JOINT DECLARATION OF WILLIAM L. DYSART, RONALD A. WATKINS, AND BRETT KISSEL

I, William R. Dysart, hereby declare the following:

I, Ronald A. Watkins, hereby declare the following:

I, Brett Kissel, hereby declare the following:

I. QUALIFICATIONS

1. I, William R. Dysart, am Director – Performance Measurements for AT&T. My organization is responsible for collecting, validating and publishing wholesale performance measurements data associated with interconnection agreements ("ICAs") for AT&T's Southwest region and commercial agreements for the 13 AT&T states for internal and external use. In addition, I am responsible for the negotiation and implementation of changes, additions, or deletions of performance measurements for these ICAs and commercial agreements.

2. I, Ronald A. Watkins, am Director – Service Support for AT&T. AT&T's Service Support group is responsible for properly extracting, sorting, validating, and formatting the data required by AT&T's Federal Regulatory Group and submitting the data to that group.

3. I, Brett Kissel, am a Director – Regulatory Compliance for AT&T. The Regulatory Compliance organization is responsible for assisting in the development, implementation, maintenance and adherence to corporate policies and procedures that ensure compliance with the structural, transactional and non-discrimination requirements of Section 272 of the Telecommunications Act of 1996 ("the Act"). In my current position, I am responsible for coordinating the AT&T Inc. Section 272 biennial audit and participating on the Regulatory Compliance team responsible for overseeing all aspects of Section 272 compliance within the corporation.

II. INTRODUCTION AND OVERVIEW

4. The purpose of this Declaration is to address two claims made by certain opponents of the merger. Some opponents claim that the larger AT&T "footprint" resulting from the merger will increase the Applicants' incentives to discriminate against rivals, causing adverse effects on competition in the markets for mass-market, enterprise, and advanced services customers.[1] In addition, some opponents contend that multiple ILEC "benchmarks" are necessary in order to detect (and prevent) such discrimination by Applicants.[2] In advancing these arguments, merger opponents frequently cite to prior Commission decisions on earlier ILEC mergers. These arguments, however, ignore hard realities.

5. First, the data that AT&T has been reporting since 1999 pursuant to performance plans and voluntary commitments show that AT&T in fact provides UNEs, interconnection, and special access on a nondiscriminatory basis. Data reported pursuant to performance plans, for example, show that AT&T's performance in the provisioning of UNEs and interconnection has improved since this Commission approved the merger of SBC and Ameritech in 1999. Furthermore, the data that AT&T provided to independent auditors during their recently-completed biennial audit under Section 272 demonstrate that AT&T complies with the parity requirements of that statute in the provisioning of special access. Indeed, despite this Commission's invitation, not a single party chose to file comments on AT&T's latest audit report, which covered the period from July 10, 2003, to July 9, 2005.

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[1] *See* Petition to Deny of Access Point ("Access Point Pet.") at 20-24; Comments of Cbeyond Communications ("Cbyond Comments") at 88-92; Comments of Sprint Nextel Corp. ("Sprint-Nextel Comments") at 6-9; Petition to Deny of Time Warner Telecom ("TWTC Pet.") at 42-45.

[2] *See, e.g.,* Access Point Pet. at 13-20, 24-28; Cbeyond Comments, at 78-88; Petition to Deny of EarthLink, Inc. at 32-36; Comments of New Jersey Division of the Ratepayer Advocate at 18-19; Declaration of Susan Baldwin & Sarah Bosley ¶¶ 199-212; Sprint Nextel Comments at 9-11; TWTC Pet. at 49-72.

6. Second, the relevant marketplace conditions that exist today are substantially different than in 1999, when the FCC last addressed the issues of discrimination and benchmarking in the context of merger proceedings. In contrast to 1999, the ILECs' obligations under the Act with respect to UNEs and interconnection have now been given content by comprehensive performance plans and performance standards approved by state commissions.

7. Pursuant to these performance plans, both AT&T and BellSouth have reported voluminous data on hundreds of metrics that measure virtually every aspect of their performance in the provisioning of UNEs and interconnection.[3] In addition, AT&T has committed to tracking and maintaining (and has tracked and maintained) additional data on its performance in other areas, including data on special access that it provides to the independent auditors who review its compliance with Section 272 of the Act, as well as to carrier customers upon request. AT&T also offers additional performance guarantees in its special access tariffs, including negotiated "contract tariffs" with standards that meet the demands of specific customers.

8. Given the existence of these established reporting mechanisms, as well as the now-extensive historical record of its performance, AT&T has neither the incentive nor the ability to discriminate against competitors going forward. Any discrimination or poor performance by AT&T would be readily apparent from the data it will continue to report and make available for review. The self-executing remedy provisions of its performance plans provide a further disincentive to discriminate by requiring AT&T to pay liquidated damages for substandard performance. In any event, discriminating against CLECs would be contrary to the

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[3] BellSouth's performance under its performance plans is discussed in the accompanying declaration of Ronald Pate.

economic interests of AT&T, which would stand to lose profits as a result of the business it would lose through such discrimination.

9. The host of data that AT&T reports on its performance also removes any need for "benchmarking" to ensure nondiscriminatory performance. The existing and future data from those reports are more than sufficient to gauge the adequacy of AT&T's performance without any need to "benchmark" it against the performance of other ILECs.

III. AT&T'S WHOLESALE PERFORMANCE IS SUBJECT TO EXTENSIVE DATA REPORTING REQUIREMENTS AND PERFORMANCE STANDARDS WHICH ENSURE THAT IT PROVIDES NONDISCRIMINATORY ACCESS TO UNES, INTERCONNECTION AND SPECIAL ACCESS.

10. Since 1999, AT&T has maintained voluminous data on its performance, both under required performance plans and pursuant to voluntary service guarantees that AT&T has offered to wholesale customers in response to competition. These data make any discrimination or other substandard performance easy to detect, and they remove any ability or incentive for AT&T to discriminate against its competitors. Moreover, they make it unnecessary to "benchmark" AT&T's performance against that of other ILECs.

A. Since 1999, AT&T Has Maintained and Reported Voluminous Data on Its Performance Pursuant To Required Performance Plans and Voluntarily Adopted Service Guarantees.

11. When the Commission was considering the SBC/Ameritech and Verizon/GTE mergers in 1999, performance plans and performance standards regarding UNEs and interconnection had not been fully developed or implemented. In many states, such plans and standards were still in the process of being developed (if they were being developed at all).[4]

[4] In its Southwest region, for example, some performance plans had been adopted in arbitration proceedings for individual CLECs (such as AT&T) by 1998. However, a performance plan was not in place for the entire Southwestern Bell region until August 1999, when such a plan was
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12. The situation today is totally different from that in 1999. The market-opening obligations of ILECs under the 1996 Act regarding UNEs and interconnection have now been given content by comprehensive – and demanding – performance plans and performance standards that have been approved by regulatory commissions and that give both regulators and CLECs the ability to monitor the ILECs' performance in providing UNEs and interconnection. AT&T has also voluntarily committed itself to certain other service guarantees that give customers additional assurances that AT&T will render adequate performance. Furthermore, data regarding AT&T's performance with respect to special access have been tested by independent auditors and made subject to public comment pursuant to Section 272 of the Act. This wealth of information dispels any notion that AT&T has acted in a discriminatory manner in the past or that it could do so in the future without being detected. As a result, there is also no credible basis for a claim that the merger will eliminate any necessary "benchmarks" for AT&T's future performance.

1. Performance Plans and Performance Standards

13. Since 1999, state regulatory commissions – including the commissions in each of the states in AT&T's three BOC regions – have approved performance plans that contain performance standards ensuring that the AT&T ILECs provide wholesale customers with nondiscriminatory access to UNEs and interconnection. Each performance plan requires

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included in the Texas 271 interconnection agreement ("T2A") approved by the Texas Public Utility Commission ("TPUC"). That plan was further modified by the TPUC in September 1999. Performance plans in many other states were developed in the context of state Section 271 proceedings. As of the time the Commission issued its decisions on the SBC/Ameritech and Bell Atlantic/GTE mergers, only a few Section 271 applications had been filed with this Commission, and all of them had been rejected. Moreover, many state Section 271 proceedings (and their associated performance plans) were not completed until well after 1999.

AT&T's ILECs to report data for a host of disaggregated measurements, thereby enabling regulators and competitors to determine whether each ILEC's performance meets the statutory standards. Both the performance standards and the reported data are supervised by state regulators. In addition, AT&T maintains data and standards that allow the adequacy of its performance for other offerings, including special access, to be determined.

14. Performance plans are now well-established in every state. Each of these plans contains numerous metrics on UNEs and interconnection for which the AT&T ILECs report data on a regular basis. The performance plans also prescribe performance standards for most of these metrics (either a specific benchmark or parity requirement) that the ILEC is required to meet.

15. In California and the former Ameritech states (now AT&T's Midwest region), for example, the applicable performance plans contain more than 1,000 metrics or submetrics for which AT&T is required to pay liquidated damages if the data it reports show that it has not met the applicable performance standards. The number of such metrics and submetrics in performance plans in other states in AT&T's regions ranges from 165 to 700.[5] Although AT&T is required to report data only for those metrics and submetrics where actual transactions have occurred, AT&T nonetheless regularly reports data for hundreds of separate metrics and submetrics in the states in its region (more than 400 in California and 350 in Illinois, for example).

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[5] These figures do not include additional metrics in performance plans for which a performance standard has been established, but as to which AT&T is not required under the plan to pay liquidated damages. Nor do these figures include additional "diagnostic" metrics for which no performance standard is established in the plans but which are nevertheless tracked.

16. These metrics and submetrics measure virtually every aspect of AT&T's performance with respect to the pre-ordering, ordering, provisioning, maintenance, and repair of UNEs and interconnection. Each of the performance plans provides remedies, usually in the form of payments or discounts by AT&T, if AT&T does not meet the applicable performance standard for certain metrics. Such remedies are self-executing; that is, the performance plan requires AT&T to pay liquidated damages to customers and/or to a regulatory agency if it fails to meet the performance standard for a particular metric, and the customer or agency is entitled to immediate payment, without the need for regulatory or other intervention.

17. Contrary to the claims of some merger opponents, the liquidated damages and remedies under the performance plans can be substantial. For example, with respect to the installation of an 8db POTS loops (2-wire analog non-design loops) in AT&T's Southwest region, the performance standard is that 95 percent of such loops must be installed by the due date requested by the customer. Under the stand-alone remedy agreement in AT&T's Southwest region,[6] AT&T must pay $125 *per occurrence* for failure to meet the applicable performance standard during the month, $250 per occurrence if AT&T fails to meet the standard for two consecutive months, and progressively higher payments per occurrence with each additional consecutive month of noncompliance. Given current order volumes, AT&T would be required to pay hundreds of thousands, or even millions, of dollars in liquidated damages for poor performance. For instance, if for two consecutive months AT&T failed to install 50 percent of 8

[6] Until late 2005, remedy provisions were included in the interconnection agreements ("ICAs") that AT&T entered into with customers in its Southwest region. Since late 2005, AT&T has offered customers in that region a stand-alone remedy agreement (separate from the ICA) that requires AT&T to pay liquidated damages when it does not meet the applicable performance standards. Customers who decide not to enter into the stand-alone remedy agreement may pursue any appropriate legal remedies in court. In AT&T's Midwest and West regions, remedy provisions are still part of the ICAs.

db POTS loops in Texas by the customer-requested due date, the liquidated damages could exceed $1 million.[7]

18. Some of the opponents have also asserted that AT&T "does not pay" the penalties or damages required by state performance plans or remedy plans.[8] Opponents provide no details or elaboration to support their one-sentence assertion. In any event, their accusations are false. AT&T has paid to CLECs the liquidated damages required by performance and remedy plans, within the time limits set by the plans. To the best of AT&T's knowledge, it has never withheld payments or credits that were due to CLECs under the plans.[9]

2. Voluntarily Adopted Service Guarantees

19. As described in AT&T's Public Interest Statement, AT&T faces substantial wholesale and retail competition from carriers who do not depend on AT&T for so-called "bottleneck" inputs. Instead, such carriers have facilities of their own that enable them to serve

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[7] This scenario assumes that (1) AT&T received 10,000 orders in a given month for 8 db POTS loops (a figure that is close to the actual 9,240 orders for such loops that AT&T received in Texas in March 2006); (2) the 10,000 orders consisted of 200 orders each from 50 CLECs who had entered into the stand-alone remedy agreement; and (3) for each CLEC, AT&T installed only 50 percent of orders by the customer-requested due date. For purposes of this scenario, the "critical value" – the number of orders below which AT&T failed to satisfy the 95 percent standards – was 185 orders for each CLEC under the Binomial Exact Test provided for in the stand-alone remedy agreement. Thus, for the 85 orders per CLEC that fell short of the critical value (185 orders minus the 100 orders that did meet the applicable standard), AT&T could be liable for $1,062,500 in liquidated damages if it failed to meet the standard for each CLEC for two consecutive months (85 orders x $250/order x 50 CLECs).

[8] Cbeyond Comments at 85; Cbeyond Comments, James C. Falvey Declaration ¶¶ 14; Cbeyond Comments, Lisa R.Youngers Declaration ¶ 7.

[9] Similarly, to the extent that AT&T's special access tariffs require the issuance of a credit to the customer when AT&T does not meet certain performance standards with respect to such services, AT&T automatically generates such credits each time its performance fails to meet the standards.

customers without using the "last mile" of AT&T's network. Much of this competition – including wireless carriers, cable companies, and VoIP carriers – did not even exist in 1999.

20. Because of the presence of facilities-based intramodal and intermodal competition, AT&T offers additional services and service guarantees that are designed to retain its existing customers and attract new ones. Two examples of such competition-driven offerings are: (1) AT&T's Local Wholesale Complete ("LWC") offering, which is designed to provide competitive local service providers with a commercial replacement for the former UNE platform ("UNE-P"); and (2) the various service guarantees and volume discounts that AT&T offers under its access service tariffs.

a. AT&T's Local Wholesale Complete ("LWC") Offering

21. LWC, which is offered to competitors throughout AT&T's 13-state region, includes local telephony service as well as traditional switch-based vertical features and other services such as operator service and directory assistance. Although AT&T is under no regulatory obligation to provide LWC, AT&T began offering it in April 2004 as a commercial alternative to the UNE-P for those wholesale customers who might otherwise use alternative service arrangements or providers.

22. To date, AT&T has entered into approximately 100 LWC Agreements with competitors. Pursuant to those agreements, competitors have used LWC to win millions of retail access lines. As of March 2006, unaffiliated wholesale customers who have LWC agreements with AT&T served more than 2,400,000 lines via LWC in AT&T's 13-state region.[10]

[10] This figure does not include lines served by competitors who were purchasing the UNE-P from AT&T prior to the Commission's *Triennial Review Remand Order* but have not entered into LWC Agreements. Although AT&T no longer provides UNE-P as such to these customers (having been relieved of the obligation to provide UNE-P by the *Triennial Review Remand Order*), AT&T now provides them with Wholesale Local Switching ("WLS"), which is the
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23. As part of its LWC offering – and in response to the pressures of competition – AT&T voluntarily offers a "Service Assurance Plan" which includes certain metrics that measure AT&T's performance at key stages of the pre-ordering, ordering, provisioning, and maintenance processes. The Service Assurance Plan sets forth performance standards for each metric and requires AT&T to give credits to the customer for certain substandard performance.

24. The six metrics in the "generic" Service Assurance Plan are: (1) OSS Interface Availability; (2) Mechanized Order Completion Notification Timeliness; (3) Percent AT&T-Caused Missed Due Dates; (4) Installation Quality; (5) Repeat Trouble Report Rate; and (6) Out of Service Within 48 Hours. A table providing the definitions of these metrics and the performance standard for each metric is attached hereto as Attachment 1. AT&T's business rules governing these metrics are attached hereto as Attachment 2. AT&T included these particular metrics and standards in the Service Assurance Plan because it believes that they ensure quality service both to wholesale customers and to their end-user-customers.

25. Under the generic Service Assurance Plan, AT&T may be required to pay "service level assurance payments," or "service credits," to a particular LWC customer for failure to meet the performance standards for the four metrics in the plan that are directly end-user customer-affecting: Percent of Missed Installation Due Dates, Installation Quality, Repeat Trouble Report Rate and Out of Service Within 48 Hours. The details of the payment plan are

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functional equivalent of the UNE-P and LWC. Like LWC, WLS is offered to these wholesale customers in order to give them an incentive to continue satisfying their service needs through AT&T (and to avoid a migration of their retail customers to a competing facilities-based provider, which might well occur if AT&T no longer offered a UNE-P equivalent to wholesale customers except through LWC agreements). As of the end of March 2006, these former UNE-P customers served more than 350,000 lines via WLS throughout AT&T's 13-state region.

set forth in the Appendix to the LWC Service Assurance Plan, which is attached hereto as Attachment 3.

26. As an alternative to the "generic" Service Assurance Plan, AT&T offers individual LWC customers the opportunity to negotiate their own Service Assurance Plan with AT&T. In fact, at least two LWC customers (MCI and Birch) have negotiated their own separate Service Assurance Plans with AT&T.

b. AT&T's Access Service Tariff

27. In order to remain competitive in the special access market, AT&T has also incorporated performance guarantees and volume discounts into the access service tariffs that its BOC affiliates, such as Southwestern Bell, have filed with this Commission. For example, the Access Service Tariff provides that *all* access service customers – including special access customers -- are entitled to credits for (1) missed installation on a confirmed due date; and (2) service interruptions at least 30 minutes in duration. *See, e.g.,* Southwestern Bell Telephone Company Tariff F.C.C. No. 73 ("FCC Tariff"), §§ 2.5.5, 2.5.6. Relevant portions of Southwestern Bell's Access Service Tariff are attached hereto as Attachment 4. The Access Service Tariff provides *additional* credits for service interruptions if the outage exceeds the applicable Service Assurance Warranty ("SAWS") threshold for service interruptions within a 12-hour time period. *Id.* §§ 2.5.6(B)(2), 2.5.7.[11]

28. *The Managed Value Plan.* For larger customers who are willing to make a term and volume commitment, AT&T's Access Service Tariff establishes a Managed Value Plan

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[11] The "SAWS credit" is applied to the customer's bill in addition to the existing monthly service rates and any existing credit allowances. *See* Attachment 4, § 2.5.7. The applicable SAWS thresholds, and the credit allowance per interruption, vary depending on the particular service involved and the date when the customer began purchasing the service from AT&T. *Id.*

("MVP") that not only provides billing discounts, but also entitles such customers to additional discounts if AT&T fails to meet MVP Service Level Assurance levels ("SLAs") specified in the tariff. *Id.* § 38.1. A customer qualifies for such discounts if it has at least $10 million in annual billing for these services for the particular AT&T region involved (for example, AT&T's Southwest region), and agrees to maintain a predetermined annual recurring billing amount (a minimum annual revenue commitment, or "MARC") for a five-year period. *Id.* §§ 38.1, 38.3(A)-(B). AT&T offers two types of MVP billing discounts to MVP customers: commitment discounts (which are a specified percentage of the annual MARC) and SLA discounts. *Id.* § 38.3(E).

29. MVP customers are entitled to the additional SLA discount if AT&T fails to meet specified parameters during the term of the MVP agreement for three metrics: (1) On-Time Provisioning ("OTP"), *i.e.,* the percentage of customer requests for new service and modifications of existing service that were not completed by the due date for reasons attributable for AT&T; (2) Failure Frequency ("FF"), *i.e.,* the percentage of the MVP customer's total annual access circuit failures; and (3) Time To Restore ("TTR"), *i.e.,* the ratio of measured outages (troubles) that are less than or equal to 3 hours in the reporting period to the total number of troubles in that same period. *Id.* § 38.3(G).

30. The Access Service Tariff offers two separate types of MVP SLA discounts: MVP-SLA Level 1 ("SLA Level 1") and MVP-SLA Level 2 ("SLA Level 2"). Each SLA discount is 1 percent of the customer's MARC. For purposes of the SLA Level 1 discount, the tariff sets forth specified performance targets for OTP, FF, and TTR for three services: high-capacity service (DS-1s), which is the service that special access customers purchase from AT&T more than any other service combined; voice grade service ("VGS"); and MegaLink data

service ("DDS"). The customer is entitled to an SLA Level 1 discount if AT&T fails to "earn" a minimum number of points under a point value system (which assigns a certain number of points to AT&T for meeting particular standards per quarter and annually). *Id.* § 38.3(G)(2). If a customer receives the 1 percent SLA Level 1 discount (due to AT&T's failure to meet the 100-point minimum), it may also qualify for the additional Level 2 discount (which is an additional 1 percent of the MARC) if AT&T's performance in the provisioning of DS-1s falls below certain specified levels.[12]

31. *Other Contract Tariff Offers With Service Level Assurances.* In addition to the MVP, AT&T's Access Service Tariff offers customers the opportunity to enter into specialized contracts, pursuant to contract offers set forth in AT&T's tariffs, which include negotiated SLAs and remedies (different from those under the MVP) that govern AT&T's performance for that contracting customer. AT&T has entered into such agreements separately with other carriers. One such contract tariff establishes four SLAs with respect to services offered within certain pricing flexibility Metropolitan Statistical Areas ("MSAs"): (1) Percent Network Availability; (2) Mean Time To Repair ("MTTR") of DS-1 Circuits; (3) Mean Time to Repair ("MTTR") of DS-3 and OCn Circuits; and (4) On-Time Delivery/Due Date. The five-year contract establishes performance targets for each SLA, which become more demanding over the term of the contract.[13] AT&T must give the customer a specified annual credit of $100,000 for each SLA as to which it does not satisfy the applicable target during the year.[14]

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[12] *See* Attachment 4, § 38.3(E)(4), (G)(2), (G)(3). For example, the Level 2 target for DS-1s for On-Time Performance is 62.1 percent for years 3 through 5, as compared to the Level 1 targets of 95.6, 96.2, and 96.7 percent for the same metric. *Id.*

[13] *See, e.g.,* Pacific Bell Telephone Company Tariff F.C.C. No. 1, § 33.56.5(E) – Contract Offer No. 56 (Attachment 5 hereto). Although Time Warner now criticizes this contract and corresponding tariff provisions in its comments (*see* TWTC Pet. at 70), those criticisms are (Continued)

32. Another contract tariff provides that the customer will receive volume discounts in exchange for certain revenue commitments by the customer. More importantly, the contract sets a "Network Availability cumulative annual target" of 90 percent that AT&T must meet for all services defined as "Contributory Services" under the contract. If AT&T fails to meet the 90 percent target for twelve consecutive months, the customer has the right to terminate the contact without incurring any termination liability unless AT&T rectifies the problems within 60 days after receiving the customer's notice of its intent to terminate.[15]

3. Special Access Metrics and Standards Under the FCC's Non-Accounting Safeguards Order

33. As of 1999, the Commission had not approved any Section 271 application by AT&T or its predecessor companies to provide in-region, interLATA service in any of the states in its region. Thus, AT&T was not subject to the requirements of Section 272 regarding separate long-distance affiliates of Bell Operating Companies, including Section 272(d)(1)'s requirement that the BOC submit to an independent audit to determine its compliance with Section 272. The Commission did not approve a Section 271 application for any of the states in AT&T's region until June 2000, when it approved Southwestern Bell's application for Texas.

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without merit. As discussed in the accompanying declaration of Parley Casto, Time Warner agreed only one year ago to the same tariff provisions that it now criticizes.

[14] *See* Attachment 5, § 33.56.5(F). Like MVP, the contract requires the customer to make an annual minimum revenue commitment in exchange for the SLAs and credits. *See id.* § 33.56.4 (A) (requiring MARC of at least $26.5 million for first year of contract).

[15] *See, e.g.,* Ameritech Operating Companies Tariff F.C.C. No. 2, § 22.90.13(B) – Contract Tariff No. 90 (Attachment 6 hereto). Under the contract, "Contributory Services" include Interstate Special Access (such as Voice Grade, DS-0, DS-1, and DS-3), Interstate Switched Transport (Entrance Facility and Direct Transport), Intrastate Special Access, Intrastate Switched Access, and Advanced Services (Frame Relay). *Id.* § 22.90.5.

34. In its applications for Section 271 authority, SBC and its affiliates committed that SBC would maintain data, for all of the states in SBC's regions for which the Commission had granted Section 271 authority ("Section 271-authorized states"), for the seven service categories and units of measure (metrics) that the Commission had proposed in its Further Notice of Proposed Rulemaking in the 1996 *Non-Accounting Safeguards Order* as a means of determining whether an ILEC with a Section 272 affiliate is in compliance with the parity requirements of Section 272(e)(1).[16] SBC also agreed that it would provide these data to the auditors conducting the independent biennial audit required by Section 272(d)(1), as well as to carrier customers upon request.

35. Consistent with its commitment, SBC/AT&T has maintained data for the metrics proposed under the *Non-Accounting Safeguards Order* for each Section 271-authorized state in its region since the approval of its Section 271 application in Texas in 2000. The seven metrics for which data are maintained by AT&T, and the subcategories into which those data are disaggregated, are as follows: (1) Successful Completion According to Desired Due Date; (2) Time from BOC Promised Due Date to Circuit Being Placed in Service; (3) Time to Firm Order Confirmation; (4) Time from PIC Change Request to Implementation; (5) Mean Time to Restore

[16] *See In re Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended,* CC Dkt. No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd. 21095, 22082-86, ¶¶ 371-382 & Appendix C (Dec. 24, 1996). Section 272(e)(1) of the Act requires that any Bell Operating Company and BOC affiliate "fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone service and exchange access to itself and to its affiliates." 47 U.S.C. § 272(e)(1). Although the Commission had not formally adopted the metrics that it proposed in the *Non-Accounting Safeguards Order*, SBC agreed in its Section 271 applications that it would maintain such data once the Commission approved any of its applications, until the Commission issued final rules in the *Non-Accounting Safeguards* proceeding. *See Report of Independent Accountants on Applying Agreed-Upon Procedures -- AT&T Inc.*, dated December 15, 2005 ("*2005 Biennial Audit Report*"), Appendix C, at 51, 54.

and Trouble Duration; (6) Time to Restore PIC After Trouble Report; and (7) Mean Time To Clear Network/Average Duration of Trouble. A table setting forth the definition of each metric and the levels of disaggregation for each metric is attached hereto as Attachment 7.

36. For each of these seven metrics, AT&T tracks results for three entity categories: (1) Section 272 affiliates (AT&T's long-distance affiliates); (2) AT&T's BOC and Other Affiliates (which includes the AT&T BOCs, its Internet affiliates, its wireless affiliates, its messaging companies, and ASI); and (3) Nonaffiliates (non-affiliated telecommunications providers). Using these data, both regulators and carriers unaffiliated with AT&T can readily determine whether the timeliness of AT&T's performance for the seven metrics for nonaffiliates as a whole is at parity with its performance for itself and its affiliates (including the Section 272 affiliate).

37. The data reported for these metrics enable auditors and regulators to determine, among other things, whether AT&T is providing special access to unaffiliated purchasers on a nondiscriminatory basis. Five of these metrics are related to special access services. Four of them are disaggregated by DS-0s, DS-1s, and DS-3s and above, and a fifth is disaggregated by DS-0s and DS-1s. *See* Attachment 7 hereto.

38. Also consistent with its Section 271 commitments, since mid-2000 AT&T has provided the data it has compiled for the seven metrics to the independent auditors who have conducted the biennial audit of its Section 272 performance. The auditors perform the audit in accordance with the General Standard Procedures for Section 272 audits agreed to by the Commission and each of the RBOCs.

39. Under these agreed-upon procedures, the auditors test whether the data for the seven metrics were calculated in accordance with AT&T's business rules, and then compare the

differences in monthly results for each metric for the same service between the Section 272 affiliates and nonaffiliates, and between other AT&T affiliates and nonaffiliates.[17] The auditors note and disclose in their report any differences in time in fulfilling each type of request for the same services from the Section 272 Affiliates, AT&T's BOC and other affiliates, and nonaffiliates. For those instances where fulfillment of requests from nonaffiliates took longer than for the Section 272 affiliates, the auditors request an explanation from AT&T.[18]

40. The auditors file their final report with this Commission and with the state commissions for each of the states for which AT&T maintains such data, as required by Section 272(d)(2). The report – which sets forth the results of the data maintained by AT&T for the seven metrics – is made available by these commissions for public inspection, and any party is entitled under the Act to submit comments on the report. Thus, if a party wishes to point out that the data maintained by AT&T showed that the time intervals reflected in the data were shorter for AT&T and its affiliates than for nonaffiliates, it may do so in its comments.

41. Three independent audits of AT&T for Section 272 compliance have been conducted since mid-2000. The first audit encompassed the period from July 10, 2000, to July 9, 2001. The second audit covered the period from July 10, 2001, to July 9, 2003. The third, and most recent, audit encompassed the period from July 10, 2003, to July 9, 2005. Neither this Commission nor any state commission has taken any action as a result of the comments filed

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[17] *See, e.g., 2005 Biennial Audit Report,* Appendix A, at 46.

[18] As part of their analysis of Section 272(e)(1) issues, the auditors also document the processes and procedures AT&T follows in each of the states in its region to provide information regarding the availability of facilities used in the provision of special access to AT&T's Section 272 affiliates, AT&T's BOCs and other affiliates, and nonaffiliates. The auditors note any such differences in the audit report. *2005 Biennial Audit Report,* Appendix A, at 43 & Appendix C, at 52.

with regard to these audit reports; indeed, no party even filed comments with regard to AT&T's latest audit report.

B. The Implementation of Performance Plans and Performance Standards Since 1999 Removes Any Ability or Incentive for AT&T To Discriminate, As Well As Any Need To "Benchmark" AT&T's Performance Against That of Other ILECs.

42. As shown below in Part IV, the data maintained by AT&T show that it has consistently rendered high-quality, nondiscriminatory performance – and that its performance has continued to improve since it began reporting such data. That level of performance should not be surprising, because the reporting requirements deny AT&T the ability to discriminate without detection and eliminate any incentive to do so. Moreover, because the reported data thoroughly measure the adequacy of AT&T's performance, there is no longer any need – if the need ever existed – to benchmark AT&T's performance against that of other ILECs.

43. First, any discriminatory performance by AT&T would be a violation of the Act's prohibitions against discrimination against CLECs – and could be easily detected by examining the mounds of performance data that AT&T reports. For example, any provisioning of UNEs or interconnection that gave AT&T meaningfully better treatment than that afforded to wholesale customers would be readily detectable in the data that AT&T provides pursuant to state-approved performance plans.

44. Similarly, if AT&T did not provide the same performance to nonaffiliated long-distance carriers as it does to its own long-distance affiliate, such conduct almost certainly would be detected, since AT&T's treatment of long-distance competitors is reflected in the data scrutinized by independent auditors as part of the biennial audit required by Section 272 of the Act.

45. Second, because any discriminatory performance by AT&T could be detected from its reported performance data, discrimination would harm AT&T itself. In particular, such performance would cause AT&T to lose business. As described in the Public Interest Statement, AT&T faces substantial wholesale competition from carriers who do not depend on AT&T for so-called "bottleneck" inputs. These carriers have facilities of their own that enable them to serve customers without using the "last mile" of AT&T's network. Much of this competition – including wireless carriers, cable companies, and VoIP carriers – did not even exist in 1999.

46. Because of the existence of these competitive providers, discriminatory performance for AT&T's wholesale customers would only *reduce* AT&T's profits. If AT&T provided a wholesale customer with discriminatory performance, that customer would be able to confirm the lack of parity in AT&T's reported data – and might well switch to an alternative provider. Furthermore, any poor service to the wholesale customer is likely to drive the access customer's *retail* customer to move to an intermodal provider, thus defeating the assumed purpose for engaging in any such tactic. Thus, if AT&T were in fact to discriminate in such situations, AT&T would simply lose the revenues it previously collected from the wholesale customer, without an opportunity to win the retail customer's business, thereby creating a "lose-lose" result.

47. Practicing discrimination (or otherwise providing substandard performance) would likely also require AT&T to pay liquidated damages under the performance plans and service guarantees to which it is subject. If, for example, the data AT&T reported under a state-approved performance plan showed that AT&T failed to meet the parity requirement or benchmark for particular metrics, AT&T would likely be required to pay substantial liquidated damages to customers and/or to regulatory authorities. Those liquidated damages are an

expenditure that no company, regardless of its size, could reasonably incur in an era of intermodal competition.[19]

48. Although opponents assert that such liquidated damages are merely a modest "cost of doing business" for a company of AT&T's size, such an assertion overlooks the realities of AT&T's operations. Because of AT&T's budgetary process, the AT&T departments responsible for the actual provisioning of customer-requested service have ample incentive to meet all applicable performance standards. Under that process, any liquidated damages – regardless of their size – must be paid from the budget that has been approved for the AT&T department that was responsible for such performance. All departments operating on a specified budget thus have every reason to avoid unnecessary expenditures – and the payment of liquidated damages can readily be avoided by satisfying the performance standards.

49. Any discriminatory conduct reflected in the reported data could also subject AT&T to additional consequences. For example, if the data that AT&T maintains on the metrics proposed in the *Non-Accounting Safeguards Order* disclosed discriminatory conduct against competing long-distance providers, those competitors could file complaints with state commissions or with this Commission. If filed with this Commission, any such complaint would

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[19] The Commission recognized this fact in its *SBC/Ameritech Merger Order*, which mandated – as one condition of its approval of the SBC/Ameritech merger – a "Carrier-to-Carrier" Performance Plan that required SBC/Ameritech to publicly report data for 20 different measurement categories for each of the states in their regions, and to either achieve the performance standards set forth in the plan or make "incentive payments." *See SBC/Ameritech Merger Order*, 14 FCC Rcd. 14712, 14867-69, ¶¶ 377-380 (1999). The Commission determined that these requirements would "provide[] heightened incentive for the company not to discriminate in ways that would be detected through the measures. . . . If the results [of the reported data] reveal unequal treatment, the voluntary payment scheme . . . will 'create a direct economic incentive for SBC/Ameritech to cure performance problems quickly.'" *Id.* at 14890, ¶ 432 (quoting comments of NorthPoint).

be resolved expeditiously, since it is our understanding that Section 271(d)(6) gives the Commission only 90 days to decide complaints alleging violations of Section 272. In addition, in response to any discriminatory conduct indicated in the results of the biennial audit report performed under Section 272, state or federal regulators could institute investigations of AT&T's conduct or take other actions.

50. In short, AT&T cannot discriminate – and has no reason to discriminate -- because such discrimination would be apparent from its reported data, and would be contrary to AT&T's own interests. Although merger opponents suggest that AT&T might be willing to provide itself poor service in order to provide competitors with poor service,[20] that simply makes no sense. As a major provider of long-distance service, with an established reputation for providing high-quality services, AT&T naturally wishes to provide quality service to its Section 272 affiliates. The parity requirements of the Act, together with the data that AT&T maintains on the metrics proposed in the *Non-Accounting Safeguards Order*, ensure that long-distance competitors will receive the same high quality of service as AT&T's own affiliates.

51. AT&T's reporting of performance data also eliminates any need to "benchmark" its performance against that of other ILECs. The metrics for which AT&T reports data are sufficient by themselves to identify whether AT&T is providing UNEs, interconnection, and special access in a nondiscriminatory and commercially reasonable manner. Moreover, the performance plans, tariffs, and regulatory orders that set forth performance standards provide self-executing remedies in the event that the ILEC fails to meet those standards.

52. Access Point and other opponents assert that existing performance measurements do not remove the need for benchmarking because they are not "adequate to protect against

[20] TWTC Pet. at 67.

anticompetitive behavior" and are "obsolete" in view of technological developments since their original adoption.[21] As we have described, however, the current performance plans and remedies are more than adequate to deter the Applicants from engaging in discrimination or other anticompetitive conduct.

53. Furthermore, to the extent that opponents believe that the current performance measurements are "obsolete," they have the right to seek new or changed measurements to reflect the new developments that they describe. In most of the states in its regions, AT&T's interconnection agreements require periodic reviews of the performance measurements, at which the CLEC can seek addition, modification, or deletion of measurements from the current plans.[22] These reviews, which are held every six months in AT&T's Midwest region and annually in AT&T's Southwest region, include participation not only by AT&T and the CLECs but also by representatives of the applicable state commission.[23] In AT&T's Southwest region, for example, at least three such reviews have been conducted, resulting in substantial modifications of the measurements, some of which were sought by the CLECs (including the addition of measurements regarding EELs and DSL). To the extent the parties cannot reach agreement on

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[21] Access Point Pet. at 27-28.

