

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 1  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company

#### 2.1.1 Scope

- A. The Company does not undertake to transmit messages under this Tariff.
- B. The Company shall be responsible only for the installation, operation and maintenance of the services it provides.
- C. The Company will, for maintenance purposes, test its service only to the extent necessary to detect and/or clear troubles.
- D. Services are provided 24 hours daily, seven days per week, except as set forth in other applicable sections of this Tariff.
- E. The Company does not warrant that its facilities and services meet standards other than those set forth in this Tariff.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 2  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.2 Limitations

Services offered herein are offered by the Company only under the terms of this Tariff. Therefore, any purchase by the Customer of a Service or Services offered by the Company pursuant to this tariff shall be regarded as consent by the Customer to be held accountable for the obligations directed to a Customer under this tariff. 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 the service guide of the Company, a month is considered to have 30 days.

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 the service guide of the Company. Customer will also be required to execute any other documents as may be reasonably requested by the Company. Irrespective of whether or not a Customer signs a written service order or any other documents requested by the Company, the Customer nonetheless remains financially responsible for any Service or Services purchased under this service guide.

At the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party. Any termination shall not relieve Customer of its obligation to pay any charges incurred under the service order, this service guide and the tariffs of the Company prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the service order shall survive such termination.

In any action between the parties to enforce any provision of this service guide or the tariffs of the Company, 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.

The Tariff of the Company shall be interpreted and governed by the laws of the State of New York without regard for its choice of laws provision

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 3  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.2 Limitations

##### A. Assignment or Transfer of Services

The Customer may assign or transfer the use of services provided under this Tariff only where there is no interruption of use or relocation of the services. Such assignment or transfer may be made to:

1. another Customer, whether an individual, partnership, association or corporation, provided the assignee or transferee assumes all outstanding indebtedness for such services, and the unexpired portion of the minimum period and the termination liability applicable to such services, if any; or
2. a court-appointed receiver, trustee or other person acting pursuant to law in bankruptcy, receivership, reorganization, insolvency, liquidation or other similar proceedings, provided the assignee or transferee assumes the unexpired portion of the minimum period and the termination liability applicable to such services, if any.

In all cases of assignment or transfer, the written acknowledgment of the Company is required prior to such assignment or transfer. This acknowledgment shall be made within 15 days from receipt of written notification.

All regulations and conditions contained in this Tariff shall apply to such assignee or transferee.

The assignment or transfer of services does not relieve or discharge the assignor or transferor from remaining jointly or severally liable with the assignee or transferee for any obligations existing at the time of the assignment or transfer.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 4  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.2 Limitations (Cont'd)

##### B. Use and Restoration of Services

The use and restoration of services shall be in accordance with Part 64, Subpart D, Appendix A, of the Federal Communications Commission's Rules and Regulations, which specifies the priority system for such activities.

##### C. Reserved For Future Use

##### D. Resale and Sharing

Any service provided under the Company tariffs or Service Guides may be resold to or shared with other persons at the option of Customer, except as provided in Section 2.1.2.A.. Customer remains solely responsible for all use of services ordered by it or billed to its telephone number(s) pursuant to the tariffs or Service Guides of the Company, for determining who is authorized to use its services, and for notifying the Company of any unauthorized use. Customers are responsible for obtaining all required authorization to provide telecommunications services on a resale or shared basis.

##### E. Joint Use Arrangements

Joint use arrangements will be permitted for all services available for resale and sharing pursuant to the Company tariffs or Service Guides. From each joint use arrangement, one member will be designated to the Customer responsible for the manner in which the joint use of the service will be allocated. The Company will accept orders to start, rearrange, relocate, or discontinue service only from the Customer. (T) Without affecting the Customer's ultimate responsibility for payment of all charges for the service, each joint user shall be responsible for the payment of the charges billed to it.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 5  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.3 Liability

The liability of the Company for damages arising out of the furnishing of these services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or arising out of the failure to furnish the service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption as set forth in Section 2.6. The extension of such allowances for interruption shall be the sole remedy of the Customer, authorized user, or joint user and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

The Company shall not incur any liability, direct or indirect, to any person who dials or attempts to dial, the digits "9-1-1" or to any other person who may be affected by the dialing of the digits "9-1-1".

The Company shall not be liable for any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or of any civil or military authority; national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials; or strikes, lock-outs, work stoppages, or other labor difficulties.

The Company shall not be liable for any act or omission of any entity furnishing to the Company or to the Company's Customers facilities or equipment used for or with the services the Company offers.

The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.

The Company shall not be liable for the claims of vendors supplying equipment to Customers' of the Company which may be installed at premises of the Company nor shall the Company be liable for the performance of said vendor or vendor's equipment.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 6  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.3 Liability (Cont'd)

The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided. The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this section as a condition precedent to such installations.

The Company shall not be liable for any damages resulting from delays in meeting any service dates due to delays resulting from normal construction procedures. Such delays shall include, but not be limited to, delays in obtaining necessary regulatory approvals for construction, delays in obtaining right-of-way approvals and delays in actual construction work.

The Company is not liable for any defacement of or damage to the premises of a Customer (or authorized or joint user) resulting from the furnishing of services or equipment on such premises or the installation or removal thereof, when such defacement or damage is not the result of negligence or willful misconduct on the part of the agents or employees of the Company.

The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment which the Company does not furnish or for any act or omission of a Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with the Company Service. (T)

**THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.**

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 7  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.4 Provision of Services

All services along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.

The Company may undertake to use reasonable efforts to make available service to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any customer.

The Company shall not be responsible for the installation, operation, or maintenance of any customer provided communications equipment. Where such equipment is connected to the services furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of services offered under this tariff and to the maintenance and operation of such services; the Company shall not be responsible for:

The transmission of signals by customer provided equipment or for the quality of, or defects in, such transmission; or

The reception of signals by customer provided equipment.

Where economically feasible, the Company shall, directly or through third parties, use reasonable efforts to obtain and maintain rights-of-way necessary for the installation of facilities used to provide Company Services. Except as otherwise provided herein, any and all costs associated with acquiring the rights-of-way from the point of entry at the Customer's location to the termination point where service is finally delivered to the Customer, including, but not limited to, the cost of installing conduit or of altering the structure to permit the installation of Company-provided facilities, shall be borne entirely by the Customer. The Customer's use of such rights-of-way shall in all respects be subject to the terms, conditions, and restrictions of such rights-of-way and of agreements between the Company and such third parties relating thereto, including without limitation, the duration applicable to and the condemnation of such rights-of-way, and shall not be in violation of any applicable governmental ordinance, law, rule, regulation or restriction. Where applicable, the Customer agrees that it shall assist the Company in the procurement and maintenance of such right-of-way. (T)

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 8  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.5 Interconnection of Facilities

Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Company Service and the channels, facilities, or equipment of others shall be provided at the Customer's expense. (T)

Company's Service may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carrier which are applicable to such connections. (T)

#### 2.1.6 Customer Equipment and Channels

##### A. General

A Customer may transmit or receive information or signals via the services provided by the Company.

##### B. Station Equipment

The Customer-provided terminal equipment on the premises of the Customer, authorized user, or joint user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer, authorized user, or joint user.

The Customer, authorized user, or joint user is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or to other persons. The Customer will submit to the Company a complete manufacturer's specification sheet for each item of equipment that is not provided by the Company and which shall be attached to the Company's facilities. The Company shall approve the use of such item(s) of equipment unless such item is technically incompatible with the Company's facilities. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 9  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.6 Customer Equipment and Channels (Cont'd)

##### C. Interconnection Provisions

Facilities furnished under this tariff may be connected to the Customer provided terminal equipment in accordance with the provisions of this tariff.

##### D. Inspections

Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer, authorized user, or joint user is complying with the requirements set forth hereinafter for the installation, operation, and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment.

If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten (10) days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 10  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.7 Changes and Substitutions

Except as provided for equipment and systems subject to FCC Part 68 Regulations at 47 C.F.R. Section 68.110(b), the Company may, where such action is reasonably required in the operation of its business, substitute, change or rearrange any Company facilities used in providing service under this Tariff. Such actions may include, without limitation:

- substitution of fiber or optical facilities,
- change of minimum protection criteria,
- change of operating or maintenance characteristics of facilities, or
- change of operations or procedures of the Company.

In case of any such substitution, change or rearrangement, the transmission parameters will be within the range set forth in applicable sections of this Tariff. The Company shall not be responsible if any such substitution, change or rearrangement renders any Customer furnished services obsolete or requires modification or alteration thereof or otherwise affects their use or performance. If such substitution, change or rearrangement materially affects the operating characteristics of the facility, the Company will provide reasonable notification to the Customer in writing. Reasonable time will be allowed for any redesign and implementation required by the change in operating characteristics. The Company will work cooperatively with the Customer to determine reasonable notification procedures.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 11  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.8 Refusal and Discontinuance of Service

- A. If a Customer fails to pay timely any amount required and such failure continues for ten (10) days after written notice thereof to the Customer, or if the Customer fails to comply with any other provision of this tariff and such noncompliance continues for thirty (30) days after written notice thereof to the Customer, then, as to the applicable services, the Company at its sole option may elect to pursue one or more of the following courses of action:
1. require immediate payment of all future payments for service hereunder (discounted to present value at 6%),
  2. discontinue existing services, suspend existing services, or refuse to accept orders for additional services, and/or
  3. pursue any other remedies as may be provided at law or in equity. Company shall incur no liability for such discontinuance, suspension or refusal to accept orders, and/or.
  4. refuse to complete any pending service orders from the Customer.
- B. If all or any significant portion of the fiber optic or other facilities or associated equipment used to provide the Services to the Customer shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, the Company shall be entitled to elect to terminate service upon written notice to the Customer.
- If all or any significant portion of the fiber optic or other facilities or associated equipment used to provide the Services to the Customer shall, in the Company's judgment, be made inoperable and beyond economically or technologically feasible repair, the Company shall promptly inform the Customer thereof in writing and the Company shall be entitled to elect to terminate service. Any repairs shall be at the Company's sole expense, except that if such casualty is caused by the willful misconduct or negligence of the Customer or by the Customer's noncompliance with its obligations under this Agreement, then such repairs shall be at the Customer's expense.
- C. Upon the Customer filing for bankruptcy or reorganization or failing to discharge an involuntary petition therefore within the time permitted by law, the Company may immediately discontinue or suspend service under this tariff without incurring any liability.
- D. Upon the Company's discontinuance of service to the Customer, the Company, in addition to all other remedies that may be available 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 minimum term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at 6%).

