

## **EXHIBIT 1**

### **PRICING ATTACHMENT FOR TANDEM TRANSIT TRAFFIC SERVICE AND FOUR-PARTY TRAFFIC SERVICE**

#### **1. Part of Section 6.2 of Attachment 2 of the Unitary Rate Amendment.**

This "Pricing Attachment for Tandem Transit Traffic Service and Four-Party Traffic Service" ("Pricing Attachment") is hereby made a part of Section 6.2 of Attachment 2 of the Unitary Rate Amendment.

#### **2. General**

##### **2.1 As used in this Pricing Attachment:**

- 2.1.1 "Services"** means and is comprised of Tandem Transit Traffic Service and Four-Party Traffic Service.
- 2.1.2 "Charges"** means the rates, fees, charges and prices for a Service.
- 2.1.3 "Commission"** means, for each state and the District of Columbia, the State Commission for that state or the District of Columbia, as the term "State Commission" is defined in 47 U.S.C. § 153(41).
- 2.1.4 "FCC"** means the Federal Communications Commission.

##### **2.2 Charges for Services shall be as stated in this Section 2.**

##### **2.3 The Charges for a Service shall be the Charges for the Service stated in Verizon's applicable Tariff.**

##### **2.4 In the absence of Charges for a Service established pursuant to Section 2.3 of this Pricing Attachment, the Charges shall be as follows:**

- 2.4.1 For each Interconnection Agreement, the Charges for Tandem Transit Traffic Service shall be the Charges for Tandem Transit Traffic Service provided for in such Interconnection Agreement (including, if the Interconnection Agreement is an adoption by NT pursuant to 47 U.S.C. § 252(i), the Charges for Tandem Transit Traffic Service provided for in the 47 U.S.C. § 252(i) adoption letter for the Interconnection Agreement) on the later of (a) October 16, 2006, or (b) the date on which such Interconnection Agreement became effective between the Parties.**

- 2.4.2 For each Interconnection Agreement, the Charges for Four-Party Traffic Service shall be the Charges for Tandem Transit Traffic Service provided for in such Interconnection Agreement (including, if the Interconnection Agreement is an adoption by NT pursuant to 47 U.S.C. § 252(i), the Charges for Tandem Transit Traffic Service provided for in the 47 U.S.C. § 252(i) adoption letter for the Interconnection Agreement) on the later of (a) October 16, 2006, or (b) the date on which such Interconnection Agreement became effective between the Parties.
    - 2.4.3 The Charges provided for in Sections 2.4.1 and 2.4.2, above, shall be automatically superseded by any applicable Verizon Tariff Charges. The Charges provided for in Sections 2.4.1 and 2.4.2, above, also shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a Verizon Tariff that has been filed with the Commission or the FCC), provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.
  - 2.5 In the absence of Charges for a Service established pursuant to Sections 2.3 through 2.4 of this Pricing Attachment, if Charges for a Service are otherwise expressly provided for in the Interconnection Agreement, such Charges shall apply.
  - 2.6 In the absence of Charges for a Service established pursuant to Sections 2.3 through 2.5 of this Pricing Attachment, the Charges for the Service shall be Verizon's FCC or Commission approved Charges.
  - 2.7 In the absence of Charges for a Service established pursuant to Sections 2.3 through 2.6 of this Pricing Attachment, the Charges for the Service shall be mutually agreed to by the Parties in writing.
3. NT Charges
    - 3.1 NT shall not impose any charges upon Verizon pursuant to Section 6.2 or this Pricing Attachment.
  4. Regulatory Review of Prices
    - 4.1 Notwithstanding any other provision of the Interconnection Agreements, each Party reserves its respective rights to institute an appropriate proceeding with the FCC, the Commission or other

governmental body of appropriate jurisdiction with regard to the Charges for Services (including, but not limited to, a proceeding to change the Charges for the Services, whether provided for in any of Verizon's Tariffs, this Amendment, or otherwise).



