

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BellSouth Telecommunications, Inc. for approval of interconnection, unbundling, and resale agreement negotiated with Comcast Telephony Communications of Florida, Inc. and Comcast MH Telephony Communications of Florida, Inc. pursuant to Sections 251, 252 and 271 of the Telecommunications Act of 1996.

DOCKET NO. 971407-TP  
ORDER NO. PSC-98-0209-FOF-TP  
ISSUED: February 4, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER APPROVING INTERCONNECTION, UNBUNDLING,  
AND RESALE AGREEMENT

BY THE COMMISSION:

On October 23, 1997, BellSouth Telecommunications, Inc. (BST) and Comcast Telephony Communications of Florida, Inc. and Comcast MH Telephony Communications of Florida, Inc. (collectively Comcast) filed a request for approval of an interconnection, unbundling, and resale agreement under the Telecommunications Act of 1996, 47 U.S.C. §252(e) of the Telecommunications Act of 1996 (the Act). The agreement is attached to this Order as Attachment A and incorporated by reference herein.

Both the Act and Chapter 364, Florida Statutes, encourage parties to enter into negotiated agreements to bring about local exchange competition as quickly as possible. Under the requirements of 47 U.S.C. § 252(e), negotiated agreements must be submitted to the state commission for approval. Section 252(e)(4)

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requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

This agreement covers a 3-year period and governs the relationship between the companies regarding local interconnection and the exchange of traffic pursuant to 47 U.S.C. § 251. Under 47 U.S.C. § 252(a)(1), the agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement.

Upon review of the proposed agreement, we find that it complies with the Telecommunications Act of 1996; thus, we hereby approve it. BST and Comcast must file any supplements or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e). We note that approval of this agreement does not constitute a determination that BST has met the requirements of Section 271 of the Telecommunications Act.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the interconnection, unbundling, and resale agreement between BellSouth Telecommunications, Inc. and Comcast Telephony Communications of Florida, Inc. and Comcast MH Telephony Communications of Florida, Inc., as set forth in Attachment A and incorporated by reference in this Order, is hereby approved. It is further

ORDERED that any supplements or modifications to this agreement must be filed with the Commission for review under the provisions of 47 U.S.C. § 252(e). It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 4th  
day of February, 1998.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

KMP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).

**AGREEMENT  
BETWEEN  
BELLSOUTH TELECOMMUNICATIONS, INC.,  
AND  
COMCAST TELEPHONY COMMUNICATIONS OF FLORIDA, INC.,  
COMCAST MH TELEPHONY COMMUNICATIONS OF FLORIDA, INC.**

**THIS AGREEMENT** (the "Agreement") is effective as of this 24th day of September, 1997 (the "Effective Date"), by and among Comcast Telephony Communications of Florida, Inc., Comcast MH Telephony Communications of Florida, Inc. (jointly, "ALEC"), both Florida corporations with offices at 1500 Market Street, Philadelphia, PA 19102-2148, and BellSouth Telecommunications, Inc. ("BellSouth"), a Georgia corporation, with offices at 675 W. Peachtree Street, N.E., Atlanta, GA 30375.

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ALEC and BellSouth (individually, a "Party" and collectively, the "Parties") hereby agree as follows:

1. **PURPOSE.** This Agreement sets forth the terms, conditions and pricing under which the Parties will offer and provide access to certain services (the "Services"), consisting of interconnection to each other's (1) Garden Terminals and their associated Network Terminating Wire ("NTW"); (2) Wiring Closets and their associated NTW; and (3) other forms of premises Multi-Dwelling Unit ("MDU") interconnection, as specified in Section 5(c) below, in the State of Florida.

The provisions and rates set forth in the Agreement assume that (1) Spare Capacity in Garden Terminals and Wiring Closets exists; (2) no overtime is required by the Provisioning Party's technician when working the Requesting Party's request for service; and (3) no Special Construction is required.

In addition to the monthly and nonrecurring rates displayed on Attachment A-1 to this Agreement, a Party's Special Construction charges, determined as specified in Section A5 of BellSouth's General Subscriber Service Tariff, may apply to recover any costs associated with extraordinary work. Special Construction requirements shall be determined and agreed to by the Parties as part of the initial site meeting.

The Parties further agree that in instances where overtime is required by the Provisioning Party's technician to complete the Requesting Party's request for service, the Requesting Party will pay the Provisioning Party's overtime rate in addition to the rates set forth in Attachments A-1 of this Agreement. A Provisioning Party shall use best efforts to fill a Requesting Party's request for service during its normal business hours.

2. **DEFINITIONS.** The following terms are used throughout this Agreement and have the meanings ascribed to them below:

(a) **"Garden Terminal"** means a pedestal or comparable facility equipped with building entrance protectors which acts as an interface between outside plant cable and NTW, or equivalent functionality.

- (b) **"Holiday"** means Christmas Day (December 25), New Year's Day (January 1), Independence Day (July 4), Thanksgiving Day and Labor Day, and a day when Washington's Birthday, Memorial Day or Columbus Day is legally observed.
- (c) **"Provisioning Party"** means a Party who, at the request of the other Party, provides facilities under its ownership and/or control as part of the Services described in this Agreement.
- (d) **"Requesting Party"** means a Party who requests access to facilities under the ownership and control of the other Party as part of the Services described in this Agreement.
- (e) **"Service Order"** means a written request submitted by a Requesting Party to a Provisioning Party for the provisioning of Spare Pairs following the initial site preparation described in Section 5(a).
- (f) **"Spare Capacity"** or **"Spare Pair"** means a Provisioning Party pair which, at the time of the Requesting Party's order, is available. "Available," as that term is used herein, shall mean a pair that (1) is not being utilized by the Provisioning Party or by a third party to provide an end-user with working service or (2) is being utilized by the Provisioning Party or a third party to provide an end-user with service(s), but such service is subject to disconnect request from the end-user, provided that the pair is "operational," i.e., the pair is capable of carrying end-user services based upon generally acceptable standards in the telecommunications industry. The Provisioning Party shall use best efforts to ensure that a pair is operational at the time of initial provisioning of the pair to the Requesting Party, e.g., through appropriate pair testing of the pair. If the Provisioning Party is subsequently advised by the Requesting Party that a spare pair is not

operational, the next spare pair available will be provided to the Requesting Party for no additional nonrecurring charge.

(g) "Special Construction" means the installation, removal, move or rearrangement of plant facilities for which there are no charges specified in BellSouth's filed tariffs or otherwise specified in this Agreement. Generally, special construction charges would apply to modifications of outside plant shielded cable, feeder and distribution terminals and shielded cable utilized for intra or inter-building purposes (excluding for example, intermediate connection blocks including, but not limited to, 66-type blocks utilized by BellSouth when BellSouth is the Provisioning Party, or 66-type and 110-type blocks utilized by ALEC when ALEC is the Provisioning Party, used in Wiring Closet Interconnection) not set forth in this Agreement.

(h) "Wiring Closet" means a room or area which contains the cross-connect field that is used as the interface between NTW and building riser distribution cable, or equivalent functionality.

### 3. LIMITATIONS.

(a) The Parties agree that interconnection at the Garden Terminals and Wiring Closet applies to residential multi-dwelling unit ("MDU") properties in the State of Florida. Notwithstanding the foregoing, if spare facilities are available in a non-residential multi-tenant building, the Provisioning Party shall use best efforts to make these facilities available to the Requesting Party, in accordance with the charges set forth in Attachment A-1 and subject to Sections 5(a) and 5(b).

(b) The term "NTW", as used in this Agreement shall mean Unshielded Twisted Pair (UTP) copper telecommunications wiring. In new construction, where possible, both Parties may at their option install their own NTW. Where the Parties share NTW, the Provisioning Party shall install a minimum of six (6) pair NTW. In existing construction, neither Party shall be required to install new or additional NTW to provision the Services to the other Party, except as otherwise provided in this Agreement.

4. TERM.

(a) The term of this Agreement shall be three (3) years, beginning with the Effective Date hereof, unless terminated as provided herein (the "Initial Term"). The Parties agree that at least six (6) months prior to the expiration of the Initial Term, they shall commence negotiations, and shall proceed promptly in good faith and using best efforts, to reach agreement with regard to the terms, conditions and prices of the Services to be effective after the expiration of the Initial Term.

(b) If the Parties, as of the date of the expiration of the Initial Term, have not agreed upon the terms, conditions and prices for renewal of this Agreement, then the Parties shall be permitted to keep in place those interconnections that they have established pursuant to this Agreement, at the then-existing terms, conditions and prices for such interconnections, until a new agreement based upon voluntary negotiation or through arbitration is executed. This Agreement shall remain in effect until such time as the abovementioned terms, conditions and prices for renewal become effective.

5. NATURE OF SERVICES.



The parties agree to meet prior to the Requesting Party's issuance of a Service Order requesting to use the Provisioning Party's NTW at the Garden Terminal or Wiring Closets. The purpose of the meeting will be to discuss specific procedures for interconnection and to set a mutually agreed upon due date for each site, procedures for the initial site preparation and for ordering of pairs on an ongoing basis at the particular MDU, which procedures shall be consistent in all respects with this Agreement. Such requests shall be made in writing to the appropriate Account Team assigned to the Requesting Party's account and shall communicate the Requesting Party's commitment to provide service to a complex. The Parties further agree to meet within five (5) business days after a written request for such meeting is received by either Party. In the event that the Provisioning Party refuses or otherwise fails to meet with the Requesting Party within the time frames specified in this Section, the due date for initial site preparation and any corresponding initial pair shall nevertheless be no later than the due dates set forth in this Section 5(a)6 and 5(b)7. Appropriate licenses, permits, and permissions to provide service in the particular MDU will be available upon the reasonable request by the Provisioning Party.

Within the end user's premises, the Requesting Party shall install a Siecor 200 jack or equivalent arrangement which provides the end user with the ability to connect the inside wire to either or both of the parties' respective first lines.

(a) Garden Terminal Interconnection. The following terms and conditions apply to Garden Terminal Interconnection:

(1) Where Spare Capacity exists, the Provisioning Party shall provide access to the NTW through the Garden Terminal to the Requesting Party, as specified below, in accordance

with the schedule of prices set forth in Attachment A-1 to this Agreement, which is incorporated herein by reference.

(2) Prior to initial site preparation, the Requesting Party will install its Garden Terminal or equivalent containing a cross-connect block at the relevant MDU. The Requesting Party will extend an interconnect cable from its cross-connect block to the Provisioning Party's Garden Terminal. As part of initial site preparation, and thereafter upon the issuance of a Service Order by the Requesting Party, the Provisioning Party will terminate the interconnect cable on the Spare Pair(s) requested by the Requesting Party. To ensure safety, the Requesting Party will electrically bond its outside plant protector units and cable shield, if shielded cable is used, to the same ground source used by the Provisioning Party.

