



Gina Harrison  
Director-  
Federal Regulatory

SBC Communications Inc.  
1401 I Street, N.W.  
Suite 1100  
Washington, D.C. 20005  
Phone 202 326-8882  
Fax 202 408-4805

August 5, 1997

DOCKET FILE 0071000000

EX PARTE OR LATE FILED

EX PARTE PRESENTATION

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: WT Docket No. 96-162, LEC-CMRS Safeguards

Dear Mr. Caton:

On behalf of SBC Communications Inc., I enclose, in accordance with the Commission's rules concerning ex parte communications, an original and two (2) copies of a submission regarding the status of interconnection agreements between local exchange carriers (LECs) and commercial mobile radio service (CMRS) providers.

Questions concerning this matter should be directed to me.

Sincerely,

*Gina Harrison /TFS*

Enclosure

cc: Commissioner Ness  
R. Allen  
R. Baca  
J. Chorney  
K. Franco  
D. Furth  
P. Gallant  
K. Gulick

T. Koutsky  
J. Nakahata  
J. Poltronieri  
M. Savir  
D. Siddall  
D. Stockdale  
S. Toller

No. of Copies rec'd 0+1  
SBC

Wayne Watts  
General Attorney

SBC Communications Inc.  
175 E. Houston Street  
San Antonio, Texas 78205  
Phone 210 351-3476



August 4, 1997

The Honorable Susan Ness, Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Re: Ex Parte Presentation WT Docket No. 96-162, LEC-CMRS  
Safeguards

Dear Commissioner Ness:

On Thursday, July 31, 1997 Al Richter, Gina Harrison and I met with you to discuss Docket 96-162. SBC continues to believe that Section 22.903 is no longer required to protect CMRS providers against discrimination in the negotiation of interconnection agreements with local exchange carriers ("LECs").

There is no better measure of the bargaining power of CMRS providers than the number of interconnection agreements which have been negotiated since the passage of the Telecommunications Act of 1996 (the "Act."). Southwestern Bell Mobile Systems ("SBMS") d/b/a Cellular One Chicago was the first wireless carrier to negotiate, and obtain state approval of, a LEC to CMRS interconnection agreement following the passage of the Act. A copy of this agreement is attached. This agreement, which establishes a mutual compensation regime, formed a model on which a number of other agreements have been negotiated with Ameritech.

In addition, wireless affiliates of SBC have negotiated interconnection agreements with NYNEX for our upstate New York and Boston Cellular One properties and Bell Atlantic for SBC's Washington, D.C. area Cellular One properties which includes agreements for Virginia, Maryland, Delaware, Washington, D.C. and West Virginia. I enclose copies of a sample of each of these agreements as well.

Southwestern Bell Telephone Company ("SWBT") has been equally effective in negotiating interconnection agreements

with unaffiliated wireless providers including PCS providers. SWBT has negotiated interconnection agreements with AT&T Wireless for the states of Arkansas, Kansas, Missouri, Oklahoma and Texas. SWBT has also negotiated interconnection agreements with Western Wireless, which is both a PCS and cellular provider, in the states of Kansas, Missouri, Oklahoma and Texas; with Sprint Spectrum in the states of Oklahoma, Kansas, Missouri, Arkansas and Texas; US Cellular in Missouri, Kansas, Oklahoma and Texas; Houston Cellular and Galveston Cellular in Texas; GTE Mobilenet in Texas; Ameritech in Missouri; PCS PrimeCo in Arkansas, Missouri and Oklahoma; and CMT Partners in Kansas and Missouri. Each of these agreements calls for the payment of mutual compensation and establishes interconnection arrangements which, based on the execution of those agreements by the parties, should be presumed to be satisfactory to them.

Moreover, each of Pacific Bell ("PB") and Nevada Bell ("NB") have successfully negotiated numerous interconnection agreements with CMRS providers. PB, an SBC affiliate providing local exchange service in California has negotiated agreements with CMRS providers such as Sprint Spectrum, Smart SMR, AT&T Wireless, AirTouch Cellular, and GTE Mobilenet. NB has negotiated interconnection agreements with CMRS providers such as AT&T Wireless, AirTouch and Western Wireless.

While we will not unduly burden the record with copies of all of these agreements, agreements have been negotiated by NYNEX with Vanguard Cellular, Upstate Cellular New York and AT&T Wireless Services, Inc. Ameritech has negotiated agreements with 360 Communications, US Cellular, BellSouth Cellular, AT&T Wireless Services, Inc. and Southern Illinois RSA Partnership. Furthermore, GTE has negotiated interconnection agreements with 360 Communications and Sprint Spectrum for the state of Illinois. GTE has also entered into interconnection agreements with 360 Communications for the state of Indiana and with Western Wireless for the state of Texas.

I believe that you will also receive directly from these and other local exchange carriers information regarding interconnection agreements which have been negotiated with unaffiliated CMRS providers. This information establishes that CMRS providers have substantial bargaining leverage to obtain, and more importantly, have obtained acceptable

interconnection agreements with a multitude of local exchange carriers. PCS providers such as AT&T and Sprint and SMR providers such as Nextel have likewise obtained such interconnection agreements. Many of these agreements have already been approved by state commissions and others have been filed with state commissions for such approval.

