

REGULATIONS AND SCHEDULE OF  
CHARGES APPLICABLE TO INTERSTATE AND INTERNATIONAL  
SWITCHED ACCESS SERVICES  
FURNISHED BY CIBOLO CREEK VENTURES, LLC  
AND ITS CONCURRING CARRIERS BETWEEN  
POINTS IN THE UNITED STATES AND  
BETWEEN POINTS IN THE UNITED STATES AS SPECIFIED HEREIN

This tariff includes the rates, charges, terms and conditions of service for the provision of interstate common carrier telecommunications services by Cibolo Creek Ventures, LLC.

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Issued:

Effective:

J. Mark Griffin, CEO  
Cibolo Creek Ventures, LLC  
572 Pinnacle Parkway  
New Braunfels, TX 78132

## CHECK SHEET

The pages listed below, which are inclusive of this tariff, are effective as of the date shown at the bottom of the respective pages(s). Original and revised pages as named below compromise all changes from the original tariff and are currently in effect as of the date indicated below.

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Issued: November 8, 2013

Effective: November 23, 2013

Transmittal Letter No. 1

By:

J. Mark Griffin, CEO, Cibolo Creek Ventures, LLC  
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## TARIFF FORMAT

- A. **Sheet Numbering** - Sheet numbers appear in the upper right corner of the Sheet. Sheets are numbered sequentially. However, occasionally, when a new Sheet is added between Sheets already in effect, a decimal is added. For example, a new Sheet added between Sheets 14 and 15 would be 14.1.
- B. **Sheet Revision Numbers** - Revision numbers also appear in the upper right corner of each Sheet. These numbers are used to determine the most current Sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the 3rd Revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in its tariff approval process, the most current Sheet number on file with the Commission is not always the Sheet in effect. Consult the Check Sheet for the Sheet currently in effect.
- C. **Paragraph Numbering Sequence** – There are nine levels of paragraph coding. Each level of code is subservient to its next higher level:
- 2.
  - 2.1
  - 2.1.1
  - 2.1.1.1
  - ... and so on
- D. **Explanation of Symbols**
- (C) Change in text due to a changed regulation, term, or condition, which does not affect rates.
  - (D) Deleted or discontinued rate, regulation, term, condition or material.
  - (I) Change resulting in an increase to a rate.
  - (M) Material moved from or to another part of the utility's tariff; a footnote indicating where the material was moved from and where the material was moved to shall accompany all "M" classified changes.
  - (N) New material, including new products, rates, terms, or conditions.
  - (R) To signify a change resulting in a reduction to a rate.
  - (T) Change in text but no change to rate, term, condition or charge.

## **1 DEFINITIONS**

Certain terms used generally throughout this tariff for Communications Service of the Company are defined below. The definitions below apply whether or not the defined term is capitalized in this tariff, although for the convenience of the Customer the Company has endeavored to identify the use of defined terms by capitalizing them where they occur. Where a term defined in this tariff is also defined in the Commission's rules (including without limitation Section 69.2 of those rules), the term in this tariff is to be construed in a manner that is consistent with the definition in the Commission's rules, subject to Section 61.26(a) of those rules, under which access services provided by a competitive local exchange carrier (such as the Company) are construed to include services and functions that are the functional equivalent of access services provided by an incumbent local exchange carrier. When terms used in this tariff are not specifically defined, they are intended to be understood as conveying the meaning they are normally given within the United States telecommunications industry (including with reference to the Commission's rules), or, if no such specific meaning exists, their normal English meaning.

Access Code: A uniform seven digit code assigned by the Company to an individual Customer. The seven digit code has the form 950-XXXX or 101XXXX. (PIC CODE)

Access Service: Switched Access to the network of an Interexchange Carrier for the purpose of originating or terminating communications.

Access Service Request (ASR): The industry service order format used by Access Service Customers and access providers as agreed to by the Ordering and Billing Forum.

Access Tandem: An Exchange Carrier's switching system that provides a concentration and distribution function for originating or terminating traffic between local switching centers and Customers' premises.

Access line: the connection of a Customer's premises to the public switched telephone network regardless of the type of technology used to connect the Customer to the network.

Advance Payment: Part or all of a payment required before the start of service.

Applicant an individual, partnership, corporation, association, or government agency that applies to the Company for any new or additional Service.

Authorized User: A person, firm, corporation or other entity, authorized by the Customer to use Service or placed in a position by the Customer, either through acts or omissions, to use Service.

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Business Hours: Excluding Holidays, business office hours will be from 8:00 AM to 5:00 PM Monday through Friday from the third Monday of November up to third Monday in April, and from 7:00 AM to 5:30 PM Monday through Thursday from the third Monday of April up to the third Monday in November.

Business Service: Service is classified as business service and business rates apply when any of the following conditions exist:

- A. When service is furnished at a location where a business, trade or practice is performed and where the use of the location is not confined primarily to domestic activities; or
- B. When the directory listing is to be a business listing

Carrier: Any person authorized to provide telecommunications services or interconnected VoIP services under state or federal law.

Channel: A communications path between two or more points of termination.

Collect Call: A toll billing arrangement whereby a call is billed to the called party.

Commission: The Federal Communications Commission.

Common Channel Signaling (CCS): A high-speed packet switched communications network which is separate (out of band) from the public packet switched and message networks. It is used to carry addressed signaling messages for individual trunk circuits and/or database related services between signaling points in the CCS network.

Carrier, Company or Utility: refers to Cibolo Creek Ventures, LLC

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Effective: November 23, 2013

1 – DEFINITIONS (Cont'd)

Customer: refers to the person, firm, company, corporation, or other entity that contracts for or uses Service under this tariff and is thereby responsible for the payment of charges as well as compliance with the Company's regulations under this tariff.

Customer Premises: A location(s) designated by the Customer for the purposes of connecting to Company's services.

Customer Premises Equipment (CPE): Equipment located on the Customer's side of the Demarcation Point at the Customer's Premises for use with Company's services.

800 Data Base Access Service: The term "800 Data Base Access Service" denotes a toll-free originating Trunk-side Access Service when the 8YY Service Access Code (e.g., 800, 822, 833, 844, 855, 866, 877, or 888 as available) is used.

Demarcation Point: As used in this tariff, the point of demarcation and/or interconnection between the communications facilities of two carriers. It is also the point where between provider of wireline telecommunications and the inside wiring to the Customer's Premises, located generally at the Minimum Point of Entry.

Direct Trunked Transport: The term "Direct Trunked Transport" refers to any service or arrangement provided by the Company that, in the context of the Company's network configuration, is functionally equivalent to the facilities and/or services normally referred to as "direct trunked transport" when purchased in connection with switched access services provided by an incumbent local exchange carrier. The term generally refers to transport dedicated to the use of a single Customer without switching at a tandem Switch, between the Serving Wire Center and an End Office, or between two Customer-designated End Offices. Depending on the specific arrangements provided to a customer, Direct Trunked Transport may consist of a connection between the Customer's location and/or the Serving Wire Center, and a Company tandem switch or functional equivalent.

