

APPENDIX K
CONDUIT OCCUPANCY AGREEMENT

1. Parties.

This agreement (Agreement) is made by and between GTE South Incorporated, GTE North Incorporated with its address for purposes of this Agreement at 600 Hidden Ridge Drive, Irving, Texas 75038 ("GTE"), and US Xchange of Illinois, L.L.C.(Licensee), in its capacity as a certified provider of local dial-tone service, with its principal place of business at 20 Monroe N.W., Suite 450, Grand Rapids, Michigan 49503 (GTE and USX being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Illinois (the "State").

2. Definitions.

- 2.1 Business Day - Monday through Friday, except for holidays on which the U. S. Mail is not delivered.
- 2.2 Conduit Occupancy Request (COR) - a written request from Licensee to occupy GTE's Conduit Innerduct system with its Facilities, submitted in accordance with Section 6 of this Agreement. For Agreements in effect prior to the (date this agreement is executed by the parties), the term COR shall be deemed to include Conduit occupancy requests made by letter or similar document.
- 2.3 Duct - a single enclosed path used to house innerduct.
- 2.4 Facilities - all facilities, including, but not limited to, cables, equipment and associated hardware, owned and utilized by the Licensee which occupy an Innerduct or Duct.
- 2.5 GTE's conduit(s) or GTE conduit(s) - any reinforced passage or opening in, on, under, over or through the ground capable of containing communications facilities.
- 2.6 Hazardous Materials - (i) any substance, material or waste now or hereafter defined or characterized as hazardous, extremely hazardous, toxic or dangerous within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any similar law, ordinance, statute, rule or regulation of any governmental body or authority; (ii) any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, ordinance, statute, rule or regulation of any governmental body or authority; or (iii) any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.
- 2.7 Innerduct - unless otherwise specified or approved by GTE, a single enclosed raceway 1" or 1-1/4" in diameter, placed within duct and used for housing communications facilities.
- 2.8 Make-Ready Work - all work, including, but not limited to, rearrangement, removal, or transfer of existing facilities, placement, repair, or replacement of duct or innerduct, or any other changes required to accommodate the Licensee's Facilities in a conduit.
- 2.9 Manholes and Handholes - subsurface enclosures which personnel may enter and use for the purpose of installing, operating and maintaining communications facilities.

- 2.10 Occupancy Fee - the fee paid by Licensee to GTE per linear foot for each innerduct occupied by Licensee's Facilities in GTE's Conduit(s). Occupancy Fees are specified in Section 12.
- 2.11 Telecommunications Services - the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

3. Purpose.

Licensee represents to GTE that Licensee has a need to occupy, place and maintain communications facilities within GTE's conduit(s) for the purpose of providing Telecommunications Service. GTE agrees to permit Licensee to occupy, place and maintain communications facilities within GTE's conduit(s) as GTE may allow pursuant to the terms of this Agreement.

4. Grant of License.

GTE grants to Licensee and Licensee accepts from GTE a non-exclusive revocable license to occupy, place and maintain in a designated space in specified GTE conduits Licensee's Facilities on the terms and conditions set forth herein. Licensee shall have no further right, title, or other interest in connection with GTE's conduit(s). GTE shall have the right to grant, renew or extend privileges to others not parties to this Agreement to occupy, place and maintain facilities in or otherwise use any or all of GTE's conduit(s). Nothing herein is intended to, nor should it be construed to require GTE to construct or modify any facilities not needed for its own service requirements. GTE grants this license in reliance on the representation of Licensee that Licensee intends to provide Telecommunications Service with Licensee's Facilities covered by this Agreement.

5. Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be two (2) years from the effective date referenced in the first paragraph of this Agreement and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least ninety (90) calendar days written notice of termination, which termination shall be effective at the end of the then-current term. In the event notice is given less than ninety (90) calendar days prior to the end of the current term, this Agreement shall remain in effect for ninety (90) calendar days after such notice is received, provided, that in no case shall the term be extended beyond ninety (90) calendar days after the end of the current term.

6. Conduit Occupancy Requests.

- 6.1 Upon execution of this Agreement, Licensee shall have the right to submit a written Conduit Occupancy Request (COR) as shown in Exhibit 1, to GTE specifying the GTE conduits in which it desires to place its Facilities and whether the facilities are for Telecommunications Services. Each COR shall be in a form specified by GTE, which form may be revised from time to time by GTE. CORs received by GTE shall be processed on a first come, first served basis. GTE will determine the availability of space for Licensee's Facilities in the GTE conduit(s) specified in the COR within thirty (30) Business Days of its submission. Upon approval of the COR, GTE shall return a copy thereof to Licensee bearing an endorsement acknowledging GTE's authorization. All of Licensee's Facilities placed in GTE's conduit(s) pursuant to an approved COR shall become subject to all of the terms and conditions of this Agreement. Licensee may submit subsequent CORs for approval by GTE as needed. All of Licensee's Facilities shall be placed in innerduct unless otherwise approved by GTE. No facilities of any kind shall be placed in any GTE conduit(s) identified in a COR until that COR has been approved by GTE.

- 6.2 Licensee shall pay GTE a fee for processing a COR to compensate GTE for the general administrative costs as well as the actual engineering costs reasonably incurred. The fee for engineering costs shall be computed by multiplying the fully loaded hourly rate for an engineer times the number of hours reasonably required by each engineer to inspect the GTE conduits included in the COR. GTE will charge its then current rates for administrative and engineering costs, as may be changed from time to time by GTE to remain consistent with prevailing costs.
- 6.3 Upon receiving an approved COR, Licensee shall have the right, subject to the terms of this Agreement, to place and maintain Licensee's Facilities described in the COR in the innerducts of the GTE conduit(s) identified therein.
- 6.4 In the event Make-Ready Work is necessary to accommodate Licensee's Facilities, GTE shall notify Licensee of such fact and provide Licensee with an estimate of the total cost of such Make-Ready Work. Within fifteen (15) Business Days after receiving such notice from GTE, Licensee shall notify GTE either (1) that Licensee shall pay all of the costs actually incurred to perform the Make-Ready Work and shall pay the total estimated amount to GTE at least ten (10) Business Days prior to the date the Make-Ready Work is to begin or (2) that it desires to cancel its COR. Upon completion of the Make-Ready Work any outstanding balance due to GTE or credit due to the Licensee will be billed within ten (10) Business Days.
- 6.5 Nothing herein shall confer any right upon Licensee to place power cables or related power equipment in GTE conduit(s) or Manholes. Licensee shall place equipment of this nature in its own pull boxes outside of GTE's Conduit(s) or Manholes. Cable connectors or splicing devices shall not be used by Licensee in GTE's conduit(s) or innerducts.