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 12  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.8 Refusal and Discontinuance of Service (Cont'd)

- E. If a Customer or Customer's End User fails to comply with 2.2.2 following, the Company may, on its own initiative or upon written request from a Customer, an End User or another Carrier, terminate service to any Customer or End User identified as having utilized service provided under this Tariff in the completion of abusive or unlawful telephone calls. Service shall be terminated by the Company as provided for in its local exchange service tariffs or Service Guides.

In such instances when termination occurs pursuant to a request, the Company shall be indemnified, defended and held harmless by any Customer, End User or other Carrier requesting termination of service against any suit, claim, loss or damage, including punitive damages, attorney fees and court costs, arising from the Company's actions in terminating such service, unless caused by the Company's sole negligence.

- F. Except as provided for equipment or systems subject to the FCC Part 68 Rules in 47 C.F.R. Section 68.108, if the Customer fails to comply with 2.2.1 following, the Company will, where practicable, notify the Customer that temporary discontinuance of the use of a service may be required; however, where prior notice is not practicable, the Company may temporarily discontinue service forthwith if such action is reasonable in the circumstances. In case of such temporary discontinuance, the Customer will be notified promptly and afforded the opportunity to correct the condition which gave rise to the temporary discontinuance.
- G. If the Company does not refuse additional applications for service and/or does not discontinue the provision of the services as specified for herein, and the Customer's noncompliance continues, nothing contained herein shall preclude the Company's right to refuse additional applications for service and/or to discontinue the provision of the services to the non-complying Customer without further notice.
- H. The Company may immediately, and without notice, discontinue the furnishing of any and/or all services to the Customer if the Company deems that such action is necessary to prevent or protect against fraud or to otherwise protect its personnel, agents, other customers, facilities or services. The Company may discontinue service under this Section 2.1.8.H, if the Company determines that a Customer is using, or attempting to use, the services with the intent to avoid the payment, either in whole or in part, of any of the Company's tariffed charges by:
- Using or attempting to use service by rearranging, tampering with, or making connections not authorized by this Tariff to the Company's service, or
  - Using fraudulent means or devices, tricks, false or invalid numbers, false credit devices, or electronic devices, whether directed at the Company or others, or
  - Using any fraudulent means or devices.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 13  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.9 Notification of Service-Affecting Activities

The Company will provide the Customer reasonable notification of service-affecting activities that may occur in the normal operation of its business. Such activities may include, but are not limited to the following:

- equipment or facilities additions,
- removal or rearrangements,
- routine preventative maintenance, and
- major switching machine change-out

Generally, such activities are not individual Customer service specific, but may affect many Customer services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine reasonable notification requirements.

#### 2.1.10 Coordination with Respect to Network Contingencies

The Company intends to work cooperatively with the Customer to develop network contingency plans in order to maintain maximum network capability following natural or man-made disasters which affect telecommunications services.

#### 2.1.11 Provision and Ownership of Telephone Numbers

The Company reserves the right to assign, designate or change telephone numbers, any other call number designations associated with services provided under this Tariff, or the Company serving central office prefixes associated with such numbers, when necessary in the conduct of its business. Should it become necessary for the Company to make a change in such number(s), the Company will furnish to the Customer six (6) months notice, by Certified U.S. Mail of the effective date and an explanation of the reason(s) for such change(s).

#### 2.1.12 Network Management

The Company will administer its network to insure the provision of acceptable service levels to all telecommunications users of the Company's network services. Generally, service levels are considered acceptable only when both End Users and Customers are able to establish connections with little or no delay encountered within the Company network. The Company maintains the right to apply protective controls over any traffic carried over its network, including that associated with Access Services or Network Interconnection Services. Generally, protective measures (such as those actions which selectively cancel the completion of traffic) would only be taken as a result of occurrences such as failure or overload of Company or Customer facilities, natural disasters, mass calling or national security demands.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 14  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.13 Shortage of Equipment or Facilities

The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of a lack of facilities, or due to any other cause beyond the Company's control.

The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities, including facilities the Company may obtain from other carriers, to furnish service from time to time as required at the sole discretion of the Company.

#### 2.1.14 Governmental Authorizations

The provision of the Company's Services is subject to and contingent upon the Company obtaining and retaining such approvals, consents, governmental authorizations, licenses and permits, as may be required or be deemed necessary by the Company. The Company shall use reasonable efforts to obtain and keep in effect all such approvals, consents, authorizations, licenses and permits that may be required to be obtained by it. The Company shall be entitled to take, and shall have no liability whatsoever for, any action necessary to bring the Services into conformance with any rules, regulations, orders, decisions, or directives imposed by the Federal Communications Commission, the New York State Public Service Commission, or any other applicable agency, and the Customer shall fully cooperate in and take such action as may be requested by the Company to comply with any such rules, regulations, orders, decisions or directives. (T)

#### 2.1.15 Non-Routine Installation

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on not less than the cost of the actual labor, material, or other costs incurred by or charged to the company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 15  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.1 Undertaking of the Company (Cont'd)

#### 2.1.16 Services Provided by Other Carriers

The Company shall have no responsibility with respect to billings, charges or disputes related to services used by the Customer which are not included in the services herein including, without limitation, any local, regional and long distance services not offered by the Company. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputes or discrepancies with the service provider.

#### 2.1.17 Assignment

The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff. The Customer shall not, without prior written consent of the Company, which consent shall not be unreasonably withheld, assign, transfer, or in any other manner dispose of, any of its rights, privileges, or obligations under this tariff, and any attempt to make such an assignment, transfer, disposition without consent shall be null and void.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 16  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.2 Use

#### 2.2.1 Interference or Impairment

The characteristics and methods of operation of any circuits, facilities or equipment provided by other than the Company and associated with the facilities utilized to provide services under this Tariff shall not:

- interfere with or impair service over any facilities of the Company, its affiliated companies, or its connecting and concurring carriers involved in its services,
- cause damage to their plant,
- impair the privacy of any communications carried over their facilities, or
- create hazards to the employees of any of them or to the public.

#### 2.2.2 Unlawful and Abusive Use

The service provided under this Tariff shall not be used for an unlawful purpose or used in an abusive manner.

Abusive use includes:

- The use of the service of the Company for a call or calls, anonymous or otherwise, in a manner reasonably expected to frighten, abuse, torment, or harass another;
- The use of the service in such a manner as to interfere with the use of the service by one or more other Customers or End Users.

If a Customer (or any reseller or intermediary in the sales chain between the Customer and an End User) fails to comply with Section 2.2.3., following, the Company may, on written notification to the Customer, immediately deny requests for additional service and/or restrict service to the non-complying Customer. If the non-compliance is not cured to the Company's reasonable satisfaction within thirty (30) days after the date of notification, the Company may discontinue the service upon five (5) days prior written notice to the Customer (such cure may require, among other things, corrective communications with end users, in addition to cessation of the non-complying use of the Company's Marks). The Company may pursue any other available remedies with respect to the conduct that constitutes the non-compliance.

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TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 17  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.2 Use (Cont'd)

#### 2.2.3 Use of Company's Marks

- A. use of Company's Marks in comparative advertising solely to identify the Company as a competitor, or to identify Company's competing services, provided such use is not made in a factually incorrect or misleading context or in a manner that is likely to cause confusion or mistake, or to deceive or to identify the Company as an underlying provider of the reseller's service;
- B. use of Company's Marks pursuant to the terms of a separate written brand licensing agreement;
- C. use of Company's name to the extent it is specifically required by statute, regulation or other government requirement to do so, and;
- D. indicate, in response to an unsolicited inquiry from an End User (including a prospective End User), that it uses the Company as its underlying carrier, provided the reseller also:
  - 1. advises the End User that a portion of its service will be provided using reseller's own switching or transmission facilities (if applicable);
  - 2. identifies any other long distance providers the reseller uses in providing service to the End User;
  - 3. advises the End User it will not be the Company's Customer for the resold service, and;
  - 4. does not emphasize the Company's name more than either its own name or that of any other long distance provider the reseller uses.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 18  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.2 Use (Cont'd)

#### 2.2.4 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. Toll Free callers using the Network with the intent of gaining access to a Customer's outbound calling capabilities on an unauthorized basis; and
  4. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.
- 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.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 19  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer

#### 2.3.1 Damages

The Customer shall reimburse the Company for damages to Company facilities or the facilities of any third party utilized to provide services under this Tariff caused by the negligence or willful act of the Customer or resulting from the Customer's improper use of such facilities, or due to malfunction of any facilities or equipment provided by other than the Company. Nothing in the foregoing provision shall be interpreted to hold one Customer liable for another Customer's actions. The Company will, upon reimbursement for damages, cooperate with the Customer in prosecuting a claim against the person causing such damage and the Customer shall be subrogated to the right of recovery by the Company for the damages to the extent of such payment.

#### 2.3.2 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents or contractors. The Customer shall not have, nor shall it assert, any right, title or interest in any of the fiber optic or other facilities and associated equipment provided by the Company hereunder.

Facilities utilized by the Company to provide service under the provisions of this Tariff shall remain the property of the Company. Such facilities shall be returned to the Company by the Customer, whenever requested, within a reasonable period. The equipment shall be returned in as good condition, as reasonable wear will permit.