SBC continues to believe that ample rules and provisions are in effect to insure that nondiscriminatory interconnection is available to CMRS providers. As a result, Section 22.903 is no longer necessary to insure such nondiscriminatory interconnection and should be immediately eliminated. The elimination of Section 22.903 will allow pro-competitive benefits in or generated by the efficiencies which can be obtained by BOCs and their cellular affiliates to be brought to bear in the marketplace for the benefit of the consumers.

Should you or others wish to discuss this matter further, please feel free to contact me at your convenience.

This letter will be filed with the Office of the Secretary in accordance with the Commission's rules concerning ex parte communications.

Sincerely,



Wayne Watt

Enclosures

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252  
TELECOMMUNICATIONS ACT OF 1996

by and between

NEW YORK TELEPHONE COMPANY

and

ALBANY TELEPHONE COMPANY

for the Albany, New York Metropolitan Area

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

**For New York**

This Interconnection Agreement under Section 251(c)(2) of the Telecommunications Act of 1996 ("Agreement"), is effective as of the 1st day of May, 1997 (the "Effective Date"), by and between Albany Telephone Company, ("SBMS") d/b/a CellularOne in the Albany, New York Metropolitan Area; with offices at Appletree Business Park, 2875 Union Rd., Suite 35U, Cheektowaga, NY 14227 and New York Telephone Company d/b/a NYNEX ("NYNEX"), with offices at 1095 Avenue of the Americas, New York, NY, 10036.

WHEREAS, the Parties want to interconnect their networks at existing and future mutually agreed Type 1 and Type 2A points of interconnection to permit origination and termination of calls by customers of NYNEX and SBMS on each other's network.

WHEREAS, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services as required by the Act (as defined below) and additional services as set forth herein.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SBMS and NYNEX hereby agree as follows:

**1.0 DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings specified below in this Section 1.0.

1.1 "Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and as from time to time interpreted in duly authorized orders, rules and regulations of the FCC or the Commission within its state of jurisdiction.

1.2 "Affiliate" is As Defined in the Act.

1.3 "As Defined in the Act" means as specifically defined by the Act and as from time to time interpreted in the duly authorized orders, rules and regulations of the FCC or the Commission.

1.4 "As Described in the Act" means as described in or required by the Act and as from time to time interpreted in duly authorized orders, rules and regulations of the FCC or the Commission.

1.5 "Central Office Switch" means a switch used to provide Telecommunications services, including, but not limited to:

(a) "End Office Switches" which are used to terminate Customer stations for the purpose of interconnection to each other and to trunks; and

(b) "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches.

A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.

1.6 "Commercial Mobile Radio Service" ("CMRS") is As Defined in the Act.

1.7 "Commission" means the New York Public Service Commission.

1.8 "FCC" means the Federal Communications Commission.

1.9 "Interconnection" is As Described in the Act and refers to the connection of a network, equipment, or facilities, of one carrier with the network, equipment, or facilities of another carrier.

1.10 "Interexchange Carrier (IXC) Traffic" is defined as traffic which originates on SBMS's network, transits NYNEX's network and subsequently is passed to Interexchange carriers. IXC Traffic, for the purposes of this Agreement, is not considered Local or Non-Local.

1.11 "InterLATA Service" is As Defined in the Act.

1.12 "Local Access and Transport Area" or "LATA" is As Defined in the Act.

1.13 "Local Traffic" is defined as traffic that is originated by a customer of one Party on that Party's network and terminates to a customer of the other Party on the other Party's network within the same MTA. Mobile to land CMRS calls shall be deemed to originate at the location of the first cell site to receive a call. Local Traffic originated by SBMS will be handed off to NYNEX in the LATA for which the call is destined. Local Traffic originated by NYNEX will be handed off to SBMS or an IXC in the LATA in which the call is originated.

1.14 "Local Exchange Carrier" or "LEC" is As Defined in the Act.

1.15 "Major Trading Area (MTA)" is defined in 47 C.F.R. paragraph 24.102.

1.16 "Non-Local Traffic" is defined as traffic that is originated by a customer of one Party on that Party's network and terminates to a customer of the other Party on the other Party's network in a different MTA. Non-Local Traffic originated by SBMS will be handed off to NYNEX in the LATA in which the call is terminated. Non-Local Traffic originated by NYNEX will be handed off to SBMS or an IXC in the LATA in which the call is originated.

1.17 "NXX" means the three-digit code which appears as the first three digits of a seven digit telephone number.

1.18 "Party" means either NYNEX or SBMS and "Parties" means NYNEX and SBMS.

1.19 "Reciprocal Compensation" is As Described in the Act.

1.20 "Telecommunications" is As Defined in the Act.

1.21 "Telecommunications Act" means the Telecommunications Act of 1934 as amended by the 1996 Act and any rules and regulations promulgated thereunder.