Disconnect or Disconnection: The cessation of a Customer's service by the Company pursuant to the provisions of this Tariff and applicable Commission rules.

End Office: The term "End Office" denotes the switching system office or serving wire center (or functionally equivalent or analogous facilities) from which End Users receive exchange service. By way of example, system(s) or facility(ies) in a carrier's network which host telephone numbers listed in the database of the Number Portability Administration Center as assigned to the carrier, constitute an "End Office."

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Issued: November 8, 2013

Transmittal Letter No. 1

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1 – DEFINITIONS (Cont'd)

End Office Access Service: For the purpose of this tariff, End Office Access Service shall mean: (1) The switching of access traffic at the carrier's end office switch and the delivery of such traffic to or from the called party's premises; (2) The routing of interexchange telecommunications traffic to or from the called party's premises, either directly or via contractual or other arrangements with an affiliated or unaffiliated entity, regardless of the specific functions provided or facilities used; or (3) Any functional equivalent of the incumbent local exchange carrier access service provided by Company including local switching, the carrier common line rate elements, and intrastate access services. End Office Access Service rate elements for Company includes any functionally equivalent access service. (4) The origination and termination of interexchange telecommunications traffic to any end user, either directly or via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected VoIP service, as defined in 47 U.S.C. § 153(25), or a non-interconnected VoIP service, as defined in 47 U.S.C. § 153(36), that does not itself seek to collect reciprocal compensation charges prescribed by this subpart for that traffic, regardless of the specific functions provided or facilities used.

End User: For purposes of this Tariff, the term "End User" means any person, corporation, partnership, or any other entity that purchases a service or facility from a Local Exchange Carrier (including the Company) that has one or more North American Numbering Plan numbers associated with the service, which numbers are listed in the database of the Number Portability Administration Center as assigned to the Local Exchange Carrier, and which are used to switch traffic to and/or from the service. By way of example and not limitation, an End User may include an individual, a small or medium-sized business, a business that purchases connection(s) for a PBX or functionally equivalent or analogous equipment, a dialup Internet Service Provider, and/or a provider of interconnected VoIP service (as that term is defined in the Commission's rules) that obtains its Connection to the PSTN from the Local Exchange Carrier.

Entrance Facility: The term "Entrance Facility" refers to any service or arrangement provided by the Company that, in the context of the Company's network configuration, is functionally equivalent to facilities and/or services normally referred to as "entrance facilities" when purchased in connection with switched access services provided by an incumbent local exchange carrier. The term generally refers to transport from the Customer's point of demarcation to the Serving Wire Center (or functionally equivalent facility/location on the Company's network). Depending on the specific arrangements provided to a customer, an Entrance Facility may consist of a connection between the Customer's location and a Company tandem switch. Under this Tariff an Entrance Facility will normally be purchased in connection with Direct Trunked Transport.

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1 – DEFINITIONS (Cont'd)

Equipment: means equipment, other than customer premises equipment, used by Company to provide Services, and includes software integral to such equipment (including upgrades).

Exchange: means the totality of the telecommunications plant, facilities, and equipment including plant, facilities and equipment located inside and outside of buildings, used in providing telecommunications to customers located in a geographic area defined under an authorized and approved state tariff. An exchange may include more than one central office location or more than one wire center.

Exchange Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in the provision of local exchange telephone service.

Firm Order Confirmation (FOC): Acknowledgment by the Company of receipt of an Access Service Request from the Customer and commitment by the Company of a Service Date.

Individual Case Basis: A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer's situation.

Interexchange Carrier (IXC) or Interexchange Common Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in intrastate, interstate and/or international communication for hire by wire or radio, between two or more exchanges.

Holidays: New Year's Day, Good Friday, Independence Day, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Eve and Christmas.

Inside Wiring or Premises Wire(ing): Customer-owned or controlled wire on the Customer's side of the Demarcation Point.

Joint User: A person, firm or corporation which is designated by the Customer as a user of services furnished to the Customer by the Company and to whom a portion of the charges for the service will be billed under a Joint User arrangement as specified in the Company's tariff.

LATA: A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

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1 – DEFINITIONS (Cont'd)

Line or Trunk: a transmission medium for communications, including but not limited to radio, satellite, wire, cable and optical fiber, including associated electronic or other equipment used to permit such medium to function.

Line Information Data Base (LIDB): The data base which contains base information such as telephone numbers, calling card numbers and associated billed number restriction data used in connection with the validation and billing of calls.

Local Access: The connection between a Customer's premises and a point of presence of the Exchange Carrier.

Local Call: any call originating and terminating within the same local calling area.

Local Calling Area (LCA): the geographic area approved by the Commission in which Customers may make calls without payment of a toll charge for each call. The local calling area may include exchange areas in addition to the serving exchange area.

Local Exchange Carrier: A company that furnishes Local Exchange Telecommunications Service.

Local Switch, Local Switching: "Local Switching": refers to any service or arrangement provided by the Company that is functionally equivalent to facilities and/or services normally referred to as "local switching" when purchased in connection with switched access services provided by an incumbent local exchange carrier. By way of illustration and not limitation, the term typically refers to Switching performed by a Local Exchange Carrier (including, without limitation, the Company) that routes traffic between an End User's Connection to the PSTN and either (a) a Customer's network (including by means of Company-provided connections between a Company Switch and the Customer's network) or (b) a Tandem Switch provided by the Company or a third party.

Local Switching: The functions involved in capturing and routing the company's end users' dialed telephone numbers for delivery to other local end users or, in the case of non-local calls, to a tandem switch or other terminating network facility, and for routing of inbound traffic destined for company's end user either from the company's other local customers or from 3rd party carriers as determined by the telephone number dialed. The application of a Local Switching charge is not predicated in any way on any other facility, such as a loop or trunk, other than the company's switching facilities.

Loop: Lines, trunks, or other facilities connected to an End Office Switch that are used to provide a Connection to the PSTN.

1 – DEFINITIONS (Cont'd)

Major Service Interruption: An interruption of Customer service due to the Company's negligence or due to its noncompliance with the provisions of this tariff.

"MECAB" refers to the Multiple Exchange Carriers Access Billing document prepared by the Billing Committee of the Ordering and Billing Forum ("OBF"), which functions under the auspices of the IXC Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more LECs, or by one LEC in two or more states within a single LATA. For purposes of this Tariff, the term "MECAB" refers to the referenced document, any future revisions to such document, or any successor or replacement document duly adopted by the Industry.