7. Availability of Conduit Maps.

Existing conduit maps will be made available for viewing by Licensee for the purpose of pre-order planning at the GTE area engineering offices during normal business hours, subject to reasonable advance notification. While a formal written request will not be required in connection with the first request by Licensee to view conduit maps, GTE reserves the right to refuse any subsequent viewing request or require written justification for the request if Licensee has demonstrated that it does not have a good faith intention to submit a COR. If the availability of specific point-to-point conduits can be determined at the time of viewing conduit maps, maps reflecting such point-to-point conduits may be made available for copying. Licensee shall pay to GTE a fee for making such copies available sufficient to cover the general administrative costs incurred. IN MAKING CONDUIT MAPS AVAILABLE, GTE WILL BE MAKING NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY, OTHER THAN THAT THEY ARE THE SAME CONDUIT MAPS USED BY GTE IN ITS DAY-TO-DAY OPERATIONS.

8. Availability of Information Regarding Space In Conduits.

GTE will provide information regarding the availability of conduit space within thirty (30) Business Days of a written request by Licensee. Because GTE will endeavor to determine available space as quickly as possible, a shorter interval may be experienced for requests of a limited scope where GTE determines in its sole discretion that physical field verification is not necessary. In the event the thirty (30) Business Day time frame cannot be met, GTE shall so advise Licensee and shall seek a mutually satisfactory alternative response date. Subject to the exemption stated above, no representation regarding the availability of space shall be made or accepted in the absence of a physical field verification.

9. Authority to Place Licensee's Facilities.

- 9.1 Before Licensee places any of Licensee's Facilities in GTE's conduit(s) pursuant to an approved COR, Licensee, upon request, shall submit evidence satisfactory to GTE, including but not limited to an affidavit, to GTE of its authority to maintain the Facilities to be placed in GTE's conduit(s) within the public streets, highways and other thoroughfares or on private property. Licensee shall be solely responsible for obtaining all licenses, authorizations, permits and consents from federal, state and municipal authorities or private property owners that may be required to place and maintain Licensee's Facilities in GTE's conduit(s).
- 9.2 GTE shall not attempt to prevent or delay the granting of any ROW, easements, licenses, authorizations, permits and consents from any federal, state or municipal authorities, or private property owners that may be required by Licensee to place Licensee's Facilities in GTE's conduit(s).
- 9.3 If any ROW, easement, license, authorization, permit or consent obtained by Licensee is subsequently revoked or denied for any reason, Licensee's permission to occupy GTE's conduit(s) shall terminate immediately and Licensee shall promptly remove Licensee's Facilities. Should Licensee fail to remove Licensee's Facilities within sixty (60) calendar days of receiving notice to do so from GTE, GTE shall have the option to remove Licensee's Facilities and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by GTE to remove Licensee's Facilities shall be reimbursed to GTE by Licensee upon demand.
- 9.4 Upon notice from GTE to Licensee that the cessation of the use of any portion of GTE's conduit(s) has been ordered or directed by any federal, state or municipal authority, or private property owner, Licensee's permission to occupy such GTE conduit(s) shall terminate immediately and Licensee promptly shall remove Licensee's Facilities. Should Licensee fail to remove Licensee's Facilities within sixty (60) calendar days of receiving notice to do so from GTE, GTE shall have the option to remove Licensee's Facilities and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by GTE to remove Licensee's Facilities shall be reimbursed to GTE by Licensee upon demand by GTE.

10. Placement of Licensee's Facilities.

- 10.1 Licensee shall, at its sole expense, place and maintain Licensee's Facilities in GTE's conduit(s) in accordance with (i) such requirements and specifications as GTE shall from time to time prescribe in writing, (ii) all rules or orders now in effect or that hereafter may be issued by any regulatory agency or other authority having jurisdiction, and (iii) all currently applicable requirements and specifications of the National Electrical Safety Code, and the applicable rules and regulations of the Occupational Safety And Health Act. Licensee agrees to comply, at its sole risk and expense, with all specifications included in Exhibit 2 hereto, as may be revised from time to time by GTE.
- 10.2 Licensee's Facilities shall be tagged at each manhole so as to identify Licensee as the owner of the Facilities. The tags shall be of sufficient size and lettering so as to be easily read.

11. Failure of Licensee to Occupy Conduit Space.

Upon approval of a COR, Licensee shall have sixty (60) calendar days in which to begin the placement of Licensee's Facilities in the GTE conduit(s) covered by the COR. If Licensee has not begun placing its Facilities within that sixty (60) calendar day period, Licensee shall so advise GTE with a written explanation for the delay. If Licensee fails to advise GTE of its delay, with a written explanation therefor, or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Facilities within the sixty (60) calendar days prescribed by this Section, the previously approved COR shall be deemed rescinded by GTE and Licensee shall have no further right to place Licensee's Facilities pursuant to that COR.