1.22 "Telecommunications Carrier" is As Defined in the Act.

1.23 "Type 1 Interconnection" is Interconnection services, arrangements, and facilities where traffic must switch through an End Office, as technically defined in Technical Reference TR-NPL-000145, Issue 2, December 1993, as amended from time to time, and as provided in the Agreement.

1.24 "Type 2A Interconnection" is Interconnection services, arrangements, and facilities where terminating traffic must switch through a Tandem in route to the End Office serving the called party, as technically defined in Technical Reference TR-NPL-000145, Issue 2, December 1993, as amended from time to time, and as provided in this Agreement.

## **2.0 INTERPRETATION AND CONSTRUCTION**

All references to Sections, Exhibits and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless otherwise expressly stated. The headings of the Sections, the title, recitals and introduction of this Agreement, and the terms are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of this Agreement. Unless expressly stated otherwise, any reference to any agreement, other instrument (including NYNEX or other third party offerings, guides or practices), statute, regulation, rule or tariff is for convenience of reference only and is not intended to be a part of or to affect the meaning of such statute,

regulation, rule or tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).

### **3.0 SCOPE**

This Agreement is intended to describe and enable specific Interconnection and arrangements between the Parties. This Agreement does not obligate either Party to provide arrangements not specifically provided for herein. NYNEX and SBMS agree that this Agreement, if performed by NYNEX, is satisfactory to them as an agreement under the Act for the term of this agreement with respect to those obligations addressed hereunder. SBMS represents that it is a CMRS provider.

3.1 To the extent technically feasible, the parties may interconnect their networks using Type S Interconnection for CCS (SS7) in accordance with Technical Reference TR-NPL-000145, Issue 2, December 1993, as amended from time to time. SBMS may establish CCS interconnections either directly or through a third party. NYNEX will make available to SBMS access to NYNEX's CCS network for the purpose of exchanging CCS message with NYNEX.

3.2 NYNEX agrees to provide nondiscriminatory access via electronic interface to NYNEX databases on terms and conditions that are consistent with the Act.

3.3 NYNEX agrees that it shall make available to SBMS, at SBMS's sole option, any binding performance standards and associated penalty or other provisions with respect to network elements and services provided hereunder which NYNEX offers or provides to any other Telecommunications Carrier under the same terms and conditions provided to such third-party Telecommunications Carrier.

### **4.0 SERVICE AGREEMENT**

#### **4.1 Description Of Arrangements**

This Agreement provides for the provision and maintenance of the following interconnection arrangements between the networks of SBMS and NYNEX:

4.1.1 Description. Both parties will interconnect their respective networks based upon a Type 2A interconnection service and a Type 1 (Flexpath) interconnection service as specified in NYNEX's intrastate access tariff (New York PSC 900 Tariff).

Type 2A interconnection arrangements provide trunk side connections to NYNEX access tandems. Under a Type 2A arrangement the wireless carrier's, Mobile Telephone Switching Office (MTSO) functions like a Tandem Office Switch and the Type 2A interconnection facility acts like an interoffice trunk. Type 2A interconnection may be used to access valid NXX codes within the LATA. Type 2A is normally provisioned with a dedicated

NXX code (10,000 numbers) and is provisioned through a digital interface. Type 2A is a two way service for originating and terminating traffic between the Parties respective networks.

On an interim basis until such time as NYNEX offers Type 2A interconnection for the following call types, SBMS must utilize Type 1 interconnection service to reach local operator service(0- & 0+), Directory Assistance, N11 codes (411, 911, etc.) , and Service Access Codes (800, 900, etc. ). Type 1 is provided from suitably equipped electronic end offices and consists of a analog or digital facility arranged for two way service operation and an associated end office connection which switches messages to and from the facility. A group of seven digit numbers assigned by NYNEX are associated with the end office providing the service. Type 1 is normally provisioned with a blocks of either 100 or 1000 numbers and is provisioned through a digital interface. As soon as feasible SBMS will use best efforts to reconfigure its network to utilize Signaling System Seven ("SS7") facilities to reach local operator services (0- & 0+), Directory Assistance, N11 codes (411, 911, etc.) , and Service Access codes (800, 900, etc.).

4.1.2 In accordance with the PSC 900 tariff, Type 2A may have access to a Feature Group D trunk group or groups at access tandem switches designated by NYNEX where interLATA Feature Group D ("FGD") switching is provided. SBMS as the Type 2A customer, must secure a letter of agreement with the interLATA FGD provider prior to connecting a customer to an interLATA FGD provider. All charges for interLATA transport are billed to the FGD provider in accordance with the appropriate access tariff.

4.1.3 Type 2A, and Type 1 interconnection services are provided as trunk side switching through the use of end office switch trunk equipment with Multifrequency ("MF") and/or Signaling System Seven ("SS7") Address signaling in both the originating and terminating directions.