"MECOD" refers to the Multiple Exchange Carriers Ordering and Design guidelines for Access Services - Industry Support Interface, a document developed by the Billing Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Bellcore as Special Report SRSTS-002643, establishes methods for processing orders for access service, which is to be provided by two or more LECs. For the purposes of this Tariff, the term "MECOD" refers to the referenced document, any future revisions to such document, or any successor or replacement document duly adopted by the Industry.

"Multiple Bill/Multiple Tariff Method" is the Meet-Point Billing method where each LEC (or CLEC) prepares and renders its own meet point bill to the Interexchange Carrier for that portion of the jointly-provided Switched Access Service which the LEC (or CLEC) provides, and each LEC (or CLEC) involved applies rates for its portion of the service from its own unique Tariff.

Meet point: A meet point is a point of interconnection between two networks, designated by two telecommunications carriers, at which one carrier's responsibility for service begins and the other carrier's responsibility ends.

Meet point interconnection arrangement: A meet point interconnection arrangement is an arrangement by which each telecommunications carrier builds and maintains its network to a meet point.

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1 – DEFINITIONS (Cont'd)

Minimum Point of Entry: is defined as either the closest practicable point to the location at which the wiring crosses a property line or the closest practicable point to the location at which the wiring enters a multiunit building.

Network Services: The Company's telecommunications Access Services offered on the Company's Network.

Nonrecurring Charges refer to a one-time charge associated with given service or item of equipment that applies on a per-service and/or per item basis each time the service or item of equipment is provided.

Premises: As used herein, generally a dwelling unit, other building or a legal unit of real property such as a lot on which a dwelling unit is located, as determined by the Company's reasonable and nondiscriminatory standard operating practices.

PSTN: The public switched telephone network, sometimes referred to as the public switched network, consisting of the networks of all carriers that are interconnected with each other, directly or indirectly, and that route telephone calls to and from their entry and exit points on the network on the basis of 10-digit telephone numbers of the form NPA-NXX-XXXX.

Off-Hook: The active condition of Switched Access or a telephone exchange service line.

On-Hook: The idle condition of Switched Access or a telephone exchange service line.

Out of Band Signaling: An exchange access signaling feature which allows customers to exchange call control and signaling information over a communications path which is separate from the message path.

Percent of Interstate Use (PIU): The term "Percent of Interstate Use" (PIU) denotes the percent of interstate usage on lines or trunks carrying interstate and intrastate calls.

Point of Presence: Location where the Customer maintains a facility for purposes of interconnecting to the Company's Network.

Presubscription: An arrangement whereby an End User may select and designate to the Company an Interexchange Carrier (IXC) or Carriers it wishes to access, without an Access Code, for completing both intraLATA toll calls and/or interLATA calls. The selected IXC(s) are referred to as the End User's intraLATA Primary Interexchange Carrier (LPIC) and Primary Interexchange Carrier (PIC).

Rural Competitive Local Exchange Carrier (RCLEC): - see 47 CFR §61.26 (a) (6).

Rural Exemption: - see 47 CFR §61.26 (e).

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1 – DEFINITIONS (Cont'd)

Station: Refers to a telephone instrument consisting of a connected transmitter, receiver, and associated apparatus to permit sending or receiving voice or messages.

Service(s): The interstate telecommunications services that Company offers pursuant to this Tariff.

Service Order: The written request for Network Services executed by the Customer and the Company in a format devised by the Company; or, in the alternative, the submission of an Access Service Request by the Customer in the manner specified in this tariff.

Signaling Point of Interface: The Customer designated location where the SS7 signaling information is exchanged between the Company and the Customer.

Signaling System 7 (SS7): The common Channel Out of Band Signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI).

Switched Access Service: Access to the switched network of an Exchange Carrier for the purpose of originating or terminating communications. Switched Access is available to carriers, as defined in this tariff.

Switch, Switching, Switched: The term “switching” refers to any technical means by which a communication is directed from an origination point or input source onwards towards a destination or output location. Switching may include (without limitation) either circuit or packet switching, and switching of communications individually (including, if applicable, individual packets) or in groups, depending on the technology deployed. A “switch” is a device, software, or any technical arrangement that performs or accomplishes switching. A communication is “switched” when it passes through a switch. By way of example but not limitation, any device which determines how to route calls based on the digits of a telephone number within the North American Numbering Plan is a “switch.”

Switched Access Service: Access to the switched network of an Exchange Carrier for the purpose of originating or terminating communications.

Tandem Switching: The term “Tandem Switching” refers to any service or arrangement provided by the Company that, in the context of the Company’s network configuration, is functionally equivalent to facilities and/or services normally referred to as “tandem switching” when purchased in connection with switched access services provided by an incumbent local exchange carrier. By way of illustration and not limitation, the term typically refers to Switching performed by a Local Exchange Carrier (including, without limitation, the Company) that routes traffic between an End Office and a Customer, or between two End Offices.

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1 – DEFINITIONS (Cont'd)

Tandem Switched Transport: The term "Tandem Switched Transport" refers to any service or arrangement provided by the Company that, in the context of the Company's network configuration, is functionally equivalent to facilities and/or services normally referred to as "tandem switched transport" when purchased in connection with switched access services provided by an incumbent local exchange carrier. By way of illustration and not limitation, the term typically refers to the service involved in transmitting traffic to or from a Customer between the Serving Wire Center an End Office Switch or between the End Office Switch and a Tandem Switch.

Telecommunications: The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Relay Service (TRS): Enables deaf, hard-of-hearing or speech-impaired persons who use a text telephone or similar devices, to communicate freely with the hearing population not using text telephone and visa versa.

Telephone Exchange Service: The term "telephone exchange service" means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate service.

Telephone Number(s): refers to the North American Numbering Plan (NPA\_NXX\_XXX) numbers assigned to SECOM Customers and used in conjunction with the Services provided under this Tariff.

Toll Free (8YY) Service: Toll Free (8YY) Service is a telecommunications service which permits inward calling between a location associated with an access line in one area and locations in diverse geographical service areas specified by the owner of the Toll Free (8YY) number. The Call is without charge to the calling party. The owner of the Toll Free (8YY) number is responsible for the access charges associated with the service.

1 – DEFINITIONS (Cont'd)

Toll VoIP-PSTN Traffic: The term Toll VoIP-PSTN Traffic denotes a customer's interexchange voice traffic exchanged with a Carrier in Time Division Multiplexing format over PSTN facilities, which originates and/or terminates in Internet Protocol (IP) format. Toll VoIP-PSTN Traffic originates and /or terminates in IP format when it originates from and/or terminates to an end user customer of a service that requires IP-compatible customer premises equipment.

Trunk: A communications path connecting two switching systems in a network, used in the establishment of an end-to-end connection.

Trunk Group: The term "Trunk Group" denotes a set of trunks which are traffic engineered as a unit for the establishment of connections between switching systems in which all of the communications paths are interchangeable.