12. Occupancy Fees.

- 12.1 Licensee shall pay to GTE an annual Occupancy Fee, as specified in Exhibit 3 hereto, for each linear foot of facilities placed in innerduct occupied by Licensee's Facilities in GTE's conduit(s). If Licensee's Facilities occupy more than one innerduct, a separate Occupancy Fee shall be paid by Licensee for each innerduct occupied. The Occupancy Fee specified in Exhibit 3 hereto is the fee applicable to 1" or 1-1/4" diameter innerduct. GTE reserves the right to charge a higher fee for innerduct of greater diameter. The Occupancy Fee may be increased by GTE from time to time as permitted by law upon sixty (60) calendar days, or the appropriate number of days prescribed by federal, state or local government authority days written notice to Licensee.
- 12.2 Occupancy Fees shall be billed in advance and become due and payable on the date a COR is approved by GTE for all GTE Innerducts identified in that COR on a pro rata basis until the end of the calendar year and thereafter on an annual basis within thirty (30) calendar days of the receipt of a statement from GTE specifying the fees to be paid. If any undisputed amount due on the billing statement is not received by GTE on the payment due date, GTE may charge, and Licensee agrees to pay, at GTE's option, interest on the past due balance at a rate equal to the lesser of the interest rates set forth in the applicable GTE/Contel state access tariffs or the GTOC/GSTC FCC No. 1 tariff, one and one-half percent (1½%) per month or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement.
- 12.3 GTE shall maintain an inventory of the total linear footage of innerduct occupied by Licensee's Facilities in GTE's conduit(s) based upon the cumulative linear footage per Innerduct and/or Duct from all CORs approved by GTE. GTE may, at its option, conduct a physical inventory of Licensee's Facilities for purposes of determining the Occupancy Fees to be paid by Licensee under this section. At GTE's election, such physical inventories shall be conducted upon renegotiation of this Agreement or any subpart or appendix thereof, and a maximum of one time per calendar year thereafter. The costs incurred by GTE to conduct the physical inventory shall be reimbursed to GTE by the Licensee upon demand by GTE. It shall be Licensee's sole responsibility to notify GTE of any and all removals of Licensee's Facilities from GTE's conduit(s). Written notice of such removals (unless they are covered by Section 18 of this Agreement) shall be provided to GTE at least thirty (30) days prior to the removal. Each Notice of Removal shall be in a form specified by GTE. Licensee shall remain liable for all Occupancy Fees until Licensee's Facilities have been physically removed from GTE's conduits.
- 12.4 In addition to the occupancy fees above, if at any time the licensee is allowed by GTE to enter a manhole through means other than GTE's existing conduit or ducts, an annual charge per foot of facilities placed within the manhole system will apply as well as any previously identified make-ready charges.

13. Modifications, Additions or Replacements of Licensee's Facilities.

- 13.1 Licensee shall not modify, add to or replace Licensee's Facilities in any GTE conduit(s) without first notifying GTE in writing of the intended modification, addition or replacement at least thirty (30) calendar days prior to the date the activity is scheduled to begin. The required notification shall include: (1) the date the activity is scheduled to begin, (2) a description of the planned modification, addition or replacement, (3) a representation that the modification, addition or replacement will not require any space other than the space previously designated for Licensee's Facilities, and (4) a representation that the modification, addition or replacement will not impair the structural integrity of the GTE Conduit(s) involved and (5) a representation that the modification, addition, or replacement will not impact other Licensee's facilities.
- 13.2 Should GTE determine that the modification, addition or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require any modification, replacement or reinforcement of the GTE conduit(s) involved in order to accommodate Licensee's modification, addition or replacement, GTE will so notify Licensee, whereupon Licensee shall be required to submit a COR in compliance with this Agreement in order to obtain authorization for the modification, addition or replacement of Licensee's Facilities.
- 13.3 Access to GTE's conduit(s) for repairs, modifications, additions, or replacements required in emergency situations shall be governed by the provisions of Section 22 of this Agreement.

14. Unauthorized Occupancy of GTE Conduit.

- 14.1 The parties agree that, because it would be impracticable and extremely difficult to determine the amount of actual damages resulting from Licensee's unauthorized occupancy, a charge equal to five (5) times the amount of the then current Occupancy Fee shall be paid by Licensee to GTE for each unauthorized occupancy of GTE's conduit(s) by Licensee. Such payment shall be deemed liquidated damages and not a penalty. Licensee also shall pay GTE an Occupancy Fee for each unauthorized occupancy accruing from the date the unauthorized occupancy first began. In the event that the date the unauthorized occupancy first began cannot be determined, such date shall be deemed the date of the last physical inventory made in accordance with this Agreement or, if no physical inventory has been conducted, the date the first COR from Licensee was approved in accordance with this Agreement. Licensee also shall pay to GTE all costs incurred by GTE to rearrange Licensee's Facilities that are unauthorized if such rearrangement is required to safeguard GTE's facilities or to accommodate the facilities of another party whose facilities would not have required a rearrangement but for the presence of Licensee's unauthorized facilities. Licensee also shall pay to GTE all costs incurred by GTE to reinforce, replace or modify any GTE conduit(s), which reinforcement, replacement or modification is required as a result of the unauthorized occupancy by Licensee. The Occupancy Fee referenced in this subsection 14.1 shall be determined in the same manner as such a fee would have been determined if the occupancy had been authorized by GTE.
- 14.2 Once GTE has notified Licensee of an unauthorized Occupancy, the Licensee can submit a COR to request an authorized Occupancy. A COR submitted per this provision will be treated like any other COR subject to this agreement. Licensee will be responsible for all fees associated with a COR (as identified in this agreement). If a COR is not received by GTE within ten (10) Business Days of Licensee's receipt of an unauthorized Occupancy notification, then Licensee has sixty (60) calendar days from the date of its receipt of the initial unauthorized Occupancy notification to vacate the unauthorized Occupancy.

- 14.3 For purposes of this section, an unauthorized occupancy shall include, but not be limited to:
- 14.3.1 The presence of Licensee's Facilities in any GTE conduit which conduit is not identified in any COR approved in accordance with this Agreement;
 - 14.3.2 The presence of Licensee's Facilities in any GTE conduit that occupies more space than that allocated to Licensee by GTE;
 - 14.3.3 Licensee's Facilities that are not placed in accordance with the provisions of this Agreement or the appropriate COR issued pursuant to this Agreement;
 - 14.3.4 An addition or modification by Licensee to its pre-existing Facilities in any GTE conduit that impairs the structural integrity of that GTE conduit or GTE facilities or those of other licensees.
 - 14.3.5 The presence of facilities in GTE's conduit(s) placed by Licensee that are owned or controlled by and for the use of a party other than Licensee.