#### 2.3.3 Equipment Space and Power

The Customer shall furnish or arrange to have furnished to the Company, at no charge, equipment space and electrical power required by the Company to provide services under this Tariff at non-Company locations where such services terminate. The selection of ac or dc power shall be mutually agreed to by the Customer and the Company. The Customer shall also make necessary arrangements in order that the Company will have access to such spaces at reasonable times for installing, testing, repairing or removing Company facilities used to provide services.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 20  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.4 The Customer shall be responsible for:

- A. the payment of all applicable charges pursuant to the tariffs or Service Guides of the Company;
- B. damage to or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or of any User; or by the noncompliance by the Customer or any User with these regulations; or by fire or theft or other casualty on the Customer's or any User's Premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. providing at no charge, as specified from time to time by the Company, any needed personnel, equipment space and power to operate the Company facilities and equipment installed on the premises of the Customer or any User; and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;
- D. any and all costs associated with obtaining and maintaining the rights-of-way from the point of entry at the Customer's location to the termination point where service is finally delivered to the Customer, including, but not limited to, the costs of installing conduit or of altering the structure to permit installation of Company provided facilities. The Customer's use of such rights-of-way shall in all respects be subject to the terms, conditions and restrictions of such rights-of-way and of agreements between the Company and such third parties relating thereto, including without limitation, the duration applicable to and the condemnation of such rights-of-way, and shall not be in violation of any applicable governmental ordinance, law, rule, regulation or restriction. Where applicable, the Customer agrees that it shall assist the Company in the procurement and maintenance of such right-of-way. The Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for service.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 21  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.4 The Customer shall be responsible for:

- E. providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which the Company's employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain the Company's facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company's employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing and disposing of any hazardous material (e.g., friable asbestos) prior to any construction or installation work;
- F. complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of the Company's facilities and equipment in any Customer or User premises or the rights-of-way for which Customer is responsible under Section 2.3.4(D) preceding, granting or obtaining permission for the Company's agents or employees to enter the premises of the Customer or any User at any time for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company;
- G. not creating or allowing to be placed any liens or other encumbrances on the Company's equipment or facilities; and
- H. making the Company's facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 22  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.5 Availability for Testing

Access to facilities used to provide services under this Tariff shall be available to the Company at times mutually agreed upon in order to permit the Company to make tests and adjustments appropriate for maintaining the services in satisfactory operating condition. Such tests and adjustments shall be completed within a reasonable time. As set forth in 2.4.5.C.4. following, no credit will be allowed for any interruptions involved during such tests and adjustments.

#### 2.3.6 Design of Customer Services

Subject to the provisions of 2.1.7 preceding, the Customer shall be solely responsible, at its own expense, for the overall design of its services and for any redesigning or rearrangement of its services which may be required because of changes in facilities, operations or procedures of the Company, minimum protection criteria or operating or maintenance characteristics of the Company's facilities.

Customer services must be designed and maintained, and sufficient services ordered from the Company, so that the following grades of service are maintained on the Customer's Access Service or Network Interconnection Service trunks:

- For traffic routed via Access Tandems: P.005
- For traffic routed directly to End Offices: P.01

#### 2.3.7 References to the Company

The Customer may advise End Users that certain services are provided by the Company in connection with the service the Customer furnishes to End Users; however, the Customer shall not represent that the Company jointly participates in the Customer's services.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 23  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.8 Indemnification of the Company

##### A. By the Customer

1. With respect to claims of patent infringement made by third persons, the Customer shall defend, indemnify, protect and save harmless the Company from and against all claims arising out of the combining with, or use in connection with, the services provided under this Tariff, any circuit, apparatus, system or method provided by the Customer.
2. The Customer shall defend, indemnify and save harmless the Company from and against any suits, claims, losses and damages, including punitive damages, attorney fees and court costs by third persons arising out of the construction, installation, operation, maintenance, or removal of the Customer's circuits, facilities, or equipment connected to the Company's services provided under this Tariff including, without limitation, Worker's Compensation claims, actions for infringement of copyright and/or unauthorized use of program material, libel and slander actions based on the content of communications transmitted over the Customer's circuits, facilities or equipment, and proceedings to recover taxes, fines, or penalties for failure of the Customer to obtain or maintain in effect any necessary certificates, permits, licenses, or other authority to acquire or operate the services provided under this Tariff; provided, however, the foregoing indemnification shall not apply to suits, claims, and demands to recover damages for damage to property, death, or personal injury unless such suits, claims or demands are based on the tortuous conduct of the Customer, its officers, agents or employees.
3. The Customer shall defend, indemnify and save harmless the Company from and against any suits, claims, losses or damages, including punitive damages, attorney fees and court costs by the Customer or third parties arising out of any act or omission of the Customer in the course of using services provided under this Tariff.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 24  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.8 Indemnification of the Company (Cont'd)

##### B. By the End User

1. With respect to claims of patent infringement made by third persons, the End User shall defend, indemnify, protect and save harmless the Company from and against all claims arising out of the combining with, or use in connection with, the services provided under this Tariff, any circuit, apparatus, system or method provided by the End User.
2. The End User shall defend, indemnify and save harmless the Company from and against any suits, claims, losses and damages, including punitive damages, attorney fees and court costs by third persons arising out of the construction, installation, operation, maintenance, or removal of the End User's circuits, facilities, or equipment connected to the Company's services provided under this Tariff including, without limitation, Worker's Compensation claims, actions for infringement of copyright and/or unauthorized use of program material, libel and slander actions based on the content of communications transmitted over the End User's circuits, facilities or equipment, and proceedings to recover taxes, fines, or penalties for failure of the End User to obtain or maintain in effect any necessary certificates, permits, licenses, or other authority to acquire or operate the services provided under this Tariff; provided, however, the foregoing indemnification shall not apply to suits, claims, and demands to recover damages for damage to property, death, or personal injury unless such suits, claims or demands are based on the tortuous conduct of the End User, its officers, agents or employees.
3. The End User shall defend, indemnify and save harmless the Company from and against any suits, claims, losses or damages, including punitive damages, attorney fees and court costs by the End User or third parties arising out of any act or omission of the End User in the course of using services provided under this Tariff.

#### 2.3.9 Reserved for Future Use



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 25  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.10 Jurisdictional Report Requirements

##### A. General

The Company cannot in all cases determine the jurisdictional nature of Customer traffic and its related minutes of use. In such cases the Customer shall be requested to provide a projected estimate of its split between the intrastate and interstate jurisdictions. The following regulations govern such estimates and their reporting by the Customer.

Pursuant to Federal Communications Commission Order FCC 85-145 released April 16, 1985, interstate usage is to be developed as though every call that enters a Customer network at a point within the same state as that in which the called station (as designated by the called station telephone number) is situated is an intrastate communication and every call for which the point of entry is a state other than that where the called station (as designated by the called station telephone number) is situated is an interstate communication.

##### 1. Jurisdictional Reports

For Feature Group D Switched Access Service(s), the Company, where jurisdiction can be determined from the call detail, will determine the projected Percent Interstate Usage (PIU) factor as follows. For originating access minutes, when the call detail is adequate to determine the appropriate jurisdiction, the projected PIU factor will be developed on a monthly basis by end office, 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.

For terminating access minutes, the data used by the Company to develop the projected PIU factor for originating access minutes will be used to develop the projected PIU factor for such terminating access minutes.

For terminating access minutes, the customer has the option to provide the Company with a projected PIU factor. Customers who provide a PIU factor shall supply the Company with an interstate percentage of FGD terminating access minutes for each account or state to which the customer may terminate traffic. If a state level PIU is provided by the customer, the percentage will be applied to all accounts to which the customer may terminate traffic within the state.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.10 Jurisdictional Report Requirements (Cont'd)

##### A. General (Cont'd)

##### 1. Jurisdictional Reports (Cont'd)

Effective on the first of January, April, July and October of each year, the customer may update the interstate and intrastate jurisdictional report. The customer shall forward to the Company, to be received no later than 15 days after the first of the month, a revised report showing the interstate and intrastate percentage of use for the past three months ending the last day of December, March, June and September, respectively, for each service arranged for interstate use. Except where the Company is billing according to actual use by jurisdiction, the revised report will serve as the basis for the next three months billing and will be effective on the bill date for that service. No prorating or back billing will be done based on that report. If the customer does not supply the reports for those services where reports are needed, the Company will assume the percentage to be the same as those provided previously. For those cases in which a quarterly report has never been received from the customer, the Company will assume the percentages to be the same as those provided in the initial order for service.

The customer reported projected PIU will be used for the apportionment of any monthly rates or nonrecurring charges associated with FGD Services 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 project interstate percentage of use as set forth preceding. Where call detail is insufficient to make such a determination, the customer will be requested to project an interstate percentage of use to be used by the Company for such apportionment.

The Customer shall keep sufficient detail from which the percent 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.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.10 Jurisdictional Report Requirements (Cont'd)

##### B. Jurisdictional Audits

The Customer shall keep sufficient detail from which the percentages of use reported to the Company (or deemed by the Company to have been reported) can be verified and upon request of the Company make such records available for inspection and audit. The Customer shall supply the required data to the Company within 30 calendar days of the Company request. The Customer must maintain these records for 24 months from the date the report became effective for billing purposes.

Initiation of an audit will be at the sole discretion of the Company. The audit shall be performed by an independent party selected by the Company. An audit may be initiated by the Company for a single Customer no more than once per year.

In the event that an inspection or audit reveals that any Customer reported percentages of use were incorrect, the Company shall apply the inspection or audit result to all usage affected by the inspection or audit. The Customer shall be back billed or credited, for a period retroactive to the date that the incorrect percentage was reported, but not to exceed 24 months. Back billed amounts are subject to a late payment penalty as set forth in 2.4.2.C. following.