V and H Coordinates Method: The term "V and H Coordinates Method" denotes a method of computing airline miles between two points by utilizing an established formula which is based on the vertical and horizontal coordinates of the two points.

Wire Center: The term "Wire Center" denotes a building in which one or more central offices or access tandems are located.

Wireless Provider: Any Carrier authorized to operate as a common carrier provider of cellular, personal communications, paging or any other form of wireless transmission.



## **2 UNDERTAKING OF THE COMPANY**

### **2.1 Scope**

- 2.1.1 The Company does not undertake to transmit messages but offers the use of its facilities for the transmission of communications.
- 2.1.2 Customers and Users may use services and facilities provided under the tariffs of the Company to obtain access to services offered by other companies. The Company is responsible only for the services and facilities provided under its tariffs, and for its unregulated services provided pursuant to contract, and it assumes no responsibility for any service (whether regulated or not) provided by any other entity that purchases access to the Company network in order to originate or terminate such entity's own services, or to communicate with such entity's own customers.
- 2.1.3 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 or 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.
- 2.1.4 The Company will, for maintenance purposes, test its service only to the extent necessary to detect and/or clear troubles.
- 2.1.5 Services are provided 24 hours daily, seven days per week, except as set forth in other applicable sections of this tariff.
- 2.1.6 The Company does not warrant that its facilities and services meet standards other than those set forth in this tariff.

### **2.2 General**

- 2.2.1 The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer to allow connection of a Customer's location to the Company's network. The Customer shall be responsible for all charges due for such Service arrangement.
- 2.2.2 The Company's Services are available to business/non-residential customers.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.3 Description of Service**

- 2.3.1 Company's service consists of any of the services offered pursuant to this tariff, either individually or in combination. Each service is offered independent of the others, unless otherwise noted. Service is offered via the Company's facilities or in combination with transmission facilities provided by other certificated carriers.

### **2.4 Shortage of Equipment or Facilities**

- 2.4.1 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 lack of facilities, the Customer is using this service in violation of the law and/or the provisions of this Tariff, or due to some other cause beyond the Company's control, on a nondiscriminatory basis.
- 2.4.2 The furnishing of service under the tariffs of the Company is subject to the availability on a continuing basis of all the necessary facilities and is limited to the reasonable capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

### **2.5 Transfer or Assignment of Facilities or Services**

- 2.5.1 All facilities provided under this Tariff are directly or indirectly controlled by Company and the Customer may not assign or transfer use of the Service or facilities without the express written consent of the Company. All regulations and conditions contained in this tariff shall apply to all such permitted assignees or transferees, as well as all conditions of service. Such transfer or assignment, when permitted, shall apply only when there is no interruption of the use or location of the Service or facilities.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.6 Liability of the Company**

- 2.6.1 In view of the fact that the Customer has exclusive control of their communications over the facilities furnished him/her by the Company, and of the other uses for which facilities may be furnished him/her by the Company, and because of unavailability of errors incident to the services and to the use of such facilities of the Company, the services and facilities furnished by the Company are subject to the following terms, conditions and limitations.
- 2.6.2 The liability of the Company for damages arising out of the furnishing of its 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 or omissions, or those of the Company's vendors shall be limited to the extension of allowances for interruption as set forth in Section 5 following. The extension of such allowances for interruption shall be the sole remedy of the Customer and the sole liability of the Company. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to Customer or End User as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of the Company or Company's employees or agents.
- 2.6.3 Unless otherwise required by law, no action or proceeding against Company may be commenced more than one (1) year after the service is rendered.
- 2.6.4 The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

- 2.6.5 The Company shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion 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, lockouts, work stoppages, or other labor difficulties.
- 2.6.6 The Company shall not be liable for any act or omission of any entity furnishing to the Company or to the Company's Customers; or End Users' facilities or equipment used for or with the services the Company offers.
- 2.6.7 Malfunction. 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.
- 2.6.8 Explosive Atmosphere. The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer shall indemnify and hold 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.
- 2.6.8.1 The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this paragraph as a condition precedent to such installations.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

- 2.6.9 Damage to Equipment. The Company is not liable for any defacement of or damage to Customer or End User premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof, unless such defacement or damage is caused by the gross negligence or willful misconduct of the Company's agents or employees.
- 2.6.10 Entire Liability. The entire liability for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid the Company by Customer for the specific services giving rise to the claim. No action or proceeding against the Company shall be commenced more than one year after the service is rendered, or as required by Colorado Law.
- 2.6.11 Customer Negligence. 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.
- 2.6.12 Delays. 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.
- 2.6.13 The Company shall not be liable for any damages whatsoever to property resulting from the installation, maintenance, repair or removal of equipment and associated wiring unless the damage is caused by the Company's willful misconduct or gross negligence.
- 2.6.14 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN ITS TARIFFS.
- 2.6.15 The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment that the Company does not furnish or for any act or omission of Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with Company.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.7 Notification of Service-Affecting Activities**

2.7.1 To the extent possible, the Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

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Issued: November 8, 2013

Transmittal Letter No. 1

By:

Effective: November 23, 2013

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## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.8 Provision of Equipment and Facilities**

- 2.8.1 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.
- 2.8.2 The Company may undertake to use reasonable efforts to make available services 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.
- 2.8.3 The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer. The Customer, Joint User, or End User may not, nor may they permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- 2.8.4 Equipment the Company provides or installs at the Customer's premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided the equipment.
- 2.8.5 The Customer shall be responsible for the payment of service charges as set forth herein for visits by the Company's agents or employees to the premises of the Customer, Joint User, or End User when the service difficulty or trouble report results from the use of equipment or facilities the Customer, Joint User, or End User provided.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

- 2.8.6 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 facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:
- 2.8.6.1 The transmission of signals by Customer provided equipment or for the quality of, or defects in, such transmission; or
- 2.8.6.2 The reception of signals by Customer provided equipment. The Customer, End 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.
- 2.8.7 Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Company services and the channels, facilities, or equipment of others shall be provided at the Customer's expense.
- 2.8.8 Company 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 or interconnection agreements of the other communications carrier, which are applicable to such connections.



## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.9 Non-routine Installation**

- 2.9.1 At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours and/or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply.
- 2.9.2 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.

## **2 – UNDERTAKING OF COMPANY (Cont'd)**

### **2.10 Ownership of Facilities**

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

2.10.2 Telephone Numbers. Except as otherwise provided by law, including without limitation the rules, regulations and orders of the Federal Communications Commission or the Commission, the Customer has no property right in any telephone number or any right to continuance of service through any particular serving office. Company may change a telephone number or a serving office designation, or both, of a Customer if required for engineering or technical reasons or whenever Company deems it desirable in the conduct of its business to do so.