[22] In Nevada, such a review is required by statute to be held every three years. In California, a review of the performance measurements was held in 2004 pursuant to the agreement of AT&T and the other parties to the California Performance Measurement Joint Partial Settlement Agreement ("JPSA"). Although the JPSA does not provide for further reviews, any party is free to request such a review at any time.

[23] For example, AT&T's standard interconnection agreement for Texas provides that "A workshop and/or conference shall be organized and held annually for the purpose of evaluating the existing performance measures and determining whether any measures should be deleted, modified or any new measures added. provided, however, no new measures shall be added which measures activities already governed by existing measures. [The] CLEC may actively participate in this annual workshop with SBC Texas, other CLECs, and Commission representatives." Texas ICA, Attachment 17, ¶ 3.0.

changes in the measurements, the ICAs provide for dispute resolution procedures (such as arbitration). In view of the opportunities available to CLECs for alternation of existing performance measurements, "benchmarking" of AT&T's performance against that of other ILECs is unnecessary.

54. We understand that Commission orders in earlier merger cases, such as the 1999 *SBC/Ameritech Merger Order*, indicated that benchmarking was necessary to prevent possible "backsliding" by the RBOCs after they received merger authority or Section 271 authority.[24] Some opponents make that same point here.[25] But even if benchmarking were appropriate for this purpose in 1999, it is clearly unnecessary today. The voluminous performance data that AT&T has maintained and reported since 1999 are more than sufficient to enable regulators to detect any "backsliding" after the proposed merger takes effect – regardless of how any such "backsliding" might be defined.

55. Finally, we understand that the Commission expressed concern in previous merger decisions that AT&T could use parity requirements to hinder competitors (for example, by providing an equally substandard level of service to competitors and to itself). Such a scenario, however, is wholly unrealistic today. First, the emergence of additional facilities-based intramodal and intermodal competition means that AT&T cannot hope to succeed by providing "substandard" service to its own retail customers. Second, AT&T's established history of reported performance data means that any meaningful decline in its service levels would be readily apparent in those data, which in turn would generate immediate complaints from competitors and increased supervision by regulators. Given these changes since 1999, there is

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[24] *See, e.g., SBC/Ameritech Merger Order* ¶ 148.

[25] *See* Access Point Pet. at 27-28.

simply no need for any additional data points from benchmarking to detect any future attempts to discriminate.

IV. AT&T'S PERFORMANCE DATA SHOW THAT IT RENDERS NONDISCRIMINATORY PERFORMANCE.

56. In any event, there is no evidence of discriminatory or otherwise substandard performance by AT&T that would justify the opponents' concerns. To the contrary, the data that AT&T has maintained on its performance – whether pursuant to performance plans, voluntary offerings, regulatory orders, or tariffs – show that it renders nondiscriminatory, high-quality performance in the provision of UNEs, interconnection, and special access. Given AT&T's actual performance, the opponents' predictions that a merged AT&T/BellSouth would attempt to discriminate have no basis in fact. Similarly, AT&T's performance demonstrates that there is no need for benchmarking (or for any other regulatory requirement) in addition to the regulatory and market mechanisms already in place that have caused AT&T to provide high-quality service.

A. AT&T's UNEs and Interconnection Performance

57. AT&T's data regarding its performance with respect to UNEs and interconnection refute any notion that it has engaged in discrimination against its competitors. Indeed, the data show that AT&T's performance in these areas has substantially *improved* since the SBC/Ameritech merger, and that its performance remains strong.

58. AT&T has calculated the percentage of all the performance measurements in its performance plans (excluding those exclusively for resale) as to which (1) a performance standard – whether a benchmark or a parity requirement – has been established, and (2) AT&T in fact met the applicable performance standard in a given month. This analysis encompassed hundreds of metrics and submetrics which test AT&T's performance in the ordering, provisioning, and maintenance and repair of UNEs and interconnection.

59. The results of this analysis are shown in Attachment 8. On a regionwide basis, AT&T's performance in provisioning UNEs and interconnection has improved substantially since the of SBC-Ameritech merger in 1999. For example, in January 2001, AT&T met the applicable performance standards for 83.7 percent of the total performance measurements in its three regions – Midwest (the former Ameritech region), West (the former Pacific Bell region), and Southwest (the former Southwestern Bell region).[26] That percentage increased almost every year thereafter. By March 2006, the percentage was 92.3 percent – almost nine percentage points higher than in January 2001.[27]

60. Within each of AT&T's three regions — AT&T's performance has similarly improved since January 2001, as reflected in the following table:

Region	Percentage of PMs For Which Performance Standard Was Met – January 2001	Percentage of PMs For Which Performance Standard Was Met – March 2006
Midwest	78.3%	90.7%
West	89.3%	92.1%
Southwest	86.9%	96.9%

61. Not surprisingly, these improvements have occurred on a statewide basis as well. As Attachment 8 shows, in virtually every state the percentage of performance measurements for

[26] 2001 was the first full year after the SBC/Ameritech merger for which legacy SBC maintained data for its Midwest region (the former Ameritech region) as well as for its Southwest and West regions.

[27] The data from which the percentages described in this section were computed do not include data for SNET (Southern New England Telephone). SNET has not been subject to performance plans, because such plans were developed in the various states in connection with applications of the Bell Operating Companies for Section 271 authority. SNET, however, is not a BOC, and therefore was not subject to the requirements of Section 271. In fact, SNET was already providing in-region, interLATA service at the time it was acquired by SBC. Consequently, legacy SBC has not "tracked" SNET's performance for metrics like those in performance plans adopted in the other 12 states in AT&T's regions.

which AT&T met the applicable performance standard was higher in March 2006 than in January 2001.[28]

62. As these data indicate, AT&T routinely satisfies or exceeds between 90 and 95 percent of the demanding performance standards that were adopted to ensure nondiscriminatory provisioning of UNEs and interconnection. In some states, such as Texas, AT&T has in the aggregate satisfied more than 97 percent of those measures.[29]

63. AT&T's data also show that there has been no "backsliding" in its performance in providing UNEs and interconnection to wholesale customers since this Commission approved its applications for Section 271 authority. The Commission approved the first such application (for Texas) in June 2000, and the last such application (for Illinois, Indiana, Ohio, and Wisconsin) in October 2003.[30] In approving theses applications, the Commission found that AT&T was

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[28] Beginning with December 2005 data, and pursuant to collaborative agreement with the CLECs, AT&T discontinued reporting of certain metrics in the Midwest region on a disaggregated basis at the "market area" level, and instead has reported the results for that region only at the statewide level. Because performance among market areas can differ, the aggregation of market area data can result in a reduced number of performance measurements for which the performance standard has been met. The reporting of market data only at a statewide level has therefore affected, for the states in the Midwest region, the percentage of metrics for which AT&T has met the applicable standard since last December. Even with this reporting change, however, the percentages in the Midwest states generally have exceeded 90 percent. *See* Attachment 8.

[29] Even as to the very small percentage of performance measurements for which AT&T has not met the applicable performance standard, the fact that a performance standard has not been met for a particular performance measurement does not mean that AT&T is engaging in discrimination or other anticompetitive conduct in the activity which is the subject of that metric. For example, even if it appears from the reported data for a metric that performance for CLECs was "not as good" as that for AT&T, such differences could be the result of a number of factors unrelated to discrimination (for example, adverse weather conditions in the areas of a state where CLECs choose to serve customers, the sophistication of the plant in those areas, and difficulties incurred in repairs or provisioning in those areas).

[30] The Commission approved SBC's other Section 271 applications in January 2001 (for Kansas and Oklahoma), November 2001 (for Arkansas and Missouri), December 2002 (for California), April 2003 (for Nevada), and September 2003 (for Michigan).

providing UNEs and interconnection on a nondiscriminatory basis (which, we understand, is required by the "competitive checklist" of Section 271). As previously stated, in January 2001 AT&T met the applicable performance standards for 83.7 percent of the total performance measurements in its three regions. In October 2003, when its last Section 271 application was approved, that percentage was 93.6 percent – nearly ten percentage points higher. *See* Attachment 8 hereto. Just over two years later, in November 2005, the percentage had increased further – to 94.7 percent. *Id.*[31]

64. The data that AT&T voluntarily maintains on its Local Wholesale Complete offering provide additional confirmation that AT&T's performance with respect to UNEs is nondiscriminatory and strong. As previously discussed, LWC is a commercial replacement for, but functionally equivalent to, the former UNE platform.

65. Attachment 9 hereto is a table that describes the percentage of all metrics in AT&T's Service Assurance Plan for LWC for which AT&T satisfied the applicable performance standard for each metric during a given month for the time period from April 2005 through March 2006. The metrics include the six metrics under the "generic" Service Assistance Plan (OSS Interface Availability, Order Completion Notifier Timeliness, Percent Missed Due Dates, Installation Quality, Trouble Report Rate, and Out of Service Notification Within 48 Hours) and any additional metrics that were negotiated between AT&T and individual LWC customers. All of these metrics have demanding performance standards.

66. The data in Attachment 9 show that AT&T's performance for competitors who purchase LWC has been outstanding. Between April 2005 and March 2006, the percentage of

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[31] Although the monthly percentages have been slightly lower since last November, the decrease does not reflect "backsliding," but is primarily the result of a change in the method of reporting data in the Midwest region effective with the reporting of December 2005 data. *See* n. 28.

performance measurements that satisfied the performance standards for the metrics in the Service Assurance Plan was between 96.7 percent and 98.2 percent in any given month.

B. The Section 272 Audit of AT&T Also Shows That AT&T Does Not Discriminate in the Provision of Special Access.

67. As previously stated, the most recent biennial audit to evaluate AT&T's compliance with the requirements of Section 272 was conducted in 2005 by Ernst & Young. That audit, like the two previous audits conducted of AT&T, confirms that AT&T is in substantial compliance with the nondiscrimination requirements of Section 272(e)(1), including the requirement that it provide parity in the provision of special access.

68. Pursuant to the agreed-upon procedures for Section 272 audits, Ernst & Young's audit included a review of whether AT&T and any affiliate subject to Section 251(c) of the Act "have fulfilled requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which they provide such telephone exchange service and exchange access to themselves or their affiliates," which is the requirement set forth in Section 272(e)(1).[32] In conducting that review, Ernst & Young examined AT&T's practices and procedures relating to special access, the methodology that AT&T used to document time intervals for processing of special access orders, the data that AT&T maintained on such time intervals, and the procedures AT&T has established for making information regarding such time intervals available to nonaffiliated entities.[33]

69. An important part of Ernst & Young's analysis was a review of the monthly data that AT&T maintained for the audit period for the seven performance measurements proposed in the *Non-Accounting Safeguards Order*. As Ernst & Young stated in its report, these data showed

[32] *See 2005 Biennial Audit Report,* Appendix A, at 42-47.

[33] *Id.*

"time intervals for processing of orders (for initial installation requests, subsequent requests for improvement, upgrades or modifications of service or repair and maintenance), provisioning of service, and performance of repair and maintenance services for the section 272 affiliates, BOC and other BOC affiliates (labeled as Other Affiliates) and nonaffiliates for exchange access services and PIC change orders."[34]

70. These data showed that AT&T provided parity to nonaffiliates in the provision of special access. As discussed below, any apparent lack of parity shown in a limited number of submetrics were statistically insignificant, the result of random variations, or the product of factors unrelated to discrimination.

71. The audit report also demonstrated that the data provided by AT&T had been accurately calculated, with only limited exceptions. As previously indicated, using the agreed-upon procedures, the auditors (using three randomly selected months of data) applied AT&T's business rules to its underlying raw data, compared the results to the data reported by AT&T for the seven metrics, and noted any differences. Most of the differences between the recalculated data and the original data that the auditors noted were minor.[35]

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[34] *Id.* at 45.

[35] *See id.* at 46 & Attachment A-4. The differences between the performance data originally calculated by AT&T and those recalculated by the auditors were primarily due to the differences in the documentation procedures among AT&T's regions for pulling the data and to the rounding of calculations during the preparations of the results. *Id.*, Appendix B at 3-5.

Furthermore, as AT&T advised the auditors, the limited number of instances where its data showed that fulfillment of requests for nonaffiliates took longer than for its Section 272 affiliates were due to factors unrelated to discrimination. As Ernst & Young stated in its report on the audit:

> [AT&T's] [m]anagement represented that their internal statistical analyses indicate that the differences noted [in the data] were either not statistically significant or were merely the result of random variations (*i.e.*, isolated occurrences not indicative of a systemic

(Continued)

72. In addition to reviewing AT&T's data, Ernst & Young documented AT&T's ordering practices and procedures for tariffed access services, noting AT&T's representation that these practices and procedures were the same for both affiliates and nonaffiliates. The auditors also "noted no differences" in AT&T's procedures for providing information regarding the availability of facilities used in the provision of special access service to its Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates.[36]

73. Ernst & Young filed its report on the biennial audit with this Commission on December 15, 2005. On January 26, 2006, the Commission issued a notice which invited interested parties to file comments on the audit report by March 27, 2006.[37] Any such comments could have addressed any aspects of the report, including Ernst & Young's audit results that demonstrate the accuracy of the data maintained by AT&T and AT&T's explanation for the few external chronic out-of-parity situations indicated by its reported data. However, *no* party filed

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(Continued from previous page)

> problem), except as discussed below. Management evaluated the section 272(e)(1) performance measurement results for each chronic out-of-parity situation (*i.e.*, the difference is statistically significant by Management's definition) other than merely random variations. This evaluation includes a more extensive root-cause analysis and associated corrective action plan.

Id., Appendix A, at 46. The "exceptions" to which the auditors referred consisted of five isolated "external chronic out-of-parity situations," which AT&T defined as situations where the data showed AT&T's performance for nonaffiliates had been out-of-parity for three consecutive months during a calendar quarter, and such differences were statistically significant by AT&T's definition and could not be regarded as the mere result of random variations. These five situations were due not to discrimination, but to: (1) improper inclusion of projects in AT&T's reported data on FOC timeliness; (2) inclusion of data for customers who purchased under AT&T's volume tariffs (which imposed more stringent performance standards); and (3) severe weather conditions in California. *Id.*

[36] *Id.* at 42-44.

[37] *See Enforcement Bureau Seeks Comments on AT&T, Inc. Section 272 Biennial Audit Report in EB Docket No. 03-199,* Public Notice, DA 06-126, dated January 24, 2006.

comments on the 2005 Biennial Audit Report.[38] Furthermore, to date, no regulatory commission, state or federal, has taken any action to date with respect to the results of the 2005 Biennial Audit Report.[39]

74. The nondiscriminatory performance reflected in the data reviewed in the recent biennial report should not be surprising. Special access services are mature services, with established methods of provisioning. AT&T has designed automated special access provisioning systems that are consistent with industry-established (OBF) standards, and that treat all requests the same, regardless of whether the request comes from an affiliate or a nonaffiliate. In addition, AT&T conducts rigorous training of its personnel to ensure that they adhere to its existing standards and procedures, which make no distinction between affiliate and nonaffiliate customers.

75. AT&T also provides services and assistance to nonaffiliates that are intended to protect them from discrimination. Such services and assistance (which are the same as those provided to AT&T's affiliates) can be accessed via AT&T's Prime Access web site, which is located at https://www.primeaccess.att.com. For example, nonaffiliate customers using this web site have access to detailed training materials, as well as other materials explaining AT&T's policies and procedures. In the event that wholesale customers should experience a perceived

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[38] As part of its commitment to maintain data for the seven metrics proposed in the *Non-Accounting Safeguards Order*, AT&T agreed to provide to any unaffiliated carrier, upon request, a report showing monthly data for each of the seven metrics, disaggregated by "BOC and Affiliates" and "Section 272 Affiliate." AT&T's internal procedures require that AT&T respond to such a request no later than seven days after the request has been received. However, no CLEC has made such a request since AT&T first offered to make data available for these two "buckets" of data.

[39] Similarly, no state or federal regulatory commission took any action with result to the results of the two previous biennial audits of AT&T, other than mere follow-up questions and requests for information.

lack of parity, AT&T provides account team support to such customers as needed to rectify such problems.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on June 15, 2006

William R. Dysart

William R. Dysart

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on June 15, 2006

Ronald A. Watkins

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on June 15, 2006

Brett Kissel

Brett Kissel

ATTACHMENT 1

Attachment 1

Metrics in the "Generic" Service Assurance Plan for AT&T's Local Wholesale Complete Offering

Metric	Definition	Benchmark/Parity Performance Standard
OSS Interface Availability	Time during which AT&T's 13-state electronic OSS interfaces are actually available, as a percentage of scheduled availability	Interface available 95% of scheduled hour for the reporting month
Mechanized Order Completion Notification Timeliness	Percent of mechanized order completion notifications available within 5 business days of work completion	95% of mechanized service order completion notifications sent with 5 business days of work completion.
Percent AT&T-Caused Missed Due Dates	Percentage of orders/circuits completed after the committed due date	For Wholesale Complete POTS, no more than 5% missed due dates
Installation Quality	Percentage of lines/circuits installed where a reported trouble was found in the network within 10 calendar days	For Wholesale Complete POTS, trouble reports within 10 days of installation not to exceed 8% of orders/circuits
Repeat Trouble Report Rate	Percentage of additional reported/cleared network trouble that had a network trouble cleared within the previous 10 days	For Wholesale Complete POTS, no more than 10% repeat trouble reports in the reporting month
Out of Service Within 48 Hours	Average trouble duration interval from trouble receipt to trouble clearance	For Wholesale Complete POTS, 90% out-of-service trouble reports cleared within 48 hours

ATTACHMENT 2

ATTACHMENT 1 - SERVICE ASSURANCE BUSINESS RULES to APPENDIX LWC SERVICE ASSURANCE PLAN

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Metric Number:	Name:
1	**OSS Interface Availability**

Definition:

This measures the time during which SBC-13STATE electronic OSS Interfaces for CLECs are actually available, as a percentage of scheduled availability. Because SBC-13STATE and CLEC service representatives obtain information from the same underlying legacy OSS, if a particular OSS is down, it is equally unavailable to both SBC-13STATE and CLEC employees.

Exclusions:

- Interface outages outside of prime time hours (as published or defined on a state-by-state basis)
- Interface outages reported by a CLEC, but not found to be in SBC-13STATE's systems
- Undetected Interface outages reported by a CLEC that were not reported to SBC-13STATE's designated trouble reporting center
- Scheduled interface outages for major system releases or system maintenance where CLECs were provided with advanced notification of the downtime in compliance with SBC-13STATE's change management process

Business Rules:

The total "number of hours functionality to be available" is the cumulative number of hours (by date and time on a 24 hour clock) over which SBC-13STATE plans to offer and support CLEC access to SBC-13STATE's operational support systems (OSS) functionality during the reporting period. "Hours Functionality is Available" is the actual number of hours, during scheduled available time, that the SBC-13STATE interface is capable of accepting or receiving CLEC transactions or data files. The actual time available is divided by the scheduled time available and then multiplied by 100 to produce the "Percent system availability" measure. SBC-13STATE will not schedule normal maintenance during OSS Hours of availability as posted on the CLEC web site unless otherwise notified via an accessible letter. SBC-13STATE will not schedule normal maintenance during business hours (8:00 a.m. to 5:30 p.m. Monday through Friday). When interfaces experience partial unavailability, an availability factor is applied to the calculation of downtime. This factor is stated as a percentage and represents the impact to the CLEC. Determination of the availability factor is governed by SBC-13STATE's Availability Team on a case by case basis. Disputes related to application of the availability factor may be presented to the Commission. Whenever an interface experiences complete unavailability, the full duration of the unavailability will be counted, to the nearest minute, and no availability factor will be applied. SBC-13STATE shall calculate the availability time rounded to the nearest minute.

Levels of Disaggregation:

- Verigate
- LEX
- EDI ordering
- EDI pre-ordering
- EBTA
- EBTA GUI
- CORBA

Calculation:	**Report Structure/Geography:**
[(Hours functionality is available during the scheduled available hours) ÷ Scheduled system available hours)] * 100	By interface geography. If an interface serves more than one state, the same performance will be reported for all states served by this interface.

Benchmark/Parity Performance Standard:

Interface available 95% of scheduled hour for the reporting month - Diagnostic – No Penalty to be Paid

Metric Number: **Name:**

2	**Mechanized Order Completion Notification Timeliness**

Definition:

The percent of Mechanized Order Completion Notifications available within five business days of work completion.

Exclusions:

- Test and Administrative Orders
- Canceled service orders
- Orders received manually, e.g. fax or e-mail
- SBC-13STATE Affiliate (or separate division) Orders
- Weekends and published holidays

Business Rules:

Days are calculated by subtracting the date the SOC was available to the CLEC via EDI/LEX minus the order completion date. **Business Days is determined based on Local Service Center (LSC) published business hours.** If the CLEC accesses SBC-13STATE systems using a Service Bureau Provider, the measurement of SBC-13STATE's performance does not include Service Bureau Provider processing, availability or response time.

Levels of Disaggregation:

- None

Calculation:	**Report Structure/Geography:**
(# mechanized completions notifications returned to the CLEC within 5 business days of work completion ÷ total mechanized completions notifications sent) * 100	By CLEC

Benchmark/Parity Performance Standard:

95% of mechanized service order completion notifications sent within 5 business days of work completion. Diagnostic – No penalty to be paid

Metric Number:	Name:
3	Percent SBC-13STATE Caused Missed Due Dates

Definition:

This measures the percentage of orders/circuits completed after the committed due date. Includes only orders/circuits with inward activity that have an assigned due date.

Exclusions:

- Canceled service orders
- Test Orders
- Orders that are not N, T, C.
- Administrative Orders
- Orders missed for facility reasons
- Due dates missed solely due to CLEC or customer reasons will be excluded from the numerator.
- Excludes Interconnection Trunks

Business Rules:

The due date is the date negotiated by the customer and the SBC-13STATE representative for service activation. For CLEC orders, this is the due date reflected on the FOC. The Completion Date is the day that SBC-13STATE personnel complete the service order provisioning activity. Wholesale Complete is measured at the order level.

Levels of Disaggregation:

See Benchmarks.

Calculation:	Report Structure/Geography:
(Number of orders/circuits where the order completion date is greater than the FOC due date due to SBC-13STATE reasons) ÷ (Total number of orders/circuits)	By state

Benchmark/Parity Performance Standard:

Wholesale Complete POTS – No more than 5% missed due dates

Metric Number:	Name:
4	**Installation Quality**

Definition:

This measures the percentage of lines/circuits installed where a reported trouble was found in the network within 10 calendar days

Exclusions:

- Exclude pre-existing trouble
- SBC-13STATE Test and Administrative Orders
- Subsequent reports (additional customer calls while the trouble is pending)
- Troubles beyond SBC-13STATE's control (e.g., CPE troubles, troubles closed due to customer action, inside wire troubles, Interexchange Carrier/Competitive Access Provider, Informational, etc.)
- Troubles reported on the Order Completion Date, or trouble reported prior to service order completion in SBC-13STATE Southwest systems (except as noted in the Business Rules section).
- Troubles reported but not found (Found OK, Test OK, Came Clear)
- Troubles reported by SBC-13STATE employees in the course of performing preventative maintenance, where no customer has reported a trouble
- Excludes disposition code "13" reports (excludable reports), with the exception of code 1316, unless the trouble report is taken prior to completion of the service order.(Refer to Appendix 2 for list of Excluded "13" disposition codes). In SBC-13STATE Midwest excludes disposition code "11", "12" and "13" reports.

Business Rules:

Wholesale Complete
Includes reports received the day after SBC-13STATE personnel complete the service order through 10 calendar days after completion. The denominator for this measure is the total count of orders posted within the reporting month. (However, the denominator will at a minimum equal the numerator). The numerator is the number of trouble reports received during the reporting month within 10 days of service order completion. These will be reported the month that they are closed. This will include troubles taken on the day of completion found to be as a result of a Local Wholesale Complete conversion.

Levels of Disaggregation:

See Benchmarks

Calculation:	**Report Structure/Geography:**
Number of trouble reports submitted within 10 days of installation activity with trouble found in the network ÷ orders/circuits installed in the calendar month	By state

Benchmark/Parity Performance Standard:

Wholesale Complete POTS – trouble reports within 10 days of installation not to exceed 8% of orders/circuits installed in the reporting month

Metric Number:	Name:
5	**Repeat Trouble Report Rate**

Definition:

Percentage of additional reported/cleared Network trouble that had a Network trouble cleared within the previous 10 days.

Exclusions:

- Disposition code "13" reports (excludable reports), with the exception of code 1316, unless the report is taken prior to the completion of the service order. In SBC-13STATE Midwest excludes disposition code "11", "12" and "13" reports.
- Reports submitted by SBC-13STATE employees in the course of performing preventative maintenance, where no customer has reported a trouble
- Troubles beyond SBC-13STATE's control(e.g., CPE troubles, troubles closed due to customer action, inside wire troubles, Interexchange Carrier/Competitive Access Provider, Informational, etc.)
- Troubles reported on the Order Completion Date, or, trouble reported prior to service order completion in SBC-13STATE systems
- Subsequent reports (additional customer calls while the trouble is pending)
- Troubles reported but not found (e.g. Found OK, Test OK, Came Clear)
- SBC-13STATE official or administrative orders

Business Rules:

A repeat trouble report is defined as a trouble on the same line/circuit as a previous trouble report that occurred within the last 10 calendar days of the previous trouble. When the second report is received within 10 days, the original report is marked as an Original of a Repeat, and the second report is marked as a Repeat. If a third report is received within 10 days, the second report is marked as an Original of a Repeat as well as being a Repeat, and the third report is marked as a Repeat. In this case there would be two repeat reports. If either the original or the second report within 10 days is a measured report, then the second report counts as a Repeat report.

Levels of Disaggregation:

See Benchmarks

Calculation:	Report Structure/Geography:
Number of qualifying network trouble reports ÷ total network trouble reports found within the reporting month	By state

Benchmark/Parity Performance Standard:

Wholesale Complete POTS – No more than 10% repeat trouble reports in the reporting month

Metric Number:	Name:
6	**Out of Service Within 48 Hours**

Definition:

This measures the average trouble duration interval from trouble receipt to trouble clearance.

Exclusions:

- Affecting service problems
- Subsequent reports (additional customer calls while the trouble is pending)
- Troubles beyond SBC-13STATE's control (e.g., CPE troubles, troubles closed due to customer action, inside wire troubles, Interexchange Carrier/Competitive Access Provider, Informational, etc.)
- Troubles reported by SBC-13STATE employees in the course of performing preventative maintenance, where no customer reported a trouble
- For troubles where the stop clock is used, the time period from when the stop clock is initiated until the time when the clock resumes
- Excludes disposition code "13" reports (excludable reports), with the exception of code 1316, unless the report is taken prior to the completion of the service order. In SBC-13STATE Midwest excludes disposition code "11", "12" and "13" reports.
- No access
- Delayed maintenance

Business Rules:

Trouble duration intervals may be measured on a running clock or limited stop-clock basis. Running clock includes weekends and holidays A stop clock excludes time when SBC-13STATE does not have access to the customer premise. For example, if the customer premises access is not available on a weekend, the clock stops at 5:00 p.m. Friday, and resumes at 8:00 a.m. Monday. This applies to dispatched out tickets only.

The clock starts on the date and time SBC-13STATE receives a trouble report. The clock stops on the date and time that SBC-13STATE personnel clear the repair activity and complete the trouble report.

Levels of Disaggregation:

See Benchmarks

Calculation:	Report Structure/Geography:
Σ[(Date and time trouble report is cleared with the customer) - (date and time trouble report is received)] ÷ total network customer trouble reports in the reporting month	By state

Benchmark/Parity Performance Standard:

Wholesale Complete POTS – 90% OOS trouble reports cleared within 48 hours

ATTACHMENT 3

APPENDIX LWC SERVICE ASSURANCE PLAN

This Appendix LWC Service Assurance Plan sets forth the terms and conditions under which **SBC-13STATE** and CLEC have agreed to levels of service whereby **SBC-13STATE** will pay service level assurance payments (service credits) to CLEC in connection with **SBC-13STATE**'s performance as measured by the performance measures included in Attachment 1 - Service Assurance Business Rules to this Appendix. These service credits shall be the sole and exclusive remedy of CLEC for **SBC-13STATE**'s failure to perform any and all obligations under the Local Wholesale Complete Agreement (LWC) and shall be in lieu of any other damages CLEC might otherwise seek for such breach through any claim or suit brought under any contract or tariff.

1. **SBC-13STATE** agrees to the payment of service credits to CLEC based on the performance measures listed in Attachment 1 - Service Assurance Business Rules. **SBC-13STATE** will collect, analyze, and report performance data for these measures in accordance with **SBC-13STATE**'s Service Assurance Business Rules in Attachment 1.

2. No changes to service level assurance payments (service credits) or any other term or condition of this Appendix shall be made except by the mutual consent of the Parties only and shall not be effective until and memorialized in an amendment to this Agreement.

3. **SBC-13STATE** and CLEC agree to use the statistical tests set forth below to determine whether or not service credits are due.

Percent	Rate	Average
	Parity Measurements	
Sample Size > 30 • Classical Z test for equality of proportions on arsine transformed data • Fisher's exact test if either the expected numerator < 5 for either CLEC or **SBC-13STATE** Sample Size >10 but <30 for either CLEC or **SBC-13STATE** • Fisher's Exact Test Sample Size < 10 for Either CLEC or **SBC-13STATE** • No test	Sample Size > 10 • Classical Z test for equality of proportions on arsine transformed data Sample Size < 10 for either CLEC or **SBC-13STATE** • No test	Sample Size > 10 • Two Sample t-test on log transformed data Sample Size < 10 for either CLEC or **SBC-13STATE** • No test
	Benchmark Measurements	
Sample Size > 10 • Classical Z test for population proportion on arsine transformed data Sample Size < 10 • No test	Sample Size > 10 • Classical Z test for population proportion on arsine transformed data Sample Size < 10 • No test	Sample Size > 10 • One sample t-test on log transformed data Sample Size < 10 • No test

4. **SBC-13STATE** and CLEC concur that, for purposes of this Appendix, performance for the CLEC on a particular measure will be considered in compliance when the measured results in a single month (whether in the form of means, percents, or rates) for the same measurement, at equivalent disaggregation, for both **SBC-13STATE** and CLEC are used to calculate a p-value and the resulting value is no greater than the critical p-value.

5. Overview of Service Assurance Plan

   5.1 **SBC-13STATE** agrees with the following methodology for developing the service credits.

   5.2 **SBC-13STATE** will provide service credits to the CLEC according to the terms set forth in this Appendix.

5.3 **SBC-13STATE** and CLEC agree that for performance that exceeds the statistical significance level, **SBC-13STATE** will be given performance credits equivalent to the over performance for Percentage Missed Installation – Due Dates and Out of Service within 48 Hours. The performance credits will be calculated as outlined in Section 11.0. These performance credits may be applied to reduce the overall service credits and may be accumulated month to month.

6. Procedural Safeguards and Exclusions

6.1 **SBC-13STATE**'s agreement to implement Service Assurance Plan, and specifically its agreement to issue a service credit for any failure to meet the agreed to performance levels hereunder, will not be considered as an admission against interest or an admission of liability in any other proceeding of any kind relating to the same performance. **SBC-13STATE** and CLEC agree that CLEC may not use: (1) the existence of this plan; or (2) **SBC-13STATE**'s issuance of any of service credits as evidence that **SBC-13STATE** has discriminated in the provision of any facilities or services, has violated any state or federal law or regulation or breached any agreement. CLEC agrees that **SBC-13STATE**'s performance with respect to this agreement may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. **SBC-13STATE**'s conduct underlying its performance and the performance data provided under the performance measures, however, are not made inadmissible by these terms. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether **SBC-13STATE** has met or continues to meet the requirements of section 271 of the Act.

6.2 CLEC and **SBC-13STATE** will consult with one another and attempt in good faith to resolve any issues regarding the calculation of performance or service credits pursuant to this Appendix. In the event that CLEC requests such consultation and the issues raised by CLEC have not been resolved within 45 days after CLEC's request for consultation, CLEC may have an independent audit conducted, at CLEC's expense, of **SBC-13STATE**'s performance or credit calculation for the affected measurement(s) under this Service Assurance Plan. In the event the audit reinforces the issue identified during the 45 days of consultation period or if any new issue is identified, **SBC-13STATE** shall reimburse CLEC any expense reasonably incurred by the CLEC for such audit. CLEC may not request more than one audit under this Service Assurance Plan per twelve calendar months under this section.

7. Exclusions Limited

7.1 **SBC-13STATE** shall not be obligated to issue service credits for noncompliance with a performance measurement for any measures not included on the Attachment 1. Further for any such Measures, **SBC-13STATE** shall not be obligated to issue service credits for noncompliance with a performance measurement if, but only to the extent that, such noncompliance was the result of any of the following: a Force Majeure event (including but not limited to acts of nature, acts of civil or military authority, terrorist acts, work stoppages etc.); an act or omission by a CLEC that is contrary to any of its obligations under the LWC Agreement with **SBC-13STATE**, including the dumping of orders or applications in unreasonably large batches, at or near the close of a business day, on a Friday evening or prior to a holiday, or unreasonably failing to timely provide forecasts to **SBC-13STATE** for services or facilities when such forecasts are required to reasonably provide such services or facilities or the action are contrary to the Act or State law; or non-**SBC-13STATE** problems associated with third-party actions or systems or equipment, which could not have been avoided by **SBC-13STATE** in the exercise of reasonable diligence (delaying event). If a delaying event excuses the issuance of any credits under this Service Assurance Plan, **SBC-13STATE** shall provide advance Notice of the impact that such delaying event has on credits. Any dispute regarding whether a **SBC-13STATE** performance failure is excused under this paragraph will be resolved between the Parties through the dispute resolution provisions of the LWC Agreement. If a delaying event only suspends **SBC-13STATE**'s ability to timely perform an activity subject to performance measurement, the applicable time frame in which **SBC-13STATE**'s compliance with the parity or benchmark criterion is measured will be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the excusing event.

7.2 The force majeure provisions of the general terms and conditions of the LWC Agreement are incorporated herein by reference.

7.3 The service credit payments to individual CLECs shall be capped such that **SBC-13STATE**'s credits to CLEC in a given month shall not exceed 50% of CLEC's billed revenues for the Local Wholesale Complete product for that same month.

8. Service Credits

8.1 The number of measures that may be classified as "non-compliant" before a service credit is applicable is limited to the F values shown below. The applicable p-value is determined based upon the total number of measures with a sample size of 10 or greater that are required to be reported to a CLEC where a sufficient number of observations exist in the month to permit parity conclusions regarding a compliant or non-compliant condition. For any performance measurement, each disaggregated category for which there is a minimum of 10 data points constitutes one "measure" for purposes of calculating the p-value.

8.2 Service credits in the amount specified in the table below apply to all "non-compliant" measures in excess of the applicable "F" number of exempt measures. Service Credits apply on a per occurrence basis with a CAP, using the amount per occurrence taken from the table below. The amount of service credits in a single month shall not exceed the amount listed in the table below for the "Per measurement" category. Service credits apply only to the following measurements: Percent Missed Installation Due Dates, Installation Quality, Repeat Trouble Report Rate and Out of Service Within 48 Hours. OSS Interface Availability and Mechanized Order Completion Notifier Timeliness are provided for diagnostic purposes only, with no service credits applicable. The methodology for determining the order of exclusion, and the number of occurrences is addressed in Section 10.0 "Methods of calculating the service credits".

SERVICE CREDITS TABLE

Per Occurrence					
Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
$50	$75	$100	$125	$150	$200

Per Measure Cap					
Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
$10,000	$20,000	$30,000	$40,000	$50,000	$60,000

8.3 The following table will be used to determine the critical probabilities that define the Performance Criterion as well as the number of non-compliant measures that may be excused in a given month. The table is read as follows: (1) determine the number of measures to which service credits are applicable and which have sample sizes greater than or equal to 10 cases. Let this number be M. (2) Find the value of M in the columns of the table with the heading "M". (3) To the immediate right of the value of M, find the value in the column labeled "F". This is the maximum number of measures that may be failed when there are M measures being evaluated. (4) To the immediate right of F in the column labeled "P" is the critical probability for determining compliance in each statistical test performed on the M measures Statistical tests that yield probabilities less than this value indicate failures for the sub-measure. For tests without an explicit p-value formula the probability of a particular value of the test statistic is to be found in appropriate tables, e.g. Student's T distribution or Standard Normal Z distribution tables.

