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September 17, 1999

VIA HAND-DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket Number 990691-TP

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the following:

- ICG Telecom Group, Inc.'s (ICG's) Request for Official Recognition

Please acknowledge receipt of the above on the extra copy of each enclosed herein and return the stamped copies to me. Thank you for your assistance.

Yours truly,

Joe McGlothlin

Joseph A. McGlothlin

JAM/jk
enc.
cc/enc: ICG Group

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11190 SEP 17 99
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION ORIGINAL

In the Matter of: Petition by ICG TELECOM GROUP, INC. for Arbitration of an Interconnection Agreement with BELLSOUTH TELECOMMUNICATIONS, INC. Pursuant to Section 252(b) of the Telecommunication Act of 1996	)	Docket No. 990691-TP Filed: September 17, 1999

ICG TELECOM GROUP, INC.'S
REQUEST FOR OFFICIAL RECOGNITION

Pursuant to Section 120.569(1)(g), Florida Statutes, ICG Telecom Group, Inc. (ICG), respectfully requests the Florida Public Service Commission to take official recognition of the following documents, to which ICG may refer during the Prehearing Conference scheduled for September 21, 1999 when the Prehearing Officer takes up BellSouth Telecommunications, Inc.'s (BellSouth) Motion to Remove Issues from Arbitration (filed on August 25, 1999):

1) The Decision of the New York Public Service Commission dated February 3, 1998 in Case No. 96-C-0723, re Petition of AT&T Communications of New York, Inc. for Arbitration of an Interconnection Agreement with New York Telephone Company (Attachment No. 1);

2) Excerpts from Section A2, "General Regulations," of the General Subscriber Service Tariff of BellSouth Telecommunications, Inc., as approved by and on file with this Commission (Attachment No. 2);

In support of this request, ICG submits the Order of the New York agency is germane, in that the New York Public Service Commission recognized the distinction between an adjudication of a breach and an award of damages, on the one hand, and the approval of contractual arrangements providing for consequences in the event of a breach, on the other. The tariff provisions are relevant because they provide examples of occasions when BellSouth has proposed, and the Commission has approved, provisions relating to the extent of BellSouth's liability in the event of non-performance.

Joseph A. McGlothlin

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Attorneys for ICG Telecom Group, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy ICG Telecom Group, Inc.'s Request for Official Recognition has been furnished by hand-delivery* and by fax transmittal** this 17th day of September, 1999.

*Lee Fordham
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Gunter Building, Room 370
Tallahassee, FL 32399

*Nancy B. White
**Michael P. Goggin (305-577-4491 telefax)
c/o Nancy Sims
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Joseph A. McGlothlin

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7TH OPINION of Focus printed in FULL format.

AI — FYI re liquidated damage. Phm reform. Alla 9/11

Petition of AT&T Communications of New York, Inc. for Arbitration of an Interconnection Agreement with New York Telephone Company

CASE 96-C-0723

New York Public Service Commission

1998 N.Y. PUC LEXIS 112

February 3, 1998

PANEL:
[*1] COMMISSIONERS PRESENT: John F. O'Mara, Chairman; Maureen O. Helmer; Thomas J. Dunleavy

OPINION:
At a session of the Public Service Commission held in the City of Albany on January 21, 1998

ORDER CONCERNING PERFORMANCE STANDARDS AND ASSOCIATED REMEDIES

(Issued and Effective February 3, 1998)

BY THE COMMISSION:

In an Opinion and Order issued November 29, 1996, n1 we resolved arbitration issues presented to us by AT&T Communications of New York, Inc. (AT&T) and New York Telephone Company, now d/b/a Bell Atlantic (New York Telephone), pursuant to @ 252 of the Communications Act of 1996 (the Act). A petition for rehearing was denied, n2 and the parties' interconnection agreement was submitted and approved in June 1997. n3

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n1 Cases 96-C-0723 and 96-C-0724, Opinion No. 96-31 (issued November 29, 1996).

n2 Cases 96-C-0723 and 96-C-0724, Order Denying Petition for Rehearing (issued February 14, 1997).

n3 Case 96-C-0723, Order Approving Interconnection Agreement (Issued June 13, 1997).

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With respect to service standards [*2] for unbundled elements and combinations, our arbitration award indicated that "we expect to have carrier-to-carrier performance standards in place for New York Telephone and AT&T within 90 days of the effective date of the interconnection agreement," and we required the parties to submit, within 30 days of the effective date of the agreement, either agreed-upon standards or proposals for our determination. n1

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n1 Opinion No. 96-31, mimeo p. 44.

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The parties filed agreed-upon performance standards on August 19, 1997; they disagreed, however, on the associated remedies for non-compliance with the standards. The parties' complete proposals and initial briefs were filed on September 8, and reply briefs were filed on September 26.

The agreed-upon standards are attached as Appendix A. They cover the pre-ordering process, the ordering process, the provisioning process (typical time intervals in days are set forth in the "Product Interval Summary"), the trouble reporting and maintenance process, the billing process, and operator [*3] services processes. Absolute standards are provided where New York Telephone does not provide a comparable service to its end users, and "parity" standards are provided for comparable or equivalent services.

New York Telephone proposes to enforce compliance with these standards through (1) a detailed measurement and reporting process, and (2) performance credits that would reduce New York Telephone's compensation for its services "if key indicative measurements of service quality demonstrate that disparate treatment has occurred . . . ." n2 These credits would apply in four key areas:pre-ordering, ordering and provisioning, maintenance, and billing. Within each of these categories, performance would be measured on a quarterly basis for specific functions. Points would be assigned to each function (pursuant to a statistical methodology used to determine whether performance is less than, equal to, or better than parity); a net score would then be computed for each category, for each of four reporting regions (Manhattan, Greater Metro, Suburban, and Upstate).

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n2 New York Telephone's Initial Brief, p. 3.

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[*4]

Credits would be available, within a reporting region, if quarterly aggregated service is less than adequate under this scoring system, varying up to (1) 10% of Operations Support Systems (OSS) charges, (2) 100% of non-recurring Unbundled Network Element (UNE) charges (reduced by a "missed installation factor"), and (3) 25% of recurring UNE charges (reduced by a "lines-out-of-service factor" and subject to further reduction for "percent no access rate" and "percent found OK rate").

New York Telephone offers to provide AT&T with monthly performance reports, comparing the service quality provided to AT&T with that provided to other competitive local exchange companies (CLECs) and, where applicable, to its own internal operations. If New York Telephone fails to meet the standards, AT&T may request joint development of corrective action plans. New York Telephone also offers to meet quarterly with AT&T to discuss performance and measurement issues; problems persisting for two consecutive quarters may be escalated to the vice-president level.

AT&T's proposals are substantially different. Although the parties' proposals are similar with respect to monthly reporting, AT&T would have considerably [*5] stricter requirements for the development and implementation of corrective action plans. The prescribed remedies for specific failures to meet service quality standards are also considerably more substantial than the system of credits proposed by New York Telephone.

AT&T seeks institution of a schedule of "liquidated damages", purportedly stipulated damages to compensate AT&T for an estimate of damages it would suffer as a result of failures to meet the service quality standards, and also designed to be high enough to provide a material incentive to New York Telephone to meet the standards. The proposed level of liquidated damages varies widely depending upon the activity. For activities for which there are no tariff charges, the damages would be specific amounts ranging from $ 10 to $ 100,000 per failure. In other cases, they would be credits (50%, 100%, or 150%) to the applicable non-recurring charges. Liquidated damages would be assessed monthly and applied as a credit to AT&T's next monthly bill.

Moreover, AT&T asks for additional contract rights, namely: (1) the right to obtain alternative service, or cover, in the case of persistent failure to meet the standards; (2) the right [*6] to seek injunctive relief and actual damages in court for specific extended or egregious failures to meet standards; n1 and (3) the right to seek punitive damages in court for intentional violations of the standards.

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n1 Actual damages that are recoverable would include both direct and consequential damages, including lost business and lost profits.

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THE ISSUES

The Scope of this Arbitration

Both parties agree that the remedies at issue here relate to carrier-to-carrier provision of UNEs, and not to the wholesale provision of New York Telephone's retail services to AT&T, for purposes of resale. New York Telephone disagrees, however, with AT&T's contention that remedies relating to the standards for the ordering and provisioning of interconnection trunks are involved here. New York Telephone notes that @ 11 of the Agreement (pertaining to the obligation to develop service quality performance standards and remedies) only refers specifically to UNEs, and not to interconnection trunks. Indeed, New York Telephone [*7] continues, terms and conditions for interconnection trunks are not addressed at all in the Agreement. AT&T argues, however, that our order requires the parties to develop standards and remedies for all services that are not directly the subject of end user service quality standards and penalties. n2

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n2 Opinion No. 96-31, p. 42, n. 1.

