the calling party. Reference Technical Pub. 77342.
- 3.6. "Call Termination" involves the terminating carrier's End Office Switching and delivery of terminating traffic from that End Office Switch to the called party's location.
- 3.7. "Call Transport" is the tandem switching and transmission of terminating traffic from the tandem to the terminating carrier's End Office Switch that directly serves the called party.
- 3.8. "CMRS" or "Commercial Mobile Radio Service" is as defined in the Communications Act of 1934 as amended by the Telecommunications Act of 1996.
- 3.9. "Central Office Switch" means a USWC switch used to provide Telecommunications Services, including, but not limited to:
  - 3.9.1. "End Office Switches" which are used to terminate Customer station loops for the purpose of interconnecting to each other and to trunks; and
  - 3.9.2. "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches. Access Tandems provide connections for exchange access and non-local traffic while Local Tandems provide connections for local/EAS traffic.
- 3.10. "Collocation" means an arrangement whereby one Party's (the "Collocating Party") facilities are terminated in its equipment necessary for Interconnection or for access to Network Elements on an unbundled basis which has been installed and maintained at the premises of a second Party (the "Housing Party"). Collocation may be "physical" or "virtual". In "Physical Collocation," the Collocating Party installs and maintains its own equipment in the Housing Party's premises. In "Virtual Collocation," the Housing Party installs and maintains the Collocating Party's equipment in the Housing Party's premises.
- 3.11. "Commission" means the South Dakota Public Utilities Commission.
- 3.12. "Common Channel Signaling" or "CCS" means a method of digitally transmitting call set-up and network control data over a special signaling network fully separate from the public voice switched network elements that carry the actual call. The CCS protocol used by the Parties shall be Signaling System 7.
- 3.13. "Customer" means a third-party (residence or business) that subscribes to Telecommunications Services provided by either of the Parties.

- 3.14. "Digital Signal Level" means one of several transmission rates in the time division multiplexing hierarchy.
- 3.15. "Digital Signal Level 1" or "DS1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS1 is the initial level of multiplexing.
- 3.16. "Digital Signal Level 3" or "DS3" means the 44.736 Mbps third-level in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS3 is defined as the third level of multiplexing.
- 3.17. "Enhanced Services" are services offered over common carrier transmission facilities used in communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information, or involve subscriber interaction with stored information.
- 3.18. "Exchange Message Record" or "EMR" is the standard used for exchange of telecommunications message information between telecommunications providers for billable, non-billable sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, a Bellcore document that defines industry standards for exchange message records.
- 3.19. "Extended Area Service (EAS)/Local Traffic means traffic that is originated by an end user of one Party and terminates to an end user of the other Party as defined in accordance with USWC's then current EAS/local serving areas, as determined by the Commission.
- 3.20. "Interconnection" is as described in the Act and refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic.
- 3.21. "Interexchange Carrier" or "IXC" means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.
- 3.22. "InterLATA" is a term used to describe telecommunications functions originating in one LATA and terminating in another.
- 3.23. "IntraLATA" is a term used to describe telecommunications functions originating and terminating in the same LATA.
- 3.24. "InterMTA" is a term used to describe telecommunications functions used by CMRS providers originating in one MTA and terminating in another.
- 3.25. "Local Access and Transport Area (LATA)" denotes a geographical area established for the provision and administration of communications service. It



encompasses one or more designated exchanges, which are grouped to serve common social, economic and other purposes.

- 3 26. "Local Calling Area (LCA)" is a geographic area defined by the MTA within which Carrier provides CMRS services where local Interconnection rates apply excluding interMTA roaming traffic as defined in FCC First Report and Order 96-325 47CFR 51.701 (b) (2).
- 3 27. "Local Tandem" is a USWC switching system that switches calls to and from end offices within the state Commission defined Wireline Local Calling Area for call completion.
- 3 28. "Major Trading Area (MTA)" is a geographic area established in Rand McNally's Commercial Atlas and Marketing Guide and used by the FCC in defining CMRS license boundaries for CMRS providers for purposes of Sections 251 and 252 of the Communications Act of 1934 as amended.
- 3 29. "MECAB" refers to the Multiple Exchange Carrier Access Billing (MECAB) document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), that functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more Carriers, or by one Carrier in two or more states within a single LATA.
- 3 30. "MECOD" refers to the Multiple Exchange Carriers Ordering and Design (MECOD) Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), that functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Bellcore as Special Report SR STS-002643, establishes recommended guidelines for processing orders for access service that is to be provided by two or more Carriers. It is published by Bellcore as SRBDS 00983.
- 3 31. "Meet-Point Billing" or "MPB" refers to an agreement whereby two Carriers jointly provide switched access service to an Interexchange Carrier, with each Carrier receiving an appropriate share of the transport element revenues as defined by their effective access tariffs.
- 3 32. "Mid-Span Meet" is a point of Interconnection between two networks, designated by two Telecommunications Carriers, at which one carrier's responsibility for service begins and the other carrier's responsibility ends.
- 3 33. "Mobile Switching Center (MSC)" may also be referred to as Personal Communications Switching Center (PCSC) or Wireless Switching Center (WSC). The MSC is a configuration of equipment designed to provide Wireless service to a Wireless subscriber. Typically the switching element is referred to as MSC and

provides the connection of calls to other subscribers or the first point of switching for Carrier's Customers.

- 3.34. "Non-Local Calls" is the completion of interMTA and interMTA Roaming Traffic calls based on location of the originating cell site and USWC land line end users as defined in FCC First Report and Order 96-325 paragraph 1043, which interconnection access charges will be applicable.
- 3.35. "North American Numbering Plan" or "NANP" means the numbering plan used in the United States that also serves Canada, Bermuda, Puerto Rico and certain Caribbean Islands. The NANP format is a 10-digit number that consists of a 3-digit NPA code (commonly referred to as the area code), followed by a 3-digit NXX code and 4-digit line number.
- 3.36. "NXX" means the fourth, fifth and sixth digits of a ten-digit telephone number.
- 3.37. "Party" means either USWC or Carrier and "Parties" means USWC and Carrier.
- 3.38. "Point of Connection" or "POC" is a physical location where Carrier is interconnected with the Local Exchange Carrier Network.
- 3.39. "Point of Interface" or "POI" is a mutually agreed upon point of demarcation where the exchange of traffic between two Carriers takes place.
- 3.40. "Reciprocal Compensation Credit" for purposes of this Agreement is defined as a monetary credit for 2-way Wireline to Wireless traffic (except for Calling Party Pays) which is originated by a USWC landline subscriber and terminates to a Wireless Carrier's subscriber within the LCA.
- 3.41. "Roaming Traffic" - For purposes of this Agreement "Roaming Traffic" shall have the meaning as defined by the FCC.
- 3.42. "Service Control Point" or "SCP" means a signaling end point that acts as a database to provide information to another signaling end point (i.e., Service Switching Point or another SCP) for processing or routing certain types of network calls. A query/response mechanism is typically used in communicating with an SCP.
- 3.43. "Serving Wire Center (SWC) denotes the USWC office from which dial tone for local exchange service should, absent special arrangements such as FX (Foreign Exchange) or FCO (foreign Central Office) service be provided to Carrier.
- 3.44. "Signaling Transfer Point" or "STP" means a signaling point that performs message routing functions and provides information for the routing of messages between signaling end points. An STP transmits, receives and processes Common Channel Signaling ("CCS") messages.

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- 3.45. "Tariff Services" as used throughout this Agreement refers to USWC interstate tariffs and state tariffs, price lists, price schedules and catalog.
- 3.46. "Telecommunications Carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.
- 3.47. "Transit Traffic" is traffic that originates from one provider's network, "transits" another provider's network substantially unchanged, and terminates to yet another provider's network.
- 3.48. "Trunk Group" is a set of trunks of common routing origin and destination and which serve a like purpose or function, e.g., a 2A Local Tandem Connection or a 2B High Usage Group Connection are each separate Trunk Groups.
- 3.49. "Wire Center" denotes a building or space within a building, that serves as an aggregation point on a given carrier's network, where transmission facilities are connected or switched. Wire Center can also denote a building where one or more Central Offices, used for the provision of Basic Exchange Telecommunications Services and Access Services, are located. However, for purposes of Collocation Service, Wire Center shall mean those points eligible for such connections as specified in the FCC Docket No. 91-141, and rules adopted pursuant thereto.
- 3.50. "Wireless" is communications services provided by a CMRS carrier in accordance with its CMRS license.
- 3.51. "Wireless Service Request" or "WSR" means the industry standard forms and supporting documentation used for ordering Access Services. The WSR will be used to order trunking and facilities between Carrier and USWC for Wireless Interconnection Service.
- 3.52. "Wireline" is communications services provided by USWC or other non-CMRS Telecommunications Carriers.
- 3.53. Terms not otherwise defined here, but defined in the Act or in regulations implementing the Act, shall have the meaning defined there.

#### **4. RECIPROCAL TRAFFIC EXCHANGE**

##### **4.1. Scope**

- 4.1.1. Reciprocal traffic exchange addresses the exchange of traffic between Carrier subscribers and USWC end users. If such traffic is local, the provisions of this Agreement shall apply. Reciprocal traffic exchange covered by this Agreement is for Wireless Interconnection for CMRS carriers only in association with CMRS services. Other Interconnections

are covered by separate contract, tariff or price lists. Wireless interconnection hereunder is intended for Wireless to Wireline or Wireline to Wireless, but not Wireline to Wireline communications. Such Wireless Interconnection will not be used to terminate other types of traffic on USWC's network, such as Wireline originated traffic. Any incidental services (e.g. directory assistance, operator services, etc.) will be billed at the standard rates for those services. Absent a separately negotiated agreement to the contrary, the Parties will directly exchange traffic between their respective networks, without the use of third party transit providers other than IXCs.

- 4.1.2. Depending upon Carrier's needs and the technical capability and location of USWC switches, various Wireless Interconnections and service arrangements are possible. Each Wireless Interconnection service arrangement requires connection to the USWC Local, Toll, and Access Tandems which serve the geographic area where Carrier's POC is located. Carrier may utilize either inband signaling or out of band signaling where technically feasible for both Parties. Wireless Type 2B and Wireless 2A Interconnections are defined in the following paragraphs.

4.1.2.1. Type 2A Interconnections.

4.1.2.1.1. The Type 2A Local Interconnection connects Carrier's POC to a USWC Local Tandem and exchanges traffic between Carrier and NXXs served by the end offices subtending the Local Tandem. This Interconnection arrangement carries both first routed direct final traffic and traffic overflowed on an alternate final basis from a Type 2B High Use Interconnection arrangement.

4.1.2.1.2. The Access and Toll Tandem Interconnection connects Carrier's POC to a USWC Access and Toll Tandem. An Access Tandem exchanges switched access traffic, toll tandem switched intraLATA toll, and Local Tandem exchanges traffic between Carrier and USWC End Offices other than those subtending the associated Local Tandem. An Interconnection is required to the toll tandem in the geographic area in which the Carrier has local service.

4.1.2.1.3. Type 2A Equal Access Interconnection. This direct final route Trunk Group is used for the exchange of Interexchange Carrier or operator access traffic. It is an Interconnection with inband signaling using Feature Group D signaling protocol between a CMRS provider's POC and the Access Tandem serving the area in which the POC is located. The

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service enables the CMRS provider's subscribers to use their presubscribed Interexchange Carrier of choice. Equal Access trunks are available as one way out (mobile to land) and are not available as one way in (land to mobile), two way or for paging trunks.

**4.1.2.2. Type 2B High Use Interconnections**

The Type 2B High Use Interconnection is a direct, two-way Trunk Group Interconnection between Carrier's POC and a USWC End Office, within the same LATA, with overflow traffic routed over an associated Type 2A Trunk Group to the USWC designated Local Tandem. Type 2B High Use Service is only available in conjunction with an associated Type 2A Service and is offered only where facilities and operating conditions permit. Carrier's and USWC's local traffic can be exchanged over this Interconnection. It can also provide routing of Carrier-originated traffic to Feature Group A or Type 1 numbers residing within the USWC End Office switch. Carrier will not route ancillary traffic or traffic terminating to Interexchange Carriers' via Feature Group B, C, or D through the Type 2B High Use Interconnection.

**4.1.2.3. Toll Blocking Service**

Selective Class of Call Screening (which restricts by operator identification outgoing toll calls to collect, third party billed, and credit card calls only), and when available and to the extent it is operational, Billed Number Screening (which prevents billing of incoming calls on a received collect or third number basis) are available to Carrier via a direct Type 2 D trunk group to the USWC operator Tandem. Carrier will provide the appropriate signaling as defined in Bellcore document GR-145-CORE. Any product having its own contractual terms and conditions separate from this Agreement is excluded from Toll Blocking Service.

**4.2. Types of Traffic**

The types of traffic to be exchanged under this Agreement include:

- 4.2.1. EAS/local and CMRS traffic within the LCA.
- 4.2.2. Non-Local Calls as defined above
- 4.2.3. Switched access traffic, or interLATA toll traffic, as specifically defined in USWC's state and interstate switched access tariffs, and generally identified as that traffic that originates at one of the Party's end users and terminates at an IXC point of presence, or originates at an IXC point of

presence and terminates at one of the Party's end users, whether or not the traffic transits the other Party's network.

- 4.2.4. Transit Traffic is any traffic other than switched access, that originates from one Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network.

Transit service provides the ability for a Telecommunications Carrier to use its connection to a local or Access Tandem for delivery of calls that originate with a Telecommunications Carrier and terminate to a company other than the tandem company, such as another Competitive Local Exchange Carrier, an existing Exchange Carrier, or a Wireless carrier. In these cases, neither the originating nor terminating end user is a Customer of the tandem Telecommunications Carrier. The tandem Telecommunications Carrier will accept traffic originated by a Party and will terminate it at a Point of Interconnection with another local, intraLATA or interLATA network Telecommunications Carrier. This service is provided through local and Access Tandem switches.

- 4.2.5. Ancillary traffic includes all mobile to land traffic destined for ancillary services, or that may have special billing requirements, including, but not limited to the following:

- 4.2.5.1. Directory Assistance
- 4.2.5.2. 911/E911
- 4.2.5.3. Operator call termination (busy line interrupt and verify)
- 4.2.5.4. 800/888
- 4.2.5.5. LIDB
- 4.2.5.6. Information services requiring special billing.
- 4.2.5.7. 500 Access Service

- 4.2.6. Unless otherwise stated in this Agreement, ancillary traffic will be exchanged in accordance with whether the traffic is Local, intraLATA, toll, or switched access.

#### 4.3. Types of Exchanged Traffic

- 4.3.1. Termination of Local Traffic.

Local traffic will be terminated as Type 2 Service.

- 4.3.2. Transport of Local Traffic

As negotiated between the Parties, the exchange of local traffic (i.e. traffic within the LCA) between the Parties may occur in several ways:

- 4.3.2.1. While the Parties anticipate the use of two way trunks for the delivery of local traffic, either Party may elect to provision its own one-way trunks for delivery of local traffic

to be terminated on the other Party's network at the "initial" Point of Interconnection.

- 4.3.2.2. The Parties may elect to purchase transport services from each other or from a third party. Such transport delivers the originating Party's local traffic to the terminating Party's end office or tandem for Call Termination. Type 2A or Type 2B Transport is purchased as dedicated transport.
- 4.3.2.3. Based on forecasted traffic at Carrier's busy hour in CCS, where there is a DS1's worth of traffic (512 CCS) between the Carrier switch and a USWC end office, the Parties agree to provision a Type 2B dedicated (i.e., direct) two-way Trunk Group from the Carrier switch directly to the USWC end office. To the extent that Carrier has established a Collocation arrangement at a USWC end office location, and has available capacity, the Parties agree that Carrier shall provide two-way Type 2B dedicated direct trunk facilities, unless one-way is technically required, from that end office to the Carrier switch. In all other cases, the direct facility may be provisioned by USWC or Carrier or a third party. If both Carrier and USWC desire to provision the facility and cannot otherwise agree, the Parties may agree to resolve the dispute through the submission of competitive bids.
- 4.3.2.4. Bellcore document GR-145 - Core - Compatibility Information for Interconnection of a Wireless Services Provider and a Local Exchange Carrier Network, addresses blocking requirements for interconnection.

