

Diamond Williams

110210-TP

From: Scobie, Teresa A (Terry) [terry.scobie@verizon.com]
Sent: Wednesday, June 22, 2011 12:36 PM
To: Filings@psc.state.fl.us
Cc: O'Roark, Dulaney L; David Christian; contract admin filing status; rsommi@broadviewnet.com
Subject: Petition for Approval of Amendment No. 1 to IRUC Agreement Between Broadview Networks, Inc. and Verizon Florida LLC
Attachments: VZ FL-Broadview Amendment 1 to IRUC Agreement 6-22-11.pdf



The attached is submitted for filing on behalf of Verizon Florida LLC by

Dulaney L. O'Roark III
P. O. Box 110, MC FLTP0007
Tampa, Florida 33601-0110
(678) 259-1657
de.oroark@verizon.com

The attached document consists of a total of 19 pages - cover letter (1 page), Petition with Amendment (17 pages), and Certificate of Service (1 page).

Terry Scobie
Legal Secretary II
Verizon Legal Department
P. O. Box 110 - MC FLTP0007
Tampa, Florida 33601-0110
813-483-2610 (tel)
813-204-8870 (fax)
terry.scobie@verizon.com

- COM _____
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- SSC _____
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- OPC _____
- CLK _____

DOCUMENT NUMBER-DATE
04304 JUN 22 =
FPSC-COMMISSION CLERK

Dulaney L. O'Roark III
Deputy General Counsel, Southeast
Legal Department



5055 North Point Parkway
Alpharetta, Georgia 30022

Phone 678-259-1657
Fax 678-259-5326
de.oroark@verizon.com

June 22, 2011 – VIA ELECTRONIC MAIL

110210-TP

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No.
Petition for Approval of Amendment No. 1 to Interconnection, Resale, Unbundling
and Collocation Agreement Between Broadview Networks, Inc. and Verizon
Florida LLC

Dear Ms. Cole:

The above-referenced Petition is enclosed for filing. The amendment consists of a total of 16 pages. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this matter, please contact me at (678) 259-1657.

Sincerely,

s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III

tas

Enclosures

DOCUMENT NUMBER-DATE

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Amendment No. 1)
to Interconnection, Resale, Unbundling and)
Collocation Agreement Between Broadview)
Networks, Inc. and Verizon Florida LLC)
_____)

Docket No. 110210-TP
Filed: June 22, 2011

**PETITION OF VERIZON FLORIDA LLC FOR APPROVAL OF
AMENDMENT NO. 1 TO INTERCONNECTION, RESALE, UNBUNDLING AND
COLLOCATION AGREEMENT WITH BROADVIEW NETWORKS, INC.**

Verizon Florida LLC ("Verizon") files this petition before the Florida Public Service Commission ("Commission") seeking approval of Amendment No. 1 to its interconnection, resale, unbundling and collocation agreement with Broadview Networks, Inc. ("Broadview"). The Verizon/Broadview agreement was filed with the Commission on June 20, 2011, Docket No. 110206-TP.

Verizon requests that the Commission approve the attached amendment and that Verizon be granted all other relief proper under the circumstances.

Respectfully submitted on June 22, 2011.

By: s/ Dulaney L. O'Roark III
Dulaney L. O'Roark III
P. O. Box 110, MC FLTP0007
Tampa, Florida 33601-0110
Phone: (678) 259-1657
Fax: (678) 259-5326
Email: de.oroark@verizon.com

Attorney for Verizon Florida LLC

DOCUMENT NUMBER-DATE
04304 JUN 22 =
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AMENDMENT NO. 1

to

INTERCONNECTION AGREEMENT

This Amendment No. 1 (this "Amendment") effective as of June 20, 2011 (the "Amendment Effective Date"), amends the interconnection agreement by and between Verizon Florida LLC ("Verizon"), a limited liability company organized under the laws of the State of Florida with offices at 201 N. Franklin Street, One Tampa City Center, Tampa, FL 33602 and Broadview Networks, Inc. ("BNI"), a corporation organized under the laws of the State of New York, with offices at 800 Westchester Avenue, Suite N-501, Rye Brook, NY 10573. Verizon and BNI may be hereinafter referred to individually as a "Party" and collectively as the "Parties." This Amendment only covers the services addressed herein that Verizon provides in its operating territory in the State of Florida (the "State").

