

RCN Telecom Services of New York, LP  
d/b/a Astound Broadband d/b/a Astound Business Solutions  
PSC No. 4 - Telephone  
Effective Date: June 30, 2022

Section 2  
Leaf No. 1  
Revision No. 0  
Superseding Revision No.

## REGULATIONS

### 2.1 Undertaking of the Company

#### 2.1.1 Scope

The Company undertakes to furnish Network Access Services, which included Local Exchange (Local Traffic), EAS, IntraLATA Toll, InterLATA Toll (Long Distance) and switched access services in accordance with the terms and conditions set forth in this tariff.

#### 2.1.2 Shortage of Facilities

All service is subject to the availability of suitable facilities. The Company reserves the right to limit the length of communications or to discontinue furnishing services when necessary because of the lack of transmission medium capacity or because of any causes beyond its control.

#### 2.1.3 Terms and Conditions

- A. Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this tariff, a month is considered to have 30 days.
- B. Customers may be required to enter into written service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this tariff. Customer will also be required to execute any other documents as may be reasonably requested by the Company.

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### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.3 Terms and Conditions (cont'd.)

- C. In any action between the parties to enforce any provision of this tariff, the prevailing party shall be entitled to recover its legal fees and court costs from the non-prevailing party in addition to other relief a court may award.
- D. This tariff shall be interpreted and governed by the laws of the State of New York without regard for its choice of laws provision.

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## REGULATIONS

### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.4 Limitations on Liability

- A. Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representatives, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7.
- B. Except for the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- C. The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed plus interest. The rate of interest on such amounts shall be the greater of the unadjusted customer deposit rate or the applicable late payment rate. Interest shall be paid from the date when the customer overpayment was made, adjusted for any changes, in the deposit rate or late payment rate and compounded monthly.

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## REGULATIONS

### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.4 Limitations on Liability (cont'd.)

- D. The Company shall not be liable for any claims for loss or damages involving:
1. Any act or omission of: (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
  2. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
  3. Any unlawful or unauthorized use of the Company's facilities and services;
  4. Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;

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### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.4 Limitations on Liability (cont'd.)

##### D. (Cont'd.)

5. Breach in the privacy or security of communications transmitted over the Company's facilities;
6. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in Section 2.1.4.A., preceding.
7. Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof.
8. In the absence of gross negligence, injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
9. Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company;

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### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.4 Limitations on Liability (cont'd.)

##### D. (cont'd.)

10. Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Tariff.
11. Any noncompletion of calls due to network busy conditions;
12. Any calls not actually attempted to be completed during any period that service is unavailable.

E. The Company shall be indemnified, defended and held harmless by the Customer or end user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any Company or Customer equipment or facilities or service provided by the Company.

F. The Company assumes no responsibility for the availability or performance of any cable or satellite systems or related facilities under the control of other entities, or for other facilities provided by other entities used for service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or services. Such facilities are provided subject to such degree of protection or nonpreemptibility as may be provided by the other entities.

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### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.4 Limitations on Liability (cont'd.)

- G. The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, including attorney fees, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service.
- H. Except as otherwise stated in this Tariff, any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- I. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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## REGULATIONS

### 2.1 Undertaking of the Company (cont'd.)

#### 2.1.5 Provision of Equipment and Facilities

- A. Except as otherwise indicated, customer-provided station equipment at the Customer's premises for use in conjunction with this service shall be so constructed, maintained and operated as to work satisfactorily with the facilities of the Company.
- B. The company shall not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where such equipment is connected to service furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of services under this tariff and to the maintenance and operation of such services in the proper manner. Subject to this responsibility, the Company shall not be responsible for:
  - 1. the through transmission of signals generated by Customer-provided equipment or for the quality of, or defects in, such transmission; or
  - 2. the reception of signals by Customer-provided equipment; or
  - 3. network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

#### 2.1.6 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents, contractors or suppliers.

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## REGULATIONS

### 2.2 Prohibited Uses

- A. The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorization, licenses, consents and permits.
- B. The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and regulations, policies, orders, and decisions.
- C. The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- D. A customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated access services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this tariff will apply.

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## REGULATIONS

### 2.3 Obligations of the Customer

#### 2.3.1 Customer Premises Provisions

- A. The Customer shall provide the personnel, power and space required to operate all facilities and associated equipment installed on the premises of the Customer.
- B. The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.

#### 2.3.2 Liability of the Customer

- A. The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- B. To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other tariff of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.2 Liability of the Customer (cont'd.)

- C. The Customer shall not assert any claim against any other customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this Tariff including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other customer or user and not by any act or omission of the Company. Nothing in this Tariff is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

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## REGULATIONS

### 2.3 Obligations of the Customer

#### 2.3.3 Switched Access Jurisdictional Report Requirements

- A. For Feature Group B Switched Access Service(s) for both interstate and intrastate use, the projected interstate percentage of use must be provided by the customer in a whole number to the Company. The Company will designate the number obtained by subtracting the projected interstate percentage of use from 100 ( $100 - \text{projected interstate percentage} = \text{intrastate percentage}$ ) as the projected intrastate percentage of use. When a Customer orders Feature Group B Switched Access Service, the Customer shall state, in its order, the projected Percent Interstate Usage (PIU) factor for Feature Group B Switched Access Service group ordered. In addition, the projected percentage of intrastate use which is intraLATA must also be provided.