(3) The Requesting Party will be assigned the first available Spare Pair NTW after the first pair (the next available pair). If more than one (1) Spare Pair NTW is available, the Provisioning Party shall also make those pair(s) available to the Requesting Party. The Requesting Party may order and the Provisioning Party will, at a minimum, reserve one (1) pair of wires going into each end-user premises. This pair will be the pair designated as the first pair. Notwithstanding the foregoing, should either Party subsequently require the use of additional pair(s) to provide for the activation of additional lines in an end-user's premises in response to a request from such end-user, both Parties agree to surrender their Spare Pair(s) upon request by the other Party.

(4) If an end-user of the ALEC desires to receive local exchange service from a service provider who is not a party to this Agreement, and such third-party service provider

needs access to the BellSouth NTW to provide local exchange service to the end-user, then the ALEC agrees to surrender the requisite number of its Spare Pair(s) if no other Spare Pair is available and upon request by BellSouth.

(5) If an end-user of BellSouth desires to receive local exchange service from a service provider who is not a party to this Agreement, and such third-party service provider needs access to the ALEC NTW to provide local exchange service to the end-user, then BellSouth agrees to surrender the requisite number of its Spare Pair(s) if no other Spare Pair is available and upon request by the ALEC.

(6) The Parties agree that initial requests for access to the Provisioning Parties' Garden Terminals, Wiring Closets and associated NTW (i.e., the initial site preparation) shall be provisioned and completed within thirty (30) calendar days after the issuance of a Service Order by the Requesting Party, unless the Parties, at the site meeting referenced in Section 5, mutually agree otherwise in writing due to Special Construction requirements. Subsequent requests for pairs shall be handled on a per Service Order basis and shall be provisioned at the intervals set forth in Section 6(b) of the Agreement.

(b) Wiring Closet Interconnection.

The following terms and conditions apply to Wiring Closet Interconnection:

(1) A Provisioning Party shall provide access to Spare Pair(s) through Wiring Closet Interconnection to the Requesting Party in accordance with the schedule of prices set forth in Attachment A-1 to this Agreement which is incorporated herein by reference.

(2) As part of initial site preparation for Wiring Closet Interconnection, the Provisioning Party will terminate the Spare Pair on a connecting block ("Common Connecting Block") at a mutually agreeable location within the wiring closet, which agreement shall not be unreasonably withheld by either Party. When BellSouth is the Provisioning Party, a 66-type connecting block will be used. When the ALEC is the Provisioning Party, the ALEC will use a 66-type or a 110-type connecting block as determined and agreed upon at the initial site meeting. The Requesting Party will cross connect its distribution to the Spare Pair(s) on the aforementioned Common Connecting Block on an as needed basis, which Common Connecting Block the Provisioning Party shall have clearly marked with the apartment number using permanent marker. Prior to the Provisioning Party's release of Spare Pair(s) in the Wiring Closet, the Parties agree to work together in developing a mutually agreeable Reporting and Auditing arrangement by which the Requesting Party shall report to the Provisioning Party the number of Spare Pair(s) active within a given period of time. Such report shall be used by the Provisioning Party to assess Monthly Recurring Charges, as set forth in Attachment A-1, to the Requesting Party for access to Spare Pair(s) in the Wiring Closet at an MDU.

(3) If the Provisioning Party has not yet installed its intra-building wiring, connections and terminations at an MDU, but it has received a Service Order from the Requesting Party for Wiring Closet Interconnection, the Provisioning Party shall install a minimum of six- (6-) pair NTW capable of handling at least that number of pairs, in order to ensure an adequate number of pairs for both the Requesting Party's and the Provisioning Party's respective uses.

(4) If either Party requires the use of additional pair(s) to provide for the activation of additional lines in an end-user's premises in response to a service order from such end-user, both Parties agree to surrender their inactive spare pair(s) upon request by the other Party.

(5) If an end-user of the ALEC desires to receive local exchange service from a service provider who is not a party to this Agreement, and such third-party service provider needs access to the BellSouth NTW to provide local exchange service to the end-user, then the ALEC agrees to surrender the requisite number of its Spare Pair(s) if no other Spare Pair is available and upon request by BellSouth, which third-party termination shall be made at the Common Connecting Block.

(6) If an end-user of BellSouth desires to receive local exchange service from a service provider who is not a party to this Agreement, and such third-party service provider needs access to the ALEC NTW to provide local exchange service to the end-user, then BellSouth agrees to surrender the requisite number of its Spare Pair(s) if no other Spare Pair is available and upon request by the ALEC, which third-party termination shall be made at the Common Connecting Block.

(7) The Parties agree that initial requests for access to the Provisioning Parties NTW shall be provisioned within thirty (30) calendar days after the issuance of a Service Order by the Requesting Party, unless the Parties, at the site meeting referenced in Section 5 mutually agree otherwise in writing due to Special Construction requirements. Subsequent requests for pairs

shall be handled on a per Service Order basis and will be provisioned at the intervals set forth in Section 7(b) of the Agreement.

(c) Other Forms of MDU Premises Interconnection.

In the event that the ALEC requests a form of MDU premises interconnection using UTP that is substantially different than the forms of interconnection envisioned in this Agreement, any other agreement or BellSouth tariff, then the ALEC will utilize the Bona Fide Request Process set forth in Attachment B of this Agreement to determine the appropriate means for interconnection and to establish rates.

**6. COORDINATION OF CUSTOMER CONVERSION.**

Within thirty (30) days of the effectiveness of this Agreement, or as otherwise agreed to by the Parties, the Parties shall use best efforts to develop coordination procedures for the Services involving end-user conversions from the end-user network access line service of BellSouth to the end-user network access line service of the ALEC and from the end-user network access line service of the ALEC to the end-user network access line service of BellSouth, including, but not limited to, the development of procedures for provisioning Service Provider Number Portability.

**7. PROVISIONING PERFORMANCE MEASUREMENTS**

(a) The parties agree that in providing Services to each other pursuant to this Agreement, both Parties shall provide the other the same quality of service that it provides itself and its end-users. The Parties have agreed to two (2) categories of performance to be measured: (1) Provisioning of NTW; and (2) Maintenance of NTW. Each category includes measurements

which focus on timeliness, accuracy and quality. The Parties shall measure the following activities against the goals provided herein:

Except as otherwise provided in this Section, the Provisioning Party shall provide data to the Requesting Party on a monthly basis. The data shall be reported in a mutually agreed upon format which will enable the Requesting Party to compare the Provisioning Party's performance for itself and its affiliates with respect to a specific measure to the Provisioning Party's performance for the Requesting Party for that same specific measure.

(b) Provisioning performed by the Provisioning Party shall be reported utilizing the following measurements as they related to access to the NTW:

(1) **Desired Due Date:** Measures as a percent how often the Provisioning Party is able to meet the Requesting Party's desired due dates for provisioning Services after the initial installation of the garden terminal or wiring closet installation and for provisioning of the interconnection services provided pursuant to Section 5. The Parties cannot provide these measurements at this time. When these measurements are available, and at such reasonable intervals thereafter, the Parties agree to review each Party's ability to provide Services by the Desired Due Date for both categories. Until such time as such measurements are available, the Parties agree to provide a range of intervals, on an interim basis, that they represent are reflective of the time it takes to install both categories of services.

In addition to the due dates established in Section 5 for the initial interconnection at the Garden Terminals and Wiring Closets, the Parties agree to provision all subsequent requests for access to NTW as follows:

1 - 5 pairs	-	3 business days*
6 - 10 pairs	-	6 business days*
11 - 15 pairs	-	9 business days*
Over 15 pairs	-	As Negotiated

\*under normal business conditions

(2) **Committed Due Date Met after initial interconnection installation:**

Measures as a percent the actual date service provisioned compared to the date service was scheduled to be provisioned.

**Measurement:**

**$N = \frac{\text{Total Appointments Met}}{\text{Total Appointments Set}}$**

(3) **No Trouble Reported Within 30 Days of Order Completion of subsequent**

requests for access to NTW after initial interconnection : Measures reliability of service provided to the ALEC customers in first 30 days of service.

**Measurement:**

**POTS:  $N = \frac{\text{All troubles on service installed } \leq 30 \text{ days in a calendar month}}{\text{Installations in a calendar month}}$**

**D = Installations in a calendar month**

**Note: N and D are not the same order base.**

**Specials:  $N = \frac{\text{Troubles on service installed } \leq 30 \text{ days}}{\text{Installations in a calendar month}}$**

**D = Installations in a calendar month**

**Note: N and D are in the same order base.**

(4) **Firm Order Confirmation:**



Measures the timeliness of receiving a validation that the Service ordered will be provisioned.

**Measurement:**

**N = Total Number of FOCs Sent for the segment of each 24 hour period**

**D = Total Number of FOCs Sent in a 24 hour period**

BellSouth agrees to collect and measure data in 4 hour segments through March 31, 1998. At that time, the Parties will review BellSouth's ability to provide an Electronic FOC in four hours or less.

**(5) Notice of Reject or Error Status Within 1 Hour of Receipt (Paper/Electronic):**

Measures the timeliness of receiving notification that a Service Order is incorrect and needs to be corrected.

**Measurement:**

**N = Number of Rejects or Error Status Sent in  $\leq 1$  hour**

**D = Total Number of Rejects or Error Status Sent**

**(6) Service Orders Provisioned As Requested:**

(The Parties agree to review appropriate information and develop a proposal to provide this measurement no later than March 31, 1998.)

**(c) MAINTENANCE MEASUREMENTS**

**(1) Time to Restore**

Measures average time it takes to restore to service Local Services, Network Elements, or Combinations.

**Measurement:**

**N = Total Duration Time**  
**D = Total Troubles**

**For Specials and Local Interconnection/Trunking:**

**N = Responsible Duration Time**  
**D = Total Troubles**

**(2) Repeat Troubles**

**Measures trouble reports from the same customer in a 30 day period.**

**N = Total Repeats < 30 days**  
**D = Total Troubles**

**(3) Trouble Resolution Notification**

**BellSouth shall inform the ALEC of the restoration of service after an outage has occurred by means of a telephone call until such time as a mechanized means of notification becomes available.**

**(4) The ALEC will transmit repair calls to the BellSouth repair bureau by telephone until it is able to make use of the Electronic Interfaces. BellSouth shall measure the average length of time it takes for the BellSouth repair bureau attendant to answer the telephone.**

**(5) Missed Appointments**

**Measures when BellSouth misses meeting end user appointments that require a premise visit.**

**Measurement:**

**N = Total Appointments met**  
**D = Total Appointment set**

**(6) Report Rate**

Measures the frequency of troubles reported within BellSouth's network.