Should an audit reveal that the misreported percentage(s) of use has resulted in an underpayment of charges to the Company of five (5) percent or more of the total Access Services or Network Interconnection Services bill, the Customer shall reimburse the Company for the cost of the audit. Proof of cost shall be bills, in reasonable detail, submitted to the Company by the auditor.

Within 15 days of completion of the auditor's report, the Company will furnish a copy of the audit results to the person designated by the Customer to receive such results.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage

##### Usage Sensitive Rate Elements

When the Customer's usage has mixed intrastate and interstate traffic, for that portion of the usage for which the Company is unable to determine the appropriate jurisdiction, the usage charges will be prorated between the intrastate and interstate. The jurisdictional percentages or default procedure set forth in 2.3.9 preceding, will serve as the basis for prorating the charges.

##### Monthly and Nonrecurring Chargeable Rate Elements

When the jurisdiction of the rate element can be determined by the Company the charges applicable to the appropriate jurisdiction will be applied. Rate elements for which the Company cannot determine the appropriate jurisdiction will be prorated between intrastate and interstate. The jurisdictional percentages or default procedure set forth in 2.3.9 preceding, will serve as the basis for prorating the charges.

##### Identification and Rating of VoIP-PSTN Traffic

##### A. Scope

This section only applies to VoIP-PSTN traffic exchanged between the Company and the customer in time division multiplexing ("TDM") format that originates or terminates in Internet protocol ("IP") format. VoIP-PSTN traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment. (1) (C)

- (1) Although the Company has taken the position that this tariff, by its own terms, already applies to VoIP-PSTN traffic, as defined herein, the Company has included this section in the tariff out of an abundance of caution to prevent any claim that it does not so apply, and to implement the decision by the Federal Communications Commission in its Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (Nov. 18, 2011) ("FCC Order") that VoIP-PSTN access traffic should be exchanged at interstate access rates (unless the parties have agreed otherwise). By its terms, the FCC Order is prospective only. Including this section in the tariff in no way alters or otherwise affects the applicability of this tariff to VoIP-PSTN Traffic before the effective date of the FCC Order.

- (M) Material previously appearing on this leaf now appears on Leaf No. 28.5.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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Superseding Revision: 3

## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage (Cont'd)

##### Identification and Rating of VoIP-PSTN Traffic (Cont'd)

##### A. Scope (Cont'd)

1. This section governs the identification of originating and terminating intrastate toll VoIP-PSTN traffic and facilities to which interstate switched access rates apply (unless the parties have agreed otherwise) in accordance with the transitional Intercarrier Compensation framework for VoIP-PSTN traffic adopted by the Federal Communications Commission in its Report and Order, FCC Release No. 11-161 (Nov. 18, 2011) ("FCC Order"). Specifically, this section establishes the method that will be used to identify the percentage of the customer's intrastate access traffic that will be treated as intrastate toll VoIP-PSTN traffic (referred to in this tariff as "Relevant VoIP-PSTN Traffic").
2. This section applies to originating and terminating intrastate switched access minutes of use ("MOU") and facility rate elements of all Access customers.
3. The customer shall not modify its reported PIU factor to account for the VoIP-PSTN Traffic for MOU and facility rate elements.

##### B. Rating of VoIP-PSTN Traffic\*

(T)

The Relevant VoIP-PSTN Traffic terminating from, or originating to the customer, or from the Company or other provider and facility rate elements identified in accordance with this tariff section will be billed at rates equal to the Company's applicable tariffed interstate switched access rates as specified at <http://serviceguide.att.com/ABS/ext/TariffDetails.cfm> if those interstate rates are lower than their respective New York state access rates (Access Services Tariff). Conversely, if the New York state access rates are lower, then this traffic will be billed utilizing the rates from the Access Services Tariff. Hereafter, these billed rates will be referred to in this tariff as relevant "VoIP rates."

(C)

(T)

|

|

(T)

(D)

##### C. Calculation and Application of Percent-VoIP-Usage Factors

The Company will determine the number of Relevant VoIP-PSTN Traffic originating MOU and the originating facility rate elements, if applicable, to which VoIP rates will be applied under subsection B, above, by applying the Percent VoIP Usage ("PVU") factor to the intrastate access originating MOU exchanged and facilities between the Company and the customer. The PVU factors will be derived and applied as follows:

(C)

(C)

(C)

- \* Describing the method of identifying and rating, originating VOIP minutes of use will become effective on July 1, 2014. The advanced filing of this tariff change prior to the July 1, 2014 effective date, is strictly for the benefit of our customers in providing advanced notice of these FCC mandated changes and ample time to submit their new VOIP factors.

(N)

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(N)

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: May 12, 2014

Section 2  
Leaf No. 28.2  
Revision: 2  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage (Cont'd)

##### Identification and Rating of VoIP-PSTN Traffic (Cont'd)

##### C. Calculation and Application of Percent-VoIP-Usage Factors (Cont'd)

1. The customer will calculate and furnish to the Company a factor (the "PVUC") on an ACNA basis which would aggregate traffic from all Carrier Identification Code(s) ("CIC") or Operating Company Numbers ("OCNs") associated with the ACNA. This PVUC represents the percentage (whole number) of the originating intrastate access MOU that the customer receives from the Company end users in the State which is sent from the Company that terminated in IP format at the customer's end user. This PVUC 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 satisfactory to the Company. (T)  
(C)  
(C)
2. The Company will calculate and periodically update a factor (the "PVUT") representing the percentage (whole number) of the total intrastate access MOU that the Company exchanges with the customer's end users in the State which is received from the Customer and terminated in IP format at the end user. This PVUT 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. (T)
3. The Company will develop a Customer Percent VoIP Usage ("PVU") factors combining the Customer's PVUC factor with the Company's PVUT factor.
  - a. The PVU calculation below is applied when the Company does not bill based on actual call detail records for the intrastate Company's IP traffic at VoIP rates.

$PVU = PVUC + [PVUT \times (1 - PVUC)]$  is applied to the Company's end user's originating intrastate MOU and facility rate elements (C)

Example: The customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following:

$$PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$$

This means that 46% of the originating Intrastate MOU exchanged between the Company's end users and the customer will be rated at VoIP rates. (C)  
(T)

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage (Cont'd)

##### Identification and Rating of VoIP-PSTN Traffic (Cont'd)

#### C. Calculation and Application of Percent-VoIP-Usage Factors (Cont'd)

##### 3. (Cont'd)

- b. The PVU calculation below is applied when the Company bills are based on the actual originating call detail records for the intrastate Company's IP traffic at VoIP rates. (C)

The formula for usage will be as follows:

$PVU = PVUC \times (1 - PVUT)$  applied to the Company's TDM end user's total intrastate MOU. (C)

$PVU = PVUC + [PVUT \times (1 - PVUC)]$  is applied to the facility rate elements

Example: The Company has identified that there was 10,500 originating Intrastate MOU that were identified exchanged between the Company's IP end users and the customer. The Customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following: (C) (T)

$$PVU = 40\% \text{ times } (1 - 10\%) = 36\%$$

This means that 36% of the originating Intrastate MOU exchanged between the Customer and the Company's TDM end users will be rated at VoIP rates and the terminating intrastate 10,500 MOU will also be rated at VoIP rates. (C) | (C)

For the facility rate elements the formula that is applied to the intrastate dedicated facilities is as follows:

$$PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$$

Therefore 46% of the Intrastate facilities will be rated at VoIP rates.

4. If the customer does not furnish the Company with a PVUC pursuant to the preceding paragraph C.1, the Company will utilize a customer PVUC of 0%.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: August 15, 2012

Section 2  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage (Cont'd)

##### Identification and Rating of VoIP-PSTN Traffic (Cont'd)

##### D. PVU Factor Updates (T)

The customer must update the PVUC factor quarterly using the method set forth in subsection C.1 and C.4 above. The Customer shall forward to the Company, no later than September 15, 2012, this new PVUC factor. Prospectively, the Customer may update the PVUC factor quarterly using the method set forth in subsection C.1 through C.3 above. If the customer chooses to submit such updates, it shall forward to the Company, no later than 15 days after the first day of January, April, July and/or October of each year, a revised PVUC factor based on data for the prior three months, ending the last day of December, March, June and September, respectively. The Company will use the revised PVUC to calculate a revised PVU. The revised PVU factor will only apply prospectively and serve as the basis for billing until superseded by a new PVU. (C)

##### E. PVU Factor Verification (T)

Not more than twice in any year, the Company may ask the Customer to verify the PVUC factor furnished to the Company. The customer shall comply, and shall reasonably provide the records and other information used to determine their PVUC as specified in section C.1 and C.4 above. The customer shall retain and maintain (for verification purposes) the records and other information used to determine the PVUC, for at least 12 months after the PVUC is filed (or longer if any other section of the Company's tariffs or applicable law requires a longer period). The verification process shall be conducted consistent with the provisions in this Section.

##### F. Verification Process (T)

The Company will review these Customer provided PVUC records referenced in E above. If the review results represent what the Company considers to be a substantial deviation from the customer's previously reported PVUC or if the PVUC appears unreasonable as compared to other related types of data, the company will contact the customer within 30 days. This deviation issue will be dealt with in one of the following ways. The current PVUC will continue to be utilized until resolution from either of the 2 methods below: (N)

1. The Company and the customer will come to an agreement as to an appropriate PVUC within 30 days of the provision of the PVUC records. (N)



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: August 15, 2012

Section 2  
Leaf No. 28.5  
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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.11 Determination of charges for Mixed Intrastate and Interstate Usage (Cont'd)

##### Identification and Rating of VoIP-PSTN Traffic (Cont'd)

##### F. Verification Process (Cont'd)

2. The Company within 45 days of the receipt of these records will make these customer PVUC records available to an independent auditor for review for the purpose of determining a PVUC. If these PVUC records are not available or these records are not substantive enough for the auditor to calculate a PVUC, then a PVUC factor of zero will be assigned. This zero PVUC will be utilized until either a PVUC can be agreed upon between the Company and the customer or an audit can be completed utilizing records acceptable for an audit conclusion. When an audit has been completed employing the records acceptable for an audit conclusion, the PVUC resulting from the audit report will be employed until the next customer provided PVUC is available as referenced in the D and E procedures above. (N)

#### 2.3.12 SS7 Signaling; Call Detail Information

##### A. SS7 Signaling

The Customer will use SS7 signaling to set up Calls pursuant to this Tariff. The Customer shall provide Calling Party Number (CPN) within the SS7 signaling message, if available. If it is technically infeasible for the Customer to use SS7, multi-frequency (MF) signaling shall be used by the Customer. The Customer may elect to arrange for signaling connectivity through a third party provider which is connected to the Company's SS7 network.