M	F	P	M	F	P	M	F	P	M	F	P	M	F	P	M	F	P
1	0	0.010	71	8	0.051	141	14	0.054	211	19	0.054	281	23	0.051	351	28	0.052
2	1	0.100	72	8	0.050	142	14	0.054	212	19	0.053	282	23	0.051	352	28	0.052
3	1	0.059	73	9	0.059	143	14	0.054	213	19	0.053	283	23	0.051	353	28	0.052
4	2	0.141	74	9	0.058	144	14	0.053	214	19	0.053	284	23	0.050	354	28	0.051
5	2	0.106	75	9	0.057	145	14	0.053	215	19	0.053	285	23	0.050	355	28	0.051
6	2	0.085	76	9	0.056	146	14	0.052	216	19	0.052	286	23	0.050	356	28	0.051
7	2	0.071	77	9	0.055	147	14	0.052	217	19	0.052	287	24	0.053	357	28	0.051
8	2	0.061	78	9	0.055	148	14	0.052	218	19	0.052	288	24	0.052	358	28	0.051
9	2	0.053	79	9	0.054	149	14	0.051	219	19	0.052	289	24	0.052	359	28	0.051
10	3	0.093	80	9	0.053	150	14	0.051	220	19	0.051	290	24	0.052	360	28	0.051
11	3	0.084	81	9	0.053	151	14	0.051	221	19	0.051	291	24	0.052	361	28	0.050
12	3	0.076	82	9	0.052	152	14	0.050	222	19	0.051	292	24	0.052	362	28	0.050
13	3	0.069	83	9	0.051	153	15	0.055	223	19	0.051	293	24	0.052	363	28	0.050
14	3	0.064	84	9	0.051	154	15	0.054	224	19	0.050	294	24	0.051	364	28	0.050
15	3	0.059	85	9	0.050	155	15	0.054	225	19	0.050	295	24	0.051	365	29	0.052
16	3	0.055	86	10	0.057	156	15	0.054	226	20	0.053	296	24	0.051	366	29	0.052
17	3	0.052	87	10	0.057	157	15	0.053	227	20	0.053	297	24	0.051	367	29	0.052
18	4	0.077	88	10	0.056	158	15	0.053	228	20	0.053	298	24	0.051	368	29	0.052
19	4	0.073	89	10	0.055	159	15	0.053	229	20	0.053	299	24	0.050	369	29	0.052
20	4	0.069	90	10	0.055	160	15	0.052	230	20	0.052	300	24	0.050	370	29	0.051
21	4	0.065	91	10	0.054	161	15	0.052	231	20	0.052	301	24	0.050	371	29	0.051
22	4	0.062	92	10	0.053	162	15	0.052	232	20	0.052	302	25	0.053	372	29	0.051
23	4	0.059	93	10	0.053	163	15	0.051	233	20	0.052	303	25	0.052	373	29	0.051
24	4	0.057	94	10	0.052	164	15	0.051	234	20	0.051	304	25	0.052	374	29	0.051
25	4	0.054	95	10	0.052	165	15	0.051	235	20	0.051	305	25	0.052	375	29	0.051
26	4	0.052	96	10	0.051	166	15	0.050	236	20	0.051	306	25	0.052	376	29	0.051
27	5	0.070	97	10	0.051	167	15	0.050	237	20	0.051	307	25	0.052	377	29	0.050
28	5	0.068	98	10	0.050	168	16	0.054	238	20	0.051	308	25	0.052	378	29	0.050
29	5	0.065	99	11	0.056	169	16	0.054	239	20	0.050	309	25	0.051	379	29	0.050
30	5	0.063	100	11	0.056	170	16	0.053	240	20	0.050	310	25	0.051	380	29	0.050
31	5	0.061	101	11	0.055	171	16	0.053	241	21	0.053	311	25	0.051	381	30	0.052
32	5	0.059	102	11	0.055	172	16	0.053	242	21	0.053	312	25	0.051	382	30	0.052
33	5	0.057	103	11	0.054	173	16	0.053	243	21	0.053	313	25	0.051	383	30	0.052
34	5	0.055	104	11	0.054	174	16	0.052	244	21	0.052	314	25	0.051	384	30	0.052
35	5	0.054	105	11	0.053	175	16	0.052	245	21	0.052	315	25	0.050	385	30	0.051
36	5	0.052	106	11	0.053	176	16	0.052	246	21	0.052	316	25	0.050	386	30	0.051
37	5	0.051	107	11	0.052	177	16	0.051	247	21	0.052	317	25	0.050	387	30	0.051
38	6	0.065	108	11	0.052	178	16	0.051	248	21	0.052	318	26	0.052	388	30	0.051
39	6	0.063	109	11	0.051	179	16	0.051	249	21	0.051	319	26	0.052	389	30	0.051
40	6	0.061	110	11	0.051	180	16	0.050	250	21	0.051	320	26	0.052	390	30	0.051
41	6	0.060	111	11	0.050	181	16	0.050	251	21	0.051	321	26	0.052	391	30	0.051
42	6	0.058	112	12	0.056	182	17	0.054	252	21	0.051	322	26	0.052	392	30	0.051
43	6	0.057	113	12	0.055	183	17	0.054	253	21	0.051	323	26	0.052	393	30	0.050
44	6	0.055	114	12	0.055	184	17	0.053	254	21	0.050	324	26	0.051	394	30	0.050
45	6	0.054	115	12	0.054	185	17	0.053	255	21	0.050	325	26	0.051	395	30	0.050
46	6	0.053	116	12	0.054	186	17	0.053	256	22	0.053	326	26	0.051	396	31	0.052
47	6	0.052	117	12	0.054	187	17	0.052	257	22	0.053	327	26	0.051	397	31	0.052
48	6	0.051	118	12	0.053	188	17	0.052	258	22	0.053	328	26	0.051	398	31	0.052
49	7	0.062	119	12	0.053	189	17	0.052	259	22	0.052	329	26	0.051	399	31	0.052

50	7	0.061	**120**	12	0.052	**190**	17	0.052	**260**	22	0.052	**330**	26	0.050	**400**	31	0.052
51	7	0.059	**121**	12	0.052	**191**	17	0.051	**261**	22	0.052	**331**	26	0.050	**401**	31	0.051
52	7	0.058	**122**	12	0.051	**192**	17	0.051	**262**	22	0.052	**332**	26	0.050	**402**	31	0.051
53	7	0.057	**123**	12	0.051	**193**	17	0.051	**263**	22	0.052	**333**	27	0.052	**403**	31	0.051
54	7	0.056	**124**	12	0.050	**194**	17	0.051	**264**	22	0.051	**334**	27	0.052	**404**	31	0.051
55	7	0.055	**125**	13	0.056	**195**	17	0.050	**265**	22	0.051	**335**	27	0.052	**405**	31	0.051
56	7	0.054	**126**	13	0.055	**196**	17	0.050	**266**	22	0.051	**336**	27	0.052	**406**	31	0.051
57	7	0.053	**127**	13	0.055	**197**	18	0.054	**267**	22	0.051	**337**	27	0.052	**407**	31	0.051
58	7	0.052	**128**	13	0.054	**198**	18	0.053	**268**	22	0.051	**338**	27	0.052	**408**	31	0.050
59	7	0.051	**129**	13	0.054	**199**	18	0.053	**269**	22	0.050	**339**	27	0.051	**409**	31	0.050
60	7	0.050	**130**	13	0.053	**200**	18	0.053	**270**	22	0.050	**340**	27	0.051	**410**	31	0.050
61	8	0.060	**131**	13	0.053	**201**	18	0.052	**271**	23	0.053	**341**	27	0.051	**411**	31	0.050
62	8	0.059	**132**	13	0.053	**202**	18	0.052	**272**	23	0.053	**342**	27	0.051	**412**	32	0.052
63	8	0.058	**133**	13	0.052	**203**	18	0.052	**273**	23	0.052	**343**	27	0.051	**413**	32	0.052
64	8	0.057	**134**	13	0.052	**204**	18	0.052	**274**	23	0.052	**344**	27	0.051	**414**	32	0.052
65	8	0.056	**135**	13	0.051	**205**	18	0.051	**275**	23	0.052	**345**	27	0.051	**415**	32	0.052
66	8	0.055	**136**	13	0.051	**206**	18	0.051	**276**	23	0.052	**346**	27	0.050	**416**	32	0.051
67	8	0.054	**137**	13	0.051	**207**	18	0.051	**277**	23	0.052	**347**	27	0.050	**417**	32	0.051
68	8	0.053	**138**	13	0.050	**208**	18	0.051	**278**	23	0.052	**348**	27	0.050	**418**	32	0.051
69	8	0.053	**139**	14	0.055	**209**	18	0.050	**279**	23	0.051	**349**	28	0.052	**419**	32	0.051
70	8	0.052	**140**	14	0.055	**210**	18	0.050	**280**	23	0.051	**350**	28	0.052	**420**	32	0.051

9. General

9.1 **SBC-13STATE** will make Service Assurance Reports available on a monthly basis. When **SBC-13STATE** performance creates an obligation to provide service credits to CLEC under the terms set forth herein, **SBC-13STATE** shall issue such credits in the required amount on or before the 30th day following the due date of the service assurance report for the month in which the obligation arose (e.g., if **SBC-13STATE** performance through March is such that **SBC-13STATE** owes service credits to CLEC for March performance, then those credits will be due May 31, 30 days after the April 30 due date for reporting March data).

10. Methods of Calculating the Service Credit

The following methods apply in calculating per occurrence for service credit:

10.1 Application of F Value Exclusions

Determine the number of measures with a sample size greater than 10 that are "non-compliant" for the individual CLEC for the month, applying the parity test and benchmark provisions provided for above. Sort all measures having non-compliant classification with a sample size greater than 10 in ascending order based on the number of data points or transactions used to develop the performance measurement result (e.g., service orders, collocation requests, installations, trouble reports). In applying the exclusions in the F-Table, the following qualifications apply to the general rule for excluding measures by progression from measures with lower transaction volumes to higher. A measure for which service credits are calculated on a per measure basis will not be excluded in applying the F Value unless the amount of service credits due for that measure is less than the amount of service credits due for each remaining measure.

10.1.1 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical p-value. Use the same denominator as the one used in calculating the test statistic for the measure.

Step 2: Calculate the percentage difference the between the actual average and the calculated average. The calculation is as follows:

%diff = (CLEC-result – Calculated -Value)/Calculated Value.

Assuming high values indicate poor performance. The percent difference will be capped at a maximum of 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Service Credits Table to determine the applicable service credit amount for the given month for that measure.

10.1.2 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical p-value. Use the same denominator as the one used in calculating the test statistic for the measure.

Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage.

Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Service Credits Table to determine the applicable service credits for the given month for that measure.

10.1.3 Measures for Which the Reporting Dimensions are Ratios or Proportions

Step 1: Calculate the rate for the measure for the CLEC that would yield the Critical p-value. Use the same denominator as the one used in calculating the test statistic for the measure.

Step 2: Calculate the absolute difference between the actual rate for the CLEC and the calculated rate.

Step 3: Multiply the total number of data points by the difference calculated in the previous step and the per occurrence dollar amount taken from the Service Credits Table to determine the applicable service credits for the given month for that measure.

11. Methods of Calculating Performance Credits

11.1 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical p-value. Use the same denominator as the one used in calculating the test statistic for the measure.

Step 2: Calculate the percentage difference the between the actual average and the calculated average. The calculation is as follows:

%diff = (Calculated Value - CLEC result)/Calculated Value.

Assuming low values indicate good performance. The percent difference will be capped at a maximum of 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Service Credits Table to determine the applicable performance credits for the given month for that measure.

11.2 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical p-value. Use the same denominator as the one used in calculating the test statistic for the measure.

Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage.

Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Service Credits Table to determine the applicable performance credits for the given month for that measure.

12. Attached hereto, and incorporated herein by reference, is/are the following Attachment(s):

    Attachment 1 - Service Assurance Business Rules

ATTACHMENT 4

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.5 Missed Installation on Confirmed Due Date

(A) General

The Telephone Company assures that when a customer orders certain Access Services, as specified in (B) following, service will be installed and available for customer use no later than the Confirmed Due Date provided by the Telephone (N)
Company. (N)

Failure to meet a Confirmed Due Date for installation of certain services will result in a credit shown in the (C)
Missed Installation Credit Schedule found in 2.5.5 (B) (C)
following when the responsibility for the failure is solely (C)
the Telephone Company's. This credit will apply to services up to the Network Interface.

(B) Services Subject To The Credit

The services listed in the Missed Installation Credit (C)
Schedule found below will be credited for a missed (C)
installation on a Confirmed Due Date as shown: (C)

Missed Installation Credit Schedule (C)

Services	Credit Amount
Voice Grade Services	$200.00
MegaLink Data Services	$250.00
High Capacity DS1 Special Access Services	$350.00
MegaLink Custom DS3 Services	$600.00
ReliaNet Services (DS1)	$250.00
ReliaNet Services (DS3)	$500.00

(C)

(C) When a Credit Allowance Does Not Apply

No credits for a missed installation on a Confirmed Due (C)
Date will be made when:

1. The customer's premises is inaccessible.
2. The customer changes interface requirements.
3. The customer is not ready to accept service.
4. Building facilities are not ready (includes space, cable support structures, building risers and entrance facilities to be provided by builder or owner or owner's subcontracted vendors).

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.5 Missed Installation on Confirmed Due Date (Cont'd)

(C) When a Credit Allowance Does Not Apply (Cont'd)

5. Customer Desired Due Date is less than the Telephone Company's published installation objective.

6. When the Telephone Company is not the Access Service Coordination Exchange Carrier (ASC-EC), as set forth in 2.6 (Jointly Provided Access Services) preceding, and the Confirmed Due Date is not met by the exchange company acting as the ASC-EC for its portion of the service. (See diagram below.)

	SWBT ASC-EC	ANOTHER LEC ASC-EC
SWBT MISSES DATE	Credit applies	Credit applies
ANOTHER LEC MISSES DATE	Credit applies	Credit does not apply

7. The delay is caused by work stoppages, civil disturbances, criminal actions; or by fire, flooding or other occurrence attributed to an Act of God or any (N) other circumstance beyond the Telephone Company's (N) reasonable control. (N)

8. When the customer provides the incorrect address.

9. Special Access nonrecurring installation charges (as (N) specified in 7.3.4, 7.3.9, 7.3.10, 20.5 and 31.3.3), associated with Voice Grade Service, MegaLink Data Service, High Capacity DS1 Special Access Service, MegaLink Custom DS3 Service, and ReliaNet Services that are waived or zero rated (N)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions

(A) General

Service (with the exception of STN and ReliaNet) is considered to be interrupted when it becomes unusable to the customer because of a failure of a facility component used to furnish service under this tariff or the protective controls applied by the Telephone Company, specified in 6.7.10 (Network Management), result in the complete loss of service by the customer. An interruption period starts when an inoperative service is reported to the Telephone Company and ends when the service is operative.

The credit allowance for an interruption or for a series of interruptions shall not exceed:

1. The applicable monthly rate,

2. The assumed minutes of use charge, or

3. The billed amount for that particular rate element in those cases where the tariff rate exceeds the actual billed amount (e.g., Shared Used Special Access services).

(D)
(D)

For STN and ReliaNet, the service is considered to be interrupted when it does not meet the following maintenance specifications as set forth in Technical Publications 76635 and 76839, respectively:

- Errored Seconds
- Severely Errored Seconds
- Consecutive Severely Errored Seconds
- Availability

For STN and ReliaNet, an interruption period starts when an interruption of service is reported to the Telephone Company and the service is released to the Telephone Company for repair and ends when the service is operative.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies

In addition, Credit Allowance for Service Interruptions also apply when service is interrupted due to labor difficulties, governmental orders, civil commotions, criminal actions taken against the Telephone Company, acts of God and other circumstances beyond the Telephone Company's reasonable control. No credit shall be allowed for an interruption period of less than 30 minutes. The customer shall be credited for an interruption of 30 minutes or more at the rate of 1/1440 of the monthly charges for the facility or service for each period of 30 minutes or fraction thereof that the interruption continues after the initial 30 minute interruption. However, the Service Assurance Warranty Schedule (SAWS) as specified in 2.5.7 will not apply. (T) (T)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd) (T)

(B) When a Credit Allowance Applies (Cont'd)

In case of an interruption to any service that is not due to the negligence of the customer, allowance for the period of interruption shall be as follows: (T)

(1) Common Channel Signaling/Signaling System 7 (CCS/SS7) Interconnection Service, Wideband Analog Service and Wideband Data Service

No credit shall be allowed for an interruption period (T) of less than 30 minutes. The customer shall be credited for an interruption of 30 minutes or more at (T) the rate of 1/1440 of the monthly charges for the facility or service for each period of 30 minutes or fraction thereof that the interruption continues after the initial 30 minute interruption.

For CCS/SS7 Interconnection Service, the monthly charge shall be the total of all monthly rate element charges associated with the service (i.e., STP Access Mileage, STP Access Connection and STP Port Termination).

For Wideband Analog Service and Wideband Data Service, the monthly charges used to determine the credit shall be as follows:

(a) For two-point services, the monthly charge shall be the total of all the monthly rate element charges associated with the service (i.e., two channel terminations, channel mileage and optional features and functions).

(b) For multipoint services, the monthly charge shall (M) be only the total of all the monthly rate element charges associated with that portion of the service that is inoperative (i.e., a channel termination per customer premises, channel mileage and optional features and functions). (M)

Certain material appearing on this page formerly appeared on 7th Revised Page 2-74.1.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(2) Special Access Services

A credit allowance for service interruptions applies to the following Special Access Services: Metallic Service, Telegraph Grade Service, Voice Grade Service, Program Audio Service, Video Service, MegaLink Data Service, High Capacity Service, DovLink Service, Message Station Equipment Recovery Charge, Administration and Maintenance of Priority Restoration, Network Reconfiguration Service, Transport Resource Management (TRM) Service, Self-Healing Transport Network (STN) Service, MegaLink Custom Service and ReliaNet Service. A credit allowance will also apply to Diversity Service.

No credit shall be allowed for an interruption period of less than 30 minutes. For each period of 30 minutes, or fraction thereof, that the interruption continues after the initial 30 minute outage, the customer will be credited at the rate of 1/1440 of the monthly charges until the outage reaches the Service Assurance Warranty (SAWS) threshold. When the total service interruptions on the same service exceeds the SAWS threshold within a 12 hour time period, the customer shall receive an additional credit per the SAWS schedule of credits as specified in Section 2.5.7.

The total credit allowance available to the customer regardless of the number or type of service interruptions within a 30 day period will not exceed 100% of the combined monthly rates per affected service. (C)

For two-point services, the monthly charge shall be the total of all the monthly rate element charges associated with the service (i.e., two channel terminations, channel mileage and optional features and functions).

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd) (T)

(B) When a Credit Allowance Applies (Cont'd)

(2) Special Access Services (Cont'd)

For multipoint services, the monthly charge shall be only the total of all the monthly rate element charges associated with that portion of the service that is inoperative (i.e., a channel termination per customer premises, channel mileage and optional features and functions).

For multiplexed services, the monthly charge shall be the total of all the monthly rate element charges associated with that portion of the service that is inoperative.

When the facility which is multiplexed or the multiplexer itself is inoperative, the monthly charge shall be the total of all the monthly rate element charges associated with the service (i.e., the channel termination, channel mileage and optional features and functions, including the multiplexer on the facility to the Hub and the channel terminations, channel mileages and optional features and functions on the individual services from the Hub).

When the service which rides a channel of the multiplexed facility is inoperative, the monthly charge shall be the total of all the monthly rate element charges associated with that portion of the service from the Hub to a customer premises (i.e., channel termination, channel mileage and optional features and functions). (M)

Certain material appearing on this page formerly appeared on 8th Revised Page 2-76.

Certain material previously appearing on this page now appears on 8th Revised Page 2-74.1.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (T)

A credit allowance for service interruptions will be applied to Switched Access Service, Directory Assistance Service and DirectLine-Custom Service depending upon whether or not the interruption is associated with a service that is usage rated or monthly recurring rated as set forth in (a) and (b) following:

(a) Credit Allowance for Usage Rated Services

If the service experiencing an interruption is billed assumed minutes of use, credit shall be allowed for an interruption of greater than 24 hours. Such credit will be at the rate of 1/30th of the assumed minutes of use charge for each period of 24 hours or fraction thereof that the interruption continues.

If the service experiencing an interruption is billed on a measured, usage sensitive basis, a credit allowance does not apply.

If the service experiencing an interruption includes optional features or BSEs being billed monthly recurring rates, credit for an interruption of greater than 24 hours for the associated features or BSEs will be at the rate of 1/30th of the applicable monthly rate for each period of 24 hours or fraction thereof that the interruption occurs.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services

(1) For the following Switched Access, Directory Assistance and Telecommunications Relay Interconnection Services with monthly recurring rates as defined in 6.8.3 (Monthly Recurring and Usage Rates), 9.4.3 (Monthly Recurring and Usage Rates) and 26.5.3 (Monthly Rates):

- Switched Transport
- Directory Transport
- Switched Access DNAL BSA
- Telecommunications Relay Interconnection Service (TRIS)

the charges for which a credit will apply due to service interruptions will be the total of all monthly rate elements associated with the transport facility or BSA (i.e., per channel, per point of DNAL termination, DNAL mileage, per DS1 or DS3, fixed per month and per mile per month, per point of TRIS termination and TRIS Mileage) including any monthly rated features and BSEs associated with either the transport facility or the DNAL BSA.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services (Cont'd)

(1) (Cont'd)

No credit allowance shall be allowed for an interruption period of less than 30 minutes. The customer shall be credited for an interruption of 30 minutes or more up to, and including, 2 hours at the rate of 1/1440 of the monthly charges for the facility for each period of 30 minutes or fraction thereof that the interruption continues after the initial 30 minute outage. When the total service interruptions on the same service exceeds 2 hours within a 12 hour time period, the customer shall receive an additional credit per the Service Assurance Warranty Schedule (SAWS) specified in 2.5.7.

In any month, as a result of the interruption, the total credit per rate element of the interrupted service may not exceed 100 percent of the monthly charge for that particular rate element.

(a) When Switched Transport is provided in a multiplexing arrangement and the multiplexer becomes inoperative, the monthly charge being credited will be the total of all monthly charges associated with the facilities being interconnected by the multiplexer. Such credit will include all monthly rated features or BSEs associated with the interconnected facilities.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services (Cont'd)

(1) (Cont'd)

(b) When a Switched Transport facility being provided in a multiplexing arrangement becomes inoperative, the monthly charge being credited will be the total of all monthly charges associated with the inoperative transport facility as well as that portion of all interconnected transport facilities which also becomes inoperative. Such credit will include all monthly rated features or BSEs associated with the inoperative facility or that portion of the interconnected facilities which also becomes inoperative.

(c) When the service riding the channel of the multiplexed facility is inoperative, the monthly charge to be credited for the multiplexed facility shall be the total of all monthly rate element charges associated with the inoperative portion of the facility. The credit will include all monthly rated features or BSEs associated with the inoperative transport facility.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services (Cont'd)

(2) When a service outage occurs on a Direct-Trunked Transport facility and traffic is alternately routed to a Tandem-Switched Transport facility to avoid the service outage, the Telephone Company may allow additional out-of-service credits as follows:

For Switched Access Service and DA Access Service, the Telephone Company will first determine the length of time for which the customer is entitled to an adjustment on the Direct-Trunked Transport facility as set forth in (1) preceding. Because actual alternate tandem traffic cannot be captured during the service outage period, surrogate tandem usage factors have been developed based on an assumed 9,000 minutes of use per channel per month and a DA holding time of .633962 minutes.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services (Cont'd)

(2) (Cont'd)

Based on a 30 day month and a 24 hour day, each half hour increment of service outage will result in an assumed alternate tandem usage level of 6.25 minutes of use per channel for Switched Access and 9.86 calls per channel for DA Access Service (i.e., 150 minutes or 237 calls per DS1 and 4,200 or 6,626 calls per DS3). This surrogate alternate traffic usage will be rated based on the airline distance between the customer's serving wire center and the end office where the Direct-Trunked Transport facility that experienced the service outage terminated. The appropriate Tandem Switched Transport subelements (i.e., Tandem Switched Transmission and Tandem Switching or Tandem-Switched Directory Transmission and Directory Tandem Switching) will be used to determine the total Alternate Traffic Credit.

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2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(3) Switched Access Service, Directory Assistance Service, DirectLine-Custom Service and Telecommunications Relay Interconnection Service (TRIS) (Cont'd) (T)

(b) Credit Allowance for Monthly Recurring Rated Services (Cont'd)

(2) (Cont'd)

If the Direct-Trunked Transport facility that experienced the service outage provided transport only for Switched Access Service, an Alternate Traffic Credit will only be calculated for Switched Access. If the facility provided transport only for DA Access Service, an Alternate Traffic Credit will only be calculated for DA Access Service. If the facility provided transport for both Switched Access Service and DA Access Service, the total Alternate Traffic Credit will be the sum for the credits calculated for both Switched Access and DA Access Service.

If the amount of the Alternate Traffic Credit is greater than the amount of credit that would have been allowed as set forth in (1) preceding, the Telephone Company will credit the customer the Alternate Traffic Credit instead of the lesser credit for the inoperative facility. If the Alternate Traffic Credit is less than or equal to the amount that would otherwise be credited to the customer (as set forth in (1) preceding), the Alternate Traffic Credit will not be allowed.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(4) Expanded Interconnection (T)

(a) Virtual Collocation

An interruption period begins when an inoperative condition of a virtual collocation arrangement is reported to the Telephone Company's designated contact point and ends when the virtual collocation arrangement is operative. No allowance for an interruption period will be provided for virtual collocation where the interruption is due to the actions or negligence of the interconnector or to an inoperative condition on a Telephone Company-provided Switched Access or Special Access Service.

When a credit allowance does apply, such credit will be determined based on the rates applicable to the specific item(s) causing the interruption; however, the credit allowance for an interruption or for a series of interruptions shall not exceed the applicable monthly rate for the item(s) involved.

For calculating credit allowances, every month is considered to have 30 days. No credit shall be allowed for an interrupted period of less than 30 minutes. The interconnector shall be credited for an interruption of 30 minutes or more at the rate of 1/1440 of the monthly rate.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(B) When a Credit Allowance Applies (Cont'd)

(4) Expanded Interconnection (Cont'd) (T)

(a) Virtual Collocation (Cont'd)

When a third party vendor maintains and repairs an interconnector's designated basic termination equipment, credit allowance will not apply to any interruption of the items maintained and repaired by the third party vendor.

(b)

(5) Diversity Service (T)

A credit allowance for service interruptions applies to the Diversity Service as follows.

No credit shall be allowed for an interruption period of less than 30 minutes. The customer shall be credited for an interruption of 30 minutes or more up to, and including, 2 hours at the rate of 1/1440 of the monthly Diversity charges on a facility or service for each period of 30 minutes or fraction thereof that the interruption continues after the initial 30 minute outage. When the total service interruptions on the same Diversity service exceed 2 hours within a 12 hour time period, the customer shall be credited per the Service Assurance Warranty Schedule (SAWS) specified in 2.5.7.

In any month, as a result of the interruption, the total credit per rate element of the interrupted service may not exceed 100 percent of the monthly charge for that particular rate element.

The credits applying herein, are for the Diversity Service portion of the customer's total monthly charges only. The credits available to the customer for the basic service, on which the Diversity is used, are as stated in other sub-sections of this credit allowance section.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd) (T)

(C) When a Credit Allowance Does Not Apply (M)

Credit allowances will not be made for the following:

(1) Interruptions caused by the negligence of the customer.

(2) Interruptions of a service due to the failure of equipment or systems provided by the customer or others.

(3) Interruptions of a service during any period in which the Telephone Company is not afforded access to the premises where the service is terminated.

(4) When the Telephone Company and the customer negotiate the release of the service for (1) maintenance purposes, (2) to make rearrangements or (3) to implement an order for a change in the service, a credit allowance does not apply during the negotiated time of release. Thereafter, a credit allowance as set forth in (A) and (B) preceding does apply.

(5) Interruptions of a service which continue because of the failure of the customer to authorize replacement of any element of special construction, as set forth in Southwestern Bell Telephone Company Tariff F.C.C. No. 69. The period for which no credit allowance is made begins on the seventh day after the customer receives the Telephone Company's written notification of the need for such replacement and ends on the day after receipt of the written authorization for such replacement.

(6) Periods when the customer elects not to release the service for testing and/or repair and continues to use it on an impaired basis. (M)

Material and revised material appearing on this page formerly appeared on 2nd Revised Page 2-80.

Material and revised material previously appearing on this page now appears on 1st Revised Page 2-76.18.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.6 Credit Allowance for Service Interruptions (Cont'd)

(C) When a Credit Allowance Does Not Apply (Cont'd)

(7) Interruption of service caused by a customer's failure to provide notification to the Telephone Company of media stimulated mass calling events as specified in 6.5.11 (Media Stimulated Mass Calling Events).

(8) An interruption or a group of interruptions, resulting from a common cause, for amounts less than one dollar.

(9) Credit Allowance for Service Interruptions also apply when service is interrupted due to labor difficulties, governmental orders, civil commotions, criminal actions taken against the Telephone Company, acts of God and other circumstances beyond the Telephone Company's reasonable control. No credit shall be allowed for an interruption period of less than 30 minutes. The customer shall be credited for an interruption of 30 minutes or more at the rate of 1/1440 of the monthly charges for the facility or service for each period of 30 minutes or fraction thereof that the interruption continues after the initial 30 minute interruption. However, the Service Assurance Warranty Schedule (SAWS) as specified in 2.5.7 will not apply. (N)

(D) Use of An Alternative Service Provided by the Telephone Company

Should the customer elect to use an alternative service provided by the Telephone Company during the period that a service is interrupted, the customer must pay the tariffed rates and charges for the alternative service used.

(E) Temporary Surrender of a Service

In certain instances, the customer may be requested to surrender a service for purposes other than maintenance, testing or activity relating to a service order. If the customer consents, a credit allowance will be granted. The credit allowance will be determined in the same manner as a credit for service interruptions as set forth in (A) preceding.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS)

The customer shall be credited per the Service Assurance Warranty Schedule (SAWS) specified below when the total service interruptions on the same service exceeds the SAWS threshold for that service as specified following, within a 12 hour time period.[1] (C)

The SAWS credit allowance is in addition to the credit allowance in Section 2.5.6. The SAWS credit allowance is applied to the customer's bill in addition to the existing monthly service rates, and in addition to any existing credit allowances. The total credit allowance available to the customer, regardless of the number of service interruptions in any one monthly billing period, will not exceed 100 percent of the monthly charge for that particular rate element.[1] (C)

(A) Special Access Services

All Special Access Services with exceptions as listed below will be credited according to the SAWS schedule below, in addition to the credit allowances in Section 2.5.6.[2] (C)

SAWS Threshold[2] (C)

Over 3 hours

Service Category	SAWS Credit Per Interruption	
(1)[2] All Special Access Services with the following exceptions: DS1, DS3, DS1/DS3 eqpd. with SecureNet options, NRS and TRM Services (assoc. with DS1 or DS3 Service), Message Station Equipment Recovery Charge (assoc. with DS1/DS3 Svc.), Admin. and Mtce. of Priority Restoration (assoc. with DS1/DS3 Service), Broadband Circuit Service (BCS)*, Optical Carrier Network (OCN) Point-to-Point Service, STN Service, ReliaNet Service	1/2 of the monthly rate	(C)

*This option is limited to existing customers at existing locations as of January 11, 2002.

1 Effective April 1, 2004, for Special Access Metallic, Telegraph, Voice Grade, Program Audio, Video, MegaLink Data, High Capacity (DS1), and MegaLink Custom Service (DS3) this regulation is limited to existing customers at existing locations. Additionally, this regulation is limited to services that may be rearranged or moved pursuant to existing DS1 TPP terms and conditions found in Section 7.2.22. (N)

2 Effective April 1, 2004 this regulation is limited to existing customers at existing locations. Additionally, this regulation is limited to services that may be rearranged or moved pursuant to existing DS1 TPP terms and conditions found in Section 7.2.22. (N)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

High Capacity Service (DS1)[1], Megalink Custom Service (DS3)[1], ReliaNet On-Net - Opt. 2 AC - DS1 and Off-Net AC, DS1 and DS3 access ports, Broadband Circuit Service (BCS)* and Optical Carrier Network (OCN) Point-to-Point Service will be credited according to the SAWS schedule below, in addition to the credit allowances in Section 2.5.6. (C) (C)

SAWS Threshold

Over 2 hours

Service Category	SAWS Credit Per Interruption	
(2) High Capacity Svc. (DS1)[1], MegaLink Custom Svc. (DS3)[1], BCS* and OCN PTP.	1/2 of the monthly rate	(C) (C)
(3) ReliaNet - On-Net - Opt. 2 AC - DS1 and Off-Net AC, DS1 and DS3 access ports	1/2 of the monthly rate	

*This option is limited to existing customers at existing locations as of January 11, 2002.

1 Effective April 1, 2004 this regulation is limited to existing customers at existing locations. Additionally, this regulation is limited to services that may be rearranged or moved pursuant to existing DS1 TPP terms and conditions found in Section 7.2.22. (N) (N) (N) (N)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS)

(A) Special Access Services

(4) Special Access Metallic, Telegraph, Voice Grade, Program Audio, Video, MegaLink Data, High Capacity (DS1), and MegaLink Custom Service (DS3) (N)

For service interruptions 4 hours or greater, the customer shall be credited as follows:

(i) For the initial 4 hour outage in a 30 day period, in lieu of the credit described in 2.5.6, the customer will be credited as shown in the SAWS schedule below.

(ii) Additional service interruptions that are 4 hours or greater that occur in the same 30 day period will be calculated at the rate of 1/1440 per 30 minute interval described in 2.5.6.

The total credit allowance available to the customer regardless of the number or type of service interruptions within a 30 day period will not exceed 100% of the combined monthly rates per affected service.

Special Access Services as listed below will be credited according to the SAWS schedule below, in addition to the credit allowances in Section 2.5.6.

SAWS Threshold	Service Category	SAWS Credit Per Interruption
4 Hours and greater	Metallic	$5.00
	Telegraph	$5.00
	Voice Grade	$10.00
	Program Audio	$10.00
	Video	$10.00
	MegaLink Data	$15.00
	High Capacity Service(DS1)	$120.00
	MegaLink Custom Service(DS3)	$380.00

(N)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

(5) High Capacity Special Access and MegaLink Custom Service Equipped with a SecureNet Option (T)

No credit will be allowed for an interruption period of less than 2.0 seconds. For a single service interruption greater than 2.0 seconds, the credit will be as follows.

SAWS Threshold

Over 2.0 Seconds

Service Category	SAWS Credit Per Interruption
High Capacity Service Equipped with SecureNet-All Rate Elements	Monthly Rate
MegaLink Custom Service Equipped with SecureNet-All Rate Elements	Monthly Rate

To receive a credit for a service interruption greater than 2.0 seconds, the interruption must occur in that part of the service equipped with a SecureNet option (e.g., a loop failure on a Special Access Service equipped with Hub Redundancy would receive credit after a 2.0 second interruption, an interoffice facility failure on the same service would be credited after 30 minutes).

ACCESS SERVICE

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

(6) Network Reconfiguration Service (NRS) and Transport Resource Management Service (TRM) (T)

Network Reconfiguration Service and Transport Resource Management Service will be credited according to the SAWS schedule, below in addition to the credit allowance in Section 2.5.6.

SAWS Threshold	SAWS Credit Per Interruption
Over 2 hours	
(a) NRS and TRM Svcs. assoc. with DS1/DS3 Svcs.	1/2 of the monthly rate
Over 3 hours	
(b) NRS and TRM Svcs. assoc. with all Spl. Access Svcs. except DS1 and DS3 Svcs.	1/2 of the monthly rate

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

(7) Message Station Eqpt Recovery Charge and Administration and Maintenance of Priority Restoration (T)

Message Station Equipment Recovery Charge and Administration and Maintenance of Priority Restoration Services will be credited according to the SAWS schedule, below in addition to credit allowances in Section 2.5.6.

SAWS Threshold	SAWS Credit Per Interruption
Over 2 hours	
(a) Mess. Sta. Eqpt. Recovery Chg. and Adm. and Mtce. of Priority Restoration Svcs. assoc. with DS1 and DS3 Svcs.	1/2 of the monthly rate
Over 3 hours	
(b) Mess. Sta. Eqpt. Recovery Chg. and Adm. and Mtce. of Priority Restoration Svcs assoc. with all Spl. Access Svcs. except DS1 and DS3 Svcs.	1/2 of the monthly rate

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

(8) STN and ReliaNet (MAC and On-Net AC - Opt. 1) (T)

No credit will be allowed for STN and ReliaNet (MAC and On-Net AC) service for an interruption period of less than 2.5 seconds. For a single service interruption greater than 2.5 seconds, the credit will be as follows.