Measurement:

$N = \frac{\text{Number of Trouble Reports per month}}{\text{Total number of Lines}}$

$D = \text{Total number of Lines}$

## 8. MAINTENANCE

(a) The Parties agree to work cooperatively to maintain reliable Services, including but not limited to the development of maintenance contact numbers and escalation procedures. Maintenance and control of a Provisioning Party's Garden Terminal, Wiring Closet/Boards, and associated wiring and cabling shall remain the responsibility of the Provisioning Party. A Provisioning Party shall provide the Requesting Party with prior written notice of regularly scheduled maintenance ("Regularly Scheduled Maintenance") which has the potential to cause disruption to the Requesting Party's end-users. Furthermore, a Provisioning Party shall conduct such Regularly Scheduled Maintenance in such a manner so as to minimize disruption to the Requesting Party and its end-users.

(b) A Provisioning Party will also provide the Requesting Party with at least sixty (60) days' prior written notice of any technical or engineering change to an interconnection arrangement developed pursuant to this Agreement which will have an impact on the Requesting Party's rendering of service to its end-users.

## 9. REPAIRS

A Provisioning Party shall provide repairs equal in quality to that provided by the Provisioning Party to itself. For the purposes of this Agreement, "equal in quality" means that (a)

clearing any troubles shall be no less favorable than those applicable to comparable arrangements, facilities or services provided by the repairing Party to itself or to any other carrier, and (b) the non-repairing party shall be promptly notified of all repairs impacting the Services. The Provisioning Party shall provide notification of all such repairs consistent to that provided to its own customers.

10. **SINGLE POINT OF CONTACT.** Each Party shall make available and identify an individual (including facsimile number) to serve as the single point of contact for the purpose of ordering and facilitating the Services in accordance with the terms of this Agreement. Each Party will notify the other Party in writing within five (5) days of any change in the identity or location of its respective point of contact. Information sent to this point of contact by facsimile will be deemed to have been received by that single point of contact on the day of transmission of the facsimile, except Saturdays, Sundays, and Holidays as set forth in Section 2(b) preceding, where the date of receipt shall be the next business day.

11. **UNAUTHORIZED CHANGE OF SERVICE.** If an unauthorized change in local service provider occurs, the Provisioning Party will reestablish service with the appropriate local service provider as requested by the end user and will assess the Party responsible for initiating the change the Unauthorized Change Charge described in BellSouth's F.C.C. Tariff No. 1, Section 13, in the case of BellSouth, and an equal amount, in the case of the ALEC. The appropriate nonrecurring charges to reestablish the end-user's service with the appropriate local service provider will also be assessed to the Party responsible for the unauthorized charge.

12. **ORDERING PROVISIONS.** The Parties agree to provide ordering and provisioning of services to each other that are equal to the ordering and provisioning services currently provided to itself and its affiliates.

13. **PAYMENT AND BILLING ARRANGEMENTS.**

(a) **Billing.** The Parties will establish a bill day each month. The bill will cover charges applicable to each interconnection arrangement for the ensuing billing period for which the bill is rendered, any known unbilled charges for the period after the last bill day through the current bill day. BellSouth provides billing through the Carrier Access Billing System (CABS) and through the Customer Records Information System (CRIS) depending on the particular service(s) that the ALEC requests.

(b) **Payment Responsibility.** Payment of all charges will be the responsibility of Requesting Party. The Requesting party shall make payment to the Provisioning Party for all services billed. The Provisioning Party is not responsible for payments not received by the Requesting Party from the Requesting Party's end-user. The Provisioning Party will not become involved in billing disputes that may arise between the Requesting Party and its end-user. Payments made to the Provisioning Party as payment on account will be credited to an accounts receivable master account and not to an end user's account.

(c) **Payment Due.** The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by the Provisioning Party.

If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in Section 13(e), below, shall apply.

(d) Tax Exemption. Upon proof of tax exempt certification from the Requesting Party, the total amount billed to the Requesting Party will not include any taxes due from the end user. The Requesting Party will be solely responsible for the computation, tracking, reporting and payment of all federal, state and/or local jurisdiction taxes associated with the services resold to the end user.

(e) Late Payment. If any portion of the payment is received by the Provisioning Party after the payment due date as set forth preceding, or if any portion of the payment is received by the Provisioning Party in funds that are not immediately available to the Provisioning Party, then a late payment penalty shall be due to the Provisioning Party. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor. The late factor shall be as set forth in Section E2 of BellSouth's Intrastate Access Tariff, in the case of BellSouth, and the lesser of one-point-five percent (1.5%) or the maximum amount permitted by law, in the case of the ALEC.

(f) Discontinuing Service to the Requesting Party. The procedures for discontinuing service to the Requesting Party due to nonpayment are as follows:

(1) The Provisioning Party reserves the right to suspend or terminate Service for nonpayment or in the event of prohibited or unlawful or improper use of the Provisioning Party's facilities or service or any other material violation of or noncompliance with this Agreement or the rules and regulations of the Florida Public Service Commission or applicable rules and regulations contained in BellSouth's tariffs, by the Requesting Party.

(2) If payment of account is not received when due, as set forth in Section 13(c), the Provisioning Party shall provide written notice of such nonpayment to the Requesting Party, and the Provisioning Party may refuse additional applications for Service, and any pending orders for Service will not be completed, if payment is not received by the fifteenth (15<sup>th</sup>) day following the date of the foregoing notice. If the Provisioning Party does not refuse additional applications for Service on the date specified in the notice and the Requesting Party's noncompliance continues, nothing contained herein shall preclude the Provisioning Party's right to refuse additional applications for service without further notice.

(3) Subject to the requirements of prior written notice set forth in Section 13(f)(4), if payment of the account is not received or arrangements made by the bill day in the second consecutive month, the account will be considered in default and will be subject to denial or disconnection, or both.

(4) If the Requesting Party fails to comply with the provisions of this Agreement, including any payments to be made by it on the dates and times specified in Section 13(c), the Provisioning Party may, on thirty (30) days prior written notice to the person designated by the Requesting Party to receive notices of noncompliance, discontinue the provision of existing

Services to the Requesting Party at any time thereafter. In the case of such discontinuance, all billed charges, as well as applicable termination charges, if any, shall become due. If the Provisioning Party does not discontinue the provision of the Services involved on the date specified in the thirty- (30-) day notice and the Requesting Party's noncompliance continues, nothing contained herein shall preclude the Provisioning Party's right to discontinue the provision of the Services to the Requesting Party without further notice.

(5) If payment is not received or arrangements made for payment by the date given in the written notification referenced in Section 12(f)(4), the Requesting Party's services will be discontinued. Upon discontinuance of service on the Requesting Party's account, service to the Requesting Party's end-users will be denied. The Provisioning Party will reestablish service at the request of the end user or the Requesting Party upon payment of the appropriate connection fee and subject to the Provisioning Party's normal application procedures. The Requesting Party is solely responsible for notifying the end user of the proposed service disconnection.

(6) If within fifteen (15) days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

#### 14. TAX.

(a) Definition. For purposes of this Section 13, the terms "taxes" and "fees" shall include but not limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with



respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.

**(b) Taxes and Fees Imposed Directly On Either Provisioning Party or Requesting Party.**

(1) Taxes and fees imposed on the Provisioning Party, with respect to the Services, which are not permitted or required to be passed on by the Provisioning Party to the Requesting Party, shall be borne and paid by the Provisioning Party.

(2) Taxes and fees imposed on the Requesting Party, which are not required to be collected and/or remitted by the Provisioning Party, shall be borne and paid by the Requesting Party.

**(c) Taxes and Fees Imposed on Requesting Party But Collected And Remitted By Provisioning Party.**

(1) Taxes and fees imposed on the Requesting Party with respect to the Services shall be borne by the Requesting Party, even if the obligation to collect and/or remit such taxes or fees is placed on the Provisioning Party.

(2) To the extent permitted by applicable law, any such taxes and/or fees described in Section 14(c)(1) shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the Requesting Party will remain liable for any such taxes and fees regardless of whether they are actually billed by the Provisioning Party at the time that the respective service is billed; provided, however, that the Requesting Party shall not be liable for any penalties for failure of the Provisioning Party to bill and/or remit such taxes and/or fees in an accurate and/or timely manner pursuant to Sections 14(c)(1)-(2).

**(d) Taxes or Fees for Which An Exemption Is Sought by Requesting Party.**

**(1) If the Requesting Party determines that in its opinion any such taxes or fees are not payable, the Provisioning Party shall not bill such taxes or fees to the Requesting Party if the Requesting Party provides written certification, reasonably satisfactory to the Provisioning Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the Requesting Party has determined and certified not to be payable, or any such tax or fee that was not billed by the Provisioning Party, the Requesting Party may contest the same in good faith, at its own expense. In any such contest, the Requesting Party shall promptly furnish the Provisioning Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the Requesting Party and the taxing authority.**

**(2) In the event that all or any portion of an amount sought to be collected pursuant to Section 14(d)(1) must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the Provisioning Party during the pendency of such contest, the Requesting Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.**

**(3) If it is ultimately determined that any additional amount of such a tax or fee specified in Section 14(d)(1) is due to the imposing authority, the Requesting Party shall pay such additional amount, including any interest and penalties thereon.**

(4) Notwithstanding any provision to the contrary, the Requesting Party shall protect, indemnify and hold harmless (and defend at the Requesting Party's expense) the Provisioning Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the Provisioning Party in connection with any claim for or contest of any such tax or fee.

(5) Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than twenty (20) days after receipt of such assessment, proposed assessment or claim.

(d) Taxes and Fees Imposed on Provisioning Party But Passed On To Requesting Party

(1) Taxes and fees imposed on the Provisioning Party, which are permitted or required to be passed on by the Provisioning Party to its end-user, shall be borne by the Requesting Party.

(2) To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the Requesting Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the Provisioning Party at the time that the respective service is billed; provided, however, that the Requesting Party shall not be liable for any penalties for failure

of the Provisioning Party to bill such taxes and/or fees in a timely manner pursuant to Section 14(e)(1)-(2).

(3) If the Requesting Party disagrees with the Provisioning Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee, the Parties shall consult with respect to the imposition of such tax or fee. Notwithstanding the foregoing, the Provisioning Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the Requesting Party shall abide by such determination and pay such taxes or fees to the Provisioning Party. The Provisioning Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the Requesting Party shall be at the Requesting Party's expense.

(4) In the event that all or any portion of an amount withheld by the Requesting Party sought pursuant to Section 14(e)(3) must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the Provisioning Party during the pendency of such contest, the Requesting Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

(5) If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the Requesting Party shall pay such additional amount, including any interest and penalties thereon.

(6) Notwithstanding any provision to the contrary, the Requesting Party shall protect indemnify and hold harmless (and defend at the Requesting Party's expense) the Provisioning Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the Provisioning Party in connection with any claim for or contest of any such tax or fee.

(7) Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than twenty (20) days after receipt of such assessment, proposed assessment or claim.

(e) Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

15. DEFAULT. If a Party defaults in the payment of any amount due hereunder, or if a Party fails to provide Services as agreed hereunder, and such default or failure shall continue for thirty (30) days after written notice thereof (or if such default cannot reasonably be cured within said thirty (30) day period and the defaulting Party fails to commence a cure within such time and to diligently pursue it to completion), the other Party may terminate this Agreement with ten (10)

days' written notice; provided, however, that the Provisioning Party shall abide by all rules and regulations requiring the maintenance of "warmline" service subsequent to such disconnection.