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We agree with AT&T that we intended in Opinion 96-31 to cover more than UNEs here; for example, we said the parties should address any special resale service quality issues not associated with the provision of the underlying service, if such issues existed. However, New York Telephone is correct that the agreement jointly submitted by the parties and approved by us provides for carrier-to-carrier service quality standards and associated remedies only in connection with UNEs. Accordingly, interconnection trunks will not be addressed here.

Legal Arguments

New York Telephone argues that we could not adopt AT&T's proposals because we lack the authority, under either @@ 251 and 252 of [*8] the Act or the Public Service Law (PSL), to compel "mandated damages." n1 Although the Act requires the provision of UNEs on non-discriminatory terms, New York Telephone reasons, there is no "express grant of authority to compel mandated damages should that parity standard fail to be obtained." n2 Moreover, New York Telephone asserts, the Act continues to uphold the basic assumptions of traditional regulation that rates are held to cost-based levels to support universal service, while LECs are liable to their customers for non-performance, absent a showing of gross negligence or willful misconduct, solely to the extent of the amount (rate) paid for services.

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n1 New York Telephone's Initial Brief, p. 25.

n2 Id.

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With respect to the PSL, New York Telephone maintains that our authority to penalize it for failing to provide adequate service is limited to enforcement of service quality orders (issued pursuant to PSL @@ 97(2) or 98) through a penalty action in court, brought pursuant to PSL @@ 24 or 25. According [*9] to New York Telephone, any such penalties would be payable into New York's general fund, not to AT&T. We have conceded, New York Telephone contends, that we lack the authority to award money damages for poor service. n1

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n1 Cases 93-C-0451 and 91-C-1249, New York Telephone Company - Rates Charges, Rules and Regulations Affecting the Information Provisioning Industry, Opinion No. 97-7 (issued May 29, 1997) mimeo pp. 9-10.

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AT&T argues, in response, that our powers under the Public Service Law are irrelevant, because this arbitration is undertaken pursuant to authority granted under the Act; and that the Act "invests this Commission with full authority" to fulfill the impasse-resolving role established in the Act's arbitration provisions. Under @ 252 of the Act, AT&T posits, Congress has expressed its preference for contractual arrangements over regulatory prescriptions, and it is our duty to resolve each issue presented in arbitration in the establishment of a binding agreement between the parties.

Moreover, AT&T [*10] continues, in adopting a schedule of liquidated damages for failure to meet service quality standards we would not, in any event, be making a damage award, or "compensation for a specific, adjudicated wrong." n2 Rather, such action would be akin to our award of dispute resolution processes in this arbitration, and would be in effect essentially equivalent to approval of tariffs containing remedies provisions. "That the Commission itself does not have the power to award those damages," AT&T explains, "does not prevent it from approving a tariff that permits a court to award such damages." n3 AT&T also asserts that its proposals for stipulated damages are no different fundamentally from the credits New York Telephone proposes here, in that both would result in the payment of a previously agreed sum to liquidate the injured party's claim for damages for breach of a service standard.

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n2 AT&T's Reply Brief, p. 56.

n3 Ibid., p. 60.

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We agree with AT&T's two central points. First, we are acting here pursuant to [*11] authority granted by Congress under the Act, and that authority permits us to award terms and conditions designed to adequately enforce the provisions of interconnection agreements. Second, such an award would not be a "damage award," for it would set forth stipulated remedies for agreed upon contract breaches, and would not adjudicate a specific wrong. Thus, any limitation on our jurisdiction to make damage awards would not apply here in any event. Accordingly, we are free to consider proposals for contractual liquidated damages and similar or associated remedies.

The Proposals

Each party is highly critical of the other's proposals, attacking them as conceptually flawed, illogical, and fundamentally unfair. Both parties cite examples of how the operation of the other's proposals could result in allegedly absurd results.

AT&T sums up its critique of New York Telephone's proposals with this list of alleged shortcomings: n1

. The proposal addresses only certain "key metrics," failing to provide remedies for other important standards.

. Numerous activities are improperly aggregated into one "key metric" in computing credits, hiding performance weaknesses.

. Monthly reports [*12] would not be filed on all standards.

. A proposed "recovery period" delays the issuance of credits, removing any effective remedy in the early stages of AT&T's local market entry.

. There are too many conditions, exclusions, limitations and adjustments associated with credits, rendering them an ineffective remedy.

. The proposal is unclear in many respects, making its application uncertain.

. The proposed statistical methodology dilutes the parity standard and overly complicates what should be relatively simple computations.

. The plus-minus point scoring system enables New York Telephone to hide problems in some areas.

. The service credits should not be the sole remedy.

. The dollar amounts of the credits are inadequate.

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n1 Ibid., pp. 17-18. Appendix A to AT&T's Reply Brief contains a detailed analysis of these criticisms.

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In broader terms, AT&T argues that for the purpose of the Act to be fulfilled, interconnection agreements cannot be binding on LECs unless adequate remedies are available [*13] for the failure of LECs to provide adequate service. AT&T argues that New York Telephone has an incentive not to perform under the interconnection contract, emphasizing that New York Telephone itself has conceded that this Agreement "is one of compulsion, where [New York Telephone] serves by obligation." n1 The financial incentives not to perform, AT&T posits, amounts to all of New York Telephone's profits, or even revenues (which AT&T says amount to $ 1.7 billion per year), that competition puts at risk. "Normal market forces," AT&T asserts, "cannot be relied upon to insure [New York Telephone's] cooperative behavior." n2

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n1 New York Telephone's Initial Brief, p. 18.

n2 AT&T's Reply Brief, p. 10.

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AT&T argues that contractual remedies here need not be limited to the price of the services purchased, and cannot be if there is to be an adequate performance incentive. In this regard, AT&T contends New York Telephone's proposal is "patently absurd," citing the following example:

If AT&T were to submit 1,000 UNE [*14] orders for each month during NYT's proposed first measuring calendar quarter following the "implementation window" (NYT Br. At 12)(and if the CORBA requirements were met), for the final month of that quarter AT&T would only be entitled to a credit of approximately $ 338.56

if [New York Telephone] both failed to meet all of the pre-order and trouble reporting Response Time standards, and made the Access Platform available less than 98% of the time. n1

The loss of the OSS would put it totally out of business for that period, AT&T asserts, and yet the proposed credit is "not worth the trouble to calculate." n2 Indeed, AT&T posits, New York Telephone's proposal is so weak as to fail to meet its commitment to the FCC to negotiate adequate enforcement mechanisms for its interconnection agreements.

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n1 Ibid., p. 35.

n2 Ibid., p. 36. By comparison, AT&T says, its penalty provisions would result in total credits of $ 2.075 million for the measuring period.

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As noted above, AT&T objects that performance [*15] on only some service standards is included in the proposal, and AT&T argues further that aggregating those standards which are included into "key metrics" seriously dilutes the effect of the proposed sanctions. Good performance on two of four activities could be useless, AT&T says, and hence "all of the metrics and their associated activities must be satisfied." n3

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n3 Ibid., p. 30.

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AT&T maintains that the credit proposal is administratively cumbersome, and complains that it could take over a year from the date the Commission approves New York Telephone's credit proposal (about three months from the receipt of reports on a deficient quarter) before credits would become available, and longer if New York Telephone disputed the credits.

AT&T is also critical of the proposal's forecasting requirements. According to AT&T, the parties have agreed on AT&T's obligation to provide advance forecasts of its ordering volumes, but New York Telephone improperly makes remedies contingent on the accuracy of AT&T's forecasts. It [*16] is total demand that counts (not just AT&T's), AT&T avers, and it is too stringent to require AT&T's forecasts to be accurate within a 10% range, and to require such forecasts six months in advance.

Moreover, AT&T argues, New York Telephone's proposal would disallow credits in some illogical and unjustifiable ways, including for hourly demand spikes, or when its own vendor creates a "delaying event." AT&T complains as well about a "maintenance adjustment" that would eliminate credits for out of service greater than 24 hours (OOS>24) conditions if AT&T had an overall "no access rate" or a higher "found OK" rate. n1 Moreover, although New York Telephone presents its credit proposal as self-enforcing, AT&T argues that it is not, because AT&T would have to make an affirmative assertion that a standard had not been met in a specific instance before a computation would be made.

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n1 A "no access rate" relates to the circumstance where a repair person cannot gain access to a customer's premises, and a "found OK rate" relates to instances where no trouble is found on a service call. Neither of these rates has any relevance, AT&T asserts, especially because the "delaying events" provision of New York Telephone's proposal already accounts for no access by eliminating such outages from the service standard for outages.

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[*17]

New York Telephone is equally critical of AT&T's proposal, alleging these basic shortcomings:

. AT&T's proposal would improperly assess multiple penalties for a single service problem, by assigning separate penalties for individual metrics intended to measure the same underlying task.

. The proposed penalties would unreasonably apply to low levels of UNE orders that are not statistically meaningful.

. AT&T's proposed penalty levels are punitive and unreasonably high.

. The "remedial plan" provisions are improperly intended to provide additional penalties, beyond the penalties for failure to meet standards, rather than to promote cooperative remedial activity.