SAWS Threshold

Over 2.5 Seconds

Service Category	SAWS Credit Per Interruption
All STN Service Rate Elements	Monthly Rate
ReliaNet (MAC - Opt. A & B and On-Net AC - Opt. 1)	Monthly Rate

In the event the Telephone Company is modifying the existing STN or ReliaNet service to add an Access Node or ReliaNet node, at the customer's request, and the service is interrupted, credit allowance as set forth in 2.5.6(A) preceding will apply.

ACCESS SERVICE

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(A) Special Access Services (Cont'd)

(9) STN Interconnection with SecureNet Equipped MegaLink Custom Service (T)

No credit will be allowed for Interconnection of an STN with MegaLink Custom Service equipped with the SecureNet Serving Wire Center and Facility Redundancy for an interruption period less than 2.0 seconds. For a single service interruption greater than 2.0 seconds, the credit will be as follows.

SAWS Threshold

Over 2.0 seconds

Service Category	SAWS Credit Per Interruption
STN Interconn. with SecureNet Equipped MegaLink Custom Service	Monthly Rate

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(B) Switched Access Service and Directory Assistance Service

Switched Access Service and Directory Assistance Service will be credited according to the SAWS schedule below, in addition to the credit allowances in Section 2.5.6. (T) (T) (D)

SAWS Threshold (T)

Over 2 hours (S)

Service Category	SAWS Credit Per Interruption	
(a) Entrance Facility		
DS1	1/2 monthly rate	(S)
DS3 (Optical & Electrical)	1/2 monthly rate	(S)
(b) Direct-Trunked Transport		
DS1 (Fixed & Per Mile)	1/2 monthly rate	(S)
DS3 (Fixed & Per Mile)	1/2 monthly rate	(S)

Revised material is issued under the authority of Special Permission No. 94-745 of the F.C.C.

Reissued material is scheduled to become effective June 22, 1995.

(This page filed under Transmittal No. 2472)

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.7 Service Assurance Warranty Schedule (SAWS) (Cont'd)

(C) Diversity Service

Diversity Service will be credited according to the SAWS schedule below, in addition to the credit allowances in Section 2.5.6. (T) (T) (D)

SAWS Threshold (T)

Over 2 hours (S)

Service Category	SAWS Credit Per Interruption
(1) Diversity Service	Monthly Rate (S)

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Reissued material is scheduled to become effective June 22, 1995.

(This page filed under Transmittal No. 2472)

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(This page filed under Transmittal No. 2962)

38. Managed Value Plan (MVP)

38.1 General Description

Managed Value Plan (MVP) is a qualified access discount plan that provides customers with billing discounts for a commitment to maintain a predetermined annual recurring billing amount for five years. MVP is available to any customer with at least ten (10) million dollars in annual billing for the qualified access services listed in 38.2, following. Additional MVP discounts are also available if the Telephone Company fails to meet MVP Service Level Assurance levels stated in 38.3(G), following.

When MVP is ordered, the customer must provide all of the Access Customer Name Abbreviations (ACNA) and Other Company Name (OCN) codes included under the MVP Agreement.

38.2 Services Available Under MVP

MVP billing discounts apply to recurring revenues for the qualified (T)
access services contained in the tariff sections listed in the table (T)
below: (T)

(N)

Service	General/Basic Description	Rates and Charges	Price Flex Rates and Charges
Entrance Facilities	6.5.1(A)	6.9.2(A)	39.5.1(A)
Direct Trunked-Transport	6.5.1(B)	6.9.2(B)	39.5.1(B)
Voice Grade Service	7.3.4(A)	7.3.4(G)	39.5.2.3
MegaLink Data Service	7.3.9(A)	7.3.9(F)	39.5.2.6
High Capacity Service	7.3.10(A)	7.3.10(F)	39.5.2.7
Self-Healing Transport Network (STN)	19.1	19.4	39.5.2.11
MegaLink Custom Service	20.1	20.5	39.5.2.12
Dedicated SONET Ring Service	29.1	29.4	39.5.2.15
OC-192 Dedicated SONET Ring Service	30.1	30.4	39.5.2.16
Broadband Circuit Service (BCS)*	35.1	35.3	39.5.2.14
Optical Carrier Network (OCN) Point-to-Point Service	40.1	40.3	39.5.2.17

(N)

*Effective, January 11, 2002, BCS will no longer be available to customers. Grandfathered BCS customers will maintain their existing service arrangement until their contract expires unless they choose to convert to another service. No changes to existing BCS service arrangements will be permitted, nor will any renewals be allowed.

*This option is obsolete and limited to existing customers at existing locations, as of January 11, 2002.

Certain material previously appearing on this page now appears on Original Page 38-2.1.

38. Managed Value Plan (MVP) (Cont'd)

38.2 Services Available Under MVP (Cont'd)

With the exception of the provisions contained in 38.3(E)(5), following, all terms and conditions for the qualified services listed above are governed by its respective tariff sections. MVP discounts are in addition to, and do not alter, any of the existing service discount plans available in its respective tariffs. (M)

When additional qualified access services are added to the Services Available Under MVP in Section 38.2, all recurring revenues associated with the new qualified access services will automatically be added to the customer's Monthly Access Revenue, as defined in Section 38.3(D), following. The Monthly Access Revenue is used in the calculation of the Access Service Ratio, as described in 38.3 (D), following, and is also used as the customer's Monthly MARC achievement, as described in Examples 1 and 2 in Section 38.3(E)(3), following. The customer's Annual MARC will not automatically be increased when new qualified access services are added to Section 38.2. However, customers will have the ability to increase their Annual MARC by using the Re-establishing the MARC Policy as outlined in 38.3(C)(2), following. (N)

Certain material appearing on this page previously appeared on 4th Revised Page 38-2.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions

(A) MVP Term Period

The term for a MVP Agreement is five (5) years and will commence on (x)
the billing date immediately following receipt of a properly signed (x)
MVP Agreement form. The initial billing period establishes the (x)
start of the five (5) year period where MVP discounts are in effect (x)
with the Telephone Company. MVP discount credits will accrue beginning with the first full month after the effective date of the MVP Agreement. The discount credits will be applied to the customer's Access Service bill on a monthly basis, subject to the conditions of this tariff, beginning within sixty (60) days following the effective date of the agreement.

(B) Customer Obligations

To participate under MVP, a customer must agree to:

(1) Establish an initial Minimum Annual Revenue Commitment (MARC). The MARC may be re-established as described in 38.3(C)(2), following; and

(2) Maintain recurring qualified access billed revenue equal to or greater than the MARC during the MVP Agreement period; and

(3) Maintain an Access Service Ratio, for the customer and its affiliates, equal to or greater than 95% measured on each (x)
anniversary of the MVP agreement date. The Access Service Ratio (x)
is defined in 38.3(D) following; and (x)

(1) (4) Remit bill payment as described in Section 2.5.3, (x)
preceding, and establish electronic bill payment[1] within six (x)
(6) months of a properly signed MVP Agreement form; and (x)

(5) Utilize industry agreed upon standards for mechanized ordering of qualified access services as contained in:

Ordering and Billing Forum
ATIS/OBF-ASR-041
Access Service Request, Mechanized Interface
Specification; and

(1) Customers participating under MVP prior to December 30, 2000 who have not previously established electronic bill payment are waived from this requirement.

x Issued under authority of Special Permission No. 02-052 of the F.C.C. in order to restore currently effective provisions and to withdraw material filed under Transmittal No. 2883 without becoming effective.

38. Managed Value Plan (MVP) (Cont'd) (N)

38.3 MVP Terms and Conditions (Cont'd)

(B) Customer Obligations (Cont'd)

(6) Utilize industry agreed upon standards for maintenance and trouble reporting as contained in:

ANSI T1.227 - American National Standard for Telecommunications-Operations, Administration, Maintenance, and Provisioning (OAM&P)-Extension to Generic Network Information Model for Interfaces between Operations Systems across Jurisdictional Boundaries to Support Fault Management.

ANSI T1.228 - American National Standard for Telecommunications-Operations, Administration, Maintenance, and Provisioning (OAM&P)-Services For Interfaces between Operations Systems across Jurisdictional Boundaries to Support Fault Management (Trouble Administration).

(C) Minimum Annual Revenue Commitment (MARC)

MVP billing discounts are applied to a customer's qualified monthly committed MARC, in the manner described in Section 38.3(E)(2). To receive the discount on a monthly basis, the customer must meet or exceed the predetermined MARC prorated on a monthly basis, maintain an Access Service Ratio greater than or equal to 95%, and continue to fulfill the other requirements contained in 38.3(B), preceding. MVP billing discounts will be applied in the form of a monthly credit on the customer's access bill. (N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(C) Minimum Annual Revenue Commitment (MARC) (Cont'd)

(1) Determining the MARC

The customer's initial Minimum Annual Revenue Commitment (MARC) is calculated based on the total of the previous three (3) months recurring billing for qualified access services, multiplied by four (4).

The MARC is calculated as follows:

(Recurring Billing[1] Amount for Previous Three (3) Months) X 4 = MARC[2]

(2) Re-establishing the MARC

The MARC may be increased semi-annually, effective with the contract anniversary date. The MARC may be increased but never decreased. The minimum increase of the MARC is 5%. The revised MARC represents the customer's MVP revenue commitment for the remainder of the MVP five (5) year agreement upon which discounts will be calculated. (D)

The following illustrates sample MARC re-establishment dates: (N)

A customer MVP Agreement effective date and associated initial MARC are established on October 1, 2000. The customer cannot re-establish the MARC until October 1, 2001. If the customer does not re-establish the MARC on October 1, 2001, the next time the customer can re-establish the MARC is April 1, 2002. The following dates are the only other days upon which the MARC may be re-established:

October 1, 2002	April 1, 2004
April 1, 2003	October 1, 2004
October 1, 2003	April 1, 2005

The effective date of the revised MARC is the corresponding MARC re-establishment date. (N)

[1] Based upon actual recurring billing, for qualified access services as stated in Section 38.2, preceding.

[2] Must equal $10 million or greater in annual qualified access services billing for services as stated in Section 38.2, preceding.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(D) Access Service Ratio

As referenced in Section 38.3(B)(3), preceding, the customer (T)
and its affiliates must maintain an Access Service Ratio of 95%
or greater. The ratio, calculated monthly, is the total (T)
qualified access service billed revenue minus the adjusted
revenue for the associated rate elements not included in the (T)
interstate tariff divided by the total qualified access service (T)
billed revenue. To remain in compliance with the MVP
agreement, the ratio must be greater than or equal to 95% on
the anniversary date of the MVP agreement.

The 95% ratio is calculated as follows:

$$\frac{\text{Monthly Access Revenue} - \left(\text{Monthly Wholesale Revenue} - \text{Fixed Wholesale Revenue}\right)}{\text{Monthly Access Revenue}}$$

Where:

- Monthly Access Revenue is the customer's and its affiliates' current monthly recurring billed revenue, for qualified access services as defined in 38.2, preceding.
- Monthly Wholesale Revenue is the customer's and its affiliates' current monthly recurring billed revenue for associated rate elements not included in the interstate (T) tariff services as defined in 38.3(D), following. (T)
- Fixed Wholesale Revenue is the customer's and its affiliates' monthly recurring billed revenue for associated (T) rate elements not included in the interstate tariff as (T) defined in 38.3(D), following, for the month of August 2000. (T)

(This page filed under Transmittal No. 2899)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(D) Access Service Ratio (Cont'd)

The customer's and its affiliates Access Service Ratio must equal or exceed 95% for each month in order for the customer to receive the commitment discount that month. Months where the customer does not receive the commitment discount are subject to true-up as explained in 38.3(H).

The associated rate elements are listed in the table below: (T)

Service Level	Associated Rate Elements Not Included in Interstate Tariff
DS1	4-wire digital loop DS1 Entrance Facilities DS1 Interoffice Transport DS1 Cross Connects DS1 Multiplexing All DS1 non-tariffed Committed Information Rate Broadband Services
DS3	DS3 Loop DS3 Entrance Facilities DS3 Interoffice Transport DS3 Cross Connects DS1/DS3 Multiplexing All DS3 non-tariffed Committed Information Rate Broadband Services (T)
OC-3 OC-12 OC-48	(N) OC-3 Entrance Facilities OC-3 Interoffice Transport OC-3 Cross Connects OC-3 Multiplexing OC-12 Entrance Facilities OC-12 Interoffice Transport OC-12 Cross Connects OC-12 Multiplexing OC-48 Entrance Facilities OC-48 Interoffice Transport OC-48 Cross Connects OC-48 Multiplexing All OC-N equivalent non-tariffed Committed Information Rate Broadband Services
Other Transport Products	Dark Fiber - Interoffice Dark Fiber - Loop Dark Fiber - Subloop Dark Fiber Cross Connects

As new associated rate elements are introduced and added to the table in Section 38.3(D) all recurring revenues associated with the new associated rate elements will automatically be added to the customer's Monthly Wholesale Revenue, as defined in Section 38.3(D) preceding for calculation of the Access Service Ratio. (N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(E) MVP Billing Discounts

(1) General

MVP discounts are applied to the customer's and its affiliates' qualified monthly MARC commitment. There are two types of MVP billing discounts available:

- MVP Commitment Discounts
- MVP Service Level Agreement (SLA) Discounts

In addition to the MVP billing discounts, Nonrecurring Installation Charges will be waived as described in 38.3(E)(5), following.

(2) Application

MVP Commitment Discounts will begin the first full month following the effective date of the MVP Agreement and are applied as a credit toward the customer's access service bill on a full month's basis. MVP Commitment Discounts will be issued on a monthly basis sixty (60) days in arrears. Monthly billing credits will be issued for every month the customer maintains MVP eligibility as stated in 38.3(B), preceding. All discounts will be subject to true-up as provided in 38.3(H), following.

MVP-SLA discounts will be applied to the total qualified annual MARC within 60 days following the MVP anniversary date, provided the customer has achieved its obligations contained in 38.3(B), preceding. (x)

x Issued under authority of Special Permission No. 02-052 of the F.C.C. in order to restore currently effective provisions and to withdraw material filed under Transmittal No. 2883 without becoming effective.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(E) MVP Billing Discounts (Cont'd)

(3) MVP Commitment Discounts

The MVP Commitment Discount follows:

	YR 1	YR 2	YR 3	YR 4	YR 5
MVP Commitment Discount	9%	11%	12%	13%	14%

The MVP commitment discount is applied monthly, for those months where the criteria is met. If the customer does not receive the monthly commitment discount, it may still receive the discount, if it is in compliance with Section 38.3 by the contract anniversary date, through the true-up process described in 38.3(H). (x)

Example 1:
A customer is in Year 1 of its MVP agreement. Its MARC is established at $12 million, per the guidelines in 38.3(C)(1), preceding. The customer achieves a qualified monthly billing of $1.07 million and has an Access Ratio of 97.53%.

The customer's MVP Commitment Discount is equal to $90,000, calculated as follows:

Annual MARC = $12M
Monthly MARC = $12M / 12 months = $1M
Monthly MARC achievement = $1.07M
MVP Commitment Discount = 9%
MVP Monthly Credit = $1.0M * .09 = $90,000

Example 2:
A customer is in Year 3 of its MVP agreement. Its MARC is established at $12 million, per the guidelines in 38.3(C)(1), preceding. The customer achieves a qualified monthly billing amount of $1.18 million and has an Access Ratio of 96.8%.

The customer's MVP Commitment Discount is equal to $120,000, calculated as follows:

Annual MARC = $12M
Monthly MARC = $12M / 12 months = $1M
Monthly MARC achievement = $1.18M
MVP Commitment Discount = 12%
MVP Monthly Credit = $1.0M * .12 = $120,000

x Issued under authority of Special Permission No. 02-052 of the F.C.C. in order to restore currently effective provisions and to withdraw material filed under Transmittal No. 2883 without becoming effective.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(E) MVP Billing Discounts (Cont'd)

(3) MVP Commitment Discount (Cont'd)

Example 3:
A customer is in Year 4 of its MVP agreement. Its MARC was re-established at $15 million, per the guidelines in 38.3(C)(1), preceding. The customer achieves a qualified monthly billing amount of $1.3 million and has an Access Ratio of 95%. The customer's MVP Commitment Discount is equal to $162,500, calculated as follows:

Annual MARC = $15M
Monthly MARC = $15M / 12 months = $1.25M
Monthly MARC achievement = $1.3M
MVP Commitment Discount = 13%
MVP Monthly Credit = $1.25M * .13 = $162,500 (T)

Example 4:
A customer is in year 3 of its MVP agreement.
Its MARC is established at $12 million, per the guidelines in 38.3(C)(1), preceding. The customer achieves a qualified monthly billing amount of $1.18 million and has an Access Service Ratio of 94.3%.

The customer receives no discount for only the month the Access Service Ratio is below 95%. The missed discount is subject to the annual true-up process explained in 38.3(H), following.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions

(E) MVP Billing Discounts (Cont'd)

(4) MVP Service Level Assurance (MVP-SLA) Discounts

MVP customers will be eligible for additional credits if certain quality of service parameters are not met by the Telephone Company during the term of the MVP Agreement. Two separate MVP-SLA discounts may apply.

MVP-SLA Level 1 - A discount credit of 1% of the customer's annual MARC may be applied in the event the Telephone Company does not achieve its pre-determined targets for quality of service throughout the term of the MVP Agreement as described in Section 38.3(G)(2)(a), following.

MVP-SLA Level 2 - An additional discount credit of 1% of the customer's annual MARC may be applied if the Telephone Company fails to perform at the standards as described in Section 38.3(G)(3)(a), following.

(5) Nonrecurring Installation Charge Waivers

For all Access Service Requests (ASR) that have an Application Date (APP Date) on or after the effective date of the MVP Agreement, all nonrecurring initial installation charges associated with Term Pricing Plans of three (3) years or longer, with the exception of expedited and special construction charges (as set forth in Sections 5.3.2 and 5.2.6 preceding), for the qualified access services described in 38.2, preceding, will be waived for the duration of a customer's MVP Agreement, as long as the circuit remains in service for at least three years or as long as the terms and conditions of the underlying term plans are met. The nonrecurring initial installation charges do not include subsequent changes and/or moves. Nonrecurring charges for optional features and functions associated with the initial installation of a circuit will be waived. Nonrecurring charges for the subsequent addition of optional features and functions (after the initial installation) will not be waived. If the underlying service is terminated before its term agreement expires, the customer will be billed the nonrecurring charges associated with the underlying tariff when the circuit is disconnected or the service is terminated. In the event that MVP is terminated before the terms and conditions of the underlying term plan are met, the nonrecurring charges previously waived under MVP will be billed to the customer. The Nonrecurring (N)
Channel Termination Charges associated with the failure to meet the DS1 Term Payment Plan Portability Commitment and for exceeding the DS1 Term Payment Plan Portability Commitment, as described in section 7.2.22(E)(3) previously, will not be waived under this Nonrecurring Installation Charge Waiver. (N)

(This page filed under Transmittal No. 2948)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(F) Renewals (Cont'd)

Prior to expiration of an MVP Agreement, an MVP customer may renew its agreement for an additional five (5) year term without incurring a termination liability, as contained in 38.3(J), following. All renewals must occur no later than three (3) months before the expiration date of the original MVP agreement. (M) The MVP Commitment Discount for the MVP Agreement Renewal will be 14% for the five (5) years of the renewal agreement. The MARC for the new MVP Agreement Renewal will be the existing Annual MARC of the final year of the previous MVP Agreement. Only one renewal is permitted per MVP Agreement. Upon expiration of an MVP Agreement or an MVP renewal, and if an MVP tariff remains in effect and is not grandfathered, a new MVP Agreement may be established with a new MARC developed per the provisions contained in 38.3(C)(1), preceding. (M)

(G) MVP Service Level Assurance (MVP-SLA) Parameters

(1) General

MVP customers may be eligible for additional credits based upon the quality of service delivered during the term of the MVP Agreement. MVP-SLA credits will be applied in the event that the Telephone Company's MVP-SLA service performance level objectives are not met.

MVP-SLA parameters are established for a twelve month interval commencing with the MVP Agreement date.

The service performance level parameters for each of these three (3) services shall address:

(a) On-Time Provisioning (OTP) - Calculated by dividing the number of customer requests for new service and rearrangements of existing service that were missed for Telephone Company reasons by the total number of new service requests and rearrangements of existing service completed during the reporting period. The date used to determine whether or not the service request was missed is the Service Confirmation Date provided on the Firm Order Confirmation (FOC).

(b) Failure Frequency (FF) - Represented as an annualized percent of the MVP customer's total access circuit failures. Calculated by dividing the total number of Telephone Company circuit failures during the reporting period by the cumulative number of embedded circuits for the same period and multiplying the result by 12. Only "found trouble" reporting codes are considered to be failures. "Found trouble" reporting codes are report codes CC, CO, FAC, STN, and SVB.

Certain material appearing on this page previously appeared on 3rd Revised Page 38-11.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(1) General (Cont'd)

(c) Time to Restore (TTR) - Measure of outage duration calculated by dividing the total number of measured troubles that are less than or equal to 3 hours in the reporting period by total number of troubles in the same reporting period. All measured trouble codes are included in this calculation. These are CC, CO, FAC, NTF, STN, SVB, and TOK.

(2) MVP-SLA Level 1

(a) Description

In the event that the Telephone Company fails to perform at or above the established service thresholds for any given MVP Agreement year, the MVP customer will be entitled to a 1% Level 1 Service Quality Assurance credit. (T)

MVP-SLA Level 1 Discounts are applicable to the following qualified services:

- Voice Grade Service - Section 7.3.4
- MegaLink Data Service - Section 7.3.9
- High Capacity Service - Section 7.3.10

A minimum number of circuits per service, a minimum number of new installations per service, and a minimum number of trouble-ticket activities per service will be required in order to qualify that service for possible discounts under the MVP-SLA Level 1 service performance terms.[1] These minimum requirements are listed in Table A below: (N)

MVP-SLA Qualified Service	Minimum In-Service Requirement	Minimum Installations Per Quarter	Minimum Trouble Tickets Per Quarter
Voice Grade Service	50	20	20
Megalink Data Service	50	20	20
High Capacity Service	50	20	20

Table A

[1] Customers participating in MVP prior to June 8, 2002 are not required to meet the Minimum In-Service Requirement, the Minimum Installation Requirement, or the Minimum Trouble Ticket Requirement. (N)

Certain material previously appearing on this page now appears on 2nd Revised Page 38-13.1, following.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(2) MVP-SLA Level 1 (Cont'd)

(a) Description (Cont'd)

At the end of a quarter, the customer's circuits in service, circuit installations, and circuit trouble tickets will be calculated for the quarter. If an MVP customer does not meet the minimum requirements to qualify for a particular service under the MVP-SLA service performance terms, the calculation of the total points earned will be as shown in 38.3(G)(2)(b).[1] (N)

A service-performance target has been established for each of the nine MVP Level 1 Service Assurance performance measures for each year of the MVP term, specified in Table 1.0. (M) (T) (M)

	TTR<3 Hours			FF			OTP		
	DS1	DDS	VG	DS1	DDS	VG	DS1	DDS	VG
YR1	78.50%	71.0%	62.5%	13.50%	18.0%	15.0%	90.00%	96.5%	96.5%
YR2	82.50%	76.0%	65.0%	12.70%	16.0%	14.0%	95.00%	96.9%	96.9%
YR3	85.00%	80.0%	68.0%	12.00%	14.5%	13.0%	95.60%	97.2%	97.2%
YR4	87.00%	82.0%	69.0%	11.30%	13.5%	12.5%	96.20%	97.5%	97.5%
YR5	89.00%	83.0%	70.0%	10.60%	13.0%	12.0%	96.70%	97.7%	97.7%

Table 1.0 (M)

[1] Customers participating in MVP prior to June 8, 2002 are not required to meet the Minimum In-Service Requirement, the Minimum Installation Requirement, or the Minimum Trouble Ticket Requirement. (N) (N) (N)

Certain material appearing on this page previously appeared on 3rd Revised Page 38-13.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(2) MVP-SLA Level 1 (Cont'd)

(a) Description (Cont'd)

Service performance in each of the service categories will be averaged for each MVP customer by quarter and by year throughout the life of the MVP agreement. These service averages will then be used in the following Level 1 Service Assurance calculation to determine (T) whether or not the 1% Level 1 Service Quality Assurance (T) credit is applicable to the MVP subscriber for a given year.

(b) Calculation

At the conclusion of each MVP Agreement year, the 12-month averages for each measured service component will be compared to its corresponding target in Table 1.0. For those service components that meet or exceed this target, a point value will be assigned for each quarter and for the end of year. DS1 services will be valued at three points, DDS services at 2 points and VG services at one point. For service performance below the benchmark, no points will be awarded. (N) If, during a quarter, an MVP-SLA qualified service is not eligible due to the failure to meet one of the minimum requirements as identified in 38.3(G)(2)(a) the corresponding point value for that particular qualified service will be assigned for that quarter.[1] (N) As illustrated in Table 2.0, the maximum possible annual score (quarterly and annual totals combined) is 144 points.

	Q1				Q2				Q3				Q4				TOTAL	TOTAL
	TTR	FF	OTP	TOT	TTR	FF	OTP	TOT	TTR	FF	OTP	TOT	TTR	FF	OTP	TOT	YEAR	POINTS
DS1	3	3	3	9	3	3	3	9	3	3	3	9	3	3	3	9	36	72
DDS	2	2	2	6	2	2	2	6	2	2	2	6	2	2	2	6	24	48
VG	1	1	1	3	1	1	1	3	1	1	1	3	1	1	1	3	12	24
TOTAL				18				18				18				18	72	144

Table 2.0

[1] Customers participating in MVP prior to June 8, 2002 are not required to meet the (N)
Minimum In-Service Requirement, the Minimum Installation Requirement, or the (N)
Minimum Trouble Ticket Requirement. (N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(x)

(x)

(x)

(x)

(x)

(x)

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38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(2) MVP-SLA Level 1 (Cont'd)

(b) Calculation (Cont'd)
Any combined total quarterly and annual score greater than or equal to 104 points will be considered as reflective of a high overall service quality for any given year and no Level 1 Quality Assurance credit will be applicable. Combined scores of less than 104 points will result in the application of the additional 1% Level 1 Service Quality Assurance credit as set forth in Section 38.3(E)(4), preceding. (T) (T) (T) (T)

The following example illustrates how quarterly and end-of-year results will be used to determine whether or not a Level 1 credit is applicable. (T)

HYPOTHETICAL 1ST YEAR MVP SERVICE PERFORMANCE													
DMOQ	MVP-TARGET	1Q	PTS	2Q	PTS	3Q	PTS	4Q	PTS		EOY AVG	PTS	
DS1-OTP	90.00%	99.03%	3	98.08%	3	97.98%	3	97.98%	3		98.27%	12	
DS0 DIG-OTP	96.50%	98.04%	2	97.86%	2	97.99%	2	98.00%	2		97.97%	8	
DS0 VG-OTP	96.50%	99.53%	1	98.25%	1	97.97%	1	98.11%	1		98.47%	4	
DS1-FF	13.50%	15.60%	0	14.20%	0	13.48%	3	12.02%	3		13.83%	0	
DS0 DIG-FF	18.00%	20.44%	0	22.17%	0	21.89%	0	20.21%	0		21.18%	0	
DS0 VG-FF	15.00%	13.18%	1	14.46%	1	18.87%	0	16.34%	0		15.71%	0	
DS1-TTR<3	78.80%	82.12%	3	80.88%	3	82.00%	3	85.04%	3		82.51%	12	
DS0 DIG-TTR<3	71.00%	69.54%	0	71.50%	2	71.04%	2	73.30%	2		71.35%	8	
DS0 VG-TTR<3	62.50%	64.33%	1	63.80%	1	64.42%	1	66.45%	1		64.75%	4	
TOTAL POINTS			11		+ 13		+ 15		+ 15	= 54	+	48	= 102

In the above example, the customer would receive a 1% Level 1 Quality Assurance credit. (T)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(x)

(x)

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38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) Parameters (Cont'd)

(3) MVP-SLA Level 2

(a) Description

The Level 2 Service Quality Assurance offers an additional 1% credit in addition to the 1% Level 1 Service Quality credit, previously described. (T) (T)

MVP-SLA Level 2 Discounts are applicable to the following qualified service:

- High Capacity Service - Section 7.3.10

The minimum requirements identified in Section 38.3(G)(2)(a), preceding, are also required for qualification for potential MVP-SLA Level 2 discounts.[1] (N) (N) (N) (N)

Level 2 targets are shown in Table 3.0 following:

	TTR<3	FF	OTP
YR1	NA	NA	NA
YR2	NA	NA	NA
YR3	55.3%	18.6%	62.1%
YR4	55.3%	18.6%	62.1%
YR5	55.3%	18.6%	62.1%

Table 3.0

[1] Customers participating in MVP prior to June 8, 2002 are not required to meet the Minimum In-Service Requirement, the Minimum Installation Requirement, or the Minimum Trouble Ticket Requirement. (N) (N) (N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(G) MVP Service Level Assurance (MVP-SLA) (Cont'd)

(3) MVP-SLA Level 2 (Cont'd)

(b) Calculation

Level 2 Service Quality Assurance is applicable (T)
beginning with results from the third MVP Agreement (T)
year and only comes into play in the event the
Telephone Company fails to perform at the previously
described Level 1 standard (i.e., total combined (T)
quarterly and end-of-year average results less than 104
out of 144 possible points for any given year). In such
an event, the MVP Agreement year-end average service
measures for DS1 will also be compared to the targets
set out in Table 3.0. Should any of these measures be
worse than their corresponding Level 2 targets, the (T)
additional 1% Level 2 Service Quality Assurance credit (T)
will be applied for the year preceding.

(H) MVP Annual True-up Amount (MATA)

An annual true-up calculation will be performed after each anniversary of the MVP Agreement. The MVP Annual True-up Amount (MATA) provides an opportunity to receive monthly discounts that were not received because the monthly MARC was not met and/or the Access Service Ratio was not greater than or equal to 95%. The customer receives the MATA only if at the time of the annual true-up process the customer is in compliance with all of the terms of the MVP Agreement as stated in 38.3(B), preceding.

The MATA is calculated as follows:

	Total Annual		Total of Monthly Discount
MATA	= MVP Commitment	-	Credits Received
	Discount Amount		for the Year

The customer will receive a true-up credit from the Company in the amount of the MATA, if the customer qualifies as stated above.

(This page filed under Transmittal No. 2899)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(H) MVP Annual True-up Amount (MATA) (Cont'd)

Example 1:

A customer is at the end of year 1 of its MVP Agreement. Its MARC is established at $12 million per the guidelines in 38.3(C)(1), preceding, and the customer has an Access Service Ratio of 95.7%, then:

The Total Annual MVP Commitment Discount Amount = $12 million * 9% = $1.08 million.

The customer exceeded the annual MARC of $12 million, but because it did not meet the monthly MARC in one month of the previous year, the total credits received for year 1 of the MVP Agreement =
11 months * the monthly credit of $.09M = $.99M.

Then the customer will receive a MATA credit equal to
$1.08M - $.99M = $.09M

Example 2:

A customer is at the end of year 2 of its MVP Agreement. Its MARC is established at $12 million per the guidelines in 38.3(C)(1), preceding and the customer has an Access Service Ratio of 95.7%, then:

The Total Annual MVP Commitment Discount Amount = $12 million * 11% = $1.32 million.

The customer exceeded the annual MARC of $12 million, but because it did not meet the monthly MARC in one month of the previous year and did not have an Access Service Ratio of greater than or equal to 95% in another month, the total credits received for year 2 of the MVP Agreement = 10 months * the monthly credit of $.11M = $1.1M.

Then the customer will receive a MATA credit equal to
$1.32M - $1.1M = $.22M

Any annual true-up credits or adjustments will be applied to the customer's bill within sixty (60) days following the anniversary of the MVP Agreement.

If the customer fails to achieve MARC or has an Access Service Ratio less than 95% on the anniversary date of the MVP Agreement, the customer must choose one of the options contained in 38.3(I), following. (T)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(I) Failure to Meet Customer Obligations

If the customer fails to achieve the Annual MARC or to maintain an Access Service Ratio equal to or greater than 95%, the customer must choose from the following options, specific to its failure: (T)

(1) Failure to Achieve the MARC

If the customer fails to achieve the Annual MARC for any MVP plan year, it must comply with either (a) or (b) following:

(a) The customer pays the difference between the Annual MARC and the actual Annual Billing; or
(b) The customer terminates its MVP Agreement and pays Termination Liabilities set forth in 38.3(J), following.

(2) Failure to Meet the Access Service Ratio

If the customer and its affiliates fail to have an Access Service Ratio greater than or equal to 95% on the anniversary date of the MVP Agreement, the customer must immediately indicate in writing to the Telephone Company that it will meet or exceed the 95% Access Ratio within two months from the anniversary date. Failure to do so will cause the MVP Agreement to be terminated and the customer and its affiliates will pay the Termination Liability Charges set forth in 38.3(J), following.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(J) Termination of an MVP Agreement

If a customer elects to terminate MVP Agreement prior to its expiration date, written notification must be provided to the Telephone Company indicating the customer's intention to terminate the agreement. This notification must include the date upon which the customer wishes to terminate the agreement.

(1) Termination Liability

Upon termination of the MVP Agreement, the customer will be billed a Termination Liability charge, with the exception of MVP Renewals contained in 38.3(F), preceding, and Termination of MVP Due to Rate Reductions contained in 38.3(J)(2), following, equal to:

(a) 100% of all MVP Discounts received during the six (6) months immediately prior to the date of termination; plus the following schedule:

(1) If terminated in Year 1, 10% of the MARC for the remaining portion of Year 1, plus 10% of the MARCs for the remaining years of the agreement.

(2) If terminated in Year 2, 12.5% of the MARC for the remaining portion of Year 2, plus 12.5% of the MARCs for the remaining years of the agreement.

(3) If terminated in Year 3, 12.5% of the MARC for the remaining portion of Year 3, plus 12.5% of the MARCs for the remaining years of the agreement.

(4) If terminated in Year 4, 12.5% of the MARC for the remaining portion of Year 4, plus 12.5% of the MARC for Year 5.

(5) If terminated in Year 5, 10% of the MARC for the remaining portion of Year 5.

(b) The customer will also be billed for nonrecurring charges associated with term agreements of 3 or more years that were waived under the terms of MVP. (x)

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38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(J) Termination of an MVP Agreement (Cont'd)

(1) Termination Liability (Cont'd)

Example:
A customer requests termination of an MVP Agreement 3.5 years into the agreement. The customer met the MARC four of the preceding six months. This customer's Year 3 MARC is $10.6M and the Year 3 monthly MARC is $883,333.33. The termination liability is:

Credits paid the preceding 6 months =
($883,333.33 * 13%)*4 = $459,333.33

Plus

Remaining MARC for
Year 3 $5.3M X 12.5% = $662,500
Year 4 MARC $10.6M X 12.5% = $1,325,000
Year 5 MARC $10.6M X 12.5% = $1,325,000

The customer will pay a Termination Liability of $3,771,833.33

(2) Termination of MVP Agreement Due to Rate Reductions

If qualified MVP access tariff rates are reduced a (x)
cumulative total of 30% from the contract effective date (x)
rates, either party may discontinue MVP, upon sixty (60) days written notice without incurring MVP termination liability.

In order to determine if the 30% reduction threshold has been met or exceeded, the rate reduction percentage change for each qualified MVP access rate element is calculated, then the weighted average of those percentages (based on product volumes) is used as the threshold percentage.

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38. Managed Value Plan (MVP) (Cont'd) (N)

38.3 MVP Terms and Conditions (Cont'd)

(J) Termination of an MVP Agreement (Cont'd)

(2) Termination of MVP Agreement Due to Rate Reductions (Cont'd)

The following examples show the calculation of the reduction threshold:

Example 1:

Product	Volume	Volume % of Total	Current Price	Initial Price	% Change	Weighted Average
Product 1	100	17%	$ 100	$ 140	29%	5%
Product 2	200	33%	$ 135	$ 150	10%	3%
Product 3	300	50%	$ 85	$ 155	45%	23%
Total	600	100%	$ 320	$ 445	28%	31%

Example 2:

Product	Volume	Volume % of Total	Current Price	Initial Price	% Change	Weighted Average
Product 1	100	17%	$ 100	$ 140	29%	5%
Product 2	200	33%	$ 135	$ 150	10%	3%
Product 3	100	17%	$ 85	$ 155	45%	8%
Total	400	67%	$ 320	$ 445	28%	16%

(N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(K) Failure to Maintain Eligibility

If at any time during the term of the MVP Agreement, the customer fails to maintain any of the MVP eligibility conditions specified in 38.3(B), preceding, the Telephone Company reserves the right to terminate the MVP Agreement upon thirty (30) days written notice. In such cases, the Telephone Company will consider this Failure to Maintain Eligibility as an Early Termination of the MVP Agreement and thus subject to the applicability of the Termination Liability specified in 38.3(J), preceding.