**16. MORE FAVORABLE PROVISIONS: TRUE UP.**

(a) In the event that any legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of either Party to perform any material terms of this Agreement, either Party may, upon notice to the other require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required in order to be consistent with such action. In the event that agreements cannot be reached within ninety (90) days of the notice, the issues shall be brought to the Florida Public Service Commission or other governmental agency having such jurisdiction. The revised agreement shall have an effective date that coincides with the effective date of the action giving rise to such negotiations. The Parties agree that the rates, terms and conditions of any new agreement shall not be applied retroactively to any period prior to such effective date except to the extent that such retroactive effect is expressly required by such legislative, regulatory, judicial or other legal actions.

(b) In the event that BellSouth, either before or after the effective date of this Agreement, enters into an agreement with any other telecommunications carrier (an "Other Interconnection Agreement") which provides for the provision within a particular state covered under this Agreement of any of the arrangements covered by this Agreement to be provided in a particular state upon rates, terms or conditions that differ in any material respect from the rates, terms and conditions for such arrangements set forth in this Agreement ("Other Terms"), then

except as provided in Section 16(f), BellSouth shall be deemed thereby to have offered such arrangements to the ALEC for that state upon such Other Terms, which the ALEC may accept as provided in Section 16(e). In the event that the ALEC accepts such offer, such Other Terms shall be effective between BellSouth and the ALEC as of the date on which the ALEC accepts such offer.

(c) In the event that after the effective date of this Agreement the FCC or the Commission enters an order (an "Interconnection Order") requiring BellSouth to provide within a particular state covered under this Agreement any of the arrangements covered by this Agreement to be provided in a particular state upon Other Terms, then upon such Interconnection Order becoming final and not subject to further administrative or judicial review, except as provided in Section 16(f), BellSouth shall be deemed to have offered such arrangements in that state to the ALEC upon such Other Terms, which the ALEC may accept as provided in Section 16(e). In the event that the ALEC accepts such offer, such Other Terms shall be effective between BellSouth and the ALEC as of the date on which the ALEC accepts such offer.

(d) In the event that after the effective date of this Agreement BellSouth files and subsequently receives approval for one or more intrastate or interstate tariffs (each, an "Interconnection Tariff") offering to provide in a particular state covered under this Agreement any of the arrangements covered by this Agreement to be provided in a particular state upon Other Terms, then upon such Interconnection Tariff becoming effective, except as provided in Section 16(f), BellSouth shall be deemed thereby to have offered such arrangements in that state to the ALEC upon such Other Terms, which the ALEC may accept as provided in Section 16(f).

In the event that the ALEC accepts such offer, such Other Terms shall be effective between BellSouth and the ALEC as of the date on which the ALEC accepts such offer.

(e) In the event that BellSouth is deemed to have offered the ALEC the arrangements covered by this Agreement upon Other Terms, the ALEC in its sole discretion may accept such other terms in its entirety provided, however, that the terms of this Agreement, other than those affected by the Other Terms accepted by the ALEC, shall remain in full force and effect.

(f) Corrective Payment. In the event that BellSouth and the ALEC revise this Agreement pursuant to Section 16(a) or the ALEC accepts a deemed offer of Other Terms pursuant to Section 16(e), then BellSouth or the ALEC as applicable, shall make a corrective payment to the other Party to correct for the difference between the rates set forth herein and the rates in such revised agreement or Other Terms for substantially similar services for the period from the effective date of such revised agreement or Other Terms until the date that the Parties execute such revised agreement or the ALEC accepts such Other Terms, plus simple interest at a rate equal to the thirty (30) day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000.00 as regularly published in the most recent edition of The Wall Street Journal.

17. DISPUTE RESOLUTION

(a) Dispute Escalation and Resolution

Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "Dispute") arising under this Agreement shall be resolved in accordance with the procedures set forth in this Section. In the event of a Dispute between the Parties relating to this



Agreement and upon the written request of either Party, each of the Parties shall appoint a designated representative who has authority to settle the dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Dispute and negotiate in good faith in an effort to resolve such Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one party to the other Party shall be honored. If the Parties are unable to resolve issues related to a dispute within 30 days, then either Party may file a complaint with the FCC or applicable Commission in accordance with the procedures applicable to the resolution of disputes among carriers in the applicable state.

(b) Disputed Amounts

If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within sixty (60) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties.

If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct

responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored.

If the parties are unable to resolve issued related to the Disputed Amounts within forty-five (45) days after the Parties' appointment of designated representatives pursuant to this Section, then either Party may file a complaint with the Commission or the FCC to resolve such issues or proceed with any other remedy pursuant to law or equity. The Commission or the FCC may direct release of any or all funds (including any accrued interest) in the escrow account, plus applicable late fees, to be paid to either Party.

The Parties agree that all negotiations pursuant to this Section shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence; provided, however, that a Party may disclose the substance of such negotiations to the FCC or the Commission pursuant to this Section for purposes other than to determine liability.

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

Notwithstanding anything to the contrary in this Section 17(b), each Party shall have the right to contest any amounts paid to the other Party hereunder for a period of one (1) year after

such amounts were paid. The Party contesting such amounts shall deliver written notice to such other Party within one (1) year of its payment and include in such notice the specific details and reasons for disputing such amounts. If the Parties are unable to resolve such contested amounts in the normal course of business within thirty (3) days after delivery of notice of the contested amounts, such dispute shall be handled in accordance with Section 17(a).

(c) Each Party reserves any rights it may have to seek judicial review of any ruling made by the FCC or a Commission concerning this Agreement.

**18. LIABILITY AND INDEMNIFICATION** The Party's shall take financial responsibility for its own actions in causing or its lack of action in preventing, unbillable or uncollectible ALEC revenues.

(a) Liability for Acts or Omissions of Third Parties. Neither BellSouth nor the ALEC shall be liable for any act or omission of an unaffiliated telecommunications company providing a portion of the Services provided under this Agreement.

(b) Limitation of Liability.

(1) Each Party's liability to the other, except as provided in Section 18(b)(3), for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

(2) Limitations in Tariffs. A Party may, in its sole discretion, provide in its tariffs and contracts with its end-user and third parties that relate to any service, product or function

provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to such end-users or third parties for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs on contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

(3) Neither BellSouth nor the ALEC shall be liable for damages to the other's terminal location, point of interconnection ("POI") or other Party's end-users' premises resulting from the furnishing of Service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by the other Party's negligence or willful misconduct or by a company's failure to properly ground a pair after disconnection.

(4) Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts

in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

(c) Indemnification for Certain Claims. A Provisioning Party, its affiliates and its parent company(s), shall be indemnified, defended and held harmless by each other against any claim, loss or damage arising from the Requesting Party's use of the services provided under this Agreement pertaining to (1) claims for libel, slander, invasion of privacy or copyright infringement arising from the content of the Requesting Party's own communications and the communications of its end-user, or (2) any claim, loss or damage claimed by the Requesting Party's end-user arising from the Requesting Party's use or reliance on the Provisioning Party's Services, unless such claim, loss or damage is due to the negligent or willful misconduct of the Provisioning Party.

(d) No liability for Certain Inaccurate Data. Neither BellSouth nor the ALEC assumes any liability for the accuracy of data provided by one Party to the other and each Party agrees to indemnify and hold harmless the other for any claim, action, cause of action, damage, or injury that might result from the supply of inaccurate data in conjunction with the provision of any service provided pursuant to this Agreement.

(e) Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

19. CONFIDENTIALITY.

(a) Both Parties agree that it may be necessary to provide each other during the term of this Agreement with certain confidential information, including trade secret information, including but not limited to technical and business plans, technical information, proposals, specifications, drawings, procedures, and aggregated and disaggregated end-user account data and like information (hereinafter collectively referred to as "Information"). Both Parties agree that all Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Information will be returned to the owner within a reasonable time. Both Parties agree that the Information shall not be copied or reproduced in any form. Both Parties will use the same standard of care to protect Information received as they would to protect their own confidential and proprietary information.

(b) Both Parties agree to receive such Information and not to disclose such Information to persons who do not have a need to know pursuant to this Agreement. Furthermore, a Party receiving Information from a Party disclosing the Information agrees not to disclose that Information to the receiving Party's sales and marketing employees, agents, and other sales and marketing parties under the direction, supervision and control of the receiving Party.

(c) Notwithstanding the foregoing, both Parties agree that there will be no obligation to protect any portion of the Information that is either: (1) made publicly available by the owner

of the Information or lawfully disclosed by a nonparty to this Agreement; (2) lawfully obtained from any source other than the owner of the Information; (3) previously known to the receiving Party without an obligation to keep it confidential; or (4) disclosed pursuant to the order of a court or government agency of competent jurisdiction, provided reasonable measures are taken to obtain a protective order to maintain the confidentiality of the Information.

(d) Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes only.

20. **NOTICES.** All communications to any party thereunder shall be in writing and delivered in person or sent by facsimile, by registered or certified mail (postage prepaid, return receipt requested) or by reputable overnight courier to the respective parties at the following addresses or at such other address for a party as shall be specified in a notice given in accordance with this Section 20 (and shall be deemed to have been given, dated and received when so delivered personally or by courier or sent by facsimile, or if mailed, 48 hours after the time of mailing):

**If to ALEC:**

**William G. Kingsley, Vice President-Telecommunications Businesses  
Comcast Telephony Communications of Florida, Inc.  
Comcast MH Telephony Communications of Florida, Inc.  
1500 Market Street  
Philadelphia, PA 19102-2148  
Tel. (215) 981-7384  
Fax (215) 981-8593**

**with a copy to:**

**Stanley Wang, General Counsel**

Comcast Corporation  
1500 Market Street  
Philadelphia, PA 19102-2148

**If to Bell South:**

BellSouth Account Team  
3535 Colonnade Parkway  
Suite E4E1  
Birmingham, AL  
Tel. (205) 977-0535  
Fax (205)

with a copy to:  
General Attorney  
Customer Operations Unit  
BellSouth Telecommunications, Inc.  
675 W. Peachtree Street, N.E.  
Suite 4300  
Atlanta, Georgia 30375

21. **WAIVER.** Any failure by a Party to insist upon strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of the Agreement, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

22. **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 like 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 non-performance and both Parties shall proceed whenever such causes are removed or cease.

23. **GOVERNING LAW.** This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida, without regard to conflict of laws principles.

24. **SEVERABILITY.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The Parties agree to use their reasonable efforts to substitute one or more valid, legal and enforceable provisions which, insofar as practicable, implement the purposes and intent hereof.