For Feature Group D Switched Access Service(s), the Company, where jurisdiction can be determined from the call detail, will determine the projected interstate percentage as follows. For originating access minutes, the projected interstate percentage will be developed on a monthly basis by end office when the Feature Group D, Switched Access Service access minutes are measured by dividing the measured interstate originating access minutes (the access minutes where the calling number is in one state and the called number is in another state) by the total originating access minutes when the call detail is adequate to determine the appropriate jurisdiction.

For terminating access minutes, there are three options. (1) Customer may provide Company with a projected PIU factor, (2) The PIU for originating access may be used, or (3) Company may use a default PIU which will be an even split of 50% interstate and 50% intrastate.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

##### A. (cont'd.)

When a customer orders Feature Group D Switched Access Service, the customer shall supply a projected interstate percentage of use for each end office involved to be used in the event that originating call details are insufficient to determine the jurisdiction for the call. This percentage shall be used by the Company as the projected interstate percentage for such call detail. For purposes of developing the projected interstate percentage, the customer shall utilize the same considerations as those set forth in Section 2.3.3(B) following.

The Company will designate the number obtained by subtracting the projected interstate percentage for originating and terminating access minutes from 100 ( $100 - \text{projected interstate percentage} = \text{intrastate percentage}$ ) as the projected intrastate percentage of use.

For Feature Group D originating access minutes, the projected intrastate interLATA percentage will be developed on a monthly basis by end office when the Feature Group D Switched Access Service access minutes are measured by dividing the measured intrastate interLATA originating access minutes (the access minutes where the calling number is in one LATA and the called number is in another LATA) by the total originating intrastate access minutes when the call detail is adequate to make such determination. For terminating access minutes, the data used by the Company to develop the projected intrastate interLATA percentage for originating access minutes will be used to develop projected intrastate interLATA percentage for such terminating access minutes. When a customer orders Feature Group D Switched Access Service, the customer

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

##### A. (cont'd.)

shall supply a projected intrastate intraLATA percentage of use for each end office involved to be used in the event that originating call details are insufficient to determine whether the call is interLATA or intraLATA. This percentage shall be used by the Company as the projected intrastate intraLATA percentage for such call detail. For purposes of developing the projected intrastate intraLATA percentage the customer shall utilize the same considerations as those set forth in Section 2.3.3(B) following. The Company will designate the number obtained by subtracting the projected intrastate intraLATA percentage for originating and terminating access minutes from the designated intrastate percentage as the projected intrastate interLATA percentage of use.

If the Customer has no originating traffic within the end office for which sufficient call detail exists to develop a PIU factor, and the Customer has not supplied a PIU factor on either the quarterly update report or the Access Service Request, the Company will designate a PIU factor of 75% for Feature Group B or Feature Group D terminating access minutes. For originating Toll Free access minutes, where the call detail is insufficient to determine the jurisdiction of the call, the Customer shall provide the Company with a projected PIU factor. If such a PIU has not been provided for Toll Free access minutes, the Company will designate the default PIU factor of 75%. This factor will be applied to the next billing cycle and continue until the Customer provides a PIU factor. When the Customer does provide the PIU factor, the Company will update the customer's PIU factors within fifteen (15) business days.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

- B. For purposes of developing the projected interstate percentage, the customer shall consider every call that enters the customer's network at a point within the same state as the state where the called station is located to be intrastate and every call that enters the customer's network at a point in a state different from the state in which the called station is located to be interstate.

For purposes of developing the projected intrastate intraLATA percentage, the customer shall consider every call that enters the customer's network at a point within the same state and LATA as the state and LATA where the called station is located to be intrastate intraLATA and every call that enters the customer's network at a point within the same state but in a different LATA from the LATA in which the called station is located to be intrastate interLATA.

- C. These whole number percentages will be used by the Company to apportion the use, rates, and/or nonrecurring charges between interstate and intrastate interLATA and intrastate intraLATA until a revised report is received.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

- D. The projected interstate percentage of use and intrastate intraLATA percentage of use will be used to determine the charges as follows:

The number of access minutes for a group will be multiplied by the projected interstate percentage of use to determine the interstate access minutes. (i.e., number of access minutes x projected interstate percentage of use = interstate access minutes). The number of interstate access minutes so determined will be subtracted from the total number of access minutes (i.e., number of access minutes - interstate access minutes = intrastate access minutes). The interstate access minutes for the group will be billed as set forth in Section 4. following.

The number of intrastate access minutes for a group will be multiplied by the projected intrastate intraLATA percentage of use to determine the intrastate intraLATA access minutes (i.e., number of intrastate access minutes X projected intrastate intraLATA percentage of use = intrastate intraLATA access minutes). The number of intrastate intraLATA access minutes so determined will be subtracted from the total number of intrastate access minutes for the group to determine the intrastate interLATA access minutes (i.e., number of intrastate access minutes - intrastate intraLATA access minutes = intrastate interLATA access minutes).