WITNESSETH:

WHEREAS, Verizon and BNI are Parties to an interconnection agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") dated June 20, 2011 (the "Interconnection Agreement"); and

WHEREAS, the Parties wish to amend the Interconnection Agreement to reflect their agreement on certain billing and related matters associated with services provided under Section 251 of the Act, as set forth in Attachment 1 hereto.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and agreements set forth below, the receipt and sufficiency of which are expressly acknowledged, each of the Parties, on its own behalf and on behalf of its respective successors and assigns, hereby agrees as follows:

1. Amendment to the Interconnection Agreement. The Parties agree that the terms and conditions set forth in Attachment 1 hereto shall amend the Interconnection Agreement and govern the Parties' mutual rights and obligations with respect to the provisions set forth therein.
2. Conflict between this Amendment and the Interconnection Agreement. This Amendment shall be deemed to revise the terms and provisions of the Interconnection Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Interconnection Agreement, this Amendment shall govern; provided, however, that the fact that a term or provision appears in this Amendment but not in an Interconnection Agreement, or in the

Interconnection Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 2.

3. Counterparts. This Amendment may be executed by facsimile in counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.

4. Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.

5. Joint Work Product. The Parties acknowledge that this Amendment is the joint work product of the Parties, that, for convenience, this Amendment has been drafted in final form by Verizon and that, accordingly, in the event of ambiguities in this Amendment, no inferences shall be drawn against either Party on the basis of authorship of this Amendment.

6. Scope of Amendment. This Amendment shall amend, modify and revise the Interconnection Agreement only to the extent set forth expressly in Section 1 of this Amendment, and, except to the extent set forth in Section 1 of this Amendment, the terms and provisions of the Interconnection Agreement shall remain in full force and effect after the Amendment Effective Date, provided, however, that nothing in this Amendment shall be deemed to amend or extend the term of the Interconnection Agreement, or to affect the right of either Party to exercise any right of termination it may have under the Interconnection Agreement. The Interconnection Agreement, as revised and supplemented by this Amendment, may be referred to as the “Amended Agreement.”

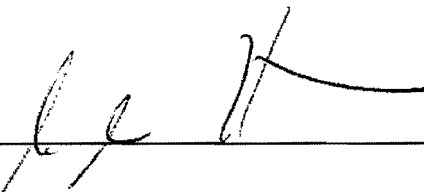
7. Termination. If a court or regulatory body of competent jurisdiction requires modifications to this Amendment, each Party shall have the right to terminate this Amendment after thirty (30) calendar days advance written notice.

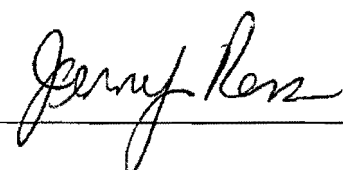
SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed and delivered by their duly authorized representatives under seal.

BROADVIEW NETWORKS, INC.

VERIZON FLORIDA LLC

By: 
Printed: Rebecca H. Sommi

By: 
Printed: Jennifer Ross

Title: Senior Vice President - Operations Support

Title: Director - Interconnection

Date: 6.6.2011

Date: 6/9/2011

Attachment 1

Terms and Conditions

1. Definitions.

Notwithstanding anything to the contrary in the Interconnection Agreement, this Amendment, in any applicable tariff or SGAT, or otherwise (including a change to applicable law effected after the Amendment Effective Date), the terms defined in this Section (or elsewhere in this Amendment) shall have the respective meanings set forth in this Amendment. A defined term intended to convey the meaning stated in this Amendment is capitalized when used. Other terms that are capitalized, and not defined in this Amendment, shall have the meaning set forth in the Act. Unless the context clearly indicates otherwise, any term defined in this Amendment that is defined or used in the singular shall include the plural, and any term defined in this Amendment that is defined or used in the plural shall include the singular. The words "shall" and "will" are used interchangeably, and the use of either indicates a mandatory requirement. The use of one or the other shall not confer a different degree of right or obligation for either Party. The terms defined in this Amendment have the meanings stated herein for the purpose of this Amendment only, do not otherwise supersede terms defined in the Interconnection Agreement and are not to be used for any other purpose. By agreeing to use the definitions of terms used in this Amendment, neither Party is conceding the definition of a term for any other purpose.

(a) "Act" means the Communications Act of 1934 (47 U.S.C. Section 151 et. seq.), as amended from time to time (including by the Telecommunications Act of 1996).

(b) "Affiliate" shall have the meaning set forth in the Act.

(c) "Adopting CLEC" means any carrier that adopts (to the extent adoption may be permitted under applicable law), the Interconnection Agreement as amended by this Amendment (this Amendment not being adoptable on a stand-alone basis under 47 C.F.R. § 51.809 or otherwise).

(d) "Amendment Effective Date" means June 20, 2011.

(e) "Bill Date" means the monthly billing date established for each billing account number (BAN) and is the same date from month to month.

(f) "Calendar Quarter" means January through March, April through June, July through September, or October through December.

(g) "Invoice" shall have the meaning set forth in Section 4 of this Attachment 1.

