

ACCESS SERVICE

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Issued by:
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c/o Venable LLP
575 7th Street, N.W.
Washington, DC 20004

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ACCESS SERVICE

1. Application of Tariff

- 1.1 This tariff contains regulations, rates and charges applicable to the provision of Switched Access Service and other miscellaneous services, hereinafter referred to collectively as service(s), provided by the Issuing Carrier of this tariff hereinafter referred to as the Telephone Company, to Customer(s).
- 1.2 The provision of such services by the Telephone Company as set forth in this tariff does not constitute a joint undertaking with the Customer for the furnishing of any service. The Customer and the Telephone Company are not partners, joint ventures, agents or representatives of each other for any purpose whatsoever.
- 1.3 None of the provisions of this tariff constitute the End User and the Telephone Company as partners, joint ventures, agents or representatives of each other for any purpose whatsoever.
- 1.4 The Telephone Company offers all services under this tariff as a competitive local exchange carrier ("CLEC"). The Telephone Company shall be treated as a rural CLEC, as defined by 47 C.F.R. § 61.26, when the Telephone Company terminates traffic to a conference bridge or similar equipment located in an incorporated place with less than 50,000 inhabitants regardless of whether the traffic is originated by End Users located in an urbanized area or an incorporated place with 50,000 or more inhabitants.
- 1.5 The Telephone Company is a limited liability company which is controlled by and whose sole manager is Mr. James Troup. Mr. Troup owns 50 percent of the membership interests in the Telephone Company. PTel, LP. owns the remaining 50 percent of the membership interests in the Telephone Company. PTel, LP is an End User of the Telephone Company's telecommunications services. Profit or loss distributions to the Telephone Company's owners do not constitute access stimulation or access revenue sharing under the F.C.C.'s rules and decisions. (T)
(C)
(C)
- 1.6 Switched Access Service is only available under this tariff for originating Calls from or terminating Calls to End Users to whom the Telephone Company has offered service for a fee.
- 1.7 If any provision of this tariff shall be held invalid or unenforceable by the FCC or a court, such provision shall be deemed deleted from this tariff and replaced by a valid and enforceable provision which so far as possible achieves the intent of the original tariff provision. The remaining provisions of this tariff shall continue in full force and effect.
- 1.8 No failure or delay in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

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2. General Regulations (Cont'd)2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.1 Payment of Rates, Charges and Deposits (Cont'd)

- (C) For services provided on a monthly basis, the charge for the provision of a fractional month's service will be determined by dividing the number of days that service was provided by 30 and multiplying the result times the monthly rate. This calculation will be made subject to any minimum service periods required for specific services.
- (D) When a rate, as set forth in this tariff, is shown to more than two decimal places, the charges will be determined using the rate shown. The resulting amount will then be rounded to the nearest penny (i.e., rounded to two decimal places).
- (E) Voice calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VOIP) shall be compensated under this tariff in the same manner as voice traffic.
- (F) The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) (excluding taxes on the Telephone Company's net income) imposed on or based upon the provision, sale or use of telecommunications services.

2.4.2 Binding Arbitration

- (A) IT IS IMPORTANT THAT THE CUSTOMER READ THIS ENTIRE SECTION CAREFULLY. THIS SECTION PROVIDES FOR RESOLUTION OF CERTAIN BILLING DISPUTES THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY. THE PURPOSE OF THIS SECTION IS TO PROVIDE AN EFFICIENT FORUM FOR THE EXPEDITIOUS RESOLUTION OF COLLECTION ACTIONS BY THE TELEPHONE COMPANY AGAINST THE CUSTOMER OVER WHICH THE FCC LACKS JURISDICTION.
- (B) These arbitration provisions derive their authority from and are exclusively governed by the Communications Act. The Federal Arbitration Act does not apply to these arbitration procedures and does not control what terms can be contained in this tariff. No agreement to arbitrate is required as the Customer and the Telephone Company are bound by the filed rate doctrine and Sections 203 and 204 of the Communications Act, 47 U.S.C. §§ 203, 204, to comply with these arbitration provisions.