#### 4.3.3. Transit Traffic

- 4.3.3.1. USWC will accept traffic originated by Carrier and will terminate it at a point of interconnection with another CLEC, Exchange Carrier, Interexchange Carrier or Wireless Carrier. USWC will provide this transit service through local and Access Tandem switches. USWC may provide other network providers with Wireless Interconnection usage reports on traffic which originated from Carrier when requested. Carrier may also provide USWC with transit service.
- 4.3.3.2. The Parties recognize the benefits that would be derived if all networks involved in transporting Transit Traffic will deliver calls to each involved network with CCS/SS7 protocol and the appropriate ISUP/TCAP message to facilitate full interoperability and billing functions. The originating company is expected to follow the EMR standard and to exchange records with both the transiting

company and the terminating company, to facilitate the billing process to the originating network.

4.3.3.3. The Parties will use industry standards developed to handle the provisioning and billing of Switched Access by multiple providers (MECAB, MECOD and the Parties' FCC tariffs), including the one-time provision of notification to Carrier of the billing name, billing address and carrier identification codes of all Interexchange Carriers originating or terminating at each USWC Access Tandem.

4.3.4. Non-Local Traffic.

Non-Local traffic is the completion of Non-Local Calls based on location of the originating cell site and USWC landline end user traffic originating and terminating outside of the CMRS defined Local Calling Area or Roaming Traffic carried over Carrier's own interexchange, interstate facilities. The rates found in the interstate Switched Access Tariff are applicable. Relevant rates include Interconnection Charge (IC), Local Switching, Carrier Common Line, and Tandem Switched Transport.

**4.4. Rate Structure - Local Traffic**

4.4.1. Call Termination

4.4.1.1. The Parties agree that Call Termination rates as described in Appendix A will apply reciprocally for the termination of local traffic per minute of use.

4.4.1.2. For traffic terminated at an USWC or Carrier end office, the end office Call Termination rate in Appendix A shall apply.

4.4.1.3. The Parties acknowledge that Carrier will initially serve all of the Customers within a given LATA through a single Carrier switch. The Parties also acknowledge that Carrier may, in the future, deploy additional switches in each LATA. For purposes of Call Termination, the initial Carrier switch shall be treated as an End Office Switch.

4.4.1.4. For purposes of Call Termination, this Agreement recognizes the unique status of traffic originated by and terminated to Enhanced Services providers. These parties have historically been subject to an access charge exemption by the FCC which permits the use of Basic Exchange Telecommunications Service as a substitute for switched access service. USWC expects that the FCC will address this exemption in its forthcoming access charge reform proceeding. Until any such reform affecting Enhanced Services providers is accomplished, USWC believes it is appropriate to exempt traffic originated to and



terminated by Enhanced Services providers from the reciprocal compensation arrangements of this Agreement.

4.4.2. Call Transport

For traffic terminated at a USWC or Carrier tandem switch, the tandem Call Transport rates in Appendix A shall apply. The tandem Call Transport rates provide for tandem switched transport and tandem switching.

4.4.3. Transport

4.4.3.1. If the Parties elect to each provision their own one-way trunks to the other Party's end office for the termination of Wireless traffic, each Party will be responsible for its own expenses associated with the trunks and no transport charges will apply. Call Termination charges shall apply as described above.

4.4.3.2. If one Party desires to purchase dedicated trunk transport from the other Party, the following rate elements will apply. Transport rate elements include the dedicated trunk transport facilities between the POC and the terminating Party's tandem or End Office Switch. The applicable rates are described in Appendix A.

4.4.3.3. Dedicated-trunked transport facilities are provided as dedicated DS3 or DS1 facilities for the use of either Party between the point of Interconnection and the terminating end office or tandem switch.

4.4.3.4. If the Parties elect to establish two-way dedicated trunks, the compensation for such jointly used 'shared' facilities shall be adjusted as follows. The nominal compensation shall be pursuant to the rates for dedicated trunk transport in Appendix A. The actual rate paid to the provider of the dedicated trunk facility shall be in accordance with the Reciprocal Compensation Credit Section of this Agreement.

4.4.3.5. Multiplexing options are available at rates described in Appendix A.

4.5. Rate Structure - Non-Local Traffic

Applicable interstate Switched Access Tariff rates, terms, and conditions apply to Non-Local Calls routed to an Access Tandem, Toll Tandem, Local Tandem, or directly to an end office. Relevant rate elements include Direct Trunk Transport (DTT) or Tandem Switched Transport (TST), Interconnection Charge (IC), Local Switching, and Carrier Common Line, as appropriate.

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**4.6. Rate Structure – Transit Traffic**

For Type 2 transiting local traffic, the applicable local transit rate applies to the originating Party per Appendix A. For Type 2 transiting non-local traffic, the Parties will charge the applicable switched access rates to the responsible carrier.

**4.7. Measuring Wireless Interconnection Minutes**

4.7.1. Measured usage begins when Carrier's MSC is signaled by the terminating End Office that the call has been answered. Measured usage ends upon MSC recognition of disconnection by the earlier of Carrier's Customer or the disconnection signal from the terminating End Office. USWC will only charge Carrier for actual minutes of use and/or fractions thereof of completed calls. Minutes of use are aggregated at the end of the billing cycle and rounded to the nearest whole minute.

4.7.2. Where technically feasible, USWC and Carrier are required to provide each other the proper call information (e.g., originated call party number and destination call party number, etc.) to enable each Party to issue bills in a complete and timely fashion.

**4.8. Billing Parameters**

4.8.1. Access Traffic. The completion of Non-Local Calls based on location of the originating cell site and USWC landline end user traffic originating and terminating outside of the CMRS defined Local Calling Area and for Roaming Traffic, the rates found in the applicable interstate Switched Access Tariff are applicable. Relevant rates include Interconnection Charge (IC), Local Switching, Carrier Common Line, and Tandem Switched Transport.

4.8.2. Channel (Network Access Channel - NAC). An analog or digital connection from Carrier's switch (CMRS) or Point of Connection to the Serving Wire Center. One-time charges and monthly rates apply to two-wire analog and four-wire analog. One-time charges apply to four-wire digital and Wireless Interconnection on a Self Healing Network Service (SHNS) ring. Monthly charges do not apply to four-wire digital and Wireless Interconnection on a SHNS ring.

4.8.3. Channel Facility (for digital service) - DS1 level. Twenty-four digital voice grade channels can be transmitted over one DS1 facility. A full DS1 is necessary for the addition of voice grade channels even if ordered in increments of less than 24. The transmission rate is 1.544 Mbps. One-time charges and monthly rates apply.

4.8.4. Channel Facility (for digital service) - DS3 level. Twenty-eight DS1s, including their associated digital voice grade channels, can be transmitted over one DS3 facility. When using a DS3 multiplexing level, a full DS3 is necessary for the addition of DS1s even if ordered in increments of less than 28. The facility transmission rate is 44.736 Mbps. One-time charges and monthly rates apply.

- 4.8.5. Call Termination. End Office Switching occurs at the end office serving the called landline number. It is assessed per minute of use to all Type 2A and Type 2B traffic.
- 4.8.6. Multiplexing. Multiplexing performed at the Serving Wire Center enables a DS1 NAC to be connected to a DS0 Dedicated Transport System. A DS3 system will be multiplexed down to a DS1 level in order to connect with the digital switch. One-time charges for multiplexing are incurred only when the multiplexing element is installed subsequent to the installation of the NAC.
- 4.8.7. Transiting Traffic. For traffic terminating to another network provider's switch on a local and access basis, Carrier will reimburse USWC for tandem switching and tandem transport based on the rates listed in Appendix A. Agreements between Carrier and the other network providers for termination are not covered by this representation. If Carrier becomes SS7 capable, the originating company is expected to follow the EMR standard and to exchange records with both the transiting company and the terminating company, to facilitate the billing process to the originating network.
- 4.8.8. Call Transport - Tandem Switching and Transport. The interoffice facility between the tandem and the end office serving the dialed number. It is assessed per minute of use for all local and Interconnection Access Tandem traffic.

**4.9. Reciprocal Compensation Credit**

- 4.9.1. Each Party will compensate the other for its traffic terminating to the other Party's subscriber. Carrier's rate for USWC's Reciprocal Compensation Credit will be symmetrical to USWC's Call Termination rate as listed in Appendix A of this Agreement. USWC will compensate Carrier for local 2-way voice traffic, not paging traffic, originated from USWC's subscribers. Both originating and terminating points for the minutes of use must be contained within the same LCA.
- 4.9.2. The Reciprocal Compensation Credit for termination of USWC Wireline subscriber calls shall be comprised of two components: termination charges and two-way dedicated facilities charges and calculated as set forth in this Section. Examples of the application of the calculation are provided for reference in Appendix A-1.
- 4.9.2.1. The Reciprocal Compensation Credit for the termination component shall be calculated as follows: Divide the total number of monthly USWC measured LCA Carrier minutes of use terminated on USWC's network by a factor of 0.70 (seventy percent). The total of the calculation will then be multiplied by 0.18 (eighteen percent) in the first year, and .185 (eighteen and one-half percent) in the second year to

arrive at the total USWC minutes of use terminated on Carrier's network per month. This monthly total will be multiplied by the applicable call terminating End Office Switching rate set forth in Appendix A to obtain the Reciprocal Compensation Credit for the month with respect to USWC terminations.

4.9.2. The Reciprocal Compensation Credit for two-way dedicated facilities charges shall be based upon the Type 2 channel facilities or two-way network access channels used by both USWC and Carrier to terminate their respective local Interconnection subscriber traffic. This shall be calculated by multiplying (1) the sum of the total monthly two-way channel facility or network access channel multiplexer and distance sensitive facilities state specific rates by (2) a factor of 0.18 (eighteen percent) in the first year and 0.185 (eighteen and one-half percent) in the second year. The Parties agree that the Reciprocal Compensation Credit is intended to apply only to Type 2 Interconnection facilities which are actually utilized as two-way facilities, and will not apply to one-way facilities. Unless the Parties agree otherwise in writing, either Party may route traffic to the other utilizing one-way trunks.

4.9.3. The total Reciprocal Compensation Credit for the month will be the sum of the termination component as calculated above and the facilities component as calculated above, and will appear on each monthly bill to Carrier as a credit against amounts due and payable. Reciprocal Compensation Credits will be applied one month in arrears. Any minutes of use eligible for the Reciprocal Compensation Credit which are adjusted (debit or credit) will directly result in an adjustment in the Reciprocal Compensation Credit.

4.9.3. One time charges, ancillary service charges, traffic from another network provider transiting the USWC network and terminating on Carrier's network, and any USWC provided product which has its own contractual terms and conditions other than the services set forth in this Agreement are not eligible for Reciprocal Compensation.

#### **4.10. Miscellaneous Charges**

The following charges/procedures found in Section 2, 5, or 12 of the State Access Tariff are applicable to Carrier:

- Due Date Change
- Design Change Charge
- Additional Engineering
- Overtime Installation
- Additional Labor Standby

Additional Labor Testing and Maintenance  
Maintenance of Service  
Additional Cooperative Testing  
Automatic Scheduled Testing  
Cooperative Scheduled Testing  
Manual Scheduled Testing  
Nonscheduled Testing  
Nonscheduled Cooperative Testing  
Nonscheduled Manual Testing  
Credit Allowance for Service Interruption (Switch Access)  
Deposits, Advance Payments  
Cancellation of Service Order, Cancellation after 30 days  
Expedited Order Charge  
Late Payment Charge

**4.11. Standard Billing Arrangement**

If Carrier chooses to bill USWC directly rather than utilizing the Reciprocal Compensation Credit method, both Parties shall mutually agree, in advance, on the form and content of the bill prior to initiating such billing. USWC would expect reciprocal billing requirements and outputs as the Carrier receives from USWC today, which adhere to the Billing Output Specifications (BOS). A separate negotiated agreement between USWC and Carrier would be required if Carrier chose to bill USWC.

**4.12. Type 2 Service Interface Code Availability And Optional Features**

**4.12.1. Interface Code Availability**

Supervisory Signaling specifications, and the applicable network channel interface codes for Type 2 Service trunks, are the same as those defined in Bellcore Reference Documents GR-145 - CORE & BR-795-403-100.

**4.12.2. Optional Features**

Inband MF or SS7 Out of Band Signaling

Inband MF signaling and SS7 Out of Band Signaling are available for Type 2 Service trunks. MF signaling or SS7 Out-of-Band Signaling must be requested on the order for the new Type 2 Service trunks. Provisioning of the Type 2 Service trunks equipped with SS7 Out of Band Signaling is the same as that used for Feature Group D Switched Access Common Channel Signaling Access Capability Service, as set forth in this Agreement, must be ordered by Carrier when SS7 Out-of-Band Signaling is requested on Type 2 Service trunks.

**4.13. Testing**  
4.13.1.

Acceptance Testing

At the time of installation of a Type 2 Service Trunk Group, and at no additional charge, the Parties will cooperatively test the same parameters tested for terminating. Feature Group D Switched Access Service. Please see USWC's applicable switched access tariff for the specifications.

4.13.2. Testing Capabilities

4.13.2.1 Terminating Type 2 Service testing is provided where equipment is available, with the following test lines: seven-digit access to balance (100 type), milliwatt (102 type), nonsynchronous or synchronous, automatic transmission measuring (105 type), data transmission (107 type), loop-around, short circuit, open circuit, and non-inverting digital loopback (108 type).

4.13.2.2 In addition to Type 2 Service acceptance testing, other tests are available (e.g., additional cooperative acceptance testing, automatic scheduled testing, cooperative scheduled testing, manual scheduled testing, and non-scheduled testing) at the applicable tariff rates.

**4.14. Ordering**  
4.14.1.

A POC Form, consistent with the sample form attached as Appendix C, will be completed for each POC covered under this Agreement. Although not attached to this Agreement, all POC Forms shall be considered a part of this Agreement and are hereby incorporated by reference.

4.14.2. When ordering Type 2 Service, the ordering Party shall specify on the service order: 1) the type and number of Interconnection facilities to terminate at the point of Interconnection in the Serving Wire Center; 2) the dedicated trunk transport; 3) the peak busy hour CCS from the Carrier end office; 4) the number of trunks to be provisioned at a local exchange office or tandem; 5) and any optional features (see form Appendix B). When the ordering Party requests facilities, routing, or optional features different than those determined to be available, the Parties will work cooperatively in determining an acceptable configuration, based on available facilities, equipment and routing plans.

4.14.3. When the ordering Party initially orders a DS3 Interconnection facility, in conjunction with a tandem or local exchange office, the

provider will forward the appropriate DS1 facility record information necessary to identify the circuit facility assignment (CFA). On subsequent orders utilizing existing DS3 Interconnection facilities, or DS3 dedicated trunk transport facilities, the provider will assign the DS1 facility to the DS3 Interconnection facility or DS3 dedicated trunk transport facility, as directed by the ordering Party.

- 4.14.4. A joint planning meeting will precede Carrier and USWC trunking orders. These meetings will result in the transmittal of Wireless Service Requests (WSRs) to initiate order activity. A Party requesting tandem Interconnection will provide its best estimate of the traffic distribution to each end office subtending the tandem.
- 4.14.5. Service intervals and due dates for negotiated arrangements will be determined on an individual case basis.