### **2.11 Continuity of Service**

2.11.1 In the event of prior knowledge of an interruption of service for a period exceeding one day, the Customers will, if feasible, be notified in writing, by mail, at least one week in advance.

### **2.12 Governmental Authorizations**

2.12.1 The provision of 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 services into conformance with any rules, regulations, orders, decisions, or directives imposed by the Commission or 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.

### **3 CUSTOMER OBLIGATIONS**

#### **3.1 General**

The Customer shall be responsible for:

- 3.1.1 The payment of all applicable charges pursuant to the tariffs of the Company;
- 3.1.2 damage to or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or of any End User; or by the noncompliance by the Customer or any End User with these regulations; or by fire or theft or other casualty on the Customer's or any End User's Premises, unless caused by the gross negligence or willful misconduct of the employees or agents of the Company;
- 3.1.3 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 End User; and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;
- 3.1.4 any and all costs associated with obtaining and maintaining of the rights-of-way from the Minimum 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;

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Issued: November 8, 2013

Transmittal Letter No. 1

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Effective: November 23, 2013

### **3. CUSTOMER OBLIGATIONS (CONT'D)**

- 3.1.5 securing all licenses, permits, and other arrangements necessary for interconnection with Company Service. In addition, the Customer must ensure that its equipment and/or system or that of its Authorized User or agent(s) is properly interfaced with Company's service and the signals emitted into Company's network are of the proper mode, bandwidth, power, data speed and signal level for the intended use of the Customer. If the Customer or its Authorized User or agent(s) fails to properly maintain and operate its equipment and/or system, Company may, upon written request, require the use of protective equipment at the Customer's expense.
- 3.1.6 ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such 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 must be such as not to cause damage to Company-provided equipment and wiring or injury to Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury may be provided by Company at Customer's expense.
- 3.1.7 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;
- 3.1.8 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,

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### **3. CUSTOMER OBLIGATIONS (CONT'D)**

- 3.1.9 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 End User premises or the rights-of-way for which Customer is responsible under this Tariff and granting or obtaining permission for the Company's agents or employees to enter the premises of the Customer or any End 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;
- 3.1.10 not creating or allowing to be placed any liens or other encumbrances on the Company's equipment or facilities; and
- 3.1.11 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.

### **3. CUSTOMER OBLIGATIONS (CONT'D)**

#### **3.2 Customer Equipment**

- 3.2.1 Company will not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where Customer-provided equipment is connected to the facilities and equipment furnished under this Tariff, the responsibility of Company will be limited to the furnishing of service, facilities and equipment offered pursuant to this Tariff. Beyond this responsibility, Company will not be responsible for:
- 3.2.1.1 the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission; or
  - 3.2.1.2 the reception of signals by Customer-provided equipment; or
  - 3.2.1.3 network control signaling when performed by Customer-provided network control signaling equipment.
- 3.2.2 Interconnection between the Customer and the facilities or services of other Carriers is governed by the applicable terms and conditions of the other Carriers' tariffs.
- 3.2.3 Service furnished by Company may be interconnected with services or facilities of other authorized Carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating Carriers must be provided at the Customer's expense.

### **3. CUSTOMER OBLIGATIONS (CONT'D)**

#### **3.3 Customer's Use Of Service**

- 3.3.1 Service may be used for any lawful purpose consistent with this Tariff and with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services.
- 3.3.2 Equipment the Company provides or installs at the Customer's Premises for use in connection with the services the Company offers may not be used for any purpose other than that for which the Company provided it. Customer may not, and may not permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the services or equipment installed by Company or Company's agent, except upon the consent of Company.
- 3.3.3 The services the Company offers may not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents, and permits required to be obtained by Customer with respect thereto.
- 3.3.4 Service may not be used for any purpose for which the Customer receives any payment or other compensation, except when the Customer is a duly authorized and regulated Common Carrier. This provision does not prohibit an arrangement between the Customer and its Authorized User to share the cost of service.
- 3.3.5 Service may not be used in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, otherwise impairs the quality of service to other Customers, or impairs the privacy of any communications over any service provided by Company. Company may require a Customer to shut down its transmission of signals if said transmission is causing interference to others.
- 3.3.6 Service may not be used in any manner to annoy, abuse, threaten, or harass other persons.
- 3.3.7 The use of the Company's services either without payment for service or by attempting to avoid payment for service by fraudulent means or devices, schemes, false or invalid numbers, or false calling or credit cards is prohibited.
- 3.3.8 The Customer obtains no property right or interest in the use of any specific type of facility, service, equipment, telephone number, process or code. All rights, titles and interests remain, at all times, solely with Company.

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Effective: November 23, 2013

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### **3. CUSTOMER OBLIGATIONS (CONT'D)**

3.3.9 Customer's use of any resold service obtained from other service providers is also subject to any applicable restrictions in the underlying provider's publicly available tariffs.

#### **3.4 Customer Provided Reports**

3.4.1 Customers may be required to provide the following reports in connection with the provision of access service.

3.4.1.1 Percentage of Interstate Use (PIU)

3.4.1.2 Percent Tandem Signaling Factor

3.4.1.3 Tandem Signaling Terminating Billing Data

#### **3.5 Exchange Access Jurisdictional Reports**

3.5.1 When Access Services, are provided for both interstate and intrastate use, monthly rates, usage rates, and nonrecurring charges are prorated between interstate and intrastate on the basis of the projected interstate percentage of use (PIU) as set forth in 3.5.3 (Percentage of Interstate Use).

3.5.2 Where the jurisdiction can be determined from the call detail, the Company will bill according to such jurisdiction. Where call detail is insufficient to determine jurisdiction, the customer will provide a projected percentage of interstate use (PIU). Jurisdictional percentages are expressed as a whole number (i.e., a number from 0 to 100). PIU reporting requirements are provided in 3.5.3 and following related provisions. The Company will utilize the PIU report to determine interstate and intrastate rates and charges until a revised report is received from the customer, as set forth in Sections 3.5.3 – 3.5.5 following.



### **3. CUSTOMER OBLIGATIONS (CONT'D)**

3.5.3 Customer-provided PIUs must be furnished to the Company as follows:

3.5.3.1 All customer-provided PIU factors, including all PIU factors provided in a report update, must be furnished via a letter attested to by an officer of the Customer's company. PIU factors provided via a letter will be kept on file and customers can designate when such PIUs are to apply to new or existing services.

3.5.3.2 In the absence of such initial report, and until such time as the Customer fully complies with this reporting requirement, the Company shall use the default PIU described in Sections 3.5.4.1 - 3.5.4.4 following. Application of Company reported PIU shall not be retroactive upon receipt of Customer's initial report.

3.5.4 Report Updates - Upon receipt by the Company, the revised report will serve as the basis for future billing and will be effective on the next bill date for that service. No prorating or back billing will be done based on the report. The revised report will be used by the Company to apportion usage rates, monthly rates and nonrecurring charges until a subsequent revised report is received as set forth herein.