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

- E. Effective on the first of January, April, July and October of each year, the customer may update the jurisdictional reports that require a projected interstate and intrastate intraLATA percentages of use. The customer shall forward to the Company, to be received no later than 20 calendar days after the first of each such month, a revised report showing the interstate and intrastate intraLATA percentages of use for the past three months ending the last day of December, March, June and September, respectively, for each service arranged for interstate and intrastate use. Except as set forth in Section 2.3.3(A) preceding where jurisdiction can be determined from the recorded message detail, the revised report will serve as the basis for the next three months billing and will be effective on the bill date in the following month (i.e., February, May, August, and November) for that service. No prorating or back billing will be done based on the report. If the customer does not supply the report, the Company will assume the percentage to be the same as that provided in the last quarterly report. For those cases in which a quarterly report has never been received from the customer, the Company will assume the percentage to be the same as that provided in the order for service as set forth in Section 2.3.3(A) preceding.

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### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

- F. The customer reported projected interstate percentage of use as set forth in Section 2.3.3(A) preceding will be used for the apportionment of any monthly rates or nonrecurring charges associated with Feature Groups B or D Switched Access Service until the end of the quarter during which the service was activated. Thereafter, a projected interstate percentage for such apportionment will be developed quarterly by the Company based on the data used to develop the projected interstate percentage of use as set forth in Section 2.3.3(A) preceding. Where call detail is insufficient to make such a determination, the customer will be requested to project a interstate percentage of use to be used by the Company for such apportionment.
- G. The customer shall keep sufficient detail from which the percentage of interstate use can be ascertained and upon request of the Company make the records available for inspection. Such a request will be initiated by the Company no more than once per year. The customer shall supply the data within 30 calendar days of the Company request.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

##### H. Time of Day Distribution Reports

1. The customer shall furnish its projected Time of Day distribution (i.e., Day, Evening, Night calling percentages) in whole numbers for each Feature Group by LATA to the Company by self identification or by concurrence with Company provided distribution data.
2. Until Company Time of Day measurement capabilities are available, the customer may update its Time of Day distribution projection no later than 15 calendar days prior to the start of the quarter, effective the first of January, April, July and October of each year. No prorating or backbilling will be done based on this report.
3. Should the customer not initially provide its Time of Day distribution, Day rates will apply. For those cases in which a quarterly update as set forth in (2) preceding, has never been received from the customer, the Company will assume the Time of Day distribution to be the same as initially provided as set forth in (1) preceding except as follows. Where subsequent studies have determined revised Time of Day distribution as set forth in (6) following, the revised distribution shall be utilized. No prorating or backbilling will be done based on these studies.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Jurisdictional Report Requirements (cont'd.)

##### H. Time of Day Distribution Reports (cont'd.)

4. When Company Time of Day measurement capabilities are implemented, certain Switched Access Services will not be measured. These customers shall continue to furnish their projected Time of Day distribution in whole numbers for each Feature Group by LATA to the Company and may update their Time of Day distribution projection as set forth in (2) preceding.
5. Until Company Time of Day measurement capabilities are available and no later than 6 months after initial billing for a quarter ending the last day of March, June, September or December, those customers who have sufficient detail for any quarter from which their actual Time of Day distribution can be determined for any or all Feature Groups in a LATA, may request an adjustment to their bills based on their actual data when it differs from the billing performed using the reported Time of Day distribution. Such Time of Day billing adjustments using customer provided detail must be applied to all the months in the quarter. The customer shall keep sufficient detail from which the Time of Day distribution adjustment can be ascertained and upon request of the Company make the records available for inspection. Such a request will be initiated by the Company no more than once per year. The customer shall supply the data within 30 calendar days of the Company request.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Service - Jurisdictional Report Requirements (cont'd.)

##### H. Time of Day Distribution Reports (cont'd.)

6. The Company will conduct Time of Day distribution studies by Feature Group and by LATA at least semi-annually for each of its customers until Time of Day measurement capabilities are available. The Company will use these studies to monitor customer updates of distribution factors as set forth in (2) preceding and, if necessary, revise Time of Day distributions where the customer has not provided a quarterly update. Customers may use these studies to change their reported Time of Day distribution. No prorating or backbilling will be done based on these studies.

##### I. VoIP-PSTN Traffic Reports

- (1) For Switched Access Service, the Customer may, at its option, provide the Company with a Customer Percent VoIP Usage (CPVU) report projecting the percentage of terminating access minutes that will originate in IP format, as specified in the definition of "VoIP-PSTN Traffic" in Section 1 ,preceding. This CPVU shall be based on information such as the number of the Customer's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information. Such reports, if submitted, shall state the CPVU as a whole number percentage. The Customer may update the CPVU on the same schedule, and in the same manner, as updates to the projected interstate percentage pursuant to section 2.3.3(E), preceding. If the Customer does not update the report, the Company will assume the CPVU to be the same as that provided in the last quarterly report.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Service - Jurisdictional Report Requirements (cont'd.)

##### I VoIP-PSTN Traffic Reports (cont'd)

- (2) The Company will determine an RCN Percent VoIP Usage (RPVU) factor representing the percentage of the Company's total access minutes in the State that RCN terminates on its network in IP format. This RPVU shall be based on information such as the number of the Company's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information.
- (3) The Company will calculate a combined Percent VoIP Usage (PVU) factor based upon the RPVU and CPVU factors, using the following formula (where RPVU and CPVU are expressed as decimal percentages; e.g., a CPVU of 20% is expressed as 0.20):
$$PVU = CPVU + (1 - CPVU) \times RPVU$$
- (4) The Company will apply any CPVU factor submitted by the Customer no later than April 15, 2012.
- (5) For those cases in which a quarterly report has never been received from the Customer, the Company will set the PVU equal to the RPVU.