#### **4.15. Billing Arrangements**

- 4.15.1. Where feasible, USWC will provide recording and rating of mobile to land traffic exchanged over the Wireless Interconnection. If data necessary for billing is lost, USWC will estimate usage based on the previous three (3) months' usage.
- 4.15.2. To the extent each Party has such information, it will forward the appropriate recording and rating for transiting traffic. If Carrier becomes SS7 capable, the originating company is expected to follow the Exchange Message Record (EMR) standard and to exchange records with both the transiting company and the terminating company, to facilitate the billing process to the originating network.
- 4.15.3. For billing purposes, if either Party is unable to classify on an automated basis traffic delivered by Carrier as local or non-local, and, for non-local traffic, intrastate or interstate, Carrier will provide USWC with a Percent Local Use (PLU) factor, which represents the estimated portion of total traffic delivered by Carrier to USWC that originates and terminates within the same MTA, and a Percent Interstate Use (PIU) factor, which represents the estimated portion of InterMTA traffic and roaming traffic defined below delivered by Carrier. The PLU factor will be applied to the measured mobile to land Carrier minutes of use terminated on USWC's network to determine the local minutes of use for which Call Termination and Call Transport rates apply. The PIU factor is applied to the remaining local minutes of use to determine the portion of non-local minutes to be billed at interstate access rates as opposed to intrastate access rates. The PLU and PIU factors will be updated on a quarterly basis and take effect on January 1, April 1, July 1 and October 1 of each year of this Agreement unless otherwise agreed to by both Parties. Carrier will provide

the PLU and PIU factors to USWC thirty (30) days prior to their effective date.

Should USWC terminate a call on Carrier's network, that, because Carrier's Customer is roaming in another cellular system in another MTA in another state, the call will be routed on Carrier's own interstate facilities to the cellular system in which Carrier's Customer is roaming. Carrier will be charged interstate access charges by USWC for such call. If, however, in this same situation Carrier routes the call to an Interexchange Carrier, as is the common practice, instead of using its own interstate facilities, then Carrier shall not be charged interstate access charges.

- 4.15.4. USWC and Carrier desire to submit separate bills, pursuant to their separate tariffs, or other arrangements (which shall not exceed rates in applicable USWC tariffs) to Interexchange Carriers for their respective portions of jointly provided switched access service.
- 4.15.5. Based on the negotiated POI, the Parties will agree on a meet point percentage to enable the joint provisioning and billing of Switched Access Services to third parties in conformance with the Meet-Point Billing guidelines adopted by and contained in the Ordering and Billing Forum's MECAB and MECOD documents and referenced in USWC's Switched Access Tariffs. The Parties understand and agree that MPB arrangements are available and functional only to/from Interexchange Carriers who directly connect with the tandem(s) that Carrier sub-tends in each LATA.
- 4.15.6. The Parties will use reasonable efforts, individually and collectively, to maintain provisions in USWC's federal and state access tariffs, and/or provisions within the National Exchange Carrier Association ("NECA") Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
- 4.15.7. As detailed in the MECAB document, Carrier and USWC will exchange all information necessary to bill third parties for Switched Access Services traffic jointly handled by Carrier and USWC via the meet point arrangement in a timely fashion. Information shall be exchanged in EMR format (Bellcore Standard BR 010-200-010, as amended) on magnetic tape or via a mutually acceptable electronic file transfer protocol. The Parties will exchange records pursuant to this paragraph without additional compensation.
- 4.15.8. The Parties will agree upon reasonable audit standards and other procedures as required to ensure billing accuracy.



- 4.15.9. Each company will bill the IXC's the appropriate rate elements in accordance with their respective interstate and intrastate tariffs, or other arrangements (which shall not exceed rates in applicable USWC tariffs) as follows:

<u>Rate Element</u>	<u>Billing Company</u>
Carrier Common Line	Dial Tone Provider
Local Switching	Dial Tone Provider
Interconnection Charge	Dial Tone Provider
Local Transport Termination	Based on negotiated BIP
Local Transport Facility (also called Tandem Transmission per mile)	Based on negotiated BIP
Tandem Switching	Access Tandem Provider
NAC Facility	Access Tandem Provider

- 4.15.10. For originating 800/888 traffic routed to an Access Tandem, the tandem provider will perform 800/888 database inquiry and translation functions and bill the inquiry charge and translation charge (if any) to the Interexchange Carrier pursuant to tariff.

**4.16. Mileage Measurement**

Where required, the mileage measurement for Type 2 Service facilities and trunks is measured from the V&H coordinates of the USWC local, toll, or Access Tandem where the call originates, to the V&H of the end office where the call terminates.

**4.17. Construction Charges**

If applicable, construction charges will apply as detailed in Section 19. of this Agreement.

**5. INTERCONNECTION**

**5.1. Definition**

- 5.1.1. "Interconnection" is the linking of the USWC and Carrier networks for the mutual exchange of traffic and for Carrier access to unbundled network elements. Interconnection does not include the transport and termination of traffic. Interconnection is provided by virtual or physical Collocation, NAC facilities or Mid-Span Meet arrangements.
- 5.1.2. USWC will provide Interconnection at the trunk side of the local switch, trunk Interconnection points of the tandem switch, central office cross-connect points, and the location of the Signaling Transfer Points necessary to exchange traffic and access call related databases.
- 5.1.3. The digital option for Interconnection is available only where technically feasible or where Carrier agrees to pay Construction Charges to build necessary facilities.

**5.2. Mid-Span Meet POI**

5.2.1. A Mid-Span Meet POI is a negotiated Point of Connection, limited to the Interconnection of facilities between one Party's switch and the other Party's switch. Mid-Span Meet POI may be accomplished by the Parties through the negotiation of a separate Agreement. The actual physical Point of Connection and facilities used will be subject to negotiations between the Parties. Each Party will be responsible for its portion of the build to the Mid-Span Meet POI, if the meet point arrangement is used exclusively for the exchange of local traffic.

5.2.2. If the Mid-Span Meet arrangement is to be used for access to unbundled network elements, Carrier must pay the portion of the economic costs of the Mid-Span Meet arrangement used by Carrier for access to unbundled network elements.

**5.3. Collocation**

Interconnection may be accomplished through either virtual or physical Collocation. The terms and conditions under which Collocation will be available are described in Section 6, herein.

**5.4. Network Access Channel**

Network Access Channel (NAC) may be accomplished through the provision of a NAC facility. A NAC facility extends from the Serving Wire Center of the provider to the other Party's switch location. NAC facilities may not extend beyond the area described by the provider's Serving Wire Center. The rates for NAC facilities are provided in Appendix A.

**5.5. Quality of Interconnection**

USWC will not, for the purpose of Interconnection, provide to Carrier facilities built to lessor standards than USWC provides itself or in a manner less efficient than it would impose on itself. The quality of Interconnection will be at least equal to that which USWC provides to itself or its affiliates.

Both Parties agree to manage their network switches in accordance with the Bellcore I.S.S.G.R. The acceptable service levels for Type 2 Service and the criteria for applying protective controls will be administered in the same manner as the network management for Switched Access Service.

**5.6. Points of Interface (POI)**

Upon the request for specific point to point routing, USWC will make available to Carrier information indicating the location and technical characteristics of USWC's network facilities. The following alternatives are negotiable: (1) a DS1 or DS3 NAC facility, where facilities are available (where facilities are not available and USWC is not legally required to build, special construction charges will apply); (2) Virtual Collocation; (3) Physical Collocation; and (4) negotiated Mid-Span Meet facilities. Each Party is responsible for providing its own facilities up to the Mid-Span Meet POI. The Parties will negotiate the facilities arrangement between their networks.

## 5.7. Trunking Requirements

- 5.7.1. The Parties agree to provide designed Interconnection facilities that meet technical criteria and service standards, such as probability of blocking in peak hours and transmission standards, in accordance with industry standards. If Carrier desires additional trunks, USWC would charge full charges, without applying Reciprocal Compensation Credits.
- 5.7.2. Two-way Trunk Groups will be established wherever possible. Exceptions to this provision will be based on billing, signaling, and network requirements. For example, (1) billing requirements - recording capabilities, and (2) network requirements - directory assistance traffic to TOPS tandems. The following is the current list of traffic types that require separate Trunk Groups, unless specifically otherwise stated in this Agreement.
- 5.7.2.1. IntraLATA toll and switched access trunks
  - 5.7.2.2. EAS/local trunks
  - 5.7.2.3. Directory Assistance trunks
  - 5.7.2.4. 911/E911 trunks
  - 5.7.2.5. Operator services trunks
  - 5.7.2.6. Transit intraLATA toll (if traffic identification is requested by Carrier)
  - 5.7.2.7. Transit local (if traffic identification is requested by Carrier)
  - 5.7.2.8. Meet-Point Billing Trunks (for the joint provision of switched access)
- 5.7.3. Two-way trunks are offered only where technically feasible. Mobile to land two-way trunks are only available where the USWC switch can support the rating and billing of mobile to land traffic.
- 5.7.4. Trunk Group connections will be made at a DS1 or multiple DS1 level for exchange of EAS/local, intraLATA toll, Wireless/Commercial Mobile Radio Service, and switched access traffic. Ancillary service Trunk Groups will be made below a DS1 level, as negotiated.
- 5.7.5. The Parties will provide Common Channel Signaling (CCS) to one another, where available, in conjunction with all Local/EAS Trunk Circuits. All CCS signaling parameters will be provided including calling party number (CPN), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored.
- 5.7.6. Where CCS is not available, in-band multi-frequency (MF) wink start signaling will be provided. When the Parties interconnect via CCS for jointly provided switched access service, the tandem provider will provide MF/CCS interworking as required for interconnection with Interexchange Carriers who use I/MF signaling.
- 5.7.7. The Parties will follow all Ordering and Billing Forum adopted standards pertaining to CIC/OZZ codes.

5.7.8. USWC will cooperate in the provision of TNS (Transit Network Selection) for the joint provision of switched access.

5.7.9. The Parties shall terminate local/EAS traffic exclusively on local/EAS Trunk Groups. Unless otherwise agreed to by the Parties, no local/EAS traffic shall be terminated on USWC's Access Tandems.

**5.8. Interconnection Forecasting**

5.8.1. The Parties agree that during the first year of Interconnection, joint forecasting and planning discussions will take place no less frequently than once per quarter.

5.8.2. Each Party shall provide a specified point of contact for planning, forecasting and trunk servicing purposes.

**5.9. Service Interruptions.**

5.9.1. Standards and procedures for notification of trunk disconnects will be jointly developed by the Parties. Neither Party shall be expected to maintain active status for a trunk disconnected by the other Party for an extended or indefinite period of time. Collectively, the Parties will use their best good faith efforts to complete and agree on such plan.

5.9.2. The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: 1) interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services; 2) cause damage to their plant; 3) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or 4) create hazards to the employees of either Party or to the public. Each of these requirements is hereinafter referred to as an "Impairment of Service".

5.9.3. If either Party causes an Impairment of Service, as set forth in this Section, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem. The Impaired Party shall advise the Impairing Party that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, the Impaired Party may temporarily discontinue use of the affected circuit, facility or equipment.

5.9.4. When Carrier reports trouble to USWC and no trouble is found in USWC equipment, Carrier will be responsible for payment of service maintenance charges as specified in the Intrastate Switched Access

Tariff or state-specific pricing catalogue, as appropriate, for the period of time from when USWC's personnel are dispatched to when USWC work is completed. Failure of USWC's personnel to find trouble in USWC's service will not result in a charge if the trouble is actually in that service, but not discovered at that time. Conversely, if USWC reports trouble to Carrier and no trouble is found in Carrier's equipment, USWC will be responsible for payment of service maintenance charges for the period of time that Carrier's personnel are involved.

- 5.9.5. No out-of-service credit will apply for the interruption involved if the service maintenance charge applies as a result of the trouble not being in USWC's equipment, but is, in fact, a result of a failure in the equipment or service of Carrier.
- 5.9.6. Each Party shall be solely responsible, and bear the expense, for the overall design of its services. Each Party shall also be responsible for any redesign or rearrangement of its services that may be required because of changes in facilities, operations or procedures, minimum network protection criteria, and operating or maintenance characteristics of the facilities.
- 5.9.7. To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate a Trouble Reporting Control Office (TRCO) for such service.
- 5.9.8. Where new facilities, services and arrangements are installed, the TRCO shall ensure that continuity exists and take appropriate transmission measurements before advising the other Party that the new circuit is ready for service.
- 5.9.9. Each Party shall furnish a trouble reporting telephone number for the designated TRCO. This number shall give access to the location where facility records are normally located and where current status reports on any trouble reports are readily available. Alternative out-of-hours procedures shall be established to ensure access to a location that is staffed and has the authority to initiate corrective action.
- 5.9.10. Before either Party reports a trouble condition, they shall use their best efforts to isolate the trouble to the other's facilities.
  - 5.9.10.1. In cases where a trouble condition affects a significant portion of the other's service, the Parties shall assign the same priority provided to other interconnecting carriers.
  - 5.9.10.2. The Parties shall cooperate in isolating trouble conditions.

6. **COLLOCATION**

Should the Parties desire to establish a Collocation relationship, through either physical or virtual Collocation, the Parties will enter into a separate Collocation Agreement to be negotiated in good faith.

7. **UNBUNDLED ACCESS/ELEMENT**

USWC shall provide nondiscriminatory access to, and where appropriate, development of unbundled network elements pursuant to the Act in response to specific requests therefore, pursuant to the Bona Fide Request Process detailed in Section 15 of this Agreement.

8. **ANCILLARY SERVICES AND ARRANGEMENTS**

Ancillary services as required by the Act will be addressed in separate agreements between the Parties to be negotiated in good faith. These include, but are not limited to Signaling Access to Call-Related Databases, Directory Assistance, White Page Directory Listings, Busy Line Verify/Interrupt, Non-Local Traffic and Assistance Operator Services, LIDB, Access to Poles/Ducts/Conduits/Rights of Way, 800 and CMDS.

9. **ACCESS TO OPERATIONAL SUPPORT SYSTEMS (OSS)**

USWC is developing a proposal for access to its Operational Support Systems (OSS) to meet the requirements of the FCC's 1st and 2nd Orders. Specific provisions related to OSS will be contained in a separate agreement between the Parties to be negotiated in good faith.

10. **ACCESS TO TELEPHONE NUMBERS**

10.1 Number Resources Arrangements.

10.1.1 Nothing in this Agreement shall be construed in any manner to limit or otherwise adversely impact either Party's right to the request and assignment of any NANP number resources including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines (last published by the Industry Numbering Committee ("INC") as INC 95-0407-008, Revision 4/19/96, formerly ICCF 93-0729-010).

10.1.2 To the extent USWC serves as Central Office Code Administrator for a given region, USWC will support all CMRS requests related to central office (NXX) code administration and assignments in the manner required and consistent with the Central Office Code Assignment Guidelines. In each location where Carrier establishes a POC for a Wireless Interconnection Carrier may be assigned separate NXX codes to be contained at either Carrier's POC or MSC.

10.1.3 The Parties will comply with code administration requirements as prescribed by the Federal Communications Commission, the Commission, and accepted industry guidelines.

- 10.1.4. It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the Local Exchange Routing Guide (LERG) guidelines to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.
- 10.1.5. Each Party shall be responsible for notifying its Customers of any changes in numbering or dialing arrangements to include changes such as the introduction of new NPA's or new NXX codes.
- 10.1.6. Until an impartial entity is appointed to administer telecommunications numbering and to make such numbers available on an equitable basis, USWC will assign NXX codes to CMRS in accordance with national guidelines at no charge.
- 10.1.7. Each Party is responsible for administering NXX codes assigned to it. Each Party is responsible for obtaining Local Exchange Routing Guide ("LERG") listings of CLLI codes assigned to its switches. Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore for maintaining the LERG in a timely manner. Both Parties will make all reasonable efforts to conserve numbers.