25. **ENTIRE AGREEMENT.** This Agreement shall be of no force or effect until executed and delivered by both Parties hereto. This Agreement (including the attachments hereto) constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written agreements and all prior or contemporaneous oral negotiations, commitments and understandings between such Parties, and this Agreement shall be

amended, modified or canceled, and the terms and conditions hereof may be waived, only by a written instrument signed by each of the Parties hereto.

26. **ASSIGNMENT.** Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void, which consent shall not be unreasonably withheld or denied. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an affiliate, subsidiary or parent company of the Party without the consent of the other Party. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment of delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

27. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date set forth above.

**BellSouth Telecommunications, Inc.**

**Comcast Telephony  
Communications of Florida, Inc.**

**Comcast MH Telephony  
Communications of Florida,  
Inc.**

By:   
Name: Jerry D. Hendrix  
Title: Director Interconnection Services

By:   
Name: William G. Kingsley  
Title: Vice President-Telecommunication Business

Date: 09/24/97

Date: 9/24/97

**RATES FOR ACCESS TO NETWORK TERMINATING WIRE<sup>1</sup>**

Nonrecurring Charges (premises visit, site preparation, pair installation)

	Nonrecurring	Monthly
Site preparation and install initial pairs in Garden Terminal, each terminal	\$94.00	--
Site preparation and install initial pairs in Wiring Closet, first 25 pair common connecting block	\$94.00	--
Site preparation and install initial pairs in Wiring Closet, additional 25 pair common block, at same premises, on same visit as initial common block	\$33.50	--
Additional pairs installed in same Garden Terminal, per subsequent visit	\$33.50	--
Additional pairs installed in same Wiring Closet, per subsequent visit	\$33.50	--
Terminating wire, each pair used <sup>2</sup>	--	\$0.49

**Note 1:**

If determined by the Parties at the initial site meeting, then, in addition to the monthly and nonrecurring rates shown, special construction charges, determined as specified in Section A5 of the Tariff in the case of BellSouth, and such equal charges to be assessed by the ALEC in the case of the ALEC, may apply to recover any costs associated with extraordinary work. Applicable Service Order Charges, per Section A4 of the General Subscriber Services Tariff, will apply on each service request. Only one Service Order Charge applies when a single service request is made to terminate wires at the same premises at the same time.

**Note 2:**

Monthly Recurring Charges will be assessed when Spare Pairs are active with the Requesting Party's end-user service.

**BONA FIDE REQUEST PROCESS**

1.0 Bona Fide Requests are to be used when ALEC-1 requests a change to any Services and Elements, including any new features, capabilities or functionalities.

1.1 A Bona Fide Request shall be submitted in writing by ALEC-1 and shall specifically identify the required service date, technical requirements, space requirements and/or such specifications that clearly define the request such that BellSouth has sufficient information to analyze and prepare a response. Such a request also shall include a ALEC-1's designation of the request as being (i) pursuant to the Telecommunications Act of 1996 or (ii) pursuant to the needs of the business. The request shall be sent to ALEC-1's Account Executive.

1.2 The requesting Party may cancel a Bona Fide Request at any time but will pay the other Party reasonable and demonstrable costs of processing and/or implementing the request up to the date of cancellation.

1.3 Within ten (10) business days of its receipt, BellSouth shall acknowledge in writing, the receipt of the Bona Fide Request and identify a single point of contact and any additional information needed to process the request.

1.4 Except under extraordinary circumstances, within thirty (30) days of its receipt of a Bona Fide Request, BellSouth shall provide to ALEC-1 a preliminary analysis of the Bona Fide Request. The preliminary analysis will include an estimate of BellSouth's development costs (plus or minus 25 percent) and state whether BellSouth can meet ALEC-1's requirements, the requested availability date, or, if BellSouth cannot meet such date, provide an alternative

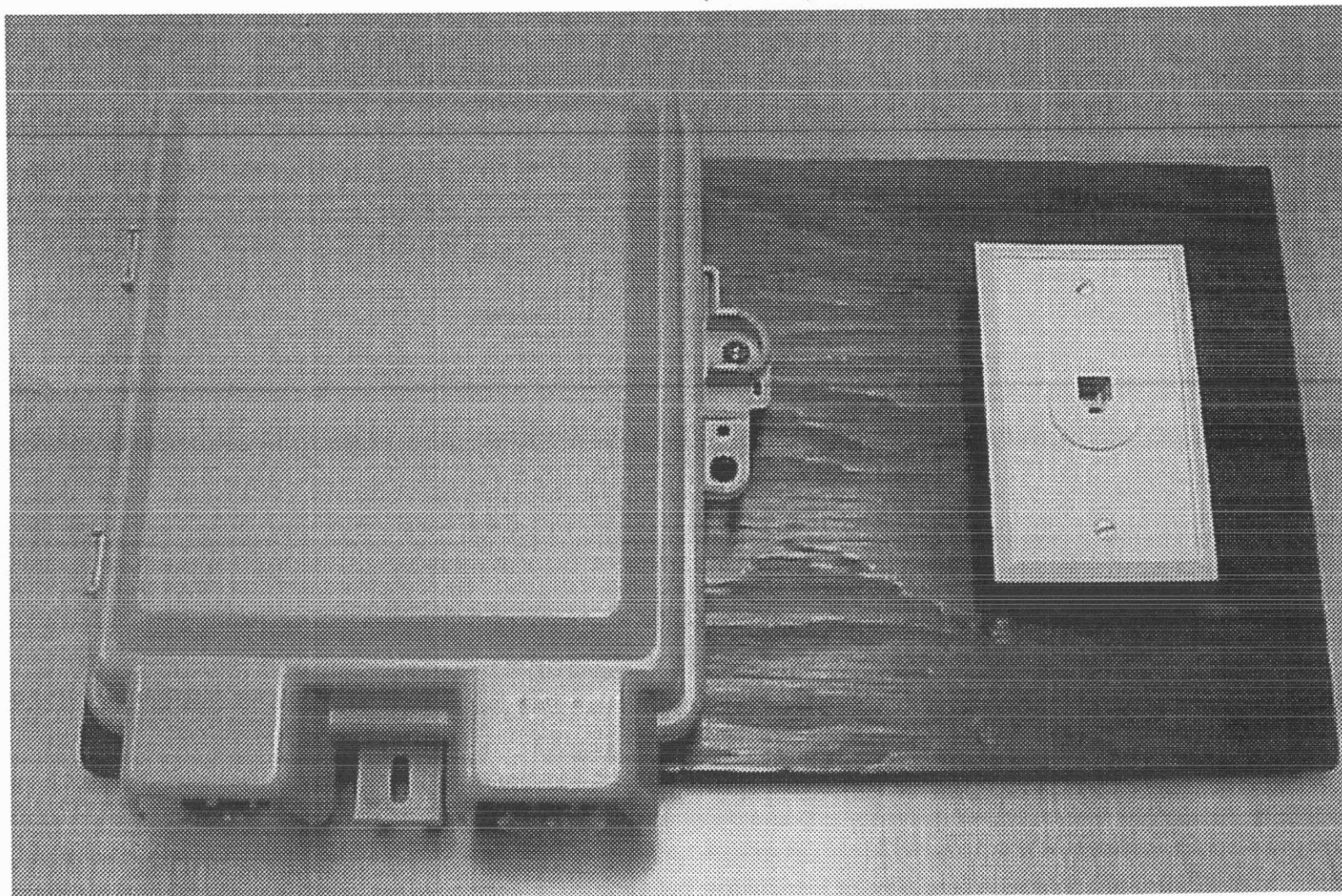
proposed date together with a detailed explanation as to why BellSouth is not able to meet ALEC-1's requested availability date. BellSouth also shall indicate in this analysis its agreement or disagreement with ALEC-1's designation of the request as being pursuant to the Act or pursuant to the need of the business. In no event shall any such disagreement delay BellSouth's processing of the request. If BellSouth determines that it is not able to provide ALEC-1 with a preliminary analysis within thirty (30) days of BellSouth's receipt of a Bona Fide Request, BellSouth will inform ALEC-1 as soon as practicable. ALEC-1 and BellSouth will then determine a mutually agreeable date for receipt of the preliminary analysis.

1.5 As soon as possible, but in no event more than ninety (90) days after receipt of the request, BellSouth shall provide ALEC-1 with a firm Bona Fide Request quote which will include, at a minimum, the firm availability date, the applicable rates and the installation intervals, and a binding price quote.

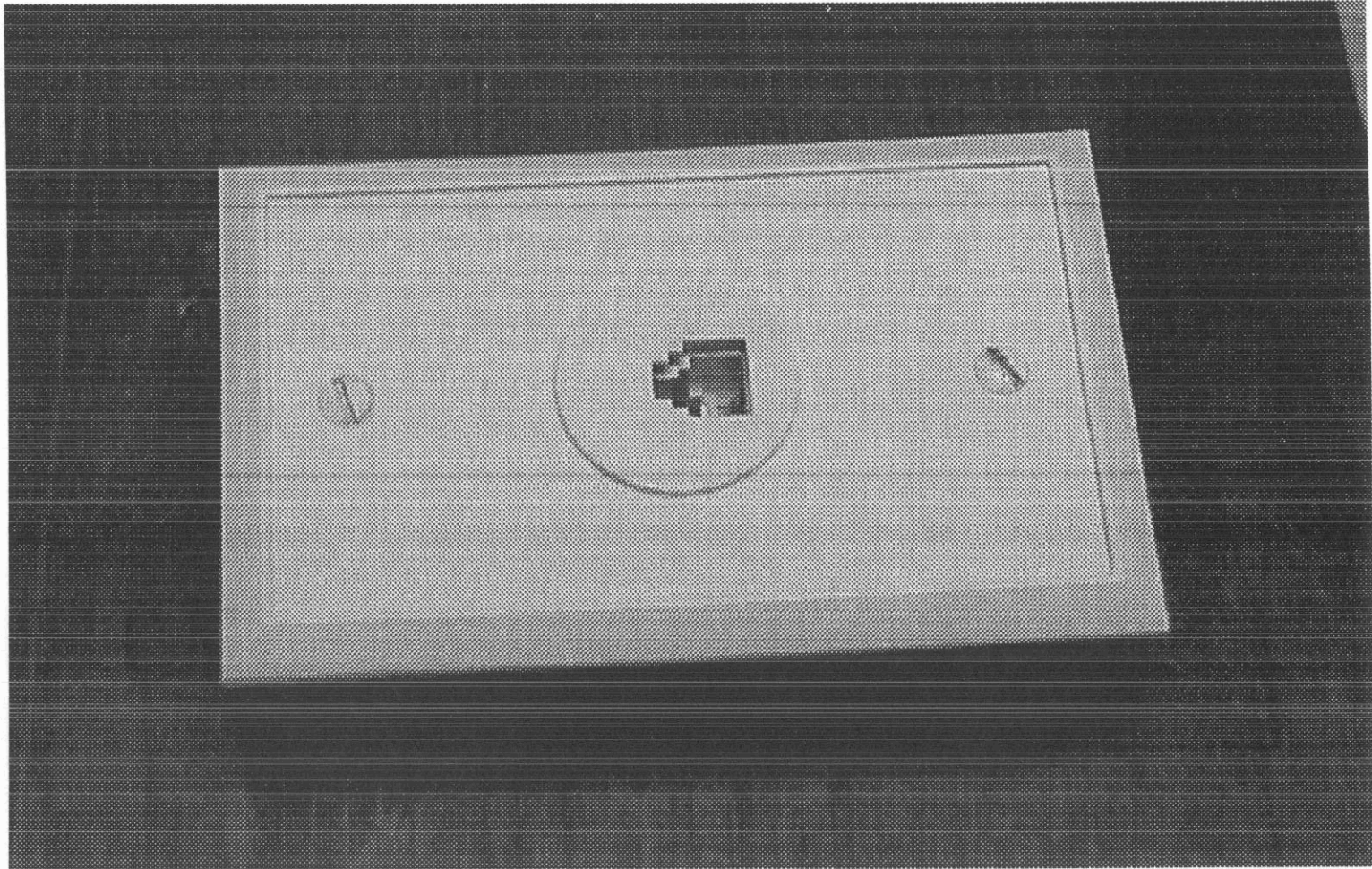
1.6 Unless ALEC-1 agrees otherwise, all proposed prices shall be in accordance with the pricing principles of the Act, and any applicable FCC and Commission rules and regulations.