15. Surveys and Inspections of Facilities.

- 15.1 Upon written notice to Licensee, the total number and exact location of Licensee's Facilities in GTE's Conduit(s) may be determined, at GTE's discretion, through a survey to be made not more than once per calendar year by GTE. If so requested, Licensee and/or any other entity owning or jointly owning the Conduit with GTE may participate in the survey. The costs incurred by GTE to conduct the survey shall be reimbursed to GTE by Licensee upon demand by GTE. If the facilities of more than one Licensee are surveyed, each such Licensee shall contribute a proportionate share of the costs reimbursed to GTE.
- 15.1.1 Apart from surveys conducted in accordance with this section, GTE shall have the right to inspect any facility of Licensee on GTE's Conduit(s) as conditions may warrant upon thirty (30) calendar days written notice to Licensee. Licensee shall, upon demand by GTE, reimburse GTE all costs incurred to conduct its inspection. No joint survey or inspection, or lack thereof, by GTE shall operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

16. Modification or Alteration GTE Conduits.

- 16.1 In the event GTE plans to modify or alter any GTE conduit(s) that house Licensee's Facilities, GTE shall provide Licensee notice of the proposed modification or alteration at least thirty (30) calendar days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to simultaneously modify or alter Licensee's Facilities in the GTE conduit(s) to be modified or altered by GTE, Licensee shall so notify GTE in writing at least 15 calendar days prior to when the work is to begin. In such event, Licensee shall bear a proportionate share of the total costs incurred by GTE to make the GTE conduit(s) accessible. Licensee's proportionate share of the total cost shall be based on the ratio of the amount of new space occupied by Licensee to the total amount of new space occupied by all of the parties joining in the modification.
- 16.2 In the event GTE moves, replaces or changes the location, alignment or grade of GTE's conduit(s) ("relocation") for reasons beyond GTE's control, Licensee concurrently shall relocate Licensee's Facilities. Licensee shall be solely responsible for the costs of the relocation of Licensee's Facilities.

17. Disclaimer of Warranties.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, GTE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

18. Default and Remedies.

18.1 The occurrence of any one of the following shall be deemed a "Material Default" by Licensee under this Agreement:

- 18.1.1 Failure by Licensee to pay any fee or other sum required to be paid under the terms of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof to Licensee;
- 18.1.2 Failure by Licensee to perform or observe any other term, condition, covenant, obligation or provision of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof from GTE (provided that if such default is not curable within such thirty (30) day period, the period will be extended if Licensee commences to cure such default within such thirty (30) calendar day period and proceeds diligently thereafter to effect such cure);
- 18.1.3 The filing of any tax or mechanic's lien against any GTE conduit(s) which is not bonded or discharged within thirty (30) calendar days of the date Licensee receives notice that such lien has been filed;
- 18.1.4 Licensee's voluntary or involuntary bankruptcy;
- 18.1.5 Licensee's knowing use or maintenance of Licensee's Facilities in violation of any law or regulation, or in aid of any unlawful act or undertaking;
- 18.1.6 The denial or revocation of any authorization which may be required of the Licensee by any governmental or private authority for the placement, operation or maintenance of Licensee's Facilities.

18.2 In the event of a Material Default, GTE, without any further notice to the Licensee (except where expressly provided for below or required by applicable law) may do any one or more of the following:

- 18.2.1 Perform, on behalf and at the expense of Licensee, any obligation of Licensee under this Agreement which Licensee has failed to perform and of which GTE shall have given Licensee notice, the cost of which performance shall be paid by Licensee to GTE upon demand;
- 18.2.2 Terminate this Agreement by giving notice of such termination to Licensee and upon sixty (60) calendar days written notice remove Licensee's Facilities and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby; or
- 18.2.3 Exercise any other legal or equitable right or remedy which GTE may have.

18.3 Any costs and expenses incurred by GTE (including, without limitation, reasonable attorneys' fees) in enforcing this Agreement shall be paid to GTE by Licensee upon demand.

- 18.4 Upon termination of this Agreement by GTE because of Material Default by Licensee, Licensee shall remain liable to GTE for any and all fees, other payments and damages which may be due or sustained prior to such termination, all reasonable costs, fees and expenses, including, without limitation, reasonable attorneys' fees incurred by GTE in pursuit of its remedies hereunder. In addition to and notwithstanding Section 14 the parties agree that because it would be impracticable and extremely difficult to determine the amount of actual damages resulting from Licensee's unauthorized Occupancy, additional liquidated damages for termination because of Material Default shall be an amount equal to one full year of Occupancy Fees.
- 18.5 All rights and remedies of GTE set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.

19. Indemnification.

- 19.1 Licensee shall compensate GTE for the full actual loss, damage or destruction of GTE's property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Facilities).
- 19.2 Licensee will further indemnify, defend and hold harmless GTE and GTE's agents, officers, employees and assigns, from any and all losses, damages, costs, expenses (including, without limitation, reasonable attorneys' fees), statutory fines or penalties, actions or claims for personal injury (including death), damage to property, or other damage or financial loss of whatever nature in any way arising out of or connected with this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Facilities). Licensee further indemnifies GTE from subsequent taxes and fees that may be levied by municipalities or other governmental entities for an Indemnifying party's use of public rights-of-way in association with these agreements. Such fees that are levied would be in addition to the attachment/occupancy fees reflected in this Agreement. Licensee expressly assumes all liability for actions brought against GTE and GTE's agents, officers, employees and assigns, by Licensee's agents, officers or employees and Licensee expressly waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by workers' compensation law or by other state or federal laws.
- 19.3 Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve GTE of any and all liability for, loss or damage (and the consequences of loss or damage) to any of Licensee's Facilities placed in any GTE conduit(s) and any other financial loss sustained by Licensee, whether caused by fire, extended coverage perils, or other casualty.
- 19.4 Without limiting the foregoing, Licensee expressly agrees to indemnify, defend and hold harmless GTE and GTE's agents, officers, employees and assigns from any and all claims asserted by customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's Occupancy.
- 19.5 Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless GTE, its agents, officers, employees and assigns from and against any claims, liabilities, losses, damages, fines, penalties and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the indemnified parties suffer or incur because of: (i) any discharge of Hazardous Material resulting from acts or omissions of Licensee or the Licensee's predecessor in interest; (ii) acts or omissions of the Licensee, its agents, employees, contractors, representatives

or predecessor in interest in connection with any cleanup required by law, or (iii) failure of Licensee or the Licensee's predecessor in interest to comply with environmental, safety and health laws.