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

December 24, 2007

A-311435F7000

RONALD GAVILLET  
NEUTRAL TANDEM INC  
1 SOUTH WACKER SUITE 200  
CHICAGO IL 60606

Joint Petition of Verizon Pennsylvania Inc. and Neutral Tandem-Pennsylvania, LLC for Approval of an  
Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on December 20, 2007 has adopted  
an Opinion and Order in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

A handwritten signature in black ink that appears to read "James J. McNulty".

James J. McNulty  
Secretary

encls  
cert. mail  
JF

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held December 20, 2007

Commissioners Present:

Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Tyrone J. Christy  
Kim Pizzingrilli

Joint Petition of Verizon Pennsylvania Inc.  
and Neutral Tandem-Pennsylvania, LLC for  
Approval of an Interconnection Agreement  
Under Section 252(e) of the Telecommunications  
Act of 1996

A-311435F7000

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Joint Petition for approval of an Interconnection Agreement (Agreement) between Verizon Pennsylvania Inc. (Verizon) and Neutral Tandem-Pennsylvania, LLC (Neutral Tandem). The Agreement was filed pursuant to the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of Title 47, United States Code) (TA-96), including 47 U.S.C. §§ 251, 252, and 271, and the Commission's Orders in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996); Order on Reconsideration entered September 9, 1996; see also *Proposed Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) (*Implementation Orders*).

### History of the Proceeding

On October 26, 2007, Verizon and Neutral Tandem filed the instant Joint Petition seeking approval of the Agreement. The Commission published notice of the Joint Petition and the Agreement in the *Pennsylvania Bulletin* on November 17, 2007, advising that any interested parties could file comments within ten days. No comments have been received.

The Agreement has an effective date of October 10, 2007, and unless cancelled or terminated earlier in accordance with the terms of the Agreement, will continue in effect until October 9, 2009. Thereafter, the Agreement will continue in force and effect unless and until cancelled or terminated as provided in the Agreement.

Agreement at 2.

In the Joint Petition before us, Verizon is the Incumbent Local Exchange Carrier (ILEC) and Neutral Tandem is certified to provide facilities-based and resold local exchange services as a Competitive Local Exchange Carrier (CLEC).<sup>1</sup>

### Discussion

#### A. Standard of Review

The Commission's standard of review of a negotiated interconnection agreement is set out in Section 252(e)(2) of TA-96, 47 U.S.C § 252(e)(2), which provides, in pertinent part, that:

<sup>1</sup> It is noted that regardless of the types of services covered by this Interconnection Agreement, it would be a violation of the Public Utility Code, 66 Pa. C.S. §§ 101 *et seq.*, if Neutral Tandem began offering services or assessing surcharges to end users which it has not been authorized to provide and for which tariffs have not been authorized.

- (2) Grounds for rejection. The state Commission may only reject -
  - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds -
    - (i) the agreement (or portion thereof) discriminated against a telecommunications carrier not a party to the agreement; or
    - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity . . . .

With these criteria in mind, we shall review the Agreement submitted by Verizon and Neutral Tandem.

#### B. Summary of Terms

The Agreement contains the terms, rates and conditions for the interconnection of the Parties' local exchange networks, for the purpose of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, as well as Neutral Tandem's purchase of telecommunication services for resale to others. The Parties agree that the charges for a specific service shall be the charges for the service as stated in the providing party's applicable tariff. Pricing Attachment at 123. The Discount Resale Rate for the resale of retail service is 22.00 percent, if Neutral Tandem provides its own operator services platform, and 18.34 percent if Neutral Tandem uses Verizon's operator services platform. Appendix A to the Pricing Attachment at 135.

Reciprocal Compensation Rates for traffic termination are as follows: the rate for traffic to an end office is \$0.000987 per minute of use (MOU); and the rate for tandem traffic is \$0.002439 per MOU. Appendix A to the Pricing Attachment at 127.

The Parties also agree to provide Number Portability (NP) in accordance with the rules and regulations prescribed by the Federal Communications Commission (FCC), and to follow the Local Number Portability (LPN) provisioning process recommended by the North American Numbering Council (NANC) and the Industry Numbering Council (INC), and adopted by the FCC. Local Number Portability will be provided on a reciprocal basis. Agreement at 76-78.