. Consequential damages are an inappropriate remedy for missing service standard targets.

. AT&T improperly fails to account for its own responsibilities and performance, with respect to maintaining an even flow of orders, minimum order volumes, and timely and accurate forecasts.

With respect to its point that AT&T's proposal would impose multiple penalties for the same service shortfall, New York Telephone observes that a separate and distinct penalty would be imposed for lack of access to New York Telephone [*18] databases pertaining to (1) customer service records, (2) telephone number availability, (3) due date availability, (4) product and service availability, and (5) address verification. Yet, a one-time isolated problem with an OSS interface would likely result in a delay in AT&T's ability to access any of these databases.

According to New York Telephone, the penalties are both excessive and unrelated to any potential damages AT&T might suffer. For example, if AT&T ordered a single new unbundled (2-wire) loop in each of two consecutive months, for which New York Telephone would be paid $ 12.49 or $ 19.49 per month, delay in provisioning those loops could potentially yield AT&T $ 275,000 in penalties. Although New York Telephone appears to relate this inequity, at least in part, to the lack of minimum order volume requirements, it argues nonetheless that such awards are not reasonably related to any damage AT&T might sustain as a result of substandard service. For example, assuming all OSS transactions missed by less than one second for all transaction types, in the example given above, AT&T would receive penalties ranging from $ 5,000 per missed transaction (low volume) to $ 13 per missed [*19] transaction (high volume), as contrasted with the $ 1 or $ 2 charge New York Telephone is permitted to charge per query; and if New York Telephone should exceed the offered time interval for UNE provisioning by a day or less, New York Telephone would have to pay $ 75,000 regardless of the volume of orders, which it says is still an exorbitant $ 750 per order with high volumes. Similarly, New York Telephone contends, AT&T would likely suffer no damage at all if its ability to retrieve customer service records (CSRs) exceeded the standard on average in a month by one second over the agreed-upon standard, yet New York Telephone would owe AT&T $ 50,000.

More generally, New York Telephone argues that AT&T should not be permitted liquidated damages to recover lost profits, because the amount of lost profits is simply too speculative to estimate. Moreover, New York Telephone contends, AT&T's proposed additional penalties for late submission of remedial plans, or for failure to achieve parity after remedial plans are implemented, are heavy-handed and punitive.

Remedies

As discussed above, we do not accept New York Telephone's position that it would be legally improper to provide for [*20] stipulated damages when service standards are not met. There is no reason why amounts for inadequate service, in this period of transition to competition, must be constrained to the level of the charges for the inadequately provided services. However, we prefer not to attempt to estimate what such damages would be based on the information provided to us here. Estimates of the amount of damages suffered by AT&T through lost business and profits, if New York Telephone's service fails to meet the standards, are poorly supported here. Similarly, estimates of the amount of profits New York Telephone stands to lose to competitors through customer loss, both if it does provide adequate service and if it does not, are unsubstantiated. Thus, we cannot readily assess either the amount of penalties that would fairly compensate AT&T for its damages if it receives poor service or the amount of penalties needed to deter New York Telephone from providing poor service. n1 We also lack the ability here to fairly distinguish between the amount of potential harm to AT&T from receiving service that only just misses the standards by minimal amounts and the significantly greater damage suffered if service [*21] is missed by wide margins.

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n1 It seems clear that neither the incentive amount nor the liquidated damage amount would be on the order of magnitude of all of New York Telephone's revenues or profits, however. Poor service provided to AT&T would likely deprive it, at most, of a portion of the share of New York Telephone's local exchange business that it attempts to capture through the use of New York Telephone UNEs.

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Accordingly we conclude, at least for now, that remedies we prescribe should amount to bill credits, limited by the amount of charges. However, the credits should be greater than as proposed by New York Telephone, and the credit plan should be considerably easier to administrate than its proposed plan.

We conclude that the credit plan ought to provide credits whenever standards are missed, subject to a minimum of ten transactions for each metric in any measuring month. n1 The credit plan should include all of the metrics that the companies have agreed to, n2 and should not be diluted by aggregating monthly [*22] results into quarterly data or by allowing bad performance in one area to be offset by good performance in another area. Moreover, at least for this interconnection agreement, we reject New York Telephone's statistical methodology for determining whether performance for comparable activities is less than, equal to, or better than parity; under our plan, credits will be computed directly from the underlying performance data. n3 We also conclude that some measures in addition to bill credits are needed, both to facilitate New York Telephone's ability to meet the Performance Standards and to ensure that any service quality concerns that arise are identified and resolved promptly.

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n1 Any metric that does not have ten transactions in a given month will not be utilized in the calculation of bill credits.

n2 These metrics should be administered, for purposes of this credit plan, in the level of detail (with regard to both CLEC-specificity and region-specificity) as already agreed upon by the companies.

n3 The statistical measurement of parity is under consideration in Case 97-C-0139, and we may reach a different result on the full record there, in the context of the various remedy plans under consideration there.

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[*23]

We will adopt for this agreement the compliance plan attached as Appendix B. Our decision should not be construed as providing exclusive remedies, however. With a battle for customers at stake, AT&T is correct that poor performance by New York Telephone could have anti-competitive effects, and could unreasonably harm AT&T's bid to fairly compete with New York Telephone in local exchange markets. The credit scheme can have only a limited and indirect effect on that potential problem. n1 Thus, we would not be satisfied with a credit scheme if we thought that AT&T would have no opportunity whatsoever to claim damages for anti-competitive effects of poor service. In the context of its interconnection agreement, we conclude AT&T should be entitled to performance at the level of the agreed upon standards as a matter of contractual right. Our credit schedule should not prevent AT&T from filing claims, in accordance with the agreement's dispute resolution process, for consequential or punitive damages, cover, or other relief, if service standards are not met. We do not intend to preclude that; we merely decline here to assess liquidated amounts for damages to be applied when standards are [*24] not met.

- - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

n1 AT&T will receive credits for inadequate services from New York Telephone. What AT&T must do to address the consequences to its customers of inadequate New York Telephone service, and the impact on its ability to attract customers, are not addressed by or reflected in these credits.

- - - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - - -

Section 9.2(c) of the agreement, dealing with limitation of liability, provides that neither party shall "have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, included, but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder . . .", except in connection with sanctions we may order in the dispute resolution process (@ 16) or except for any provisions we make for damages for poor service quality (@ 11). To reflect our determination that such other remedies can be made available for poor service quality, the section must be modified as follows:

Delete: "(ii) [*25] to the extent that appropriate remedies expressly including Consequential Damages are agreed to by the parties or ordered by the Commission pursuant to Section 11 of the General Terms and Conditions of this Agreement..."

Add: "(ii) in connection with any failure to meet the carrier-to-carrier service quality standards included in this Agreement,"

Similarly, @@ 9.2(a) and 9.2(b) must be modified to delete the clause beginning with "(ii)" and to add "(ii) in connection with any failure to meet the carrier-to-carrier service quality standards included in this agreement, and".

Reciprocity

New York Telephone would like all of these provisions to be reciprocal, to the extent it decides to purchase UNEs or analogous facilities from AT&T and AT&T fails to meet the performance standards. Reciprocity is sound in principle, but currently AT&T does not have the OSS systems to support the standards and is under no obligation to develop them. Thus, it would be premature at this point to hold AT&T to the same standards as New York Telephone for access to local exchange services. However, we intend to make interconnection requirements reciprocal as soon as reasonably practical, and reserve [*26] the right to amend this agreement for reciprocity in the future.

AT&T Performance Shortfalls

New York Telephone asks that AT&T pay for dispatches in error or falsely directed dispatches, for dispatches where the trouble is caused by an end user or AT&T, for dispatches where New York Telephone's technician does not gain access to the customer premises, or for dispatches where no trouble is ultimately found after AT&T reports a trouble. Such measures might be warranted, if and when New York Telephone can demonstrate that AT&T's performance in these respects is worse than its own, thereby inflating New York Telephone's costs.

Implementation

Measurement and reporting of the adopted standards is being considered in an active proceeding (Case 97-C-0139), and is currently being implemented by New

York Telephone. We will require New York Telephone to complete the implementation of measurement and reporting practices by March 9, 1998, and to institute the remedial measures we adopt here to be effective beginning on that date.

CONCLUSION

The supplemental arbitration pertaining to remedies for failure to meet the performance standards adopted by the parties is resolved as discussed [*27] herein. This order is issued as an emergency measure pursuant to @ 202.6 of the State Administrative Procedure Act (SAPA). Immediate action is necessary for the preservation of the general welfare, and compliance with the advance notice and comment requirement of SAPA @ 202.1 would be contrary to the public interest. Swift compliance with the modifications to the agreement required here will promote competition in the state's telecommunications markets, and will not discriminate against other competitive carriers.

The Commission orders:

1. The service quality performance standards agreed upon by AT&T and New York Telephone, attached hereto as Appendix A, are approved.