##### B. Call Detail Information

To the extent not provided pursuant to A. preceding, the Customer shall, to the extent technically feasible and consistent with industry standards, cause to be transmitted to the Company with each Call information sufficient to identify the originating and terminating telephone numbers for such Call and each Carrier (including the Customer) with respect to such Call.

#### 2.3.13 Supervisory Signaling

The Customer's facilities connected to Access Service shall provide the necessary On-hook, Off-hook, answer and disconnect supervision.

#### 2.3.14 Reserved for Future Use.

(M) Material appearing on this leaf previously appeared on Leaf No. 28.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.3 Obligations of the Customer (Cont'd)

#### 2.3.15 Sales, Use and Other Taxes/Charges

The Customer is responsible for the payment of its portion of any sales, use, gross receipts, excise, franchise, access or other local, state and federal taxes, charges or surcharges (however designated), excluding taxes on the Company's net income, imposed on or based upon the provision, sale or use of services.

If the Company becomes liable for any sales, use, gross receipts, excise, franchise, access or other local, state or federal taxes, charges or surcharges (however designated), excluding taxes on the Company's net income, which are imposed on or based upon the provision, sale or use of services, and which are in addition to such taxes, charges or surcharges already specified in this Tariff, in such event the Customer shall be responsible for payment of such taxes, charges or surcharges from the date that the Company first became liable for same.

In the event of any dispute over the lawfulness of any tax, charge or surcharge, the Company may elect to impose such tax, charge or surcharge during such dispute, unless otherwise ordered by a court or other lawful authority with jurisdiction. The Company shall credit or refund any funds thus collected, if ordered to do so by such court or other lawful authority if such funds were retained by the Company, or were returned to the Company by the taxing jurisdiction which imposed such tax charge or surcharge.

#### 2.3.16 Settlements Through Other Carriers

Where traffic is transmitted through the facilities of another Carrier, including the Incumbent Local Exchange Carrier, the Company and the Customer may permit such other Carrier to act on their behalf for billing and settlements relating to such traffic.

In certain circumstances, the Company makes arrangements with another carrier (an Intermediate Carrier) under which the Intermediate Carrier will provide services that may include, without limitation, data base, switching and/or transport services in connection with Calls and is authorized by the Company to bill the Customer for all access services under the Intermediate Carrier's tariff as if all such services had been provided by the Intermediate Carrier. Where such arrangements are in effect, the terms and conditions governing payment (including applicable rates and charges) for services shall be governed by the applicable tariff of the Intermediate Carrier (or other arrangement in effect between the Intermediate Carrier and the Customer), rather than this Tariff.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances

#### 2.4.1 Description of Rates and Charges

The Customer is responsible for the payment of all charges for facilities and services furnished to the Customer or to authorized or joint users.

There are three types of rates and charges that can apply to Access Services. These are monthly recurring rates, usage rates and nonrecurring charges. These rates and charges are applied differently to the various rate elements as set forth in applicable sections of this Tariff. Other charges may also apply as set forth in D. following.

##### A. Monthly Rates

Monthly rates are flat recurring rates that apply each month or fraction thereof that a specific rate element is provided. For billing purposes, each month is considered to have thirty (30) days.

##### B. Usage Rates

Usage rates are rates that apply only when a specific rate element is used. These are applied on a per occurrence (e.g., access minute or query) basis. Usage rates are accumulated over a monthly period.

##### C. Nonrecurring Charges

Nonrecurring charges are one-time charges that apply for a specific work activity (i.e., installation of new services or rearrangements of installed services).

##### 1. Installation of Service

The nonrecurring charges applicable to the installation of Access Services are applied on a per facility, trunk or other basis as specified in the Price List. In addition, certain nonrecurring charges may consist of "first" and "additional" charges. When charges are listed in this manner, the "first" charge applies to the first facility or trunk specified on the order, with the "additional" charge applied to each additional facility or trunk specified on the same order.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.1 Description of Rates and Charges (Cont'd)

##### C. Nonrecurring Charges

2. Reserved For Future Use
3. Reserved For Future Use
4. Reserved For Future Use
5. Reserved For Future Use

##### D. Other Charges

If an entity other than the Company (e.g. another carrier or a supplier) imposes charges on the Company, in addition to its own internal costs in connection with a service for which the Company charge is specified, those charges will be passed on to the Customer. It shall be the responsibility of the Customer to pay any such charges that subsequently become applicable retroactively

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits

##### A. Deposits

To safeguard its interests, before a service is furnished, the Company may require a 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. A deposit may be required in addition to an advance payment.

When a service 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 is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account.

Deposits held will accrue simple interest at a rate specified by the New York State Public Service Commission. In the event no such rate is set, then simple interest at the rate of up to 6% per annum shall be credited or paid to the customer while the deposit is held by the Company. (T)  
(T)

##### B. Bill Dates

The Company shall bill on a current basis all charges incurred by and credits due to the Customer under this Tariff attributable to services established or discontinued during the preceding billing period. In addition, the Company shall bill in advance charges for all services to be provided during the ensuing billing period except for charges associated with service usage and for the Federal Government which will be billed in arrears. The bill day (i.e., the billing date of a bill for a Customer for service under this Tariff), the period of service each bill covers and the payment date will be as follows:

##### 1. Access Service

Unless otherwise provided in this Tariff, for Access Service, the Company will establish a bill day each month for each Customer account or advise the Customer in writing of an alternate billing schedule. Alternate billing schedules shall not be established on less than sixty (60) days notice or initiated by the Company more than twice in any consecutive twelve (12) month period.

The bill will cover non-usage sensitive service charges for the ensuing billing period for which the bill is rendered, any known unbilled non-usage sensitive charges for prior periods and unbilled usage charges for the period after the last bill day through the current bill day. Any known unbilled usage charges for prior periods and any known unbilled adjustments will be applied to this bill. Payment for such bills is due in Immediately Available funds in U.S. dollars by the payment date, as set forth in C. following. If payment is not received by the payment date, a late payment penalty will apply as set forth in C. following.

Notwithstanding the above, bills will not be issued for amounts under \$105.00. In such cases Customer billing will be held until the total amount of the bill equals or exceeds \$105.00 or the Customer discontinues its service with the Company.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits (Cont'd)

##### C. Payment dates and Late Payment Charges

1. All bills dated as set forth in B.2. preceding, provided to the Customer by the Company are due thirty (30) days (payment date) after the bill day or by the next bill date (i.e., same date in the following month as the bill date), whichever is the shortest interval, except as provided herein, and are payable in Immediately Available funds in U.S. dollars. If the Customer does not receive a bill at least twenty (20) days prior to the 30 day payment due date, then the bill shall be considered delayed. When the bill has been delayed, upon request of the Customer the due date will be extended by the number of days the bill was delayed. Such request of the Customer must be accompanied with proof of late bill receipt.

If such payment date would cause payment to be due on a Saturday, Sunday or Legal Holiday, payment for such bills will be due from the Customer as follows:

- If the payment date falls on a Sunday or on a Legal Holiday which is observed on a Monday, the payment date shall be the first non-Holiday day following such Sunday or Legal Holiday.
  - If the payment date falls on a Saturday or on a Legal Holiday which is observed on Tuesday, Wednesday, Thursday or Friday, the payment date shall be the last non-Holiday day preceding such Saturday or Legal Holiday.
2. The Customer is responsible for payment of all charges incurred by the Customer or users for services and facilities furnished to the Customer by the Company. Non-recurring installation charges are due and payable upon presentation of an invoice to the Customer.

Recurring charges are due and payable upon presentment of an invoice to the customer for the service or facility furnished. A service or facility may be discontinued for nonpayment of a bill.

Billing starts on the day after the Company notifies the Customer that the service or facility is available for use. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued. Monthly charges will be billed one month in advance, except where prohibited by law or as otherwise provided in this tariff. Taxes will be separately stated on customer's bill(s).

If any portion of the payment is received by the Company after the payment date as set forth herein preceding, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, 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 payment date times a late payment factor. The late payment factor shall be 1.5% per month.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits (Cont'd)

##### D. Disputed Bill Procedures

The Customer agrees to review each invoice promptly and to notify the Company of any discrepancies within 45 days of each invoice date.

1. In the event of a billing dispute, the Customer may dispute a bill only by written notice delivered to the Company within 45 days after the invoice date and must include sufficient documentation consistent with the requirements as specified in this Section. The billing dispute date is the date the Customer presents sufficient written documentation to the Company to support its claim for incorrect billing. Unless such notice and documentation are received in the timely fashion indicated above, the bill statement shall be deemed to be correct and payable in full by Customer.

2. (D)  
(D)  
(D)  
(D)  
(D)

3. In the event that the Customer disputes all or part of the billed amounts, and the Customer pays the total billed amount and the dispute is resolved in favor of the Customer, the Company will refund any overpayment. When a claim is filed within ninety (90) days of the due date, the penalty interest period shall begin on the payment date. When a claim is filed more than ninety (90) days after the due date, the penalty interest period shall begin on the date of the claim or the date of overpayment, whichever is later. The penalty interest period shall end on the date that the Company actually renders the overpayment to the Customer. The penalty interest rate shall be the rate set forth in 2.4.2.C.