#### C. Disposition

We shall approve the Agreement, finding that it satisfies the two-pronged criteria of Section 252(e) of TA-96. We note that in approving this privately negotiated Agreement, including any provisions limiting unbundled access to Verizon's network, we express no opinion regarding the enforceability of our independent state authority preserved by 47 U.S.C. § 251(d)(3) and any other applicable law.

We shall minimize the potential for discrimination against other carriers not parties to the Agreement by providing here that our approval of this Agreement shall not serve as precedent for agreements to be negotiated or arbitrated by other parties. This is consistent with our policy of encouraging settlements. 52 Pa. Code § 5.231; *see also*, 52 Pa. Code § 69.401, *et seq.*, relating to settlement guidelines, and our Statement of Policy relating to the Alternative Dispute Resolution Process, 52 Pa. Code § 69.391, *et seq.* Based on the foregoing, we find that the Agreement does not discriminate against telecommunications carriers not parties to the negotiations.

TA-96 requires that the terms of the Agreement be made available for other parties to review. 47 U.S.C. § 252(h). However, this availability is only for purposes of full disclosure of the terms and arrangements contained therein. The accessibility of the Agreement and its terms to other parties does not connote any intent that our approval

will affect the status of negotiations between other parties. In this context, we will not require Verizon and Neutral Tandem to embody the terms of the Agreement in a filed tariff.

With regard to the public interest element of this matter, we note that no negotiated interconnection agreement may affect those obligations of the ILEC in the areas of protection of public safety and welfare, service quality, and the rights of consumers. *See, e.g.*, Section 253(b) of TA-96. This is consistent with TA-96 wherein service quality and standards, *i.e.*, Universal Service, 911, Enhanced 911(E911), and Telecommunications Relay Service, are inherent obligations of the ILEC and continue unaffected by a negotiated agreement. We have reviewed the Agreement's terms relating to 911 and E911 services, and conclude that these provisions of the instant Agreement are consistent with the public interest.

Consistent with our May 3, 2004 Order at Docket No. M-00960799, we will require that Verizon file an electronic, true and correct copy of the Interconnection Agreement in ".pdf format" for inclusion on the Commission's website, within thirty days of the date of entry of this Opinion and Order.

#### Conclusion

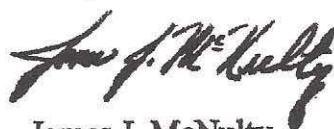
Based on the foregoing and pursuant to Section 252(e) of TA-96, *supra*, and our *Implementation Orders*, we determine that the Interconnection Agreement between Verizon and Neutral Tandem is non-discriminatory to other telecommunications companies not parties to it and that it is consistent with the public interest;

**THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for approval of an Interconnection Agreement filed on October 26, 2007, by Verizon Pennsylvania Inc. and Neutral Tandem-Pennsylvania, LLC, pursuant to the Telecommunications Act of 1996, and the Commission's Orders in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996); *Order on Reconsideration* (Order entered September 9, 1996); and *Proposed Modifications to the Review of Interconnection Agreements* (Order entered May 3, 2004) is granted, consistent with this Opinion and Order.
2. That approval of the Interconnection Agreement shall not serve as binding precedent for negotiated or arbitrated agreements between non-parties to the subject Agreement.
3. That Verizon Pennsylvania Inc. shall file an electronic, true and correct copy of the Interconnection Agreement, in ".pdf format", with this Commission within thirty (30) days of the date of entry of this Opinion and Order, for inclusion on the Commission's website.

**BY THE COMMISSION**



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: December 20, 2007

ORDER ENTERED: DEC 24 2007

Suzan DeBusk Paiva  
Assistant General Counsel



Verizon Pennsylvania Inc.  
1717 Arch Street, Floor 10  
Philadelphia, PA 19103

Tel: (215) 466-4755  
Fax: (215) 563-2658  
Suzan.D.Paiva@Verizon.com

October 26, 2007

**VIA UPS OVERNIGHT**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

RE: Joint Filing of  
Verizon Pennsylvania Inc. and  
Neutral Tandem – Pennsylvania, LLC  
for Approval of an Interconnection Agreement  
Dkt. No.