**11. U S WEST DEX ISSUES**

USWC and Carrier agree that certain issues, such as yellow page advertising, directory distribution, access to call guide pages, yellow page listings, will be the subject of negotiations between Carrier and directory publishers, including U S WEST Dex. USWC acknowledges that Carrier may request USWC to facilitate discussions between Carrier and U S WEST Dex.

**12. ACCESS TO DATABASES**

In accordance with Section 271 of the Act, USWC shall provide Carrier with interfaces to access USWC's databases and associated signaling necessary for the routing and completion of Carrier traffic. Except where otherwise specified, access to such databases, and the appropriate interfaces, shall be requested by Carrier via the Bona Fide Request Process.

**13. NOTICE OF CHANGES**

If a Party makes a change in its network which it believes will materially affect the inter-operability of its network with the other Party, the Party making the change shall provide advance notice of such change to the other Party in accordance with the applicable FCC regulations. Such coordination will include, at a minimum, providing at least ninety (90) days advance written notice of the nature of the changes and when the change will occur.

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If the licensed service areas of USWC or Carrier change, the Parties agree to negotiate in good faith any necessary modifications to this Agreement.

**14. REFERRAL ANNOUNCEMENT**

Carrier will provide a voice intercept announcement or distinctive signals to the calling party when a call is directed to a number within a Carrier NXX that is not assigned by Carrier. When Carrier is not able to complete calls because of malfunction, Carrier will provide proper signaling to the calling party advising that the call cannot be completed. Carrier will provide supervisory tones or voice announcements to the calling party on all calls, consistent with standard industry practices.

**15. BONA FIDE REQUEST PROCESS**

15.1 Any request for Interconnection or access to an unbundled Network Element that is not already available as described herein shall be treated as a Bona Fide Request (BFR). USWC shall use the BFR Process to determine the terms and timetable for providing the requested Interconnection or access to unbundled Network Elements, if available, and the technical feasibility of new/different points of Interconnection. USWC will administer the BFR Process in a non-discriminatory manner.

15.2 A BFR shall be submitted in writing and on the appropriate USWC form for BFRs. The form will request, and Carrier will need to provide, at a minimum: (a) a technical description of each requested Network Element or new/different points of Interconnection; (b) the desired interface specification; (c) each requested type of Interconnection or access; (d) a statement that the Interconnection or Network Element will be used to provide a telecommunications service; (e) the projected quantity requested; (f) the specific location requested; (g) if the requested unbundled Network Element is a proprietary element as specified in Section 251(d)(2) of the Act, Carrier must submit documentation that demonstrates that access to such Network Element is necessary, that the failure to provide access to such Network Element would impair the ability of Carrier to provide the services that it seeks to offer, and that Carrier's ability to compete would be significantly impaired or thwarted without access to such requested proprietary element; and (h) if the requested unbundled Network Element is a non-proprietary element as specified in Section 251(d)(2) of the Act, Carrier must submit documentation that demonstrates that denial of access to such unbundled non-proprietary Network Element would decrease the quality or increase the cost of providing the service sought to be offered by Carrier.

15.3 Within 15 business days of its receipt, USWC shall acknowledge receipt of the BFR and in such acknowledgment advise Carrier of missing information, if any, necessary to process the BFR. Thereafter, USWC shall promptly advise Carrier of the need for any additional information that will facilitate the analysis of the BFR.



15.4 Within 30 calendar days of its receipt of the BFR and all information necessary to process it, USWC shall provide to Carrier a preliminary analysis of the BFR. The preliminary analysis shall specify USWC's conclusions as to whether or not the requested Interconnection or access to an unbundled Network Element complies with the unbundling requirements set forth above.

15.4.1 If USWC determines during the 30 day period that a BFR does not qualify as a Network Element or Interconnection that is required to be provided under the Act, USWC shall advise Carrier as soon as reasonably possible of that fact, and USWC shall promptly, but in no case later than ten days after making such a determination, provide a written report setting forth the basis for its conclusion.

15.4.2 If USWC determines during the thirty day period that the BFR qualifies under the Act, it shall notify Carrier in writing of such determination within ten days.

15.4.3 As soon as feasible, but in any case within 90 days after USWC notifies Carrier that the BFR qualifies under the Act, USWC shall provide to Carrier a BFR quote. The BFR quote will include, at a minimum, a description of each Interconnection and Network Element, the quantity to be provided, any interface specifications, and the applicable rates (recurring and nonrecurring) including the separately stated development costs and construction charges of the Interconnection or the Network Elements and any minimum volume and term commitments required.

15.5 If USWC has indicated minimum volume and term commitments, then within 30 days of its receipt of the BFR quote, Carrier must either agree to purchase under those commitments, cancel its BFR, or seek mediation or arbitration.

15.6 If Carrier has agreed to minimum volume and term commitments under the preceding paragraph, Carrier may cancel the BFR or volume and term commitment at any time, but in the event of such cancellation Carrier will pay USWC's reasonable development costs incurred in providing the Interconnection or Network Element, to the extent that those development costs are not otherwise amortized.

15.7 If either Party believes that the other Party is not requesting, negotiating or processing any BFR in good faith, or disputes a determination, or quoted price or cost, it may seek arbitration pursuant to the Dispute Resolution provision of this Agreement.

## 16. AUDIT PROCESS

16.1. "Audit" shall mean the comprehensive review of:

16.1.1 Data used in the billing process for services performed and facilities provided under this Agreement; and

- 16.1.2. Data relevant to provisioning and maintenance for services performed or facilities provided by either of the Parties for itself or others that are similar to the services performed or facilities provided under this Agreement for interconnection or access to unbundled elements.
- 16.2. The data referred to in subsection 16.1., above, shall be relevant to any performance standards that are adopted in connection with this Agreement, through negotiation, arbitration or otherwise.

This Audit shall take place under the following conditions:

- 16.2.1. Either Party may request to perform an Audit.
- 16.2.2. The Audit shall occur upon 30 business days written notice by the requesting Party to the non-requesting Party.
- 16.2.3. The Audit shall occur during normal business hours.
- 16.2.4. There shall be no more than one Audit requested by each Party under this Agreement in any 12-month period.
- 16.2.5. The requesting Party may review the non-requesting Party's records, books and documents, as may reasonably contain information relevant to the operation of this Agreement.
- 16.2.6. The location of the Audit shall be the location where the requested records, books and documents are retained in the normal course of business.
- 16.2.7. All transactions under this Agreement which are over 24 months old will be considered accepted and no longer subject to Audit.
- 16.2.8. Each Party shall bear its own expenses occasioned by the Audit, provided that the expense of any special data collection shall be born by the requesting Party.
- 16.2.9. The Party requesting the Audit may request that an Audit be conducted by a mutually agreed-to independent auditor. Under this circumstance, the costs of the independent auditor shall be paid for by the Party requesting the Audit.
- 16.2.10. In the event that the non-requesting Party requests that the Audit be performed by an independent auditor, the Parties shall mutually agree to the selection of the independent auditor. Under this circumstance, the costs of the independent auditor shall be shared equally by the Parties.

16.2.11. The Parties agree that if an Audit discloses error(s), the Party responsible for the error(s) shall, in a timely manner, undertake corrective action for such error(s).

16.3. All information received or reviewed by the requesting Party or the independent auditor in connection with the Audit is to be considered Proprietary Information as defined by this Agreement. The non-requesting Party reserves the right to require any non-employee who is involved directly or indirectly in any Audit or the resolution of its findings as described above to execute a nondisclosure agreement satisfactory to the non-requesting Party. To the extent an Audit involves access to information of other competitors, Carrier and USWC will aggregate such competitors' data before release to the other Party, to insure the protection of the proprietary nature of information of other competitors. To the extent a competitor is an affiliate of the Party being audited (including itself and its subsidiaries), the Parties shall be allowed to examine such affiliates' disaggregated data, as required by reasonable needs of the audit.

#### **17. AUDIOTEXT AND MASS ANNOUNCEMENT SERVICES**

17.1. The Parties agree that access to the audiotext, mass announcement and information services of each Party should be made available to the other Party upon execution of an agreement defining terms for billing and compensation of such calls. Services included in this category include 976 calls, whether flat rated or usage sensitive, intra-LATA 900 services and other intra-LATA 976-like services. Such calls will be routed over the Ancillary Trunks.

17.2. Upon Carrier's request, Carrier and USWC will work together in good faith to negotiate and execute the agreement for billing and compensation for these services within 90 days of the request. The Parties agree that their separate agreement on audiotext and mass announcement services will include details concerning the creation, exchange and rating of records, all of which will occur without any explicit charge between the Parties, as well as a process for the handling of uncollectables so that the originating Party does not have any responsibility for uncollectables.

17.3. Until such time that such an agreement is executed, Carrier may choose to block such calls, or Carrier will agree to back-bill and compensate retroactively for such calls once the subsequent agreement is executed retroactive to the effective date of this Agreement.

##### **17.3.1. Usage Sensitive Compensation**

All audiotext and mass announcement calls shall be considered toll calls for purposes of reciprocal compensation between the Parties. Compensation will be paid based on the compensation for toll calls referenced in this Agreement with respect to reciprocal compensation between the Parties, except that such compensation shall be paid by the Party terminating the call, rather than the Party originating the call.

Billing and Collection Compensation.

Billing and collection compensation will be dealt with in the agreement referenced in this section.

**18. LOCAL INTERCONNECTION DATA EXCHANGE FOR BILLING**

- 18.1. In the event that Carrier begins to operate in a manner that requires billing arrangement(s) for credit/calling card services, all provisions of this Section 18 shall apply. There are certain types of calls or types of Interconnection that require exchange of billing records between the Parties, including, for example, alternate billed and Toll Free Service calls. The Parties agree that all call types must be routed between the networks, accounted for, and settled among the Parties. Certain calls will be handled via the Parties' respective operator service platforms. The Parties agree to utilize, where possible and appropriate, existing accounting and settlement systems to bill, exchange records and settle revenue.
- 18.2. The exchange of billing records for alternate billed calls (e.g., calling card, bill-to-third number, and collect) will be distributed through the existing CMDS processes, unless otherwise separately agreed to by the Parties.
- 18.3. Inter-Company Settlements ("ICS") revenues will be settled through the Calling Card and Third Number Settlement System ("CATS"). Each Party will provide for its own arrangements for participation in the CATS processes, through direct participation or a hosting arrangement with a direct participant.
- 18.4. Non-ICS revenue is defined as collect calls, calling card calls, and billed to third number calls which originate on one service provider's network and terminate on another service provider's network in the same Local Access Transport Area ("LATA"). The Parties agree to negotiate and execute an Agreement within 30 days of the execution of this Agreement for settlement of non-ICS revenue. This separate arrangement is necessary since existing CATS processes do not permit the use of CATS for non-ICS revenue. The Parties agree that the CMDS system can be used to transport the call records for this traffic.
- 18.5. Both Parties will provide the appropriate call records to the intraLATA Toll Free Service Provider, thus permitting the Service Provider to bill its subscribers for the inbound Toll Free Service. No adjustments to bills via tapes, disks or NDM will be made without the mutual agreement of the Parties.

**19. CONSTRUCTION CHARGES**

- 19.1. All rates, charges and initial service periods specified in this Agreement contemplate the provision of network Interconnection services and access to Network Elements to the extent existing facilities are available and in accordance with applicable law. Except for modifications to existing facilities necessary to accommodate Interconnection and access to Network Elements specifically provided for in this Agreement, USWC will consider requests to build additional or further facilities for network Interconnection and access to Network Elements as described in this Section.

19.2 Interconnection

To the extent that USWC constructs facilities for Interconnection services, Carrier will provide USWC with a forecast of interoffice trunks and switch ports. USWC will perform a validated traffic engineering estimate based on the forecasted demand and will then negotiate an agreed upon quantity of interoffice trunks and switch ports with Carrier before constructing facilities. If Carrier's forecasted quantity exceeds USWC's validated traffic engineering estimate, and if USWC finds it necessary to construct added facilities, then construction charges will apply to the exceeded quantity. USWC will track utilization of trunks, and when minimum trunk utilization requirements are not met, a recurring charge will apply for all unused trunks below the minimum utilization level.

19.3 Unbundled Network Elements

USWC will conduct an individual financial assessment of any request which requires construction of network capacity, facilities, or space for access to or use of unbundled Network Elements. If USWC constructs to fulfill Carrier's request for unbundled Network Elements, USWC will bid this construction on a case-by-case basis. USWC will charge for the construction through non-recurring charges and a term agreement for the remaining recurring charge.

19.4 All necessary construction not otherwise required by law, will be undertaken at the discretion of USWC, consistent with budgetary responsibilities, consideration for the impact on the general body of end users, and without discrimination among the various carriers.

19.5 A quote for Carrier's portion of a specific job will be provided to Carrier. The quote will be in writing and will be binding for ninety (90) days after the issue date. When accepted, Carrier will be billed the quoted price and construction will commence after receipt of payment. If Carrier chooses not to have USWC construct the facilities, USWC reserves the right to bill Carrier for the expense incurred for producing the engineered job design to the extent permitted by law.

19.6 In the event a lawful construction charge is applicable, Carrier's service application date will become the date upon which USWC receives the required payment.

**20. SERVICE STANDARDS**

20.1 USWC agrees to provide to Carrier the same level of service that USWC provides to itself and/or its affiliates as determined by measuring and comparing a statistically significant number of activities listed below.

20.1.1 For those services procured by Carrier and unless otherwise noted below, USWC shall measure its results and those of its affiliates.

20.1.2 In some instances, USWC may not provide the listed service to itself or its affiliates. If USWC does not provide a statistically significant number of a listed activity for itself or its affiliates, USWC will provide data which will allow comparison between Carrier's performance results and the average performance results of the same performance indicator for a

statistically significant number of total activities provided to all other Carriers within the state in which the service was provided.

20.1.3 In no event shall percentage results be provided if the number of measured activities is less than a statistically significant universe of fewer than sixty (60) activities during the time period of measurement.

20.1.4 The list of performance indicators to be measured are as follows:

Firm Order Confirmations within 48 hours (Switched) (Facilities in Place)

Average Installation Intervals Delivered (Switched) (Facilities in Place) (Days and Hours)

Designed Installation Commitments Met (Switched) (Facilities in Place)  
Carrier-caused Installation Misses

Designed Installation Reports (Repair Report After Installation) Within 30 Days (Switched Access)

Designed Percent Out of Service Cleared in < 4 hours (Switched)

Designed Repair Repeated Reports Within 30 Days (Switched)

Carrier-caused Trouble Reports

20.2. "Performance Criteria" means, with respect to a Specified Review Period (i.e., a calendar month or quarter), the performance by USWC for the specified activities for Carrier will meet or exceed the average performance by USWC for the total universe of specified activities.

20.3 Failure to Meet the Performance Criteria. If during a Specified Review Period, USWC fails to meet the Performance Criteria, USWC will use its best efforts to meet the Performance Criteria for the next Specified Review Period. If USWC fails to meet the Performance Criteria for two consecutive periods, the Parties agree, in good faith, to attempt to resolve such issues through negotiation or non-binding arbitration. This paragraph shall not be construed to waive either Party's right to seek legal or regulatory intervention as provided by state or federal law. Carrier may seek regulatory or other legal relief including requests for specific performance of USWC's obligations under this Agreement.