(h) "Service" means any Interconnection arrangement, Network Element, Telecommunications Service, Collocation arrangement, transport and termination (and/or receipt and delivery) of traffic, or other service, facility or arrangement, offered for sale and/or provided by a Party under the Interconnection Agreement (including, without limitation, any Service offered pursuant to Section 251 of the Act under the Interconnection Agreement by reference to a tariff; provided, however, that, notwithstanding anything contained in the Amended Agreement, access services provided under a Party's interstate or intrastate access tariffs are not included within the Services covered by this Amendment).

2. Preconditions.

(a) In order for the terms set forth in Section 3 below to take effect as to amounts billed by Verizon, the following conditions precedent must all be satisfied as of the Amendment Effective Date (or, in the case of another carrier adopting the Amended Agreement, as of the effective date of any such adoption and with respect to such carrier and all of its Carrier Affiliates) and thereafter as applicable:

(i) During the twelve (12) calendar months immediately preceding the calendar month in which the Effective Date falls, (i) the total amount billed by BNI and/or its Carrier Affiliates to Verizon for Wholesale Services (as defined below) rendered in Florida must be zero dollars (\$0.00), and (ii) the total amount billed by Verizon to BNI and/or its Carrier Affiliates for Wholesale Services rendered in Florida must be zero dollars (\$0.00).

(ii) BNI shall not file, on or at any time after the Amendment Effective Date (or, in the case of an Adopting CLEC, the effective date of such adoption) for so long as the terms of this Amendment remain effective under Section 8 below (including without limitation under any new or replacement interconnection agreement between the Parties during the period required by Section 8), any pleadings, comments, letters, ex parte communications, or other filings with (nor shall it meet or otherwise communicate with any representatives of) any court or regulatory agency opposing or challenging (A) Verizon's right to bill retrospectively or to limit Billing Claims (as defined in Section 5 of this Amendment) for Services that Verizon provides or has provided to BNI or any other party, or (B) any Verizon practice of billing retrospectively or limiting Billing Claims, in a manner consistent with the terms of this Amendment, for services that Verizon provides or has provided to BNI or any other party.

(iii) To the extent BNI, prior to the Amendment Effective Date (or, in the case of an Adopting CLEC, the effective date of such adoption), filed any pleadings, comments, letters, ex parte communications, or other filings with any court or regulatory agency in which BNI made statements or allegations opposing or challenging any Verizon right or practice described in Section 2(a)(i) or (ii) above (collectively, "Complaints"), BNI shall, within ten (10) calendar days after the Amendment Effective Date, withdraw with prejudice, expressly and in writing, any such Complaints and shall otherwise cooperate with Verizon in

making known to such court or regulatory agency that BNI does not oppose or challenge such right or practice. Without limiting the preceding sentence, BNI authorizes Verizon to represent to any such court or regulatory agency that BNI has authorized Verizon to inform such court or agency that BNI has voluntarily agreed to the terms of this Amendment. The foregoing requirements of this Section 2(a)(iii) shall also apply (without limitation of any other remedies that may be available to Verizon) in the event BNI, inadvertently or otherwise, files after the Amendment Effective Date (or, in the case of an Adopting CLEC, the effective date of such adoption) any pleading, comment, letter, ex parte communication, or other filing in violation of Section 2(a)(ii) above.

(iv) In the event any third party CLEC(s) or CMRS carrier(s) files or has filed any pleadings, comments, letters, ex parte communications, or other filings with any court or regulatory agency in which the third party CLEC(s) or CMRS carrier(s) oppose or challenge any Verizon right to bill retrospectively, or to limit Billing Claims, or any Verizon practice of billing retrospectively or limiting Billing Claims, BNI shall not participate, directly or indirectly, in any related proceeding before such court or regulatory agency. BNI also authorizes Verizon to represent to any such court or regulatory agency that BNI has authorized Verizon to inform such court or agency that BNI has voluntarily agreed to the terms of this Amendment.

(b) If any of the conditions precedent set forth in Section 2(a)(i) – (iv) above are not satisfied as of the Amendment Effective Date (or in the case of another carrier adopting this Amended Agreement, as of the effective date of any such adoption) or thereafter as applicable, then (A) the Backbill Amount limitation defined in Section 3(a) below shall not apply as to amounts billed by Verizon and the Parties agree that failure of Verizon to present statements to the other Party in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges, by Verizon under the Amended Agreement, and, except for assertion of a provision of Applicable Law that limits the period in which a suit or other proceeding can be brought before a court or other governmental entity of appropriate jurisdiction to collect amounts due, BNI (or, as applicable, the Adopting CLEC) shall not be entitled to dispute Verizon's statement(s) based on Verizon's failure to submit them in a timely fashion, and (B) the 12-month claims limitation set forth in Section 5 below shall not apply to Disputed Amounts as to which Verizon is the Disputing Party, and the Parties agree that failure of Verizon to provide BNI with timely notice of a bona fide dispute of Disputed Amounts billed by BNI shall not constitute a breach or default, or a waiver of the right to challenge the Disputed Amounts by Verizon under the Amended Agreement, and, except for assertion of a provision of Applicable Law that limits the period in which a suit or other proceeding can be brought before a court or other governmental entity of appropriate jurisdiction to recover Disputed Amounts, BNI (or, as applicable, the Adopting CLEC) shall not be entitled to deny any Verizon claim for Disputed Amounts based on Verizon's failure to notify BNI (or, as applicable, the Adopting CLEC) in a timely fashion.