## **5.0 COMPENSATION ARRANGEMENTS**

5.1 Description. For purposes of this Agreement, the term "Traffic" shall refer to all Local and Non-Local Traffic. The Parties agree to jointly determine a methodology, independent of this agreement, to identify Local Traffic. Based on this methodology, SBMS shall provide NYNEX with a Percent Local Usage (PLU) factor on a quarterly basis. This initial PLU factor will be used for the first three (3) months after the effective date of this Agreement, and may be used beyond the first three (3) months if both Parties agree. SBMS will also provide NYNEX with a Percent Interstate Usage (PIU) factor on a quarterly basis. The factors will be applied as follows :

First, the PLU factor is applied to total minutes of use (excluding IXC Traffic) to obtain the split of Local and Non-Local minutes of use. Then, the PIU will be applied to the Non-Local minutes of use for application and billing of interstate and intrastate access charges, as appropriate.

5.2 The Parties agree to the following schedule of rates and charges. All rates reflected below are per Minute of Use (MOU).

UPSTATE

	<u>Reciprocal</u>	<u>Home**</u>	<u>Inter-region**</u>	
Type 1	\$0.0070	\$0.0070	\$0.0070	
		<u>Day</u>	<u>Evening</u>	<u>Night</u>
Type 2A	\$0.00865	\$0.0090	\$0.0080	\$0.0075

DOWNSTATE

	<u>Reciprocal</u>	<u>Per MOU - All**</u>		
Type 1	\$0.0070	\$0.0070		
		<u>Day</u>	<u>Evening</u>	<u>Night</u>
Type 2A	\$0.00865	\$0.0090	\$0.0080	\$0.0075

\*\*Additional charges may apply on Type 1 for calls that terminate beyond the end office.

SBMS will pay nonrecurring charges to establish required Type 1 and Type 2A interconnection facilities.

5.2.1 The rates set forth in Section 5.2 are based upon the results of NYNEX cost studies of the service elements provided to SBMS under this Agreement, as set forth on Exhibit A. In the event that the Commission approves a rate for any such service element in any arbitration or ratemaking or other proceeding which differs from the rate set forth in Exhibit A, the new rate shall be prospectively incorporated in the rates charged under this Agreement.

5.3 Reciprocal Compensation. Reciprocal Compensation only applies to the transport and termination of Local Traffic which originates on NYNEX's network for termination on SBMS's network. NYNEX will not compensate for calls that do not originate on NYNEX's network, i.e., calls originating on the network of an interexchange carrier ("IXC"), independent telephone company, competing local exchange carrier, or another cellular or wireless carrier. NYNEX will pay SBMS for Local calls originated by NYNEX customers which terminate to a wireless service provided by SBMS. SBMS will pay NYNEX for calls originated by SBMS customers which terminate on the NYNEX network. The Reciprocal Compensation rate for Type 1 will be \$0.0070 per MOU. The Reciprocal Compensation rate for Type 2A will be \$0.00865 per MOU. The preceding figure is a weighted average of day, evening, and night rates listed in Section 5.2 based on the estimated relative proportions of day, evening, and night corresponding to LEC-originated calls. Until such time as either Party can record the minutes of use originated on NYNEX's network and

terminated on SBMS's network via Type 1 interconnection ("Land to Mobile Type 1 Minutes of Use"), both Parties agree that the "Land to Mobile Type 1 Minutes of Use" will be estimated based on the ratio of Type 2A Land to Mobile Minutes of Use per Type 2A telephone number in a given month. For example:

Actual Type 2A Land to Mobile Minutes of Use	520,000
Number of Type 2A Telephone Numbers	50,000
Ratio (Minutes/Numbers)	10.4:1
Number of Type 1 Telephone Numbers	3,200
Estimated Type 1 Land to Mobile Minutes of Use (10.4 * 3,200=33,280)	33,280

5.4 SBMS agrees to pay all nonrecurring and service establishment charges associated with trunks required for future SBMS growth as required under the terms of Section 9 and at rates and charges described in New York PSC 900 Tariff. Additions in trunking capacity in excess of the trunking level necessary to provide the grade of service specified herein, consistent with current and forecasted demand, will be charged to SBMS on both a recurring and nonrecurring basis and at full monthly charges pursuant to the New York PSC 900 Tariffs for such facilities. The Type 2A arrangements shall be engineered to be objective P.01 grade of service.

5.5 Each Party will bill the other for terminating intra-LATA Non-Local Traffic at the appropriate NYNEX intrastate access tariff rate in effect at the time. Both Parties agree that the percentage of traffic to be considered Non-Local will be the same in both directions.

5.6 Where SBMS Interconnects with NYNEX by purchasing facilities from NYNEX and these facilities are used for two-way traffic, the applicable recurring charges (if any) for such facilities to SBMS will be reduced by a percentage equal to the percentage of traffic on such facilities which originates on NYNEX's network and terminates on SBMS's network. The Parties agree to review the percentage rate every six months.

## 6.0 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 at least ninety (90) days advance written notice of such change to the other Party.

## 7.0 RECORDING, RATING AND BILLING OF INTERCHANGED TRAFFIC

7.1 Measurement. Measurement of minutes of use over interconnection facilities under this Agreement shall be in actual Conversation Time seconds. The total conversation

Time seconds over each individual facility will be totaled for the monthly billing cycle and then rounded to the next whole minute.