2. AT&T and New York Telephone shall modify their interconnection agreement as directed herein to revise @@ 9.2(a), 9.2(b), and 9.2(c) and to add the provisions included in Appendix A and Appendix B to this order. A revised agreement shall be filed with the Commission by February 23, 1998.

3. The service plan approved herein shall be implemented effective March 9, 1998.

4. This order is adopted on an emergency basis pursuant to @ 202.6 of the State Administrative Procedure Act.

5. This proceeding is continued. [*28]

By the Commission

APPENDIX A

August 19, 1997

BY FACSIMILE

Honorable J. Michael Harrison

Administrative Law Judge

New York State Public Service Commission

Three Empire State Plaza, Agency Building # 3

Albany, New York 12223-1350

Re: Cases 96-c-0723 and 96-c-0724 - Service Standard and Remedies for

AT&T/NYNEX Interconnection Agreement

Dear Judge Harrison:

Pursuant to the Commission's Order of June 13, 1997, and the Parties' letters of July 10, 1997 and August 15, 1997, enclosed please find AT&T's and NYNEX's agreed-upon performance standards for unbundled network elements. Please note that the parties have also agreed to performance standards on interconnection trunks and resale and intend to amend the contract to include those standards. AT&T believes the performance standards for interconnection trunks fall within the "carrier to carrier" standards ordered to be filed by the Commission's November 29th Order. NYNEX disagrees, believing that the Order encompasses standards only for unbundled network elements. The parties will file support for their respective positions on August 31.

Respectfully submitted,

New York Telephone Company

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Performance Standards

NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Pre-Order Process		
I. OSS Response Time		
A. PERFORMANCE OF OSS SYSTEMS		
1. Pre-Order Response Time by Transaction Type . Customer Service Records . Due Date Availability . Product & Service Availability Information . Address Validation . Telephone number availability and reservation	As of 12/31/97: 4 Seconds Difference NYNEX Rep. vs. Carrier Rep. AT&T standard Subject to Corba development Note: After Corba is implemented	Response time by Transaction type measured in seconds from the time the query hits DCAS system until the data is received back by function. Measurement is based on App to App interface - currently EIF and not GUI. Response times for Other approved pre-order interfaces will be developed as system requirements develop. (i.e., Corba, EDI etc.) Methodology: NYNEX to sample 10* transactions per hour

	for Pre-Order transactions between AT&T and NYNEX, the appropriate subject matter experts from each company will agree to the absolute standard for difference in response time	from 8 a.m. to 5 p.m. via Sentinel system. Sentinel will replicate the transaction of a NYNEX service representative going directly to the OSS as well as a Carrier representative coming in to DCAS to the OSS. (* TN to be 1 per hour to prevent TN inventory problems.)
2. Availability of NYNEX Interface to OSS Access	As of 12/31/97: 24 hours by 7 day access to DCAS	OSS systems will be available to TC representatives during the same hours that they are available to NYNEX representatives.
II. Contact Center Availability		
A. ALL PRE-ORDERING FUNCTIONS		
1. Availability (CATC) a) Center Hours of Operation	24 hours by 7 day Access to Call Center for assistance	Contact with TCs is designed to take place via direct access systems. Carrier support centers such as the CATC are designed to handle fall-out and not large call volume. Call management system is under development.

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Performance Standards

NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Ordering Process		
I. Order of Confirmation/Reject Timeliness	90% According to Schedule Below:	Time from receipt of request electronically to order confirmation or reject
A. UNBUNDLED ELEMENTS		
1. Timeliness of Service Request ("SR") Order Confirmation/Reject:		
a) Less Than 10 Lines (POTS - Links, Switching or Combo):		. UNE-Switching assumes switch activation - following joint planning process.
. Flow Through Orders	2 Hours	
. Other Orders:		
(1) SR received before 3:00pm (Eastern Time)	24 Hours Next BDA plus	. All orders must be electronically transmitted for FOC/Reject intervals to apply
(2) SR received after 3:00pm (Eastern Time)	24 hours	
b) Less Than 10 Lines (Specials):		

. Flow Through Orders	2 Hours	
. Other Orders:		
(1) SR received before 3:00pm (Eastern Time)	48 Hours	
(2) SR received after 3:00pm (Eastern Time)	Next BDA plus 48 hours	
c) 10 or greater lines (POTS/Spec.-includes facility check):		
. All Orders:		
(1) SR received before 3:00pm (Eastern Time)	72 Hours	
(2) SR received after 3:00pm (Eastern Time)	Next BDA plus 72 Hours	
II. Completions	95% According to Status Below:	Timeliness of receipt of notice of completion of service order request
A. *UNBUNDLED ELEMENTS*		
1. Timeliness of Notice of Completion		
a) Unbundled Element - Hot Cuts	Completed at Turn-up Next Business Day by Noon	Mechanized notification under development.
b) Unbundled Element - Other		
III. Jeopardy Status	90% According to Status Below:	Timeliness of receipt of *notice of jeopardy of* service order request (missed commitment with new date/time)
A. UNBUNDLED ELEMENTS		
1. Timeliness of Notice of Jeopardy	2 Hours before Commitment Time Frame	In case where jeopardy situation is identified. Mechanized notification *under development*.

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Performance Standards

NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Provisioning Process		
I. Intervals		Typical intervals are noted on Product Interval Summary.
A. *NETWORK INTERCONNECTION* TRUNKS		
1. Provisioning Interval - Collocation	To standard interval 76 Bus Days	See Part 3 of the Interconnection Agreement
. Average Interval - Completed		
B. UNBUNDLED ELEMENTS		
1. Provisioning Interval - POTS (*Basic Link*, Premium Link, Analog Line Port, NID, House & Riser and any combination - no designed services):	Parity	Compared to POTS Retail *Services*
a) Dispatched Orders:		

. Average interval -
Offered: 1-5 lines
6-9 lines
>/= 10 lines
. Average interval -
Completed: 1-5 lines
6-9 lines
>/= 10 lines
. % completed in 1 day
. % completed in 2 days
. % completed in 3 days
b) Non-Dispatched Orders:
. Average interval -
Offered
. Average interval -
Completed
. % completed same day
. % completed in 1 day
. % completed in 2 days
. % completed in 3 days
c) All Orders:
. % completed in 4 days
. % completed in 5 days
. % completed in 6 days

2. Completion Interval - Specials (Tracked separately for DS0, DS1, DS3 and other to the extent *identifiable*)	Parity	Compared to Special (Designed) Retail Services

a) Dispatched Orders:
. Average interval - Offered
. Average interval -
Completed
b) Non-Dispatched Orders:
. Average interval - Offered
. Average interval -
Completed

II. On-Time Commitment		Measured in Missed Committed Appointments

A. UNBUNDLED ELEMENTS

1. On-Time Commitment - UNE - POTS	Parity	Compared to POTS Retail Services

a) Dispatched Orders:
. % Missed Appointment -
NYNEX
. Average Delay Days -
Missed Orders
b) Non-Dispatched Orders:
. % Missed Appointment -
NYNEX
. Average Delay Days -
Missed Orders

2. On-Time Commitment - UNE - Specials	Parity	Compared to Special (Designed) Retail Services. (Tracked separately for DS0, DS1, and DS3)

a) Dispatched Orders:
. % Missed Appointment -

NYNEX . Average Delay Days - Missed Orders b) Non-Dispatched Orders: . % Missed Appointment - NYNEX . Average Delay Days - Missed Orders		
III. Facility Delays - Held Orders		Measured in % of orders missed due to lac of ILEC facilities
A. UNBUNDLED ELEMENTS		
1. Facility Delays - UNE - POTS . % Missed Appointment - Facilities - Dispatched . Average Delay Days - Facility Misses	Parity	Basic Link, Analog Line Port, NID, House & Riser and any combination - no designed services: Compared to POTS Retail Services
2. Facility Delays - UNE - Specials . % Missed Appointment - Facilities - Dispatched . Average Delay Days - Facility Misses	Parity	Compared to Special (Designed) Retail Services
IV. Installation Quality		
A. NXX UPDATES		
1. Installation Quality - NXX updates . Verification of NXX Updates	100% activation in all NYNEX switches w/in 5 Days of LERG effective date	NYNEX to use Verification Equipment Testing System to ensure update of NXX codes and act on test results. Method to be developed.
B. UNBUNDLED ELEMENTS		
1. Installation Quality - UNE - POTS . % Installation Trouble within 7 days . % Installation Trouble within 30 days	Parity	Compared to POTS Retail Services
2. Installation Quality - UNE - Specials . % Installation Trouble within 30 days	Parity	Compared to Special (Designed) Retail Services. (Tracked separately for DS0, DS1, and DS3)
V. TC Performance Indicators		
A. ALL PROVISIONING		
1. TC Order Quality Performance . % Missed Appointment - Customer Reasons		Used as indicators of TC Performance and customer communication to identify areas for discussion and possible improvement.