(c) As used in this Section 2, “Wholesale Service” means, any and all of the following: (i) any Interconnection arrangement, Network Element, Telecommunications Service, Collocation arrangement, transport and termination (and/or receipt and delivery) of traffic, or other service, facility or arrangement offered and/or provided by a Party under Section 251 of the Act, (ii) a service, facility, arrangement, or the like that a Party offers and/or provides to telecommunications carriers on a wholesale basis under a state or federal tariff (such tariffs include, but are not limited to, intrastate switched access tariffs, intrastate special access tariffs, interstate switched access tariffs, and interstate special access tariffs), and (iii) any other services that the Party offers and/or provides to telecommunications carriers on a wholesale basis, including, but not limited to, those provided under a private carriage agreement or other commercial agreement. “Wholesale Service” does not include services, facilities, arrangements, or the like that a Party offers and/or provides on a retail basis (i.e., where the service, facility, arrangement, or the like is offered by a Party to subscribers who are not telecommunications carriers and the other Party obtains such service for its own administrative use).

3 Backbill Limitation.

Each Party may send Invoices to the other Party containing amounts found to be unbilled or underbilled for prior billing periods for Services (“Backbill Amounts”) subject to the following provisions:

(a) Subject to the exceptions set forth in Section 3(c) below, the billed Party shall not be liable for that portion, if any, of Backbill Amounts in connection with charges incurred by the billed Party to the extent such portion of Backbill Amounts was incurred earlier than twelve (12) months prior to the date of the Invoice including such Backbill Amounts. Subject to the exceptions set forth in Section 3(c) below, the billing Party shall not submit Invoices to the billed Party containing Backbill Amounts incurred by the billed Party earlier than twelve (12) months prior to the date of the Invoice including such Backbill Amounts. For the avoidance of any doubt, the foregoing Backbill Amount limitation shall also apply to any unbilled or underbilled amounts associated with charges that rely on data from third parties. For purposes of this Section 3, charges shall be deemed incurred upon the first day of the billing cycle after the one in which the Service was provided.

(b) Notwithstanding any other provision of this Amendment (except subject to Section 2 above), any Invoices containing Backbill Amounts that the billing Party may submit to the billed Party after the expiration or termination of this Amendment, which amounts are with respect to charges incurred prior to such expiration or termination of this Amendment, shall be subject to the Backbill Amount limitation defined in Section 3(a) above (together with the exceptions thereto, if applicable, set forth in Section 3(c) below).

(c) Notwithstanding any other provision of the Interconnection Agreement or this Amendment, the billing Party may send Invoices containing Backbill Amounts for charges incurred by the billed Party earlier than the 12-month Backbill Amount limitation

period defined in Section 3(a) above, and the billed Party shall be liable for such Backbill Amounts (subject, however, to bona fide billing disputes, if any, relating to aspects of the Invoices other than timeliness of the invoice), under the following circumstances:

(A) where the failure to bill or underbilling was caused by the acts, failure or refusal to act, errors, or omissions of the billed Party or its agents, including, but not limited to, the nonprovision of call records or the provision of inaccurate or incomplete call records;

(B) where the failure to bill or underbilling was caused by inaccurate or incomplete data provided to the billing Party by a third party acting as an agent of or otherwise associated with the billed Party (for the avoidance of any doubt, a third party is "otherwise associated with the billed Party" in cases including, but not limited to, where such third party is a tandem transit service provider that delivers to the billing Party call traffic that it received from the billed Party, or where the billed Party delivers to the billing Party call traffic to be handed off to the third party for termination), to the extent the billing Party reasonably relied on such data in billing the billed Party; provided, however, that if the third party was not acting as an agent of and was not otherwise associated with either the billed Party or the billing Party, the 12-month Backbill Amount limitation period defined in Section 3(a) above shall be increased to a twenty-four (24)-month Backbill Amount limitation period;

(C) where the failure to bill or underbilling was caused by a fire, flood, or other occurrences attributable to an act of God; provided, however, that such act of God shall toll the backbilling limitation by no more than six (6) months;

(D) where the failure to bill or underbilling was caused by a strike or similar work stoppage (collectively, "Work Stoppage") during the final six (6) months of the 12-month Backbill Amount limitation period defined in Section 3(a), in which case the Backbill Amount limitation defined in Section 3(a) shall be tolled for a period equal to the duration of the Work Stoppage plus ninety (90) days;

