

Amendment. The Parties further agree that this Amendment shall not be construed against either Party as a "meeting of the minds" that VOIP traffic is or is not local traffic subject to reciprocal compensation. By entering into the Amendment, both Parties reserve the right to advocate their respective positions before state or federal commissions whether in bilateral complaint dockets, arbitrations under Sec. 252 of the Act, commission established rulemaking dockets, or in any legal challenges stemming from such proceedings.

- 18.2 The Parties continue to disagree as to whether ISP calls are subject to reciprocal compensation obligations under their ICAs and interconnection agreements and Section 251(b)(5) of the Act. By entering into this Amendment neither Party waives its right to advocate its view with respect to these issues, however neither Party will attempt in any way to overturn the provisions of this Amendment during its term. Similarly, the Parties agree that nothing in this Amendment shall be construed as an admission that ISP traffic is, or is not, subject to reciprocal compensation obligations under their ICAs and interconnection agreements or Section 251(b)(5). Therefore, ILEC payments to CLEC under the Agreement shall not be construed as agreement by ILEC that calls to ISPs constitute local traffic subject to reciprocal compensation obligations, provided, however, notwithstanding anything to the contrary, the Parties agree that for purposes of this Amendment compensation is payable as set forth in this Amendment.
- 18.3. The Parties continue to disagree as whether CLEC is required to establish a physical POI in each local calling area. By entering into this Amendment, neither Party waives its right to advocate its view with respect to this issue. Similarly, the Parties agree that nothing in this Amendment shall be construed as an admission that CLEC must or must not establish a POI in each local calling area. Therefore, CLEC's establishment of a physical POI in each local calling area under the Amendment shall not be construed as agreement by CLEC that physical POIs are required to be established in each local calling area, provided, however, notwithstanding anything to the contrary, the Parties agree that for purposes of this Amendment physical POIs will be established as set forth in this Amendment.
- 18.4 Except as specifically modified by this Amendment with respect to their mutual obligations herein, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body.