Dear Mr. McNulty:

Enclosed please find an original and three (3) copies of the joint filing of Verizon Pennsylvania Inc. and Neutral Tandem – Pennsylvania, LLC for Approval of an Interconnection Agreement. The Interconnection Agreement is deemed effective October 10, 2007, and was signed by the two parties' signers on October 2, 2007 and October 9, 2007 respectively. Thus, this Joint Filing is being made within 30 days of the day that the Agreement was signed, as required by ordering Paragraph 5 of the Commission's May 3, 2004 Final Order in Docket No. M-00960799. As evidenced by the cc: below, notice of this filing is being provided to Neutral Tandem – Pennsylvania, LLC.

Please date stamp the enclosed additional copy and return it to me in the enclosed self-addressed, stamped envelope.

Very truly yours,

A handwritten signature in black ink that reads "Suzan D. Paiva". Below the signature, the name "Suzan D. Paiva" is printed in a smaller, standard font.

SDP/slb

Enclosure

cc: David Tatak, Neutral Tandem, Inc.  
Attached Service List

## SERVICE LIST

Irwin A. Popowsky  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1921

William Lloyd  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101

Charles F. Hoffman  
Office of Trial Staff  
PA Public Utility Commission  
Commonwealth Keystone Bldg  
400 North Street  
Harrisburg, PA 17105-3265

Office of Special Assistants  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Bureau of Consumer Services  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Bureau of Fixed Utility Services  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Office of the Attorney General  
Bureau of Consumer Protection  
Strawberry Square, 14th Floor  
Harrisburg, PA 17120

**SIGNATURE PAGE**

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

NEUTRAL TANDEM - PENNSYLVANIA, LLC

By: David Tatak

Printed: David Tatak

Title: VP Billing and Revenue Services

Date: 10/2/07

VERIZON PENNSYLVANIA INC.

By: Jeffrey A. Masoner

Printed: Jeffrey A. Masoner

Title: Vice President - Interconnection Services

Date: 10/9/07

**AGREEMENT**

**by and between**

**NEUTRAL TANDEM - PENNSYLVANIA, LLC**

**and**

**VERIZON PENNSYLVANIA INC.**

**FOR THE COMMONWEALTH OF**

**PENNSYLVANIA**

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## **AGREEMENT**

### **PREFACE**

This Agreement ("Agreement") shall be deemed effective as of October 10, 2007 (the "Effective Date"), between Neutral Tandem - Pennsylvania, LLC ("Neutral Tandem"), a Limited Liability Company organized under the laws of the State of Delaware, with offices at 1 South Wacker, Suite 200, Chicago, IL 60606 and Verizon Pennsylvania Inc. ("Verizon"), a corporation organized under the laws of the Commonwealth of Pennsylvania with offices at 1717 Arch Street, Philadelphia, PA 19103 (Verizon and Neutral Tandem may be referred to hereinafter, each, individually as a "Party", and, collectively, as the "Parties").

**Whereas**, the Parties wish to enter into this Agreement pursuant to Section 252 of the Act; and

**Whereas**, pursuant to 47 U.S.C. § 252(i), effective October 16, 2006, Neutral Tandem—New York, LLC adopted the August 1, 2006 "Interconnection Agreement Under Sections 251 and 252 of the Telecommunications Act of 1996 By and Between Verizon New York Inc. and AT&T Communications of New York, Inc." including (but not limited to) the AT&T DS0 Loop/Resale Amendment and the Unitary Rate Amendment; and

**Whereas**, the Unitary Rate Amendment was amended by an amendment signed by "The Neutral Tandem Parties" (as described in the amendment) on January 4, 2007 and "The Verizon Parties" (as described in the amendment) on January 11, 2007 (the "January 11, 2007 URA Amendment"); and

**Whereas**, the Parties acknowledge and reaffirm that as a result of such adoption the AT&T DS0 Loop/Resale Amendment applies to this Agreement in accordance with the terms of the AT&T DS0 Loop/Resale Amendment; and