(E) where the back billing by Verizon implements new rates or charges, or an increase in, or restructuring of, Verizon's existing rates or charges (collectively, "New Rates"), to the extent such New Rates, pursuant to an effective, unstayed order or decision of a court or commission of competent jurisdiction, explicitly apply to a period earlier than the date of such order or decision and the Backbill Amount limitation period defined in Section 3(a) above;

(F) (Intentionally Left Blank);

(G) where the back billing is to recover a third-party charge that the Interconnection Agreement permits the billing Party to recover from the billed Party, and the billing Party's failure to bill or underbilling was caused by a third party acting as an agent of or otherwise associated with the billed Party (for the avoidance of any doubt, a third party is "otherwise associated with the billed Party" in cases including, but not limited to, where such third party is a tandem transit service provider that delivers to the

billing Party call traffic that it received from the billed Party, or where the billed Party delivers to the billing Party call traffic to be handed off to the third party for termination); provided, however, that if the third party was not acting as an agent of and was not otherwise associated with either the billed Party or the billing Party, the 12-month Backbill Amount limitation period defined in Section 3(a) above shall be increased to a twenty-four (24)-month Backbill Amount limitation period;

(H) (Intentionally Left Blank);

(I) the failure to bill or underbilling is to recover early termination charges (e.g., where the billed Party purchases a Service based on a term commitment, the billed Party fails to satisfy the term to which it committed, and termination liability applies for Services rendered and billed beyond the Backbill Amount limitation period defined in Section 3(a) above);

(J) where the backbilling is to recover a federal, state or local government tax, fee, duty, surcharge (including, but not limited to, any E911/911, telecommunications relay service, or universal service fund surcharge), or other tax-like charge assessed in connection with a Service (collectively, "Tax") and such Tax (i) has been retroactively applied by the taxing authority or (ii) the failure to bill or underbilling was for reasons attributable to the billed Party (including, but not limited to, the billed Party's failure to obtain, provide, or maintain a valid tax exemption certificate); or

(K) where the parties have otherwise agreed in a written agreement signed by authorized representatives of the Parties after the Amendment Effective Date.

4 Billing and Payment of Charges.

Except as may otherwise be provided in this Amendment, each Party shall submit to the other Party on a monthly basis, an itemized statement of charges incurred by the other Party during the preceding month(s) (or, in the case of non-usage sensitive charges, the forthcoming month(s)) for Services rendered hereunder (an "Invoice"). BNI's payment of billed amounts under this Amendment, whether billed on a monthly basis or as otherwise provided herein, shall be due, in immediately available U.S. funds, on or before the later of the following dates (the "Due Date"): (a) thirty (30) calendar days after the date of the Invoice; or (b) twenty (20) calendar days after the date the Invoice is received by the billed Party. If such payment Due Date would cause BNI's payment to be due on a Sunday or Legal Holiday which is observed on a Monday, payment will be due the first business day following such Sunday or Legal Holiday. If such payment Due Date would cause BNI's payment to be due on a Saturday or on a Legal Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment will be due on the last non-Legal-Holiday day preceding such Saturday or Legal Holiday. For purposes of this section, a "Legal Holiday" is defined as a day, other than Saturday or Sunday, that is designated a bank holiday by the Federal Reserve (or such other bank as the Parties mutually agree upon). For the avoidance of any doubt, a payment to Verizon shall be

deemed made on the date it is received by Verizon. Payments shall be transmitted by electronic funds transfer.

5 Billing Disputes.

(a) If any portion of an amount billed by a Party under the Amended Agreement is subject to a bona fide dispute between the Parties, the Party billed (the “Disputing Party”) shall give written notice to the billing Party of the amounts it disputes (“Disputed Amount”) through the billing Party’s claims submission process and include in such notice the specific details and reasons for disputing each item. For the avoidance of any doubt, the Disputing Party shall provide such written notice of a bona fide dispute regardless of whether it pays the subject charges. The Disputing Party shall provide any such notices of a bona fide dispute to the billing Party as soon as reasonably possible after receiving the Invoice on which the Disputed Amount first appeared; provided, however, if the Disputing Party does not provide to the billing Party a notice of a bona fide dispute within nine (9) months after the date of the Invoice on which the Disputed Amount first appeared, the Disputing Party unconditionally and irrevocably waives any rights it might have to dispute the subject charges or to recover any such charges previously paid. The foregoing waiver shall apply to all Disputed Amounts as to which the Disputing Party failed to provide notice of a bona fide dispute in accordance with the requirements of this Section (such requirements including, but not being limited to, the 9-month limitation set forth above), regardless of whether such Disputed Amounts fall in the same class of charges as a Disputed Amount with respect to which the Disputing Party provided a notice of a bona fide dispute in accordance with the requirements of this section. Subject to Section 5(a)(i) below as to BNI, the Disputing Party shall pay, when due, to the billing Party all amounts billed by the billing Party that are not subject to a bona fide dispute of which the Disputing Party has notified the billing Party in accordance with the requirements of this section. Amounts due to the billing Party that are not paid by the payment Due Date shall be subject to a Late Payment Charge (as defined below) in accordance with the terms of Section 6.

