

ADDITIONAL PROVISIONS

1. Confidentiality.

(a) BA Information:

(1) As used in this Section 1(a), the following terms have the meanings stated below:

(A) "BA Information:" (1) information contained in the report for BA Retail performance; (2) information contained in the report for BA Affiliate Aggregate performance; and, (3) any other information about or related to BA retail customers or BA Affiliates or service provided to BA retail customers or BA Affiliates, disclosed to a CLEC in conjunction with the Guidelines.

(B) "Agent:" (1) an employee, agent, contractor or affiliate¹ of a CLEC; and, (2) an employee of an agent, contractor or affiliate of a CLEC.

(2) A CLEC may disclose BA Information to other persons only as follows: (1) to CLEC Agents who need to receive the BA Information for a use permitted by this Section 1(a); (2) to the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator, under seal or cover of a protective order or agreement, that reasonably protects the confidentiality and limits the use of the information; (3) as required by applicable law, under government seal or cover of a protective order, that reasonably protects the confidentiality and limits the use of the information; or, (4) as required or permitted by an agreement between BA and the CLEC. A CLEC may use BA Information only for the following purposes: (1) assessment of BA's performance in providing service; (2) assessment of BA's performance in complying with these Guidelines; (3) enforcement of the CLEC's rights under any performance assurance plan, an applicable agreement or tariff, or applicable law; (4) such other uses as may be required by applicable law or permitted by the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator, including, but not limited to, reporting to the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator; and, (5) such other uses as may be required or permitted by an agreement between BA and the CLEC. A CLEC's Agents shall be bound by the same restrictions on disclosure and use of BA Information as the CLEC is under this Section 1(a) and the CLEC shall require its Agents to comply with these restrictions.

¹ As used in this Section 1(a) definition of "Agent," an "affiliate of a CLEC" is a person that (directly or indirectly) controls, is controlled by, or is under common control with, the CLEC.

- (3) Except as otherwise expressly required by applicable law, in providing performance reports to a CLEC and otherwise performing its obligations under the Guidelines, BA shall not be obligated, and may decline, to disclose to a CLEC any individually identifiable information pertaining to a person other than the CLEC, including, but not limited to, any other carrier customer of BA or any retail customer of BA.

(b) CLEC Information

- (1) As used in this Section (4)(b), the following terms have the meanings stated below:

(A) "CLEC Information:" information disclosed by BA to a CLEC in a report for CLEC Specific performance for that CLEC, while such information is in a CLEC individually identifiable form.

(B) "Agent:" (1) an employee, agent, contractor or affiliate² of BA; and, (2) an employee of an agent, contractor or affiliate of BA.

- (2) BA may disclose CLEC Information to other persons only as follows: (1) to BA's Agents who need to receive the CLEC Information for a use permitted by this Section 1(b); (2) to the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator, under seal or cover of a protective order or agreement, that reasonably protects the confidentiality and limits the use of the information; (3) as required by applicable law, under government seal or cover of a protective order, that reasonably protects the confidentiality and limits the use of the information; or, (4) as required or permitted by an agreement between BA and the CLEC. BA may use CLEC Information only for the following purposes: (1) performing its obligations under the Guidelines; (2) assessment of BA's performance in providing service; (3) assessment of BA's performance in complying with these Guidelines; (4) enforcement of BA's rights under any performance assurance plan, an applicable agreement or tariff, or applicable law; (5) provision of service to CLECs; (6) such other uses as may be required by applicable law or permitted by the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator, including, but not limited to, reporting to the Commission, the FCC, a court of competent jurisdiction, other governmental entity of competent jurisdiction, or an arbitrator or mediator; and, (7) such other uses as may be required or permitted by an agreement between BA and the CLEC. BA's Agents shall be bound by the same restrictions on disclosure and use of

² As used in this Section 1(b) definition of "Agent," an "affiliate of BA" is a person that (directly or indirectly) controls, is controlled by, or is under common control with, BA.

CLEC Information as BA is under this Section 1(b) and BA shall require its Agents to comply with these restrictions.

(c) Exceptions

The restrictions on disclosure and use of BA Information and CLEC Information stated in Sections 1(a) and 1(b), above shall not apply:

- (1) With regard to BA Information, if BA makes the BA Information publicly available; and,
- (2) With regard to CLEC Information, if the CLEC makes the CLEC Information publicly available.

- (d) This Section 1 is intended to be in addition to and not in derogation of any applicable law protecting the confidentiality of the information of a telecommunications carrier or the customers or users of a telecommunications carrier, including, but not limited to, 47 U.S.C. § 222. This Section 1 shall not be construed as permitting any disclosure or use of information otherwise prohibited by applicable law.

2. Reporting Date. Performance Measurement Reports will be distributed on the 25th day of the month following the reporting month (or, if the 25th day of the month is a Saturday, Sunday or holiday observed by BA, the next BA business day).