

**COLLOCATION POWER AMENDMENT
TO THE INTERCONNECTION AGREEMENT UNDER
SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

This Collocation Power Amendment to the Interconnection Agreement (“ICA”) under Sections 251 and 252 of the Telecommunications Act of 1996 (the “**Amendment**”) by and between Wisconsin Bell Inc. d/b/a SBC Wisconsin (“**SBC Wisconsin**”) and CMC Telecom, Inc. (“**CLEC**”) is dated _____, **2005**.

WHEREAS, SBC Wisconsin and CLEC are parties to a certain Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (“**Act**”) approved by the Wisconsin Public Service Commission (“State Commission”), as may have been amended prior to the date hereof (the “**Agreement**”);

WHEREAS, the Parties want to amend the Agreement to revise the methodology for charging for collocation DC Power, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.
2. By executing this Amendment, CLEC represents and warrants that it has not been and will at no time henceforth draw more than 50% of the combined total ordered capacity of the DC power leads (in amperes or “AMPs”) ordered by CLEC and provided by SBC Wisconsin for a collocation arrangement, or any new collocation arrangements (the combined total capacity being the aggregate ordered capacity of all leads for that collocation arrangement, including all “A” AMPs and all “B” AMPs). Based upon CLEC’s representation and warranty, and other good and valuable consideration as set forth herein, SBC Wisconsin shall prospectively bill the CLEC for DC collocation power at a monthly recurring rate of \$10.61 per AMP applied to fifty percent (50%) of the combined total ordered capacity. By way of example, where a CLEC has ordered and SBC Wisconsin has provisioned two (2) twenty (20) AMP DC power leads (for a combined total of forty (40) AMPs), based upon that representation and warranty, SBC Wisconsin shall prospectively bill the CLEC the monthly recurring charge of \$10.61 per AMP for a total of twenty (20) AMPs (i.e., \$212.20 per month).
3. SBC Wisconsin has the right to periodically inspect and/or test the amount of DC power CLEC actually draws and, in the event CLEC is found to have breached the representation and warranty set forth in paragraph 2, to pursue remedies for breach of this Amendment and the Agreement.
4. The provisions of this Amendment shall remain effective until such time as the State Commission establishes, by means of a final order issued in a cost proceeding establishing rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, the monthly recurring rate(s) and billing procedure (including rate application) for SBC Wisconsin’s collocation DC power, or until expiration or termination of this Amendment, whichever occurs first. If the foregoing is triggered by a cost proceeding establishing rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, then either Party may invoke the change of law/rate (or similar) provisions of the Agreement, as may be applicable, in

accordance with such provisions. In the case of either triggering event, the provisions of this Amendment shall continue to apply until thereafter replaced by a successor interconnection agreement/amendment, as the case may be. By executing this Amendment, both Parties relinquish any right, during the term of the Amendment, to a different rate and billing procedure (including rate application) from the Effective Date of this Amendment until such time as the State Commission issues a final order in a cost proceeding establishing rates for collocation provided under 47 U.S.C. § 251(c)(6) applicable to all requesting telecommunications carriers, the monthly recurring rate(s) and billing procedure (including rate application) for SBC Wisconsin's collocation DC power.

5. Nothing in this Amendment shall be deemed or considered an admission on the part of SBC Wisconsin as to, or evidence of, the unreasonableness of the rates and elements for collocation DC power in SBC Wisconsin, or of the manner in which SBC Wisconsin has applied or billed such rates, or any other aspect of its collocation power billing, all as existed prior to the changes being made by this Amendment.

6. In connection with this Amendment and as part of an overall settlement, CLEC and SBC Wisconsin have agreed to and do hereby affirm that they mutually release and discharge each other from all claims which each Party may have against the other arising directly or indirectly out of, or relating in any way, to charges for DC collocation power. Whereby current regulatory activities as of July 15, 2004 will continue and are not subject to this agreement, CLEC agrees not to propose or support any proposal before the Wisconsin Public Service Commission to reduce or change charges for collocation DC power charges (or changes in policies or application that result in a reduction or change), including any proposal to base DC collocation power charges on an "as used" and/or metered usage basis for the duration of the Agreement, including any period subsequent to the stated expiration date of the Agreement, but before it is replaced by a successor agreement containing terms and conditions relative to collocation. In addition, CLEC and SBC Wisconsin agree to mutually release and discharge each other from all claims which each Party may have against the other arising directly or indirectly out of, or relating in any way, to charges for DC collocation power. The billing arrangement described in Paragraphs 2, 3 and 4 ("Billing Arrangement"), above, is integrally related to the overall settlement and the mutual release and discharge. Said mutual release and discharge, and the Billing Arrangement are expressly contingent upon:

- 1) approval by the State Commission of the terms and conditions of this Amendment; and
- 2) dismissal with prejudice of CLEC's complaint or complaints, if any, with the State Commission arising directly or indirectly out of, or relating in any way to charges for DC collocation power ("Collocation Power Complaint(s)"), to the extent CLEC has filed such Collocation Power Complaint(s); and
- 3) an exchange of consideration between the Parties in connection with said settlement, including a payment between CLEC and SBC of a mutually agreed upon amount.

7. The effective date of this Amendment shall be the day upon which the State Commission approves this Amendment under Section 252(e) of the Act or, absent such State Commission approval, the date this Amendment is deemed approved by operation of law ("Amendment Effective Date"). In the event that all or any portion of this Amendment as agreed-to and submitted is rejected and/or modified by the State Commission, this Amendment shall be automatically suspended and, unless otherwise mutually agreed, the Parties shall expend diligent efforts to arrive at mutually acceptable new provisions to replace those rejected and/or modified by the State Commission; provided, however, that failure to

reach such mutually acceptable new provisions within thirty (30) days after such suspension shall permit either Party to terminate this Amendment upon ten (10) days written notice to the other.

8. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. This Amendment will become effective as of the Amendment Effective Date, and will terminate on the termination or expiration of the Agreement. This Amendment does not extend the term of the Agreement.

9. In entering into this Amendment, the Parties acknowledge and agree that neither Party is waiving any of its rights, remedies or arguments it may have at law or under the underlying Agreement, including but not limited to the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment), with respect to any orders, decisions, legislation or proceedings and any remands thereof, including but not limited to its intervening law or other rights relating to the following actions which occurred after the Effective Date of the underlying 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), and the FCC's Biennial Review Proceeding; 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); 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). In entering into this Amendment, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings.

10. This Amendment constitutes the entire amendment of the Agreement and supersedes all previous proposals, both verbal and written. To the extent there is a conflict or inconsistency between the provisions of this Amendment and the provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda and Exhibits to the Agreement), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency. The Parties further acknowledge that the entirety of this Amendment and its provisions are non-severable, and are "legitimately related" as that phrase is understood under Section 252(i) of Title 47, United States Code, notwithstanding the fact that Section 252(i) does not apply to this Amendment.

11. This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single agreement.