20.4 Limitations. USWC's failure to meet or exceed the Performance Criteria cannot be as a result, directly or indirectly, of a Delaying Event. A "Delaying Event" means (a) a failure by Carrier to perform any of its obligations set forth in this Agreement, (b) any delay, act or failure to act by a Customer, agent or subcontractor of Carrier or (c) any Force Majeure Event. If a Delaying Event prevents USWC from performing a Specified Activity, then such Specified Activity shall be excluded from the calculation of USWC's compliance with the Performance Criteria.

20.5 Records. USWC shall maintain complete and accurate records, for the Specified Review Period of its performance under this Agreement for each Specified

Activity and its compliance with the Performance Criteria. USWC shall provide to Carrier such records in a self-reporting format. The Parties agree that such records shall be deemed "Proprietary Information".

- 20.6 Cost Recovery. USWC reserves the right to recover the costs associated with the creation of the above reports and standards through a future proceeding before a regulatory body. Such a proceeding may address a wide range of implementation costs not otherwise recovered through charges established herein.

## 21. MISCELLANEOUS TERMS

### 21.1. General Provisions

21.1.1. Each Party is individually responsible for providing facilities within its network which are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with the other Party's network and to terminate the traffic it receives in that standard format or to the proper address on its network. Such facility shall be designed based upon the description and forecasts provided under this Agreement. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

21.1.2. Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's Customers, and each Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice of such violation, if practicable, at the earliest practicable time.

21.1.3. Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers.

21.1.4. The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

### 21.2. Term of Agreement

21.2.1. This Agreement shall become effective thirty days after filing with the Commission, pursuant to Sections 251 and 252 of the Act, and shall terminate on April 30, 2000 and shall be binding upon the Parties during that term. The Parties understand that this Agreement cannot be implemented until it is duly approved by the

Commission. The Parties agree to commence negotiations on a new agreement no later than 135 calendar days prior to the termination date specified above. In the event that negotiations are not concluded as of the termination date specified above, the window of opportunity to file for arbitration to resolve outstanding contractual issues in accordance with the Act, will open upon the termination date specified above and this Agreement shall remain in full force and effect until it is replaced by an approved arbitrated or negotiated agreement.

- 21.2.2. This Agreement will terminate upon a revocation or other termination of either Party's governmental authority to provide the services contemplated by this Agreement. If the authority is temporarily suspended, exchange of traffic will cease only during the suspension if the suspended Party otherwise is and remains in full compliance under this Agreement.

**21.3. Most Favored Nation Terms and Treatment**

The Parties agree that the provisions of Section 252(i) of the Act shall apply, including state and federal interpretive regulations in effect from time to time.

**21.4. Payment**

- 21.4.1. Amounts payable under this Agreement are due and payable within thirty (30) days after the date of invoice. Billing and collection of usage charges by Carrier from its Customers shall have no bearing on the amount or timeliness of Carrier's payment obligation to USWC. USWC is solely responsible for making all Reciprocal Compensation Credits due to Carrier under this Agreement and the billing and collection of usage charged by USWC from its Customers shall have no bearing on the amount or timeliness of its credit obligations to Carrier.
- 21.4.2. Unless otherwise specified in this Agreement, any amount due and not paid by the due date stated above shall be subject to the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the Service is rendered.
- 21.4.3. Should Carrier dispute any portion of the monthly billing under this Agreement, including the Reciprocal Compensation Credit, Carrier will notify USWC in writing within thirty (30) days of the receipt of such billing, identifying the amount and details of such dispute. Carrier shall pay all amounts due. Both Carrier and USWC agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies. Should the dispute be found in Carrier's favor, USWC will reimburse Carrier the resolved amount plus interest from the date of payment at the late payment factor of the



Intrastate Access Service Tariffs, General Regulations for the state in which the service is rendered.

21.4.4 If Carrier is repeatedly delinquent in making its payments, USWC may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to USWC in its sole discretion, or some other form of mutually acceptable security.

21.4.5 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or tariffs. Cash deposits and accrued interest will be credited to Carrier's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by Carrier. The fact that a deposit has been made does not relieve Carrier from any requirements of this Agreement.

#### **21.5. Taxes**

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

#### **21.6. Force Majeure**

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its reasonable control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

## **21.7. Limitation of Liability**

- 21.7.1. Each Party shall be liable to the other for direct damages for any loss, defect or equipment failure resulting from the causing Party's conduct or the conduct of its agents or contractors in performing the obligations contained in this Agreement.
- 21.7.2. Neither Party shall be liable to the other under this Agreement for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.
- 21.7.3. Nothing contained in this Section shall limit either Party's liability to the other for willful or intentional misconduct.
- 21.7.4. Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.

## **21.8. Indemnity**

- 21.8.1. With respect to third party claims, each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of Applicable Law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.
- 21.8.2. The indemnification provided herein shall be conditioned upon:
- 21.8.2.1. The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of any liability that the indemnifying Party might have, except to the extent that such failure prejudices the indemnifying Party's ability to defend such claim.

21.8.2.2 The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.

21.8.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

## 21.9. Intellectual Property

21.9.1. Each Party hereby grants to the other Party the limited, personal and nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to Interconnection and access to telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.

21.9.2. The rights and licenses under Section 21.9.1. above are granted 'AS IS' and the other Party's exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding (hereinafter "claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.

21.9.3. Carrier shall not, without the express written permission of USWC, state or imply that: 1) Carrier is connected, or in any way affiliated with USWC or its affiliates, 2) Carrier is part of a joint business association or any similar arrangement with USWC or its affiliates, 3) USWC and its affiliates are in any way sponsoring, endorsing or certifying Carrier and its goods and services, or 4) with respect to Carrier advertising or promotional activities or materials, that Carrier is in any way associated with or originated from USWC or any of its affiliates. Nothing in this paragraph shall prevent Carrier from truthfully describing the network elements it uses to provide service to its Customers.

21 9 4. Nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, tradename, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. Carrier may not use any patent, copyright, logo, trademark, tradename, trade secret or other intellectual property right of USWC or its affiliates without execution of a separate agreement between the Parties.

21 9 5. The Parties acknowledge the value of the marks "U S WEST" and "U S WEST Communications" for USWC and "Cellular 2000" and "Midwest Wireless Communications" for Carrier (the "Marks") and the goodwill associated therewith and acknowledge that such goodwill is a property right belonging to each Party, and each Party respectively (the "Owners"). The Parties recognize that nothing contained in this Agreement is intended as an assignment or grant to the other Party any right, title or interest in or to the Marks and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Marks and is not assignable. Neither Party will do anything inconsistent with the Owner's ownership of the Marks, and all rights, if any, that may be acquired by use of the Marks shall inure to the benefit of the Owners. Neither Party will adopt, use (other than as authorized herein,) register or seek to register any mark anywhere in the world which is identical or confusingly similar to the Marks or which is so similar thereto as to constitute a deceptive colorable imitation thereof or to suggest or imply some association, sponsorship, or endorsement by the Owners. The Owners make no warranties regarding ownership of any rights in or the validity of the Marks.

21 9 6. As a condition to the access or use of patents, copyrights, trade secrets and other intellectual property (including software) owned or controlled by a third party to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to Interconnection and access to telecommunications facilities and services, the Party providing access may require the other upon written notice, from time to time, to obtain permission for such access or use, make all payments in connection with obtaining such permission, and providing evidence of such permission.

#### **21.10. Warranties**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**21.11. Assignment**

Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party provided that each Party may assign this Agreement to a corporate affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

**21.12. Default**

If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other provision of this Agreement, and such default or violation shall continue for thirty (30) days after written notice thereof, the other Party may seek legal and/or regulatory relief. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

**21.13. Disclaimer of Agency**

Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

**21.14. Severability**

The Parties recognize that the FCC may promulgate additional rules addressing issues contained in this Agreement. In accordance with Section 1 of this Agreement, if one or more of the provisions contained herein must be modified because of changes in Existing Rules or modifications to arbitration proceedings, the Parties will negotiate in good faith for replacement language. If replacement language cannot be agreed upon, either Party may seek regulatory intervention, including negotiations pursuant to Sections 251 and 252 of the Act.

**21.15. Nondisclosure**

21.15.1. All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with Customer

specific, facility specific, or usage specific information, other than Customer information communicated for the purpose of publication of directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.

- 21.15.2. Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
- 21.15.3. Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.
- 21.15.4. Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:
- 21.15.4.1 was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party, or
  - 21.15.4.2 is or becomes publicly known through no wrongful act of the receiving Party, or
  - 21.15.4.3 is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
  - 21.15.4.4 is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not

have any direct or indirect access to the Proprietary Information, or

- 21.15.4.5. is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights, or
- 21.15.4.6. is approved for release by written authorization of the disclosing Party, or
- 21.15.4.7. is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.

21.15.5. Notwithstanding the foregoing, the Parties acknowledge that certain Proprietary Information relating to usage and traffic termination data may be released, without the consent of the disclosing Party, to any third party carrier which terminates traffic on its network originated by Carrier's subscriber and transited through USWC's network. The release shall be conditioned upon USWC having a similar non-disclosure agreement with that third party carrier.

21.15.6. Effective Date of this Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement.

#### **21.16. Survival**

The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

#### **21.17. Dispute Resolution**

If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents ("Dispute") cannot be settled through negotiation, it shall be resolved by arbitration conducted by three arbitrators engaged in the practice of law, under the then current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all Disputes. The arbitrators shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrators' award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrators. The arbitration shall occur in Minneapolis / St. Paul Minnesota. Nothing in this Section shall be construed to

waive or limit either Party's right to seek relief from the Commission or the Federal Communications Commission as provided by state or federal law.

No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

**21.18. Controlling Law**

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of the state where service is provided hereunder. It shall be interpreted solely in accordance with the terms of the Act and the applicable state law in the state where the service is provided.

**21.19. Joint Work Product**

This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

**21.20. Responsibility for Environmental Contamination**

Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any environmental hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any environmental hazard that the indemnifying party, its contractors or agents introduce to the work locations or (ii) the presence or release of any environmental hazard for which the indemnifying party is responsible under applicable law.

**21.21. Notices**

Any notices required by or concerning this Agreement shall be sent to the Parties at the addresses shown below.

USWC  
Director - Interconnection Compliance  
1801 California Street, Room 2410  
Denver, CO 80202

with a Copy to  
J S WEST Law Department  
1801 California Street, Suite 5100  
Denver, CO 80202

Midwest Wireless Communications L.L.C.  
Director of Engineering  
2165 Mankato Place  
Mankato, MN 56001  
507-345-2440 Fax 507-387-2454

Each Party shall inform the other of any changes in the above addresses.



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**21.22. Responsibility of Each Party** Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

**21.23. No Third Party Beneficiaries**

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

**21.24. Referenced Documents**

All references to Sections, Exhibits, and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, Carrier practice, USWC practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, Carrier practice, USWC practice, or publication of industry standards (unless Carrier elects otherwise). Should there be any inconsistency between or among publications or standards, Carrier shall elect which requirement shall apply.

**21.25. Publicity and Advertising**

Neither Party shall publish or use any advertising, sales promotions or other publicity materials that use the other Party's logo, trademarks or service marks without the prior written approval of the other Party.

**21.26. Amendment**

Carrier and USWC may mutually agree to amend this Agreement in writing. Since it is possible that amendments to this Agreement may be needed to fully satisfy the purposes and objectives of this Agreement, the Parties agree to work cooperatively, promptly and in good faith to negotiate and implement any such additions, changes and corrections to this Agreement.

**21.27. Executed in Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

**21.28. Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

**21.29. Cancellation Charges**

Except as provided pursuant to a Network Element Network Interconnection and Unbundled Element Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

**21.30. Regulatory Approval**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC and shall, at all times, be subject to review by the Commission or the FCC. In the event any such review rejects any portion of this Agreement, renders it inoperable or creates any ambiguity of requirement for further amendment, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification.

**21.31. Compliance**

Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.


21.32. Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

Midwest Wireless Communications L.L.C.\*

U S WEST Communications, Inc.\*

  
\_\_\_\_\_

Signature

DENNIS MILLER  
\_\_\_\_\_


Name Printed/Typed

PRESIDENT  
\_\_\_\_\_

Title

5-1-98  
\_\_\_\_\_

Date

  
\_\_\_\_\_

Signature

KATHY FLEGLER  
\_\_\_\_\_

Name Printed/Typed

EXECUTIVE DIRECTOR  
\_\_\_\_\_

Title

5/01/98  
\_\_\_\_\_

Date

SWITCH 2000 L.L.C. \*

(upon SWITCH 2000 becoming a wholly owned subsidiary of Midwest Wireless Communications L.L.C.)

  
\_\_\_\_\_

Signature

DENNIS MILLER  
\_\_\_\_\_

Name Printed/Typed

MANAGER  
\_\_\_\_\_

Title

\_\_\_\_\_  
Date

\* Signature does not waive any rights of either Party to seek administrative/judicial review of all or part of the Agreement, or to reform the agreement as the result of successful administrative/judicial review.

APPENDIX A - PAGE 1 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>CHANNEL</b>			
(Network Access Channel- NAC)			
<u>2 wire Analog (trunk side termination)</u>			
2A-1 way in (land to mobile)	M2L1X	\$261.35	\$31.77
2A-1 way out (mobile to land)	M2L0X	\$261.35	\$31.77
2A-1 way in (Paging)	P231X	\$261.35	\$31.77
2B-1 way in (land to mobile)	M2O1X	\$261.35	\$31.77
2B-1 way out (mobile to land)	M2O0X	\$261.35	\$31.77
<u>4 wire Analog (trunk side termination)</u>			
2A-1 way in (land to mobile)	M4L1X	\$261.35	\$60.28
2A-1 way out (mobile to land)	M4L0X	\$261.35	\$60.28
2A-2 way	M4LCX	\$261.35	\$60.28
2A-1 way in (Paging)	P431X	\$261.35	\$60.28
2B-1 way in (land to mobile)	M4O1X	\$261.35	\$60.28
2B-1 way out (mobile to land)	M4O0X	\$261.35	\$60.28
2B-2 way	M4O0X	\$261.35	\$60.28
<u>4 wire Digital (trunk side termination)</u>			
TYPE 2A			
2A-1 way in (land to mobile)			
- Initial	MZV1X	\$78.19	N/A
- Subsequent	MZV1X	\$78.19	N/A
2A-1 way out (mobile to land)			
- Initial	MZV0X	\$78.19	N/A
- Subsequent	MZV0X	\$78.19	N/A
2A-2 way			
- Initial	MZV2X	\$78.19	N/A
- Subsequent	MZV2X	\$78.19	N/A
2A-1 way in (paging)			
- Initial	P4Y1X	\$78.19	N/A
- Subsequent	P4Y1X	\$78.19	N/A

APPENDIX A - PAGE 2 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>CHANNEL (Cont.)</b>			
(Network Access Channel- NAC)			
TYPE 2B			
2B-1 way in (land to mobile)			
- Initial	MZW1X	\$78.19	N/A
- Subsequent	MZW1X	\$78.19	N/A
2B-1 way out (mobile to land)			
- Initial	MZW0X	\$78.19	N/A
- Subsequent	MZW0X	\$78.19	N/A
2B-2 way			
- Initial	MZW2X	\$78.19	N/A
- Subsequent	MZW2X	\$78.19	N/A
Equal Access 1 way out			
- Initial	MYV0X	\$78.19	N/A
- Subsequent	MYV0X	\$78.19	N/A
Equal Access 2 way			
- Initial	MYV2X	\$78.19	N/A
- Subsequent	MYV2X	\$78.19	N/A
<b>Channel Facility-DS1 Level</b>	MF31X	\$480.83	\$96.87
<b>Channel Facility-DS3 Level</b>	MF33X	\$527.64	\$388.63
<b>Trunk Routing Charge, per Type 2 Trunk Group</b>			
- 2A Direct Final to Alternate Final	NRB2F	\$73.93	N/A
- 2A Alternate Final to Direct Final	NRB2H	\$73.93	N/A

