

## ACCESS SERVICE

41. Pricing Flexibility Contract Offerings (N)
- 41.188 Contract Offer No. 188 - DS1 and DS3 Service Offer (N)
- 41.188.1 General Description (N)
- The Special Access Service Offer (Contract Offer No. 188, or Contract Offer) is a Service Level Agreement offer for which concurrent subscription is required to this Contract Offer and the following Access Tariffs: Nevada Bell Telephone Company (NBTC) Tariff F.C.C. No. 1, Contract Offer No. 32; Pacific Bell Telephone Company (PBTC) Tariff F.C.C. No. 1, Contract Offer No. 168; BellSouth Telecommunications, LLC (BellSouth) Tariff F.C.C. No. 1, Contract Offer No. 83; and Ameritech Operating Companies Tariff F.C.C. No. 1, Contract Offer No. 218 (collectively, with this Contract Offer No. 188, the "Concurrently Subscribed Contract Offers"). Ameritech, BellSouth, NBTC, PBTC and the Telephone Company may be identified as the "Qualified Companies." (Nx)
- This Contract Offer permits Customers that meet the Eligibility Criteria in Section 41.188.3 and otherwise comply with the terms and conditions of this Contract Offer to receive credits as provided in Section 41.188.5 below. Subject Services are available under this Contract Offer in the Metropolitan Statistical Areas (MSA) listed in Section 41.188.2 (B). (N)
- This Contract Offer is available for subscription from October, 18 2014 through November 18, 2014. This Contract Offer is not renewable.
- 41.188.2 Subject Services
- (A) This Contract Offer applies to pricing flexibility qualified services contained in the following tariff section: SWBT Tariff F.C.C. No. 73, Sections 7 and 39 - DS1 High Capacity Service and DS3 High Capacity Service (Subject Services).
- (B) Subject Services must be located in the Pricing Flexibility MSAs for which the Telephone Company has been granted pricing flexibility relief, as listed in SWBT F.C.C. No. 73, Section 39 and in the Pricing Flexibility Phase I MSAs listed in Table A, below. During the Term Period of this Contract Offer, if the Telephone Company is granted pricing flexibility relief in additional MSAs not listed in Section 39 at the time of subscription, the Customer may, at its option, include Subject Services eligible for the discounts under this Contract Offer No. 188. Pricing Flexibility Phase I MSAs are listed below:
- x - Filed under the Authority of Special Permission No. 14-013 of the F.C.C. (N)

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(B) (Cont'd)

Table A

State	City
KS	Non-MSA
MO	Non-MSA
TX	Beaumont
TX	El Paso

41.188.3 Eligibility Criteria

To subscribe to Contract Offer No. 188, the Customer must meet the following eligibility criteria:

- (A) During the twelve (12) months prior to the Customer's subscription to this Contract Offer, the Customer must have purchased Subject Services and other services from the Qualified Companies and any of their affiliates, in the aggregate, for which recurring charges exceeded \$400,000,000.
- (B) During the month prior to the Customer's subscription to this Contract Offer, the Customer must have the following Subject Services in service:
- (1) No fewer than twenty eight hundred (2,800) and no more than thirty two hundred (3,200) DS3 interstate special access circuits from the Qualified Companies.
  - (2) No fewer than forty four thousand hundred (44,000) and no more than forty eight thousand (48,000) DS1 special access circuits from the Qualified Companies.

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The term of this Contract Offer (Term Period) shall begin on the date the Customer submits a signed Letter of Subscription (LOS) to the Telephone Company (Subscription Date) and expire on June 20, 2016. Each period of twelve (12) months, beginning from the Subscription Date, is referred to as a "Term Year." As clarification, but not to modify the foregoing sentence, the period from the second anniversary of the Subscription Date through June 20, 2016, shall not be considered a Term Year.