(L) Right of Successor of an MVP Term Agreement (T)

If a current MVP customer, at any time during the term of an MVP term agreement, assigns or transfers part or all of (T) the qualified access services identified in Section 38.2 to a unaffiliated customer, one of the following will apply:

(1) If the current MVP customer (assignor or transferor) continues to qualify for MVP with the remaining qualified access services, but cannot meet its existing MARC, a one-time adjustment to the MARC will be made pursuant to either (a), (b), or (c).

(a) If the new customer (assignee or transferee) is not a current MVP customer and either cannot qualify for MVP with the new qualified access services assigned or transferred or chooses not to subscribe to MVP, the current MVP customer (assignor or transferor) must pay termination liability charges as set forth in Section 38.3(J), preceding, for the amount of the MARC attributable to the qualified access services assigned or transferred. If, however, within sixty (60)days of the assignment or transfer, the new customer (assignee or transferee), who must qualify for MVP,

(1) includes all of the assigned or transferred services in a new five(5)year MVP term agreement (T) pursuant to 38.3(C), as long as MVP is still available and has not been grandfathered, or

(2) assumes the remaining months of the current customer's (assignor or transferor) MVP term (T) agreement for the assigned or transferred (T) qualified access services as described in and (T) pursuant to Section 38.3.1(A) following, (T)

the Telephone Company will waive termination liability for the current MVP customer (assignor or transferor) on the portion of the existing MARC attributable to the assigned or transferred qualified access services.

(This page filed under Transmittal No. 3064)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(L) Right of Successor of an MVP Term Agreement (Cont'd) (T)

(1) (Cont'd)

(b) If the new customer (assignee or transferee) is a current MVP customer whose existing MVP term agreement expires after the expiration date of the current MVP customer (assignor or transferor) MVP term agreement and the new customer assignee or transferee) chooses not to include the assigned or transferred qualified access services in its MVP MARC, or chooses not to assume the remaining MVP months of the assigned or transferred qualified access services, as described in Section 38.3.1(A)following, the current MVP customer (assignor or transferor) must pay termination liability charges as set forth in Section 38.3(J), preceding, for the amount of the MARC attributable to the qualified access services assigned or transferred. If, however, within sixty (60)days of the assignment or transfer, the new customer (assignee or transferee), who must qualify for MVP, (T) (T)

(1) includes all of the assigned or transferred qualified access services in its current MVP MARC by increasing its current MARC by the amount of qualified access services assigned or transferred, or (T)

(2) assumes the remaining months of the current customer's (assignor or transferor) MVP term agreement for the assigned or transferred qualified access services as described in Section 38.3.1(A) following, (T) (T)

the Telephone Company will waive termination liability for the current MVP customer (assignor or transferor) on the portion of the existing MARC attributable to the assigned or transferred qualified access services.

Services included in existing MARC: (T)

Example A: New customer current MARC + Amount of qualified access services assigned or transferred = New customers re-established MARC (T) (T)

Current MARC $10M (expires in August, 2007)+ Services assigned or transferred $2M = Re-established MARC $12M (expires in August, 2007) (T) (T)

Services retained as separate MVP term agreement for remaining length of term: (T) (T)

Example B: Current customer MARC $20M expires in August, 2007. Transferred Qualified Access Services MARC $10M expires in September, 2006 (T)

Customer retain two separate MVP term agreements for the duration of both MVP term agreements with MARC's of $20M and $10M respectively. (T) (T) (N)

Example C: Current MARC of $20M expires in August, 2007. Transferred services MARC of $5M expires in September, 2006.

Customer retains two separate MVP term agreements for the duration of the MVP term agreements with MARC's of $20M and $5M respectively. (N)

(D)

(D)

(This page filed under Transmittal No. 3064)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(L) Right of Successor of an MVP Term Agreement (Cont'd) (T)

(1) (Cont'd)

(c) If the new customer (assignee or transferee) is a current MVP customer whose existing MVP term agreement (T) expires prior to the expiration date of the current customer's (assignor or transferor) MVP term agreement (T) and the new customer (assignee or transferee) chooses not to assume the remaining MVP months of the assigned or transferred qualified access services as described in Section 38.3.1(A), the current MVP customer (assignor or transferor) must pay termination liability charges as set forth in Section 38.3(J), preceding, for the amount of the MARC attributable to the qualified access services assigned or transferred.

If, however, within sixty (60) days of the assignment or transfer, the new customer (assignee or transferee), who must qualify for MVP, assumes the remaining months of the current customer's (assignor or transferor) MVP term (T) agreement for the assigned or transferred qualified (T) access services as described in Section 38.3.1(A) (T) following, the Telephone Company will waive termination liability for the current MVP customer (assignor or transferor) on the portion of the existing MARC attributable to the assigned or transferred qualified (T) access services. (T)

Qualified Access Services retained as separate MVP term (T) agreement for remaining length of term:

Example A: Current MARC $20M expires in August, 2006. (T) Transferred Services MARC $10M expires in September, 2007.

Customer retains two separate MVP term (T) agreements for the duration of the MVP term (T) agreements MARC's of $20M and $10M (N) respectively.

Example B: Current MARC of $20M expires in August, 2006. Transferred services MARC of $5M expires in September, 2007.

Customer retains two separate term agreements for the duration of the MVP term agreements with MARC's of $20M and $5M respectively. (N)

(D)

(D)

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38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(L) Right of Successor of an MVP Term Agreement (Cont'd) (T)

(2) Pursuant to existing MVP Terms and Conditions, if the current MVP customer (assignor or transferor) cannot qualify for MVP with the remaining qualified access revenues, the customer (assignor or transferor) must pay termination liability charges as set forth in Section 38.3 (J), preceding, for the most current MARC that includes the qualified access services assigned or transferred.

If, however, within sixty (60) days of the assignment or transfer, the new customer (assignee or transferee), who must qualify for MVP, either, (D)
(D)
(D)

a) includes the assigned or transferred services in a new MVP and MARC as described in Section 38.3(L)(1)(a)(1); or (N)
b) assumes the remaining months of the current customer's (assignor or transferor) MVP term agreement for the assigned of transferred services as described in Section 38.3(L)(1)(a)(2), Section 38.3(L)(1)(b)(2) or Section 38.3(L)(1)(c);
c) includes the assigned or transferred services in its current MVP and MARC as described in Section 38.3(L)(1)(b)(1). (N)

the Telephone Company will waive termination liability for the current MVP customer (assignor or transferor) on the portion of the existing MARC attributable to the assigned or transferred qualified access services.

Example A: Current customer (assignor or transferor) has (T) MARC of $20M and transfers $12M to new customer (T) (assignee or transferee) who includes the (C) transferred services in a new MVP and MARC in (C) keeping with the 60 day provision in 38.3(L)(1)(a)(1) preceding. Current (T) customer remaining revenue does not qualify for (T) MVP. Current customer (assignor or transferor) pays termination liability as follows:

(Current MARC $20M) - ($12M included by new customer) = $8M. Termination liability will apply on $8M as described in Section 38.3(J). (T)

Material previously appearing on this page now appears on Original Page 38-22.3.1.

(N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

(L) Right of Successor of an MVP Term Agreement (Cont'd)

(2) (Cont'd)

Example B: Current customer (assignor or transferor) has MARC of $20M, and transfers $12M to new customer (assignee or transferee) who assumes the transferred services in a separate MVP term agreement in keeping with the provisions in Section 38.3(L)(1)(a)(2), Section 38.3(L)(1)(b)(2), or Section 38.3(L)(1)(c)preceding. Current customer remaining does not qualify for MVP. Current customer (assignor or transferor) pays termination liability as follows.

(Current MARC $20M)-($12M assumed by new customer)=$8M. Termination liability will apply on $8M as described in Section 38.3(J).

Examples C: Current customer (assignor or transferor) has MARC of $20M, and transfers $12M to new customer (assignee or transferee) who includes the assigned or transferred services in its current MVP and MARC in keeping with the provisions in Section 38.3(L)(1)(b)(1) preceding. Current customer remaining does not qualify for MVP. Current customer (assignor or transferor) pays termination liability as follows:

(Current MARC $20M)-($12M included by new customer)=$8M. Termination liability will apply on $8M as described in Section 38.3(J). (N)

(3) In keeping with existing terms and conditions, if the current MVP customer (assignor or transferor) can qualify for MVP and can achieve its existing MARC with the remaining qualified access revenues, no adjustment to the MARC will be made. (M)

If (1), (2), or (3) are not applicable, termination liability charges, as described in Section 38.3(J), will apply. (M)

Material now appearing on this page previously appeared on Original Page 33-22.3.

(This page filed under Transmittal No. 3064)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd) (N)

38.3.1 Assumption of Remaining Term Agreement for Transferred of Assigned Services

(A) General Description

(1) Description

When a new customer (assignee or transferee) chooses to assume the remaining term of a transferred MVP customer's MARC under a separate MVP term agreement (T) as described in Section 38.3(L) preceding, the new customer must follow the terms and conditions as described in Section 38.3.1, following.

The MARC will be calculated as follows:

MARC calculation:

Amount of transferred MARC commitment, divided by twelve (12)months, equals monthly MARC commitment for the remaining term of the MVP term agreement. (T)

Example:

$12M MARC transfer / 12 months = $1M monthly MARC commitment

(B) Application of Discounts

Discounts will apply to assigned or transferred qualified services listed in Section 38.2 preceding. MVP Commitment discounts will begin the first full month following the effective date of the assignment or transfer.

Discounts will apply to the monthly MARC based on the year in which the MVP MARC commitment is transferred or assigned as long as the customer meets all the obligations, terms and conditions addressed in 38.3.1(D) and (E) following:

Year	Yr 1 Transfer	Yr 2 Transfer	Yr. 3 Transfer	Yr. 4 Transfer	Yr. 5 Transfer
% discount	9%	11%	12%	13%	14%

Example:

Customer assumes a transferred MVP MARC commitment in Year 3 of an existing MVP term agreement. A discount (T) of 12% will be applied monthly during term year 3 as long as all terms and conditions are met. The subsequent years applicable discount schedule will be based on the anniversary dates associated with the original (transferred) MVP term agreement through the end of the transferred MVP term agreement period.

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

38.3.1 Assumption of Remaining Term Agreement for Transferred or Assigned Services (Cont'd)

(C) Term Period

The term period on a transferred MARC as described herein will be the length of time remaining on the transferred MARC commitment.

Example: Customer assumes MVP MARC at the beginning of MVP Year 3. The assignee or transferee will have MVP Year 3, Year 4 and Year 5 of the MVP term agreement remaining.

The amount of the MARC of the transferred or assigned services as described in Section 38.3(L)(1)(c) preceding will be retained for the duration of the transferred or assigned MVP term agreement even if the new customer's (assignee or transferee) current MVP term agreement expires prior to the transferred of assigned service agreement.

(D) Customer Obligations Under Transferred MARC Agreement

(1) New customer (assignee or transferee) must maintain the transferred MARC for the term period of the transferred MVP term agreement.
(2) New customer (assignee or transferee) must establish unique Billing Account Numbers (BANs) for the transferred qualified services covered by the transferred MARC commitment completely separate from current BANs for their existing qualified access services.
(3) New customer (assignee or transferee) must maintain the Access Service Ratio of 95% as described in Section 38.3(D) preceding for all ACNA's and OCN's associated with the new customer and its affiliates.
(4) New customer must comply with additional customer obligations as defined in Section 38.3(B)(4), (5), and (6) preceding.

(E) Terms and Conditions

(1) New customers (assignee or transferee) cannot use existing services in place at the time of the transfer to satisfy the transferred MARC commitment for the duration of the MVP term agreement including any applicable renewal period.
(2) New customer (assignee or transferee) cannot move existing qualified access services to the unique BANs associated with the transferred services for the duration of the MVP term agreement including any applicable renewal period.
(3) New customer (assignee or transferee) may not increase their MARC commitment to include qualified services existing at time of transfer throughout the duration of the MVP term agreement including any applicable renewal period.
(4) New customer (assignee or transferee) may not transfer services billed under the unique BANs associated with the assigned or transferred services to their pre-existing BANs to satisfy their pre-existing MARC commitment throughout the duration of the MVP term agreement including any applicable renewal period.[1] (C)

(1) This condition is only applicable to customers who purchase service after May (N)
31, 2005. (N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd) (T)

38.3.1 Assumption of Remaining Term of Agreement for Transferred or Assigned Services (Cont'd)

(E) Terms and Conditions (Cont'd)

(5) New customer (assignee or transferee) may continue to order new qualified access services under the unique BANs associated with the transferred qualified access services as long as the new qualified access services are not qualified access services transferred from another of the assignees or transferees SBC accounts with the Telephone Company. (T) (T) (T)

(6) The Service Level Assurance Discounts as described in Section 38.3(G), will only apply to the qualified access services included in the transferred MARC commitment or any new qualified access services purchased under the unique BANs that contain the assigned or transferred qualified access services. (T) (T) (M) (T) (M) (T)

(7) New customer (assignee or transferee) may re-establish the MARC, as described in Section 38.3(C), on the re-establishment dates contained in the transferred MVP term agreement for the duration of the term as long as the customer does not use existing qualified access services as described in Section 38.3.1(E)(1)(2) and (3) above. (T) (M) (T) (T)

(8) The transferred MARC must be retained for the duration of the MVP term agreement as described in Section 38.3(L)(1)(b) and (c) preceding regardless of the expiration date of the new customer's MVP term agreement. (N) (N)

(9) MVP term agreements for an MVP remaining under this subsection 38.3.1 are only renewable under the terms and conditions described in Section 38.3(F) and only if the transferred MARC exceeds $10M. The renewal period begins once the MVP term agreement for the MVP remaining term expires. The renewal option is only available for the qualified access services billed under the unique BANs associated with the assigned or transferred qualified access services. (C) (C) (T)

(10) The new customer (assignee or transferee) must have a current separate qualified MVP term agreement pursuant to Section 38.3(C) in effect at the time of the transfer to qualify for and retain a transferred MARC of less than $10M under this Section 38.3.1. (N) (N)

Material now appearing on this page previously appeared on Original Page 38-22.5.
Material previously appearing on this page now appears on Original Page 38-22.7.

(N)

38. Managed Value Plan (MVP) (Cont'd)

38.3 MVP Terms and Conditions (Cont'd)

38.3.1 Assumption of Remaining Term of Agreement for Transferred or Assigned Services (Cont'd) (N)

(F) MVP Annual True-up Amount (MATA) (M)

The MATA terms and conditions as described in Section 38.3(H) will apply to the qualified access services billed under the unique BANs associated with the assigned or transferred services established per 38.3.1(D)(2), preceding.

(G) Failure to Meet Customer Obligations

If the customer fails to meet the terms and conditions as described in Section 38.3.1 (A), (B), (C), (D) and (E) as set forth above, the terms and conditions described in Section 38.3(I) will apply.

(H) Termination Liability on Transferred MARC Commitment

Termination of the transferred MVP term agreement prior to the expiration date will result in applicable termination liabilities as described in Section 38.3(J), preceding.

The applicable termination liability will be determined based on the current year of the term agreement at the time of termination and will apply to the transferred or assigned MVP MARC commitment.

Example:

Customer assumes transferred MVP MARC agreement in year 3. In year 4 the agreement is terminated. The Year 4 termination liability as described in Section 38.3(J) will apply. (M)

Material now appearing on this page previously appeared on Original Page 38-22.6.

38. Managed Value Plan (MVP) (Cont'd)

38.4 VISTA Incentive Offer (N)

(A) General Description

The VISTA Incentive Offer is an MVP volume discount pricing plan for non-MARC revenues that provides a Billing Credit Incentive (BCI) discount in accordance with the terms and conditions set forth below.

(B) VISTA Incentive Offer Terms and Conditions

(1) The VISTA Incentive Offer applies to non-MARC revenues, which are recurring revenues associated with the qualified access services listed in Section 38.2 that exceed the customer's monthly MARC commitment.

(2) The VISTA Incentive Offer term period is April 5, 2003 through November 30, 2003.

(3) Monthly non-MARC revenues generated during the VISTA Incentive Offer term period will be totaled and used to determine whether the MVP customer qualifies for a BCI discount.

(4) A BCI discount applies when an MVP customer's total non-MARC revenues generated during the VISTA Incentive Offer term period meet the Non-MARC Revenue Volume requirements set forth in 38.4(C).

(5) The BCI discount will be applied as a one-time credit to the December 2003 customer bill.

(6) If a customer terminates its MVP plan prior to its term expiration and this occurs during the VISTA Incentive Offer term period, the VISTA Incentive Offer does not apply.

(7) The VISTA Incentive Offer expires on November 30, 2003.

(C) Volume Tiers and BCI Discounts

Volume Tiers	Total Non-MARC Revenue Volumes	BCI Discount
Level 1	$7.00M	$600K
Level 2	$9.00M	$1.2M
Level 3	$11.00M	$1.9M
Level 4	$13.00M	$2.6M
Level 5	$15.00M	$3.3M
Level 6	$17.00M	$4.0M

Example 1 - An MVP customer generates $9M in total monthly non-MARC revenues during the VISTA Incentive Offer term period (April 5, 2003 - November 30, 2003). The customer will receive a BCI discount of $1.2M as a credit to the December 2003 bill.

Example 2 - An MVP customer generates $11M in total monthly non-MARC revenues during the months of April 2003 through September 2003. However, the customer elects to terminate the MVP plan on October 1, 2003, which is prior to the expiration of the MVP term period. The VISTA Incentive Offer does not apply to the customer's non-MARC revenues and a BCI discount will not be provided. (N)

(N)

38. Managed Value Plan (MVP) (Cont'd)

38.5 SUNRISE Incentive Offer

(A) General Description

The SUNRISE Incentive Offer is an MVP volume discount pricing plan for non-MARC revenues that provides a Billing Credit Incentive (BCI) discount in accordance with the terms and conditions set forth below.

(B) SUNRISE Incentive Offer Terms and Conditions

(1) The SUNRISE Incentive Offer applies to non-MARC revenues, which are recurring revenues associated with the qualified access services listed in Section 38.2 that exceed the customer's monthly MARC commitment.

(2) The SUNRISE Incentive Offer term period is October 1, 2003 through September 30, 2004.

(3) Monthly non-MARC revenues generated during the SUNRISE Incentive Offer term period will be totaled and used to determine whether the MVP customer qualifies for a BCI discount.

(4) A BCI discount applies when a MVP customer's total non-MARC revenues generated during the SUNRISE Incentive Offer term period, meet the non-MARC Revenue Volume requirements set forth in 38.5(C).

(5) The BCI discount will be applied as a one-time credit to the November 2004 customer bill. The SUNRISE BCI discount will be reduced by a pro rata share of any 2003 VISTA BCI discounts received, if applicable, which represent the overlapping period in the term plans of October and November 2003. Specifically, 25% (two months of the eight month VISTA term period) of the VISTA BCI discounts will be subtracted from the SUNRISE BCI discount in arriving at the final credit.

(6) If a customer terminates its MVP plan prior to its term expiration and this occurs during the SUNRISE Incentive Offer term period, the SUNRISE Incentive Offer does not apply.

(7) The SUNRISE Incentive Offer expires on September 30, 2004. (N)

38. Managed Value Plan (MVP) (Cont'd) (N)

38.5 SUNRISE Incentive Offer (Cont'd)

(C) Volume Tiers and BCI Discounts

Volume Tiers	Total Non-MARC Revenue Volumes	BCI Discount
Level 1	$2.00M	$400K
Level 2	$5.00M	$1.50M
Level 3	$8.00M	$2.50M
Level 4	$11.00M	$3.55M
Level 5	$16.00M	$5.30M
Level 6	$21.00M	$7.05M

Example 1 - An MVP customer generates $11M in total monthly non-MARC revenues during the SUNRISE Incentive Offer term period (October 1, 2004 - September 30, 2004). The customer will receive a BCI discount of $3.55M as a credit to the November 2004 bill.

Example 2 - An MVP customer generates $8M in total monthly non-MARC revenues during the months of October 2003 through April 2004. However, the customer elects to terminate the MVP plan on May 1, 2004, which is prior to the expiration of the MVP term period. The SUNRISE Incentive Offer does not apply to the customer's non-MARC revenues and a BCI discount will not be provided.

Example 3 - An MVP customer generates $8M total monthly non-MARC revenues during the months of October 1, 2003 through September 30, 2004. This customer was also a VISTA customer and received a VISTA BCI discount of $600K in 2003. 25% of those VISTA discounts (25% x $600K = $150K) or $150K will be subtracted from the $2.5M SUNRISE discount to provide the resulting SUNRISE BCI discount of $2.35M. (N)

ATTACHMENT 5

33. Pricing Flexibility Contract Offerings (N)

33.56 Contract Offer No. 56 - Special Access Service Offer

33.56.1 General Description (N)

(Nx)

Special Access Service Offer (Contract Offer No. 56) is an access discount pricing plan for which subscription is required in the following Access Tariffs: Ameritech Operating Companies (Ameritech) Tariff F.C.C. No. 2, Pacific Bell Telephone Company Tariff F.C.C. No. 1, Southwestern Bell Telephone Company Tariff F.C.C. No. 73, and The Southern New England Telephone Company Tariff F.C.C. No. 39. Contract Offer No. 56 is available to any Customer with at least $26.5 million in cumulative annual recurring revenue for Contributory Services as defined herein. Customer must meet the Eligibility Criteria set forth in Section 33.56.2, and also must comply with all Terms and Conditions of this Contract Offer.

Contract Offer No. 56 requires the Customer to maintain a Minimum Annual Revenue Commitment (MARC) for each year of the five (5) year Term Period as defined in Section 33.56.4(A). The MARC shall include all Contributory Services purchased from the Telephone Company or its affiliates available under this Contract Offer. Contributory Services include Contributory Subject Services as described in Section 33.56.2(C), herein, in addition to the following Contributory Non-Subject Services (that are not Contributory Subject Services): OPT-E-MAN, ATM, Frame Relay and the following InterLATA services: DS0, DS1, DS3, OC3, OC12, OC48, and OC192. Contributory Services that are Non-Subject Services shall not be eligible for discounts or other incentives provided under this Contract Offer. All Contributory Services described above must be purchased through the SBC wholesale sales channel (SBC Industry Markets). Any ATM, Frame Relay or InterLATA Contributory Services shall be provided pursuant to agreements and/or contracts. Such agreements and/or contracts shall be available for review at the website established to make public any agreements for these services. Customers may reference:
https://www.sbcprimeaccess.com/shell.cfm?section=2501

(Nx)

(N)

In the event the Customer does not meet its MARC as of each Anniversary Date of the Term Period, the Customer must remit the shortfall payment via the Annual True-Up process set forth in Section 33.56.4(D). Notwithstanding the obligation to pay such shortfall payment, if the Customer does not comply with all Terms and Conditions of this Contract Offer (exclusive of terms and conditions of non-tariffed agreements referenced herein), termination liability charges, in accordance with Section 33.56.9, shall apply. Contract Offer No. 56 will only be available June 2, 2005 through July 2, 2005.

(N)

(x) Issued under Authority of Special Permission No. 05-026 of F.C.C.

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.2 Eligibility Criteria

(A) The Customer must meet the following Eligibility Criteria in order to subscribe to Contract Offer No. 56, and must continue to meet the Eligibility Criteria as described below throughout the Term Period of this Contract Offer:

(1) Contract Offer No. 56 is available for services located in the following pricing flexibility Metropolitan Statistical Areas (MSAs):

Bakersfield, Fresno, Los Angeles/Long Beach, Modesto, Oxnard/Ventura, Sacramento, San Diego, San Francisco/Oakland, San Jose, Santa Rosa, and Stockton, CA.

If the Telephone Company receives pricing flexibility relief in additional MSAs, any eligible Subject Services that the Telephone Company provides to the Customer pursuant to this Contract Offer available in those additional MSAs may, at the Customer's option, be included in this Contract Offer, beginning with the first year after the Telephone Company receives pricing flexibility in those additional MSAs, provided that the MARC increases to reflect the recurring annual revenues associated with the additional Contributory Subject Services, as described in Section 33.56.4. (N)

(2) The Customer's first and second year MARC shall be $26.5 million in cumulative annual recurring revenue for Contributory Services in the following SBC Companies: Ameritech Operating Companies (Ameritech), Pacific Bell Telephone Company, Southwestern Bell Telephone Company, and The Southern New England Telephone Company. Other Contributory Services may be provided by other SBC companies. (Nx)

(3) Customer cannot subscribe to Contract Offer No. 56 concurrently with SBC's MVP Offering in Section 22 (N)

(4) The Customer must maintain an Access Service Ratio, equal to or greater than 98%. The Access Service Ratio is defined in Section 33.56.3(E) and will be measured quarterly. (N)

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33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.2 Eligibility Criteria (Cont'd) (N)

(B) Concurrent Subscription (Nx)

The Customer must concurrently subscribe to the identical Contract Offer of Contract Offer No. 56 pursuant to the following tariffs:

(1) The Ameritech Telephone Company Tariff F.C.C. No. 2, Section 22, Contract Offer No. 64.
(2) Southwestern Bell Telephone Company Tariff F.C.C No. 73, Section 41, Contract Offer No. 48.
(3) Southern New England Telephone Company Tariff F.C.C. No. 39, Section 25, Contract Offer No. 16 (Nx)

(C) Contributory Subject Services (N)

Contract Offer No. 56 applies to pricing-flexibility-qualified access services (hereafter referred to as Contributory Subject Services) contained in the following tariff sections:

(1) VG/DS0 Services - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Sections 7.5.3 for Phase I MSAs, and Sections 31.5.2.3 for Phase II MSAs;
(2) DS1/DS3 Service - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Section 7.5.9 for Phase I MSAs and Section 31.5.2.7 for Phase II MSAs;
(3) OC3/OC3c; OC12/OC12C/OC48/OC48c/OC192 Service - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Section 32.3 for Phase I MSAs and Section 31.5.2.13 for Phase II MSAs;
(4) OC3/OC12/OC48/OC192 Dedicated Ring Service - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Section 7.5.13 and 30.4 for Phase I MSAs, and Section 31.5.2.10 and 31.5.2.12 for Phase II MSAs.
(5) Gigabit Ethernet Metropolitan Area Network (GigaMAN) Service - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Section 7.5.14 for Phase I MSAs and Section 31.5.2.14 for Phase II MSAs.
(6) Multi-service Optical Network (MON) Ring Service - Pacific Bell Telephone Company Tariff F.C.C. No. 1, Section 8.4 for Phase I MSAs and Section 31.5.2.15 for Phase II MSAs. (N)

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(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.2 Eligibility Criteria (Cont'd)

(C) Contributory Subject Services (Cont'd)

All Terms and Conditions for the Contributory Subject Services listed above are governed by their respective tariff sections except as noted herein. Annual recurring revenue generated from these services will be used in the MARC calculations defined in Section 33.56.4. Only the Contributory Subject Services listed above are eligible for the discounts provided under this Contract Offer. If, during the Term Period of this Contract Offer, additional services become eligible for pricing flexibility, those additional services may, at the Customer's option, be included among the Contributory Subject Services eligible under this Contract Offer, beginning with the first year after the additional services become eligible for pricing flexibility, provided that the MARC increases to reflect the recurring annual revenues associated with the additional Contributory Subject Services, as described in Section 33.56.4.

33.56.3 Terms and Conditions

(A) Term Period

The contract term (Term Period) is five (5) years commencing on the date the Customer executes a Letter of Subscription (LOS). The Anniversary Date shall be based on the date of the executed LOS. Contract Offer No. 56 is not renewable.

Contributory Subject Services to which the Customer already subscribes as of the commencement of the Term Period, or any additional Contributory Subject Services included in this Contract Offer after commencement of the Term Period in accordance with the terms and conditions set forth herein, must be converted to five (5) year term payment plans (where available), in order to receive discounts pursuant to this Contract Offer. If the five (5) year term payment plan is not available for certain Contributory Subject Services, the Customer must select from the longest term plan available for the Contributory Subject Service. The Customer may select from

(N)

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33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.3 Terms and Conditions (Cont'd)

(A) Term Period (Cont'd)

any year term payment plan for purchases of new Contributory Subject Services after the commencement of the Term Period of this Contract Offer. Services are subject to certain rates, charges, and general Terms and Conditions in other sections of F.C.C. Tariff No. 1, as set forth in Sections 2-General Regulations, 5-Ordering Options, and 13-Additional Engineering, Additional Labor and Miscellaneous Services. Such Terms and Conditions may be modified through the filing of tariff changes at any time during the Term Period. Such tariff modifications will not change the Terms and Conditions described in this Contract Offer.

(B) Contract Offer No. 56 is only available for subscription June 2, 2005 through July 2, 2005.

(C) Customer must submit a completed LOS to the Telephone Company.

(D) Customer must subscribe to this Contract Offer in accordance with the regulations set forth in Southern New England Telephone Company Tariff F.C.C. No. 1 Section 5 - Ordering Options.

(E) Access Service Ratio

As referenced in Section 33.56.2(A)(4), the Customer and its subsidiaries must maintain an Access Service Ratio of 98% or greater. The Customer shall not migrate any Contributory Services to or from any affiliates in a manner that would affect its obligations under this provision. The ratio, calculated quarterly, is the Access Revenue divided by Access Revenue plus Wholesale Revenue. To maintain compliance with this Contract Offer, the ratio must be greater than or equal to 98%. The 98% ratio is calculated as follows:

$$\frac{\text{Access Revenue}}{\text{Access Revenue + Wholesale Revenue}}$$

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.3 Terms and Conditions (Cont'd)

(E) Access Service Ratio (Cont'd)

(1) Access Revenue is the Customer's and its affiliates' interstate recurring billed revenue associated with the rate elements, as defined in table A below:

TABLE A:

Service	General/Basic Description
Voice Grade	7.2.3
Base Rate (DS0), DS1 and DS3 Services	7.2.9
OCN PTP	32.1
GigaMAN	7.2.12
Dedicated Ring Service	7.2.11(A)(2)
MON Ring	8.1(A)

(2) Wholesale Revenue is the Customer's and its subsidiaries' recurring billed revenue for associated rate elements, as defined in Table B, not included in the interstate tariff(s).

(N)

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(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.3 Terms and Conditions (Cont'd)

(E) Access Service Ratio (Cont'd)

TABLE B:

Service Level	Associated Rate Elements Not Included in Interstate Tariff
DS1/LT1	4-wire digital loop DS1 Entrance Facilities DS1 Interoffice Transport DS1 Cross Connects DS1 Multiplexing All DS1 non-tariffed Committed Information Rate Broadband Services
DS3/LT3	DS3 Loop DS3 Entrance Facilities DS3 Interoffice Transport DS3 Cross Connects DS1/DS3 Multiplexing All DS3 non-tariffed Committed Information Rate Broadband Services
OC-3 OC-12 OC-48	OC-3 Entrance Facilities OC-3 Interoffice Transport OC-3 Cross Connects OC-3 Multiplexing OC-12 Entrance Facility OC-12 Interoffice Transport OC-12 Cross Connects OC-12 Multiplexing OC-48 Entrance Facilities OC-48 Interoffice Transport OC-48 Cross Connects OC-48 Multiplexing All OCN equivalent non-tariffed Committed Information Rate Broadband Service
Other Transport Products	Dark Fiber - Interoffice Dark Fiber - Loop Dark Fiber - Subloop Dark Fiber Cross Connects Unbundled Dedicated Transport

(3) As new rate elements are introduced to Table A in this section, all recurring revenues associated with the new rate elements will automatically be added to the Customer's Access Revenue, as defined in this section, for calculation of the Access Service Ratio.

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.3 Terms and Conditions (Cont'd)

(E) Access Service Ratio (Cont'd)

(4) As new rate elements are introduced to Table B in this section, all recurring revenues associated with the new rate elements will automatically be added to the Customer's Wholesale Revenue, as defined in this section, for calculation of the Access Service Ratio.

(5) If the Customer fails to meet the Access Service Ratio in any given quarter of the term, upon notification from the Telephone Company, the Customer has ten (10) business days to notify the Telephone Company in writing that it will meet or exceed the 98% Access Services Ratio within 60 days. Failure to achieve compliance in 60 days will constitute a default and the Telephone Company shall have the right to terminate this Contract Offer, unless the Customer has acted in good faith to achieve compliance and the Customer's failure to achieve compliance within sixty days is caused by delay attributable to the Telephone Company. In the event of a termination by the Telephone Company, termination liability charges will apply as set forth in Section 33.56.9.

(6) Credits will not be issued until the Customer has met the 98% Access Services Ratio.

(F) The Customer may not subscribe to any future Contract Offerings in Section 33 in conjunction with this Contract Offer or that might be offered by the Telephone Company for Subject Services covered under this Contract Offer unless expressly permitted in the future Contract Offer.

(G) The Customer must pay billed charges in full throughout the Term Period of this Contract Offer, excluding amounts being disputed. The Telephone Company will exhaust its remedies under Section 2.4 of FCC Tariff No. 1 before exercising any remedy under this section. The Telephone Company will provide Customer written notice (via registered letter to Customer's General Counsel) of non-compliance. The Customer will have thirty (30) days from receipt (N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.3 Terms and Conditions (Cont'd)

(G) (Cont'd)

of the written notice to comply, which may be extended by mutual agreement of the Parties to allow the Parties to attempt to resolve any disputes. During this thirty (30) day period, or a period to be mutually agreed upon by the Parties, the Parties will cooperate in good faith to attempt to resolve any pending disputes. If, after the Parties have exhausted attempts to resolve any pending disputes or have resolved disputes and the Customer does not comply with the written notice of non-compliance, the Telephone Company shall have the right to terminate this Contract Offer. In the event of termination by the Telephone Company, termination liability charges as set forth in Section 33.56.9 will apply. Credits will not be issued until the Customer has paid all billed charges (excluding disputes). Any disputed billing amounts that have been resolved in favor of the Telephone Company are due and payable as described in Section 2.4.

(H) The Customer will continue to receive the benefit of rate stability for any Contributory Subject Services currently under a term plan with the Telephone Company that provides for rate stability.

33.56.4 Minimum Annual Revenue Commitment (MARC)

(A) Calculation of the MARC

The Customer must establish and maintain a MARC as provided in this Contract Offer. The MARC for the first and second year of the Term Period (Years 1 and 2) will be established when the Telephone Company receives the LOS from the Customer. For purposes of calculating the MARC for Year 1, recurring annual revenue for all Contributory Services shall be included in the calculation based on the rates that would apply to the Contributory Subject Services for a five-year minimum term, regardless of whether the Subject Services were actually purchased pursuant to a five-year term at the time of the Customer's subscription to this Contract Offer. Recurring annual revenue for Contributory (N)

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33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.4 Minimum Annual Revenue Commitment (MARC) (Cont'd)

(A) Calculation of the MARC (Cont'd)

Services that are not Contributory Subject Services shall be included in the calculation based on the actual rates applicable to those Contributory Services at the time of calculation.

The Customer's MARC for Year 1 shall be $26.5 Million or four times the Customer's monthly recurring revenue for Contributory Services during the three months immediately preceding the receipt of the signed LOS, whichever is greater. The Customer's Year 2 MARC will be equal to the Year 1 MARC.

The MARC will be re-established, effective on the Anniversary Date, beginning on the second anniversary (the beginning of Year 3). The MARC for Year 3 and subsequent years will be based on the Customer's actual monthly recurring revenue for all Contributory Services during the previous 3 months multiplied by 4, or the then-current MARC, whichever is greater.

Example 1:
The Contract Tariff date is May 1, 2005. The MARC for Year 2 is $26.5M. The Customer's actual revenue to Telephone Company from February 1, 2007 to April 30, 2007 is $8M. The new Year 3 MARC, effective May 1, 2007, is $32M ($8M multiplied by 4 equals $32M).

