

BELL ATLANTIC PERFORMANCE ASSURANCE PLAN**ADDITIONAL PROVISIONS**

1. **Interpretation.** BA's Performance Assurance Plan (including, but not limited to, these *Carrier-to-Carrier Guidelines*) ("Plan") is intended to implement the order of the Commission in Joint Petition of Nextlink Pennsylvania, Inc., et al., Docket No. P-00991643 (December 31, 1999) ("Order") (as amended from time-to-time), and other applicable orders of the Commission. The Plan shall be construed and implemented so as to be consistent with and implement the Order and other applicable orders of the Commission.
2. **Changes.** The Commission, in accordance with the procedures provided under applicable law, may modify the Plan, including, but not limited to, in order to conform the Plan to changes in BA's systems and processes.
3. **Skewed Data.** BA shall not be required to make a Performance Assurance Plan Payment for: (a) an alleged Force Majeure or exogenous event; (b) a statistically invalid measurement; or, (c) Event Driven Clustering, Location Driven Clustering, Time Driven Clustering, or CLEC Actions, as described in Appendix J. BA will notify the Commission of its intention to withhold payment within five (5) days after the alleged Force Majeure or exogenous event, statistically invalid measurement, Clustering or CLEC Action, is identified by BA. BA will escrow the payment. CLECs may request resolution of BA's withholding of payment through the Abbreviated Dispute Resolution Process prescribed in Appendix E of the Commission's Global Order (Petition of Nextlink Pennsylvania, Inc., et al., Docket Nos. P-00991648, P-00991649 and P-00991643, 9/30/99, clarified by order entered 11/5/99, as amended from time-to-time).

Force Majeure events include the following: (a) a failure by a CLEC to perform any obligation or meet any condition imposed on the CLEC by the Plan, the CLEC's interconnection or resale agreement with BA, applicable BA tariffs, or applicable law or government order or regulation; (b) any delay, act or failure to act by a CLEC or a customer, end-user, agent, affiliate, representative, vendor, or contractor of a CLEC; (c) any event, delay, act or failure to act, beyond the reasonable control of BA; or, (d) any weather condition, earthquake, fire, explosion, power failure, epidemic, war, revolution, civil commotion, or acts of public enemies, any law, order, regulation, ordinance or requirement of any governmental or legal body, any labor unrest, including, without limitation, strikes, slowdowns, picketing or boycotts, any acts or omissions of unaffiliated BA service or equipment vendors, or any acts of God.

4. **CLEC Assistance.** If BA fails to meet a performance standard, upon written request from BA specifying the nature and purpose of the request, CLECs shall promptly furnish to BA any assistance and information reasonably requested by BA that is necessary for BA to identify the cause of and correct the failure. If the information requested by BA is confidential information of the CLEC, the CLEC may decline to provide such information to BA until BA and the CLEC have entered into an agreement for protection of the confidentiality of such information. If BA has requested a CLEC to provide assistance and information to assist BA in identifying the cause of and correcting a failure to meet a performance standard, upon completion of BA's investigation into the cause of the failure to meet the performance standard, BA shall provide a written report to the CLEC stating the reason for the failure and the corrective action, if any, taken.

If a CLEC wishes to seek reimbursement from BA for the cost to the CLEC of providing the information and assistance requested by BA to assist BA in identifying the cause of and correcting a failure to meet a performance standard, prior to providing such information and assistance, the CLEC must notify BA in writing that it will seek such reimbursement from BA and provide BA with an estimate of the expense for which reimbursement will be sought. After receiving such written notice, BA shall notify the CLEC in writing whether BA wishes the CLEC to proceed with providing the requested information and assistance. BA may petition the Commission for relief from the reimbursement, for good cause shown, after making the reimbursement payment.

5. Confidentiality.

(a) BA Information:

- (1) As used in this Section (5)(a), the following terms have the meanings stated below:

(A) "BA Information:" (1) information contained in BA Retail reports; (2) information contained in BA Affiliate Aggregate reports; 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 Plan.

(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 5(a); and, (2) with reasonable advance written notice to BA, to the Commission, the FCC or a court of competent jurisdiction, under cover of a

¹ As used in this Section 5(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.

protective order that reasonably protects the confidentiality of the information. A CLEC may use BA Information only for the following purposes: (1) assessment of BA's performance; (2) enforcement of the CLEC's rights under the Plan, an applicable agreement or tariff, or applicable law; and, (3) such other uses as may be required by applicable law or expressly permitted by the Commission. 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 5(a) and the CLEC shall require its Agents to comply with these restrictions.

- (3) In providing performance reports to a CLEC and otherwise performing its obligations under the Plan, 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 (5)(b), the following terms have the meanings stated below:

(A) "CLEC Information:" information disclosed by BA to a CLEC in a CLEC Specific report 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 5(b); and, (2) with reasonable advance written notice to the CLEC, to the Commission, the FCC or a court of competent jurisdiction, under cover of a protective order that reasonably protects the confidentiality of the Information. BA may use CLEC Information only for the following purposes: (1) performance of the Plan; (2) assessment of BA's performance; (3) enforcement of BA's rights under the Plan, an applicable agreement or tariff, or applicable law; (4) provision of service; and, (5) such other uses as may be required by applicable law or expressly permitted by the Commission (including, but not limited to, by 52 Pa. Code 63.131 through 63.137). BA's Agents shall be bound by the same restrictions on disclosure and use of CLEC Information as BA is under this Section 5(b) and BA shall require its Agents to comply with these restrictions.

(c) Exceptions

² As used in this Section 5(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.

The restrictions on disclosure and use of BA Information and CLEC Information stated in Sections 5(a) and 5(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.
6. **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).
7. **CLEC General Obligations.** CLECs shall comply with all of the obligations imposed upon them by the Plan, including, but not limited to, the obligation to provide timely, accurate forecasts for interconnection trunks (both "CLEC to BA" and "BA to CLEC") and collocation.