4. Sufficient written documentation consists of the following information, where such information is relevant to the dispute:

##### a. Dedicated Access

- 1) A clear explanation of the basis of the dispute, including what the Customer believes is incorrect (*e.g.*, nonrecurring charge; mileage; circuit identification) and the reason why the Customer believes the bill is incorrect (*e.g.*, monthly rate billed not same as in tariff; facility not ordered; service not received).
- 2) The account number under which the bill was rendered.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
Leaf No. 35  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits (Cont'd)

##### D. Disputed Bill Procedures (Cont'd)

##### 4. (Cont'd)

##### a. Dedicated Access (Cont'd)

- 3) The date of the bill.
- 4) The invoice number.
- 5) The circuit number, line number, trunk group number, Two-Six Code (TSC), end office or tandem identification, or other appropriate facility identification.
- 6) The exact dollar amount in dispute.
- 7) The universal service order code(s) (USOCs) associated with the service.
- 8) The Purchase Order Number(s) and dates involved for disputes involving order activity.
- 9) Details sufficient to identify the specific amount(s) and item(s) in dispute.
- 10) The name of the person responsible for the Customer's dispute.
- 11) Additional data as the Company reasonably requests from the Customer to resolve the dispute. The request for such additional information shall not affect the Customer's dispute date as set forth preceding.



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits (Cont'd)

##### D. Disputed Bill Procedures (Cont'd)

##### 4. (Cont'd)

##### B. Switched Access

- 1) A clear explanation of the basis of the dispute, including what the Customer believes is incorrect (*e.g.*, nonrecurring charge; mileage; circuit identification) and the reason why the Customer believes the bill is incorrect (*e.g.*, monthly rate billed not same as in tariff; facility not ordered; service not received).
- 2) The account number under which the bill was rendered.
- 3) The date of the bill.
- 4) The invoice number.
- 5) The exact dollar amount in dispute.
- 6) Call Detail Records (CDRs)
- 7) The universal service order code(s) (USOCs) and/or rate element associated with the service.
- 8) Details sufficient to identify the specific amount(s) and item(s) in dispute.
- 9) The name of the person responsible for the Customer's dispute.
- 10) Additional data as the Company reasonably requests from the Customer to resolve the dispute. The request for such additional information shall not affect the Customer's dispute date as set forth preceding.

In the event that the Company's computerized usage recording system fails or is otherwise unavailable for all or part of any billing period, the Company shall be entitled to make a reasonable estimate of the Customer's usage of Services in the period in question for billing purposes.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.2 Payment of Rates, Charges and Deposits (Cont'd)

##### E. Billing Disputes Resolved in Favor of the Customer

If the Customer pays the total billed amount as required under D. preceding and disputes all or part of the amount, the Company will refund any overpayment. In addition, the Company will pay to the Customer penalty interest on the overpayment. When a claim is filed within ninety (90) days of the due date, the penalty interest period shall begin on the payment date. When a claim is filed more than ninety (90) days after the due date, the penalty interest period shall begin from the date of the claim or the date of overpayment, whichever is later.

The penalty interest period shall end on the date that the Company actually renders the overpayment to the Customer. The penalty interest rate shall be the rate set forth in C.2. preceding.

##### F. Proration of Charges

Adjustments for the quantities of services established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a thirty (30) day month. The Company will, upon request, furnish within thirty (30) days of a request and at no charge to the Customer such detailed information as may reasonably be required for verification of any bill.

##### G. Rounding of Charges

When a rate as set forth in this Tariff is shown to be more than two decimal places, the charges will be determined using the rate shown. The resulting total amount will then be rounded to the nearest penny (i.e., rounded to two decimal places).

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.3 Minimum Period

The minimum term for any Company Service shall no be less than twelve (12) months, unless otherwise agreed by the Company. The Customer and the Company may agree to longer minimum terms for particular services. (T)

#### 2.4.4 Applications for Service

Applications for service are non-cancellable unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.

Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun (all discounted to present value at six percent (6%)).

Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases, the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

The special charges described above will be calculated and applied on a case-by-case basis.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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Revision: 0

## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.5 Credit Allowance for Service Interruptions

Interruptions in service, which are not due to the negligence of, or non-compliance with the provisions of this tariff by, the customer or an authorized or joint user, or to the operation or malfunction of the facilities, power or equipment provided by the customer or authorized or joint user, will be credited to the customer as set forth in herein for the part of the service that the interruption affects.

##### A. Credit for Interruptions

A credit allowance is applicable only for monthly recurring charges and will be made when an interruption occurs because of a failure of any component furnished under this tariff by the Company. An interruption period begins when the Customer reports a service to be interrupted and releases it for testing and repair. An interruption period ends when the service is operative. If the Customer reports a service to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted.

For calculating credit allowances, every month is considered to have 30 days. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those services on the interrupted portion of the circuit will receive a credit. Credit allowances for monthly recurring charges shall be calculated as set forth in the following sections.

##### B. Interruptions of 24 Hours or Less for Digital Transmission Services and LANLINK (sm) Services

<u>Length of Service Interruption</u>	<u>Credit</u>
Less than 30 min	None
30 min - 2 hr 59 min	1/10
3 hr - 5 hr 59 min	1/5
6 hr - 8 hr 59 min	2/5 day
9 hr - 11 hr 59 min	3/5 day
12 hr - 14 hr 59 min	4/5 day
15 hr - 23 hr 59 min	one day
 <u>Length of Service Interruption</u>	 <u>Credit</u>
Less than 5 minutes	None
5 minutes	1/12 of hourly charge
Each additional minute	1/60 of hourly charge

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.5 Credit Allowance for Service Interruptions (Cont'd)

##### C. Limitations on Credit Allowances

No credit allowance will be made for:

1. Interruptions due to the negligence of, or non-compliance with the provisions of this tariff by the Customer, authorized user, joint user, or other common carrier providing service connected to the service of the Company;
2. Interruptions of service due to the failure or malfunction of facilities, power or equipment provided by the Customer, authorized user, joint user, or other common carrier providing service connected to the service offered by the Company;
3. Interruptions of service during any period in which the Company is not given access to the premises at which the Company provided service is interrupted or terminated.
4. Interruptions of service that occur or continue due to the Customer's failure to authorize replacement of any element of special construction.
5. Interruptions of service during any period when the Customer, authorized user, or joint user has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements.

##### D. Use of an Alternative Service Provided by the Company

Should the Customer elect to use an alternative service provided by the Company during the period that a service is interrupted, the Customer must pay the tariffed rates and charges for the alternative service used.

##### E. Temporary Surrender of a Service

In certain instances, the Customer may be requested by the Company to surrender a service for purposes other than maintenance, testing or activity relating to a service order. If the Customer consents, a credit allowance will be granted. The credit allowance will be 1/1440 of the monthly rate for each period of thirty (30) minutes or Major Fraction Thereof that the service is surrendered. In no case will the credit allowance exceed the monthly rate for the service surrendered in any one monthly billing period.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.6 Re-establishment of Service Following Fire, Flood or Other Occurrence

##### A. Nonrecurring Charges Do Not Apply

Nonrecurring charges do not apply for the re-establishment of service following a fire, flood or other occurrence attributed to an Act of God provided that:

1. The service is of the same type as was provided prior to the fire, flood or other occurrence.
2. The service is for the same Customer.
3. The service is at the same location on the same premises.
4. The re-establishment of service begins within sixty (60) days after Company service is available. (The sixty (60) day period may be extended a reasonable period if the renovation of the original location on the premises affected is not practical within the allotted time period).

##### B. Nonrecurring Charges Apply

Nonrecurring charges apply for establishing service at a different location on the same premises or at a different premises pending re-establishment of service at the original location.

#### 2.4.7 Title or Ownership Rights

The payment of rates and charges by Customers for the services offered under the provisions of this Tariff does not assign, confer or transfer title or ownership rights to service designs, proposals, configurations or facilities developed or utilized, respectively, by the Company in connection with the provision of such services.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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Section 2  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

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

Meet Point billing applies where a customer is required to use the Company and another Local Telephone Company to originate or terminate traffic to end users. The customer must order Call Completion Service to establish this relationship. All other recurring and nonrecurring charges for services provided by each Local Telephone Company are billed under each company's applicable rates as set forth hereinafter. For meet Point purposes, the Company will utilize the applicable charges listed in New York Telephone Tariff P.S.C. No. 913 Section 3 and 6 for rating of the Company's portion of Switched Access.

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 Company will handle ordering, rating and billing of Access Services under this tariff where more than one Local Telephone Company is involved in the provision of Access Services as follows:

- A. When FGD is ordered by a customer to an interconnection point of another Local Telephone Company connected to the Company's network, the customer must provide the original order to the Local Telephone Company and must provide a copy of the order to this company. (T)

Each Local Telephone Company that accepts the order will provide the portion of Switched Transport in its territory to an interconnection point (IP) with another Local Telephone Company, and will bill the service in accordance with its tariff(s). The rates for Switched Transport (fixed and per mile), are determined as follows:

1. The total mileage for the service is computed using the V&H Coordinate Method set forth in National Exchange Carrier Association Tariff F.C.C. No. 4 (NECA No. 4).
2. A billing factor called the Border Interconnection Percentage (BIP) is determined from NECA No. 4 directly.
3. The company's rates and charges are then multiplied by the appropriate quantity(ies) and the billing factor to obtain the charges for this company.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
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Revision: 0

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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.8 Ordering, Rating and Billing of Access Services Where More Than One Local Telephone Company is Involved (Cont'd)

B. The application of nondistance sensitive rate elements varies according to the rate structure and location of the facilities involved:

1. when rates and charges are listed on a per point of termination basis, this Company's rates will be billed for the termination(s) within this Company's operating territory.
2. when rates and charges are listed on a per unit basis, e.g, multiplexing, this company's rates and charges will apply for the units located in this Company's operating territory.
3. when rates and charges are developed on an individual case basis, such rates will be developed for the portion of the service provided by this Company.
4. when rates and charges are listed on a per service basis, these rates and charges will be billed.
5. when rates and charges are listed on a per line or trunk installed basis, this Company's rates will be billed based on the number of lines or trunks specified by the customer on its order for access service placed with this Company.
6. when this Company is an intermediate, non-terminating carrier in a given arrangement, channel mileage fixed mileage charges will not apply.