Example 2:
The Contract Tariff date is May 1, 2005. The MARC for Year 2 is $26.5M. The Customer's actual revenue to Telephone Company from February 1, 2007 to April 30, 2007 is $6M. The new Year 3 MARC, effective May 1, 2007, is $26.5M. (The $26.5M MARC is due to the fact that the MARC recalculation cannot result in a MARC lower than the current MARC). (N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.4 Minimum Annual Revenue Commitment (MARC) (Cont'd)

(A) Calculation of the MARC (Cont'd)

If the Telephone Company receives additional pricing flexibility relief for MSAs that are not listed in Section 33.56.2, or if additional Contributory Subject Services that are not listed in Section 33.56.2 become eligible for pricing flexibility, the additional MSAs or Contributory Subject Services may be included, at the Customer's option, in this Contract Offer, beginning with the first year after the additional MSAs or Contributory Subject Services became eligible for pricing flexibility. Upon Customer's written notification to the Telephone Company of their intent to exercise this option, the Telephone Company will recalculate the MARC to incorporate the recurring annual revenues from those MSAs or Subject Services and will include those revenues in the calculations described herein. (N)

(B) Inclusion of Additional Contributory Services (Nx)

Not withstanding anything to the contrary herein, the Customer may, at its option, include in this Contract Offer any Contributory Services being provided to the Customer by the Telephone Company as of the date the Customer subscribes to this Contract Offer, but which are then being provided to the Customer according to a tariff or contract other than this Contract Offer, provided, however, that the MARC must be increased to reflect the recurring annual revenues associated with the additional Contributory Services, as provided in Section 33.56.4. If any additional Contributory Services are ATM, Frame Relay or InterLATA services, those additional Contributory Services shall be provided pursuant to an agreement and/or contract which shall be available for review at the following web site:
https://www.sbcprimeaccess.com/shell.cfm?section=2501 (Nx)

Example (N)

Year 1 MARC = $26.5M
If during Year 1, the Customer wishes to include $2M of annual spend currently purchased from the Telephone Company under another tariff or contract and if those services qualify as Contributory Services, then, the new Year 1 MARC is $28.5M. (N)

(x) Issued under Authority of Special Permission No. 05-026 of F.C.C.

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.4 Minimum Annual Revenue Commitment (MARC) (Cont'd)

(C) MARC Adjustments

(1) The Customer shall have the right to adjust the MARC downward by up to 10%. This adjustment can only be made one time during the Term Period at anytime after the first 24 months of the Term Period (beginning with the establishment of the Year 3 MARC). To exercise this option, the Customer must notify the Telephone Company, in writing, at least 60 days prior to the Anniversary Date.

(2) The MARC adjustment shall apply prospectively only. If Customer exercises this option, reduced discounts (as specified in Table D Section 33.56.5 (B)) will apply for the remainder of the Term Period, and certain provisions of the Contract Offer will no longer apply as provided in Section 33.56.5 (B). Also, if the Customer exercises this option, any MARC adjustments associated with SLA penalties offered in Section 33.56.5 shall not apply for the remaining years of the Term Period. If the Customer uses the MARC adjustment option in conjunction with any of the Merger and Acquisition options outlined in Section 33.56.7, reduced discounts will remain for the life of the Term Period, and discounts previously received during that contract year will not be re-rated provided the Eligibility Criteria in Section 33.56.2 and Terms and Conditions in Section 33.56.3 have been met prior to the MARC adjustment, and certain provisions will no longer apply as detailed in Section 33.56.5(B).

(3) The MARC will be adjusted automatically pursuant to SLA measurement guidelines specified in Section 33.56.5, unless the MARC adjustment option discussed in Section 33.56.4(C)(1) is exercised.

(D) Failure to Achieve the MARC

The Customer and the Telephone Company agree to exchange information quarterly, and meet quarterly, if necessary, to review Customer's progress toward achieving the MARC for the term

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.4 Minimum Annual Revenue Commitment (MARC) (Cont'd)

(D) Failure to Achieve the MARC (Cont'd)

year and the Telephone Company's progress on SLA targets. The Customer and the Telephone Company agree that they will meet in the ninth month of each term year to discuss and address, if necessary, compliance with the Terms and Conditions of the Contract Offer prior to the Anniversary Date.

If the Customer fails to achieve the annual MARC commitment as of the Anniversary Date of each year of the Term Period, the Customer will be notified by the Telephone Company.

The Customer must remit an Annual True-Up payment, the amount of which will be calculated as the difference between the annual MARC for the current term year and the actual recurring annual revenue for the Contributory Services during that term year.

If the Telephone Company does not receive the Annual True-Up amount within 30 days of the Customer's receipt of its notification, the Customer shall be deemed to have terminated this Contract Offer and termination liability charges will apply as set forth in Section 33.56.9.

33.56.5 Discounts and Other Credits

(A) Discount Schedule and Application

(1) Table C contains the level of discounts for this Contract Offer.

TABLE C:

Year	MARC Discount	Discount on Recurring Revenue above the MARC
1	0%	0%
2	5%	5%
3	10%	10%
4	11%	11%
5	12%	12%

(N)

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(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(A) Discount Schedule and Application (Cont'd)

(1) (Cont'd)

Example for Year 2:

Customer's MARC = $26.5M
Customer's annual recurring revenues for Contributory Services = $32M
Customer's annual recurring revenues for Subject Services = $30M
Customer will receive a 5% discount on $30M (issued annually in accordance with subsection (2).

(2) The Customer will receive the 0%, 5%, 10%, 11%, or 12% discount (depending on the year outlined in Table C) on annual recurring revenues for Contributory Subject Services, provided that the Customer meets or exceeds the MARC. The discount will be applied no later than 60 days after each Anniversary Date. Recurring revenue generated from Subject Services that were not included in this Contract Offer at the time of subscription are not eligible for discounts under this Contract Offer unless, and until, those Contributory Subject Services have been added to this Contract Offer pursuant to Section 33.56.2, Section 33.56.4 Section 33.56.7 or Section 33.56.8.

(B) MARC Adjustments - Discount Schedule and Application

Table D outlines discounts that the Customer will be eligible to receive following a MARC adjustment option pursuant to Section 33.56.4 (C)

TABLE D

	MARC Discount	Above MARC Discount, if available
MARC Adjustment	Year 3 - 4% Year 4 - 5% Year 5 - 6%	Year 3 - 4% Year 4 - 5% Year 5 - 6%

(N)

(This page filed under Transmittal No. 232)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(B) MARC Adjustments - Discount Schedule and Application (Cont'd)

Following a MARC adjustment, above the MARC discounts are available only if, during any year, the MARC for that year is equal to or greater than the MARC in effect immediately prior to the adjustment.

Example
The Customer's Year 3 MARC is $30M (calculated as revenue from the last quarter in Year 2 x 4). On the Anniversary Date at the beginning of Year 4, the Customer's Year 3 annual recurring revenue for Contributory Services is $25M. The Customer elects to invoke the MARC adjustment option and adjust the MARC downward by 10%. The Customer's Year 4 recalculated MARC is therefore $27M = ($30M x 90%). The Customer must make an Annual True-Up payment for Year 3 in the amount of $5M. If the Customer fails to make the True-Up payment, the Customer will be in default and termination liabilities will apply. Under this scenario, the Customer will not become eligible for the above the MARC discounts provided in table D, above, until the Customer's MARC in a subsequent year equals or exceeds $30M.

(C) Non-Recurring Charges

The Telephone Company will waive installation Non-recurring charges (NRCs) associated with the purchase of Contributory Subject Services pursuant to this Contract Offer. In the event that the installation NRCs are billed by the Telephone Company, the Customer will receive credits for these charges on a quarterly basis.

In order to receive credits for installation NRCs, the Customer must be in compliance with all terms and conditions of this Contract Offer. Additionally, if the Customer fails to meet the MARC on an Anniversary Date pursuant to Section 33.56.4 (A) and/or fails to pay the Annual True-Up as defined in Section 33.56.4 (D), termination liability charges will apply as set forth in Section 33.56.9. (N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(C) Non-Recurring Charges (Cont'd)

The Customer must pay all other applicable non-recurring charges, including, but not limited to, rearrangement charges, special construction charges, access order charges, cancellation charges and Access Order Modification charges as described in Pacific Bell Telephone Company F.C.C. No. 1, Section 5.2 for Subject Services pursuant to this Contract Offer.

(D) Portability

The Telephone Company will waive termination liability charges for moves and/or disconnection of Contributory Subject Services. In the event that termination liability charges for any such moves and/or disconnections are billed by the Telephone Company, the Customer will receive credits for these charges on a quarterly basis. In order to receive credits or a waiver of termination liability charges for such moves and/or disconnects, the following conditions must be met:

(1) Customer must be in compliance with all terms and conditions of this Contract Offer.

(2) Customer shall be permitted to move and/or disconnect Contributory Subject Services from any of the identical Contract Offers, as described in Section 33.56.2(B).

(3) DS1 Services must have been in service for a minimum of one (1) month from the original installation date.

(4) DS3, OC-3 and OC-12 Point to Point Services must have been in service for a minimum of one (1) year from the original installation date.

(5) OC48 Point To Point, OC192 Point to Point and GigaMAN Services must have been in service for a minimum of three (3) years from the original installation date.

(6) If, and to the extent that OPT-E-MAN becomes eligible for pricing flexibility, OPT-E-MAN may, at the Customer's option, become a

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(D) Portability (Cont'd)

(6) (Cont'd)

Contributory Subject Service included in this Contract Offer. If so, such OPT-E-MAN service shall be eligible for portability, provided that for each OPT-E-MAN circuit to be ported:

(a) facilities necessary to provide OPT-E-MAN, as specified in F.C.C. No. 1, Section 35, exist at the end user location in which the circuit is being moved; and
(b) the circuit has been in service for a minimum of one (1) year from the original installation date.

If the Customer fails to meet the MARC on a contract Anniversary Date pursuant to Section 33.56.4(A) and/or fails to pay the Annual True-Up as defined in Section 33.56.4(D), termination liability charges will apply as set forth in Section 33.56.9.

(E) Service Level Assurance (SLA) Performance

The Customer will be eligible for additional credits and/or MARC adjustments based upon the quality of service delivered by the Telephone Company during the Term Period of this Contract Offer. Pursuant to this Contract Offer, SLA credits and MARC adjustments will apply in the event the Telephone Company's SLA service performance level objectives are not met.

SLA performance targets are established for a twelve (12) month interval commencing with the subscription date of this Contract Offer.

The service performance targets will be based on the following four (4) measured service components:

(1) Percent Network Availability: The percent of the time all DS1, DS3 and OCN circuits are in service compared to the total expected availability during the reporting period factoring in both failure frequency and time to repair.

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(E) Service Level Assurance (SLA) Performance (Cont'd)

(2) Mean Time To Repair (MTTR) of DS1 circuits: The average time it takes the Telephone Company to repair all of the Customer's DS1 circuits during the reporting period.

(3) Mean Time To Repair (MTTR) of DS3 and OCN circuits: The average time it takes the Telephone Company to repair all of the Customer's DS3 and OCN circuits during the reporting period.

(4) On Time Delivery - Due Date: Calculated by dividing the number of Customer requests for new service and rearrangements of existing service that were missed for Telephone Company reasons by the total number of new service requests and rearrangements of existing service completed during the reporting period. The date used to determine whether or not the service request was missed is the service confirmation date provided on the Firm Order Confirmation (FOC). This measurement will apply to all of the Customer's DS1, DS3 and OCN services.

Table E outlines the SLA performance targets for each measured service in each contract year.

Table E

Measured Service	Year 1 Target	Year 2 Target	Year 3 Target	Year 4 Target	Year 5 Target
% Network Availability (DS1-OCN)	99.93%	99.96%	99.96%	99.99%	99.99%
MTTR (DS1 only)	4:45	4:30	4:30	4:15	4:15
MTTR (DS3 & OCN)	3:15	3:15	3:00	3:00	3:00
On Time Delivery - Due Date (DS1-OCN)	96.00%	96.50%	96.500 %	97.00%	97.00%

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(F) SLA Performance Penalties

At the conclusion of each Anniversary Date, the 12-month averages based on the Telephone Company's provided results for each measured service will be compared to its corresponding target in Table E. For each measurement that is not achieved by the Telephone Company, the Customer will be eligible to receive credits as outlined in subsection (1) and MARC adjustments as outlined in subsection (2).

(1) The Customer will be eligible for the following credit amounts, as set forth in Table F. For each measurement that is not achieved by the Telephone Company after each Anniversary Date, credits will be paid into a Telephone Company account held on the Customer's behalf.

Immediately following the Customer's subscription to this Contract Offer, the Telephone Company will establish a holding account with an initial balance of $300,000. The initial balance of the holding account represents the total, aggregate amount that the Customer will be eligible to receive across the regions identified in Section 33.56.2(B) of this Contract Offer. The credit account will be applied for the purpose of improving service delivery and performance. The Customer and Telephone Company will cooperate in good faith to identify and plan appropriate service and/or service performance projects, which shall be planned and completed as Special Construction. The Telephone Company will follow the Special Construction guidelines provided in F.C.C. Tariff No. 2 for work performed pursuant to this provision, including standard time and materials rates, and shall be subject to any applicable additional charges for expediting or overtime. Work performed pursuant to this provision shall be credited to a designated BAN of the Customer's choice. The amount will be deducted from the SLA credit holding account. After the first Anniversary Date, the Telephone Company will annually add to (N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(F) SLA Performance Penalties (Cont')

(1) (Cont'd)

the holding account the credit amount due to the Customer for each SLA measurement not met.

The Customer and the Telephone Company will work together to create a project schedule designed to ensure that projects are completed by the Telephone Company prior to the end of each term year.

The initial balance must be used within the first 12 months following the receipt of a signed LOS. Any amount remaining from the initial balance will not be allowed to carry over to Year 2 and will be forfeited. Any credit due to the Customer at the end of term Year 5, will be available to the Customer in the holding account for the 12-month period subsequent to the end of the Term Period. Annual SLA performance credits must be used within the year after the credits were issued, and cannot be rolled over into the following year. Any amounts left over, after the year following the issuance of the credits, will be forfeited, provided, however, that projects on the project schedule that are not completed at the end of the term year can be completed in the subsequent year and any allocated amounts associated with that project shall not be debited from the following year's holding account balance. If the Telephone Company fails to complete an agreed upon project on the project schedule at any time during the Term Period, the amount allocated for that project shall be carried over until the agreed upon project has been completed.

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(F) SLA Performance Penalties (Cont'd)

(1) (Cont'd)

Table F

Service Quality Measure	Annual Credit if SLA Target not Met
% Network Availability (DS1-OCN)	$100,000
MTTR (DS1 only)	$100,000
MTTR (DS3 & OCN)	$100,000
On Time Delivery - Due Date (DS1-OCN)	$100,000

The credits in Table F are the total, aggregate amounts that the Customer will be eligible to receive across the five regions identified in Section 33.56.2(B) of this Contract Offer.

(2) The Customer will be eligible for the following MARC adjustments in Table G for each measurement that is not achieved by the Telephone Company at each Anniversary Date. However, if the Customer exercises the MARC adjustment option specified in Section 33.56.4, the MARC adjustments in Table G will not apply in the year that the MARC adjustment option is exercised and for the remaining years of the contract.

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.5 Discounts and Other Credits (Cont'd)

(F) SLA Performance Penalties (Cont'd)

(2) (Cont'd)

Table G

Service Quality Measure	Year in which Adjustment Applies	MARC Adjustment
% Network Availability (DS1-OCN)	2	Decrease ½ %
MTTR (DS1 only)	2	Decrease ½ %
MTTR (DS3 & OCN)	2	Decrease ½ %
On Time Delivery - Due Date (DS1-OCN)	2	Decrease ½ %
% Network Availability (DS1-OCN)	3, 4 or 5	Decrease 1%
MTTR (DS1 only)	3, 4, or 5	Decrease 1%
MTTR (DS3 & OCN)	3, 4, or 5	Decrease 1%
On Time Delivery - Due Date (DS1-OCN)	3, 4, or 5	Decrease 1%

Example:

The percent decrease will be applied to the recalculated annual MARC. For example, the Customer's Year 4 MARC is set for $33M [(previous 3 months billing at end of Year 3) X 4]. The Telephone Company achieved 1 out of the 4 measurements in Year 3. The Year 4 MARC is then recalculated and set at $32.01M ($33M X 97%).

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.6 Assignment and Transfer

Subject to the provisions set forth in section 33.56.7 regarding mergers and acquisitions, if the Customer wishes to assign or transfer its use of services under this Contract Offer No. 56, pursuant to F.C.C. No. 1, Section 2.1.2 of this Tariff, the Telephone Company will acknowledge such transfer or assignment pursuant to the terms of F.C.C. No. 1, Section 2.1.2, unless: (1) the proposed assignee or transferee demonstrates a lack of credit worthiness under one of the criteria in (A) or (B) below, or (2) if the proposed assignee or transferee or its parent company has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it).

(A) Any debt securities of the proposed assignee or transferee or its parent (defined as an entity that owns directly or indirectly more than 50% of the equity of the proposed assignee or transferee) are rated below investment grade, as defined by the Securities and Exchange Commission or if any debt securities of a proposed assignee or transferee or its parent company are rated the lowest investment grade and have been placed on review by the rating organization for a possible downgrade.

(B) The proposed assignee or transferee does not have any outstanding securities rated by credit rating agencies (e.g. Standard and Poor's), but does have a Dun and Bradstreet rating, and the proposed assignee or transferee is rated "fair" or below in a composite credit appraisal published by Dun and Bradstreet, or "high risk" in a Paydex score as published by Dun and Bradstreet.

33.56.7 Mergers and Acquisitions Involving the Customer

(A) The Terms and Conditions of Contract Offer No. 56 shall continue in full force and in effect if the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or certain assets to any other entity, or purchases all stock or substantially all stock or certain assets of another company (the foregoing generally referred to herein as a merger or acquisition). During or after the merger or acquisition, if

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(A) (Cont'd)

the other company involved in the merger or acquisition also purchases Contributory Services from the Telephone Company, either directly or through any affiliates, then billed, recurring revenue for Contributory Services of the other company involved in the merger or acquisition will not be used in calculations of the MARC as discussed in Section 33.56.4 (A), or calculations to achieve the MARC discussed in Section 33.56.4 (B) or in the calculation of the Access Service Ratio discussed in Section 33.56.3(E), except as permitted by one of the provisions in this subsection.

(1) The Customer must be meeting MARC commitments and all Eligibility Criteria and Terms and Conditions outlined in Sections 33.56.2 and 33.56.3 in order to exercise the provisions under this subsection.

(2) Recurring revenue from Contributory Services from the other entity involved in the merger or acquisition cannot be applied to, or eligible for, any incentives or discounts contained in this Contract Offer, except as expressly permitted by one of the provisions herein.

(3) The Customer shall have four options (per merger or acquisition) to incorporate revenue from the other company or companies involved in the merger or acquisition. Customer may elect only one of those options with respect to any particular merger or acquisition. If the Customer does not exercise any of those options in the manner provided herein, the Customer will not be permitted to use existing or future Special Access revenues from the other company or companies involved in the merger or acquisition in the Calculation of the MARC or Calculations to Achieve the MARC discussed in Section 33.56.4(A) & (B), nor will such revenues be eligible for any discounts provided under this Contract Offer, nor will Telephone Company apply existing or future Special Access or Wholesale Service revenues from the other company or companies in calculating the Access Service Ratio in Section 33.56.3(E).

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(A) (Cont'd)

(4) The acquisition and/or merger Transaction Close Date will be used to measure the length of time the following provisions are available. The Transaction Close Date shall be defined as the date that the stock purchase is complete and/or the final date on which the assets of the acquired/merged company have been purchased.

(5) If the Customer has selected, but not yet fully implemented, one of the options provided herein, the MARC, and any MARC adjustment calculation as provided in Section 33.56.4, will apply only to the Customer's original (pre-merger or acquisition) MARC and will not include revenue from the other company involved in the merger or acquisition.

(6) The Customer cannot combine any of the Merger and Acquisition provisions in this subsection.

(7) The Telephone Company will calculate the actual recurring annual revenue of the other company involved in the merger or acquisition on the date the Customer selects one of the provisions in this subsection in the same manner such revenue would be calculated for purposes of performing the annual recalculation of the MARC under this Contract Offer. Until the Customer has fully implemented one of the provisions in this subsection, the Customer will not be eligible to earn the above the MARC discounts discussed in Section 33.56.5(A)(2) of this Contract Offer for revenue from the other company involved in the merger or acquisition. After the Customer has fully implemented one of the provisions in this subsection, the Customer will be eligible for above the MARC discounts provided in Section 33.56.5(A)(2), for recurring annual revenue above the new combined MARC.

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio

(1) If the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or certain assets to any other entity, or purchases all stock or substantially all stock or certain assets of another company, and inclusion of the recurring revenue from Contributory Services from the other company or companies involved in the merger or acquisition into this Contract Offer will cause the Customer to fall below Access Services Ratio Terms and Conditions as defined in Section 33.56.3 (E), the Customer must select from Option 1 or 2 of this Section 33.56.7(B), below, to incorporate any recurring annual revenues from the other company involved in the merger or acquisition into this Contract Offer.

(2) The Customer must fully conform to Access Service Ratio within 18 months of the Transaction Close Date and must comply with the Access Conversion Schedule provided in Table H below. As long as the Customer is in compliance with the Access Conversion Schedule and the Customer's existing revenue complies with the Access Services Ratio, as provided in Section 33.56.3(E), MARC discounts will continue to apply and the Customer shall not be considered out of compliance with the Access Services Ratio Terms and Conditions as defined in Section 33.56.3(E).

(3) If, at any time the Customer does not comply with the Access Conversion Schedule provided in Table H below, MARC discounts will be withheld and the Telephone Company will notify the Customer of non-compliance. The Customer will then have 60 days to comply with the Access Conversion Schedule. If the Customer does not comply within 60 days, this Contract Offer shall be deemed to be in default, and the Telephone Company shall have the right to terminate this

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio (Cont'd)

(3) (Cont'd)

Contract Offer. Upon such termination, termination liability charges will apply as provided in Section 33.56.9. Notwithstanding the foregoing, if Telephone Company is primarily responsible for a delay in the Access Conversion Schedule, MARC discounts will continue to apply, the Customer shall not be considered out of compliance with the Access Services Ratio Terms and Conditions as defined in Section 33.56.3(E), and this Contract Offer will not be considered in default, provided, however, that each party shall exercise best efforts to comply.

Table H outlines the Unbundled Network Element (UNE) to Access conversion schedule that will be used to migrate the services.

Table H: Access Conversion Schedule

90 Day Period	Required Conversion Level
1st	10%
2nd	20%
3rd	50%
4th	75%
5th	85%
6th	100%

(a) Option 1

(i) The Customer shall establish a temporary combined MARC by adding to the Customer's then current MARC at least 85%, but not more than 100% (at the Customer's option), of all recurring annual revenue for Contributory Services from the other company involved in the merger or acquisition, for a period not to exceed 18 months from the Transaction Close Date. Recurring annual revenue for Contributory

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio (Cont'd)

(3) (Cont'd)

(a) Option 1 (Cont'd)

(i) (Cont'd)

Services shall be calculated in a manner consistent with the annual recalculation of the MARC under this Contract Offer.

(ii) The Customer must exercise this option within 60 days following the Transaction Close Date.

(iii) This option is not available in Year 5 of the Term Period.

(iv) A permanent combined MARC will be established no later than 18 months following the Transaction Close Date using the following calculation, based on a calculation of the Customer's combined recurring annual revenue.

(a) The calculation of the Customer's combined annual recurring revenue shall include all Contributory Services for the combined company resulting from the merger or acquisition. The calculation of the Customer's combined permanent MARC shall be performed in the same manner as the annual MARC calculations provided in Section 33.56.4(A), above. Following the calculation of the combined permanent MARC, the MARC shall be recalculated for each year remaining in the Term Period, and the MARC-related terms and conditions of this

(N)

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(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio (Cont'd

(3) (Cont'd)

(a) Option 1 (Cont'd)

(iv) (Cont'd)

(a) (Cont'd)

Contract Offer shall be applied to the combined company, in the same manner as would otherwise apply under this Contract Offer.

(b) Notwithstanding anything to the contrary in this Contract Offer, the permanent combined MARC must be at least 85% of temporary combined MARC as defined in Section 33.56.7(C)(1)(a).

(b) Option 2

(i) The Customer must establish a combined MARC by adding to the Customer's then-current MARC at least 85%, but not more than 100% (at the Customer's option), of all recurring annual revenue for Contributory Services from the other company involved in the merger or acquisition. Recurring annual revenue for Contributory Services shall be calculated in a manner consistent with the annual recalculation of the MARC under this Contract Offer.

(ii) The Customer must exercise this option within 60 days following the Transaction Close Date.

(iii) This option is not available in Year 5 of the Term Period. (N)

(This page filed under Transmittal No. 232)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(C) Mergers and Acquisitions not Affecting Access Service Ratio

If the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or certain assets to any other entity, or purchases all stock or substantially all stock or certain assets of another company, and inclusion of recurring revenue from Subject Services from the other company or companies involved in the merger or acquisition into this Contract Offer will not cause the Customer to fall below Access Services Ratio Terms and Conditions as defined in Section 33.56.3 (E), the Customer must select from Option 3 or 4 of this Section 33.56.7(C), to incorporate into this Contract Offer any recurring annual revenues from the other company involved in the merger or acquisition.

(1) Option 3

(a) The Customer must establish a temporary combined MARC by adding at least 85%, but no more than 100% (at Customer's option), of all recurring annual revenue for Contributory Services from the other company involved in the merger or acquisition, for a period not to exceed 12 months from the Transaction Close Date. Recurring annual revenue for Contributory Services shall be calculated in a manner consistent with the annual calculation of the MARC under this Contract Offer.

(b) The Customer must exercise this option within 60 days following the acquisition Transaction Close Date.

(c) This option is not available during Year 5 of the Term Period.

(d) A permanent combined MARC will be established no later than 12 months following the Transaction Close Date, based on a calculation of the Customer's combined recurring annual revenue.

(N)

(This page filed under Transmittal No. 232)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(C) Mergers and Acquisitions not Affecting Access Service Ratio (Cont'd)

(1) Option 3 (Cont'd)

(d) (Cont'd)

(i) The calculation of the Customer's combined annual recurring revenue shall include all Contributory Services for the combined company resulting from the merger or acquisition. The calculation of the Customer's combined permanent MARC shall be performed in the same manner as the annual MARC calculations provided in Section 33.56.4(A), above. Following the calculation of the combined permanent MARC, the MARC shall be recalculated for each year remaining in the Term Period, and the MARC-related terms and conditions of this Contract Offer shall be applied to the combined company, in the same manner as would otherwise apply under this Contract Offer.

(ii) Notwithstanding anything to the contrary in this Contract Offer, the permanent combined MARC must be at least 85% of temporary combined MARC as defined in Section 33.56.7(C)(1)(a).

(2) Option 4

(a) The Customer must establish a combined MARC by adding to the Customer's then-current MARC at least 85%, but not more than 100% (at the Customer's option), of all recurring annual revenue for Contributory Services from the other company involved in the merger or acquisition. Recurring annual revenue for Contributory Services shall be calculated in a manner consistent with the annual calculation of the MARC under this Contract Offer. (N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.7 Mergers and Acquisitions Involving the Customer (Cont'd)

(C) Mergers and Acquisitions not Affecting Access Service Ratio (Cont'd)

(2) Option 4 (Cont'd)

(b) The Customer must exercise this option within 60 days following the Transaction Close Date.

(c) This option is not available in Year 5 of the Term Period.

33.56.8 Merger or Acquisition Involving the Telephone Company

In the event that the Telephone Company, or the corporate parent of the Telephone Company, or any affiliate of the Telephone Company or its corporate parent, in whole or in part, merges with, acquires, or purchases all stock or substantially all stock or certain assets of another company (the foregoing generally referred to herein as a merger or acquisition), and the Customer purchases special access services from the other company, then the following terms and conditions will apply:

(A) If the Customer purchases any interstate special access services from the merged or acquired company, and such special access services are or become eligible for pricing flexibility, the Customer may include those special access services in this Contract Offer, subject to any terms or conditions of any contracts or tariffs pursuant to which the Customer is purchasing such special access services prior to the merger or acquisition, including any terms or conditions regarding termination liability. If the Customer chooses to include the services subject to the merger or acquisition in this Contract Offer, they shall become Contributory Subject Services within the meaning of this Contract Offer at the time they are included in this Contract Offer. At the time such Contributory Subject Services are included in this Contract Offer, the MARC shall be recalculated, including both the recurring annual revenues of the Contributory Services provided to the Customer prior to the merger or acquisition, and the recurring annual revenues of the additional Contributory Subject Services previously provided by the merged or acquired Company. (N)

(This page filed under Transmittal No. 232)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.8 Merger or Acquisition Involving the Telephone Company (Cont'd)

(B) The Customer must notify the Telephone Company in writing, within 120 days of the Transaction Close Date, of any Contributory Services from the merged or acquired company that Customer wishes to include in this Contract Offer. Discounts and credits specified in Section 33.56.5 will not apply to services from the merged or acquired company until the MARC has been recalculated to reflect the additional Contributory Services included in this Contract Offer as a result of the merger or acquisition. The MARC recalculation to include these services will occur at the Customer's next Anniversary Date following receipt of the Customer's written notice described above.

33.56.9 Termination Liability

(A) Termination Liability Charges

Termination liability language described below applies in lieu of the termination liability language described in Pacific Bell Telephone Company Tariff F.C.C. No. 1, Sections 7, 8, 30 and 32. If the Customer terminates Contract Offer No. 56 before the completion of the term for any reason whatsoever (other than a material default by the Telephone Company), the Customer must pay the Telephone Company termination liability charges as described below. These charges shall become due as of the effective date of the cancellation or termination. The Customer must provide written notification 90 days prior to the desired date of termination to the Telephone Company. This notification must include the date upon which the Customer will terminate the Contract Offer.

If the Customer fails to meet any of the Eligibility Criteria in Section 33.56.2, or fails to meet any of the Terms and Conditions in Section 33.56.3, then the Telephone Company shall provide the Customer with written notification of such non-compliance and the Customer will have sixty (60) days to comply. If the Customer does not comply within such time period, the Customer will be deemed to have terminated its participation in Contract Offer

(N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.9 Termination Liability (Cont'd)

(A) Termination Liability Charges (Cont'd)

No. 56, and termination liability charges will apply as stated below and will be payable pursuant to F.C.C. No. 1, Sections 7, 8, 30 and 32.

The Customer's termination liability charge shall be equal to the following :

If the Customer terminates the Contract Offer prior to the expiration of a term year, 100% of all Discounts (including non-recurring charges and early termination charges) received under Contract Offer No. 56 for the preceding six (6) months immediately prior to the date of termination, plus the following schedule:

(1) If terminated in Year 1, 10.0% of the Base MARC for the remaining portion of Year 1, plus 10% of the Base MARC for the remaining years of the Contract Offer.

(2) If terminated in Year 2 , 12.5% of the Year 2 MARC for the remaining portion of Year 2, plus 12.5% of the Year 2 MARC for the remaining years of the Contract Offer.

(3) If terminated in Year 3, 12.5% of the Year 3 MARC for the remaining portion of Year 3, plus 12.5% of the Year 3 MARC for the remaining years of the Contract Offer.

(4) If terminated in Year 4, 12.5% of the Year 4 MARC for the remaining portion of Year 4, plus 12.5% of the Year 4 MARC for year 5.

(5) If terminated in Year 5, 10.0% of the Year 5 MARC for the remaining portion of Year 5.

(B) New Technology Termination

If the Customer wishes to move its services to new alternative technology (such as Broadband over power lines, Wi-MAX, DWDM, or optical switching technologies), the Customer shall qualify to reduce the MARC termination liability charges as detailed above by 50% in Year 4 and/or 5 of this Contract Offer as long as the conditions in this subsection are met.

(N)

33. Pricing Flexibility Contract Offerings (Cont'd) (N)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.9 Termination Liability (Cont'd)

(B) New Technology Termination (Cont'd)

The Customer shall have the right to move its services to new alternative technology and receive reduced termination liability as long as Eligibility Criteria in Section 33.56.2 and all Terms and Conditions in Section 33.56.3 are met. The Customer must provide documentation that reasonably demonstrates that the new technology is an alternative to existing Subject Services, and that the rates, terms and conditions for the new technology are more favorable to the Customer than the rates, terms and conditions provided under this Contract Offering.

For example, if the Customer wishes to terminate this Contract Offer due to a new technology in Year 4 of the Contract Offer, the termination liability charge would be equal to 100% of discounts applied during the previous six-months, as well as 6.25% of the Year 4 MARC for the remaining portion of Year 4, plus 6.25% of the Year 4 MARC for Year 5.

The Customer must notify the Telephone Company in writing at least 90 days prior to the start of Year 4 if the Customer wishes to terminate in Year 4 and invoke this provision, or at least 90 days prior to the start of Year 5 if the Customer wishes to terminate in Year 5 and invoke this provision. This notification must include the date upon which the Customer will terminate the Contract Offer. Additionally, this provision is only available to the Customer if it has not exercised the 10% MARC adjustment option as detailed in Section 33.56.4 (C).

(C) New Special Access Service Offerings

If the Telephone Company makes available one or more new special access service offerings capable of substituting for the Subject Services provided under this Contract Offer, the Customer will be permitted to enter into a new contract offer or other contract or tariff arrangement to purchase the new service offerings from the Telephone Company, in substitution for the Subject Services provided under this Contract offer without incurring termination liability (N)

(N)

33. Pricing Flexibility Contract Offerings (Cont'd)

33.56 Contract Offer No. 56 - Special Access Service Offer (Cont'd)

33.56.9 Termination Liability (Cont'd)

(C) New Special Access Service Offerings (Cont'd)

under this Contract Offer, provided, however, that the Customer's contract offer or other contract or tariff governing the new service offerings must include a term period and revenue commitment that are the same as, or greater than, this Contract Offer.

(D) This Section 33.56.9 sets forth the sole and exclusive remedies for termination of this Contract Offer No. 56, except for charges due and payable for Contributory Services rendered prior to the date of termination and any non-recurring charges and/or termination liability charges that may become due and payable in accordance with Sections 33.56.9.

(N)

ATTACHMENT 6

22. Pricing Flexibility Contract Offerings (N)

22.90 Contract Offering No. 90 – Access Discount Offer

22.90.1 General Description (N) (Nx)

Contract Offer No. 90 – Access Discount Offer is an access discount plan for which subscription is required to the following access tariffs: Ameritech Operating Companies (Ameritech) Tariff F.C.C. No. 2, Southwestern Bell Telephone Company (SWBT) Tariff F.C.C. No. 73, Nevada Bell Telephone Company (NBTC) Tariff F.C.C. No. 1, The Southern New England Telephone Company (SNET) Tariff F.C.C. No. 39, and Pacific Bell Telephone Company (PBTC) Tariff F.C.C. No. 1. To be eligible for discounts under this Contract Offer, the Customer must meet the (Nx) Eligibility Criteria set forth in Section 22.90.2, and also must comply with all terms (N) and conditions of this Contract Offer.

Contract Offer No. 90 requires eligible customers to establish and maintain a Total Revenue Commitment (TRC), as described in Section 22.90.6 following. The TRC shall include all Contributory Services subject to this Contract Offer. Contributory Services include Contributory Subject Services, as listed in Section 22.90.5, Table 3, herein, in addition to Contributory Non-Subject Services (that are not Contributory Subject Services), as described in Section 22.90.5, Table 4, herein. Contributory Non-Subject Services shall not be eligible for discounts or other incentives provided under this Contract Offer. All Contributory Services described in Section 22.90.5 must be purchased through the SBC wholesale sales channel (SBC Industry Markets). Any Frame Relay Contributory Services shall be provided pursuant to agreements and/or contracts. Such agreements and/or contracts shall be available (N) for review at the web site established to make public any agreements for these (Nx) services. Customers may reference https://www.sbcprimeaccess.com/shell.cfm?section=2501.

In the event the Customer does not meet its monthly TRC amount, the Customer (Nx) must remit the shortfall payment via the Monthly True-Up process set forth in (N) Section 22.90.6. If the Customer does not meet the total TRC amount at the end of each Contract Year of the Term Period, the Customer must remit the shortfall payment via the Annual True-Up process set forth in Section 22.90.8. If the Customer does not comply with all terms and conditions of this Contract Offer (exclusive of the terms and conditions of non-tariffed agreements referenced herein) and cure any non-compliance within the cure period set forth in Section 22.90.13(A) of this Contract Offer, termination liability charges, in accordance with Section 22.90.13, will apply. Contract Offer No. 90 will be available only from November 19, 2005 through December 19, 2005.

(N)

(x) Issued under Authority of Special Permission No. 05-060 of F.C.C.