**Whereas**, the Parties acknowledge and reaffirm that as a result of such adoption and the January 11, 2007 URA Amendment, the Unitary Rate Amendment, as amended by the January 11, 2007 URA Amendment, applies to this Agreement in accordance with the terms of the Unitary Rate Amendment, as amended by the January 11, 2007 URA Amendment;

**Now Therefore**, in consideration of the mutual promises contained in this Agreement, and intending to be legally bound, pursuant to Section 252 of the Act, Verizon and Neutral Tandem hereby agree as follows:

### **GENERAL TERMS AND CONDITIONS**

#### **1. The Agreement**

- 1.1 This Agreement includes: (a) the Principal Document; (b) the Tariffs of each Party applicable to the Services that are offered for sale by it in the Principal Document (which Tariffs are incorporated into and made a part of this Agreement by reference); and, (c) an Order by a Party that has been accepted by the other Party.
- 1.2 Except as otherwise expressly provided in the Principal Document (including, but not limited to, the Pricing Attachment), conflicts among provisions in the Principal Document, Tariffs, and an Order by a Party that has been accepted by the other Party, shall be resolved in accordance with the following order of precedence, where the document identified in subsection "(a)" shall have the highest precedence: (a) the Principal Document; (b) the Tariffs; and, (c) an Order by a Party that has been accepted by the other Party. The fact that a provision appears in the Principal Document but not in a Tariff, or in a Tariff but not in the

Principal Document, shall not be interpreted as, or deemed grounds for finding, a conflict for the purposes of this Section 1.2.

- 1.3 This Agreement constitutes the entire agreement between the Parties on the subject matter hereof, and supersedes any prior or contemporaneous agreement, understanding, or representation, on the subject matter hereof, provided, however, notwithstanding any other provision of this Agreement or otherwise, this Agreement is an amendment, extension and restatement of the Parties' prior interconnection and resale agreement(s), if any, and, as such, this Agreement is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction with respect to any prior interconnection or resale agreements and, accordingly, all monetary obligations of the Parties to one another under any prior interconnection or resale agreements shall remain in full force and effect and shall constitute monetary obligations of the Parties under this Agreement (provided, however, that nothing contained in this Agreement shall convert any claim or debt that would otherwise constitute a prepetition claim or debt in a bankruptcy case into a postpetition claim or debt). In connection with the foregoing, Verizon expressly reserves all of its rights under the Bankruptcy Code and Applicable Law to seek or oppose any relief in respect of the assumption, assumption and assignment, or rejection of any interconnection or resale agreements between Verizon and Neutral Tandem.
- 1.4 Except as otherwise provided in the Principal Document, the Principal Document may not be waived or modified except by a written document that is signed by the Parties. Subject to the requirements of Applicable Law, a Party shall have the right to add, modify, or withdraw, its Tariff(s) at any time, without the consent of, or notice to, the other Party.

## 2. Term and Termination

- 2.1 This Agreement shall be effective as of the Effective Date and, unless cancelled or terminated earlier in accordance with the terms hereof, shall continue in effect until October 9, 2009 (the "Initial Term"). Thereafter, this Agreement shall continue in force and effect unless and until cancelled or terminated as provided in this Agreement.
- 2.2 Either Neutral Tandem or Verizon may terminate this Agreement effective upon the expiration of the Initial Term or effective upon any date after expiration of the Initial Term by providing written notice of termination at least ninety (90) days in advance of the date of termination.
- 2.3 If either Neutral Tandem or Verizon provides notice of termination pursuant to Section 2.2 and on or before the proposed date of termination either Neutral Tandem or Verizon has requested negotiation of a new interconnection agreement, unless this Agreement is cancelled or terminated earlier in accordance with the terms hereof (including, but not limited to, pursuant to Section 12), this Agreement shall remain in effect until the earlier of: (a) the effective date of a new interconnection agreement between Neutral Tandem and Verizon; or, (b) the date one (1) year after the proposed date of termination.
- 2.4 If either Neutral Tandem or Verizon provides notice of termination pursuant to Section 2.2 and by 11:59 PM Eastern Time on the proposed date of termination neither Neutral Tandem nor Verizon has requested negotiation of a new interconnection agreement, (a) this Agreement will terminate at 11:59 PM Eastern Time on the proposed date of termination, and (b) the Services being provided under this Agreement at the time of termination will be terminated, except to the extent that the Purchasing Party has requested that such Services

continue to be provided pursuant to an applicable Tariff or Statement of Generally Available Terms (SGAT).