7.2 Invoice Disputes. Either party may request the other party to verify the accuracy of amounts shown on invoices provided pursuant to this Agreement. The party receiving the request shall provide information reasonably sufficient to verify its invoices within thirty (30) days after the request date.

7.3 Records. Each party shall keep adequate records of its operations and transactions under this Agreement and, subject to the confidentiality provisions contained in Section 18.4 of this Agreement, shall furnish to the other party such information as may be reasonably required for the administration of this Agreement; Neither Party shall have obligation to produce any traffic data other than (a) the number of calls, (b) minutes of use, (c) terminating NPA/NXX and (d) originating cell site, as set forth in Section 1.13.

## **8.0 NUMBER RESOURCES ASSIGNMENTS**

NYNEX shall continue to assign to SBMS NXX codes in accordance with national guidelines as established in the Act and at no cost to SBMS .

## **9.0 GENERAL RESPONSIBILITIES OF THE PARTIES**

9.1 The Parties shall exchange technical descriptions and forecasts of their Interconnection and traffic requirements in sufficient detail necessary to establish the Interconnections required to assure traffic completion .

9.2 Thirty (30) days after the Effective Date and each quarter during the term of this Agreement, SBMS shall provide NYNEX with a rolling, six (6) calendar month, non-binding forecast of its traffic and volume requirements for the services provided under this Agreement in the form and in such detail as agreed by the Parties. The Parties agree that technical descriptions and forecasts provided under this Section and Section 9.1 shall be deemed "Proprietary Information".

9.3 Each Party is individually responsible to provide 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 NYNEX's network as defined in Bellcore T.R. 145 and to terminate the traffic it receives in that standard format to the proper address on its network. Such facilities shall be designed based upon the description and forecasts provided under Sections 9 above. 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.

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

9.5 Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers, except as otherwise provided in Sections 14 and 15 of this Agreement.

9.6 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.

9.7 Each Party is responsible for administering NXX codes assigned to it.

9.8 Each Party is responsible for obtaining Local Exchange Routing Guide ("LERG") listings of CLLI codes assigned to its switches.

9.9 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.

9.10 NYNEX and SBMS shall program and update their respective Central Office Switches and network systems to recognize and route traffic to NXX codes assigned to SBMS. Except as mutually agreed or as otherwise expressly defined in this Agreement, neither Party shall impose any fees or charges on the other Party for such activities.

9.11 At all times during the term of this Agreement, each Party shall keep and maintain in force at each Party's expense all insurance required by law (e.g., workers' compensation insurance) as well as general liability insurance for personal injury or death to any one person, property damage resulting from any one incident, automobile liability with coverage for bodily injury for property damage. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance (which may be provided through a program of self insurance).

9.12 Within ten days of the date on which a fully tested, electronic order entry system developed by NYNEX which is suitable for efficient electronic delivery of orders by SBMS to NYNEX has been completely installed on SBMS'S premises, all orders placed by SBMS with NYNEX shall be electronically transmitted in a format and sufficient detail to be accommodated by NYNEX's electronic order entry systems. Orders not placed electronically after that date may be subject to a service charge of \$100 per order, except

for those orders not electronically placed because of problems at NYNEX in receiving the order or because of a power outage or other circumstances outside of SBMS'S control.

## **10.0 TERM AND TERMINATION**

10.1 The initial term of this Agreement shall be two (2) year (the "Term") which shall commence on the Effective Date. At the end of the Term (end each Term thereafter) the Agreement shall automatically renew for one year periods, absent the receipt by one Party of written notice from the other Party at least sixty (60) days prior to the expiration of the Term to the effect that such Party intends to terminate this Agreement (with or without cause).

10.2 Either party may terminate this Agreement upon thirty (30) days written notice of a breach of this Agreement (other than a breach covered by any other termination provision of this Agreement) by the other party to this Agreement, which breach remains uncured for such thirty (30) day period after written notice of the breach by the non-breaching party to the breaching party.

10.3 Except as provided in paragraph 18.9, payment of all amounts owed under this Agreement and handling of disputed amounts will be governed by the New York PSC 900 including but not limited to all remedies for non-payment, without prejudice to any other remedies available at law or equity.

10.4 Upon termination or expiration of this Agreement in accordance with this Section each Party shall comply immediately with the following obligations:

(a) each Party shall promptly pay all undisputed amounts (including any late payment charges) owed under this Agreement;

(b) each Party's indemnification obligations shall survive termination or expiration of this Agreement.

10.5 Except as provided herein, no remedy set forth in this Agreement is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under applicable law or otherwise.

## **11.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**

EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, FUNCTIONS AND PRODUCTS IT PROVIDES UNDER OR CONTEMPLATED BY THIS AGREEMENT AND THE PARTIES DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

## **12.0 CANCELLATION CHARGES**

Except as provided herein, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

## **13.0 NON-SEVERABILITY**

The services, arrangements, Interconnection, terms and conditions of this Agreement were mutually negotiated by the Parties as a total arrangement and are intended to be non-severable, except as provided in Section 15 and Section 5.2.