- 19.6 In no event shall GTE be liable to Licensee for any special, consequential or indirect damages (including, without limitation, lost revenues and lost profits) arising out this Agreement or any obligation arising hereunder, whether in an action for or arising out of breach of contract, tort or otherwise.
- 19.7 Licensee shall indemnify, protect and hold harmless GTE from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of installation of Licensee's equipment in GTE's Ducts pursuant to this Agreement.

20. Insurance.

- 20.1 Licensee shall carry insurance, at its sole cost and expense, sufficient to cover its indemnification obligations as set forth in Section 19 of this Agreement. Such insurance shall include, but not be limited to, coverage against liability due to personal injury or death of persons in the amount of \$500,000 as to any one person and \$1,000,000 as to any one accident; coverage against liability due to property damage in the amount of \$500,000 as to each accident and \$500,000 aggregate; and coverage necessary to fully protect both it and GTE from all claims under any worker's compensation laws that may be applicable.
- 20.2 All insurance required of Licensee under this Agreement shall remain in force for the entire life of this Agreement. The company or companies issuing such insurance shall be approved by GTE and GTE shall be named as an additional insured in each such policy. Licensee shall submit to GTE certificates by each insurer to the effect that the insurer has insured Licensee for all potential liabilities of Licensee under this Agreement, and that it will not cancel or change any policy of insurance issued to Licensee except upon thirty (30) calendar days notice to GTE. In the event Licensee's insurance coverage is to be canceled by reason of non-payment of premiums due, GTE shall have the option of paying any amount due and Licensee shall forthwith reimburse GTE the full amount paid by GTE.
- 20.3 Licensee shall promptly advise GTE in writing of any and all claims for damages, including, but not limited to, damage to property or injury to or death of persons, allegedly arising out of or in any manner related, directly or indirectly, to the presence or use of Licensee's Facilities in GTE's Conduit, Ducts or Innerducts.
- 20.4 Licensee shall furnish bond or satisfactory evidence of contractual insurance coverage, the terms of which shall be subject to GTE's approval, in the amount of ten thousand dollars (\$10,000) to guarantee the payment of any sums which may become due to GTE for rentals, inspections or for work performed by GTE for the benefit of Licensee under this Agreement, including the removal of Licensee's equipment pursuant to any of the provisions hereof. All bonds must specify that the GTE be notified thirty (30) calendar days prior to the expiration or cancellation of the policy.

21. Taxes, Surcharges and Fees.

Any state or local excise, sales, or use taxes or other surcharges or fees (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes, surcharges or fees is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, surcharges or fees, except to the extent that the

obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as GTE requires that qualifies the obligated Party for a full or partial exemption. Any such taxes, surcharges or fees shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party [by reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any such taxes, surcharges or fees that may be subsequently levied on payments by the other Party by the collecting Party.

22. Emergency Restoration Procedures.

In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Facilities in GTE's conduit(s). While GTE shall not be responsible for the repair of Licensee's Facilities that are damaged (except by mutual written agreement), GTE shall nonetheless control access to its Conduits if the restoration is to be achieved in an orderly fashion. Licensee agrees to reimburse GTE for the cost of all labor, equipment, and/or materials furnished by GTE in support of any restoral operations from which Licensee is a beneficiary.

22.1 Where multiple parties are involved in emergency restorations, access to GTE's conduit(s) will be controlled by GTE's Maintenance District Manager or his/her on-site representative according to the following guidelines:

22.1.1 Service Disruptions/Outages

- a. In the event of service disruptions and/or outages, GTE shall make all reasonable efforts to grant access to as many other entities with facilities in GTE's conduit(s) as is reasonably safe.
- b. Where simultaneous access is not possible, access will be granted by GTE on a first come, first served basis.

22.1.2 Service Affecting Emergencies

- a. In the event of service affecting emergencies not resulting in service disruptions or outages, while exercising its right to first access, GTE shall make all reasonable efforts to grant access to as many other entities with facilities in GTE's conduit(s) as is reasonably safe.
- b. Where GTE is unable to grant simultaneous access to all other entities with facilities in GTE's conduit(s), access will be granted according to the level of damage to the facilities of each entity and the likelihood that a given level of damage will result in service disruption. Where the likelihood that a service disruption will result is not clearly discernible, access will be on a first come, first served basis.

22.2 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by GTE regarding access to Licensee's Facilities, or any action or failure to act by GTE under this Section 22 shall not constitute a basis for any claim by Licensee against GTE for any damage to Licensee's Facilities or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

23. Damage Suspected to Licensee's Facilities Only.

23.1 In the event Licensee receives information that Licensee's Facilities are damaged, Licensee shall notify GTE of said damage at a number to be provided later by GTE.

This is a 24-hour, 7 days per week notification number. Licensee shall provide GTE all information known to it regarding the damage to Licensee's Facilities.

- 23.2 In the event GTE receives notice that Licensee's Facilities are damaged, GTE will notify Licensee of said damage by telephone at the Licensee's emergency telephone number. GTE shall provide Licensee all information known to it regarding the damage to Licensee's Facilities.
- 23.3 After the giving of such notice by either Licensee or GTE, Licensee shall be authorized to perform emergency restoration maintenance activities in connection with Licensee's Facilities, subject to the provisions of this Agreement.
- 23.4 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by GTE regarding access to Licensee's facilities, or any action or failure to act by GTE, appropriately or inappropriately, under this Section shall not be the basis for any claim by Licensee against GTE for any damage to Licensee's Facilities or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee and Licensee shall indemnify and hold GTE harmless from any such claim.