1.7 Within thirty (30) days after receiving the firm Bona Fide Request quote from BellSouth, ALEC-1 will notify BellSouth in writing of its acceptance or rejection of BellSouth's proposal.

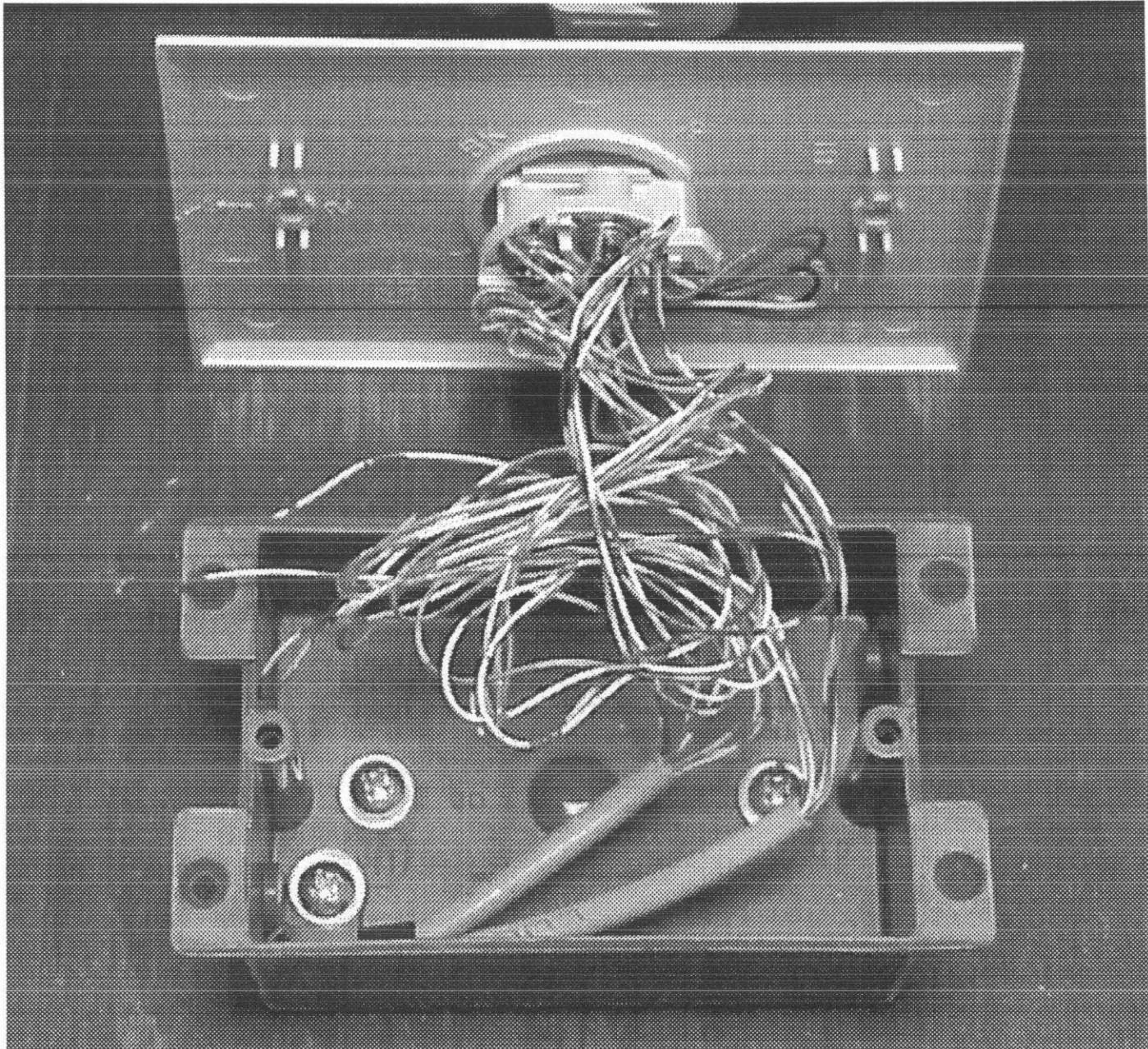
## Network Interface Device (NID) with Wall Jack