(C)

(C)
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(C)
(D)

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)

2.4.2 Binding Arbitration (Cont'd)

(C) (Cont'd)

(D)

(D)

(D) In recognition that the FCC lacks jurisdiction to address a collection action brought by the Telephone Company against a Customer, all disputes relating to the collection of any amount billed by the Telephone Company pursuant to this tariff but not paid by the Customer by the payment date shall be resolved solely and exclusively by binding arbitration in accordance with the provisions of this tariff. Whenever the Telephone Company performs billing or collection for another carrier, all disputes relating to the collection of any amount billed by or on behalf of the other carrier, but not paid by an Interexchange Carrier by the payment date, shall also be resolved solely and exclusively by binding arbitration. Furthermore, all disputes relating to the collection of the blocking penalty described in section 2.3.11 of this tariff shall be resolved solely and exclusively by binding arbitration in accordance with this section.

(D)

(D)

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

(D) (Cont'd)

The only issues that will be decided by the arbitrator are the following: (C)
“Which of the Final Offers presented by the Interexchange Carrier and the Telephone Company most accurately specifies the dollar amount that the Interexchange Carrier must pay the Telephone Company in accordance with the rates, terms and conditions of this tariff? When the Telephone Company performs billing or collection for another carrier, which of the Final Offers presented by the Interexchange Carrier and the Telephone Company most accurately specifies the dollar amount the Interexchange Carrier must pay either the Telephone Company or the other carrier in accordance with the tariff of the carrier for which the Telephone Company performs billing or collection?” The arbitrator may (C) also render a decision regarding defenses and counterclaims asserted by the Interexchange Carrier to the same extent such defenses and counterclaims could be decided by a federal district court. Under the doctrine of primary jurisdiction, the arbitrator only has discretion to refer issues to the FCC that are within the FCC’s jurisdiction. The Communications Act, not state law, shall govern such arbitration except (C) as supplemented, limited or modified by the terms of this tariff. The arbitration shall be conducted by a single arbitrator, who will determine the amount of compensation that (1) the Customer shall pay for the Telephone Company’s services or (2) an Interexchange Carrier shall pay for the services of another carrier for which the Telephone Company performs billing or collection.

(E) The arbitrator shall enforce all the rates, terms and other provisions of (C) this tariff that are deemed lawful under section 204(a)(3) of the Communications Act. Furthermore, the arbitrator may not refuse to apply any rate, term or other provision contained in this tariff that is (C) deemed lawful under section 204(a)(3) of the Communications Act so long as it is effective. (C)

(F) Nothing herein shall be construed as preventing a Customer from filing a complaint with the FCC alleging a violation of the Communications Act by the Telephone Company. Nor does this tariff prevent the FCC from exercising its jurisdiction. However, the FCC lacks jurisdiction to

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

(H) (Cont'd)

If the Respondent fails to participate or cooperate with the Claimant in requesting the List of five potential arbitrators from the Alternative Dispute Resolution Staff of the U.S. District Court for the District of Columbia within four calendar days after Commencement, then the Claimant may request the List and provide it to the Respondent. If the Alternative Dispute Resolution Staff of the U.S. District Court for the District of Columbia does not provide the List within seven calendar days after Commencement, then the List may be requested from another organization or entity with access to the names of potential arbitrators.

- (I) The Customer and the Telephone Company shall negotiate in good faith to reach an agreement on the appointment of one arbitrator from the List. If the Customer and the Telephone Company are unable to agree upon the selection of a single arbitrator from the List within five calendar days of receipt of the List, or if either the Customer or the Telephone Company fail to participate in such selection, then on (C)
or after the sixth day a single arbitrator will be randomly selected (C)
from the List using a random generation system administered by Smartplay International, Inc. Smartplay will conduct the random selection at its office located at 1550 Bridgeboro Rd., Edgewater Park, NJ 08010 (Tel: 609-880-1865) or another location mutually agreed upon by the Claimant and the Respondent. If Smartplay refuses or is unable to conduct the random selection within five (5) (C)
business days after receiving the List, a similar organization with experience in random generation systems will randomly select the arbitrator. The Customer and the Telephone Company shall each pay one half of the cost of compensating Smartplay or the similar organization that conducts the random selection of the arbitrator. The Customer and the Telephone Company shall be bound by the decision of the single arbitrator selected randomly to the same extent as the decision of an arbitrator which was selected from the List by mutual agreement of the Customer and the Telephone Company.