(i) Should Disputed Amounts as to which BNI is the Disputing Party, in any three (3) months of any period of six (6) consecutive months, exceed in the aggregate twenty-five percent (25%) of the total invoiced charges for the Services during the applicable period, then BNI shall be required in each succeeding month to pay on or before the Due Date the greater of all undisputed charges or seventy-five percent (75%) of the total charges invoiced in that month under the Amended Agreement, pending final resolution of the Disputed Amounts through the dispute resolution process in accordance with Section (5)(a)(ii) below; *provided, however*, that the seventy-five percent (75%) minimum payment requirement shall not apply to the extent that BNI is participating in any pending legal or regulatory proceeding addressing the invoiced charges or class of charges that comprise the Disputed Amounts. Any Disputed Amounts that are finally resolved in Verizon’s favor that were underpaid to Verizon as a result of the foregoing seventy-five percent (75%) minimum payment requirement shall be paid to Verizon by BNI with applicable late payment charges, and any Disputed Amounts that are finally resolved in BNI’s favor that were overpaid to Verizon as a result of the foregoing seventy-five percent (75%) minimum payment requirement shall be refunded to BNI by

Verizon with applicable interest at a rate not to exceed the rate permitted for late payment charges under Section 6 below.

(ii) If the Parties are unable to resolve the issues related to the Disputed Amounts, then either Party may pursue dispute resolution pursuant to the terms of the Amended Agreement, provided however, Verizon and BNI agree that neither Verizon nor BNI will make claims against the other Party or any affiliate of the other Party in any court, regulatory commission, arbitration tribunal, or other forum (“Billing Claims”), for credits, refunds, interest, penalties and/or related damages or the like except where, in accordance with the requirements of Section 5(a) above, written notice of a bona fide dispute has been given by the Disputing Party to the billing Party not later than nine (9) months after the date of the Invoice on which the Disputed Amount first appeared.

(iii) Except as set forth above, payment of any amounts under this Amendment, by itself, does not constitute a waiver of either Party’s rights under the terms of the Amended Agreement to contest its obligation to pay any amounts allegedly owed under the Amended Agreement or to seek a refund for any amount paid.

6 Late Payment Charges.

(a) Subject to Section 6(b) below, if either Party fails to remit a payment (including, without limitation, a Late Payment Charge) for any charges by the payment Due Date, or if a payment or any portion of a payment is received by either Party after the payment Due Date, or if a payment or any portion of a payment is received in funds which are not immediately available to the other Party, then a late payment penalty (“Late Payment Charge”) shall be assessed at the rate provided for in the Interconnection Agreement; provided, however, if the Interconnection Agreement does not provide such a rate, the Late Payment Charge shall be in an amount specified by the billing Party which shall not exceed a rate of one-and-one-half percent (1.5%) of the overdue amount (including any unpaid previously billed Late Payment Charges) per month.

(b) If the billed Party provides notice to the billing Party of a Disputed Amount (as defined in Section 5 above) in accordance with the requirements of Section 5 above, then the billed Party need not pay Late Payment Charges on such Disputed Amount pursuant to this Section 6 until such time as the dispute is resolved in the billing Party’s favor, in which case the billed Party shall pay Late Payment Charges for the period from the Due Date (as defined in Section 4 above) up to the date on which the billed Party remits payment of the Disputed Amount. For the avoidance of any doubt, for purposes of calculating such Late Payment Charges for such period, the Disputed Amount principal for each month shall include, without limitation, the Late Payment Charges that shall be deemed to have accrued, at the rate provided for under Section 6(a) above, up to that month.

7 Assurance of Payment.

(a) At any time and from time to time, based on the conditions set forth in this Section 7, Verizon may request, and BNI shall provide to Verizon, adequate assurance of payment of amounts due (or to become due) to Verizon under the Amended Agreement.