### **3. Glossary and Attachments**

The Glossary and the following Attachments are a part of this Agreement:

Additional Services Attachment  
Interconnection Attachment  
Resale Attachment  
Network Elements Attachment  
Collocation Attachment  
911 Attachment  
Pricing Attachment

### **4. Applicable Law**

- 4.1 The construction, interpretation and performance of this Agreement shall be governed by (a) the laws of the United States of America and (b) the laws of the Commonwealth of Pennsylvania, without regard to its conflicts of laws rules. All disputes relating to this Agreement shall be resolved through the application of such laws.
- 4.2 Each Party shall remain in compliance with Applicable Law in the course of performing this Agreement.
- 4.3 Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.
- 4.4 Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects, the notifying Party's ability to perform its obligations under this Agreement.
- 4.5 If any provision of this Agreement shall be invalid or unenforceable under Applicable Law, such invalidity or unenforceability shall not invalidate or render unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 4.6 If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law. If within thirty (30) days of the effective date of such decision;

determination, action or change, the Parties are unable to agree in writing upon mutually acceptable revisions to this Agreement, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction, without first pursuing dispute resolution in accordance with Section 14 of this Agreement.

4.6.1 Notwithstanding Section 4.6 above, to the extent Verizon is required by a change in Applicable Law to provide to Neutral Tandem a Service that is not offered under this Agreement to Neutral Tandem, the terms, conditions and prices for such Service (including, but not limited to, the terms and conditions defining the Service and stating when and where the Service will be available and how it will be used, and terms, conditions and prices for pre-ordering, ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed by the Parties in a written amendment to the Agreement that, upon the request of either Party, the Parties shall negotiate in accordance with the requirements of Section 252 of the Act. In no event shall Verizon be required to provide any such Service in the absence of such a Verizon Tariff or amendment.

4.7 Notwithstanding anything in this Agreement to the contrary, if, as a result of any legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or benefit, otherwise required to be provided to Neutral Tandem hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit, and Neutral Tandem shall reimburse Verizon for any payment previously made by Verizon to Neutral Tandem that was not required by Applicable Law. Verizon will provide thirty (30) days prior written notice to Neutral Tandem of any such discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in the Networks Element Attachment or an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply. For the avoidance of any doubt, this Section 4.7 is self-effectuating and no amendment to this Agreement shall be required to implement it.

## 5. Assignment

Neither Party may assign this Agreement or any right or interest under this Agreement, nor delegate any obligation under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment or delegation in violation of this Section 5 shall be void and ineffective and constitute default of this Agreement.

## 6. Assurance of Payment

6.1 Upon request by Verizon, Neutral Tandem shall, at any time and from time to time, provide to Verizon adequate assurance of payment of amounts due (or to become due) to Verizon hereunder.

6.2 Assurance of payment of charges may be requested by Verizon if Neutral Tandem (a) prior to the Effective Date, has failed to timely pay charges billed by Verizon or a Verizon Affiliate to Neutral Tandem that are not subject to a good faith dispute, (b) on or after the Effective Date, fails to timely pay charges billed by Verizon or a Verizon Affiliate to Neutral Tandem that are not subject to a good

faith dispute, (c) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy, or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.