3.5.4.1 Effective on the first of January, April, July and October of each year, the customer will update the PIU reports. The customer will forward to the Company, to be received no later than fifteen (15) business days after the first of each such 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. The revised report will serve as the basis for the next three months billing.

3.5.4.2 For all services other than terminating FGC and FGD Access Services, 700 Access Service, 800 NPAS, 900 Access Service and ACIS, when the customer does not provide a quarterly update report, the Company will assume the percentages to be the same as those provided in the last quarterly update report received by the Company. If the Company has never received a quarterly update report from the customer, the Company will assume the percentage to be 100%.

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### **3. CUSTOMER OBLIGATIONS (CONT'D)**

3.5.4.3 For terminating FGC and FGD Access Services, if the customer does not provide a quarterly update report, the Company will assume the percentages to be the same as those provided in the last quarterly update report received by the Company. If the Company has never received a quarterly update report from the customer, the Company will assume the percentage to be 100%.

3.5.4.4 For 800 NPAS, 900 Access Service, ACIS and 700 Access Service, when the customer does not provide a quarterly update report the Company will assume the percentage to be 100%.

#### **3.5.5 Report Verification**

3.5.5.1 When a customer provides a PIU Report as set forth in Section 3.5.4, the Company may, on written request by Certified U.S. mail (return receipt requested), require the customer to provide call detail records which will be audited to substantiate the projected usage factor provided to the Company. The Company may request this detailed information annually. If the audit results represent what the Company considers to be a substantial deviation from the customer's previously reported PIU for the period upon which the audit was based, and that deviation is not due to seasonal changes or other identifiable reasons, the call detail records may be requested more than once annually. The Company will request that the call detail records be made available to an independent auditor or the Company within thirty (30) days of the request at an agreed upon location during normal business hours.

3.5.5.2 If the customer fails to comply with this request, the Company may discontinue the provision of the services to the Customer as specified in this Tariff.

3.5.5.3 Furthermore, all unpaid charges rendered to the Customer by the Company using the unsubstantiated customer reported PIU for prior switched access services, as well as all such charges for services going forward, will be rated or re-rated using the default PIU in Section 3.5.3 preceding. These charges shall become immediately due and payable unless the Company agrees to withhold application of such rate pending the outcome of the audit.

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### **3. CUSTOMER OBLIGATIONS (CONT'D)**

#### **3.5.5.3.1 Audit Verification Process**

3.5.5.3.1.1 The audit verification process and responsible party/ies for payment of audit expenses will be determined as set forth below:

3.5.5.3.1.1.1 If the Company and the customer mutually agree upon an independent auditor and party(ies) responsible for payment of the audit expenses, both parties will be bound by such agreement; or

3.5.5.3.1.1.2 The customer may select the independent auditor and pay all audit expenses.

3.5.5.3.2 If the audit verification process is not conducted as set forth in Section 3.5.5.3.1.1, the Company may select the independent auditor and pay all expenses or, in lieu of using an independent auditor, may require that the customer's call detail records used to substantiate the percent be supplied to the Company at a specified location within thirty (30) days of the request for verification purposes.

#### **3.5.5.3.3 Maintenance of Customer Records**

3.5.5.3.3.1 The customer shall retain and maintain call detail records, for a minimum 12 month period, that statistically substantiate the interstate and intrastate/intraLATA percent provided to the Company as set forth in Section 3.5.4. Such call detail records (i.e., work papers and/or backup documentation, including paper, magnetic tapes or any other form of records for billed customer traffic) shall consist of call information, including call terminating address (i.e., called number), the call duration, the trunk groups or access lines over which the call is routed and the point at which the call enters the customer's network. If the Company determines that the customer's records, worksheets and backup documentation are insufficient or, if the customer does not provide the call detail records in accordance with the provisions set forth in this tariff, the Company shall request the call detail records on a prospective basis, not to exceed a three (3) month period. The customer shall revise the PIU report reflecting the audit results from such prospective records.

### **3. CUSTOMER OBLIGATIONS (CONT'D)**

#### **3.5.5.3.4 Audit Results**

3.5.5.3.4.1 Audit results will be furnished to the customer and the Company via Certified U.S. Mail (return receipt requested). If the customer provided PIU substantially deviates from the audit results (either over-reported or underreported), and that deviation is not due to seasonal changes or other identifiable reasons, the Company will adjust the customer's PIU based upon the audit results. The adjusted PIU will serve as the basis for the billing for the next two (2) quarters. After that time, the customer will report a revised PIU pursuant to Section 3.5.3. If the revised PIU submitted by the customer represents a substantial deviation from the adjusted PIU, and that deviation is not due to seasonal changes or other identifiable reasons, the provisions in Section 3.5.3 will be invoked.

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Effective: November 23, 2013

## **4 PAYMENT ARRANGEMENTS**

### **4.1 Application for Service**

- 4.1.1 Customers desiring to obtain Company's service must complete the Company's standard service order form(s) and/or participate in third-party verification, or complete and submit other documents as required by the Company. These applications become contracts upon approval or establishment of the service and shall be subject at all times to the lawful rates and regulations of the Company.
- 4.1.2 Request for service under this Tariff will authorize the Company to conduct a credit search on the Customer. Company may require a deposit for service on the basis of the Customer's credit history.
- 4.1.3 Any change in rates or regulations authorized by the legally constituted authorities will act as a modification of all contracts to the extent modified, without further notice.
- 4.1.4 The Company reserves the right to refuse an application for service made by a present or former subscriber who is indebted to the Company for telephone or other telecommunications service previously furnished, until the indebtedness is satisfied.
- 4.1.5 The Company's offerings under this Tariff are not available for resale or for shared use.
- 4.1.6 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 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.

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#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.3 Cancellation or Modification Of Service By Customer**

- 4.3.1 Customers may cancel service by providing written or oral notice to Company at any time prior to the Service Date. The notice must specify the date on which service is to be discontinued.
- 4.3.2 The Customer remains responsible for all service charges until the day and time on which the Customer requested the service to be disconnected.
- 4.3.3 If Customer cancels service before the Company completes installation of the service, and at the time of cancellation the Company has incurred any expense in installing services or preparing to install service that it would not otherwise have incurred, a charge equal to the cost the Company incurred will apply.
- 4.3.4 If the Customer cancels service after the Company has completed installation, and at the time of cancellation the Company has incurred any expense in installing services, a charge equal to the cost the Company incurred will apply. In addition, the minimum service period obligations will apply regardless of whether service has been initiated.
- 4.3.5 In the case of a Customer-initiated modification of service, charges for the subsequent order are in addition to the costs incurred before the Customer changed the original order.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.4 Minimum Service Period**