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## REGULATIONS

### 2.3 Obligations of the Customer (cont'd.)

#### 2.3.3 Switched Access Service - Jurisdictional Report Requirements (cont'd.)

##### I VoIP-PSTN Traffic Reports (cont'd)

- (6) The Customer shall keep sufficient detail from which the CPVU, if supplied, can be ascertained. Not more than twice in any year, the Company may ask the Customer to verify the CPVU factor furnished to the Company, and the Customer may ask the Company to verify the RPVU factor. The party so requested shall comply, and shall provide within 30 days of the request records and other information reasonably sufficient to determine the respective CPVU and/or RPVU factor.

### 2.4 Customer Equipment and Channels

#### 2.4.1 Interconnection of Facilities

- A. In order to protect the Company's facilities and personnel and the services furnished to other customers by the Company from potentially harmful effects, the signals applied to the Company's service shall be such as not to cause damage to the facilities of the Company. Any special interface equipment necessary to achieve the compatibility between facilities of the Company and the channels or facilities of others shall be provided at the Customer's expense.

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## REGULATIONS

### 2.4 Customer Equipment and Channels (cont'd.)

#### 2.4.2 Inspections

- A. The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.
- B. If the protective requirements in connections with Customer-provided equipment are not being complied with, the Company may take such action as necessary to protect its facilities and personnel and will promptly notify the Customer by registered mail in writing of the need for protective action. In the event that the Customer fails to advise the Company within 10 days after such notice is received or within the time specified in the notice that corrective action has been taken, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities and personnel from harm. The Company will upon request 24 hours in advance provide Customer with a statement of technical parameters that the Customer's equipment must meet.

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## REGULATIONS

### 2.5 Customer Deposits and Advance Payments

#### 2.5.1 Advance Payments

To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount up to two months of estimated monthly usage charges. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The advance payment will be credited to the Customer's initial bill. An advance payment may be required in addition to a deposit.

#### 2.5.2 Deposits

- A. To safeguard its interests, the Company may require the Customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:
1. two (2) month's charges for a service or facility which has a minimum payment period of one month; or
  2. the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable.
- B. A deposit may be required in addition to an advance payment.

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## REGULATIONS

### 2.5 Customer Deposits and Advance Payments (cont'd.)

#### 2.5.2 Deposits (cont'd.)

- C. When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. If the amount of the deposit is insufficient to cover the balance due to the Customer's account, the Company retains the right to collect any amounts owing after the deposit has been applied plus any costs related to the collection of any remaining balance.
- D. Deposits held will accrue interest at a rate specified by the New York Public Service Commission without deductions for any taxes on such deposits. Interest will not accrue on any deposit after the date on which reasonable effort has been made to return it to the Customer.

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## REGULATIONS

### 2.6 Payment Arrangements

#### 2.6.1 Payment for Service

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

##### A. Taxes, Surcharges and Government Fees

The Customer is responsible for payment of any fees (including franchise and right-of-way fees), charges, surcharges and taxes (however designated) (including without limitation sales, use, gross receipts, excise, access or other taxes but excluding taxes on the Company's net income) imposed by any local, state, or federal government on or based upon the provision, sale or use of Network Services. Fees, charges, and taxes imposed by a city, county, or other political subdivision will be collected only from those Customers receiving service within the boundaries of that subdivision. The New York State Gross Receipts Tax, plus surcharges imposed by state and local jurisdictions shall be charged according to the schedule attached to this tariff as Addendum A, pursuant to the Order of the Public Service Commission in Case No. 92-M-0366, adopted May 13, 1992 as amended by the Commission's Order in Case No. 93-M-0411, adopted June 3, 1993 and Case No. 98-M-0489, dated August 26, 1998. The tax surcharge will not apply for presubscription charges. Any revisions to Addendum A shall be filed by the Company as directed by the Public Service Commission, but in no case upon less than fifteen (15) days' notice

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.2 Billing and Collection of Charges

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

- A. Non-recurring charges are due and payable within 30 days after the date of the invoice.
- B. The Company shall present invoices for Recurring Charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable within 30 days after the date of the invoice. When billing is based upon customer usage, usage charges will be billed monthly for the preceding billing period.
- C. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rate basis. For this purpose, every month is considered to have 30 days.
- D. Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.2 Billing and Collection of Charges (cont'd.)

- E. If any portion of the payment is received by the Company after the date due, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
  - 1. a rate of 1.5 percent per month; or
  - 2. the highest interest rate which may be applied under state law for commercial transactions.
- F. The Customer will be assessed a charge of twenty dollars (\$20.00) for each check submitted by the Customer to the Company which a financial institution refuses to honor.
- G. If service is disconnected by the Company in accordance with Section 2.6.4 following and later reinstalled, service will be subject to all applicable installation charges. If service is suspended by the Company and later restored, service will be subject to all applicable restoration charges.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.3 Billing Disputes

##### A. General

All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 90 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business). After the Customer's notice of disputed charges is received by the Company, the Customer is limited to two (2) years to resolve the dispute. For the purposes of this section, "notice" is defined as written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed.

##### B. Late Payment Charge

1. The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount under Section 2.6.2(E), preceding.
2. In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge.
3. In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.3 Billing Disputes (cont'd.)

##### C. Adjustments or Refunds to the Customer

1. In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
2. In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
3. In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.
4. All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.3 Billing Disputes (cont'd.)