APPENDIX A - PAGE 3 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>DEDICATED TRANSPORT</b>			
<b>Analog/DS0</b>			
<u>over 0 to 8 Miles</u>			
-fixed	XU2T1	\$28.03	\$19.66
-per mile	JZ3TA	N/A	\$0.10
<u>over 8 to 25 Miles</u>			
-fixed	XU2T2	\$28.03	\$19.64
-per mile	JZ3TB	N/A	\$0.14
<u>over 25 to 50 Miles</u>			
-fixed	XU2T3	\$28.03	\$19.64
-per mile	JZ3TC	N/A	\$0.13
<u>over 50 Miles</u>			
-fixed	XU2T4	\$28.03	\$19.66
-per mile	JZ3TD	N/A	\$0.08
<b>DS1 Level</b>			
<u>over 0 to 8 Miles</u>			
-fixed	XUWJ1	\$214.03	\$39.86
-per mile	JZ3JA	N/A	\$1.13
<u>over 8 to 25 Miles</u>			
-fixed	XUWJ2	\$214.03	\$39.87
-per mile	JZ3JB	N/A	\$2.15
<u>over 25 to 50 Miles</u>			
-fixed	XUWJ3	\$214.03	\$39.87
-per mile	JZ3JC	N/A	\$2.09
<u>over 50 Miles</u>			
-fixed	XUWJ4	\$214.03	\$39.86
-per mile	JZ3JD	N/A	\$1.44

APPENDIX A - PAGE 4 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>DS3 Level</b>			
<u>over 0 to 8 Miles</u>			
-fixed	XUWK1	\$214.03	\$270.95
-per mile	JZ3KA	N/A	\$12.50
<u>over 8 to 25 Miles</u>			
-fixed	XUWK2	\$214.03	\$271.31
-per mile	JZ3KB	N/A	\$12.95
<u>over 25 to 50 Miles</u>			
-fixed	XUWK3	\$214.03	\$271.52
-per mile	JZ3KC	N/A	\$11.80
<u>over 50 Miles</u>			
-fixed	XUWK4	\$214.03	\$279.80
-per mile	JZ3KD	N/A	\$28.76
<b>CHANNEL PERFORMANCE</b>	PM2JG	N/A	\$4.06
Loop with Reverse Battery applies only when there is Dedicated Transport on Analog 2-Wire NAC			
<b>MULTIPLEXING</b>			
per DS1 to DS0 Multiplexer	MXG1X	\$288.54	\$207.83
per DS3 to DS1 Multiplexer	MXG3X	\$295.51	\$219.52

APPENDIX A - PAGE 5 - SOUTH DAKOTA

DESCRIPTION	USOC	USAGE RATE
<b>2A Usage</b>		
LOCAL END OFFICE SWITCHING		
Charge per MOU	N/A	\$ 003334
mobile to land calls		
TANDEM SWITCHING	N/A	\$ 001676
TANDEM SWITCHING LOCAL TRANSPORT		
- Fixed		
0 - 8 miles	N/A	\$ 000410
8 - 25 miles	N/A	\$ 000404
25 - 50 miles	N/A	\$ 000406
Over 50 miles	N/A	\$ 000408
- Per Mile		
0 - 8 miles	N/A	\$ 000012
8 - 25 miles	N/A	\$ 000014
25 - 50 miles	N/A	\$ 000014
Over 50 miles	N/A	\$ 000010
<b>2B Usage</b>		
END OFFICE SWITCHING		
Charge per MOU	N/A	\$ 003334
mobile to land calls		
<b>Transit Traffic</b>		
- Local - (Per MOU)	N/A	\$ 002626
- Toll	N/A	\$ 003123
<b>Interconnection Access</b>		
Interstate Rate	N/A	Per Switched Access Tariff
Intrastate Rate	N/A	Per Switched Access Tariff
<b>Directory Assistance Charge - per call</b>	N/A	\$ .34



APPENDIX A - PAGE 6 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>SS7 Out of Band Signaling</b>			
<b>Trunk Rearrangement</b>			
- Analog 2-wire/4-wire, each trunk			
1-way MF to 1-way SS7	NR6T1	\$27.61	N/A
2-way MF to 2-way SS7	NR6T2	\$27.61	N/A
1-way MF to 2-way SS7	NR6T3	\$31.53	N/A
2-way MF to 1-way SS7	NR6T4	\$31.53	N/A
- Digital, each trunk			
1-way MF to 1-way SS7	NR6T5	\$23.61	N/A
2-way MF to 2-way SS7	NR6T6	\$23.61	N/A
1-way MF to 2-way SS7	NR6T7	\$27.54	N/A
2-way MF to 1-way SS7	NR6T8	\$27.54	N/A
<b>Channel Facility-DS1 Level</b>	EFY1X	\$480.83	\$96.87
<b>Channel Facility-DS3 Level *</b>	EFY3X	\$527.64	\$388.63
<b>DEDICATED TRANSPORT</b>			
<b>Analog/DS0</b>			
over 0 to 8 Miles			
-fixed	CCA2B	N/A	\$19.66
-per mile	CCA2B	N/A	\$0.10
over 8 to 25 Miles			
-fixed	CCA2C	N/A	\$19.64
-per mile	CCA2C	N/A	\$0.14
over 25 to 50 Miles			
-fixed	CCA2D	N/A	\$19.64
-per mile	CCA2D	N/A	\$0.13
over 50 Miles			
-fixed	CCA2E	N/A	\$19.66
-per mile	CCA2E	N/A	\$0.08

\* - This rate is used for shared use only

APPENDIX A - PAGE 7 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>DS1 Level</b>			
over 0 to 8 Miles			
-fixed	CCA1B	N/A	\$39.86
-per mile	CCA1B	N/A	\$1.13
over 8 to 25 Miles			
-fixed	CCA1C	N/A	\$39.87
-per mile	CCA1C	N/A	\$2.15
over 25 to 50 Miles			
-fixed	CCA1D	N/A	\$39.87
-per mile	CCA1D	N/A	\$2.09
over 50 Miles			
-fixed	CCA1E	N/A	\$39.86
-per mile	CCA1E	N/A	\$1.44
<b>DS3 Level</b>			
over 0 to 8 Miles			
-fixed	CCA3B	N/A	\$270.95
-per mile	CCA3B	N/A	\$12.50
over 8 to 25 Miles			
-fixed	CCA3C	N/A	\$271.31
-per mile	CCA3C	N/A	\$12.95
over 25 to 50 Miles			
-fixed	CCA3D	N/A	\$271.52
-per mile	CCA3D	N/A	\$11.80
over 50 Miles			
-fixed	CCA3E	N/A	\$279.80
-per mile	CCA3E	N/A	\$28.76

APPENDIX A - PAGE 8 - SOUTH DAKOTA

DESCRIPTION	USOC	NON RECURRING	RECURRING
<b>MULTIPLEXING</b>			
per DS1 to DS0 Multiplexer	QMVXX	N/A	\$207.83
per DS3 to DS1 Multiplexer	QM3XX	N/A	\$219.52
CCS Link - 1st Link	NRBS1	\$475.57	N/A
CCS Link - Each Additional Link	NRBSA	\$68.10	N/A
STP Port - Per Port	PT8SX	N/A	\$214.66

**APPENDIX A-1  
TYPE 2 RECIPROCAL COMPENSATION  
EXAMPLE OF RECIPROCAL COMPENSATION CREDIT CALCULATION**

(IDAHO RATES ARE BEING USED FOR EXAMPLE PURPOSES ONLY-THE SPECIFIC STATE RATES AND PERCENTAGE ARE TO BE USED AS APPLICABLE FOR EACH AGREEMENT)

**Termination Component**

Carrier Minutes terminated to USWC subscribers:	10,000,000
Divide by .70 factor to arrive at Total Minutes (10,000,000/.70)	14,285,714
Multiply Total Minutes by .18 to arrive at USWC minutes to Carrier (14,285,714 x .18)	2,571,429
Multiply result by Type 2B rate (\$0.004498)	
Termination Component Credit (2,571,429 x \$0.004498)	\$ 11,566.29

**Facility Component (using a DS3 for this example)**

Equipment costs (Channel facility, multiplexing, etc.)	\$ 10,000
Dedicated transport cost (fixed and per mile)	<u>\$ 1,250</u>
Total Facility cost (\$10,000 + 1,250)	\$ 11,250
Multiply Total Facility cost by .18	
Facility Component Credit (\$11,250 X .18)	\$ 2,025

**Reciprocal Compensation Credit**

Termination Component	\$ 11,566.29
Facility Component	<u>\$ 2,025</u>
Total Reciprocal Compensation Credit (\$11,566.29 + 2,025)	\$ 13,591.29

**APPENDIX B  
ENGINEERING REQUIREMENTS  
TRUNK FORECAST FORMS**

**INTERCONNECTION CHECKLIST  
MEET POINT**

**DATE OF MEETING:**

**Interconnector Information**

Name	
Address	
City, State, Zip	
Technical Contact Person	
Technical Contact Person Telephone #	
USWC Negotiator	
USWC Negotiator Telephone #	
<b>Desired U S WEST Central office</b>	
CLI	
Central Office address	
City, State	
Meet Point Address	

**Equipment**

Manufacturer/ model #	Quantity

**Cable Makeup**

Number of cables	
Number of fibers per cable	
Distance from USWC to Meet Point	
Distance from Carrier to Meet Point	
Service Requirements	

	Year 1	Year 2	Year 3
DS3			
DS1			

**Remarks:**

Please attach a sketch of the requested meet point arrangement:

**Appendix B -- PAGE 2  
INTERCONNECTION CHECKLIST  
ADDITIONAL TRUNKING**

**Interconnector Information**

Name	
Address	
City, State, Zip	
Technical Contact Person	
Technical Contact Person Telephone #	
USWC Negotiator	
USWC Negotiator Telephone #	
<b>Desired Central office (TANDEM)</b>	
CLLI	
Central Office address	
City, State	
Meet Point Address	

**Service Requirements**

	Year 1	Year 2	Year 3
USWC End Office			
- Terminating CCS (peak busy hr)			
- Number Portability			
Arrangements			
Call paths per # ported			
USWC End Office			
- Terminating CCS (peak busy hr)			
- Number Portability			
Arrangements			
Call paths per # ported			
USWC End Office			
- Terminating CCS (peak busy hr)			
- Number Portability			
Arrangements			
Call paths per # ported			
USWC End Office			
- Terminating CCS (peak busy hr)			
- Number Portability			
Arrangements			
Call paths per # ported			

**Remarks:**

**Please attach a sketch of the agreed upon meet point arrangement**

APPENDIX C  
POINT OF CONNECTION (POC)

Legal Entity: \_\_\_\_\_

Effective Date \_\_\_\_\_

Type 2A

Carrier's POC: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

USWC's Serving Wire Center: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

V = \_\_\_\_\_ H = \_\_\_\_\_

V = \_\_\_\_\_ H = \_\_\_\_\_

CLLI Code: \_\_\_\_\_

CLLI Code: \_\_\_\_\_

NXX \_\_\_\_\_

**SERVING ARRANGEMENT:**

The interconnection provided by the Agreement is represented by the following:

USWC LOCAL CLLI  
Traffic CLLI

USWC ANCILLARY CLLI

USWC Non-Local

Type of TRUNKS

Type of TRUNKS

Type of Trunks

Local Calling Area Information - City & State

**BILLING INFORMATION:**

Actual Billing \_\_\_\_\_  
Minutes of Use \_\_\_\_\_

1997 Estimate Billing \_\_\_\_\_ Assumed

Zone 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_

Multiplexing N/A \_\_\_\_\_ DS1 to DS0 \_\_\_\_\_ DS3 to DS1 \_\_\_\_\_

**DEDICATED TRANSPORT:**

Number of miles to Local Tandem \_\_\_\_\_

Number of miles to Access Tandem \_\_\_\_\_

Note: If this Interconnection is local only, all intraLATA non-local traffic and ancillary traffic will be handled on their existing non-local traffic and ancillary Interconnection as described below:

Access Tandem CLLI Code \_\_\_\_\_ Ancillary End Office CLLI Code \_\_\_\_\_

South Dakota  
Public Utilities Commission  
State Capitol 500 E. Capitol  
Pierre, SD 57501-5070  
Phone: (605) 773-3705  
Fax: (605) 773-3809

## TELECOMMUNICATIONS SERVICE FILINGS

These are the telecommunications service filings that the Commission has received for the period of:

**05/08/98 through 05/14/98**

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.

DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
<b>NEGOTIATED INTERCONNECTION AGREEMENT FILED</b>			
TC98-096	Rural Cellular Corporation filed for approval by the Commission the negotiated Type 2 Wireless Interconnection Agreement between U S WEST Communications, Inc. and Rural Cellular Corporation. Any person wishing to comment on the parties' request for approval may do so by filing written comments with the Commission and the parties to the agreement no later than June 3, 1998. Parties to the agreement may file written responses to the comments no later than June 22, 1998.	05/11/98	Response Due 06/03/98
TC98-097	The South Dakota Independent Telephone Coalition filed, on behalf of Brookings Municipal Telephone and CommNet Cellular, Inc., for approval by the Commission the negotiated Reciprocal Transport and Termination Agreement between Brookings Municipal Telephone and CommNet Cellular, Inc. Any person wishing to comment on the parties' request for approval may do so by filing written comments with the Commission and the parties to the agreement no later than June 3, 1998. Parties to the agreement may file written responses to the comments no later than June 22, 1998.	05/11/98	Response Due 06/03/98
TC98-098	The South Dakota Independent Telephone Coalition filed, on behalf of Kadoka Telephone and CommNet Cellular, Inc., for approval by the Commission the negotiated Reciprocal Transport and Termination Agreement between Kadoka Telephone and CommNet Cellular, Inc. Any person wishing to comment on the parties' request for approval may do so by filing written comments with the Commission and the parties to the agreement no later than June 3, 1998. Parties to the agreement may file written responses to the comments no later than June 22, 1998.	05/11/98	Response Due 06/03/98
TC98-099	Midwest Wireless Communications, L.L.C. filed for approval by the Commission the negotiated Type 2 Wireless Interconnection Agreement between U S WEST Communications, Inc. and Midwest Wireless Communications L.L.C. and SWITCH 2000 L.L.C. (upon becoming a wholly owned subsidiary of Midwest Wireless Communications L.L.C.). Any person wishing to comment on the parties' request for approval may do so by filing written comments with the Commission and the parties to the agreement no later than June 3, 1998. Parties to the agreement may file written responses to the comments no later than June 22, 1998.	05/14/98	Response Due 06/03/98





# South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

May 20, 1998

Capitol Office  
Telephone (605)773-3201  
FAX (605)773-3809

Transportation  
Warehouse Division  
Telephone (605)773-5280  
FAX (605)773-3225

Consumer Hotline  
1-800-332-1782

TTY Through  
Relay South Dakota  
1-800-877-1113

Internet  
bill@pucc.state.sd.us

♦  
Jim Burg  
Chairman  
Pam Nelson  
Vice-Chairman  
Lanka Schonröder  
Commissioner

William Bullard Jr.  
Executive Director

Edward R. Anderson  
Harlan Best  
Martin C. Dettmann  
Charlie Heller  
Sue Cichon  
Karen E. Cremer  
Marlette Fuschbach  
Shirlean Fugitt  
Lewis Hanswood  
Katie Hartford  
Lena Healy  
Camron Hoseck  
Dave Jacobson  
Bob Knudde  
Delaine Kolbo  
Jillrey F. Loveman  
Terry Norum  
Gregory A. Reilov  
Tamara Stangor  
Steven M. Wegman  
Robynne Ault West

Mr. Mark J. Ayotte  
Attorney at Law  
Briggs and Morgan  
2200 First National Bank Building  
332 Minnesota Street  
St. Paul, MN 55101

Mr. Ed Lopez  
U S WEST Communications, Inc.  
1801 California Street, Suite 5100  
Denver, CO 80202

Re: In the Matter of the Joint Application for Approval  
of an Interconnection Agreement between Midwest  
Wireless Communications, L.L.C. and U S WEST  
Communications, Inc.  
Docket TC98-099

Dear Sirs:

Enclosed each of you will find a copy of Staff Analysis and Recommendation with  
reference to the above captioned matter. This is intended as service upon you by  
mail.