- 4.4.1 The minimum service period is one month (30 days) beginning with the first day of service. The Customer must pay the regular tariffed rate for service for the minimum period of service. Thereafter, if a Customer disconnects service other than at the end of a service period, that Customer must pay the regular rates for the minimum service period on a pro rata basis. When the service is moved within the same building, to another building on the same Premises, or to a different Premise entirely, the period of service at each location is accumulated to calculate if the Customer has met the minimum service period obligation.
- 4.4.2 If service is terminated before the end of the minimum period of service as a result of condemnation of property, damage to property requiring the Premises to be abandoned, or by the death of the Customer, the Customer is not obligated to pay for service for the remainder of the minimum period.
- 4.4.3 If service is transferred to a new Customer at the same Premises during the first month of service, the new Customer assumes responsibility to meet the remainder of the minimum service period requirements. For Services not taken over by the new Customer, the original Customer is responsible for the remaining payment for the minimum service period obligation in accordance with the terms under which the service was originally furnished.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.5 Deposits**

- 4.5.1 The Company will only require a Customer that has a proven history of late payments to the Company or does not have established credit, to make a deposit prior to or at any time after the provision of a service to the Customer. No such deposit will be required of a Customer who is a successor of a Company which has established credit and has no history of late payments to the Company. Such deposit will not exceed the actual or estimated rates and charges for the service for a two (2) month period. The fact that a deposit has been made in no way relieves the Customer from complying with the Company's regulations as to the prompt payment of bills. At such time as the provision of the service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance, which may remain, will be refunded.
- 4.5.2 Such a deposit will be refunded or credited to the account when the Customer has established credit or, in any event after the Customer has established a one-year prompt payment record at any time prior to the termination of the provision of the service to the Customer. In case of a cash deposit, for the period the deposit is held by the Company, the Customer will receive simple interest at the rate of six percent annually unless a different rate has been established by the appropriate legal authority in the state where the Access Service(s) is provided, in which case that rate will apply.
- 4.5.3 Interest will accrue from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company. Should a deposit be credited to the Customer's account, as indicated above, no interest will accrue on the deposit from the date such deposit is credited to the Customer's account.
- 4.5.4 Application of Percent Interstate Usage (PIU)
- 4.5.5 The following provisions apply to usage rates, monthly rates and nonrecurring charges. When mixed interstate and intrastate Access Services are provided, the charges will be prorated between interstate and intrastate as follows:
- 4.5.5.1 Usage rates are prorated between interstate and intrastate based upon the PIU factors as set forth in Section 3.5.
- 4.5.5.2 Monthly recurring rates and nonrecurring charges for FGA, FGB, and Switched Transport Services will be prorated based upon the customer provided factors set forth in Section 3.5.



#### **4. PAYMENT ARRANGMENTS (CONT'D)**

4.5.6 All other monthly recurring rates and nonrecurring charges will be prorated based upon the PIU factor(s) applied to the customer's usage as set forth in Section 3.5.

#### **4.6 Credit**

4.6.1 Company, in order to ensure payment of its charges for service or for loss of or damage to Company property, may require applicants and Customers whose credit has been impaired or which becomes impaired to establish, re-establish or maintain credit. The establishment or re-establishment of credit as provided in this Section does not relieve an applicant or Customer from compliance with other provisions of this Tariff as to the payment of bills and in no way modifies the Sections regarding disconnection and termination of service for failure to pay bills due for service furnished.

4.6.2 Company may require any applicant or Customer to establish and maintain credit in one of the following ways:

4.6.2.1 Demonstrating credit satisfactory to Company by providing information pertinent to the applicant's or Customer's credit standing;

4.6.2.2 Providing a suitable guarantee in writing, in a form presubscribed by Company; or

4.6.2.3 Paying a cash deposit

4.6.3 Company may determine, in its sole discretion, whether or not a particular reference or guarantee in writing would be acceptable as a substitute for demonstrating satisfactory credit.

4.6.4 If an applicant for service is unable to provide satisfactory credit information, Company may refuse to provide service unless the applicant furnishes a deposit.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.7 Payments And Billing**

###### **4.7.1 Payment**

- 4.7.1.1 Recurring charges are billed monthly in advance. Non-recurring charges and charges based on actual usage are billed monthly in arrears.
- 4.7.1.2 The payment due date is fifteen (15) days after the billing date and the bill is past-due thirty (30) days after the due date on the bill. Bills not paid thirty-one (31) days after the due date are subject to a late payment charge for the unpaid balance of 1.5% and may be subject to discontinuance according to this Tariff and the Commission's rules.
- 4.7.1.3 A Customer will not be liable for any late payment charge applicable to a disputed portion of that Customer's bill, so long as the Customer pays the undisputed portion of the bill and enters into bona fide negotiations to resolve the dispute within 90 days of the date the charges appear on the bill.
- 4.7.1.4 Further, if no payment is received by the payment date or if a payment or any portion of a payment is received by the Company after the payment date or if a payment or any portion of a payment is received by the Company in funds which are not immediately available funds in U.S. dollars, then a late payment penalty shall be due to the Company. The late payment penalty shall be the payment or the portion of the payment not received by the payment date times a late factor.
  - 4.7.1.4.1 The late factor shall be 1.5% per month or portion thereof applied from the payment date to and including the date that the Company actually receives the payment or the highest amount permitted by law for commercial transactions.
- 4.7.1.5 In the event that a Customer disputes all or part of the billed amount, and the dispute is ultimately resolved in favor of the Company, late payment penalties will apply to amounts withheld pending settlement of the dispute and ultimately found to be payable. Late payment penalties are calculated as set forth in 4.7.1.4 preceding except that when the Customer disputes the bill on or before the payment date and pays the undisputed amount on or before the payment date, the penalty interest period shall not begin until ten (10) days following the payment date.

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Issued: November 8, 2013

Effective: November 23, 2013

Transmittal Letter No. 1

By:

J. Mark Griffin, CEO, Cibolo Creek Ventures, LLC  
572 Pinnacle Parkway, New Braunfels, TX 78132

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

4.7.1.6 In the event of a billing dispute, the billing dispute date is the date upon which the Customer presents sufficient written documentation to the Company to support its claim for incorrect billing. Sufficient written documentation consists of the following information, where such information is relevant to the dispute:

- 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);
- The account number under which the bill was rendered;
- The date of the bill;
- The invoice number;
- The circuit number, line number, trunk group number, Two-Six Code (TSC), end office or tandem identification, or other appropriate facility identification;
- The exact dollar amount in dispute;
- The universal service order code(s) (USOCs) associated with the service;
- The Purchase Order Number(s) and dates involved for disputes involving order activity;
- Details sufficient to identify the specific amount(s) and item(s) in dispute;
- The name of the person responsible for the Customer's dispute; and
- 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.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

4.7.1.7 Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance will not constitute payment of a Customer's account, and Company will not be required to issue additional notice prior to discontinuance. Customer will remain liable for billed amounts and for nonrecurring charges as provided above.