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

## **14.0 INDEMNIFICATION**

14.1 Each party (the "Indemnifying Party") shall indemnify and hold harmless the other party ("Indemnified Party") from and against loss, cost, claim liability, damage, and expense (including reasonable attorney's fees) to third parties for:

(1) damage to tangible personal property or for personal injury proximately caused by the negligence or willful misconduct of the Indemnifying Party, its employees, agents or contractors;  
and

(2) claims for libel, slander, infringement of copyright arising from the material transmitted over the Indemnified Party's facilities arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's customers;  
and

(3) claims for infringement of patents arising from combining the Indemnified Party's facilities or services with, or the using of the Indemnified Party's services or facilities in connection with, facilities of the Indemnifying Party.

14.2 The Indemnified Party will notify the Indemnifying Party promptly in writing of any claims, lawsuits, or demands by third parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section, and, if requested by the Indemnifying Party, will tender the defense of such claim, lawsuit or demand. The Indemnifying Party will defend the tendered action at its sole cost and expense and may only settle such action with the written consent of the Indemnified Party, which consent shall not be unreasonably withheld:

(1) In the event the Indemnifying Party does not promptly assume or diligently pursue the defense of the tendered action, then the Indemnified Party may proceed to defend or settle said action and the Indemnifying Party shall hold harmless the Indemnified Party from any loss, cost liability, damage and expense.

(2) If the Indemnified Party elects to decline such indemnification, then it may, at its own expense, assume defense and settlement of the claim, lawsuit or demand.

(3) The parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.

## **15.0 LIMITATION OF LIABILITY**

15.1 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants or employees for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

15.2 Except as otherwise provided in Section 14.0, no Party shall be liable to the other Party for any loss, defect or equipment failure caused by the conduct of the other Party, the other Party's agents, servants, contractors or others acting in aid or concert with the other Party, except for gross negligence or willful misconduct.

15.3 Except as provided in Section 14, in no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

## **16.0 REGULATORY APPROVAL**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. NYNEX and SBMS agree that this Agreement, if performed by NYNEX, is satisfactory to them as an agreement under the Act for the term of this agreement with respect to those obligations addressed hereunder. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252(e) of the Act without modification. The Parties, however, reserve the right to seek regulatory relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission or FCC rejects this Agreement in whole or in part, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion(s).

## **17.0 PENDING JUDICIAL APPEALS AND REGULATORY RECONSIDERATION**

Appeals of the FCC's First Report and Order in CC Docket No. 96-98 are pending in the Eighth United States Circuit Court of Appeals. In addition, Petitions for Reconsideration of the First Report and Order have been filed with the FCC. The Parties are free to negotiate amendments to this Agreement based on the outcome of decisions of the Court of Appeals, FCC or the Commission if they so desire. This agreement is subject to change, modification, or cancellation as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction.

## **18.0 MISCELLANEOUS**

### **18.1 Authorization.**

18.1.1 New York Telephone Company is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to necessary regulatory approval.

18.1.2 Albany Telephone Company is a general partnership formed and operating under the laws of the State of New York, and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to necessary regulatory approval.

18.2 Independent Contractors. Neither this Agreement, nor any actions taken by NYNEX or SBMS in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between SBMS and NYNEX, or any relationship other than that of purchaser and seller of services.

18.3 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 control 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, (collectively, a "Force Majeure Event").

If any force majeure condition occurs, the Party delayed or unable to perform shall give immediate written notice to the other Party and shall take all reasonable steps to correct the force majeure condition. During the pendency of the Force Majeure, the duties of the Parties under this Agreement affected by the Force Majeure condition shall be abated and shall resume without liability thereafter.

### **18.4 Confidentiality.**

18.4.1 Any information ("Proprietary Information") such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer

programs and other software and documentation of one Party its employees, contractors, agents or Affiliates, (collectively, "Disclosing Party") that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, agents or Affiliates (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be marked "Confidential" or "Proprietary" or by other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, it (i) shall be held in confidence by the Receiving Party; (ii) shall be disclosed to only those employees, contractors, agents or Affiliates who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used only for such purposes; and (iii) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law only in accordance with Section 18.4.2.

18.4.2 If any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then either seek appropriate protective relief from all or part of such requirement; in any event if the Disclosing Party fails to receive relief from such disclosure within the time period by which the Receiving Party must respond, the Disclosing Party shall be deemed to have waived the Receiving Party's compliance with Section 18.4.1 with respect to all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to obtain.

18.4.3 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.

18.5 Governing Law. This Agreement shall be governed by the domestic laws of the state of New York, without reference to conflict of law provisions, and the Communication Act of 1934 as amended by the Telecommunications Act of 1996 and all FCC rules and Regulations thereunder.