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

- (J) If the arbitrator selected through random generation, as described in (I) (N) above, refuses to or is unable to promptly preside over the arbitration, then Smartplay will conduct a random generation to select a single arbitrator from the remaining four names on the List. Should the second selection also fail to promptly preside over the arbitration, Smartplay will conduct a random generation to select a single arbitrator from the remaining three names on the List. If the third selection also fails to promptly preside over the arbitration, then Smartplay will conduct a random generation to select a single arbitrator from the remaining two names on the List. If the fourth selection also fails to promptly preside over the arbitration, then the last remaining name on the List shall be selected as the arbitrator. If none of the names on the first List promptly preside over the arbitration, then the process shall continue, with another List obtained as described in (H) above and additional random generations by Smartplay, until an arbitrator is selected that promptly presides over the arbitration. (N)
- (K) Ex parte communications with the selected arbitrator that are limited to hiring the arbitrator and establishing a procedural schedule are permitted. However, before the filing of the Final Offers as described in section 2.4.2(L) below, communications with the arbitrator that intimidate or interfere with the progress of the arbitration proceeding are strictly prohibited and unlawful. The arbitrator has the discretion to impose sanctions for such prohibited communications, including but not limited to, requiring the payment of a monetary penalty to the other party that did not engage in such prohibited communications. Prohibited communications with the arbitrator prior to the filing of Final Offers include, but are not limited to, asserting that the Customer will not pay any portion of the arbitrator's fee, that the Customer will not participate in the arbitration, that the arbitrator lacks jurisdiction, or that the arbitration is unlawful or a sham. Such arguments are permitted in the Final Offers and reply briefs filed after the arbitrator has been hired and after the Customer has deposited any unpaid amounts in an escrow account administered by the arbitrator. If an Interexchange Carrier has not fully paid by Commencement all of the Telephone Company's bills or the bills of other carriers for which the Telephone Company performs billing or collection, the Interexchange (M)

(M) Material previously appeared on 2nd Revised Page 36.

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

(K) (Cont'd)

Carrier shall, within three business days after the selection of the arbitrator as described in paragraphs (I) and (J) above, deposit any (C) unpaid amount into an interest bearing escrow account that shall be administered by the arbitrator. Because section 204(a)(3) prohibits retroactive refunds, the unpaid amount deposited in the escrow account is not subject to retroactive refunds by the FCC.

- (L) If the Customer or the arbitrator fails, neglects or refuses to participate (C) or proceed with the arbitration, the Telephone Company may petition the U.S. District Court for the District of Columbia or any other court of competent jurisdiction to compel arbitration and issue an order directing that such arbitration proceed in the manner provided for in this tariff. Arbitration shall be based on written submissions to the (C) arbitrator by the Claimant and Respondent without an oral hearing. These written submissions are referred to herein as the Final Offers. Within ten calendar days after the selection of the arbitrator as described in paragraphs (I) and (J) above, the Claimant and the (C) Respondent shall submit separate Final Offers to the arbitrator setting (C) forth the dollar amount that the Interexchange Carrier should pay the Telephone Company (or the carrier for which the Telephone Company performs billing or collection), including but not limited to compensation according to the tariff rates, any section 2.3.11 blocking penalty, deposits, late payment penalties, interest, costs and attorneys' fees, and provide the reasons and evidence to support that position. The Respondent's Final Offer shall include all defenses and (C) counterclaims that the Respondent wants the arbitrator to decide. Within ten calendar days of the submission of the Final Offers to the arbitrator, the Claimant and Respondent shall submit Reply Briefs to the arbitrator responding to the other party's Final Offer. To ensure (C) that the Final Offers and Reply Briefs have the opportunity to fully (C) confront the evidence and identify all material errors in any factual or legal claims, there is no page limit on the Final Offers or the Reply (C) Briefs. Each Final Offer and Reply Brief should be signed by a person (C) authorized to verify the accuracy of the Final Offer or Reply Brief (C)

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

(L) (Cont'd)

(T)

and contain the following statement: "The undersigned declares under penalty of perjury that the facts and exhibits in this submission are true to the best of my knowledge, information, and belief, except as otherwise stated herein." The Customer and the Telephone Company shall serve each other with their Final Offers and Reply Briefs on the same day each corresponding Final Offer or Reply Brief is submitted to the arbitrator. No additional factual information may be submitted to the arbitrator after the Final Offers and Reply Briefs have been submitted to the arbitrator, except as ordered by the arbitrator in extraordinary cases when the demands of justice require it.