# Telephone Wall Jack

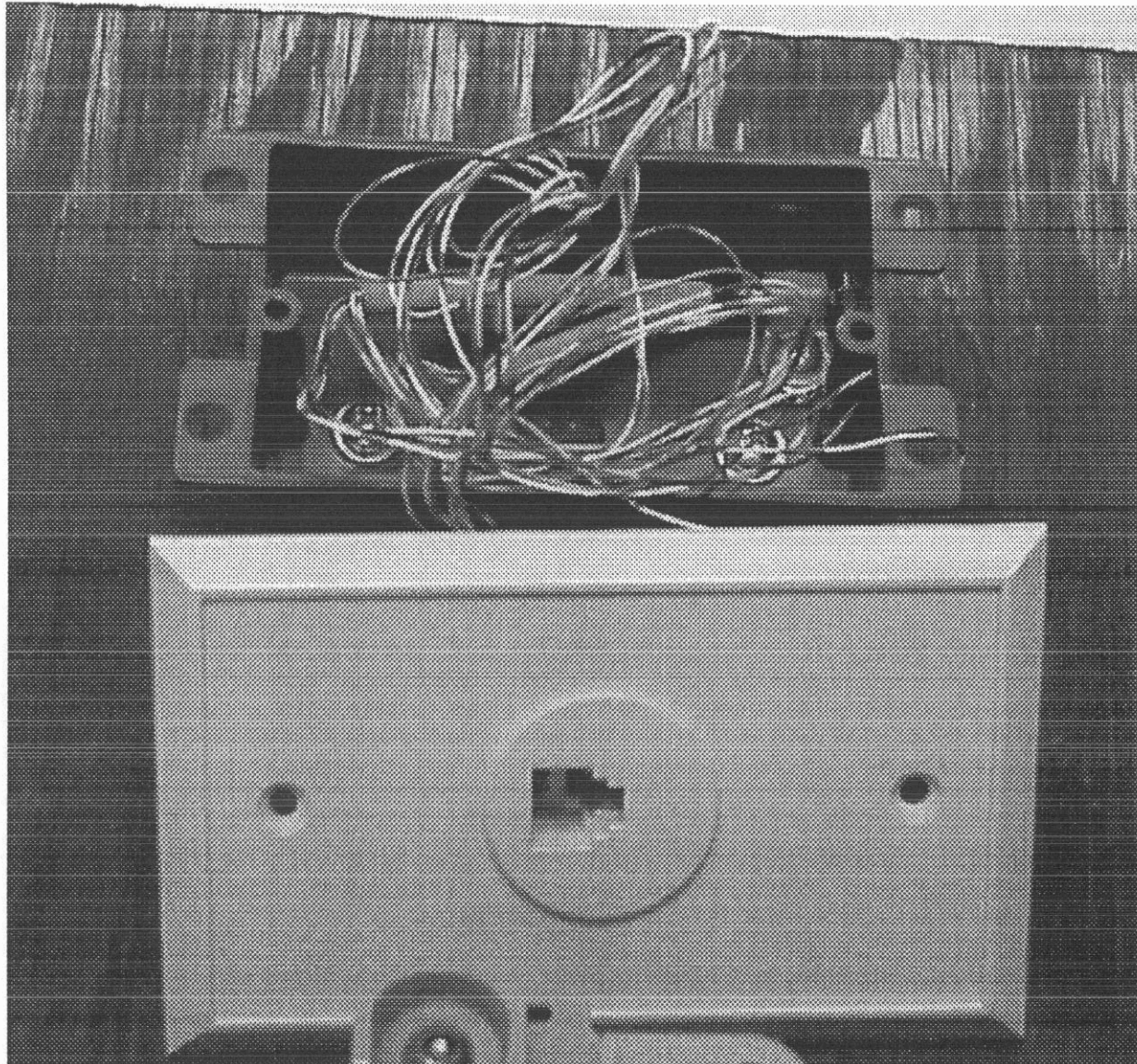


## Wall Jack Exposed





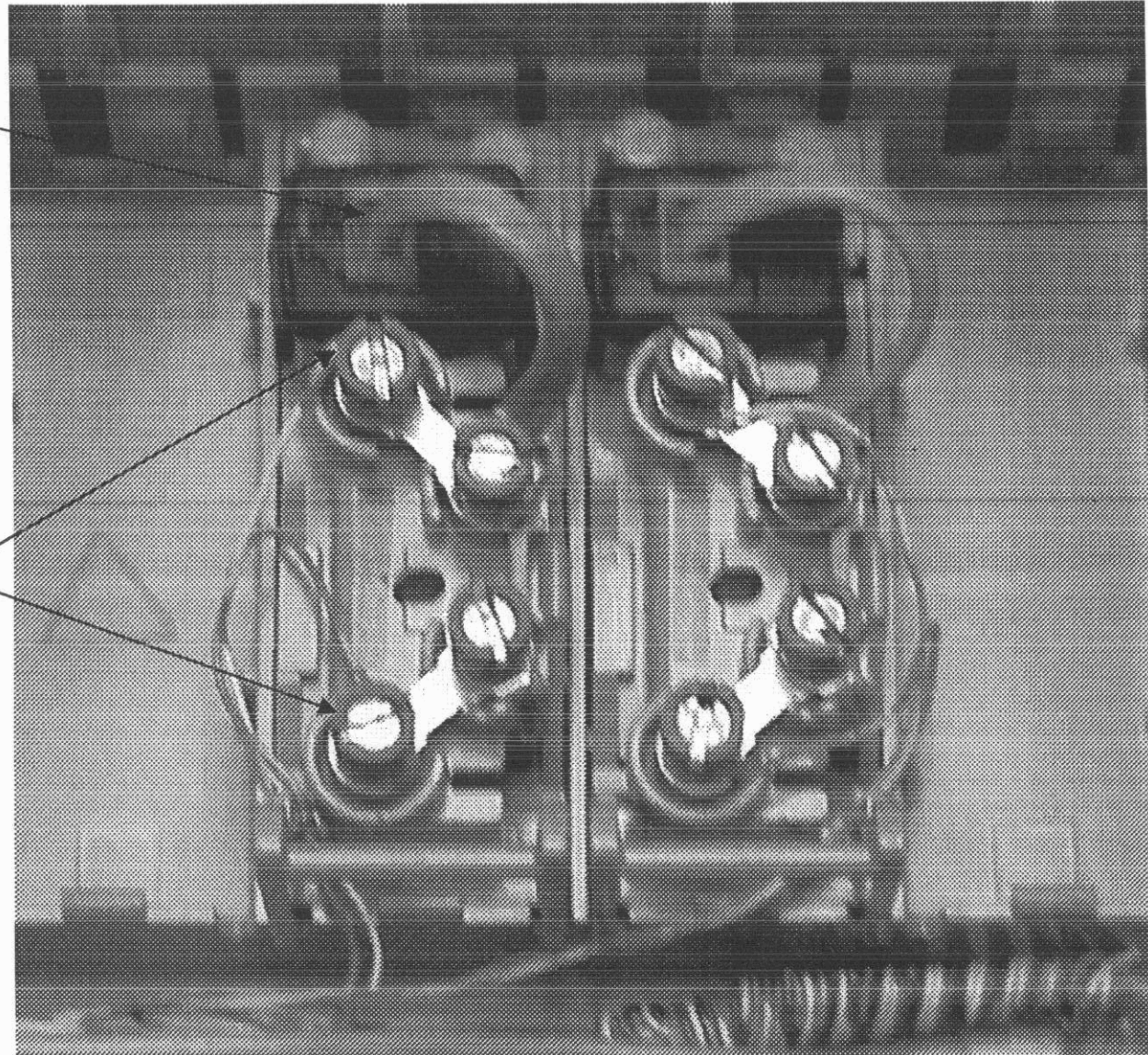
## Wall Jack Exposed



## Customer Access Within the NID

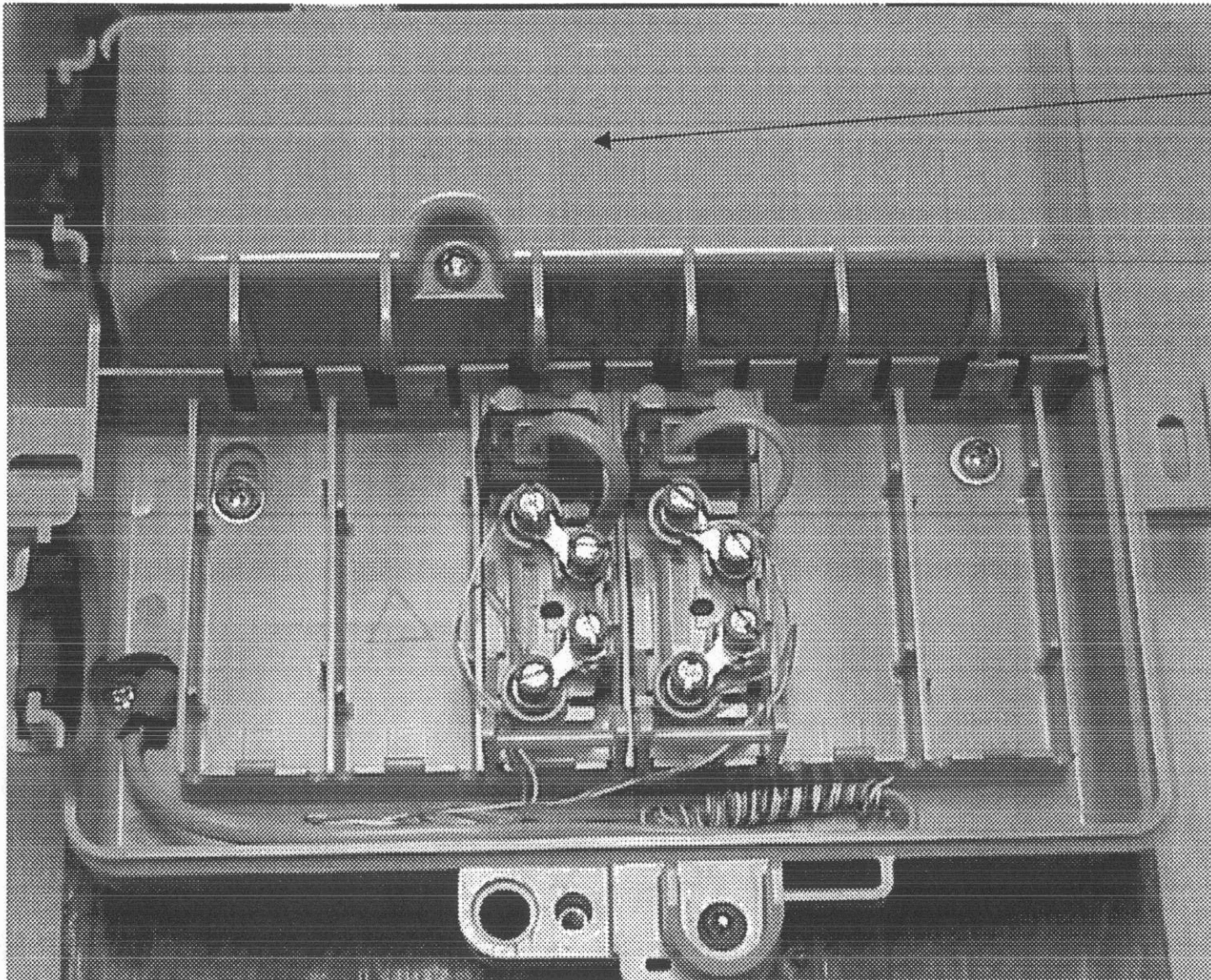
Test Jack

Connections  
for Inside  
Wire

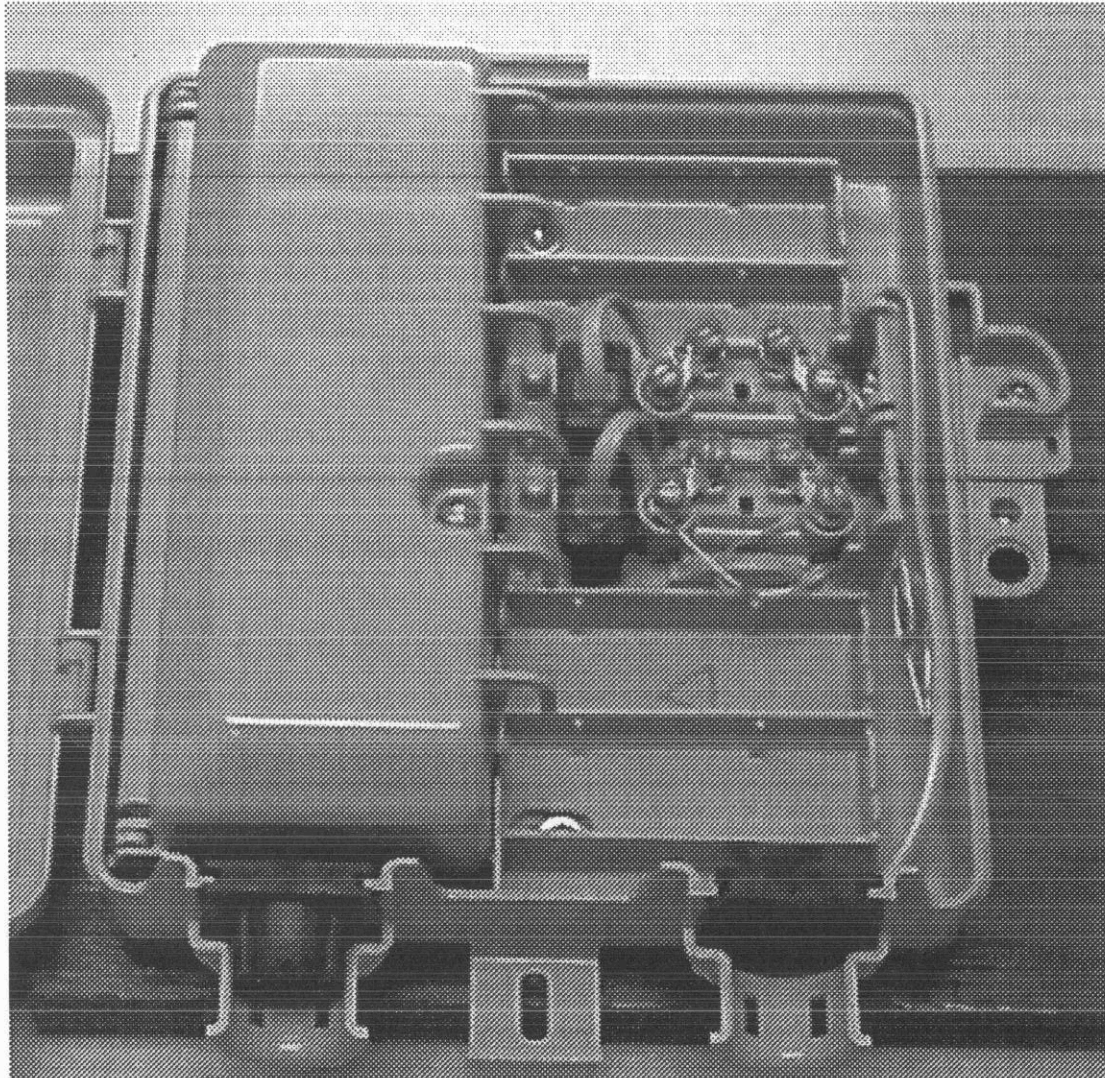


NID Exposed

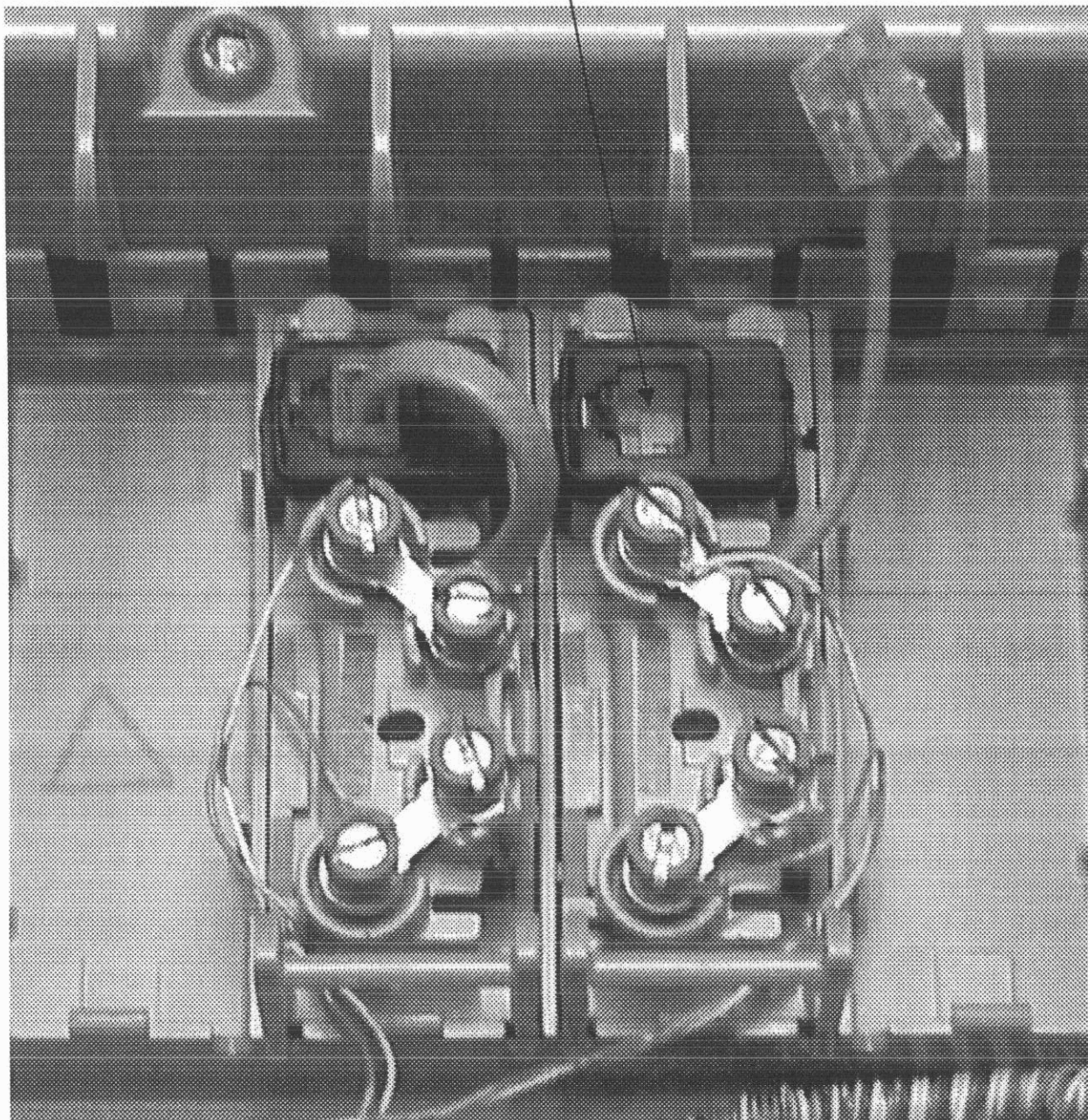