**18.6 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.

**18.7 Non-Assignment.** Each Party covenants that, if it sells or otherwise transfers facilities used in the performance of this Agreement to a third party, it will require as a condition of such transfer that the transferee agree to be bound by this Agreement with respect to services provided over the transferred facilities. Except as provided in this paragraph, 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 which consent will not be unreasonably withheld or delayed; provided that either Party may assign this Agreement to a corporate Affiliate or an entity controlling, controlled by or 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 hereunder 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 and their respective successors and assigns.

**18.8 Non-Waiver.** Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

**18.9 Billing Dispute Resolution.** Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "Billing Dispute") concerning billing or payment obligation of either party arising under this Agreement shall be resolved in accordance with this procedures set forth in this section. In the event of a Billing Dispute between the Parties relating to this Agreement and upon the written request of either Party, each of the Parties within seven (7) days of the date of such written request shall appoint a designated representative who has authority to settle the Billing Dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonable deem necessary in order to discuss the Billing Dispute and negotiate in good faith in an effort to resolve such Billing Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties

are unable to resolve the issues related to a Billing Dispute within thirty (30) days after the Parties' appointment of the designated representatives as set forth above, then either Party may file a petition with the Commission for resolution of the Billing Dispute. In the case of disputed amounts under an invoice to a Party under this Agreement ("Disputed Amounts"), the Disputed Amounts shall promptly be deposited in escrow in accordance with Section 18.9.1(ii) of this Agreement upon a filing, by either Party, of a petition for resolution by the Commission.

18.9.1 The Parties shall diligently work toward resolution of all billing issues. If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within thirty (30) days of its receipt of the invoice containing such disputed amount give written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party (i) shall pay when due all undisputed amounts to the Billing Party and (ii) shall pay all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties. The Parties agree to use their respective diligent and good faith efforts to fulfill their obligations under this agreement.

18.9.2 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under applicable law.

18.10 Notices. Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (i) delivered personally, (ii) delivered by express delivery service, (iii) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested or (iv) delivered by telecopy to the following addresses of the Parties:

To :  
SBMS:

Appletree Business Park  
2875 Union Rd., Suite 35U  
Cheektowaga, NY 14227  
Attn: President & General Manager  
Facsimile: 716-435-2492

To:  
NYNEX:

1095 Avenue of Americas 40th Floor  
New York, NY 10036  
Attn: Vice President - Wholesale  
Markets  
Facsimile: (212) 597-2585

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

18.11 Publicity and Use of Trademarks or Service Marks. Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or

other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

**18.12 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.

**18.13 No Third Party Beneficiaries; Disclaimer of Agency.** This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. 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 of 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.

**18.14 No License.** No license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

**18.15 Entire Agreement and amendment.** This Agreement, including the Exhibit attached hereto, and, tariffs referred to herein constitutes the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written: If there is any conflict between the terms and conditions of the Agreement, the attached Exhibit, with any tariff or other document or instruments referred to herein, then the Agreement, and Exhibit shall control. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer of each Party.

**18.16a** NYNEX will offer to SBMS any different terms regarding the subject matter of this Agreement which it offers to another Telecommunications Carrier following final clarification of interconnection availability obligations under Section 252(l) of the Telecommunications Act of 1996 and any rules and regulations thereunder in effect at the time.

**18.16b** If NYNEX enters into an Agreement approved by the commission or the FCC pursuant to Sections 252 of the Act for the provision in State of New York of arrangements covered in this Agreement to another requesting Telecommunication Carrier

provider in the State of New York, SBMS may, at its sole option, avail itself of such arrangements in their entirety upon the same rates and conditions.

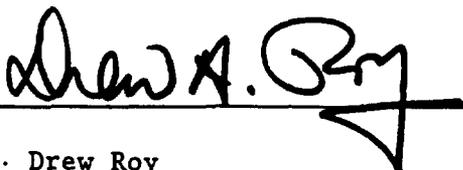
**19.0 Tandem Transit Service ("Transit Service")**

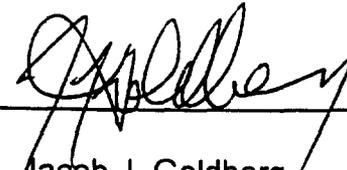
"Transit Service" means the delivery by NYNEX of certain traffic originated by SBMS for delivery to another Local Exchange Carrier ("LEC"), Competitive Local Exchange Carrier ("CLEC") or wireless carrier within the LATA in which the call is delivered by SBMS to NYNEX for completion to a customer of that carrier. NYNEX incurs costs associated with the provision of transit service. The parties agree that arrangements for the identification of and compensation for transit service are not addressed in this Agreement. To permit the parties to complete the negotiation and execution of an Interconnection Agreement at this time, the parties agree that NYNEX will, at a future date, propose arrangements for transit service. Until the parties are able to negotiate and agree to appropriate arrangements and compensation, the provision of transit service will be governed by Paragraph 5.3, "Reciprocal Compensation." For the purposes of this Section 19.0, NYNEX agrees that it shall make available to SBMS, at SBMS's sole option, any transiting arrangement NYNEX offers to any other Telecommunication Carrier at the same terms, and conditions provided to such third-party Telecommunications Carrier.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 24 day of April, 1997.