24. Access to GTE's Manholes/Handholes.

- 24.1 GTE will allow Licensee to audit manholes/handholes that are included in any COR submitted to GTE to confirm usability. Licensee shall give GTE at least thirty (30) calendar days advance written notice of its desire to audit and shall obtain all authorizations from appropriate authorities required to open the Manholes/Handholes. GTE shall have the right to have a GTE employee or agent present when its Manholes/Handholes are being opened. Such GTE employee or agent shall have the authority to suspend Licensee's activities in and around GTE's Manholes/Handholes if, in the sole discretion of said employee or agent, any hazardous conditions arise or any unsafe practices are being followed by Licensee's employees, agents, or contractors. Licensee agrees to reimburse GTE the cost of having GTE's employee or agent present. Such charge shall be GTE's fully loaded labor rates then in effect.
- 24.2 For purposes other than to audit usability, GTE's Manholes/Handholes shall be opened only as permitted by GTE and only after Licensee has obtained all necessary authorizations from appropriate authorities to open Manholes/Handholes and conduct work operations therein. GTE shall have the right to have a GTE employee or agent present at any site at which its Manholes/Handholes are being opened. Such GTE employee or agent shall have the authority to suspend Licensee's work operations in and around GTE's Manholes/Handholes if, in the sole discretion of said employee or agent, any hazardous conditions arise or any unsafe practices are being followed by Licensee's employees, agents, or contractors. Licensee agrees to reimburse GTE the cost of having GTE's employee or agent present. Such charge shall be GTE's fully loaded labor rates then in effect. The presence of GTE's authorized employee or agent shall not relieve Licensee of its responsibility to conduct all of its work operations in and around GTE's conduit(s) in a safe and workmanlike manner, in accordance with the terms of this Agreement nor result in any assumption of risk or waiver or remedies by GTE.

25. Abandonment.

Nothing in this Agreement shall prevent or be construed to prevent GTE from abandoning, selling, assigning or otherwise disposing of any GTE conduit(s) or other GTE property used in connection with Licensee's Facilities; provided, however, that GTE shall condition any such sale, assignment or other disposition subject to the rights granted to Licensee pursuant to this Agreement. GTE shall promptly notify Licensee of any proposed sale, assignment or other

disposition of any GTE conduit(s) or other GTE property used in connection with Licensee's Facilities.

26. Notices.

Any written notice to be given to a party to this Agreement shall be in writing and given or made by means of telegram, facsimile transmission, certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges prepaid, and addressed or directed to the respective parties as follows:

If to GTE:

GTE North Incorporated
GTE South Incorporated
Attention: Assistant Vice President/Associate
General Counsel
Business Development & Integration
600 Hidden Ridge - HQE03J43
Irving, TX 75038
Telephone number: 972/718-6361
Facsimile number: 972/718-3403

and

GTE North Incorporated
GTE South Incorporated
Attn: Director-Wholesale Contract Compliance
Network Services
600 Hidden Ridge - HQE03D52
Irving, TX 75038
Telephone Number: 972/718-5988
Facsimile Number: 972/719-1519

If to Licensee:

US Xchange of Illinois, L.L.C.
Attention: David J. Easter, V.P., Development
20 Monroe N.W.
Suite 450
Grand Rapids, Michigan 49503
Facsimile number: (616) 493-7007

Any notice given by personal delivery shall be deemed to have been given on the day of actual delivery and, if given by registered or certified mail, return receipt requested, on the date of receipt thereof and, if given by facsimile transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the next Business Day if not given during normal business hours.

27. Non-Waiver of Terms and Conditions.

No course of dealing, course of performance or failure to enforce any of term, right, condition or other provision of this Agreement shall constitute or be construed as a waiver of any term, right or condition or other provision of this Agreement.

28. Confidential Information.

28.1 Identification. Either party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or

bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure.

28.2 Handling. In order to protect such Confidential Information from improper disclosure, each party agrees:

28.2.1 That all Confidential Information shall be and shall remain the exclusive property of the source;

28.2.2 To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;

28.2.3 To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;

28.2.4 Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;

28.2.5 To return promptly any copies of such Confidential Information to the source at its request; and

28.2.6 To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the parties in writing.

28.3 Exceptions. These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was received in good faith from a third party not subject to a confidential obligation to the source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.

28.4 Survival. The obligation of confidentiality and use with respect to Confidential Information disclosed by one party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.

29. Dispute Resolution.

29.1 Alternative to Litigation. Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

- 29.2 Negotiations. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.
- 29.3 Arbitration. If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
- 29.4 Expedited Arbitration Procedures. If the issue to be resolved through the negotiations referenced in Section 29.2 directly and materially affects service to either Party's end user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).
- 29.5 Costs. Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.
- 29.6 Continuous Service. The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations in accordance with this Agreement.
30. Compliance With Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

31. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or likes acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease*

32. Assignment.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, *but with written notification.* The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.

33. Applicable Law.

This Agreement shall be governed by and construed in accordance with the domestic laws of the state where the Services are provided or the facilities reside and shall be subject to the exclusive jurisdiction of the courts therein.

34. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation.

35. Headings.

All headings contained in this Agreement are for convenience only and are not intended to affect the meaning or interpretation of any part of this Agreement.

36. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

IN WITNESS WHEREOF, each Party has executed this Agreement to be effective as of the date first above written.

GTE SOUTH INCORPORATED
GTE NORTH INCORPORATED

US XCHANGE OF ILLINOIS, L.L.C.

By Connie Nicholas

By David J. East

Name Connie Nicholas

Name DAVID J. EAST

Title Assistant Vice President

Title EXEC. VP

Wholesale Markets-Interconnection
Date November 23, 1998

Date 11-19-98

APPROVED FOR SIGN-

David J. East
ATTORNEY IN FEE

DATE 11/16/98

EXHIBIT 1
CONDUIT OCCUPANCY REQUEST
(FOR FUTURE USE)

EXHIBIT 2
SPECIFICATION DOCUMENTS
(FOR FUTURE USE)

**APPENDIX 41A
AT&T TERMS**

Pursuant to Section 41 of Article III of this Agreement, and subject to all of the terms and conditions thereof, the following terms as written in the AT&T Agreement referred to in Section 41 will be substituted for the GTE Terms which are set out in Appendix 41B.