- 6.3 Unless otherwise agreed by the Parties, the assurance of payment shall consist of an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon. The letter of credit shall be in an amount equal to two (2) months anticipated charges (including, but not limited to, both recurring and non-recurring charges), as reasonably determined by Verizon, for the Services to be provided by Verizon to Neutral Tandem in connection with this Agreement. If Neutral Tandem meets the condition in subsection 6.2(d) above or has failed to timely pay two or more bills rendered by Verizon or a Verizon Affiliate in any twelve (12)-month period, Verizon may, at its option, demand (and Neutral Tandem shall provide) additional assurance of payment, consisting of monthly advanced payments of estimated charges as reasonably determined by Verizon, with appropriate true-up against actual billed charges no more frequently than once per Calendar Quarter.
- 6.4 [Intentionally Left Blank].
- 6.5 [Intentionally Left Blank].
- 6.6 Verizon may (but is not obligated to) draw on the letter of credit upon notice to Neutral Tandem in respect of any amounts to be paid by Neutral Tandem hereunder that are not paid within thirty (30) days of the date that payment of such amounts is required by this Agreement.
- 6.7 If Verizon draws on the letter of credit, upon request by Verizon, Neutral Tandem shall provide a replacement or supplemental letter of credit conforming to the requirements of Section 6.3.
- 6.8 Notwithstanding anything else set forth in this Agreement, if Verizon makes a request for assurance of payment in accordance with the terms of this Section, then Verizon shall have no obligation thereafter to perform under this Agreement until such time as Neutral Tandem has provided Verizon with such assurance of payment.
- 6.9 The fact that a letter of credit is requested by Verizon hereunder shall in no way relieve Neutral Tandem from compliance with the requirements of this Agreement (including, but not limited to, any applicable Tariffs) as to advance payments and payment for Services, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of Services for nonpayment of any amounts payment of which is required by this Agreement.

## 7. Audits

- 7.1 Except as may be otherwise specifically provided in this Agreement, either Party ("Auditing Party") may audit the other Party's ("Audited Party") books, records, documents, facilities and systems for the purpose of evaluating the accuracy of the Audited Party's bills. Such audits may be performed once in each Calendar Year; provided, however, that audits may be conducted more frequently (but no more frequently than once in each Calendar Quarter) if the immediately

preceding audit found previously uncorrected net inaccuracies in billing in favor of the Audited Party having an aggregate value of at least \$1,000,000.

- 7.2 The audit shall be performed by independent auditors selected and paid by the Auditing Party. The auditors shall be reasonably acceptable to the Audited Party. Prior to commencing the audit, the auditors shall execute an agreement with the Audited Party in a form reasonably acceptable to the Audited Party that protects the confidentiality of the information disclosed by the Audited Party to the auditors. The audit shall take place at a time and place agreed upon by the Parties; provided, that the Auditing Party may require that the audit commence no later than sixty (60) days after the Auditing Party has given notice of the audit to the Audited Party.
- 7.3 Each Party shall cooperate fully in any such audit, providing reasonable access to any and all employees, books, records, documents, facilities and systems, reasonably necessary to assess the accuracy of the Audited Party's bills.
- 7.4 Audits shall be performed at the Auditing Party's expense, provided that there shall be no charge for reasonable access to the Audited Party's employees, books, records, documents, facilities and systems necessary to assess the accuracy of the Audited Party's bills.

#### **8. Authorization**

- 8.1 Verizon represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
- 8.2 Neutral Tandem represents and warrants that it is a Limited Liability Company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
- 8.3 Neutral Tandem Certification.

Notwithstanding any other provision of this Agreement, Verizon shall have no obligation to perform under this Agreement until such time as Neutral Tandem has obtained such FCC and Commission authorization as may be required by Applicable Law for conducting business in the Commonwealth of Pennsylvania. Neutral Tandem shall not place any Orders under this Agreement until it has obtained such authorization. Neutral Tandem shall provide proof of such authorization to Verizon upon request.

#### **9. Billing and Payment; Disputed Amounts**

- 9.1 Except as otherwise provided in this Agreement, each Party shall submit to the other Party on a monthly basis in an itemized form, statement(s) of charges incurred by the other Party under this Agreement.
- 9.2 Except as otherwise provided in this Agreement, payment of amounts billed for Services provided under this Agreement, whether billed on a monthly basis or as otherwise provided in this Agreement, shall be due, in immediately available U.S. funds, on the later of the following dates (the "Due Date"): (a) the due date specified on the billing Party's statement; or (b) twenty (20) days after the date the statement is received by the billed Party. Payments shall be transmitted by