(M) The arbitrator, after reviewing the Final Offers, Reply Briefs and the accompanying exhibits, will issue a written opinion choosing one Final Offer. The arbitrator shall not craft a compromise or middle-ground award in lieu of selecting one of the Final Offers. The arbitrator may not edit or modify the Final Offer that he or she selects. The arbitrator shall not limit, expand or otherwise modify the terms of this tariff, and shall not award punitive or consequential damages. If either the Customer or the Telephone Company fail to timely submit a Final Offer with the arbitrator, the arbitrator will choose as his award the Final Offer that was timely submitted by the other party. The arbitrator's award shall include the payment of a deposit and late payment penalties in accordance with this tariff, any blocking penalty required by section 2.3.11, and interest on any amount held in escrow by the arbitrator. In addition, the arbitrator shall award costs and attorneys' fees to the party that submitted the Final Offer which was chosen by the arbitrator.

(N) The arbitrator shall render a decision regarding the award not later than fourteen (14) calendar days from the date the arbitrator receives the Reply Briefs unless the arbitrator extends this time in extraordinary cases when the demands of justice require it. The arbitrator shall disclose the decision regarding the award to only the Claimant and the Respondent, but not to any third party, unless required by law. If the Customer and the Telephone Company reach a settlement agreement regarding the billing dispute at any time prior to the decision of the arbitrator, they may withdraw from this arbitration process.

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)

2.4.2 Binding Arbitration (Cont'd)

(O) The Telephone Company and the Customer shall be bound by the arbitrator's determination. Judicial review or appeal of the arbitrator's decision is strictly limited to the following:

- (1) vacating the award where the award was procured by corruption or fraud;
- (2) vacating the award where the arbitrator is guilty of misconduct by which the rights of any party have been prejudiced;
- (3) vacating the award where the arbitrator exceeded its powers conferred by the terms of this tariff;
- (4) correcting the award where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award; or
- (5) modifying or correcting the award where the arbitrator has awarded upon a matter not submitted to the arbitrator, unless it is a matter not affecting the merits of the decision upon the matter submitted.

The arbitrator's award may be enforced by either an action at law on the award under seal or by applying for a judgment under seal confirming the award by the U.S. District Court for the District of Columbia or any other court of competent jurisdiction. Unless the court denies the request that the court issue its order under seal or as otherwise required by law, the Claimant and Respondent shall not publicly disclose the court order confirming the arbitration award.

(P) There shall be no discovery or depositions, except as ordered by the arbitrator in extraordinary cases when the demands of justice require it.

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)2.4.2 Binding Arbitration (Cont'd)

- (Q) Except as otherwise permitted by this tariff, the Telephone Company, the Customer, and their attorneys, agents, and representatives shall not engage in ex parte communications with the arbitrator, unless permitted by the arbitrator in extraordinary cases when one of the parties has refused to participate in joint communications with the arbitrator and the demands of justice require such ex parte communications. (C) (M) (M) (C) (M) (M)
- (R) The Claimant, the Respondent, their attorneys, agents and representatives, and any other participants to the arbitration shall not disclose to any third party the arbitrator's decision, the award, or any information obtained via the arbitration, including documents, evidence, and data, except: (T) (M)
- (1) information that is or becomes available to the public through no violation of this tariff,
 - (2) information that was previously known by the receiving party without any obligation to hold it in confidence, (M)
 - (3) information that is received from a third party free to disclose such information without restriction,
 - (4) information that is independently developed by the receiving party without the use of confidential information of the disclosing party,
 - (5) such disclosure that is agreed to in writing by both the Claimant and the Respondent, but only to the extent of and subject to such conditions as may be imposed in such written authorization,
 - (6) as may be required by law, regulation or this tariff to be disclosed, but only to the extent and for the purposes of such required disclosure and after notice to the disclosing party, or

(M) material previously appeared on page 38.

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2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowance (Cont'd)

2.4.2 Binding Arbitration (Cont'd)

(R) (Cont'd)

(7) information that is disclosed in response to a valid order of a court or other governmental body of the United States, any state or any political subdivision thereof, but only to the extent of and for the purposes of such order. (M)

(S) The fees and costs of the arbitrator shall be borne equally by the Claimant and the Respondent. (T)
(M)

(T) No failure or delay in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. (T)
(M)
(M)

(U) If any provision of this tariff shall be held invalid or unenforceable by a court or the FCC, such provision shall be deemed deleted from this tariff and replaced by a valid and enforceable provision which so far as possible achieves the intent of the original tariff provision. The remaining provisions of this tariff shall continue in full force and effect. (T)
(M)
(M)

(M) material previously appeared on page 38.1