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.9 Cancellation of Service

The Customer must provide Company with 45 days advance written notice of a service cancellation or termination. If a Customer cancels or terminates services before the completion of the term for any reason whatsoever other than a service interruption, the Customer agrees to pay to the Company the following sums:

1. All non-recurring charges reasonably expended by the Company to establish service to the Customer; and
2. Any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by the Company; and
3. All recurring charges for the balance of the then-current term; and
4. Any other charges specified in the service order for such early cancellation or termination.

The above sums will become due and owing as of the effective date of the cancellation or termination and be payable within the period, as set forth in this Tariff.

#### 2.4.10 Cancellation of Applications for Service

Service is installed and provided upon acceptance by the Company of its standard service contracts completed by the Customer.

Applications for service are non-cancelable unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.

Where the Company incurs any expense in connection with special arrangements, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

The special charges described above will be calculated and applied on a case-by-case basis.

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Access Services  
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## SECTION 2 - REGULATIONS

### 2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### 2.4.11 Moves, Adds and Changes

Upon receipt of written notice from a Customer, the Company will add, delete or change locations or features of specific lines and equipment. The Company shall charge the Customer a non-recurring charge for such service. In the event that in excess of 10% of the lines and equipment that were installed are deleted, the Customer will be subject to the Company's standard termination charges.

#### 2.4.12 Flexible Pricing

Flexible Pricing sets minimum and maximum rates that can be charged for access service. The Company may change a specific rate within the range of the established minimum and maximum rates.

##### A. Conditions

1. The Company reserves the right to change prices at any time subject to regulatory requirements by filing a revised Rate Attachment with the Commission.
2. Customer notification of a rate change shall be made in accordance with Commission regulations. Where there are no regulations, notification will be made in a manner appropriate to the circumstances involved.
3. A rate shall not be changed unless it has been in effect for at least thirty (30) days.
4. Notwithstanding the maximum rate levels shown in this tariff, total combined charges for intrastate switched rates, on an average per-minute of use basis, including switching, transport and carrier common line (CCL), cannot exceed the average rate per-minute realized by the largest carrier in the LATA, without a showing that higher rates are cost-based and in the public interest, pursuant to the Commission's Order in Cases 94-C-0095 and 28425 (Opinion 98-10, issued and effective June 2, 1998). (N)  
(N)  
(N)  
(N)  
(N)

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 46  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.5 Connections

Equipment and systems (i.e., terminal equipment, multiline terminating systems and communications systems) may be connected with Access Service furnished by the Company where such connection is made in accordance with the provisions specified in Technical Reference Publication AS No. 1, Issue II and in Section 2.1 of this Tariff.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 47  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.6 Provision for Certain Local Taxes and Fees

The Customer shall pay all sales, use, gross receipts, excise, access, or other local, state and Federal taxes, charges or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services (excluding taxes on the Company's net income). Such taxes shall be separately stated on the applicable invoice.

#### 2.6.1 Gross Revenue, Gross Income, and Gross Earnings Surcharges

In addition to all recurring, non-recurring, minimum, usage, surcharges or special charges, customers shall also pay each of the following surcharges to be imposed on all charges for recurring, non-recurring, minimum, usage or special charges designed to recover gross revenue, gross income and gross earnings liabilities of carriers to underlying carriers and to state and local taxing jurisdictions.

##### 1. State and MTA Surcharges

The Applicable Gross Revenue Surcharge rates and MTA tax rates are shown on a statement which is attached to this tariff. Any changes to these rates will be filed on 15 days' notice to customers and the Commission. Whenever the state levies a new tax on the Company's gross revenues, repeals such a tax, or changes the rate of such tax, the Commission may approve new surcharge factors, and the Company will file revised surcharges as directed by the Commission.

##### 2. New York City surcharges, equal to 2.41%, imposed on all charges for recurring, non-recurring, minimum, usage or special charges for services consumed within the City of New York.

### 2.7 Reserved for Future Use

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 48  
Revision: 0

## SECTION 2 - REGULATIONS

### 2.8 Service Availability and Rating Information

#### 2.8.1 General

This section contains service availability and rating information applicable to the Access Services offered under this Tariff and is arranged as follows:

Section 2.8.2 - V&H Coordinate Method of Determining Airline Mileage

Section 2.8.3 – Reserved for future Use

Section 2.8.4 - Meet Point Billing Information

#### 2.8.2 V&H Coordinate Method of Determining Airline Mileage

For Access Services and Network Interconnection Services provided under this Tariff, the airline mileage between any two wire centers is determined as follows:

- A. Obtain the "V" and "H" coordinates for each wire center from the NECA Tariff F.C.C. No. 4.
- B. Compute the difference between the "V" coordinates of the two wire centers; and the difference between the two "H" coordinates.
- C. Square each difference obtained in step (B) above.
- D. Add the square of the "V" difference and the square of the "H" difference obtained in step (C).
- E. Divide the sum of the squares by 10. Round to the next higher whole number if any fraction is obtained.
- F. 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.

G. Formula = 
$$\frac{\sqrt{(V1 - V2)^2 + (H1 - H2)^2}}{10}$$

#### 2.8.3 Reserved for Future Use

#### 2.8.4 Meet Point billing Information

The applicable billing percentage factors for Access Services that are provided by more than one telephone company are as set forth in the National Exchange Carrier Association (NECA) Tariff F.C.C. No. 4.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 49  
Revision: 0

---

## SECTION 2 - REGULATIONS

2.9 Reserved For future Use

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 50  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.10 Special Construction and Special Arrangements

Subject to the agreement of the Company and to all of the regulations contained in this tariff, special arrangement of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special arrangement is that construction undertaken;

- A. where facilities are not presently available,
- B. of a type other than that which the Company would normally undertake in the furnishing of its services;
- C. over a route other than that which the Company would normally utilize in the furnishing of its services;
- D. in a quantity greater than that which the Company would normally provide;
- E. on an expedited basis;
- F. on a temporary basis until permanent facilities are available;
- G. involving abnormal costs; or
- H. in advance of its normal arrangement.

Special arrangement charges will be determined as described hereinafter.

#### 2.10.1 Basis for Charges

Where the Company furnishes a facility or service on a special construction basis, or any service for which a rate or charge is not specified in the Company's tariffs or Service Guides, charges will be based on the costs incurred by the Company and may include: (1) non-recurring type charges; (2) recurring type charges; (3) termination liabilities; or (4) combinations thereof. The agreement for special construction will ordinarily include a minimum service commitment based upon the estimated service life of the facilities provided.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 51  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.10 Special Construction and Special Arrangements (Cont'd)

#### 2.10.2 Basis for Cost Computation

The costs referred to in Section 2.8.1, preceding may include one or more of the following items to the extent they are applicable:

- A. Installation cost of the facilities to be provided including estimated costs for the rearrangements of existing facilities. Installation cost includes the cost of:
- equipment and materials provided or used,
  - engineering, labor and supervision,
  - transportation,
  - rights of way, and
  - any other item chargeable to the capital account;
- B. Annual charges including the following:
- cost of maintenance;
  - depreciation on the estimated cost installed of any facilities provided, based on the anticipated useful service life of the facilities with an appropriate allowance for the estimated net salvage;
  - administration, taxes and uncollectible revenue on the basis of reasonable average costs for these items;
  - any other identifiable costs related to the facilities provided; and
  - an amount for return and contingencies.

#### 2.10.3 Termination Liability

To the extent that there is no other requirement for use by the Company, the Customer may have a termination liability for facilities specially constructed at the request of the Customer if and only if such liability is clearly stated in written agreement between the Company and the Customer.

- A. The maximum termination liability is equal to the total cost of the special facility as determined under Section 2.10.2, preceding, adjusted to reflect the redetermined estimate net salvage, including any reuse of the facilities provided.
- B. The maximum termination liability as determined in paragraph (1) shall be divided by the original term of service contracted for by the Customer (rounded up to the next whole number of months) to determine the monthly liability. The Customer's termination liability shall be equal to this monthly amount multiplied by the remaining unexpired term of service (rounded up to the next whole number of months), discounted to present value at six (6) percent, plus applicable taxes.



TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 52  
Revision: 0

---

## SECTION 2 - REGULATIONS

### 2.11 Customer Overpayments Due to Erroneous Billing

Where a customer overpayment occurs as a result of erroneous billing by the Company, the Company shall refund the overpaid amount to the customer. Unless such refund is made within 30 days of the occurrence of the customer overpayment, the Company shall pay interest on the overpaid amount, according to the terms set forth below:

Interest shall be paid at the greater of the unadjusted customer deposit interest rate, or the late factor rate, as specified preceding.