(B) General Terms and Conditions

- (1) Subject Services are subject to certain rates, charges and general terms and conditions in other sections of SWBT F.C.C. No. 73, Sections 2, 5, 7, 13 and 39, as applicable, (Sections 2-General Regulations, 5-Ordering Options for Switched & Special Access Service, and 13-Additional Engineering, Additional Labor & Miscellaneous Services), and such terms and conditions may be modified through the filing of tariff changes at any time during the Term Period. However, such tariff modifications will not change the Terms and Conditions described in Contract Offer No. 188.
- (2) All terms and conditions for the Subject Services provided under this Contract Offer are governed by the otherwise applicable tariff sections, except as provided herein.
- (3) To subscribe to this Contract Offer, the Customer must provide a signed Letter of Subscription (LOS) to the Telephone Company, which must include a list of eligible Access Customer Name Abbreviations (ACNAs). All Subject Services under this Contract Offer must be purchased under such ACNAs. Subject Services ordered or purchased under other ACNAs may not be transferred to or converted for inclusion under this Contract Offer.
- (4) Commingling (as defined in SWBT Tariff F.C.C. No. 73, Sections 2.7) of Subject Services provided pursuant to this Contract Offer No. 188 is prohibited.

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41.188 Contract Offer No. 188 - DS1 and DS3 Service Offer (Cont'd)41.188.5 Service Level Assurance

(A) Service Level Assurance (SLA). The Customer may be eligible for credits if certain Service Level Assurance (SLA) benchmarks are not achieved by the Qualified Companies, as provided below. SLA benchmark measurements will be calculated in the aggregate, for all DS1, DS3 and SONET<sup>1</sup> interstate special access services provided by the Qualified Companies during each Term Year (SLA Included Services). SLA benchmark measurements will be calculated according to the Qualified Companies generally applicable business rules and criteria associated with each of the SLA benchmark measurements. The SLA benchmarks will apply to SLA Included Services on a combined basis. SLAs will apply to the following service performance measurements:

- (1) Mean Time to Repair (MTTR). "Mean Time to Repair" means the sum of the "Receipt to Restore Durations" of "Total Trouble Reports" divided by the number of Total Trouble Reports. "Total Trouble Reports" means all closed Customer trouble reports. "Receipt to Restore Duration" means the number of minutes (converted to hours) from the date and time each such trouble report is received by the Qualified Companies to the date and time each such trouble report is closed.
- (2) On Time Delivery. "On Time Delivery" means the percentage of "A" (add) orders for which the Firm Order Confirmation (FOC) Committed Due Date (CDD) was met. This measurement excludes any orders for which a due date was not met due to Customer Not Ready (CNR) or other delays not caused by the Telephone Company.
- (3) New Circuit Failure Rate. "New Circuit Failure Rate" means the percentage of total new circuits that are subject to trouble reports within thirty (30) calendar days after the date of installation.

<sup>1</sup> AT&T Interstate Access Guidebook Part 9 - Special Access Services Southwest Section 39.3. Optical Carrier Network (OCN) Point-to-Point, Dedicated SONET Ring Service (DSRS), GigaMAN®, DecaMAN®, WaveMAN<sup>SM</sup>, OPT-E-MAN Service and AT&T Switched Ethernet Services are now provided on a contractual basis outside of the tariff, including all terms and conditions. As required by the Commission, to allow the Telephone Company to take advantage of the relief granted in the Commission's Memorandum Opinion and Order No. 07-180 released October 12, 2007, services have been de-tariffed by the Telephone Company. Rates, terms and conditions associated with de-tariffed services are available at [www.att.com/guidebook](http://www.att.com/guidebook).

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## (A) (Cont'd)

(4) Repeat Reports within 30 Days. "Repeat Reports within 30 Days" means the percentage of closed trouble reports for any circuit that are received within thirty (30) calendar days after the restoral date of a prior closed trouble report for the same circuit.

(A) SLA Measurements and Benchmarks. If the Qualified Companies fail to achieve the benchmarks set forth in Table B, below, the Customer will be eligible for SLA Credits as provided in Section 41.188.5(C), below. These SLA Credits are subject to the same limitations and exclusions that apply to credit allowances for service interruptions, as provided in Section 2.5.6(C) of SWBT Tariff F.C.C. No. 73.