ANNEX 1 TO APPENDIX 41A

Page 1 of 4

STATE OF ILLINOIS

<u>Unbundled Network Elements</u>	<u>Access Areas</u>	<u>Rate / Rate Increment</u>	
		<u>Per Line / Month</u>	
		<u>GTE</u>	<u>ALLTEL</u>
Unbundled Loop-2 wire	All	<u>\$24.04</u>	<u>\$25.60</u>
Unbundled Loop-4 wire	All	<u>\$36.78</u>	<u>\$40.42</u>
Network Interface Device - Basic	All	<u>\$1.22</u>	<u>\$1.22</u>
Network Interface Device - 12x	All	<u>\$1.48</u>	<u>\$1.48</u>
Local Switching - Port	All	<u>\$3.78</u>	<u>\$4.08</u>
Local Switching - Port, DS1	All	<u>\$78.60</u>	<u>\$85.51</u>
Local Switching Usage (Per Min.)			
Originating		<u>\$.0044495</u>	<u>\$.0071195</u>
Terminating		<u>\$.0038534</u>	<u>\$.0060985</u>
Operator Systems	All	<u>N/A</u>	<u>N/A</u>
Common transport - Termination	All	<u>\$.0000715/MIN</u>	<u>\$.0000703/MIN</u>
Common Transport - Facility Per Mile	All	<u>\$.0000024/MIN</u>	<u>\$.0000024/MIN</u>

ANNEX 1 TO APPENDIX 41A

Unbundled Network Elements	Access Areas	Rate / Rate Increment Per Line / Month	
		GTE	ALLTEL
Dedicated Transport : Entrance Facility	All		
2-Wire Voice		<u>\$24.16</u>	<u>\$25.72</u>
4-Wire Voice		<u>\$36.93</u>	<u>\$40.57</u>
DS1 Standard 1st System		<u>\$142.64</u>	<u>\$142.64</u>
DS1 Standard Add'l System		<u>\$142.64</u>	<u>\$142.64</u>
DSJ Protected, Electrical		<u>\$631.29</u>	<u>\$631.29</u>
DS1 to Voice Multiplexing		<u>\$153.98</u>	<u>\$153.98</u>
DS3 to DS1 Multiplexing		<u>\$216.90</u>	<u>\$216.90</u>
Direct Trunked			
Voice Facility per ALM		<u>\$1.96</u>	<u>\$1.96</u>
DS1 Facility per ALM		<u>\$0.92</u>	<u>\$0.92</u>
DS1 per Termination		<u>\$27.61</u>	<u>\$27.61</u>
DS3 Facility per ALM		<u>\$23.49</u>	<u>\$23.49</u>
DS3 per Termination		<u>\$291.98</u>	<u>\$291.98</u>
All Other Dedicated Transport (Not Provided)		<u>TBD</u>	<u>TBD</u>
Tandem Switching	All	<u>\$.0010112</u>	<u>\$.0024461</u>
Signaling:			
56 KBPS Links		<u>\$69.78</u>	<u>\$73.41</u>
DS1 Link		<u>\$142.64</u>	<u>\$142.64</u>
Signal Transfer Point Port Term		<u>\$278.18</u>	<u>\$278.18</u>
Call Related Databases			
Line Information Database (Queries)		<u>\$.0350000</u>	<u>\$.0350000</u>
Line Information Transport (Queries)		<u>\$.0046000</u>	<u>N/A</u>
Toll Free Calling Databases (DB800Queries)		<u>\$.0099170</u>	<u>\$.0099170</u>

ANNEX I TO APPENDIX 41A

Page 3 of 4

<u>Unbundled Network Elements</u>	<u>Access Areas</u>	<u>Rate / Rate Increment Per Line / Month</u>
Unbundled Element Platform	A	TBD
	B	TBD
	C	TBD
Without Operator Systems	A	TBD
	B	TBD
	C	TBD
Loop / Network Combination	A	TBD
	B	TBD
	C	TBD
Switching Combinations #1	A	TBD
	B	TBD
	C	TBD

ANNEX 1 TO APPENDIX 41A

Page 4 of 4

<u>Service Ordering Charges</u>	<u>GTE</u>	<u>Rate / Rate Increment</u> <u>ALLTEL</u>
Initial Service Order Charge Per Order	<u>\$47.13</u>	<u>\$47.13</u>
Subsequent Service Order Change, per Order	<u>\$23.97</u>	<u>\$23.97</u>
Transfer of Service Charge Per Order	<u>\$15.83</u>	<u>\$15.83</u>
Customer Service Record Research Charge, per Request	<u>\$5.14</u>	<u>\$4.14</u>
<u>Installation Charges</u>		
Unbundled Loop, per Loop	<u>\$9.36</u>	<u>\$9.36</u>
Unbundled Port, per Port	<u>\$9.36</u>	<u>\$9.36</u>
<u>Loop Facility Charge, per Order</u> (When field work is required for the establishment of a new Unbundled loop service).	<u>\$56.34</u>	<u>\$56.34</u>
Establish New Service (per occurrence)	<u>n/a</u>	
Provision Change (per occurrence)	<u>n/a</u>	
Record Change (per occurrence)	<u>n/a</u>	
Line Connection Charge (per occurrence)	<u>n/a</u>	

EXHIBIT 3
OCCUPANCY FEES

USX Conduit Occupancy Rate:

\$ 0.80 per linear foot per year for sub-duct
\$ 1.60 per linear foot per year for full-duct

**APPENDIX 41A
AT&T TERMS**

Pursuant to Section 41 of Article III of this Agreement, and subject to all of the terms and conditions thereof, the following terms as written in the AT&T Agreement referred to in Section 41 will be substituted for the GTE Terms which are set out in Appendix 41B.