##### D. Unresolved Billing Disputes

In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer has up to 90 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business) to take the following course of action:

1. First, the Customer may request and the Company will provide an in-depth review of the disputed amount.
2. Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

New York Public Service Commission  
Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.4 Discontinuance of Service for Cause

The Company may discontinue service or cancel an application for service without incurring any liability for any of the following reasons:

- A. Upon non-payment of any sum owing to the Company for more than 30 days beyond the date of rendition of the bill service or upon violation of any of the terms or conditions governing the furnishing of service under this tariff, the Company may, on 30 days advance notice in writing to the Customer, with a copy to the New York Public Service Commission, without incurring any liability, discontinue the furnishing of service under this tariff.
- B. Without notice, in the event of a violation of any regulation governing the service under this tariff;
- C. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- D. Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- E. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.4 Discontinuance of Service for Cause (cont'd.)

- F. In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- G. Upon the Company's discontinuance of service to the Customer under Section 2.6.4(A) or 2.6.4(B), the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six percent).

#### 2.6.5 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide Company thirty (30) days written notice of desire to terminate service.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved

The provision of meet point billing is applicable to the Local Transport- Common Transport rate structure. Meet point billing applies where a Customer orders Switched Access Service to a tandem operated by another Exchange Telephone Company which subtends an end office operated by the Company. The appropriate Local Transport rate elements will apply to the Tandem Interconnection Common/Dedicated Transport rare structure and to the ICB rate structure. All other recurring and nonrecurring charges for services provided by each Exchange Telephone Company are billed under each company's applicable rates as set forth in Section 2.6.6 (A) following.

The Company accepts and adheres to the Ordering and Billing Forum guidelines, Multiple Exchange Carrier Access Billing (MECAB) and Multiple Exchange Carrier Ordering and Design (MECOD). The guidelines apply only to the Local Transport-Common Transport rate structure for Access Services as set forth in Section 2.6.6 (A) following.

The Company will handle ordering, rating and billing of Switched Access Services under this tariff where more than one Exchange Telephone Company is involved in the provision of Access Service as follows.

- A) When Feature Group B and/or D Switched Access Service is ordered by a customer to a tandem operated by another Exchange Telephone Company which subtends an end office operated by this Company, the customer must provide the original order to the Exchange Telephone Company which operates the access tandem, and must provide a copy of the order to this Company.

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved (cont'd.)

##### A) (cont'd.)

Each Exchange Telephone Company will provide the portion of Local Transport in its operating territory to an interconnection point (IP) with another Exchange Telephone Company, and will bill the charges in accordance with its Switched Access Service tariff for either Single Bill/Multiple Tariff arrangements or Multiple Bill/Multiple Tariff arrangements. For Single Bill/Single Tariff arrangements the Company will either bill the charges in accordance with its Access Service Tariff or agree to bill the Switched Access Service charges of the interconnecting Exchange Telephone Company. The rate for the Transport elements will be determined as set forth in (B) following. All other appropriate charges in each Exchange Telephone Company tariff are applicable.

##### B) The charge for the Local Transport-Common Transport rate elements for services provided as set forth in Section 2.6.6 (A) preceding are determined as follows:

- (1) Determine the appropriate Switched Access Local Transport mileage by computing the airline mileage between the two ends of the Local Transport Facility. Determine the airline mileage for the Local Transport Facility charge using the V&H method as set forth in Section 2.10.2 following.

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved (cont'd.)

##### B) (cont'd.)

- (2) For Feature Groups B and D Switched Access Service, the Local Transport-Common Transport rates are determined by using the steps set forth in (a) through (e) following for the Local Transport-Common Transport charges.

(a) Multiply:

The number of access minutes  
by  
the number of airlines miles  
as determined in (1) preceding  
by  
the Company's appropriate  
Common Transport Facility per mile  
per access minute rate  
by  
the Company's billing  
percentage factor.

(b) Divide:

The product of (a) by 100.  
The resulting amount is the  
Company's total Common  
Transport Facility Charge.

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### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved (cont'd.)

B. (cont'd.)

2. (cont'd.)

(c) Multiply:

The number of access minutes  
by  
the Company's appropriate  
Common Transport Termination  
per minute rate.

(d) Divide:

The product of © by two (2).  
The resulting amount is the  
Company's total Common  
Transport Termination Transport charge.

(e) Add:

The products of (b) and (d) for  
the Company's total Local  
Transport-Common charges.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved (cont'd.)

- C. The interconnection points will be determined by the Exchange Telephone Companies involved. The billing percentage (BP) factor for the Company for the service between the two involved offices will be listed in NATIONAL EXCHANGE CARRIER ASSOCIATION, INC. TARIFF F.C.C. NO. 4, except as noted in 2.6.6(D), below.
- D. Until the NATIONAL EXCHANGE CARRIER ASSOCIATION, INC. TARIFF F.C.C. NO. 4 is revised to include mutually agreed upon meet points, the applicable billing percentage factors for Feature Group B or D Switched Access Service traffic between certain Company end offices and NYNEX or Rochester Telephone Corp. offices are as set forth in MFS Intelenet, Inc. Tariff F.C.C. No.2.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.6 Ordering, Rating and Billing of Switched Access Services Where More Than One Local Exchange Telephone Company is Involved (cont'd.)