Telco  
Protective  
Circuitry  
Inside



# NID Exposed



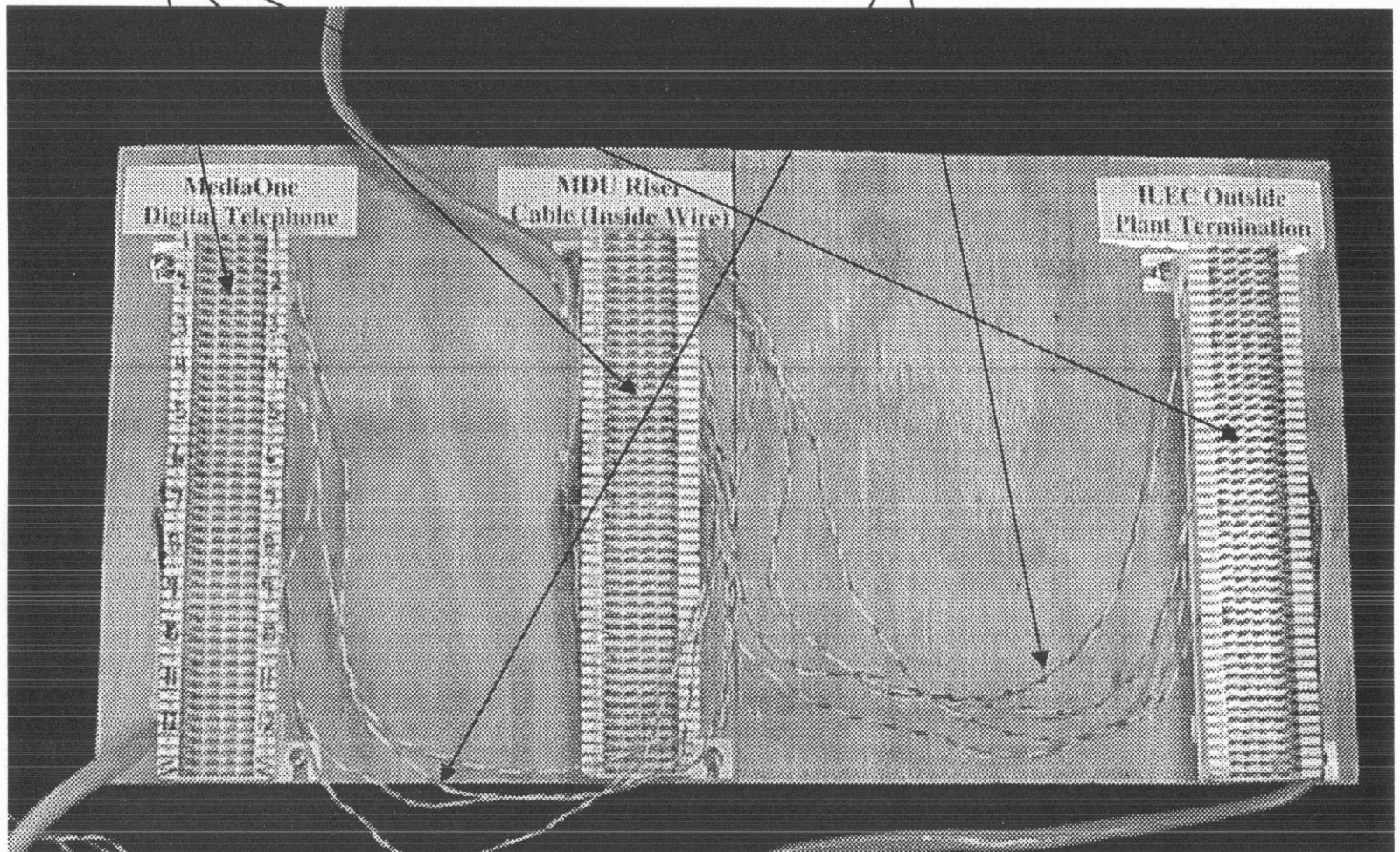
# Test Access to Telco Line



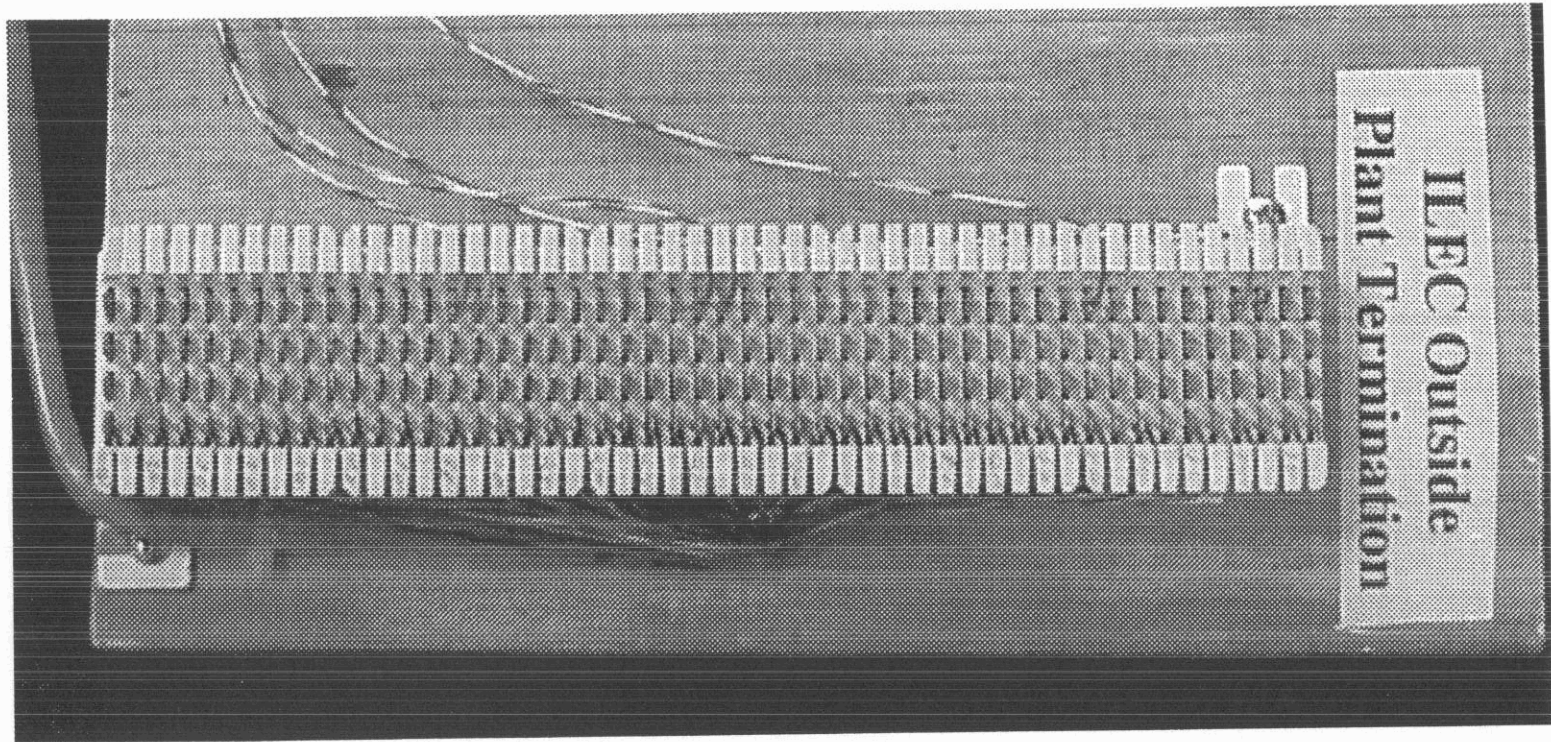
# Typical Telephone Equipment Room (Wiring Closet)

“66” Blocks

Jumper Wires



## “66” Cross-Connect Block



## Punch Down Tool for Placing and Lifting Wires on a Cross-Connect Block