Interest shall be compounded monthly and paid from the date when the customer overpayment was received by the Company, adjusting for changes in the deposit rate, until the date when the overpayment is refunded.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 53  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.12 Automatic Number Identification Terms and Conditions

The Company may provide Automatic Number Identification (ANI) associated with an Intrastate service, by (T) tariff, to any customer (ANI recipient), only under the following terms and conditions:

1. The ANI recipient or its designated billing agent may use or transmit ANI information to third parties for billing and collection, routing, screening, ensuring network performance, and completion of a telephone subscriber's call or transaction, or for performing a service directly related to the telephone subscriber's original call or transaction.
2. The ANI recipient may offer to any telephone subscriber with whom the ANI recipient has an established customer relationship, a product or service that is directly related to products or services previously purchased by the telephone subscriber from the ANI recipient.
3. The ANI recipient or its designated billing agent is prohibited from utilizing ANI information to establish marketing lists or to conduct outgoing marketing calls, except as permitted by the preceding paragraph, unless the ANI recipient obtains the prior written consent of the telephone subscriber permitting the use of ANI information for such purposes. The foregoing provisions notwithstanding, no ANI recipient or its designated billing agent may utilize ANI information if prohibited elsewhere by law.
4. The ANI recipient or its designated billing agent is prohibited from reselling, or otherwise disclosing ANI information to any other third party for any use other than those listed in Provision 1, unless the ANI recipient obtains the prior written consent of the subscriber permitting such resale or disclosure.
5. The Company will make reasonable efforts to adopt and apply procedures designed to provide reasonable safeguards against the aforementioned abuses of ANI. (T)
6. Violation of any of the foregoing terms and conditions by any ANI recipient other than the Company will result, after a determination through the Commission's complaint process, in the suspension of the transmission of ANI by the Company until such time as the Commission receives written confirmation from the ANI recipient that the violations have ceased or been corrected. If the Commission determines there have been three or more violations in a 24 month period, delivering of ANI to the offending party shall be terminated under the terms and conditions determined by the Commission. (T)

"Issued in compliance with New York Public Service Commission's Order in Cases 89-C-191 and 90-C-0165, adopted March 30, 1994."

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 54  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services

#### 2.13.1 General

This section sets forth the regulations and order related charges for Access Orders for Call Completion and Digital Transmission Services as defined in this tariff. These charges are in addition to other applicable charges set forth in other sections of this tariff.

An Access Order is an order to provide the customer with Call Completion and Digital Transmission Services or to provide changes to existing services.

#### A. Ordering Conditions

A customer may order any number of services of the same type and between the same premises on a single Access Service Request (ASR). All details for services for a particular order must be identical.

The customer shall provide all information necessary for the Company to provide and bill for the requested service. When placing an order for Access service, the Customer shall provide the following minimum information:

1. Customer name and premises address(es);
2. Billing name and address (when different from Customer name and address);
3. Customer contact name(s) and telephone number(s) for the following provisioning activities; order negotiation, order confirmation, interactive design, installation and billing.

The order date (Application Date) is the date on which the Company receives a firm commitment and sufficient information from the Customer to allow processing of the ASR. The Customer is advised of the critical events in the provisioning process, the Application Date, the Issue Date, the Design Layout Report Date, the Plant Test Date and the Service Date, at the time the Company gives the Customer a Firm Order Confirmation (FOC). The FOC is forwarded to the Customer within two business days after all information needed to process the ASR has been received by the Company.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 55  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services (Cont'd)

#### 2.13.1 General (Cont'd)

##### B. Provision of Other Services

1. All services offered under this tariff shall be ordered with an ASR.
2. With the agreement of the Company, other services may subsequently be added to the ASR at any time, up to and including the service date for the Access Service. When added subsequently, charges for a Design Change as set forth herein will apply when an engineering review is required.
3. Additional Engineering is not an ordering option, but will be applied to an ASR when the company determines that Additional Engineering is necessary to accommodate a customer request. When it is required, the Customer will be so notified and will be furnished with a written statement setting forth justification for the Additional Engineering as well as an estimate of the charges. If the Customer agrees to the Additional Engineering, a firm order will be established. If the Customer does not want the service or facilities after being notified by the Company that Additional Engineering is required' the Customer may cancel the order and no charges will apply. Once a firm order has been established, the total charges to the Customer for the Additional Engineering may not exceed the original estimated amount by more than 10 percent.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 56  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services (Cont'd)

#### 2.13.2 Access Order:

An Access Order is required by the Company to provide a Customer both Call Completion and/or Digital Transmission Service, as described herein. An ASR will be required for each new similar service arrangement or group of common circuits.

When a customer requests new or additional Call Completion Services, one or more ASR's may be required. The number of orders required is dependent on the type of services and/or facilities being requested.

When placing an order for either Call Completion and/or Digital Transmission Services as described in Section 4 of this tariff the customer shall provide all standard ASR ordering information as specified in industry guidelines.

#### A. Access Order Service Date Intervals:

Access Service is provided with one of the following Service Date Intervals:

- Standard Interval
- Negotiated Interval

To the extent that the Access service can be made available with reasonable effort, the Company will provide the Access Service in accordance with the Customer's requested interval, subject to the following conditions:

Standard Interval: The Company will publish and make available to all customers at the time orders are placed, a schedule of Standard Intervals applicable to Call Completion and Digital Transmission Services. The schedule specifies the services and quantities which can be made available within the Standard Interval. (T)

Negotiated Interval: The Company will negotiate a Service Interval with the Customer when:

1. the Customer requests a Service Date before or beyond the applicable Standard Interval Service Date; or
2. there is no existing facility connecting the Customer premises with the Company's facilities; or (T)
3. the Company determines that Access Service cannot be installed within the Standard Interval.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: September 21, 2012

Section 2  
Leaf No. 57  
Revision: 1  
Superseding Revision: 0

## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services (Cont'd)

#### 2.13.2 Access Order: (Cont'd)

##### B. Access Service Request Modifications

The Customer may request a modification of its Access Service Request prior to the Service Date. The Company will make every effort to accommodate a requested modification when it is able to do so with the normal work force assigned to complete such an order within normal business hours. If the modification cannot be made with the normal work force during normal business hours, the Company will notify the customer. If the customer still desires the Access Order modification, the Company will schedule a new service date. All charges for Access Service Order Modification will apply on a per occurrence basis. (T)

##### 1. Service Date Changes

Access Order service dates for the installation of new services or rearrangement of existing services may be changed, but the new service date may not exceed the original service date by more than 30 calendar days. If the customer requested service date is more than 30 calendar days after the original service date, the order will be canceled by the Company and reissued with the appropriate cancellation charges applied. If the Company determines it can accommodate the customer's request without delaying service dates for orders of other customers a new service date may be established that is prior to the original standard or negotiated interval service date. (T)

If the service date is changed to an earlier date, and the Company determines additional labor or extraordinary costs are necessary to meet the earlier service date requested by the customer, the customer will be notified by the Company that Expedited Order Charges apply. Such charges will apply in addition to the Service Date Change Charge. (T)

The Service Date Change Charge will apply on a per order, per occurrence basis for each service date changed. The applicable charges are set forth hereinafter.

2. Design Change Charge: The Customer may request a Design Change to the service ordered. A Design Change is any change to an ASR which requires engineering review. An engineering review is a review by Company personnel of the service ordered and the requested changes to determine what change(s) in the design, if any, are necessary to meet the Customer's request. Design Changes include such changes as the addition or deletion of optional features or functions, a change in the type of Transport Termination (Call Completion Service only) or type of channel interface. Any other changes are not considered Design Changes for the purpose of this section. Changes of this nature will require issuance of a new ASR and the cancellation of the original ASR with appropriate cancellation charges applied.

The Design Change Charge will apply on a per order, per occurrence basis, for each order requiring a Design change. The applicable charges, as set forth hereinafter are in addition to any Service Date Change Charges that may apply.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 58  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services (Cont'd)

#### 2.13.2 Access Order: (Cont'd)

##### B. Access Service Request Modifications (Cont'd)

3. Expedited Order Charge: When placing an Access Order, a customer may request a service date that is prior to the standard interval service date. If the Company determines that service can be provided on the requested date and additional labor costs or extraordinary costs are required to meet the requested service date, the customer will be notified and will be provided with an estimate of the additional charges involved. Such additional charges will be calculated and billed on an Individual Case Basis.

When the request for expediting occurs subsequent to the issuance of the Access Order, a Service Date Change Charge as set forth hereinafter also applies.

The Expedited Order Charge will apply on a per order, per occurrence basis, as specified hereinafter.

##### C. Cancellation of an Access Service Request

A Customer may cancel an ASR for the installation of Call Completion or Digital Transmission Service at any time prior to the service date. The cancellation date is the date the Company receives written or verbal notice from the Customer that the order is to be cancelled. The verbal notice must be followed by written confirmation within ten days.

If the cancellation occurs prior to the Company's receiving the ASR, no charges shall apply.

A Customer may cancel an ASR for the installation of Digital Transmission Service without incurring a charge at any time prior to the acceptance of a Negotiated Service Interval Service Date by the Customer. Cancellation Charges will apply for Digital Transmission Service if the Customer cancels more than 48 hours after the Application Date. Cancellation Charges for Expedited Orders will be applied for any order cancelled from the Application Date forward.

TC Systems, Inc.  
P.S.C. No. 7 -- Telephone  
Access Services  
Effective Date: December 23, 2011

Section 2  
Leaf No. 59  
Revision: 0

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## SECTION 2 - REGULATIONS

### 2.13 Ordering Options for Access Services (Cont'd)

#### 2.13.2 Access Order: (Cont'd)

- D. Minimum Period of Service: The minimum period for which access service is provided and for which charges are applicable is twelve months.
1. The following changes will be treated as a discontinuance of the existing service and a request for installation of a new service. All associated nonrecurring charges will apply for the new service, and a new minimum period will be established:
    - a. a change in the identity of the Customer of record;
    - b. a move by the Customer to a different building;
    - c. a change in type of service;
    - d. a change in Call Completion Service Interface Group;
    - e. a change in type of Digital Transmission Service Channel Termination;
    - f. a change from 2-point to multipoint Digital Transmission Service.
  2. When Access Service is disconnected prior to the expiration of the minimum period, charges are applicable for the balance of the minimum period. The Minimum Period Charge for monthly billed services will be determined as follows:

For Call Completion Service, the charge for a month or fraction thereof is the applicable minimum monthly charge for the capacity made available to the Customer.

For Digital Transmission Service, the charge for a month or fraction thereof is the applicable monthly charge for the service as set forth in this tariff.

All applicable nonrecurring charges for the service will be billed in addition to the Minimum Period Charge.