(b) Verizon may request, and BNI shall provide, assurance of payment if (i) BNI (A) in any month (“Month X”), fails to pay when due amounts (including, without limitation, past due amounts from previous billing periods) that in total equal or exceed five percent (5%) of the total amount due to Verizon during that month for Services billed by Verizon and fails to cure such nonpayment within five (5) business days of Verizon’s written notice of nonpayment, and (B) in any other month within the same period of twelve consecutive months as Month X (“Month Y”), fails to pay when due amounts (including, without limitation, past due amounts from previous billing periods) that in total equal or exceed five percent (5%) of the total amount due to Verizon during Month Y for Services billed by Verizon and fails to cure such nonpayment within five (5) business days of Verizon’s written notice of nonpayment (such notice, the “Cure Notice,” to be provided in accordance with Section 9 below (or, in the case of an Adopting CLEC, in accordance with the notice provisions of the Interconnection Agreement, until such time as the Adopting CLEC may provide Verizon with proper notice of the Adopting CLEC’s contact information that the Adopting CLEC identifies as being for the specific purpose of the Cure Notice under Section 9(b) below)); or (ii) BNI admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding. For purposes of Section 7(b)(i) above, a payment shall not be deemed untimely if, at the payment Due Date: (i) BNI has notified Verizon of a bona fide dispute regarding such amount in accordance with the requirements of Section 5(a) of this Amendment, and (ii) in cases where Verizon has previously denied such a dispute, BNI, in a written notice provided within (ten) 10 business days after such denial, stated that it had a bona fide basis to challenge the denial and requested that the dispute be escalated to a higher level in Verizon’s claim dispute process, and the amount remains subject to a bona fide dispute.

(c) Unless otherwise agreed in writing by the Parties, the assurance of payment shall consist of an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon in its sole discretion. The letter of credit shall be in an amount equal to two (2) months anticipated charges (including, but not limited to, both recurring and non-recurring charges), as reasonably determined by Verizon, for the Services to be provided by Verizon to BNI in connection with the Interconnection Agreement.

(d) Verizon may (but is not obligated to) draw on the letter of credit upon notice to BNI in respect of any amounts to be paid by BNI hereunder that are not paid on the date that payment of such amounts is required by this Amendment.

(e) If Verizon draws on the letter of credit, upon notice by Verizon, BNI shall provide a replacement or supplemental letter of credit conforming to the requirements of Section 7(c) above.

(f) Notwithstanding anything else set forth in the Interconnection Agreement or this Amendment, if Verizon makes a request for assurance of payment in accordance with the terms of this Section 7, then Verizon shall have no obligation thereafter to perform under the Interconnection Agreement until such time as BNI has provided Verizon with such assurance of payment.

(g) The fact that a letter of credit is requested by Verizon hereunder shall in no way relieve BNI from compliance with the requirements of the Interconnection Agreement or this Amendment (including, but not limited to, any applicable tariffs) as to advance payments and payment for Services, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of Services for nonpayment of any amounts payment of which is required by the Interconnection Agreement or this Amendment.

(h) If either Party defaults in the payment of an amount due hereunder, except for amounts subject to a bona fide dispute pursuant to Section 5 hereof with respect to which the disputing Party has complied with the requirements of Section 5 in its entirety) or if either Party materially violates any other material provision of the Amended Agreement, and such material default or violation shall continue for thirty (30) calendar days after written notice in accordance with the Notice(s) provisions of the Amended Agreement, the other Party may terminate the Amended Agreement and/or suspend the provision of any or all Services thereunder by providing written notice to the defaulting Party in accordance with the notice provisions of the Amended Agreement. If the defaulting Party cures the default or violation within the thirty (30) day period, the other Party shall not terminate the Amended Agreement or suspend Service provided thereunder but shall be entitled to recover all reasonable costs, if any, incurred by it in connection with the default or violation, including, without limitation, costs incurred to prepare for the termination of the Amended Agreement or the suspension of Service provided thereunder.

(i) If BNI has provided assurance of payment to Verizon pursuant to the terms of this Section 7, but at least twelve (12) months have passed since the provision of such assurance of payment without the occurrence of a non-payment triggering event (i.e., as set forth in Sections 7(b)(i)(A) or 7(b)(i)(B) above), then upon written request from BNI, Verizon shall return to BNI such assurance of payment.

8 Waiver of Rights; Successor Terms.

(a) Subject to Section 2 above, the terms of this Amendment shall be effective on the Amendment Effective Date and shall continue in effect until January 23, 2012 (the "Initial Term") and, thereafter, shall automatically renew for successive periods of one (1) year (each such successive period, an "Extended Term") unless either Party, at least six (6) months prior to the last day of the Initial Term, notifies the other Party in writing that it wishes to terminate the terms of this Amendment. If the terms of this Amendment renew

automatically for an Extended Term(s) as set forth above, then either Party may terminate the terms of this Amendment by providing written notice of termination at least six (6) months in advance of the date of termination. To the extent necessary to give effect to the foregoing terms of this Section 8(a), each Party irrevocably waives, with respect to the other Party, any and all rights that it may have or that it may obtain, from the beginning of time through and including the Initial Term (and, as applicable, any Extended Term for which this Amendment remains effective), under the Act (including, but not limited to, under Section 252(i) thereof), under any other applicable law, under the Interconnection Agreement, or otherwise (i) to adopt the terms of any other interconnection agreement, law, regulation, order, arbitration award or the like relating to the subject matter of this Amendment; or (ii) to seek through negotiation, arbitration, or otherwise terms or provisions that would modify, replace, alter or otherwise change the terms of this Amendment prior to the end of the Initial Term (and, as applicable, any Extended Term for which the terms of Amendment remains effective). The effective date of any termination under this Section 8(a), which shall not be before the end of the Initial Term, may be referred to as the "Termination Date" and the date of provision of such notice may be referred to as the "Termination Notice Date".