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Performance Standards

NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Trouble Reporting and		

Maintenance Process I. OSS - Performance A. PERFORMANCE OF OSS SYSTEMS		
1. Response Time by Transaction Type . Create Trouble . Status Trouble . Modify Trouble . Request Cancellation of Trouble . Trouble Report history (by TN/circuit) Test (POTS only)	As of 12/31/97: 4 Seconds Difference NYNEX Rep. vs. Carrier Rep.	Response time by Transaction type measured in seconds from the time the query hits DCAS system until the data is received back by function. Utilized App. to App. interface. Methodology: NYNEX to sample 10 transactions per hour from 8 a.m. to 5 p.m. via Sentinel system. Sentinel will replicate the transaction of a NYNEX repair service representative going directly to the OSS as well as a Carrier representative coming in to DCAS to the OSS.
2. Availability of NYNEX OSS Access	As of 12/31/97: 24 24 hours X 7 days	OSS systems will be available to TC representatives during the same hours that they are available to NYNEX repair representatives.
II. Contact Center Availability A. Availability (CATC) 1. Center hours of operation	24 hours X 7 day Access to Call Center for assistance	Contact with TCs is designed to take place via direct access systems. Carrier support centers such as the CATC are designed to handle fall-out and not large call volume. Call management system is under development.
III. Network/Element Performance A. UNBUNDLED ELEMENTS		
1. Reliability Performance - UNE - POTS . Trouble Report Rate . % Subsequent Trouble Reports	Parity	Compared to POTS Retail Services Excludes subsequent reports. Excludes CPE.
2. Reliability Performance - UNE - Specials . Trouble Report Rate Total . Trouble Report Rate - Loop . Trouble Report Rate - Central Office	Parity	Compared to Special (Designed) Retail Services. (Tracked separately for DS0, DS1, and DS3)
B. SWITCHING PERFORMANCE 1. Switching Performance - PSC Standards: a) Switching Performance -		

PSC Standards		
. Percent Blockages & Failures	0.0 - 1.0 (weakspot > 2.1)	
. Percent Incoming Matching Loss	0.0 - 2.1 (weakspot > 2.8)	
. Percent Dial Tone Speed over 3 Seconds	0.0 - 1.5 (weakspot > 2.6)	
2. Switching Performance - Index Plan - 1/1A ESS		
a) Machine Access	Threshold	The switching index takes a number of factors, weighs and calculates an overall score. The overall objective is 95.5 and up for each switch. Individual performances may fall below threshold, but not necessarily drop the index below. This is an overall indicator of switch performance.
. Cust. Receiver Digit Overflow	1.00	
. Blocked Dial Tone	8.00	
. Receiver Attachment Delay Reciever	0.20	
b) Machine Switching		
. Cutoff Call Failures	0.15	
. F-SCAN Failure	0.65	
. Hardware Lost Calls	22.00	
. Load Balance	90.00	
. Matching Loss	1.80	
. Maintenance Interupts	0.40	
. Equipment Outage	0.60	
. Trunk to Trunk Memory Overflow	0.01	
3. Switching Performance - Index Plan - 5ESS		
a) Machine Access	Threshold	
. Tone Decoder Overflow	1.00	
. Tone Decoder Attached Delay	0.10	
. Dial Tone Speed	33.34	
b) Machine Switching		
. Facility Cutoff Calls	2.00	
. Remote Module Stand Alone Time	0.50	
. Initializations SM/RSM	1.00	
. Interrupts (AM)	80.00	
. Maintenance Usage	50.00	
. Audits	10.00	
. Equipment Outage	1.00	
. Equal Access	100.00	
4. Switching Performance - Index Plan - DMS100		
a) Machine Access	Threshold	
. Dial Tone Speed	33.34	
. Receiver Queue	0.00	
b) Machine Switching		
. Transmitter Time-outs	16.00	
. Errors	50.00	
. Equal Access	100.00	
. Equipment Outage	1.00	

. RLCM RSC Emergency Stand Alone	5.00	
IV. Time to Restore		
A. UNBUNDLED ELEMENTS		
1. Time to Restore - UNE - POTS . Mean Time to Repair - Dispatch Out . Mean Time to Repair - No Dispatch . % Out of Service > 4 hours . % OOS > 12 hours . % OOS > 24 hours . % All Troubles Cleared w/in 24 hours	Parity	Compared to POTS Retail Services Excludes subsequent reports. Excludes CPE.
2. Time to Restore - UNE - Specials . Mean Time to Repair . % OOS > 4 hours . % OOS > 24 hours	Parity	Compared to Special (Designed) Retail Services. (Tracked separately for DS0, DS1 and DS3)
V. On-Time Commitment		
A. UNBUNDLED ELEMENTS		
1. On-Time Commitment - UNE - POTS . % Missed Repair Appointments - Dispatch Out . % Missed Repair Appointments - No Dispatch	Parity	Compared to POTS Retail Services
2. On-Time Commitment - UNE - Specials . % Missed Repair Appointment	Parity	Compared to Special (Designed) Retail Services. (Tracked separately for DS0, DS1 and DS3)
VI. Maintenance Quality	Parity	
A. UNBUNDLED ELEMENTS		
1. Maintenance Quality - UNE - POTS . Repeat Reports w/in 30 days	Parity	Compared to POTS Retail Services Excludes subsequent reports. Excludes CPE
2. Maintenance Quality - UNE - Specials . Repeat Reports w/in 30 days	Parity	Compared to Special (Designed) Retail Services. Tracked separately or DS0, DS1 and DS3)
VII. Completions/Jeopardy Reports	90% According to Schedule Below:	
A. UNBUNDLED ELEMENTS		
1. Timeliness of Notice of Trouble Closure - Interim Process:		
a) Trouble Closure Status: Trouble Management System updated by technician. TC must monitor status. Additionally, Trouble	% w/in 2 hrs of clearing	

* Closure Status via call to TC from NYNEX CATC		
2. Timeliness of Notice of Trouble Closure - Under Development:		Secure WEB page under development. Goal is to update with closed Troubles - Every 2 hrs.
a) Trouble Closure Status: Trouble Management System updated by technician.	% within 2 hours of Clearing Trouble	
b) Jeopardy Reports: Summary of Troubles that may not be cleared by the commitment Time.	% within 2 hours of Commitment Time	Secure WEB page under development. Goal is to update with closed jeopardy status - Every 2 hrs.
VIII. Other Performance Indicators		
A. ALL MAINTENANCE ACTIVITY		
1. TC Trouble Administration Quality . Subsequents . % CPE Troubles Found . % No Trouble Found . % No Customer Access Available		Used as indicators of TC performance and customer communication to identify areas for discussion and possible improvement.

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Performance Standards

NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Billing Process		
I. Timeliness of Delivery		
A. UNBUNDLED ELEMENTS		
1. Timeliness of Usage Information - Switching Elements . % Usage sent in 3 business days . % Usage sent in 4 business days . % Usage sent in 5 business days . % Usage sent in 8 business days	Parity	Pursuant the interconnection agreement, the appropriate local and Interexchange Access usage records will be provided to TCs each business day. The EMR usage process starts with collection of usage information from the switch. Most offices in have this information teleprocessed to NYNEX's data center. Other offices transport usage over the road to the data center. Not all offices poll for usage every business day. Weekend and holiday usage is captured on the next business day. NYNEX collects TC usage for all TCs at the same time and will measure All TCs compared to NYNEX usage processing. Usage ready for distribution
2. Timeliness of Carrier Bill Delivery	10 business days after	Bill ready for distribution. Carrier bill includes CSRs,

	the Bill Closure Date	Recurring and Non-Recurring charges (including Time & Material charges.) as well as total usage billed to Carrier.
II. Accuracy A. BILLING ACCURACY		Accuracy of Billing information will be measured by monitoring 8 control points for UNE. NYNEX created these control points (similar to the way access information is assured). No accuracy report will be created. TCs will be kept informed of problems and related fixes.