22. Pricing Flexibility Contract Offerings (Cont'd) (N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.2 Eligibility Criteria

The following eligibility criteria must be met to subscribe to Contract Offer No. 90: (N)

(A) Managed Value Plan (MVP) Subscription (Nx)

(1) At the time of subscription to this Contract Offer, the Customer must be, or have been, a participant under MVP agreements within the last 90 days, pursuant to:

(a) SWBT Tariff F.C.C. No. 73, Section 38;
(b) Ameritech Tariff F.C.C. No. 2, Section 19; and (Nx)
(c) Pacific Bell Tariff F.C.C. No. 1, Section 22. (N)

(2) The Customer must maintain eligibility under all MVP agreements until they expire.

(3) All such MVP agreements must expire in 2005.

(B) As of December 1, 2005, the Customer must have billed revenue from Contributory Services, as listed in Section 22.90.5, net of all discounts, credits, and adjustments equal to or greater than 86.5 percent of the Customer's Gross Spend (as defined in Section 22.90.6) for the calendar year 2004, rounded to the nearest million, times 11/12's; or, if the Customer's Gross Spend as of December 1, 2005 is less than that amount, the Customer must pay the Telephone Company, or any of its affiliated telephone companies as described in Section 22.90.2(C), an additional amount sufficient to make up the shortfall from that amount, no later than 60 days after December 1, 2005. (N)

(C) Concurrent Subscription (Nx)

The Customer must concurrently subscribe to the identical Contract Offer of Contract Offer No. 90 pursuant to the following tariffs:

(1) NBTC Tariff F.C.C. No. 1, Section 23, Contract Offer No. 5
(2) PBTC Tariff F.C.C. No. 1, Section 33, Contract Offer No. 74;
(3) SNET Tariff F.C.C. No. 39, Section 25, Contract Offer No. 22; and
(4) SWBT Tariff F.C.C. No. 73, Section 41, Contract Offer No. 66. (Nx)

Breach, cancellation or termination of any of these Contract Offers after the expiration of any cure provisions described in this Contract Offer, shall constitute a breach, cancellation or termination of all of these Contract Offers. (N)

(D) Discounts applied under Contract Offer No. 90 are applicable for Contributory Subject Services located in MSAs as listed in Tariff F.C.C. No. 2, Section 21. (N)

(x) Issued under Authority of Special Permission No. 05-060 of F.C.C.

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd) (N)

22.90.3 Terms and Conditions

(A) Term Period

The term of this Contract Offer (Term Period) will begin on December 1, 2005 and end on December 31, 2007, upon submission of a signed Letter of Subscription.

(B) Terms and Conditions

(1) The Customer must establish and maintain a TRC as described in Section 22.90.6.

(2) A True-up will take place each month during the Term Period and annually at the end of each Contract Year, as defined in Section 22.90.6.

(a) With respect to each month's billing, the monthly true-up will include all qualified billing from Contributory Services, as described in 22.90.6(B), and will take place no later than 60 days after the end of the month, as described in Section 22.90.8,

(b) With respect to each Contract Year's billing, the annual true-up will include all qualified billing from Contributory Services, as described in Section 22.90.6, and will take place no later than 60 days after December 31, as described in 22.90.8,.

(3) MVP credits will continue to apply, if applicable, as described in Tariff F.C.C. No. 2, Section 19 until expiration of the MVP agreement. The MVP MATA process will take place as described in Tariff F.C.C. No. 2, Section 19.3.

(4) Contract Offer No. 90 is available for subscription only from November 19, 2005 through December 19, 2005.

(5) Any Customer-requested transfer of services purchased from SBC non-wholesale entities or channels, or purchased by the Customer under a different Access Customer Name Abbreviation (ACNA) than those identified at time of subscription, will require an equivalent increase in the Customer's TRC commitment based on the amount of revenue associated with the transferred services. The Customer's maximum Basic Credit amount will not change as a result of this transfer.

(6) Any conversion of UNE or equivalent offerings to Contributory Subject Services, subject to this Contract Offer, will result in an increase in the TRC commitment equal to the revenue associated with those Contributory Subject Services and according to the rates that would apply to those Contributory Subject Services under this Contract Offer. This increase will apply to the TRC each subsequent year of the Term Period. (N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd) (N)

22.90.3 Terms and Conditions (Cont'd)

(B) Terms and Conditions (Cont'd)

(7) The Customer will be eligible to subscribe to contract offers in Section 22 (or any successor section) filed after Contract Offer No. 90, in combination with this Contract offer, unless such contract offer states that it may not be combined with other contract offers, or as long as such contract offers do not reduce the TRC under this Contract Offer and the Customer qualifies for, and adheres to the terms, conditions and eligibility requirements of the other contract offer.

(a) If the Customer has subscribed to any other contract offer and chooses to terminate the other contract offer for purposes of subscribing to this Contract Offer, any termination liabilities provided in the other contract offer will apply according to the terms of the other contract offer.
(b) If the Customer purchases Contributory Subject Services pursuant to another contract offer, in addition to this Contract Offer No. 90, the Customer will not be eligible to earn Achievement Credits with respect to any charges that apply under the other contract offer.
(c) If the Customer purchases Contributory Services pursuant to another contract offer that states it may not be combined with other contract offers, the Contributory Services purchased under the other contract offer will not count toward achievement of Gross Spend or TRC under this Contract Offer.

(8) The Customer may choose to remove from this Contract Offer services provided under one or more Access Customer Name Abbreviations (ACNA's) without liability; however, the TRC commitment will not be reduced and the Access Service Ratio under Contract Offer No. 90 will continue to apply.

(9) Terms and Conditions for Contributory Subject Services, pursuant to other contract offers the Customer is currently subscribed to at the time of subscription to this Contract Offer, shall continue to apply to those Contributory Subject Services covered under the other contract offers.

(10) Contributory Services continue to be governed by the otherwise applicable rates, terms and conditions provided in Tariff F.C.C. No. 2 (including MVP provisions with respect to services subject to MVP for so long as the Customer's MVP subscription remains in effect) except as noted herein.

(11) The Customer must subscribe to the services available under this Contract Offer in accordance with the regulations set forth in Section 5 – Ordering Options for Switched and Special Access Service.

(12) The Customer must submit a Letter of Subscription (LOS) to the Telephone Company as described in Section 22.90.3(A). (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.3 Terms and Conditions (Cont'd)

(B) Terms and Conditions (Cont'd)

(13) The Customer must maintain an Access Service Ratio equal to or greater than 95 percent, except as described in Section 22.90.11 (B). The Access Service Ratio is defined in Section 22.90.4, and will be measured monthly.

(14) Commingling, as defined in Ameritech Tariff F.C.C. No. 2, Section 2.6, of Subject Services under this Contract Offer, is prohibited.

(15) The Customer shall be permitted to Groom Contributory Subject Services subject to this Contract Offer as provided in this Section. Grooming is defined as moving, rearranging, or rolling over circuits subject to this Contract Offer without disconnecting the end user locations of those circuits. During Contract Years 2 and 3 (and during Years 4 and 5, if the Customer has exercised extension options), the Customer shall be permitted to Groom up to 9,000 circuits subject to this Contract Offer per year. The sum of all circuits groomed under the individual contract offers listed in Section 22.90.2 (C) cannot exceed 9,000. Grooms shall be scheduled and managed on a monthly basis according to the otherwise applicable operational methods and procedures.

(16) The Customer must remit bill payments as described in F.C.C. No. 2 Section 2.4.1 for all Contributory Services via electronic payment process. The Telephone Company will provide Customer with written notice if Customer fails to comply with the requirement. The Customer will have fifteen (15) business days from receipt of such written notice to comply. If the Customer does not comply, the Telephone Company shall have the right to terminate this Contract Offer. In the event of termination of any of the Contract Offers, as described in Section 22.90.2 (C), termination liability charges, as set forth in Section 22.90.13, will apply. Credits, if applicable, will not be issued until the Customer has paid all billed charges.

(17) If the Customer discontinues service under Contract Offer No. 90 during the Contract Period, termination liability charges will apply in accordance with Section 22.90.13.

(18) The Customer may exercise Contract Offer extension options as described in Section 22.90.9. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.4 Access Service Ratio

(A) As referenced in Section 22.90.4, the Customer and its affiliates must maintain an Access Service Ratio of 95 percent or greater, except as described in Section 22.90.11(B) of this Contract Offer. The ratio, calculated monthly, is the Access Revenue divided by Access Revenue plus Wholesale Revenue. To maintain compliance with this Contract Offer, the ratio must be greater than or equal to 95 percent, except as provided in Section 22.90.11.

The 95-percent ratio is calculated as follows:

$$\frac{\text{Access Revenue}}{\text{Access Revenue + Wholesale Revenue}}$$

(1) Access Revenue is the Customer's and its affiliates' current interstate recurring billed revenue associated with the rate elements, as defined in Table 1 below, or comparable interstate access services, from the Telephone Company or its affiliated telephone companies in any of the Contract Offers as described in Section 22.90.2(C):

Table 1:

Service	General/Basic Description
Voice Grade	7.2.3
Generic Digital Transport (DS0), High Capacity (DS1 and DS3) Services	7.2.9
Optical Carrier Network (OCN)	7.2.10
GigaMAN	7.2.13
Dedicated SONET Ring Service	7.2.11

Any shortfall payments remitted to meet the monthly TRC commitment will be included in the Access Revenue calculation for the applicable month.

(2) Wholesale Revenue is the Customer's and its affiliates' recurring billed revenue for associated rate elements, as defined in Table 2 herein, from the Telephone Company or its affiliated telephone companies, in any of the Contract Offers as described in Section 22.90.2 (C) and not included in the interstate or intrastate access tariff(s). (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.4 Access Service Ratio (Cont'd)

(A) (Cont'd)

(2) (Cont'd)

Table 2 **UNE OR EQUIVALENT OFFERINGS NOT PURCHASED PURSUANT TO THIS AGREEMENT**

[illegible]	Associated Rate Elements Not Included in Interstate Tariff
Voice Grade/DS0	2-wire analog and 2-wire digital loops 2-wire analog and digital transport
DS1/LTI	4-wire digital loop DS1 Entrance Facilities DS1 Interoffice Transport DS1 Cross Connects DS1 Multiplexing All DS1 non-tariffed Committed Information Rate Broadband Services
DS3/LT3	DS3 Loop DS3 Entrance Facilities DS3 Interoffice Transport DS3 Cross Connects DS1/DS3 Multiplexing All DS3 non-tariffed Committed Information Rate Broadband Services
OC-3 OC-12 OC-48	OC-3 Entrance Facilities OC-3 Interoffice Transport OC-3 Cross Connects OC-3 Multiplexing OC-12 Entrance Facility OC-12 Interoffice Transport OC-12 Cross Connects OC-12 Multiplexing OC-48 Entrance Facilities OC-48 Interoffice Transport OC-48 Cross Connects OC-48 Multiplexing All OCN equivalent non-tariffed Committed Information Rate Broadband Service
Other Transport Products	Dark Fiber – Interoffice Dark Fiber – Loop Dark Fiber – Subloop Dark Fiber Cross Connects Unbundled Dedicated Transport

(3) Services purchased pursuant to a Local Wholesale Complete (LWC) Agreement shall not be included in the calculation of the Customer's Access Service Ratio. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.4 Access Service Ratio (Cont'd)

(A) (Cont'd)

(4) As new rate elements are introduced to Table 1 in this section, all recurring revenues associated with the new rate elements will automatically be added to the Customer's Access Revenue, as defined in this section, for calculation of the Access Service Ratio.

(5) As new rate elements are introduced to Table 2 in Section 22.90.4(A)(2), all recurring revenues associated with the new rate elements will automatically be added to the Customer's Annual Wholesale Revenue, as defined in Section 22.90.4(A) preceding, for calculation of the Access Service Ratio.

(6) Except as provided in Section 22.90.11, if the Customer fails to meet the Access Service Ratio in any given month of the Contract Period, upon notification from the Telephone Company as described in Section 22.90.2 (C), the Customer will have ten (10) business days to notify the Telephone Company in writing that it will meet or exceed the 95-percent Access Service ratio within 60 days. Failure to achieve compliance in 60 days will constitute a default, and the Telephone Company shall have the right to terminate Contract Offer No. 90. In the event of a termination by the Telephone Company, termination liability charges will apply as set forth in Section 22.90.13.

Credits will not be issued for any month the Customer fails to meet the Access Service Ratio as described in Section 22.90.6 following.

22.90.5 Contributory Services

The TRC shall include all Contributory Services purchased from the Telephone Company and its affiliated telephone companies in any of the contract offers, as described in Section 22.90.2 (C), eligible under this Contract Offer. Contributory Services include Contributory Subject Services, as listed in Section 22.90.5, Table 3, herein, in addition to Contributory Non-Subject Services (that are not Contributory Subject Services), as described in Section 22.90.5, Table 4, herein.

Contributory Subject Services and Contributory Non-Subject Services shall together be known as Contributory Services. Customer's TRC includes revenue from all Contributory Services being provided by the Telephone Company and its affiliated telephone companies in any of the contract offers described in Section 22.90.2 (C), as listed in Table 3 and 4 below.

(A) Contributory Subject Services

Contract Offer No. 90 applies to pricing flexibility qualified access services (referred to as Contributory Subject Services) located in pricing flexibility Metropolitan Statistical Areas (MSAs) as listed in Tariff F.C.C. No. 2, Section 21. Contributory Subject Services are eligible for discounts and credits under this Contract Offer and are listed in Table 3. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.5 Contributory Services (Cont'd)

(B) Contributory Non-Subject Services

Contributory Non-Subject Services (that are not Contributory Subject Services) shall not be eligible for discounts or other incentives provided under this Contract Offer, and are listed in Table 4 below.

Table 3 – CONTRIBUTORY SUBJECT SERVICES

Contributory Subject Services	
Interstate Special Access	VG, DS0, DS1, DS3, OCN PTP, DSRS, SRAS, STN, FGTS, BCS, MON, Gigaman
Interstate Switched Transport	Entrance Facility, Direct Transport
Includes Recurring and Non-Recurring Charges (including termination charges) associated with the products listed where applicable, except as described in Section 22.90.6 following, for all services located in Pricing Flexibility MSAs.	

Table 4 – CONTRIBUTORY NON-SUBJECT SERVICES

Contributory Non-Subject Services	
Interstate Special Access	VG, DS0, DS1, DS3, OCN PTP, DSRS, SRAS, STN, FGTS, BCS, MON, Gigaman, Opt-E-MAN
Interstate Switched Transport	Entrance Facility, Direct Transport as described in Table 6, following.
Intrastate Special Access	Equivalent services as Interstate Special Access above if available
Intrastate Switched Access	Equivalent services as described in Table 6 following.
Advanced Services	Frame Relay Service
Includes all Recurring and Non-Recurring Charges (including termination charges) associated with the products listed, where applicable, except as described in Section 22.90.6 following, for all non-price flex qualified services.	
Frame Relay services shall be provided pursuant to agreements and/or contracts. Such agreements and/or contracts shall be available for review at the web site established to make public any agreements for these services. Customers may reference https://www.sbcprimeaccess.com/shell.cfm?section=2501.	

(N)
(Nx)
(Nx)
(N)

All Terms and Conditions for all Contributory Services are governed by their respective tariff sections. (N)

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22. Pricing Flexibility Contract Offerings (Cont'd) (N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC)

The Customer must establish and maintain a Total Revenue Commitment (TRC) as provided in this Contract Offer. Upon subscription, the Customer's TRC will be established, as described in Table 5 below, based on billed revenue from Contributory Services, as listed in Section 22.90.5, net of all discounts, credits, and adjustments as specified in Section 22.90.6(B).

The Contract Year shall be each Calendar Year, or fraction thereof, to which this Contract Offer applies, as described in Table 5 below.

Table 5

Contract Year	2005 (Dec)	2006	2007
TRC equals	86.5% of 2004 Gross Spend described in (A) below, rounded to the nearest million dollars, times 1/12's	2005 TRC times 12 times 89.7%, rounded to the nearest million dollars	2005 TRC times 12 times 83.4%, rounded to the nearest million dollars

(A) Gross Spend shall include all billed revenue for services identified in Section 22.90.6(A), and shall be based on the sum of all of the purchases from the Telephone Company and its affiliated telephone companies, including all of the contract offers as described in Section 22.90.2 (C), as described in Section 22.90.5 preceding, based on billed revenue. The Gross Spend is calculated as billed revenue, prior to the application of MVP discounts, MVP Service Level Agreement (SLA) credits and Discount Value Plan (DVP) credits, but after all other tariff term plan discounts, and other underlying tariff performance credits.

(1) Interstate Special Access recurring charges billed to the Customer associated with services described in Section 22.90.5 Table 3 and 4 preceding.

(2) Interstate Special Access non-recurring charges billed to the Customer (including, but not limited to, items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges), except as noted in 22.90.6(A)(7).

(3) Intrastate Special Access recurring charges billed to the Customer associated with services described in Section 22.90.5 Table 4 preceding.

(4) Intrastate Special Access non-recurring charges billed to the Customer (including but not limited to items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges), except as noted in 22.90.6(A) (7). (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(A) (Cont'd)

(5) Interstate Switched Access Dedicated Transport recurring and non-recurring charges (including, but not limited to, items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges) billed to the Customer for rate elements in Table 6 below.

Table 6

Service	General Basic Description
Entrance Facilities	Section 6.1.3(A)(1)(a)
Direct Trunk Transport	Section 6.1.3(A)(1)(b)

(6) Intrastate Switched Access Dedicated Transport recurring and non-recurring charges (including, but not limited to, items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges) billed to the Customer and remitted for rate elements equivalent to those described in Table 6 above.

(7) Non-recurring charges identified in 22.90.6(A)(2), (4), (5) and (6) exclude Special Construction and unregulated time and materials charges (e.g. Inside Wire, Custom Work Orders, etc.)

(B) Application of Credits

The Customer is eligible to receive two (2) types of credits under this Contract Offer. For the purposes of this Contract Offer, Customer will receive any applicable credits (the Basic Credit and Achievement Credit) through the SBC wholesale sales channel for all of the contract offers as described in Section 22.90.2 (C). The sum of all Basic Credits applicable under the individual contract offers listed in Section 22.90.2 (C) cannot exceed the total maximum Basic Credit described in Table 7 following. Award of the credits described below under this Contract Offer shall satisfy the credit obligations of the Telephone Company and its affiliated telephone companies to the Customer, as described in Section 22.90.2(C).

(1) Basic Credit

The Basic Credit for each Contract Year shall be equal to the Gross Spend of Contributory Services minus the TRC, but not to exceed the Maximum Basic Credit as described in Table 7. This calculation shall be performed at the commencement of the Contract Offer, and the Maximum Basic Credit resulting from these calculations will not change at any time during the Term Period except as described in Section 22.90.11 following. The Customer will receive Basic Credits on Contributory Subject Services on a monthly basis, as provided in Section 22.90.6(B)(1)(b), for each Contract Year and subject to the true-up process described in Section 22.90.8 following. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(1) Basic Credit (Cont'd)

(a) Calculation of the Basic Credit. To determine the amount of Basic Credit the Customer can achieve, the TRC is multiplied by the applicable percent as described in Table 7 below. This amount, less the TRC, will equal the potential Maximum Basic Credit, rounded to the nearest million. If qualified, award of Basic Credit under this Contract Offer shall satisfy the Basic Credit obligations of the Telephone Company and its affiliated telephone companies.

Table 7

Year	TRC	Maximum Basic Credit Amount
2005	86.5% of 2004 Gross Spend described in (A) below, rounded to the nearest million dollars, times 1/12's	310% of TRC minus the TRC amount, rounded to the nearest million dollars
2006	2005 TRC times 12 times 89.7%, rounded to the nearest million dollars	119.6% of TRC minus the TRC amount, rounded to the nearest million dollars
2007	2005 TRC times 12 times 83.4%, rounded to the nearest million dollars	123.7% of TRC minus the TRC amount, rounded to the nearest million dollars

Example A: The Customer has 2004 Gross Spend of $121.3M. 86.5 percent of 2004 Gross Spend equals $105M, rounded to the nearest million.

The 2005 TRC is equal to 1/12th of $105M.
1/12th of $105M equals $8.75M

The eligible total Basic Credit available is;

$8.75M x 310% = $27.13M

$27.13M - $8.75M = $18.38M, rounded to the nearest million, equals potential maximum Basic Credits (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(1) Basic Credit (Cont'd)

(a) (Cont'd)

Example B: The 2006 TRC is equal to 2005 TRC times 12 times 89.7 percent, rounded to the nearest million.

8.75M x 12 x 89.7% = $94.18M, rounded to the nearest million

The eligible total Basic Credit available is;

$94M x 119.6% = $112.42M

$112.42M - $94M = $18.42M, rounded to the nearest million equals maximum Basic Credits

(b) Application of the Maximum Basic Credit

The TRC will be divided evenly across the number of months for each Contract Year ending December 31st, as described below. The resulting monthly average amount will be the Customer's Monthly TRC commitment.

2005 – Contract Year 1 – 1 month
2006 – Contract Year 2 – 12 months
2007 – Contract Year 3 – 12 months

Example:

2005 TRC equal $8.75M

Maximum Basic Credits will be applied to the Customer's Monthly TRC revenue for Contributory Services, as described in Section 22.90 5 preceding, based on the amount above the Monthly TRC commitment, not to exceed the maximum Basic Credit allowed for each Contract Year as described in Table 7 preceding. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(1) Basic Credit (Cont'd)

(b) Application of the Maximum Basic Credit (Cont'd)

If the Customer exceeds the Monthly TRC commitment, a credit will be issued on a monthly basis sixty (60) days in arrears. Monthly credits will be issued for every month the Customer maintains eligibility under Contract Offer No. 90 and exceeds the Monthly TRC Commitment, provided, however, that once the maximum Basic Credit is reached, as described in Table 7 preceding, no additional Basic Credits will be given for that Contract Year.

At MVP expiration, a MATA true-up will be conducted as described in F.C.C. 2, Section 19.3, to determine the Customer's credit amount or required buy-up amount under MVP. The monthly TRC true-up will be calculated at the same time. Customer will be paid the net amount above the TRC. At the end of the Contract Year, a true-up will be conducted, as described in Section 22.90.8, to determine any additional applicable credits or buy-up amount required.

Example: The Customer's MVP expires on October 31, 2005. Under MVP MATA on October 31, the Customer has met its MARC and is due $2M in MVP credits (earned in 2005), plus $1M in MVP SLA credits (earned in 2005), for a total MVP credit amount of $3M.

The Customer's monthly TRC under this Contract Offer is $8.75M, and Customer is billed $9.75M.

The Customer will receive the $1M under Contract Offer No. 90.

At the Contract Year true-up, the total Gross Spend and total credits paid to the Customer, as described in Section 22.90.6 above, will be calculated to determine any additional applicable credit amount or, if a TRC shortfall occurs, the amount of buy-up the Customer will be billed.

If the Customer does not achieve the Monthly TRC commitment in a given month, the Customer will be billed, and will be required to pay, the amount required to meet the Monthly TRC commitment. This payment must be submitted to the Telephone Company no later than 60 days after the true-up date. Timely payment of this true-up amount to meet Customer's Monthly TRC commitment shall constitute full satisfaction of Customer's Monthly TRC obligation. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(1) Basic Credits (Cont'd)

(b) Application of the Maximum Basic Credit (Cont'd)

Except as provided in Section 22.90.11, credits will not be issued unless the Customer has met the monthly TRC and the 95 percent Access Service Ratio. Under the Contract Year True-up Process, any credits due to the Customer will be paid, except for those months the Customer was not in compliance with the 95 percent Access Service Ratio, or the Temporary Access Service Ratio set forth in Section 22.90.11. Any Basic Credits paid will not exceed the amount described in 22.90.6, Table 7.

A final true-up will take place at the end of each Contract Year as described in Section 22.90.8.

(c) Any of the following credits issued to the Customer and associated with the Contributory Services included in the TRC (including MVP Commitment credits earned in 2005, MVP SLA credits earned in 2005, DVP credits, any Basic Credits received pursuant to this Contract Offer) will be applied by the Telephone Company in satisfaction of any applicable Basic and Achievement Credit obligations under this Contract Offer.

Example

The Customer has Contract Year 1 TRC of $8.75M. The Customer achieves 310 percent of the Contract Year 1TRC, equal to $27.13M. The Customer has received, or is entitled to receive, a total of $7M in MVP Commitment Credits and $2M in MVP SLA Credits, for a total of $9M in credits unrelated to this Contract Offer.

The Basic Credit obligation of the Telephone Company and its affiliated telephone companies providing service pursuant to the Contract Offers, as described in Section 22.90.2 (C), is $18M ($27.13M - $8.75M, rounded to the nearest million), as illustrated in Table 7. The Basic Credit obligation will be satisfied by the $9M in non-contract related credits acquired by the Customer under MVP and MVP SLA, plus $9M in Basic Credits paid pursuant to this Contract Offer. This amount will be determined at the time of the final Contract Year true-up, once all other credits have been applied accordingly. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(1) Basic Credits (Cont'd)

(c) (Cont'd)

The Customer will not pay less than the TRC for the Contract Year. If the Customer does not achieve the TRC at the end of each Contract Year through the purchase of Contributory Services, the Customer will be required to pay the deficiency as full satisfaction of this obligation.

Basic Credits shall be calculated and awarded on an aggregate basis across the concurrently subscribed to contract offers as described in Section 22.90.2 (C). If qualified for a Basic Credit, an award of Basic Credit under this Contract Offer shall satisfy any Basic Credit obligations of the concurrently subscribed to contract offers as described in Section 22.90.2 (C), and an award of Basic Credit under such other contract offers shall satisfy any Basic Credit obligations under this Contract Offer No. 90.

(2) Achievement Credits

Achievement Credits are those credits the Customer will receive based on purchases of Contributory Subject Services above the TRC, plus the maximum Basic Credit Amount, as described in Table 7 preceding. Achievement Credits will not be applicable until the maximum Basic Credit amount has been achieved.

(a) The Customer may receive Achievement Credits if the Customer's Gross Spend for any Contract Year exceeds the TRC plus the Maximum Basic Credit, as described in Table 7 preceding. The Customer will receive a discount on Contributory Subject Services equal to 17 percent of total revenue above the sum of the TRC, plus the Maximum Basic Credit Amount. Any applicable Achievement Credit will be paid out at the end of each Contract Year.

Achievement Credits shall be calculated and awarded on an aggregate basis across the Telephone Company and its affiliated telephone companies, as they apply to the contract offers as described in Section 22.90.2 (C). If qualified, award of Achievement Credit under this Contract Offer shall satisfy the Telephone Company's Achievement Credit obligations. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(2) Achievement Credits (Cont'd)

(a) (Cont'd)

Example:

The Customer has TRC for Contract Year 1 of $8.75M. The Customer achieves 325 percent of TRC equal to $28.44M. The Customer will receive $18M in Basic Credits as described above, and the Customer will receive $223K in Achievement Credits calculated as follows:

($28.44M minus (Contract Year 1 TRC x 310%)) x 17%

$28.44M – $27.13M ($8.75M x 310%) = $1.31M
$1.31M x 17% = $223K (Achievement Credits).

Table 8

310% of TRC	$27.13M
Gross Spend Achievement during Contract Year (GSA)	$28.44M
Difference between 310% of TRC and GSA	$1.31M
Credit due for billed revenue above 310% of TRC x 17%	$223K

The Customer receives $18M in Basic Credits plus $223K in Achievement Credits, for total credits of $18.223M, as described in Table 8. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.6 Calculation of Total Revenue Commitment (TRC) (Cont'd)

(B) Application of Credits (Cont'd)

(3) Transfer of Qualified Services

(a) The Customer may transfer services purchased from SBC non - wholesale entities or channels, or purchased by the Customer under a different Access Customer Name Abbreviation (ACNA) than those identified under this Contract Offer. Upon such transfer, the Customer's TRC commitment must be increased proportionally, based on the amount of revenue associated with the transferred services. The Customer's Maximum Basic Credit amount will not change as a result of this transfer.

Example:

The Customer has a Contract Year 1 TRC of $8.75M and is eligible to earn up to a maximum of $18M in Basic Credits. The Customer transfers $10M of services from a non-SBC wholesale entity. The Customer's new Contract Year 1 TRC will be $18.75M ($8.75M plus $10M = $18.75M). The Customer's maximum Basic Credit ($18M) will not change as a result of the transfer.

This increase in the TRC amount will apply to Contract Year 2 and Contract Year 3, as well as the optional Contract Year Extensions.

22.90.7 Portability

(A) The Telephone Company will waive termination liability charges for moves and/or disconnection of non-channelized DS1, DS3, OCN PTP services connecting to an end user premise, provided the conditions listed below are met, and provided the Eligibility Criteria in Section 22.90.2, and terms and conditions in Section 22.90.3 have been met. If the Customer both (i) fails to meet the monthly TRC during the Contract period pursuant to Section 22.90.6, and (ii) fails to pay the True-up amount, as defined in Section 22.90.8, or if the Customer fails to comply with the terms and conditions of their underlying term plans, the Customer will be back-billed for termination liability charges that were waived during the Term Period, up to a maximum of two years of such charges, to the extent such termination liability charges would otherwise apply under the relevant underlying term plans. Portability will apply subject to the following terms and conditions:

(1) Each move and/or disconnection must be from any SBC Tariff as described in Section 22.90.1; and

(2) Services moved or disconnected must be in the Price Flex MSAs described in Tariff F.C.C. No. 2, Section 21. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.7 Portability (Cont'd)

(A) (Cont'd)

(3) Services must be non-channelized and must include at least one end user termination. The end user must be disconnected.

(4) The Customer must meet the minimum in-service period for each service, as described below:

(a) DS1 – no minimum in-service period;
(b) DS3, OC3 and OC12 Point to Point Services – 1 year minimum in-service period; and
(c) OC48 and OC192 Point to Point Services – 3 year minimum in-service period;

(5) The Customer must continue to meet the terms and conditions of any underlying term plan.

22.90.8 End of Contract Year True-up Process

A true-up calculation will be performed at the end of each Contract Year during the Term Period as follows:

(A) At the end of each Contract Year, the Customer's Gross Spend, as defined in Section 22.90.6 preceding, will be calculated to determine the applicable Basic Credit and Achievement Credits.

For true-up calculation purposes, the Gross Spend for Contract Year 1 will include the Customer's Contributory Service revenue for the full 2005 calendar year. The amount of Contributory Service minimum required revenue at final true-up for Contract Year 1 will be the 2005 TRC, plus 11/12ths of 86.5 percent of the 2004 Gross Spend, rounded to the nearest million. The applicable Basic Credit Amount and Achievement Credit Amount received as a result of this calculation will apply only to the TRC amount included in this Contract Offer, as described in Section 22.90.6 Table 7 preceding.

For Contract Years 2 and 3, the minimum required revenue shall be equal to the TRC.

The Basic Credit Amount shall be equal to the Gross Spend minus the TRC for each year (or, for Contract Year 1, the Gross Spend minus the sum of the TRC plus 11/12ths of 86.5 percent of 2004 Gross Spend), provided, however, that the Basic Credit Amount shall not exceed the amount provided in Section 22.90.6 Table 7 preceding, and will only apply to the TRC amount included in this Contract Offer.

Credits received under this Contract Offer during the Contract Year, as well as any MVP credits earned in 2005, MVP SLA credits earned in 2005, and DVP credits, will be calculated to determine the amount of Basic Credit the Customer has been paid. (N)

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(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.8 End of Contract Year True-up Process (Cont'd)

(B) If the Customer's Gross Spend for Contributory Services, after all credits and shortfall payments described above, is greater than the minimum required revenue at time of the true-up, the Customer will receive a Basic Credit against Contributory Subject Services equal to the amount above the TRC, not to exceed the amount outlined in Section 22.90.6(B) Table 7 preceding.

Example 1: The Customer's TRC for the first Contract Year is $8.75M. The Customer's Gross Spend for Contributory Services, after all credits and adjustments as described above, is $10M. The Customer will receive an additional Basic Credit equal to $1.25M

If the Customer's Gross Spend for Contributory Services, after all credits and shortfall payments described above, is below the minimum required revenue at the time of the true-up, the Customer will be billed the amount required to meet the minimum required revenue and will pay such charge pursuant to Section 22.90.8 (D).

Example 2: The Customer's TRC for the first Contract Year is $8.75M. The Customer's Gross Spend for Contributory Services, after all credits and adjustments as described above, is $7M. The Customer must pay $1.75M.

If the Customer's Gross Spend for Contributory Services, after all credits and shortfall payments described above, is greater than the TRC times the maximum Basic Credit (plus 11/12ths of 86.5% of 2004 Gross Spend for Contract Year 1), as described in Section 22.90.6, Table 7, the Customer will receive the Maximum Basic Credit against Contributory Subject Services as described above, and an Achievement Credit against Contributory Subject Services (equal to a 17 percent discount on services above the TRC times the maximum Basic Credit amount, plus 11/12ths of 86.5 percent of 2004 Gross Spend for Contract Year 1).

Example 3: The Customer's TRC for the first Contract Year is $8.75M. The Customer's Gross Spend for Contributory Services after all credits and adjustments as described above, is $28.44M. The Customer receives $18M in Basic Credits and $223K in Achievement Credits.

(C) If, at the time of final true-up, the Telephone Company or any of its affiliated telephone companies described in Section 22.90.2 (C), owe the Customer a Basic Credit amount as described above, the credit will be applied to the Customer's bill no later than 60 days after the final true-up date.

(D) If, at the time of true-up, the Customer must make a true-up payment to meet the TRC as described above, the true-up payment must be submitted to the Telephone Company no later than 60 days after the true-up date. The true-up amount will appear on the Customer's monthly invoice. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.9 Contract Extension Options

At the Customer's option, the Customer may extend this Contract Offer at the end of the Term Period. The Customer may extend for one year at the end of Term Period (First Extension Option), and may also extend the Contract Offer by another year at the end of the first extension year (Second Extension Option). The First Extension Option and Second Extension Option must be exercised concurrently for all contract offers described in Section 22.90.2(C). Those contract offers may not be extended individually. To exercise either option, the Customer must notify the Telephone Company and its affiliated telephone companies as described in Section 22.90.2 (C), in writing, no later than 60 days prior to the expiration of the Term Period or, for the Second Extension Option, 60 days prior to the expiration of the First Extension Option.

For the First Extension Option, the TRC shall be determined as follows:

The TRC amounts for the First Extension Option will be equal to the last 3 months of qualified Contributory Services revenue in Contract Year 3 times 4 times 83 percent, or the Contract Year 3 TRC, whichever is greater. The maximum Basic Credit will be equal to the TRC times 120 percent minus the TRC amount, less any Basic Credit reductions applied during the Term Period of this Contract Offer, as described in Section 22.90.11(A) following. An Achievement Credit of 17 percent will apply on revenue above 120 percent of the TRC, except as described in Section 22.90.11 (A) following.

Example:

(TRC X 120% - TRC) – (any credit reduction as described in Section 22.90.11)

For the Second Extension Option, the TRC shall be determined as follows:

The TRC amount for the Second Extension Option will be equal to the last 3 months of qualified Contributory Services revenue in Contract Year 4 times 4 times 83 percent, or the Contract Year 4 TRC, whichever is greater. The maximum Basic Credit Amount will be equal to the TRC times 120 percent minus the TRC amount, less any Basic Credit reductions applied during the Term Period of this Contract Offer, or under the First Extension Option as described in Section 22.90.11(A) following. An Achievement Credit of 17 percent will apply on revenue above 120 percent of the TRC, except as described in Section 22.90.11 (A) following.

Example:

(N)

(TRC X 120% - TRC) – (any credit reduction as described in Section 22.90.11)

22. Pricing Flexibility Contract Offerings (Cont'd)

(N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.10 Assignment and Transfer

If the Customer wishes to assign or transfer its use of services under this Contract Offer No. 90 pursuant to F.C.C. No. 2, Section 2.1.2 of this Tariff, the Telephone Company will acknowledge such transfer or assignment pursuant to the terms of F.C.C. No. 2, Section 2.1.2, unless:

(A) the proposed assignee or transferee demonstrates a lack of credit worthiness under one of the criteria in (1) or (2) below, or

(B) if the proposed assignee or transferee or its parent company has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it).

(1) Any debt securities of the proposed assignee or transferee or its parent (defined as an entity that owns directly or indirectly more than 50 percent of the equity of the proposed assignee or transferee) are rated below investment grade, as defined by the Securities and Exchange Commission, or if any debt securities of a proposed assignee or transferee or its parent are rated the lowest investment grade and have been placed on review by the rating organization for a possible downgrade.

(2) The proposed assignee or transferee does not have any outstanding securities rated by credit rating agencies (e.g. Standard and Poor's), but does have a Dun and Bradstreet rating, and the proposed assignee or transferee is rated "fair" or below in a composite credit appraisal published by Dun and Bradstreet, or "high risk" in a Paydex score as published by Dun and Bradstreet.