- E. Should any changes be made to the meet point billing arrangements as set forth in Section 2.6.6 (A) preceding, the Company will give affected customers 30 days' notice.
- F. Should the Company act as an intermediate, non-terminating local exchange carrier, Tandem Switched Transport Termination rates, as determined in Section 2.6.6 (B) preceding, will not be applied to the meet point billing arrangement.

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## REGULATIONS

### 2.6 Payment Arrangements (cont'd.)

#### 2.6.7 Changes in Service Requested

If the Customer makes or requests material changes in circuit engineering, equipment specifications, service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fees shall be adjusted according to the type of the Service Order charge.

#### 2.6.8 Customer Overpayment

The Company will pay interest on a Customer overpayment. Customer overpayment shall mean a payment to the Company in excess of the correct charges for service when caused by erroneous billing by the Company. The rate of interest shall be the unadjusted interest rate paid on Customer deposits or the late payment penalty rate, whichever is greater. Interest shall be paid from the date when the Customer overpayment was made, adjusted for any changes in the deposit interest rate or late payment penalty rate, and compounded monthly, until the date when the overpayment is refunded. No interest shall be paid on Customer overpayments that are refunded within thirty (30) days after such overpayment is received by the Company.

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## REGULATIONS

### 2.7 Allowances for Interruptions in Service

#### 2.7.1 General

- A. A credit allowance will be given when service is interrupted, except as specified in Section 2.7.2 following. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a component furnished by the Company under this tariff.
- B. An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- C. If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.

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## REGULATIONS

### 2.7 Allowances for Interruptions in Service (cont'd.)

#### 2.7.2 Limitations of Allowances

No credit allowance will be made for any interruption in service:

- A. Due to the negligence of or noncompliance with the provisions of this Tariff by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the service of the Company;
- B. Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- C. Due to circumstances or causes beyond the control of the Company;
- D. During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- E. During any period in which the Customer continues to use the service on an impaired basis;
- F. During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- G. That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- H. That was not reported to the Company within thirty (30) days of the date that service was affected.

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## REGULATIONS

### 2.7 Allowances for Interruptions in Service (cont'd.)

#### 2.7.3 Use of Another Means of Communications

If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

#### 2.7.4 Application of Credits for Interruptions in Service

- A. Credits for interruptions in service that is provided and billed on a flat rate basis for a minimum period of at least one month, beginning on the date that billing becomes effective, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rate basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
- B. For calculating credit allowances, every month is considered to have thirty (30) days.
- C. A credit allowance will be given for interruptions in service of 15 minutes or more. Two or more interruptions of 15 minutes or more during any one 24-hour period shall be considered as one interruption.

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### REGULATIONS

#### 2.7 Allowances for Interruptions in Services (cont'd.)

##### 2.7.4 Application of Credits for Interruptions in Service (cont'd.)

###### D. Interruptions of 24 Hours or Less

<u>Length of Interruption</u>	<u>Interruption Period To Be Credited</u>
Less than 15 minutes	None
15 minutes up to but not including 3 hours	1/10 Day
3 hours up to but not including 6 hours	1/5 Day
6 hours up to but not including 9 hours	2/5 Day
9 hours up to but not including 12 hours	3/5 Day
12 hours up to but not including 15 hours	4/5 Day
15 hours up to but not including 24 hours	One Day

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## REGULATIONS

### 2.7 Allowances for Interruptions in Service (cont'd.)

#### 2.7.4 Application of Credits for Interruptions in Service (cont'd.)

- E. Continuous Interruption Over 24 Hours and Less Than 72 Hours.  
Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each three-hour period or fraction thereof that occurs following the expiration of the initial 24-hour period. No more than one full day's credit will be allowed for any period of 24 hours.
- F. Interruptions Over 72 Hours.  
Interruptions over 72 hours will be credited 2 days for each full 24-hour period that occurs following the expiration of the initial 72-hour period. No more than 30 days credit will be allowed for any one month period.

#### 2.7.5 Cancellation For Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

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## REGULATIONS

### 2.8 Cancellation of Service/Termination Liability

If a Customer cancels a Service Order or terminates services before the completion of the term for any reason whatsoever other than a service interruption (as defined in Section 2.7.1), Customer agrees to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination and be payable within the period set forth in Section 2.6.2.

#### 2.8.1 Termination Liability

Customer's termination liability for cancellation of service shall be equal to:

- A. all unpaid Non-Recurring charges reasonably expended by Company to establish service to Customer, plus;
- B. any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus;
- C. all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation;
- D. minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

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## REGULATIONS

### 2.9 Customer Liability for Unauthorized Use of the Network

#### 2.9.1 Unauthorized Use of the Network

- A. Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this Tariff; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this Tariff, or uses specific services that are not authorized.
- B. The following activities constitute fraudulent use:
  - 1. Using the Network to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service:
  - 2. Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this Tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
  - 3. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.

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## REGULATIONS

### 2.9 Customer Liability for Unauthorized Use of the Network (cont'd.)

#### 2.9.1 Unauthorized Use of the Network (cont'd.)

- C. Customers are advised that use of telecommunications equipment and services, including that provided under this Tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this Tariff.

#### 2.9.2 Liability for Unauthorized Use

- A. Except as provided for elsewhere in this Tariff, the Customer is responsible for payment of all charges for services provided under this Tariff furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- B. The Customer is liable for all costs incurred as a result of unauthorized use of the Network, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive charges.
- C. The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.