Table B SLA Measurements and Benchmarks

Measurement	Benchmark
MTTR	≤ 4.5 hours
On Time Delivery	95%
New Circuit Failure Rate	4.5%
Repeat Reports within 30 Days	14.5%

(C) SLA Credits. Within ninety (90) days after the end of each Term Year, the Qualified Companies will provide the Customer with a report of performance for the SLA benchmarks set forth in this Contract Offer. If the Qualified Companies fail to achieve the benchmarks, the Qualified Companies will issue SLA Credits to the Customer as set forth in Table C, below (SLA Credits). A single SLA Credit will apply per SLA benchmark, per Term Year, for the Qualified Companies in the aggregate. Any SLA Credits will be issued to the Customer within ninety (90) days after the end of each Term Year.

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(C) (Cont'd)

Table C-SLA Performance Credits

<u>Measurement</u>	<u>Credit if Benchmark Not Achieved Met</u>
MTTR	\$50,000
On Time Delivery	\$50,000
New Circuit Failure Rate	\$50,000
Repeat Reports within 30 Days	\$50,000

For each SLA benchmark the Qualified Companies fail to achieve, the Qualified Companies will issue an SLA Credit of \$50,000. A maximum of \$200,000 in SLA Credits may apply for any Term Year.

41.188.6 Assignment/Transfer

If the Customer wishes to assign or transfer its use of services under this Contract Offer pursuant to SWBT Tariff F.C.C. No. 73, Section 2.2.1, the Qualified Companies will acknowledge such transfer or assignment if the criteria in SWBT Tariff F.C.C. No. 73, Section 2.2.1, are fulfilled, unless 1) the proposed assignee or transferee demonstrates a lack of credit worthiness under one of the criteria in (A), (B) or (C), below, or 2) if the proposed assignee or transferee or its parent has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it).

- (A) Any debt securities of the proposed assignee or transferee or its parent (defined as an entity that owns directly or indirectly more than fifty (50) percent of the equity of the proposed assignee or transferee) are rated below investment grade, as defined by the Securities and Exchange Commission; or

If any debt securities of a proposed assignee or transferee or its parent are rated the lowest investment grade and have been placed on review by the rating organization for a possible downgrade,

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(B) The proposed assignee or transferee or its parent does not have any outstanding securities rated by credit rating agencies, e.g. Standard and Poor's, but does have a Dun and Bradstreet rating, and the proposed assignee or transferee is rated:

- (1) "fair" or below in a composite credit appraisal published by Dun and Bradstreet; or
- (2) "high risk" in a Paydex score as published by Dun and Bradstreet.

(C) If the information required to review the assignee or transferee's credit worthiness pursuant to either Subsections (A) or (B) of this Section 41.188.6 is not available, the Qualified Companies shall exercise their reasonable discretion in determining the credit worthiness of the assignee or transferee based on any information available.

41.188.7 Mergers and Acquisitions

All provisions of this Contract Offer shall continue in full force and effect if the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all of its stock or assets to any other entity, or purchases all stock or substantially all stock or certain assets of another company (the foregoing generally referred to herein as a merger or acquisition). Upon the Transaction Close Date of the merger or acquisition, if the other company involved in the merger or acquisition also purchases Subject Services from the Qualified Companies, the Subject Services, as provided for in this Contract Offer, will continue to be maintained at the same volume, rates, Terms and Conditions as outlined herein. The Transaction Close Date shall be defined as the date that the stock purchase is complete and/or the final date on which the assets of the acquired/merged company have been purchased.

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If all or substantially all of the stock or assets of any Qualified Company are transferred, directly or indirectly, to any entity that does not control, is not controlled by, or is not under common control with AT&T Inc. (any of which may be generally referred to as a sale), then effective upon the "Divestiture Date" of the transaction (as defined in this paragraph), Section 5 of each of the Concurrently Subscribed Contract Offers shall no longer apply to any Qualified Company subject to such a sale, and services provided by any Qualified Company subject to such a sale shall no longer be included in the determination of SLA measurements and benchmarks. Section 5 of each of the Concurrently Subscribed Contract Offers shall otherwise continue to apply according to its terms and conditions. "Divestiture Date" means the date that the relevant transaction is complete.

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