Very truly yours,

Camron Hoseck  
Staff Attorney

CH.dk  
Enc.

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING BY MIDWEST )	STAFF ANALYSIS AND
WIRELESS COMMUNICATIONS, INC., FOR )	RECOMMENDATION
APPROVAL OF NEGOTIATED TERMS OF )	
AGREEMENT FOR INTERCONNECTION, )	TC98-099
RESALE, AND UNBUNDLED ELEMENTS )	
BETWEEN MIDWEST WIRELESS )	
COMMUNICATIONS, INC., AND US WEST )	
COMMUNICATIONS, INC. )	

PRELIMINARY STATEMENT

Pursuant to 47 U.S.C. Section 252 (a) (1), voluntary negotiated interconnection agreements are to be submitted to the state Public Utilities Commission (Commission) for approval. Submission of the agreement is to be in accordance with Subsection (e) of this provision. After submission, Subsection (e) requires the Commission to approve or reject the agreement within 90 days, with written findings as to any deficiencies. The grounds for rejection are outlined in Subsection (e) (2). As summarized, those reasons include discrimination, inconsistency with the public interest, convenience and necessity or inconsistency with Section 251 or the standards of Section 252 (d).

The following analyses and recommendations are based upon the standards of the public interest, convenience and necessity.

ANALYSIS

The following are comments intended to assist the Commission in evaluating this Interconnection Agreement (Agreement).

A. At paragraph 21.3, page 36 of the Agreement with regard to the "Most Favored Nation Terms and Treatment" provision, staff would question this provision in light of a recent opinion by the Eighth Circuit Court of Appeals which determined that the language

of 47 U.S.C. Section 252 (i) in isolation fails to "clearly reveal Congress's intent." Iowa Utilities Board v. F.C.C., 120 F.3d 753, 800 (8th Cir. 1997). In other words, allowing requesting carriers to pick and choose among individual provisions of previously negotiated interconnection agreements between an incumbent local exchange carrier (LEC) and other requesting carriers without being bound by all the terms and conditions contained in those agreements is not a reasonable interpretation of Section 252 (i) in the Eighth Circuit. Id. at 801. As a result, the language proposed in this paragraph and as applicable to the Agreement in South Dakota would be invalid. Staff would like to point out, however, that this does not preclude a requesting carrier from accepting the entire terms and conditions in an interconnection agreement previously negotiated between an incumbent LEC and other requesting carriers.

B. At paragraph 21.18, page 44 of the Agreement with regard to the "Controlling Law" provision, staff's position on this language in the past has been that the Agreement should specifically state that it will be interpreted in accordance with the terms of the Act and the laws of the state of South Dakota. Otherwise, services which are provided under this Agreement in other states besides South Dakota may lead to litigation in one or more states other than South Dakota. This is not in the public interest and is not convenient for the public should the interpretation of the Agreement be necessary by Courts. Consistent with staff's approach in prior cases, we would recommend that this Agreement not be approved until it expressly states that the Agreement shall be construed in accordance with the laws of the state of South Dakota.

C. At paragraph 21.10, page 40 of the Agreement with regard to the "Warranties" provision, staff would question the need for a warranty in an Agreement that provides a service. Usually warranties are reserved for Contracts which provide for the sale of goods,

not services. This provision is not in the public interest because it tends to add confusion to the entire contractual relationship and could create an ambiguity with regard to the quality of service assurances.

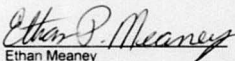
RECOMMENDATION

We recommend that this Agreement **NOT** be approved until these matters are resolved to the satisfaction of the Commission.

Respectfully submitted this 20<sup>th</sup> day of May, 1998.



Camron Hoseck  
Staff Attorney  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57501



Ethan Meaney  
Staff Intern  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57501

CERTIFICATE OF SERVICE

I hereby certify that copies of Staff Analysis and Recommendation were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 20<sup>th</sup> day of May, 1998.

Mark J. Ayotte  
Attorneys at Law  
Briggs and Morgan  
2200 First National Bank Building  
St. Paul, MN 55101

Ed Lopez  
U S West Communications, Inc.  
1801 California Street, Suite 5100  
Denver CO, 80202

A handwritten signature in black ink, appearing to read "Camron Hoseck", written over a horizontal line.

Camron Hoseck  
Staff Attorney

# BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

2200 FIRST NATIONAL BANK BUILDING  
332 MINNESOTA STREET  
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FACSIMILE (612) 223-6450

WRITER'S DIRECT DIAL

(612) 223-6561

WRITER'S E-MAIL

AYOMAR@EMAIL.BRIGGS.COM

June 4, 1998

William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capital Avenue  
Pierre, SD 57510

RECEIVED

JUN 08 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: **In The Matter of The Filing By Midwest Wireless Communications, Inc. (sic) For Approval of Negotiated Terms of Agreement For Interconnection, Resale, and Unbundled Elements Between Midwest Wireless Communications, Inc. (sic) and U S WEST Communications, Inc. SDPUC Docket No. TC98-099**

Dear Mr. Bullard:

Midwest Wireless Communications, L.L.C. ("Midwest Wireless") and U S WEST Communications, Inc. ("U S WEST") jointly submit the following comments in response to the Staff Analysis and Recommendation dated May 20, 1998 ("Staff Report") concerning the above-captioned matter. For the reasons set forth below, Midwest Wireless and U S WEST recommend that the Commission approve the Type 2 Wireless Interconnection Service Agreement ("Agreement") as originally filed and reject the recommendation of Commission Staff.

**A. Procedural Background.**

By letter dated May 12, 1998, Midwest Wireless and U S WEST jointly filed a negotiated interconnection agreement for Commission approval pursuant to 47 U.S.C. § 252(e). Commission Staff issued its Staff Report recommending that the Agreement not be approved until three (3) matters are addressed: (i) "Most Favored Nation Terms and Treatment" set forth in Section 21.3; (ii) "Controlling Law" provision in Section 21.18; and (iii) "Warranties" set forth in Section 21.10.

9444912

**BRIGGS AND MORGAN**

William Bullard, Jr.  
June 4, 1998  
Page 2

**B. Argument**

Midwest Wireless and U S WEST submit the following joint response to each of the items raised in the Staff Report.

1. Most Favored Nation Terms and Treatment - Section 21.3.

Because Midwest Wireless and U S WEST recognize the legal uncertainties surrounding the meaning of Section 252(i) of the Telecommunications Act of 1996 ("Act"), their Agreement provides "that the provisions of Section 252(i) of the Act shall apply, including state and federal interpretive regulations in effect from time to time." The purpose of this language is to reflect the present unsettled state of the law as it relates to the Federal Communication Commission's regulations implementing the "most favored nation" provision under 47 U.S.C. § 252(i). Specifically, the parties recognize that the Eighth Circuit Court of Appeals issued a Stay Order, and ultimately struck down the FCC's regulation set forth in 47 C.F.R. § 51.809. See, Iowa Utilities Bd. v. F.C.C., 120 F.3d 753, 800-01 (8<sup>th</sup> Cir. 1997). The Iowa Utilities Bd. decision is presently under review by the U.S. Supreme Court.

Although Commission Staff is correct in its recognition of the Iowa Utilities Bd. decision, the language proposed in the Agreement is valid, especially in view of the fact that Midwest Wireless and U S WEST have negotiated the Agreement. It is not an adoption under Section 252(i). The provision in the Agreement neither mandates nor prohibits the wholesale adoption of the Agreement by any other requesting carrier. Similarly, the language neither mandates nor prohibits adoption in accordance with the FCC's currently unenforceable regulation. Rather, Midwest Wireless and U S WEST have simply agreed to comply with the requirements of Section 252(i) of the Act in accordance with the ultimate decision of the U.S. Supreme Court.

Accordingly, the inclusion of the existing language in the Agreement should not be considered inconsistent with the public interest or otherwise discriminatory against a telecommunications carrier not a party to the Agreement. Rather, the parties' intent is to reflect their respective obligations to comply with Section 252(i) as currently interpreted by the Eighth Circuit Court of Appeals and as the same will ultimately be interpreted by the U.S. Supreme Court.

**BRIGGS AND MORGAN**

William Bullard, Jr.  
June 4, 1998  
Page 3

2. Controlling Law - Section 21.18.

This provision of the Agreement reflects it will be interpreted in accordance with the terms of the Act "and the applicable state law in the state where the service is provided." This provision was included because Midwest Wireless and U S WEST agreed to a standard form of interconnection agreement to be approved for use in other states, including North Dakota and Minnesota. Commission Staff recommends that the Agreement expressly state that it will be construed "in accordance with the laws of the State of South Dakota."

Midwest Wireless and U S WEST submit that such a provision is implicit within the terms of the existing contract language. As it relates to interconnection services to be provided in the State of South Dakota, the Agreement contemplates application of federal law and South Dakota law. As set forth in Section 1.1, the Agreement is only applicable within the State of South Dakota. The parties do not contemplate application of another State's law as it relates to this Agreement.

Accordingly, Midwest Wireless and U S WEST submit that Staff's recommendation to expressly refer to South Dakota law is unnecessary. However, if the Commission wishes to require an express reference to "the laws of the State of South Dakota" rather than "the applicable state law in the state where the service is provided", the parties are willing to incorporate such a change. However, this issue does not warrant the rejection of the entire Agreement.

3. Warranties - Section 21.10.

This provision of the Agreement sets forth a disclaimer of any express or implied warranty between the parties, including but not limited to warranties of merchantability and fitness for a particular purpose. Such a provision is a common commercial term in interconnection agreements. Commission Staff has questioned "the need for a warranty in an Agreement that provides a service." Commission Staff notes that warranties are normally reserved for contracts which provide for the sale of goods.

While warranties may arise under the Uniform Commercial Code involving the sale of goods, contractual warranties may also arise in any type of contract. As a result, Midwest



**ERIGGS AND MORGAN**

William Bullard, Jr.

June 4, 1998

Page 4

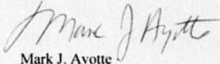
Wireless and U S WEST have specifically agreed there are no warranties made between the parties relating to the interconnection services to be provided under the Agreement. Although the section is captioned "Warranties," in reality it represents a disclaimer of any and all warranties. Consequently, Midwest Wireless and U S WEST do not believe that such a provision adds any confusion to their contractual relationship.

Accordingly, Midwest Wireless and U S WEST submit Section 21.10 should be approved in its current form. Such a provision is entirely consistent with the public interest and does not discriminate against any other telecommunications carrier.

**C. Conclusion.**

Midwest Wireless and U S WEST appreciate the opportunity to comment on the Staff Report. For the reasons set forth above, Midwest Wireless and U S WEST respectfully request approval of the Agreement without further modification. If you should have any questions, please contact either Ed Lopez at (303) 672-2783 or me.

Very truly yours,



Mark J. Ayotte

MJA:aw

cc: Ed Lopez - U S WEST Communications, Inc.  
Midwest Wireless Communications

# BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

2200 FIRST NATIONAL BANK BUILDING  
332 MINNESOTA STREET  
SAINT PAUL, MINNESOTA 55101  
TELEPHONE (612) 223-6600  
FACSIMILE (612) 223-6450

WRITER'S DIRECT DIAL

(612) 223-6561

WRITERS E-MAIL

ayomar@briggs.com

June 24, 1998

RECEIVED

JUN 26 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capital Avenue  
Pierre, SD 57510

**Re: In The Matter of The Filing By Midwest Wireless Communications, Inc. (sic)  
For Approval of Negotiated Terms of Agreement For Interconnection, Resale,  
and Unbundled Elements Between Midwest Wireless Communications, Inc. (sic)  
and U S WEST Communications, Inc.  
SDPUC Docket No. TC98-099**

Dear Mr. Bullard:

Midwest Wireless Communications, L.L.C. ("Midwest Wireless") and U S WEST Communications, Inc. ("U S WEST") jointly submit the following supplemental comments in response to the Staff Analysis and Recommendation dated May 20, 1998 ("Staff Report") concerning the above-captioned matter.

The Staff Report recommends Section 21.18 of the Type 2 Wireless Interconnection Service Agreement ("Agreement") expressly state that the Agreement will be construed in accordance with the laws of the State of South Dakota. In the initial comments of Midwest Wireless and U S WEST dated June 4, 1998, the parties indicated that such a provision was implicit within the terms of the existing contract language. As a result, Midwest Wireless and U S WEST considered Staff's recommendation to be unnecessary.

Nevertheless, Midwest Wireless and U S WEST have agreed to incorporate a change in Section 21.18 to accommodate Staff's recommendation. Accordingly, Section 21.18 of the Agreement will be modified as follows:

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of the state where service is provided hereunder. It shall be interpreted solely in accordance with the terms of the Act and the laws of the State of South Dakota.

951437.1

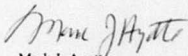
BRIGGS AND MORGAN

June 24, 1998

Page 2

Midwest Wireless and U S WEST appreciate the opportunity to again comment on the Staff Report. Midwest Wireless and U S WEST respectfully request approval of the Agreement. If you should have any questions, please contact either Ed Lopez of U S WEST at (303) 672-2783 or me.

Very truly yours,



Mark J. Ayotte

MJA:dc  
Enclosures

cc: Ed Lopez - U S WEST Communications, Inc.  
Midwest Wireless Communications, L.L.C.  
Cameron Hoseck

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING OF TYPE 2 ) ORDER APPROVING  
WIRELESS INTERCONNECTION AGREEMENT ) AGREEMENT  
BETWEEN U S WEST COMMUNICATIONS, )  
INC. AND MIDWEST WIRELESS ) TC98-099  
COMMUNICATIONS L.L.C. AND SWITCH 2000 )  
L.L.C. )

On May 14, 1998, the South Dakota Public Utilities Commission (Commission) received a filing from Midwest Wireless Communications L.L.C. (Midwest) for approval of a negotiated Type 2 Wireless Interconnection Agreement between U S WEST Communications, Inc. and Midwest and Switch 2000 L.L.C. (Switch), upon becoming a wholly owned subsidiary of Midwest, pursuant to 47 U.S.C. §§ 252(a)(1) and 252(e).

On May 14, 1998, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until June 3, 1998, to do so. Parties to the agreement had until June 22, 1998, to file written responses to the comments. No parties filed comments.

At its duly noticed July 23, 1998, meeting, the Commission considered whether to approve the interconnection agreement between U S WEST and Midwest and Switch. Commission Staff recommended approval with two conditions. Those conditions are: That the parties amend their agreement, specifically the Controlling Law section, to have the agreement interpreted in accordance with the laws of the state of South Dakota and submit it to the Commission. That Midwest and Switch complete the necessary forms and pay the South Dakota gross receipts tax pursuant to SDCL Chapter 49-1A.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. Upon review of the agreement, the Commission found that, as required by 47 U.S.C. § 252(e)(2)(A), the agreement does not discriminate against a telecommunications carrier not a party to the agreement nor is the implementation of this agreement inconsistent with the public interest, convenience, and necessity. It is therefore

ORDERED, that pursuant to 47 U.S.C. § 252(e) the Commission approves the interconnection agreement subject to Staff's two recommended conditions as stated above.