ALBANY TELEPHONE COMPANY

NEW YORK TELEPHONE COMPANY

By:   
Printed: Drew Roy

By:   
Printed: Jacob J. Goldberg

Title: Executive VP  
Cellcom Communications Corp.  
of Albany II, Partner

Title: Vice President - NYNEX  
Wholesale Markets

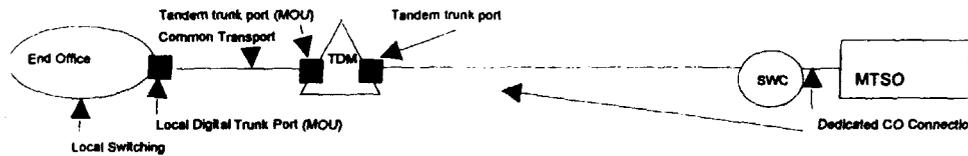
**RATE DEVELOPMENT WORKPAPERS  
NEW YORK**

**Type 1 Service                      Exhibit A**



	<b>Element</b>	<b>Calc / Input</b>	<b>Source</b>	<b>RATE/ MOU</b>
L1	Local Switching	\$0.004700	NY Arbitration; Appendix A, Pg 1 of 1	\$0.0047
L2	Local Digital Trunk Port	included in local switching	NY Arbitration; Appendix A, Pg 1 of 1	included
L3	Dedicated CO Connection	LDC: $(210+4*5)/24/10000$ IOF: $(115+4*30)/24/10000$	NY PSC 900 Superpath Section 12, 3d rev Pg 1.2	\$0.002
L4	Service Rate / MOU			\$0.007

**Type 2 Service**



	<b>Element</b>	<b>Calc / Input</b>	<b>Source</b>	<b>RATE/ MOU</b>
L1	Dedicated CO Connection	LDC: $(210+4*5)/24/10000$ IOF: $(115+5*30)/24/10000$	NY PSC 900 Superpath Section 12, 3d rev Pg 1.2	\$0.002
L2	Tandem Trunk Port Fixed	included in tandem switching	NY Arbitration; Appendix A, Pg 1 of 1	included
L3	Tandem Switching	\$0.0012	NY Arbitration; Appendix A, Pg 1 of 1	\$0.0012
L4	Tandem TrunkPort (MOU)	included in tandem switching	NY Arbitration; Appendix A, Pg 1 of 1	included
L5	Common Transport	\$0.0007	NY Arbitration; Appendix A, Pg 1 of 1	\$0.0007
L6	Local Switch Trunk Port(MOU)	included in local switching	NY Arbitration; Appendix A, Pg 1 of 1	included
L7	Local Switching	\$0.0047	NY Arbitration; Appendix A, Pg 1 of 1	\$0.0047
L9	Service Rate /MOU			\$0.0087

**Assumptions**

1. NY Arbitration decision
2. MOU per Trunk @ 10,000 mou /mo.
3. Type 1 LDC @ 1 Mi , IOM @ 4 Mi
4. Type 2 LDC @ 1 Mi , IOM @ 5 Mi

**Superspath Rates**

Local Distribution Channel	Fixed: \$ 210.00
	Per 1/4 mile: \$ 5.00
Interoffice Facility	Fixed: \$ 115.00
	Per mile (0-4): \$ 30.00 per mile

**Agreement Between Ameritech and  
SOUTHWESTERN BELL MOBILE SYSTEMS for  
Mutual Compensation for  
Local Calling In Illinois**

This Agreement, dated March 22<sup>nd</sup>, 1996 ("Effective Date") is by and between Ameritech Information Industry Services, a division of Ameritech Services, Inc., a Delaware Corporation with offices at 350 North Orleans, Third Floor, Chicago, Illinois 60654 on behalf of Ameritech Illinois ("Ameritech") and Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One--Chicago, a corporation dually incorporated in Delaware and Virginia with offices at 930 North National Parkway, Schaumburg, Illinois 60173 ("SBMS").

WHEREAS, Ameritech receives local telephone calls which originate in SBMS' Wireless Network and Ameritech terminates those calls to parties on Ameritech's Landline Network; and

WHEREAS, SBMS receives local telephone calls which originate on Ameritech's landline network and SBMS terminates those calls to parties on SBMS' network; and

WHEREAS, the Illinois Commerce Commission ("Commission") in Docket No. 94-0096, et al. (Consolidated) ("ICC Order") directed and approved reciprocal compensation between Ameritech-Illinois and alternate local exchange carriers ("ALECs") for local calls at the rate of \$0.005 per minute of use for termination at end offices and \$0.0075 per minute of use for termination at tandems; and

WHEREAS, Ameritech and SBMS wish to finalize ongoing negotiations to establish a compensation arrangement in which they each pay the other for terminating calls;

NOW THEREFORE, in consideration of the covenants and undertakings set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Ameritech and SBMS hereby agree as follows:

**1.0 DEFINITIONS**

- 1.1 Billing Option 2.** An Ameritech payment option which allows a Radio Common Carrier ("RCC") otherwise known