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## REGULATIONS

### 2.10 Application of Rates

The regulations set forth in this section govern the application of rates for services contained in other sections of this tariff. Rates and charges for services provided by the Company will be as specified in Section 5.

#### 2.10.1 Charges Based on Duration of Use

Customer traffic to end offices will be measured (i.e., recorded or assumed) by the Company at end office switches or access tandem switches. Originating and terminating calls will be measured (i.e., recorded or assumed) by the Company to determine the basis for computing chargeable access minutes. In the event the Customer message detail is not available because the Company lost or damaged tapes or experienced recording system outages, the Company will estimate the volume of lost Customer access minutes of use based on previously known values.

For originating calls over Feature Group B or D, usage measurement begins when the originating Feature Group B or D switch receives the first wink supervisory signal forwarded from the customer's point of termination.

The measurement of originating call usage ends when the originating Feature Group B or D switch receives disconnect supervision from either the originating end user's end office, indicating the originating end user has disconnected, or the customer's point of termination, whichever is recognized first by the switch.

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## REGULATIONS

### 2.10 Application of Rates (cont'd.)

#### 2.10.1 Charges Based on Duration of Use (cont'd.)

For terminating calls over Feature Group B or D, the measurement of access minutes begins when the terminating Feature Group B or D switch receives answer supervision from the terminating end user's end office, indicating the terminating end user has answered. For terminating calls over FGB and FGD Access Service, the measured minutes are chargeable access minutes. Where assumed minutes are used, the assumed minutes are the chargeable access minutes.

The measurement of terminating call usage over Feature Group D ends when the terminating Feature Group D switch receives disconnect supervision from either the terminating end user's end office, indicating the terminating end user has disconnected, or the customer's point of termination, whichever is recognized first by the switch.

FGB and FGD access minutes or fractions thereof, the exact value of the fraction being a function of the switch technology where the measurement is made, are accumulated over the billing period for each end office, and are then rounded up to the nearest access minute for each end office.

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## REGULATIONS

### 2.10 Application of Rates (cont'd.)

#### 2.10.2 Rates Based Upon Distance

Where the charges for service are specified based upon distance, the following rules apply:

- A. Distance between two points is measured as airline distance between the Wire Centers of the originating and terminating telephone lines. The Wire Centers is a set of geographic coordinates as referenced in National Exchange Carrier Association, Inc. Tariff FCC No. 4, associated with each NPA-NXX combination (where NPA is the area code and NXX is the first three digits of a seven-digit telephone number). Except that, until the NATIONAL EXCHANGE CARRIER ASSOCIATION, INC. TARIFF F.C.C. NO. 3 is revised to include certain Company Wire Centers, the airline distance should be determined utilizing the "V" (vertical) and "H" (horizontal) coordinates as set forth in RCN Telecom Services, Inc. Tariff F.C.C. No. 1.

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## REGULATIONS

### 2.10 Application of Rates (cont'd.)

#### 2.10.2 Rates Based Upon Distance (cont'd.)

B. The airline distance between any two Wire Centers is determined as follows:

1. Obtain the "V" and "H" coordinates for each Wire Center from the above-referenced NECA tariff.
2. Compute the difference between the "V" coordinates of the two wire centers; and the difference between the two "H" coordinates.
3. Square each difference obtained in step (2) above.
4. Add the square of the "V" difference and the square of the "H" difference obtained in step (3).
5. Divide the sum of the squares by 10. Round to the next higher whole number if any fraction is obtained.
6. Obtain the square root of the whole number result obtained above. Round to the next higher whole number if any fraction is obtained. This is the airline mileage.
7. Formula =

$$\text{SQRT} \{ \{ (V1 - - - V2) \text{ SUP } 2 - + - (H1 - - - H2) \text{ SUP } 2 \} \text{ OVER } 10 \}$$

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## REGULATIONS

### 2.10 Application of Rates (cont'd.)

#### 2.10.3 Mileage

The mileage to be used to determine the Common Transport Facility monthly rate is calculated on the airline distance between the end office switch where the call carried by Local Transport originates or terminates and the customer's serving wire center. The V&H coordinates method is used to determine mileage. This method is set forth in Section 2.10.2.

The Common Transport Facility rate mileage rate is shown in Section 5.1.3 in terms of per mile per access minute. To determine the rate to be billed, first compute the mileage using the V&H coordinates method shown in Section 2.10.2. Should the calculation result in a fraction of a mile, always round up to the next whole mile before determining the mileage. Then multiply the mileage by the appropriate Common Transport Facility rate. The amount to be billed shall be the product of this calculation (i.e., the number of miles multiplied by the per mile rate) multiplied by the number of access minutes.

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## REGULATIONS

### 2.11 Privacy Rules

Automatic Number Identification (ANI) derived information may be used only for billing, routing, screening, ensuring network performance, completing calls or performing services directly related to the telephone caller's original call or transaction. Therefore, should the business that receives ANI information have an established customer relationship with the caller, the business may offer products or services to the caller that are directly related to the products or services previously purchased by the caller. The business that receives ANI information may not establish marketing lists or conduct ongoing market calls for unrelated products or services or sell the information derived from ANI (caller's name, address, telephone billing number, purchasing habits, etc.) to third parties unless it gets the prior written consent of the caller.