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Performance Standards NYNEX Proposed Service Quality Measurement	Absolute Standard	NOTES
Operator Services Processes I. Operator Timeliness		
A. OPERATOR ASSISTANCE CALLS (CALL COMPLETION SERVICES) 1. Average Speed of Answer	Regulatory Standard NY < 2.8 seconds	NYNEX's Operator Call Distribution Systems handle all traffic in a first come first serve basis, regardless of TC or originating trunk group. (Identification of Carrier for branding and billing does not impact call distribution.) NYNEX measures Average speed of answer for Operator Services and utilizes individual state standards for Speed of Answer.
B. DIRECTORY ASSISTANCE CALLS 1. Average Speed of Answer	Regulatory Standard NY < 6.3 seconds	NYNEX's Operator Call Distribution Systems handle all traffic in a first come first serve basis, regardless of TC or originating trunk group. (Identification of Carrier for branding and billing does not impact call distribution.) NYNEX measures Average speed of answer for Operator Services and utilizes individual state standards for Speed of Answer.
C. PERFORMANCE LIDB, ROUTING, OS/DS PLATFORMS 1. LIDB performance		
a) LIDB reply rate to all query attempts	Bellcore produced standard	NYNEX's LIDB is engineered to be unavailable for a maximum of 12 hours a year as per GR-1158-CORE. The LIDB is

		designed to respond to all query attempts if properly formatted and overload conditions are not invoked. Since NYNEX's network does not originate all query attempts NYNEX can not be held responsible for external networks query formatting and network transport. NYNEX's LIDB does not prioritize query messages.
b) LIDB query time-out	Bellcore produced standard	LIDB query time outs are setable at the operator services switch. NYNEX OSSs use two seconds as the time out. GR-954-CORE sets an objective of 144 milliseconds for one way internetwork signaling as an objective. GR-1158-CORE sets the mean processing time at the LIDB to be no more than .25 - .5 second and not to exceed 1 second for 99% of all messages during normal operating conditions. Since LIDB queries can leave the NYNEX network this is some what out of NYNEXs control. NYNEX's LIDB does not prioritize query messages.
c) Unexpected data values in replies for all LIDB queries	2%	Acceptable at 2%
d) Group troubles in all LIDB queries Delivery to OS platform -	2%	Acceptable at 2%

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Performance Standards

NYNEX - Product Interval Summary

Product	Interval
Number Portability:	
Interim Number Portability: Remote Call Forward - Associated with Loop Hot Cut	5 days
Remote Call Forwarding ("RCFs") or INP-T if Facilities (trunking) are already in place and Facilities and/or Ports on NYNEX and TC switches are available: (Stand alone number portability orders only, without unbundled links). If Electronic:	
(a) 1-9 Lines/numbers	2 days
(b) 10-19 Lines	5 Days
(c) 20-100 Lines, and if facilities are available	10 Days
(d) Other	Negotiated
Effective 1/1/98:	
(a) 1-19 Lines	3 Days

Performance Standards
NYNEX - Product Interval Summary

Product	Interval
Unbundled Elements	
Basic POTS Elements/Services:	
Switch Port - After establishment of Switch:	
(a) 1-9 Lines (per order)	2 Days
(b) 10-19 Lines (per order)	5 Days
(c) 20-100 Lines, and if facilities are available	10 Days
(d) Other	Negotiated
Effective 1/1/98:	
(a) 1-19 Lines	2 Days
Feature Change (UNE):	
(a) Basic Features: Call Waiting, Call Forwarding & 3 Way Calling:	
. Received by 3 p.m. (EST)	Same Day
. Received after 3 p.m. (EST)	Next Day
(b) Other Features: Caller ID	4 Days
(c) Suspend, Block or Restore Orders	Same Day
(d) Disconnect Orders: (Translation change - no dispatch)	4 (business) Hours
Basic Link (SVGAL) - Hot Cut	5 days
Basic Link (SVGAL) - New Line	
(a) 1 - 5 lines	Smarts Clock
(b) 6 - 9 lines	10 days
(c) 10+ lines	negotiated
Premium LINK - Two-Wire Digital New Line	
(a) 1 - 5 lines	Smarts Clock
(b) 6 - 9 lines	10 days
(c) 10 + lines	negotiated
Basic Rate Interface - ISDN Port	
(a) Local: 1 - 12 lines	8 Days
(b) Virtual: 1 - 12 lines	12 Days
(c) Over 12 lines	Negotiated
NID (Customer Premises - Network Interface)	Smarts Clock
House & Riser - New Install	Smarts Clock
House & Riser - Hot Cut	5 Days
UNE - POTS Combinations: Basic Local Service - with or without OS/DA (after completion of joint planning process for Switch Elements)	
Flip to CLEC	Pending
New Lines:	
(a) 1 - 5 lines	Smarts Clock
(b) 6 - 9 lines	10 days
(c) 10 + lines	negotiated

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Performance Standards
NYNEX - Product Interval Summary

Product	Interval
UNE - Special Services:	
LINK Products:	
Primary Rate Interface - ISDN Port	
(a) 1 - 12 lines	12 Days
(b) Over 12 lines	Negotiated

Digital High Capacity Links:	
(a) 1.544 Mbps (DS1) Links:	
</= 10 Links (with facilities)	6 days
</= 10 Links (without facilities)	12 days
> 10 Links	negotiated
(b) 45 Mbps (DS3) Links	negotiated
Extended Links:	
(a) 1 - 9 Links	16 Days
(b) 10 or more Links	Negotiated
SS7 A or B/D Links:	Negotiated
UNE - Interoffice Facilities	
(a) When CIP (Customer Interface Panel) required	30 Days
(b) All other (no CIP placement required)	15 Days
DIRECTORY ASSISTANCE ("DA"):	
1. TC's customer's information incorporated into database	2 Days
2. DA Trunks to TOPS Tandem Provisioning Intervals;	
(a) If Facilities are available	60 Days
(b) If Facilities are not available	Negotiated
LINE IDENTIFICATION DATABASE ("LIDB"):	
1. TC's customer's information incorporated into database	2 Days
OPERATOR SERVICES:	
1. Provisioning of FG C-type Modified Operator Services Signaling Trunks:	
a) If Facilities are available:	60 Days
b) If Facilities are not available:	Negotiated
911/E911 SERVICE:	
1. TC's customer's information incorporated into the PS/ALI database	2 Days
2. Provisioning of 911/E911 MF Trunks:	
a) If Facilities are available:	60 Days
b) Port Establishment	included in above 60 Days

Note:

1. All Days are business days

2. SMARTS Clock is a system that analyzes work required on an order and compares it to available work forces. Local supervisors input the work force availability on a daily basis in advance. The SMARTS Clock fills up a day's schedule on a first in first out basis until 90% of available force is scheduled. The available work force works both maintenance and installation. Reseller and network element order are in the same queue as the Telephone Company's end users. Intervals can be as short as one day and in most cases, less than five days.

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Performance Standards

Definitions:

NYNEX agrees to work with AT&T representatives to clarify definitions prior to first report.

Metrics:	Definition:
. Number of Installation Orders	Total orders received and completed. Note: There may be multiple orders per TC Purchase Order Number
. Average Interval - Offered	Average number of days between application date and committed due date. For orders received after

	3 p.m., the next business day is considered the Day 0 application date. The application is the date that a valid service request is received. Separate reporting by volume of lines for POTS services.
. Average Interval - Completed	Average number of days between applicaiton date and completed date. Completion date = date noted on Service Order as completed.
. % completed in 1, 2, or 3 business days - Dispatch	For those orders, requiring physical outside dispatch with less than 5 lines per order, the % of all lines (on orders with less than 5 per order) that are actually completed in 1, 2, or 3 business days. The denominator excludes Hot Cuts and lines on orders where the customer requests service beyond the offerred interval ("x" dated orders).
. % completed in 1, 2, or 3 business days - No Dispatch	Similar to previous metric, except for those orders, not requiring a physical outside dispatch
. % Completed w/in 4, 5 or 6 business days - Total	All orders, less than 5 lines per order, the number of lines completed in 4, 5 or 6 days. Excludes "x" dated orders and hot cuts.
. % Missed Appointment - NYNEX - Total	% of all lines ordered, the % where there was a missed appointment due to a NYNEX problem.
. % Missed Appointment - NYNEX - Dispatch	Same as previous, however, only for those lines, where dispatch was required to complete the order.
. % Missed Appointment - NYNEX - No Dispatch	Same as previous, No dispatch required.
. % Missed Appointment - Facilities	% of Orders with missed appointments due to lack of facilities.
. Average Delay Days - Facilities Miss	For Orders with Facility misses, the average number of days between commicted due date and actual completion date.
. % Installation Troubles w/in 7 or 30 Days	For Lines/Circuits Installed, the % of lines where a Network Trouble is reported within the first 7 or 30 days.
. % Missed Appointment - Customer	% of all lines ordered, where there was a missed appointment for customer reasons.
. Total Number of Troubles Reported	Total Troubles Reported by Customer, includes CPE. Excludes (NYNEX) Employee Administrative Reports, and Subsequent Reports..
. Network Trouble Report Rate	Total Initial Customer Troubles reported by customer, where the

	trouble disposition was found to be a network problem. (Disposition Codes 3, 4 and 5) per 100 lines/circuits in service. Excludes Subsequents, CPE, and Not found troubles.
. Network Trouble Report Rate - Loop	Same as above, Dispositon Codes 3 and 4 only
. Network Trouble Report Rate - CO	Same as above, Dispositon Code 5 only
. % Missed Repair Appointments	For Initial Customer Trouble Reports, found to be network troubles (disposition codes, 3, 4 and 5), where the actual restoration time occurs after the commited restoration time.
. Mean Time to Repair - Total	For Initial Customer Trouble Reports, found to be network troubles, the average time from trouble receipt to trouble clear time. Disposition Codes 3, 4 and 5.
. Mean Time to Repair - Loop Trouble	Same as above, but for Disposition Codes 3 and 4 only
. Mean Time to Repair - CO Trouble	Same as above, but for Dispositon Code 5 only.
. % Out of Service > 2. Hours	For Network Interconnection trunk Troubles only: the percent of out of service trunks cleared in greater than 2 hours.
. % Out of Service • 4, 12 or 24 Hours	The percent of network troubles out of service, cleared in greater than 4, 12 or 24 hours.
. % Cleared within 24 Hours	The percent of all troubles (found to be network troubles) cleared in 24 hours
. % Repeat Reports w/in 30 days	The percent of troubles that originated as a disposition code 3,4,5,7,8,9,10, or 11 that have an additional trouble within 30 days that has a disposition code of 3,4, or 5. Initial troubles Excludes customer action, front end close out (NYNEX) and CPE found troubles.
. % Final Trunk Blockage	
. % Subsequent Trouble Reports	Additional customer originated trouble reports reported while trouble is still pending resolution.
. % CPE Troubles	% of all troubles reported where the found trouble is a CPE disposition. (dispositions code 12 or 13)
. % No Trouble Found	% of all troubles reported where there is no trouble found or a test OK (dispositions code 7, 8 and 9)
. % No Access	% of all troubles, where there is no customer access available. before the commitment time. (disposition code 6)