Dated at Pierre, South Dakota, this 5<sup>th</sup> day of August, 1998.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: William H. Laska

Date: 8/6/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner

# BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

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WRITERS DIRECT DIAL

(612) 223-6561

WRITER'S E-MAIL

ayomar@briggs.com

August 14, 1998

RECEIVED

AUG 17 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capital Avenue  
Pierre, SD 57510

**Re: In the Matter of the Type 2 Wireless Interconnection Agreement  
Between U S WEST Communications, Inc. and Midwest Wireless  
Communications, L.L.C. and Switch 2000 L.L.C.  
SDPUC Docket No. TC98-099**

Dear Mr. Bullard:

Enclosed herewith for filing in the above-referenced docket on behalf of both Midwest Wireless Communications, L.L.C. and Switch 2000 L.L.C. (collectively "MWC") and U S WEST Communications, Inc. ("U S WEST") is the original and 10 copies of revised page 44 to the Type 2 Wireless Interconnection Agreement. Section 21.18 to the Agreement has been modified to reflect the Commission's decision in "Order Approving Agreement" dated August 5, 1998.

The modified Section 21.18 satisfies the condition directed by the Commission in the August 5, 1998 Order relating to an express reference to South Dakota law. MWC and U S WEST jointly request that you substitute the enclosed page 44 in the Agreement for that originally filed with the Commission. I am also enclosing a blacklined version of page 44 to facilitate your review of the compliance filing.

MWC and U S WEST respectfully request your determination that the revised Agreement, as filed, satisfies the condition as indicated in the Order. We would appreciate issuance of a letter confirming the Commission's final approval of the Agreement.

967585 1

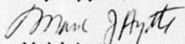
**BRIGGS AND MORGAN**

August 14, 1998

Page 2

If you should have any questions, please feel free to contact either Brian Ashby at U S WEST (303) 672-2768 or me.

Very truly yours,



Mark J. Ayotte

MJA:dc  
Enclosures

cc: Brian Ashby, Esq. - U S WEST  
Midwest Wireless Communications, L.L.C.  
Cameron Hoseck, Esq. - SDPUC

U S WEST, Inc.  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
Phone 303 872-5871  
Facsimile 303 295-7069

Alex M. Duarte  
Senior Attorney

**VIA OVERNIGHT DELIVERY**

April 26, 2000

Mr. William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Re: Filing of First Amendment to the Type 2 Wireless Interconnection Agreement  
between Midwest Wireless Communications, LLC and Switch 2000, LLC and  
U S WEST Communications, Inc.

Pursuant to 20:10:32:21 of the Admin. Rules of South Dakota enclosed for filing is an original and ten (10) copies of the First Amendment to the Interconnection Agreement between U S WEST Communications, Inc. ("U S WEST") and Midwest Wireless Communications, LLC and Switch 2000, LLC ("Midwest") for approval by the Commission. Midwest and U S WEST entered into the Interconnection Agreement which was approved by the South Dakota Commission effective August 5, 1998, in Docket No. TC98-099. This First Amendment will replace Section 21.2.1 with regards to extending the term of the Agreement.

The Agreement does not discriminate against other telecommunications carriers, and the Agreement is consistent with the FCC's guidelines for negotiation and performance. Additionally, other telecommunications carriers have the option to adopt any negotiated or arbitrated agreement approved by the Commission.

The Agreement is consistent with the public interest as identified in the state statutes of South Dakota, the Commission's rules, the federal Telecommunications Act of 1996, and rules of the Federal Communications Commission. Expeditious approval of this Agreement will enable Midwest to remain in the local exchange market and provide customers with increased choices among local exchange services.

**U S WEST**  
It's better here. 

**RECEIVED**

MAY - 3 2000

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION



Midwest has authorized U S WEST to submit this Agreement on Midwest's behalf.

Very truly yours,  
  
U S WEST

Enclosures

cc:

Briggs and Morgan  
Mark J. Ayotte, Esquire  
2200 First National Bank Building  
St. Paul, Minnesota 55101

Colleen Sevold  
Manager - Public Policy  
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MAY - 3 2000

**First Amendment to Type 2 Wireless Interconnection Agreement  
Between  
Midwest Wireless Communications L.L.C. and Switch 2000 L.L.C.  
And  
U S WEST Communications, Inc.  
For the State of South Dakota**

This First Amendment to the Type 2 Wireless Interconnection Agreement is made and entered into by and between Midwest Wireless Communications L.L.C. and Switch 2000 L.L.C. ("Carrier") and U S WEST Communications, Inc. ("USWC").

**RECITALS**

WHEREAS, Carrier and USWC entered into an Interconnection Agreement, for the state of South Dakota, approved by the Commission on August 5, 1998 (the "Agreement"), and

WHEREAS, Carrier and USWC desire to extend the term of their existing Agreement by one year; and

WHEREAS, Carrier and USWC desire to amend the Agreement by adding the terms and conditions contained herein.

**AGREEMENT**

NOW THEREFORE, in consideration of mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend Section 21.2.1 as follows:

**1. Amendment Terms.**

This Agreement shall terminate on April 30, 2001 and shall be binding upon the Parties during that term. The Parties understand that this First Amendment to the Agreement requires Commission approval. The Parties agree to commence negotiations on a new agreement no later than 135 calendar days prior to the termination date specified above. In the event that negotiations are not concluded as of the termination date specified above, the window of opportunity to file for arbitration to resolve outstanding contractual issues in accordance with the Act, will open upon the termination date specified above and this Agreement shall remain in full force and effect until it is replaced by an approved arbitrated or negotiated agreement.

**2. Effective Date.**

In accordance with Section 21.26 of the Agreement, this First Amendment shall be deemed effective upon approval by the Commission; however, the Parties agree to implement the provisions of this First Amendment upon execution.

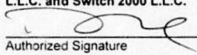
**3. Further Amendments.**

All capitalized terms in this First Amendment shall be as defined in the Agreement. Except as modified herein, the provisions of the Agreement shall remain in full force and

effect. Neither the Agreement nor this First Amendment may be further amended or altered except by written instrument executed by an authorized representative by both Parties.

The Parties intending to be legally bound have executed this First Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

Midwest Wireless Communications,  
L.L.C. and Switch 2000 L.L.C.

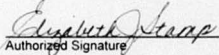
  
Authorized Signature

DENNIS MILLER  
Name Typed or Printed

PRESIDENT  
Title

4-5-00  
Date

U S WEST Communications, Inc.

  
Authorized Signature

Elizabeth J. Stamp  
Name Typed or Printed

Director - Interconnect  
Title

04/11/00  
Date

South Dakota Public Utilities Commission  
**WEEKLY FILINGS**  
For the Period of April 27, 2000 through May 3, 2000

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing.  
Phone: 605-773-3705 Fax: 605-773-3809

**CONSUMER COMPLAINTS**

**CT00-068** In the Matter of the Complaint filed by Janette M. Ball, Sioux Falls, South Dakota, against MCI WorldCom Regarding Unauthorized Switching of Services.

The Complainant claims that WorldCom Network charged her for long distance service without authorization. The Complainant requests credit and compensation.

Staff Analyst: Leni Healy  
Staff Attorney: Karen Cremer  
Dated Docket: 04/28/00  
Intervention Date: NA

**CT00-069** In the Matter of the Complaint filed by Dean Electric Inc. dba: Dykstra Electric, Yankton, South Dakota, against Network Services Regarding Unauthorized Switching of 800 Services and Continued Billing for Unauthorized Services.

The complainant alleges that the first receipt for charges from Network Services appeared on an invoice dated July 19, 1999 and when contacted, Network Services informed Dean Electric, Inc. that the carrier for the 800 number remained AT&T and Network Services was only processing the billing for AT&T. In December, 1999, upon contacting AT&T to inquire about a calling plan, Dean Electric, Inc. was informed that AT&T was not providing services to the 800 number. At this time Dean Electric, Inc. realized that Network Services had performed an unauthorized switch of 800 services and immediately contacted AT&T to transfer its services back. Dean Electric, Inc. has continued to receive monthly charges from Network Services, despite many requests to cancel the services. The complainant requests that the Dean Electric, Inc. account with Network Services be closed; that its services be switched to AT&T at no additional cost; and that Dean Electric, Inc. receive a full refund of all Network Services charges.

Staff Analyst: Charlene Lund  
Staff Attorney: Karen Cremer

Date Docketed: 05/02/00  
Intervention Deadline: NA

**CT00-070** In the Matter of the Complaint filed by Paul Janssen dba The Enterprise Auto Repair, Madison, South Dakota, against Business Options, Inc. Regarding Unauthorized Switching of Services.

The Complainant alleges that charges from Business Options appeared on his billing without authorization. The Complainant seeks credit for the charges and a maximum penalty against the company.

Staff Analyst: Leni Healy  
Staff Attorney: Camron Hoseck  
Date Docketed: 05/03/00  
Intervention Deadline: NA

**CT00-071** In the Matter of the Complaint filed by Phyllis Breuer, Sioux Falls, South Dakota, against HOLD Billing Services, Sprint Communications Company L.P. and Business Options, Inc. Regarding Unauthorized Switching of Services.

The Complainant alleges that charges from HOLD, Sprint, and Business Options appeared on her billing without authorization. The Complainant requests credit of all charges and compensation for inconvenience.

Staff Analyst: Leni Healy  
Staff Attorney: Karen Cremer  
Date Docketed: 05/03/00  
Intervention Deadline: NA

**ELECTRIC**

**EL00-013** In the Matter of the Petition of Northern States Power Company for Approval of a Customer Buyback Program.

Northern States Power Company (NSP) is proposing to add a provision to the South Dakota Electric Rate Book. This new provision will allow NSP to interrupt and thereby "purchase" energy from its large customers who reduce their load by at least one Megawatt. This option can be used upon mutual agreement of both NSP the eligible customer, whenever wholesale energy supply market prices are exceptionally high, or when NSP is affected by exceptional generation or transmission system difficulties.

Staff Analyst: Keith Senger  
Staff Attorney: Camron Hoseck  
Date Docketed: 05/01/00  
Intervention Deadline: 05/19/00

#### TELECOMMUNICATIONS

**TC98-096** In the Matter of a filing by U S WEST Communications, Inc. for approval of a first amendment to the interconnection agreement between it and Rural Cellular Corporation.

A first amendment to an interconnection agreement between U S WEST Communications, Inc. and Rural Cellular Corporation has been filed with the Commission for approval. The original agreement was approved by the Commission in Docket TC98-096 and was effective August 5, 1998. The first amendment addresses extending the term of the agreement.

Staff Attorney: Camron Hoseck  
Date Filed: 05/03/00  
Intervention Deadline: 05/19/00

**TC98-099** In the Matter of the filing by U S WEST Communications, Inc. for approval of a first amendment to the interconnection agreement between it and Midwest Wireless Communications L.L.C. and Switch 2000 L.L.C.

A first amendment to an interconnection agreement between U S WEST Communications, Inc. and Midwest Wireless Communications L.L.C. and Switch 2000 L.L.C. has been filed with the Commission for approval. The original agreement was approved by the Commission in Docket TC98-099 and was effective August 5, 1998. The first amendment addresses extending the term of the agreement.

Staff Attorney: Camron Hoseck  
Date Filed: 05/03/00  
Intervention Deadline: 05/19/00

**TC99-007** In the Matter of the filing by U S WEST Communications, Inc. for approval of a first amendment to the interconnection agreement between it and CCCSD, Inc. dba Connect!.

A first amendment to an interconnection agreement between U S WEST Communications and CCCSD, Inc. dba Connect! has been filed with the Commission for approval. The original agreement was approved by the Commission in Docket

TC99-007 and was effective August 26, 1999. The first amendment addresses collocation and the term of the agreement.

Staff Attorney: Camron Hoseck  
Date Filed: 05/03/00  
Intervention Deadline: 05/19/00

**TC99-023** In the Matter of the filing by U S WEST Communications, Inc. for approval of a first amendment to the interconnection agreement between it and MIDCO Communications, Inc. dba MidContinent Communications, Inc.

A first amendment to an interconnection agreement between U S WEST Communications and MIDCO Communications, Inc. dba MidContinent Communications, Inc. has been filed with the Commission for approval. The original agreement was approved in Docket TC99-023 and was effective May 5, 1999. The first amendment addresses unbundled local loops.

Staff Attorney: Camron Hoseck  
Date Filed: 05/03/00  
Intervention Deadline: 05/19/00

**TC00-076** In the Matter of the Application of TeleCents Communications, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

TeleCents Communications, Inc. has filed a request for a Certificate of Authority to offer resold interexchange services, including 1+ and 101XXXX direct outbound dialing, 800/888 toll-free inbound dialing, travel card service and prepaid calling card service throughout South Dakota.

Staff Analyst: Michele Farris  
Staff Attorney: Camron Hoseck  
Date Docketed: 05/02/00  
Intervention Deadline: 05/19/00

**TC00-077** In the Matter of the Application of Maxcess, Inc. for a Certificate of Authority to Provide Telecommunications Services, Including Local Exchange Services, in South Dakota.

Maxcess, Inc. submitted an application on May 2, 2000 to provide facilities-based and resold interexchange and local telecommunications services in South Dakota. Maxcess requests authority to provide services throughout the state of South Dakota, however

the applicant does not seek to provide resold or facilities-based services to customers in areas that are eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act.

Staff Analyst: Heather Forney  
Staff Attorney: Karen Cremer  
Date Docketed: 05/02/00  
Intervention Deadline: 05/19/00

**TC00-078 In the Matter of the Filing for Approval of a Resale Agreement  
between U S WEST Communications, Inc. and NOW  
Communications, Inc.**

A resale interconnection agreement between U S WEST Communications, Inc. and NOW Communications, Inc. was filed for approval pursuant to 47 U.S.C. Section 252(e). The resale agreement will provide for the resale of local telecommunications services within the geographical areas where U S WEST is the incumbent local exchange carrier.

Staff Attorney: Camron Hoseck  
Date Docketed: 05/03/00  
Intervention Deadline: 05/19/00

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING FOR )	ORDER APPROVING FIRST
APPROVAL OF A FIRST AMENDMENT TO AN )	AMENDMENT TO
INTERCONNECTION AGREEMENT BETWEEN )	AGREEMENT
U S WEST COMMUNICATIONS, INC. AND )	
MIDWEST WIRELESS COMMUNICATIONS )	TC98-099
L.L.C. AND SWITCH 2000 L.L.C. )	

On May 3, 2000, U S WEST Communications, Inc. (U S WEST) filed for approval by the South Dakota Public Utilities Commission (Commission) of a first amendment to an interconnection agreement between Midwest Wireless Communications L.L.C. and Switch 2000 L.L.C. (Switch) and U S WEST. The first amendment replaces in its entirety Section 21.2.1 in the original agreement with regard to its term.

On May 4, 2000, the Commission electronically transmitted notice of the filing of the first amendment to interested individuals and entities. The notice stated that any person wishing to intervene had until May 19, 2000, to do so. No intervention petitions were filed nor were any comments received.

At its duly noticed May 30, 2000, meeting, the Commission considered whether to approve the negotiated first amendment to the agreement between U S WEST and Switch. Commission Staff recommended its approval.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the first amendment does not discriminate against a telecommunications carrier that is not a party to the first amendment and the first amendment is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the first amendment to the agreement. It is therefore

ORDERED, that the Commission approves the negotiated first amendment to the agreement as described herein.

Dated at Pierre, South Dakota, this 6<sup>th</sup> day of June, 2000.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By Melanie Kelso

Date 6/6/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner