



SBC Wisconsin  
722 N. Broadway  
Floor 13  
Milwaukee, WI 53202

October 12, 2005

Ms. Christy Zehner  
Secretary to the Commission  
Public Service Commission of Wisconsin  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

Re: Application for Approval of a ISP Amendment to the Interconnection Agreement between Wisconsin Bell, Inc., d/b/a SBC Wisconsin<sup>1</sup>, and US Xchange of Wisconsin, LLC, d/b/a Choice One Communications.

Dear Ms. Zehner:

Wisconsin Bell, Inc., d/b/a SBC Wisconsin, and US Xchange of Wisconsin, LLC, d/b/a Choice One Communications, hereby request approval, pursuant to 47 U.S.C. 252, of a ISP Amendment to the Interconnection Agreement between Wisconsin Bell, Inc., d/b/a SBC Wisconsin, and US Xchange of Wisconsin, LLC, d/b/a Choice One Communications.

I have been authorized by US Xchange of Wisconsin, LLC to submit for Commission approval, pursuant to 47 U.S.C. s 252(e), the enclosed agreement.

US Xchange of Wisconsin, LLC  
Steven A. Mowers  
VP Finance and Treasurer  
100 Chestnut Street, Suite 600  
Rochester, NY 14064  
Tel: 585-530-2945  
Fax: 585-697-7805

Very Truly Yours,

Joan Schoenberger

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<sup>1</sup> Wisconsin Bell, Inc. ("Wisconsin Bell"), a Wisconsin corporation, is a wholly owned subsidiary of Ameritech Corporation, which owns the former Bell operating companies in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin. Wisconsin Bell offers telecommunications services and operates under the names "SBC Wisconsin" and "SBC Ameritech Wisconsin", pursuant to assumed name filings with the State of Wisconsin. Ameritech Corporation is a wholly owned subsidiary of SBC Communications, Inc

**AMENDMENT TO  
INTERCONNECTION AGREEMENT  
BY AND BETWEEN  
WISCONSIN BELL, INC. d/b/a SBC WISCONSIN  
AND  
US XCHANGE OF WISCONSIN, LLC d/b/a CHOICE ONE COMMUNICATIONS**

Wisconsin Bell, Inc. d/b/a SBC Wisconsin<sup>1</sup>, as the Incumbent Local Exchange Carrier in Wisconsin, (hereafter, "ILEC") and US Xchange of Wisconsin, LLC d/b/a Choice One Communications as a Competitive Local Exchange Carrier ("CLEC"), in Wisconsin, (referred to as "CARRIER"), in order to amend, modify and supersede any affected provisions of their Interconnection Agreement with ILEC in Wisconsin ("Interconnection Agreement"), hereby execute this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC's Interim ISP Terminating Compensation Plan)("Amendment"). CLEC is also referred to as a "LEC."

1.0 Scope of Amendment

- 1.1 ILEC made an offer to all telecommunications carriers in the state of Wisconsin (the "Offer") to exchange traffic on and after June 1, 2003 under Section 251(b)(5) of the Act pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan of the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) ("FCC ISP Compensation Order") which was remanded but not vacated in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002).
- 1.2 The purpose of this Amendment is to include in CARRIER's Interconnection Agreement the rates, terms and conditions of the FCC's interim ISP terminating compensation plan for the exchange of ISP-bound traffic lawfully compensable under the FCC ISP Compensation Order ("ISP-Bound Traffic") and traffic lawfully compensable under Section 251(b)(5) ("Section 251(b)(5) Traffic").
- 1.3 This Amendment is intended to supercede any and all contract sections, appendices, attachments, rate schedules, or other portions of the underlying Interconnection Agreement that set forth rates, terms and conditions for the terminating compensation for ISP-Bound Traffic and Section 251(b)(5) Traffic exchanged between ILEC and CARRIER. Any inconsistencies between the provisions of this Amendment and provisions of the underlying Interconnection Agreement shall be governed by the provisions of this Amendment.

2.0 Rates, Terms and Conditions of FCC's Interim ISP Terminating Compensation Plan

- 2.1 ILEC and CARRIER hereby agree that the following rates, terms and conditions shall apply to ISP-Bound Traffic exchanged between the Parties on and after the date this Amendment becomes effective pursuant to Section 4.1 of this Amendment.
- 2.2 Compensation Rate Schedule
  - 2.2.1 The rates, terms, conditions in this section apply only to the termination of ISP-Bound Traffic, and ISP-Bound Traffic is subject to the rebuttable presumption in Section 2.6. In addition, the amount and the types of traffic compensable under this amendment, at the rates set forth in this amendment, are subject to the growth caps in Section 2.3 and the new market restrictions in Section 2.4. The growth caps set forth in section 2.3, and the new market restrictions set forth in section 2.4, are applicable from the Effective Date set forth in Section 1.1 of this Amendment through October 8, 2004.

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<sup>1</sup> Wisconsin Bell, Inc. (previously referred to as "Wisconsin Bell"), is a wholly-owned subsidiary of Ameritech Corporation and now operates under the name "SBC Wisconsin" pursuant to an assumed name filing with the State of Wisconsin. Ameritech Corporation is a wholly owned subsidiary of SBC Communications Inc.

2.2.2 The Parties agree to compensate each other for the transport and termination of ISP-Bound Traffic on a minute of use basis, at \$.0007 per minute of use.

2.2.3 The Parties agree to compensate each other for the transport and termination of Section 251(b)(5) traffic pursuant to the Amendment to Interconnection Agreement by and between Wisconsin Bell, Inc. d/b/a SBC Wisconsin and US Xchange of Wisconsin, L.L.C. d/b/a Choice One Communications filed with the Public Service Commission of Wisconsin on April 6, 2004 per Docket 6720-TI-161. If the rates reflected in this Section 2.2.3 should be modified by the Commission during the term of the Interconnection Agreement the parties agree to implement such modified rates in accordance with the effective date ordered by the Commission. The parties agree to modify this Section accordingly.

### 2.3 ISP-Bound Traffic Minutes Growth Cap

2.3.1 On a calendar year basis, as set forth below, LEC and ILEC agree to cap overall compensable Wisconsin ISP-Bound Traffic minutes of use based upon the 1st Quarter 2001 ISP-Bound Traffic minutes for which LEC was entitled to compensation under its WISCONSIN Interconnection Agreement(s) in existence for the 1st Quarter of 2001, on the following schedule.

Calendar Year 2001	1st Quarter 2001 compensable ISP-Bound minutes, times 4, times 1.10
Calendar Year 2002	Year 2001 compensable ISP-Bound minutes, times 1.10
Calendar Year 2003	Year 2002 compensable ISP-Bound minutes
January 1, 2004 through October 8, 2004	Year 2002 compensable ISP-Bound minutes
October 9, 2004 and beyond	No cap

Notwithstanding anything contrary herein, in Calendar Year 2004, CLEC and ILEC agree that ISP-Bound Traffic exchanged between CLEC and ILEC during the period from January 1, 2004 through October 8, 2004 that exceeds Year 2002 compensable ISP-bound minutes shall be subject to a Bill and Keep arrangement.

2.3.2 For the period beginning with the Effective Date set forth in Section 1.1 through October 8, 2004, ISP-Bound Traffic minutes that exceed the applied growth cap will be subject to a Bill and Keep arrangement. "Bill and Keep" refers to an arrangement in which neither of two interconnecting Parties charges the other for terminating traffic that originates on the other network.

2.3.3 ISP traffic exchanged between CLEC and ILEC after October 8, 2004, shall not be subject to a growth cap for the remainder of this agreement.

### 2.4 Bill and Keep for ISP-Bound Traffic in New Markets

2.4.1 For the period beginning with the Effective Date set forth in Section 1.1 through October 8, 2004, Bill and Keep will be the reciprocal compensation arrangement for all ISP-Bound Traffic between CARRIER and ILEC for all Wisconsin LATAs in which CLEC and ILEC had not previously exchanged ISP-Bound Traffic prior to April 18, 2001.

### 2.5 Segregation of Traffic for Billing

2.5.1 Wherever Bill and Keep is the traffic termination arrangement between CARRIER and ILEC up to and including October 8, 2004, both Parties shall segregate the traffic that is subject to a Bill and Keep arrangement from other compensable local traffic either (a) by excluding the Bill and Keep minutes of use from other compensable minutes of use in the monthly billing invoices, or (b) by any other means mutually agreed upon by the Parties.

### 2.6 Limitation of Applicability of Growth Caps and new Market Restrictions

2.6.1 The Growth Cap and New Market Bill and Keep arrangement applies only to ISP-Bound Traffic up to and including October 8, 2004, and does not include Optional Calling Area traffic, IntraLATA Interexchange traffic, or InterLATA Interexchange traffic.

## 2.7 ISP-Bound Traffic Rebuttable Presumption

2.7.1 In accordance with Paragraph 79 of the FCC's ISP Compensation Order, LEC and ILEC agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound traffic exchanged between LEC and ILEC exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation terms in this Section 2.0. Either Party has the right to rebut the 3:1 ISP presumption by any means mutually agreed by the Parties, or by any method accepted by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission or FCC agrees that such Party has rebutted the presumption, the methodology and/or means by the Commission for use in determining the ratio shall be utilized by the Parties as of the date of the Commission approval and, in addition, shall be utilized to determine the appropriate true-up as described below. During the pendency of any such proceedings to rebut the presumption, LEC and ILEC will remain obligated to pay reciprocal compensation rates for Section 251(b)(5) Traffic at the rates set forth in Section 2.2.3 and ISP-Bound Traffic at the rates set forth in Section 2.2.2. Such true-up shall be retroactive back to the date a Party first sought appropriate relief from the Commission.

## 3.0 Reservation of Rights

3.1 The Parties reserve the right to raise the appropriate treatment of Voice Over Internet Protocol ("VoIP") and traffic utilizing in whole or part Internet Protocol technology under the Dispute Resolution provisions of this Agreement, including but not limited to, any rights they may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (Rel. April 21, 2004). The Parties acknowledge that there is an on-going disagreement between LECs and ILEC over whether or not, under the law, VoIP traffic or traffic utilizing in whole or part IP technology is subject to reciprocal compensation or switched access charges. The Parties therefore agree that neither one will argue or take the position before any regulatory commission or court that this Amendment constitutes an agreement as to whether or not reciprocal compensation or switched access charges apply to that traffic or a waiver by either party of their position or their rights as to that issue. The Parties further agree that they each have reserved the right to advocate their respective positions relating to the treatment and compensation for VoIP traffic and traffic utilizing in whole or part Internet Protocol technology before any state commission or the Federal Communications Commission ("FCC") whether in bilateral complaint dockets, arbitrations under Section 252 of the Act, state commission or FCC established rulemaking dockets, or before any judicial or legislative body.

## 4.0 Miscellaneous

- 4.1 This Amendment will be effective on June 1, 2003 ("Effective Date") contingent upon any necessary commission approval; provided however, the rates, terms and conditions relating to all ISP-Bound Traffic shall apply effective June 1, 2003 and the rates, terms and conditions relating to all Section 251(b)(5) Traffic shall apply effective ten days after approval of the Amendment.
- 4.2 To the extent that compensation for intercarrier traffic on or after the Effective Date June 1, 2003 was already billed and/or paid prior to the time that the state commission approved this Amendment, the Parties agree to implement any adjustments, reimbursements, or other "true ups" necessary to make the rates and terms set forth in this Amendment effective for all traffic terminated on and after June 1, 2003.
- 4.3 This Amendment is coterminous with the underlying Interconnection Agreement and does not extend the term or change the termination provisions of the underlying Interconnection Agreement.
- 4.4 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING INTERCONNECTION AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- 4.5 Every rate, term and condition of this Amendment is legitimately related to the other rates, terms and conditions in this Amendment. Without limiting the general applicability of the foregoing, the change of law provisions of the underlying Interconnection Agreement, including but not limited to the "Intervening Law" or "Change of Law" or "Regulatory Change" section of the General Terms and Conditions of the Interconnection Agreement and as

modified in this Amendment, are specifically agreed by the Parties to be legitimately related to, and inextricably intertwined with this the other rates, terms and conditions of this Amendment.

- 4.6 In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-312 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including this and any other amendments to the Agreement), SBC Wisconsin shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and CLEC's own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders. Further, neither Party will argue or take the position before any state or federal regulatory commission or court that any provisions set forth in this Agreement and this Amendment constitute an agreement or waiver relating to the appropriate routing, treatment and compensation for Voice Over Internet Protocol traffic and/or traffic utilizing in whole or part Internet Protocol technology; rather, each Party expressly reserves any rights, remedies, and arguments they may have as to such issues including but not limited, to any rights each may have as a result of the FCC's Order *In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361 (rel. April 21, 2004). Notwithstanding anything to the contrary in the Agreement and this Amendment and except to the extent that SBC Wisconsin has adopted the FCC ISP terminating compensation plan ("FCC Plan") in Wisconsin, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to SBC Wisconsin's right to exercise its option at any time to adopt on a date specified by SBC WISCONSIN the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and this Amendment and/or otherwise affects the rights or obligations of either Party that are addressed by the Agreement and this Amendment, specifically including but not limited to those arising with respect to the Government Actions, either Party may invoke its intervening law or any other applicable rights in the underlying Agreement and/or pursuant to applicable law, and to the extent there are any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order, any such disputes shall be resolved pursuant to the Dispute Resolution process in the underlying Interconnection Agreement.
- 4.7 Effective January 1, 2005, for intrastate intraLATA toll traffic, compensation for termination of such traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge where applicable, as set forth in each Party's Intrastate Access Service Tariff, but such compensation shall not exceed the compensation contained in SBC-13STATE's tariff in whose exchange area the End User is located.

IN WITNESS WHEREOF, this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC Interim Terminating Compensation Plan) to the Interconnection Agreement was exchanged in triplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by ILEC, signing by and through its duly authorized representative, and CARRIER, signing by and through its duly authorized representative.

**US Xchange of Wisconsin, LLC d/b/a Choice One Communications**

**Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC Operations, Inc., its authorized agent**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_  
(Print or Type)

Title: AVP-Local Interconnection Marketing

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FACILITIES-BASED OCN # \_\_\_\_\_**

**ACNA \_\_\_\_\_**

IN WITNESS WHEREOF, this Reciprocal Compensation Amendment for ISP-Bound Traffic and Federal Telecommunications Act Section 251(b)(5) Traffic (Adopting FCC Interim Terminating Compensation Plan) to the Interconnection Agreement was exchanged in triplicate on this 6<sup>th</sup> day of October, 2005, by ILEC, signing by and through its duly authorized representative, and CARRIER, signing by and through its duly authorized representative.

US Xchange of Wisconsin, LLC d/b/a Choice One Communications

Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC Operations, Inc., its authorized agent

Signature: [Signature]

Signature: [Signature]

Name: Steven A. Mowers  
(Print or Type)

Name: Mike Auinbauh  
(Print or Type)

Title: VP Finance-Treasurer  
(Print or Type)

Title: AVP-Local Interconnection Marketing

Date: 10-4-05

Date: 10-06-05

FACILITIES-BASED OCN # 7979

ACNA UXW