[*38]

Performance Standards

Definitions:

Products:	Definition:
. Interconnection Trunks	Includes switched access CLEC trunks originating carrying traffic between NYNEX and CLEC offices. Includes End Office and Tandem trunks. Tandem Transient, Tandem subtending. Meet point A and B. Signaling Links are included in trunk performance measures (provisioning etc.)
. POTS services	All non-designed circuits that originate an an OE (Switch Office Equipment) and terminate at a customers premise. All others are considered specials. Includes Analog Centrex, Basic ISDN and PBX trunks. For POTS resale service or POTS UNE platform. POTS services include associated transport.
. Specials	Special services are services or elements that require design intervention. These include such services/elements as: high capacity links (DS1, or DS3), Primary rate ISDN, digital services, multiplexing, foreign served services/links, or analog private. Interoffice transport associated with a service is included or a special if purchased as an element.

Market Area - New York	Definition: consistent with NYNEX operational boundaries in NY
. Manhattan	Manhattan - south of 59th St.
. Greater Metro	Remaining NY City area (exclusive of Manhattan - south of 59th st.)
. Suburban	Suffolk, Nassau, Westchester, Putnam and Rockland Counties
. State Area	Remaining NY state area (excludes NY city and suburban)

[*39]

Appendix B

DRAFT COMPLIANCE WITH PERFORMANCE STANDARDS

NYNEX will abide by the monthly Performance Standards set forth in Appendix A. The following measures will be employed to foster compliance with the standards.

I. Forecasts

AT&T will provide NYNEX with demand forecasts which NYNEX needs in order to plan and operate its network effectively. The companies will work cooperatively to identify the types of forecasts required and the timing and format for the provision of such forecasts.

II. Meetings

The companies will meet at least quarterly to review compliance with the Performance Standards and forecasting requirements and to identify and resolve any concerns that might arise in these areas. If either company is not satisfied with the progress being made toward resolving its concerns, it may call additional meetings and/or escalate the matters to higher levels of management.

III. Corrective Action Plans

If a Performance Standard is missed for three consecutive months or for three out of the last six months, within 15 days of the end of the trigger month New York Telephone will develop and begin implementing a corrective action plan. New York Telephone [*40] will also review the corrective action plan with AT&T and consider any suggestions AT&T may have. The corrective action plan will include a description of the cause of the problem, the corrective steps being taken, and a timetable for meeting the performance standards. New York Telephone will provide AT&T with written monthly progress reports until the Performance Standard is consistently met. AT&T will provide New York Telephone with all information and support reasonably requested to enable the cause of the problem to be identified and a corrective action plan to be developed and implemented.

IV. Bill Credits

AT&T may be eligible to receive bill credits for missed Performance Standards. The bill credits will be calculated by Regional Reporting Areas defined as follows: Manhattan (South of 59th Street); Greater Metro (Remaining NY City area - exclusive of Manhattan); Suburban (Suffolk, Nassau, Westchester, Putnam and Rockland Counties); and State (Remaining New York State). The following process will be used to calculate the bill credits:

a. Each Performance Standard will be assigned to one of the following three categories: Ordering, Provisioning, or Maintenance/Billing. [*41] The Ordering, category includes the standards relating to pre-service ordering and service ordering functions. The Provisioning category includes the standards relating to service provisioning. The Maintenance/Billing category includes the standards relating to trouble reporting, repair, and billing functions.

b. For each Performance Standard within each category, a determination will be made each month as to whether the standard was met. If the standard was met, a value of 0% will be assigned to that standard. If the standard was not met, a value will be assigned to that standard which is equal to the percentage by which the standard was missed. In the computation of each Performance Standard, there must be at least ten (10) measurable events, or that Performance Standard will not be included in the computation of the category score as provided in @ IV(c).

c. A score will be calculated for each category by summing the values assigned to each Performance Standard in (b) above and by dividing that sum by the number of Performance Standards within the category. That is, the average (mean) percentage missed will be computed for each category.

d. The scores calculated in (c) above [*42] will determine the percentage bill credits applicable to each category, as follows:

CATEGORY PERCENTAGE

SCORE	BILL CREDIT
Up to 2.5%	0%
2.6-5%	10%
5.1-10%	25%
10.1-20%	50%
Over 20%	100%

e. The percentage credits determined in (d) above will be applied to AT&T's bills, as follows:

(1) Ordering category: (1) to that month's total usage and/or monthly charges for pre-ordering and ordering and (2) to the non-recurring charges and the first month's recurring charges for all services ordered that month;

(2) Provisioning category: (1) to that month's non-recurring charges and (2) to the first month's recurring charges for all services that were initially scheduled to be provisioned that month;

(3) Maintenance/Billing category: To that month's monthly recurring charges for all services.

f. Credits for Service Interruptions: In addition to the compliance measures described above, AT&T will continue to be eligible for Credits for Service Interruptions pursuant to applicable New York Telephone tariffs. New York Telephone will not be required, however, to issue Performance Credits for recurring charges and Credits for Service Interruptions that exceed [*43] AT&T's recurring charges in a given month.

New York Telephone may, if and to the extent permitted by the arbitrator under the ADR provisions of this agreement, exclude from the computation of bill credits the impacts of (i) a failure by AT&T to perform an obligation set forth in this Agreement; (ii) a delay, act or failure to act by AT&T or a customer, agent, affiliate, representative or subcontractor of AT&T; (iii) a delay, act or failure to act by an unaffiliated equipment or service vendor to New York Telephone; (iv) a force majeure event; or (v) such other delay, act or failure to act upon which the companies may agree.

A2. GENERAL REGULATIONS[1]

(N)

A2.4 Payment Arrangements and Credit Allowances (Cont'd)

A2.4.10 Payment Plans for Contract Services (Cont'd)

L. Exception To Termination Liability For State, County, And Municipal Governments

(See A2.4.8 of this Tariff.)

M. Moves of Service(s) under PPCS

Termination Liability Charges will not apply to customer requests for moves of service under PPCS from one location to another location subject to the following:

1. The original and new premises locations must be in Company territory within the same state.
2. The move from the original location to the new location must be completed within thirty days of the original premises disconnect date.
3. No lapse in billing will occur for moves of service under PPCS.
4. Orders to disconnect the existing service and reestablish it at the new location must be related.
5. Any rate elements from the original location that are not reestablished at the new location will be subject to applicable Termination Liability charges.
6. Any additions made at the new location will be treated as coterminous additions in accordance with D. preceding.
7. All regulations and charges for changes made to the service coincident to the move shall apply.
8. All appropriate nonrecurring charges for moves of service as specified in this Tariff will apply.
9. Moves of service that involve a change of jurisdiction, e.g., intraLATA to intrastate, intrastate to interstate, etc., will not be treated as a disconnect of service with regard to Termination Liability Charge application. The customer must subscribe to a payment arrangement offered in the appropriate interstate tariff which is at least the minimum number of months allowable under Payment Plan A or equals/exceeds the remaining contract period, whichever is greater.

A2.5 Liability of the Company

A2.5.1 Service Irregularities

The liability of the Company for damages arising out of impairment of service provided to its subscribers such as defects or failure in facilities furnished by the Company or mistakes, omissions, interruptions, preemptions, delays, errors or defects in the provision of its services set forth herein or any portion of its services, occurring in the course of furnishing such facilities or services and not caused by the negligence of the subscriber, or of the Company in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision shall in no event exceed an amount equivalent to the proportionate charge to the subscriber for the period of service during which such mistake, omission, interruption, preemption, delay, error or defect in transmission or defect or failure in facilities or services occurs.

Note 1: Text is shown as new due to reissue of all Tariff Sections. No changes in rates or regulations were made with this Filing.