Should an ANI subscriber violate any of the foregoing terms and conditions, the Company will terminate ANI to that subscriber after a determination through the New York Public Service Commission's complaint process. ANI transmission will be reinstated after the New York Public Service Commission receives written confirmation from the ANI subscriber that the violations have ceased or have been corrected. Should the New York Public Service Commission determine that there have been three or more separate violations in a 24 month period, delivery of ANI to the subscriber will be terminated under the terms and conditions determined by the New York Public Service Commission.

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### REGULATIONS

#### 2.12 Transport and Termination of Local Exchange Traffic and Intra Mobile Traffic for Other Carriers

- A) Where a certificated local exchange carrier offers local exchange service (local calling or expanded area service) within any of the same exchange area(s) as the Company, and there is no existing Traffic Exchange or Interconnection Agreement (Contract), the Company will provide transport and termination of local calls to such other carrier on a reciprocal basis. As a condition of receiving service under this Section 2.12, the other carrier must provide comparable local exchange transport and termination services to the Company at no charge. If the other carrier imposes a charge on the Company for transport and termination of local calls, and no Contract is in effect, then the Company may elect to accept the other carrier's traffic for transport and termination of local calls subject to payment at the same rate per minute as is charged by the other carrier to the Company.

Notwithstanding any other provision of this tariff, with respect to any carrier that, on its own or through an Affiliate, provides services comparable to the services provided under this tariff to RCN within New York, during any billing period, in the event that any of the applicable rates and charges set forth in this tariff are lower than comparable rates and charges in effect as of the last day prior to such billing period ("carrier rates") offered or charged by the carrier or such Affiliate to RCN anywhere within Massachusetts for services comparable to the services provided under this tariff, then, for such carrier, such rates and charges in this tariff may be increased by RCN to an amount equal to such carrier's rates.

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## REGULATIONS

### 2.12 Transport and Termination of Local Exchange Traffic and IntraMTA Mobile Traffic for Other Carriers (cont'd.)

- B) Transport and termination of local calls pursuant to this Section 2.12 provides routing and completion of calls between a point of interconnection and the dialed end user on the Company's network. The Company will provide the local Transport, switching and end user termination functions necessary to complete the transmission of these calls within the local the calling area.
- 1) Unless otherwise agreed, the point of interconnection shall be the Incumbent Local Exchange Carrier tandem switch serving each exchange area(s) in which the Company is providing transport and termination services.
  - 2) Upon request, the other carrier may relocate the point of interconnection to the Company switching office by providing facilities to deliver its traffic to that point, and by accepting the Company's local traffic for transport and termination at that same point.
  - 3) The two companies may also establish other point(s) of interconnection by mutual agreement. necessary from time to time to maintain an adequate grade of service.
- C) It is the other carrier's responsibility to provide facilities for delivery of its local calls to the point of interconnection. The other carrier's facilities shall provide the necessary on-hook, off-hook answer and disconnect supervision. The other carrier shall provide a sufficient number of circuits to permit completion of calls without unreasonable blocking, and shall augment its facilities as necessary from time to time to maintain an adequate grade of service.

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## REGULATIONS

### 2.12 Transport and Termination of Local Exchange Traffic and IntraMTA Mobile Traffic for Other Carriers (cont'd.)

- D) Facilities provided under this Section 2.12 may be used to access valid NXX codes and/or Local Routing Numbers (LRNs) assigned to the Company. Unless otherwise specified in this Section 2.12, technical specifications for trunk groups provided under this section are the same as those for switched access trunks.
- E) This Section 2.12 applies only to local calls as defined in the Company's Tariff - NY P.S.C. Tariff No.4. This Section 2.12 does not apply to calls to local operator assistance (O- and O+), local Directory Assistance, N11 service codes, 950-XXXX and 101-XXXX access codes or to a TRS center. Termination of these and all other types of traffic must be obtained pursuant to other sections of this Tariff.
- F) This Section 2.12 is not applicable to any carrier that has entered into a separate agreement with the Company containing rates, terms, and conditions for transport and termination of local calls. In any case where the Company and another carrier are exchanging traffic pursuant to this Section 2.12, either the Company or the other carrier may at any time request that the other enter into a separate agreement concerning such rates, terms, and conditions.
- G) The services provided under this Tariff shall be maintained by the Company. The other carrier may not rearrange, move, disconnect, remove or attempt to repair any facilities provided by the Company, other than by connection or disconnection to any interface means used. The provision of transport and termination by the Company as set forth in this Tariff does not constitute a joint undertaking with the other carrier for the furnishing of any service.

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### REGULATIONS

#### 2.12 Transport and Termination of Local Exchange Traffic and IntraMTA Mobile Traffic for Other Carriers (Cont'd.)

- (H) RCN will provide transport and termination of intraMTA traffic for providers of commercial mobile radio services under the terms of this Section 2.12, except that (i) paragraph (A) and the first sentence of paragraph (E) of this section shall not apply, and (ii) the remaining terms of this section shall be applied as if all instances of the term “local calls” were replaced by the term “intraMTA mobile calls.” The termination of intraMTA mobile calls for such providers shall be on a bill and keep basis, as provided in Section 5.1.6(A). However, all interMTA mobile calls terminated by RCN on behalf of such providers of commercial mobile radio services shall be treated as Switched Access Service subject to the rates, terms, and conditions of the sections of this Tariff applicable to such service, or under RCN’s interstate switched access tariff, whichever is applicable.

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