(b) In the event the terms of this Amendment are terminated in accordance with Section 8(a) above: (i) if, as of the Termination Date, the Interconnection Agreement remains effective between the Parties and has not been replaced by a new or successor interconnection agreement, the terms of the Interconnection Agreement, excluding the terms of this Amendment, shall govern as to the matters set forth herein until such time as the Interconnection Agreement is replaced by a new or successor interconnection agreement; (ii) if, as of the Termination Date, the Interconnection Agreement has been replaced by an interconnection agreement adopted pursuant to Section 252(i) of the Act or other provision of applicable law (an "Adopted Replacement Agreement") that remains effective between the Parties, the terms of such Adopted Replacement Agreement, excluding the terms of this Amendment, shall govern as to the matters set forth herein until such time as such Adopted Replacement Agreement is replaced by a new or successor interconnection agreement. If the Parties enter into a voluntarily negotiated Interconnection Agreement that becomes effective during, but prior to the end of, the Initial Term (or, as applicable, during, but prior to the end of, an Extended Term), the terms of such voluntarily negotiated Interconnection Agreement, including those terms addressing the matters set forth in this Amendment, shall govern during the period that such Interconnection Agreement is effective. The Parties shall include in any such voluntarily negotiated Interconnection Agreement the terms of this Amendment as well as the terms that shall apply in the event either Party provides notice of termination of the terms of this Amendment in accordance with Section 8(a).

(c) Notwithstanding anything set forth in this Section 8, either Party's termination of the terms of this Amendment pursuant to this Section 8 shall not be deemed to permit either Party: (i) to bill the other Party for any amount that, prior to the Termination Date, the billing Party was barred from billing to the other Party under Section 3 above, or (ii) to dispute any amount that the Party, prior to the termination date, was barred from disputing under Section 5 above.

(d) Neither Party hereby waives any other rights accorded to it under applicable law, except to the extent expressly stated in this Amendment. Subject to and without limiting the provisions of Section 2 of this Attachment, nothing in this Amendment should be construed or interpreted as limiting in any way either Party's rights to pursue in any forum regulatory or legislative reform and/or changes to applicable law.

9 Cure Notice to BNI Under Section 7(b) of this Amendment.

(a) The Cure Notice required under Section 7(b) of this Amendment must be in writing and sent by (i) certified mail, with return receipt requested or (i) Federal Express or other overnight service. Any Cure Notice provided under (i) or (ii) of the preceding sentence shall be deemed effective when received or refused.

(b) Any Cure Notice provided under Section 9(a) above shall also be transmitted by email, which email shall not constitute notice. The requirement for an email transmission under this section shall be deemed satisfied when sent to the email addresses identified under Section 9(c) below, regardless of whether BNI actually receives the email. BNI is responsible for notifying Verizon, by written notice pursuant to the notice provisions of the Interconnection Agreement, of any change in the email addresses or other BNI contact information identified under Section 9(c) below. Verizon shall not be deemed to have actual or constructive knowledge of any change to the email addresses or other BNI contact information identified under Section 9(c) below if BNI did not provide Verizon written notice of such change in accordance with the notice provisions of the Interconnection Agreement.

(c) BNI Contacts for the Cure Notice:

Rebecca Sommi
Senior Vice President – Operations Support
Broadview Networks, Inc.
2100 Renaissance Boulevard
King of Prussia, Pennsylvania 19406
Phone: (610) 755-4872
Email: rsommi@broadviewnet.com

With a copy to (which shall not constitute notice):

Charles C. Hunter
Executive Vice President and General Counsel
Broadview Networks, Inc.
800 Westchester Avenue, Suite N-501
Rye Brook, New York 10573
Phone: (914) 922-7589
Email: chunter@broadviewnet.com

With a copy to (which shall not constitute notice):

James Lennon
Managing Director – Cost Assurance
744 Broad Street, 10th Floor
Newark, NJ 07102
Phone: 973.848.8824
Email: jlennon@broadviewnet.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via U.S. mail(*)
and/or electronic mail(**) on June 22, 2011 to the following:

Staff Counsel(*)
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Broadview Networks, Inc.(**)
Attention: Rebecca H. Sommi
Senior Vice President - Operations Support
2100 Renaissance Boulevard
King of Prussia, PA 19406
rsommi@broadviewnet.com

s/ Dulaney L. O'Roark III