Attachment No. 2

A2. GENERAL REGULATIONS[1]

(N)

A2.5 Liability of the Company (Cont'd)

A2.5.1 Service Irregularities (Cont'd)

The Company shall not be liable for damage arising out of mistakes, omissions, preemptions, interruptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by customer-provided equipment (except where a contributing cause is the malfunctioning of a company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to the proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, preemption, delay, error, defect in transmission or injury occurs), or (2) not prevented by customer-provided equipment but which would have been prevented had company-provided equipment been used.

A2.5.2 Use of Facilities of Other Connecting Carriers

When suitable arrangements can be made, facilities of other connecting carriers may be used in conjunction with this Company's facilities in establishing connections to points not reached by this Company's facilities. Neither this Company nor any connecting carrier participating in a service shall be liable for any act or omission of any other company or companies furnishing a portion of such service.

A2.5.3 Indemnifying Agreement

The Company shall be indemnified and saved harmless by the subscriber or subscribers against claims for libel, slander, or the infringement of copyright arising directly or indirectly from the material transmitted over the facilities or the use thereof; against claims for infringement of patents arising from combining with, or using in connection with, facilities furnished by the Company, apparatus and systems of the subscriber; and against all other claims arising out of any act or omission of the subscriber in connection with the facilities provided by the Company.

A2.5.4 Defacement of Premises

The Company is not liable for any defacement of or damage to the premises of a subscriber resulting from the furnishing of service or the attachment of the equipment and associated wiring furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of employees of the Company.

A2.5.5 Period for the Presentation of Claims

The Company shall not be liable for damages or statutory penalties in any case where a claim is not presented in writing within sixty days after the alleged delinquency occurs.

Note 1: Text is shown as new due to reissue of all Tariff Sections. No changes in rates or regulations were made with this Filing.

A2. GENERAL REGULATIONS[1] (N)

A2.5 Liability of the Company (Cont'd)

A2.5.6 Equipment in Explosive Atmosphere

A. The Company does not guarantee nor make any warranty with respect to equipment and facilities provided by it for use in an explosive atmosphere. The subscriber shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the subscriber or by any other party or person, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the subscriber or others, caused or claimed to have been caused directly or indirectly by the installation, operation failure to operate maintenance, removal, presence, condition, location or use said equipment so provided.

B. The Company may require each subscriber to sign an agreement for the furnishing of such equipment as a condition precedent to the furnishing of such equipment.

C. The subscriber shall furnish, install and maintain sealed conduit with explosion-proof fittings between this equipment and points outside the hazardous area where connection may be made with regular facilities of the Company. The subscriber may be required to install and maintain this equipment within the hazardous area if, in the opinion of the Company, injury or damage to Company employees or property might result from installation or maintenance by the Company.

A2.5.7 Reserved for Future Use

A2.5.8 Reserved for Future Use

A2.5.9 Reserved for Future Use

A2.5.10 Reserved for Future Use

A2.5.11 Application Testing

The Company makes no warranties with respect to the performance of certain services for any and all possible customer applications which may utilize these services. The Company will provide a limited amount of such service(s) subject to the conditions specified in A. and B. following. Such service is to be utilized without charge in an initial application test with a customer for no longer than 60 days from the date of installation. The purpose of an application test is to determine the appropriateness of that specific service(s) for that specific application prior to the customer placing a firm order for such service(s).

A. Tariffed services which are approved for use in Application Testing are listed in 1. following. Additional regulations for tariffed services that may be used in an application test are listed in the specific tariff section for that service. Services to be provided in an application test are subject to the availability of facilities and equipment as determined by the Company.

1. Tariffed services authorized for use in application testing and the specific tariff reference addressing service-specific regulations are as follows:

- FlexServ® service (Reference: A32.1.3.A.1.)
- Frame Relay Service (Reference: A40.1.2.B.3.d.)

Note 1: Text is shown as new due to reissue of all Tariff Sections. No changes in rates or regulations were made with this Filing.

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A2. GENERAL REGULATIONS

A2.5 Liability of the Company (Cont'd)

A2.5.11 Application Testing (Cont'd)

A. (Cont'd)

1. Tariffed services authorized for use in application testing and the specific tariff reference addressing service-specific regulations are as follows: (Cont'd)

   - Connectionless Data Service (CDS) (Reference: A40.4.2.C.4.c.)

   - Broadband Exchange Line Service (Reference: A40.5.3.A.5)

B. Services that are utilized in an application test with a customer may be provided without charge for an application test period of up to sixty days. Such service is provided for the specific purpose of conducting an application test with a customer and is not intended to be utilized as a substitute for temporary service.

1. Upon completion of the application test where the customer determines that the performance of the services utilized are unacceptable for the application, the application test service will be removed without charge to the customer.
2. Upon completion of the application test where the customer determines that the performance of the services utilized are acceptable for the application and no changes to the test service configuration are required, the customer will be billed the appropriate nonrecurring charges for the test service and monthly billing will begin at that time.[1]
3. Upon completion of the application test where the customer determines that the performance of the services utilized are acceptable for the application, however, the test service configuration must be changed, the customer shall be responsible for both the appropriate nonrecurring charges for the application test service plus all appropriate charges for the rearrangement of the service. Monthly billing shall begin for the rearranged service.[1]

A2.5.12 Limitation of Liability

A. Unauthorized Computer Intrusion

The Company's liability, if any, for its willful misconduct is not limited by this section of this Tariff. With respect to any other claim or suit by a subscriber, common carrier, reseller, or any other party for damages caused by, or associated with, any unauthorized computer intrusion, including but not limited to the input of damaging information such as a virus, time bomb, any unauthorized access, interference, alteration, destruction, theft of, or tampering with, a Company computer, switch, data, database, software, information, network or other similar system, the Company's liability, if any, shall not exceed an amount equal to the proportionate charge by the Company for the service for the period during which the service provided by the Company was affected or so utilized.

Each subscriber of the Company shall be responsible for providing appropriate security measures to protect the subscriber's computer, data, or telecommunications network.

B. Transmission of Data

The Company shall not be held liable for any damage, harm or loss of data caused by the subscriber using the Company's voice-grade telephone access lines and/or facilities for the transmission of data. The Company's liability shall be limited to errors or damages to the transmission of voice messages over these facilities, and the liability shall be limited to an amount equal to the proportionate amount of the Company's billing for the period of service during which the errors or damages occur.

C. Errors or Damages Caused by System Date Limitations

The Company's liability for errors or damage resulting from the inability of the Company's systems to process unusual date requirements, shall be limited to an amount equal to the proportionate amount of the Company's billing for the period of service during which the errors or damages occur.

D. Unauthorized Devices

The Company shall not be liable or responsible for any damage or harm that may occur as the result of unauthorized devices or the failure of the Company to detect unauthorized devices on the subscriber's line.

Note 1: Any additional service requested to be installed upon completion of the application test shall be subject to standard tariff nonrecurring charges and rates as set forth in each service tariff.

Material previously appearing on this page now appears on page(s) 30 of this section.

A2. GENERAL REGULATIONS

A2.6 Classification of Areas as the Basis for Furnishing Telephone Service

A2.6.1 General

A. Economical operation of the telephone business, to secure protection to the whole body of rate payers and to the business itself, requires that the property be built and operated in accordance with a definite plan under which specified classes of service are regularly furnished in specified areas or types of areas. The Telephone Company therefore does not undertake to furnish any desired class of service at any desired location, nor does it undertake to extend its plant to remote sections where such extension is not warranted by the public necessity as distinguished from personal desire, except where adequate protection is afforded.

B. The provisions contained in the other sections of this tariff describe the application of the general principles of providing telephone service.

A2.6.2 Classification of Areas

The general plan for furnishing telephone service is based on the following classification of areas by types for the determination of the classes of service available and for the application of rates

A. Exchange Area

The Exchange Area or Local Service Area is that territory in which local exchange service is furnished and comprises all the area in which some form of local telephone service is furnished, as distinguished from toll service.

B. Toll Area

Outside the Exchange Area, interim foreign exchange service or foreign exchange service are the normal service offerings.

A2.6.3 Reserved For Future Use

A2.7 Obligation of the Company

A2.7.1 Obligation to Furnish Service

The Company's obligation to furnish service or to continue to furnish service is dependent on its ability to obtain, retain and maintain suitable rights and facilities, and to provide for the installation of those facilities required incident to the furnishing and maintenance of that service.

A2.8 Reserved for Future Use

A2.9 Customer Premises Inside Wire

A2.9.1 General

A. Customer premises inside wire is defined as that wire, including connectors, blocks and jacks, within a customer's premises that extends between the termination of the Exchange Access Line or Private Line and those standard jack locations within the customer's premises to which terminal equipment can be connected for access to the Exchange Access Line.

B. Customer premises inside wire provided by the customer must be installed in accordance with the technical standards and installation guidelines furnished to the Commission by the Company.