All of the contract offers described in Section 22.90.2(C) must be assigned or transferred concurrently. Those contract offers may not be assigned or transferred individually. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions

(A) The terms and conditions of this Contract Offer shall continue in full force and effect if the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or assets to any other entity, or purchases all stock or substantially all stock or assets of another company (the foregoing generally referred to herein as a merger or acquisition). Any other company involved in such merger or acquisition shall be identified for purposes of this Contract Offer as an Acquired Company, without regard to whether the Customer or the Acquired Company is the surviving entity following the transaction. The Transaction Close Date shall be the date upon which a stock purchase has been completed and/or the final date on which the assets of the acquired/merged company have been purchased. Upon the Transaction Close Date, if the Acquired Company purchases any services that are Contributory Services under this Contract Offer No. 90 from the Telephone Company and each of its affiliated telephone companies in each of the contract offers described in Section 22.90.2 (C), the Contributory Services purchased by the Acquired Company will not count toward the Gross Revenue achievement or TRC amount, and the Contributory Services provided for in this Contract Offer will continue to be maintained at the same volume, rates, terms, and conditions as outlined herein.

Effective upon the Transaction Close Date:

The Acquired Spend shall be calculated for the Acquired Company, including the Acquired Company's billed revenue for Contributory Services consistent with the manner of calculating Gross Spend, as provided in Section 22.90.6(A) of this Contract Offer, plus the Acquired Company's billed revenue for UNE or equivalent offerings, as described in Section 22.90.4, Table 2.

(1) If the Acquired Spend (calculated based on the billed revenue of the Acquired Company during the three months immediately prior to the Transaction Close Date, times four) is less than or equal to 15 percent of the billed revenue for both Contributory Services and UNE, or equivalent offerings provided to the Customer prior to the Transaction Close Date, this Contract Offer shall remain in force without change, unless Customer includes the Acquired Spend in this Contract Offer, as provided in Section 22.90.11(B) of this Contract Offer. (N)

22. Pricing Flexibility Contract Offerings (Cont'd) (N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(A) (Cont'd)

(2) If the Acquired Spend (calculated based on the billed revenue of the Acquired Company during the three months immediately prior to the Transaction Close Date, times four) is greater than 15 percent of the billed revenue for both Contributory Services and UNE, or equivalent offerings provided to the Customer prior to Transaction Close Date, the following provisions shall apply:

(a) The Customer's Calculated Annual Spend shall be the Customer's actual annualized billed revenue for Contributory Services (calculated as the Customer's billed revenue during the three months immediately prior to the Transaction Close Date, times four). The Ceiling shall be the sum of the TRC plus the Maximum Basic Credit. If the Customer's Calculated Annual Spend is less than the Ceiling, the Customer's Maximum Basic Credit shall be reduced by an amount equal to the difference between the Ceiling and the Calculated Annual Spend. The Customer's TRC shall not change. The reduced Maximum Basic Credit shall apply thereafter throughout the Term Period, unless subsequently reduced pursuant to this provision as a result of a subsequent merger or acquisition. Thereafter, the Customer shall not receive Achievement Credits for any revenue above the Calculated Annual Spend, except as described in Section 22.90.11(A)(3) of this Contract Offer.

Example: The Customer's Year 2 TRC is $90M and its Maximum Basic Credit is $18M, for a Ceiling of $108M (TRC plus Maximum Basic Credit).
On the Transaction Close Date, the Customer's Calculated Annual Spend (billed revenue for Contributory Services during the prior three months, times four) is $100M. The Customer's TRC remains $90M, and the Customer's Maximum Basic Credit is reduced to $10M. The Maximum Basic Credit remains at $10M thereafter, unless further reduced as a result of a subsequent merger or acquisition..

No Achievement Credits will apply to any revenue over $100M. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(A) (Cont'd)

(2) (Cont'd)

(b) If the Customer's Calculated Annual Spend is equal to or greater than the Ceiling, neither the TRC nor the Maximum Basic Credit shall change, except as provided in Section 22.90.11(A)(3) of this Contract Offer. The Customer shall not receive Achievement Credits for any revenue above the Ceiling during the months after the Transaction Close Date, except as provided in Section 22.90.11(A)(3) of this Contract Offer. Any Achievement Credits earned after the maximum Basic Credit amount has been achieved, but prior to the Transaction Close Date, will continue to apply.

Example: The Customer's Year 2 TRC is $90M and the Maximum Basic Credit is $18M for total of $108M.

On the Transaction Close Date, the Calculated Annual Spend (billed revenue for Contributory Services during the prior three months, times four) is $112M. The Customer's TRC remains $90M and the Maximum Basic Credit remains $18M.

Achievement Credits will apply to Contributory Service revenue during any month after the month in which the Customer reaches the Maximum Basic Credit amount, but before the Transaction Close Date. Achievement Credits will not apply after the Transaction Close Date.

(N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(A) (Cont'd)

(3) If the Customer wishes to include Contributory Services provided to the Acquired Company in this Contract Offer, the Customer must so notify the Telephone Company within nine (9) months after the Transaction Close Date. If the Customer chooses to include the Acquired Company's Contributory Services in this Contract, the Acquired Spend (calculated based on the billed revenue of the Acquired Company during the three months immediately prior to the date upon which the Customer provides notification pursuant to this provision, times four) will be added to the Customer's then-current TRC. In addition, the revenues resulting from any conversion of UNE or equivalent offerings to qualified Contributory Subject Services, whether voluntary or required, shall also be added to the Customer's then-current TRC, according to the rates that would apply to those Contributory Services under this Contract Offer. The Maximum Basic Credit shall be determined according to Section 22.90.11(A) of this Contract Offer. Achievement Credits will apply to revenue above the Ceiling, beginning upon the date the Customer provides notification pursuant to this provision. Upon including the other company's Contributory Services in this Contract Offer, any pricing flexibility contract offer, or similar intrastate arrangement governing the included services, shall be deemed terminated and any termination liability or other charges will apply, as provided in the previously effective pricing flexibility contract offer or similar intrastate arrangement. The Customer's Maximum Basic Credit amount will not change as a result of this transfer except as described in Section 22.90.11(A)(2)(a) of this Contract Offer. The Access Service Ratio, as described in Section 22.90.4, will be applicable to all of the Customer's affiliates, regardless of their inclusion in, or exclusion from, this Contract Offer (except as described in Section 22.90.11(B) of this Contract Offer). The increase in the Customer's TRC shall apply thereafter, except to the extent the TRC may be further modified pursuant to this Contact Offer.

Example A: The Customer has a Year 2 TRC of $90M, and the Maximum Basic Credit is $18M. The Customer acquires another company with annualized Contributory Service revenues of $40M, and the Customer chooses to add the Acquired Company's Contributory Services business to this Contract Offer. The Customer's new Contract Year 2 TRC will be $130M ($90M plus $40M = $130M). The Customer's Maximum Basic Credit ($18M) will not change, except as described in Section 22.90.11(A)(2)(a) of this Contract Offer. The new TRC will apply thereafter, unless the TRC is subsequently changed pursuant to this Contract Offer. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio

If any merger or acquisition affects the Customer's Access Service Ratio, the Customer and any affiliated entities that existed as of the Transaction Close Date (as determined by the applicable ACNA's) shall comply with the Access Service Ratio requirements of this Contract Offer, as described in Section 22.90.4 of this Contract Offer, subject to the provisions of this Section 22.90.11(B).

If the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or certain assets to any other entity, or purchases:

(1) All stock, or substantially all stock or certain assets of another company, and the merger or acquisition will cause the Customer to fall below Access Services Ratio Terms and Conditions as defined in Section 22.90.4, regardless of whether the Customer chooses to include the Acquired Company's Contributory Services in this Contract Offer, the following will apply.

(a) A Temporary Access Service Ratio will be calculated in a manner consistent with the calculation of the Access Service Ratio as described in Section 22.90.4 of this Contract Offer, for the Acquired Company, for the month immediately following the Transaction Close Date, according to the following formula.

$$\frac{\text{Acquired Company Access Revenue}}{\text{Acquired Company Access Revenue + Acquired Company Wholesale Revenue}}$$

Example:

$$\frac{\text{\$35M Access}}{\text{\$35M Access + \$34M Wholesale}}$$

The Temporary Access Services Ratio would be:

50.7%/49.3%

(N)

(This page filed under Transmittal No. 1519)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio (Cont'd)

(1) (Cont'd)

(b) The Temporary Access Service Ratio will apply to the Acquired Company's Contributory Services until the earlier of nine (9) months after the Transaction Close Date, or the date upon which the Customer notifies the Telephone Company of its election to add the Acquired Company's Contributory Services to this Contract Offer, whichever is earlier. While the Temporary Access Service Ratio remains in effect, the Contributory Services of the Acquired Company must at all times meet or exceed the Temporary Access Service Ratio.

Thereafter, a Combined Access Service Ratio shall be calculated according to the following formula:

$$\frac{\text{Combined Access Revenue}}{\text{Combined Access Revenue} + (\text{Combined Wholesale} - \text{Acquired Wholesale Revenue})}$$

The Acquired Wholesale Revenue in the combined equation shall be measured at the earlier of nine (9) months after the Transaction Close Date or the date upon which the Customer notifies the Telephone Company of its election to add the Acquired Company's Contributory Services to this Contract Offer, whichever is earlier.

Example:

$$\frac{\$140M}{\$140M + (\$37M - \$35M)}$$

The combined Access Service Ratio of 98.6%/1.4% exceeds the 95%/5% ratio required.

(c) Once the Combined Access Service Ratio has been calculated, the combined Company (the Customer and Acquired Company, considered together) must meet or exceed a Combined Access Service Ratio of 95 percent for all services (Contributory and UNE or other equivalent offerings) purchased thereafter. Any wholesale services purchased by the Acquired Company prior to the earlier of the date nine months after the Transaction Close Date, or the date upon which the Customer notifies the Telephone Company of its election to add the Acquired Company's Contributory Services to this Contract Offer, will be deducted from the Combined Wholesale Revenue for purposes of calculating the Combined Access Service Ratio. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.11 Mergers and Acquisitions (Cont'd)

(B) Mergers and Acquisitions Affecting Access Service Ratio (Cont'd)

(1) (Cont'd)

(d) Services included in the calculation of the Temporary Access Service Ratio or the Combined Access Service Ratio shall be the same as those described in Section 22.90.4 of this Contract Offer.

(e) If the Customer and/or the Acquired Company fails to meet or exceed the Temporary Access Service Ratio or the Combined Access Service Ratio, the remedies provided in Section 22.90.4 of this Contract Offer shall apply.

(f) The provisions of this Section 22.90.11 shall apply to each merger or acquisition during the Term Period.

(2) If the Customer chooses to include the Acquired Company's Contributory Services in this Contract Offer, Contributory Services previously provided to the Acquired Company shall be included in this Contract Offer immediately upon the Telephone Company's receipt of the Customer's notice of intent to include them, and the TRC will be increased by the amount of the Acquired Company's qualified revenues. In addition, the monthly TRC will be increased to reflect the conversion of any unbundled network elements and equivalent offerings to Contributory Subject Services subject to this Contract Offer. Any converted services will be billed as Contributory Subject Services subject to this Contract Offer, and will be included in the TRC, effective upon the date on which receives the Customer's request to convert. The Customer's Maximum Basic Credit will not change as a result of the inclusion of the Acquired Company's Contributory Services in this Contract Offer, except as described in 22.90.11(A) preceding. The recalculated monthly TRC will apply for the remainder of that Contract Year. In each subsequent Contract Year, the TRC will continue to include the revenues associated with the Acquired Company's Contributory Services. (N)

22. Pricing Flexibility Contract Offerings (Cont'd) (N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.12 Cessation of Business

If, at any time during the Term Period, the Telephone Company, or any of its affiliated telephone companies, cease to provide telecommunications services in any MSA subject to this Contract Offer, or any of the other Contract Offers as described in Section 22.90.2 (C), sells or divests its operating assets in any MSA subject to this Contract Offer, or otherwise ceases to provide any of the Contributory Services subject to this Contract Offer, the TRC will be decreased by the amount of the qualified revenue associated with the Contributory Services no longer provided by the Telephone Company or its affiliated telephone companies.

22.90.13 Termination Liability Charges

Termination liability language described below applies in lieu of the termination liability language in F.C.C. No. 2, Section 7. If the Customer terminates Contract Offer No. 90 before the expiration of the Term Period for any reason, except for that defined in 22.90.13 (B) below, the Customer must pay the Telephone Company termination liability charges as described below. These charges shall become due as of the effective date of the cancellation or termination. The Customer must provide written notification to the Telephone Company 90 days prior to the desired date of termination. This notification must include the date upon which the Customer will terminate the Contract Offer.

(A) If the Customer fails to meet any of the eligibility criteria in Section 22.90.2, or fails to meet any of the terms and conditions in Contract Offer No. 90, then the Telephone Company shall provide the Customer with written notification of such non-compliance, and the Customer will have sixty (60) days to return to compliance. If the Customer does not return to compliance within such time period, the Customer will be deemed to have terminated its participation in Contract Offer No. 90, and termination liability charges will apply as stated in 22.90.13 (C), and will be payable within sixty (60) days from the time the contract is deemed terminated. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.13 Termination Liability Charges (Cont'd)

(B) If the Telephone Company and its affiliated telephone companies providing service pursuant to the contract offers described in Section 22.90.2(C) fail, in the aggregate, to maintain a Network Availability cumulative annual target of 90 percent for all Contributory services for twelve consecutive months, the Customer will have the option to notify the Telephone Company of the Customer's intent to terminate this Contract Offer. The Customer must provide the Telephone Company with ninety (90) days notice of the Customer's intent to invoke this escape clause and return its services to standard special access services. The Telephone Company will have sixty (60) days, from the date that Customer notice is received, to rectify the service problems or the Customer will be allowed to terminate this offering without incurring any termination liability on the services moved to standard Special Access services. If the Telephone Company and its affiliated telephone companies meet the Network Availability targets within sixty (60) days, the Customer will continue to purchase services under this Contract Offer.

The following occurrences will not be included in the measurements described in the calculation of Network Availability:

(1) In the case of labor disputes, governmental orders, civil commotions, or criminal actions taken against the Telephone Company or its affiliated telephone companies, the Telephone Company and its affiliated telephone companies will be excused for the duration of these events.

(2) In the case of actions outside of the Telephone Company or its affiliated telephone companies' reasonable control (e.g., catastrophic weather conditions) that have a severe impact on the Telephone Company or its affiliated telephone companies' ability to provision and repair service, the Telephone Company and its affiliated telephone companies will be excused, for the duration of the situation, from the performance measures set forth herein. Any such temporary exemption will apply only to the dispatch area(s) directly affected by the situation, and the Telephone Company and its affiliated telephone companies will return to the levels of performance required hereunder as promptly as is reasonably practicable. To the extent additional dispatch areas are impacted by such a situation, the Telephone Company and its affiliated telephone companies will give prompt notice to the Customer of the scope and nature of such impact so the parties can determine whether additional temporary exemptions from the applicable performance measures are appropriate.

(3) Performance shall be excused for the duration of any interruptions caused by the negligence of the Customer, the Customer's end-user, or other third parties not affiliated with the Telephone Company or its affiliated telephone companies. (N)

(N)

22. Pricing Flexibility Contract Offerings (Cont'd)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.13 Termination Liability Charges (Cont'd)

(B) (Cont'd)

(4) Performance shall be excused for the duration of any interruptions of a service due to the failure of equipment or systems provided by the Customer or parties other than the Telephone Company or its affiliated telephone companies.

(5) Performance shall be excused for the duration of any interruptions of a service during any period in which the Telephone Company or its affiliated telephone companies are not afforded access to the premises where the service is terminated.

(6) Performance shall be excused for the duration of any interruptions of a service when the Customer has released that service to the Telephone Company or any of its affiliated telephone companies for maintenance purposes, to make rearrangements, or for the implementation of an order for a change in the service during the time that was negotiated with the Customer prior to the release of that service.

(7) Performance shall be excused for the duration of any interruptions of a service which continue because of the failure of the Customer to authorize replacement of any element of special construction, as set forth in Section 5 and Section 13 of F.C.C. No. 2.

(8) Performance shall be excused for the duration of any interruptions that occur on facilities that the Customer elected not to release the service to the Telephone Company or its affiliated telephone companies for testing and/or repair. (N)

22. Pricing Flexibility Contract Offerings (Cont'd) (N)

22.90 Contract Offering No. 90 – Access Discount Offer (Cont'd)

22.90.13 Termination Liability Charges (Cont'd)

(C) If the Customer terminates its subscription to this Contract Offer prior to the end of the Term Period, for any reason other than described in 22.90.13 (B), the Customer must pay termination liability charges as described below:

Termination of Contract during:

Contract Year 1 – Any credits received under this Contract Offer plus 25% of TRC for remaining months of Term Period

Contract Year 2 – Last 6 months of credit received under this Contract Offer plus 25% of TRC for remaining months of Term Period.

Contract Year 3 – Last 6 months of credit received under this Contract Offer plus 10% of total TRC for Contract Year 3.

Example:

The Customer's 2006 TRC is $90M. The Customer terminates the contract on April 31, 2006. The Customer has 20 months remaining on the Term Period and has received $6M in credits under this Contract Offer in the 6 months prior to termination. The customer will owe $43.4M in termination liability

$26.25M x 4 = $105M
$105M times 89.7% = $94M
$94M/12 = $7.8M x 8 = $62M x 25% = $15.5M for remainder of Contract Year 2

plus

$105M times 83.4% = $87.5M
$87.5M x 25% = $21.9M for Contract Year 3

Contract Year 2 + Contract Year 3 + Last 6 months of credits

$15.5M + $21.9M + $6M = $43.4M Termination Liability (N)

ATTACHMENT 7

Attachment 7

Metrics Proposed in the 1996
Non-Accounting Safeguards Order

Service Category (Metric)	Levels of Disaggregation
Successful Completion According to Desired Due Date (measured as percentage of orders completed on or before the due date desired by the customer)	DS0 DS1 DS3 and above
Time from BOC Promised Due Date to Circuit Being Placed in Service (measured in terms of percentage received within each successive 24-hour period, until 95% completed)	DS0 DS1 DS3 and above
Time to Firm Order Confirmation (measured in terms of percentage received within each successive 24-hour period, until 95% completed)	DS0 DS1 DS3 and above
Time from PIC Change Request to Implementation (measured in terms of percentage of complete and accurate PIC requests implemented within each successive 6-hour period, until 95% completed)	By CIC (10XXX)
Mean Time to Restore (percentage of circuits restored within each successive 1-hour interval, until resolution of 95% of incidents)	DS0 DS1 DS3 and above
Time to Restore PIC After Trouble Report (measured by percentage restored within each successive 1-hour interval after the trouble is reported, until resolution of 95% of incidents)	By CIC (10XXX)
Mean Time To Clear Network/Average Duration of Trouble (measured in hours)	DS0 DS1

ATTACHMENT 8

All Measures Less Resale Monthly	Jan-01	Feb-01	Mar-01	Apr-01	May-01	Jun-01	Jul-01	Aug-01	Sep-01	Oct-01	Nov-01	Dec-01
Illinois	79.9%	76.7%	72.6%	75.7%	76.9%	81.4%	86.5%	90.2%	92.3%	92.0%	89.7%	90.0%
Indiana	75.3%	73.1%	71.2%	73.1%	77.1%	80.4%	82.9%	89.8%	87.0%	91.3%	90.8%	87.5%
Michigan	79.6%	74.9%	74.2%	77.2%	76.4%	84.2%	86.7%	88.1%	89.9%	89.5%	90.7%	88.0%
Ohio	76.0%	71.6%	70.2%	69.8%	72.1%	80.0%	83.2%	86.7%	89.2%	88.3%	89.3%	86.7%
Wisconsin	77.8%	73.4%	73.0%	71.6%	71.9%	81.5%	82.7%	86.5%	87.6%	89.8%	89.6%	89.0%
TOTAL SBC - Midwest	**78.3%**	**74.4%**	**72.4%**	**74.0%**	**75.1%**	**81.7%**	**84.8%**	**88.4%**	**89.6%**	**90.3%**	**90.0%**	**88.4%**
California	87.0%	89.4%	87.7%	89.8%	90.8%	88.6%	91.0%	90.6%	93.5%	90.0%	90.7%	92.2%
Nevada	96.1%	96.2%	96.2%	100.0%	95.5%	94.0%	96.2%	92.4%	93.3%	95.0%	93.1%	91.9%
TOTAL SBC - West	**89.3%**	**91.1%**	**89.8%**	**90.6%**	**92.0%**	**90.1%**	**92.4%**	**91.1%**	**93.4%**	**91.2%**	**91.3%**	**92.1%**
Arkansas	85.4%	88.1%	90.9%	89.2%	91.4%	91.8%	91.7%	90.7%	91.5%	93.7%	93.2%	95.5%
Kansas	88.8%	89.5%	89.8%	87.9%	88.3%	90.8%	93.8%	90.8%	89.9%	92.5%	93.3%	90.9%
Missouri	85.4%	86.5%	88.4%	85.4%	87.1%	92.2%	88.6%	90.7%	92.1%	93.3%	93.7%	90.0%
Oklahoma	86.8%	95.6%	91.5%	88.0%	86.4%	88.8%	91.0%	91.4%	91.8%	92.1%	90.5%	93.7%
Texas	87.5%	88.5%	88.9%	87.6%	85.7%	86.6%	84.9%	87.3%	88.2%	86.6%	90.1%	89.8%
TOTAL SBC - Southwest	**86.9%**	**89.0%**	**89.4%**	**87.4%**	**87.0%**	**89.2%**	**88.5%**	**89.5%**	**90.1%**	**90.4%**	**91.7%**	**91.0%**
TOTAL SBC	**83.7%**	**82.5%**	**81.5%**	**81.3%**	**81.9%**	**85.7%**	**87.1%**	**89.1%**	**90.2%**	**90.4%**	**90.7%**	**89.7%**

All Measures Less Resale Monthly	Jan-02	Feb-02	Mar-02	Apr-02	May-02	Jun-02	Jul-02	Aug-02	Sep-02	Oct-02	Nov-02	Dec-02
Illinois	91.5%	93.0%	91.6%	91.3%	91.0%	92.8%	92.4%	91.7%	92.6%	93.3%	91.9%	91.0%
Indiana	92.9%	93.1%	93.9%	90.8%	91.3%	94.9%	94.9%	94.4%	94.4%	92.9%	93.3%	93.1%
Michigan	92.9%	91.6%	90.2%	92.0%	91.0%	94.2%	92.5%	93.3%	92.6%	94.3%	90.9%	92.3%
Ohio	90.9%	93.6%	89.2%	89.6%	89.8%	92.2%	91.3%	93.2%	93.4%	94.3%	91.1%	93.1%
Wisconsin	91.8%	92.6%	92.1%	88.9%	89.1%	94.5%	94.0%	93.2%	91.8%	93.3%	91.4%	91.3%
TOTAL SBC - Midwest	**92.0%**	**92.7%**	**91.3%**	**90.7%**	**90.5%**	**93.6%**	**92.9%**	**93.0%**	**92.9%**	**93.6%**	**91.7%**	**92.0%**
California	89.8%	91.8%	90.1%	89.9%	90.8%	90.4%	90.1%	89.3%	88.4%	87.0%	88.8%	90.5%
Nevada	90.4%	92.7%	94.5%	89.7%	94.0%	89.3%	94.8%	93.0%	92.4%	95.2%	96.8%	93.6%
TOTAL SBC - West	**90.0%**	**92.1%**	**91.4%**	**89.8%**	**91.7%**	**90.1%**	**91.5%**	**90.4%**	**89.5%**	**89.3%**	**91.1%**	**91.4%**
Arkansas	89.2%	92.2%	93.8%	89.0%	90.7%	93.2%	90.3%	91.2%	90.1%	92.9%	91.8%	93.9%
Kansas	91.0%	90.4%	94.6%	91.2%	91.0%	91.3%	92.3%	89.4%	92.5%	93.5%	91.8%	92.4%
Missouri	89.6%	93.3%	92.9%	92.0%	90.7%	93.5%	93.0%	94.3%	91.5%	91.6%	94.2%	92.5%
Oklahoma	93.6%	92.9%	94.5%	90.4%	91.5%	93.5%	93.5%	95.1%	94.3%	94.0%	95.7%	92.9%
Texas	90.6%	89.6%	89.3%	91.8%	90.0%	91.5%	91.8%	90.5%	89.5%	89.7%	90.0%	91.5%
TOTAL SBC - Southwest	**90.7%**	**91.3%**	**92.0%**	**91.3%**	**90.6%**	**92.4%**	**92.2%**	**91.6%**	**90.9%**	**91.4%**	**92.0%**	**92.2%**
TOTAL SBC	**91.3%**	**92.2%**	**91.6%**	**90.8%**	**90.7%**	**92.9%**	**92.5%**	**92.4%**	**92.0%**	**92.6%**	**91.7%**	**92.0%**

All Measures Less Resale Monthly	Jan-03	Feb-03	Mar-03	Apr-03	May-03	Jun-03	Jul-03	Aug-03	Sep-03	Oct-03	Nov-03	Dec-03
Illinois	87.0%	88.7%	89.6%	91.7%	91.4%	91.3%	92.2%	91.4%	91.9%	94.7%	93.7%	92.1%
Indiana	91.6%	90.6%	93.0%	93.7%	94.1%	92.7%	93.4%	93.8%	94.0%	94.6%	94.1%	94.1%
Michigan	90.5%	91.1%	93.1%	92.3%	92.8%	91.3%	94.0%	91.6%	92.8%	92.5%	94.4%	92.8%
Ohio	88.8%	91.5%	91.5%	93.0%	93.3%	93.2%	92.9%	93.5%	92.2%	94.0%	92.5%	93.3%
Wisconsin	91.0%	89.4%	91.6%	91.1%	92.3%	93.8%	92.6%	90.8%	94.0%	94.3%	91.3%	93.9%
TOTAL SBC - Midwest	**89.4%**	**90.1%**	**91.6%**	**92.3%**	**92.6%**	**92.2%**	**93.0%**	**92.1%**	**92.8%**	**94.0%**	**93.4%**	**93.1%**
California	89.5%	88.6%	91.9%	91.8%	88.1%	89.6%	91.5%	92.6%	91.9%	93.4%	90.7%	92.4%
Nevada	93.8%	94.3%	95.9%	96.2%	92.5%	96.1%	95.6%	92.7%	96.0%	96.1%	98.3%	95.0%
TOTAL SBC - West	**90.7%**	**90.3%**	**93.0%**	**93.0%**	**89.3%**	**91.3%**	**92.5%**	**92.6%**	**92.9%**	**94.1%**	**92.7%**	**93.1%**
Arkansas	90.5%	94.5%	91.7%	94.2%	90.6%	94.2%	90.6%	92.7%	93.7%	95.7%	94.4%	96.3%
Kansas	90.9%	93.6%	93.2%	93.8%	92.3%	94.4%	92.8%	91.3%	92.0%	97.1%	91.3%	95.5%
Missouri	92.3%	96.5%	94.1%	93.6%	94.3%	92.7%	95.5%	93.0%	95.0%	93.0%	95.3%	94.8%
Oklahoma	92.4%	95.0%	95.5%	95.3%	92.8%	94.2%	94.2%	93.7%	95.2%	93.1%	96.1%	96.3%
Texas	90.7%	91.4%	89.0%	91.7%	92.7%	91.0%	93.0%	91.5%	89.4%	90.0%	89.9%	90.4%
TOTAL SBC - Southwest	**91.3%**	**93.6%**	**91.7%**	**93.0%**	**92.7%**	**92.6%**	**93.3%**	**92.2%**	**92.0%**	**92.4%**	**92.4%**	**93.3%**
TOTAL SBC	**90.1%**	**91.1%**	**91.8%**	**92.6%**	**92.3%**	**92.2%**	**93.0%**	**92.2%**	**92.6%**	**93.6%**	**93.0%**	**93.1%**

All Measures Less Resale Monthly	Jan-04	Feb-04	Mar-04	Apr-04	May-04	Jun-04	Jul-04	Aug-04	Sep-04	Oct-04	Nov-04	Dec-04
Illinois	94.0%	93.8%	93.1%	92.9%	90.3%	93.4%	94.8%	93.7%	91.3%	92.5%	93.5%	93.1%
Indiana	92.4%	93.5%	94.1%	93.7%	92.6%	94.6%	93.9%	94.4%	95.7%	95.6%	93.0%	94.5%
Michigan	92.4%	92.7%	93.8%	93.4%	91.1%	93.6%	95.1%	94.5%	94.5%	94.7%	94.1%	94.8%
Ohio	93.3%	94.3%	93.8%	95.5%	92.7%	93.4%	94.6%	94.9%	93.4%	95.4%	94.5%	94.6%
Wisconsin	92.7%	91.0%	91.0%	93.0%	88.8%	91.4%	95.1%	94.7%	92.7%	93.4%	95.2%	91.8%
TOTAL SBC - Midwest	**93.1%**	**93.2%**	**93.2%**	**93.6%**	**91.0%**	**93.4%**	**94.8%**	**94.4%**	**93.4%**	**94.1%**	**94.0%**	**93.8%**
California	90.8%	91.4%	90.8%	93.8%	86.5%	90.6%	92.2%	92.0%	93.9%	90.6%	90.9%	91.3%
Nevada	95.5%	94.3%	96.2%	95.9%	94.1%	98.4%	92.1%	97.4%	98.9%	96.7%	98.3%	92.9%
TOTAL SBC - West	**92.0%**	**92.1%**	**92.1%**	**94.3%**	**88.4%**	**92.5%**	**92.2%**	**93.4%**	**95.1%**	**92.2%**	**92.9%**	**91.7%**
Arkansas	95.9%	89.6%	98.1%	95.1%	92.8%	95.5%	97.5%	97.4%	99.3%	98.2%	97.5%	95.5%
Kansas	95.1%	96.0%	94.5%	96.0%	96.5%	91.9%	96.7%	96.5%	98.8%	97.8%	95.5%	96.6%
Missouri	95.1%	92.5%	94.8%	95.4%	92.5%	93.9%	93.7%	95.6%	95.8%	96.2%	93.4%	93.3%
Oklahoma	93.5%	93.4%	93.8%	95.6%	90.7%	95.0%	92.9%	92.3%	97.3%	98.8%	94.3%	95.5%
Texas	86.6%	88.1%	88.1%	88.3%	88.3%	90.1%	86.9%	90.4%	91.7%	91.3%	87.8%	88.9%
TOTAL SBC - Southwest	**91.3%**	**90.8%**	**92.0%**	**92.5%**	**91.0%**	**92.3%**	**91.6%**	**93.3%**	**94.9%**	**94.8%**	**91.9%**	**92.3%**
TOTAL SBC	**92.4%**	**92.3%**	**92.7%**	**93.4%**	**90.6%**	**92.9%**	**93.3%**	**93.9%**	**94.1%**	**94.0%**	**93.1%**	**93.0%**

All Measures Less Resale Monthly															
	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05	Jul-05	Aug-05	Sep-05	Oct-05	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06
Illinois	92.7%	92.1%	92.3%	93.4%	93.0%	95.0%	91.9%	92.1%	91.1%	93.7%	93.1%	88.2%	88.7%	87.8%	87.6%
Indiana	94.6%	93.4%	91.9%	94.5%	97.3%	95.2%	94.1%	92.8%	92.3%	94.9%	96.6%	91.2%	92.7%	93.5%	93.9%
Michigan	94.4%	93.4%	93.2%	91.3%	94.4%	93.5%	93.9%	94.7%	94.9%	94.2%	94.0%	89.4%	89.9%	90.9%	91.2%
Ohio	94.4%	93.4%	93.9%	92.8%	92.5%	95.8%	96.7%	95.3%	93.4%	96.5%	96.6%	93.4%	95.5%	95.7%	91.6%
Wisconsin	95.0%	94.4%	93.5%	93.7%	95.8%	97.4%	95.8%	93.9%	95.2%	93.9%	95.5%	94.2%	94.0%	90.7%	91.5%
TOTAL SBC - Midwest	**94.1%**	**93.2%**	**92.9%**	**93.0%**	**94.3%**	**95.1%**	**94.1%**	**93.8%**	**93.2%**	**94.5%**	**94.8%**	**90.7%**	**91.5%**	**91.2%**	**90.7%**
California	91.3%	91.9%	91.3%	90.6%	91.3%	91.2%	90.3%	90.6%	89.1%	89.4%	92.3%	91.6%	89.5%	93.3%	91.4%
Nevada	94.2%	97.0%	94.9%	96.8%	97.7%	95.4%	95.7%	95.9%	96.3%	98.8%	96.3%	96.1%	94.0%	92.9%	94.1%
TOTAL SBC - West	**92.0%**	**93.2%**	**92.2%**	**92.4%**	**93.0%**	**92.4%**	**91.8%**	**92.0%**	**90.9%**	**92.0%**	**93.3%**	**92.8%**	**90.7%**	**93.2%**	**92.1%**
Arkansas	98.4%	97.7%	93.5%	95.4%	92.9%	95.6%	97.6%	96.8%	98.4%	95.3%	97.6%	97.5%	96.1%	100.0%	96.1%
Kansas	94.9%	97.3%	95.3%	94.4%	95.7%	95.1%	97.8%	95.0%	96.4%	96.2%	96.0%	96.9%	99.0%	98.0%	95.0%
Missouri	95.5%	97.0%	95.8%	96.9%	94.4%	95.0%	97.7%	97.3%	98.3%	96.6%	97.4%	99.1%	99.1%	97.3%	98.1%
Oklahoma	94.9%	95.4%	94.2%	95.3%	97.0%	94.2%	98.4%	99.2%	96.9%	96.8%	94.5%	97.6%	95.9%	98.3%	97.6%
Texas	91.6%	92.1%	91.5%	93.2%	91.0%	93.7%	94.1%	89.6%	92.0%	94.0%	92.5%	95.8%	99.3%	98.6%	97.3%
TOTAL SBC - Southwest	**93.9%**	**94.7%**	**93.4%**	**94.6%**	**93.3%**	**94.4%**	**96.3%**	**93.9%**	**95.0%**	**95.7%**	**95.5%**	**97.3%**	**97.8%**	**98.5%**	**96.9%**
TOTAL SBC	**93.7%**	**93.7%**	**92.9%**	**93.3%**	**93.8%**	**94.5%**	**94.3%**	**93.4%**	**93.3%**	**94.3%**	**94.7%**	**92.6%**	**92.7%**	**93.3%**	**92.3%**

ATTACHMENT 9

LWC PERFORMANCE MEASURES
% OF DISAGS MADE - BY STATE ACROSS MONTH
FROM 2005-04 THRU 2006-03

STATE	2005-04	2005-05	2005-06	2005-07	2005-08	2005-09	2005-10	2005-11	2005-12	2006-01	2006-02	2006-03
AR	100.0	99.2	98.5	98.0	99.4	99.4	99.4	99.5	99.5	99.1	99.2	100.0
CA	92.0	94.4	95.3	93.7	96.0	97.8	96.8	95.5	94.9	91.9	92.2	92.4
CT	95.5	98.1	95.0	94.0	97.1	97.0	92.9	94.1	94.9	96.2	95.7	98.6
IL	99.4	98.7	99.5	99.1	98.6	99.1	98.9	99.3	97.6	97.2	98.9	96.7
IN	97.7	99.3	98.4	96.9	96.4	97.9	99.0	98.5	97.8	98.3	97.9	98.4
KS	99.0	98.1	95.3	94.9	96.5	98.3	99.4	98.6	99.2	98.1	98.2	96.4
MI	98.4	99.3	99.4	94.7	98.4	98.4	97.4	98.2	98.0	92.1	96.0	97.2
MO	98.3	99.2	98.0	99.4	98.7	97.2	100.0	97.7	99.2	98.9	97.5	97.8
NV	98.5	100.0	98.7	100.0	97.6	100.0	98.8	99.0	100.0	97.4	100.0	99.3
OH	97.9	98.6	97.0	96.7	99.1	96.5	97.7	98.6	99.0	98.1	97.6	98.3
OK	98.3	100.0	99.3	95.5	96.4	97.4	98.5	98.3	97.0	99.2	97.0	95.3
TX	97.9	95.6	97.5	95.2	96.0	97.0	94.3	95.6	98.4	96.1	97.7	96.7
WI	98.2	99.2	98.7	100.0	100.0	98.2	98.4	99.6	98.4	97.9	98.3	98.7
TOTAL	97.9	98.2	97.9	96.7	97.6	97.8	97.6	97.8	98.1	96.7	97.3	97.2