ANNEX 1 TO APPENDIX 41A

Page 1 of 4

STATE OF ILLINOIS

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		<u>GTE</u>	<u>ALLTEL</u>
Unbundled Loop-2 wire	All	<u>\$24.04</u>	<u>\$25.60</u>
Unbundled Loop-4 wire	All	<u>\$36.78</u>	<u>\$40.42</u>
Network Interface Device - Basic	All	<u>\$1.22</u>	<u>\$1.22</u>
Network Interface Device - 12x	All	<u>\$1.48</u>	<u>\$1.48</u>
Local Switching - Port	All	<u>\$3.78</u>	<u>\$4.08</u>
Local Switching - Port, DS1	All	<u>\$78.60</u>	<u>\$85.51</u>
Local Switching Usage (Per Min.)			
Originating		<u>\$.0044495</u>	<u>\$.0071195</u>
Terminating		<u>\$.0038534</u>	<u>\$.0060985</u>
Operator Systems	All	<u>N/A</u>	<u>N/A</u>
Common transport - Termination	All	<u>\$.0000715/MIN</u>	<u>\$.0000703/MIN</u>
Common Transport - Facility Per Mile	All	<u>\$.0000024/MIN</u>	<u>\$.0000024/MIN</u>

ANNEX 1 TO APPENDIX 41A

Page 2 of 4

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DS1 Standard Add'l System		<u>\$142.64</u>	<u>\$142.64</u>
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Direct Trunked			
Voice Facility per ALM		<u>\$1.96</u>	<u>\$1.96</u>
DS1 Facility per ALM		<u>\$0.92</u>	<u>\$0.92</u>
DS1 per Termination		<u>\$27.61</u>	<u>\$27.61</u>
DS3 Facility per ALM		<u>\$23.49</u>	<u>\$23.49</u>
DS3 per Termination		<u>\$291.98</u>	<u>\$291.98</u>
All Other Dedicated Transport (Not Provided)		<u>TBD</u>	<u>TBD</u>
Tandem Switching	All	<u>\$.0010112</u>	<u>\$.0024461</u>
Signaling:			
56 KBPS Links		<u>\$69.78</u>	<u>\$73.41</u>
DS1 Link		<u>\$142.64</u>	<u>\$142.64</u>
Signal Transfer Point Port Term		<u>\$278.18</u>	<u>\$278.18</u>
Call Related Databases			
Line Information Database (Queries)		<u>\$.0350000</u>	<u>\$.0350000</u>
Line Information Transport (Queries)		<u>\$.0046000</u>	<u>N/A</u>
Toll Free Calling Databases (DB800Queries)		<u>\$.0099170</u>	<u>\$.0099170</u>

ANNEX 1 TO APPENDIX 41A

Page 3 of 4

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	B	TBD
	C	TBD
Loop / Network Combination	A	TBD
	B	TBD
	C	TBD
Switching Combinations #1	A	TBD
	B	TBD
	C	TBD

ANNEX 1 TO APPENDIX 41A

Page 4 of 4

<u>Service Ordering Charges</u>	<u>GTE</u>	<u>Rate / Rate Increment</u> <u>ALLTEL</u>
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<u>Installation Charges</u>		
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Unbundled Port, per Port	<u>\$9.36</u>	<u>\$9.36</u>
<u>Loop Facility Charge, per Order</u> (When field work is required for the establishment of a new Unbundled loop service).	<u>\$56.34</u>	<u>\$56.34</u>
Establish New Service (per occurrence)	<u>n/a</u>	
Provision Change (per occurrence)	<u>n/a</u>	
Record Change (per occurrence)	<u>n/a</u>	
Line Connection Charge (per occurrence)	<u>n/a</u>	

ANNEX 2 TO APPENDIX 41A

STATE OF ILLINOIS

1. Scope.

This Appendix prescribes the methods and means for reciprocal compensation of interconnect traffic between GTE's and AT&T's networks as well as transiting traffic between AT&T and third party LECs or ILECs.

2. **DOES NOT APPLY**

3. **DOES NOT APPLY**

4. Information Services Traffic.

The information Services Billing and Collection Charge is **TBD**

5. BLV/BLVI Traffic.

Each party shall charge the other for BLV/BLVI Services on a "bill and keep" basis.

ANNEX 3 TO APPENDIX 41A

Prices for Local Number Portability

State of Illinois

Until such time as the Commission establishes a cost recovery mechanism for INP, there will be no charge for number portability provided by one Party for the other. However, each Party will track the costs incurred in providing number portability for the other and, once a competitively neutral cost recovery mechanism has been established by the Commission, the Parties will reconcile the charges incurred by each Party based upon documented costs.

ANNEX 4 TO APPENDIX 41A

State of Illinois

1. Local Service Resale

- 1.1 The prices charged to AT&T for Local Service shall be calculated using the avoided cost discount applicable in the State (the "Base Line Discount"), determined on the basis of the retail rate charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection and other costs that will be avoided by GTE, as further specified in Annex 4 to 41A.

The prices shall be based on retail rates applicable on the Effective Date, less the applicable discount. If GTE reduces or increases its retail rates after AT&T executes this Agreement, the applicable discount shall be applied to the reduced or increased retail rates./

ANNEX 4 TO APPENDIX 41A

State of Illinois

Beginning with the Effective Date of this Agreement, Resale Services will be priced in accordance with the standards and prices described below.

1. The wholesale rates for Local Service Resale set forth in Annex 1 represent the Retail Rates for each GTE offering less the applicable discount.
 - 1.1 "Retail Rates" are the effective rates an GTE retail customer would have paid GTE under the Retail Offering selected by AT&T, taking into consideration all applicable discounts, including but not limited to, volume, term and time of day.
 - 1.2 A "Retail Offering" is an individual contract or tariffed retail rate element, or package of retail rate elements, which GTE offers to its retail customers including, but not limited, to Grandfathered Services and Sunsetted Services.
2. The discounts described in this Appendix are interim rates pending revision by the Commission. Once revised by the Commission, the discounts will not be subject to change for the first three years of this Agreement ("Initial Commitment Period") and will apply to all Resale Services ordered by AT&T under this Agreement. Upon expiration of the Initial Commitment Period, upon written notice by a Party, the Parties agree to renegotiate the discounts and / or Commission. A Party may deliver only one request per year. If the Parties are unable to agree upon revised discounts and/or pricing methodology within sixty (60) days of the request to renegotiate, a Party may invoke the Dispute Resolution Process. Until such time as the revised discounts and/or pricing methodology are agreed to, or established by the decision of the Arbitrator in the dispute resolution procedure, the discounts and/or pricing methodology described in this Appendix will continue to remain in effect.
3. Nonrecurring "change" or "record" charges, rather than service establishment charges, shall apply for the conversion of existing Customers of GTE services, received either directly from GTE or through another reseller, to AT&T local service.