4.7.1.8

4.7.1.9 The Company's billing format and practices shall comply with Commission and FCC Rules.

#### **4.8 Taxes, Fees And Surcharges**

4.8.1 The Customer is responsible for the payment of Federal excise taxes, gross receipts, access, state and local sales and use taxes and all taxes, fees, surcharges (however designated) and other exactions imposed on the Company or its services by governmental jurisdictions, other than taxes imposed generally on corporations. Any taxes imposed by a local jurisdiction (e.g. county and municipal taxes) will only be recovered from those customers residing in the affected jurisdictions. All such taxes, fees, and charges may be separately designated on the Company's invoices, and are not included in the tariffed rates. It is the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.9 Denial Or Discontinuance Of Service Without Notice**

The Company will not deny or discontinue service to a Customer without prior written notice except for the following reasons:

- 4.9.1 If a safety condition that is immediately dangerous or hazardous to life, physical safety, or property exists;
- 4.9.2 Upon order by an appropriate court, the Commission, or any other duly authorized public authority;
- 4.9.3 If service, having already been properly discontinued, has been restored by someone not authorized by the company and the original cause for discontinuance has not been cured;
- 4.9.4 Violation of any Commission rule or effective Tariff that may adversely affect the safety of any person or the integrity of the provider's service;
- 4.9.5 Failure to comply with municipal ordinances or other laws pertaining to telecommunications service that may adversely affect the safety of any person or the integrity of the provider's service;
- 4.9.6 Failure of the Customer to permit the Company reasonable access to its facilities or equipment; and/or,
- 4.9.7 The Customer obtained service by subterfuge. Subterfuge includes, without limitation:
  - 4.9.7.1 Obtaining service in another person's name with the intent to avoid outstanding charges; or
  - 4.9.7.2 Applying for new service at a location where a person has outstanding charges for jurisdictional service including outstanding charges for any associated taxes and surcharges; and where such person continues to reside.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.9.8 Refusal and Discontinuance of Exchange Access Services**

4.9.8.1 In addition to and notwithstanding the foregoing, the Company may refuse additional applications for service or discontinue the provision of services as set forth in (a) through (c) following, when the customer fails to comply with Jurisdictional Reports or Billing Regulations, including any non-payment of charges by the customer on the specified dates and times, as set forth herein.

4.9.8.2 On thirty (30) days, written notice by Certified U.S. Mail (return receipt requested) to the person designated by that customer to receive such notices of noncompliance, the Company may:

4.9.8.2.1 Refuse additional applications for service and/or refuse to complete any pending orders for service by the non-complying customer at any time thereafter. If the Company does not refuse additional applications for service on the date specified in the thirty (30) days notice, and the customer's noncompliance continues, nothing contained herein shall preclude the Company's right to refuse additional applications for service to the non-complying customer without further notice; or

4.9.8.2.2 Discontinue the provision of the services to the non-complying customer at any time thereafter. In the case of such discontinuance, all applicable charges, including termination charges, shall become due. If the Company does not discontinue the provision of the services involved on the date specified in the thirty (30) days' notice and the customer's noncompliance continues, nothing contained herein shall preclude the Company's right to discontinue the provision of the services to the non-complying customer without further notice

4.9.8.2.3 Block access to Customer's network from the Company's customers.

#### **4. PAYMENT ARRANGMENTS (CONT'D)**

##### **4.10 Arbitration**

4.10.1 Customer agrees to arbitrate all disputes and claims that may arise under this tariff.

4.10.2 References to "Company" and/or "Customer" include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or Devices under this or prior Agreements. Customer agrees that, by directly or constructively ordering or otherwise using or availing itself of Company's services Customer is waiving the right to a trial by jury or to participate in a class action. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Agreement.

4.10.3 In any arbitration arising out of or related to this Agreement, requests for documents:

4.10.3.1 Shall be limited to documents which are directly relevant to significant issues in the case or to the case's outcome;

4.10.3.2 Shall be restricted in terms of time frame, subject matter and persons or entities to which the requests pertain; and

4.10.3.3 Shall not include broad phraseology such as "all documents directly or indirectly related to."

4.10.4 In any arbitration arising out of or related to this Agreement:

4.10.4.1 There shall be production of electronic documents only from sources used in the ordinary course of business. Absent a showing of compelling need, no such documents are required to be produced from backup servers, tapes or other media.

4.10.4.2 Absent a showing of compelling need, the production of electronic documents shall normally be made on the basis of generally available technology in a searchable format which is usable by the party receiving the e-documents and convenient and economical for the producing party. Absent a showing of compelling need, the parties need not produce metadata, with the exception of header fields for email correspondence.

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Transmittal Letter No. 1

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#### **4. PAYMENT ARRANGMENTS (CONT'D)**

- 4.10.4.3 The description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the dispute.
- 4.10.4.4 Where the costs and burdens of e-discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the arbitrator will either deny such requests or order disclosure on condition that the requesting party advance the reasonable cost of production to the other side, subject to the allocation of costs in the final award.

4.10.5 Venue: All arbitrated disputes will be heard in Denver, Colorado.

#### **4.11 Notices**

- 4.11.1 Any notice from the Company to a Customer will be deemed properly given when delivered, if delivered in person, or when deposited with the U.S. Postal service, postage prepaid, addressed to the Customer's billing address. Any notice the Customer may give Company will be deemed properly given when delivered, if delivered in person, or when deposited with the U.S. Postal Service, postage prepaid, addressed to Company at the Company's address.
- 4.11.1.1 The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- 4.11.1.2 The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that the Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill.
- 4.11.1.3 All notices or other communications required to be given pursuant to the tariffs of the Company will be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following placement of the notice, communication or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.



#### **4. PAYMENT ARRANGMENTS (CONT'D)**

- 4.11.1.4 The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

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## **5 ALLOWANCES FOR INTERRUPTION OF SERVICE**

### **5.1 General**

- 5.1.1 For the purpose of applying this provision, the word "interruption" means the inability to access service due to equipment malfunction or human errors. "Interruption" does not include, and no allowance will be given for, service difficulties such as slow access, circuits busy, or other network and/or switching capacity shortages.
- 5.1.2 Interruptions in service, which are not due to the negligence of, or noncompliance with the provisions of the tariffs of the Company by, the Customer or of an End or Joint User, or the operation or malfunction of the facilities, power or equipment provided by the Customer, will be credited to the Customer as set forth below for the part of the service that the interruption affects.
- 5.1.3 A credit allowance will be made when an interruption occurs because of a failure of any component furnished by the Company under its tariffs. An interruption period begins when the Customer reports a service, facility or circuit is interrupted and releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative. If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but non-interrupted.

### **5.2 Credit Allowance**

- 5.2.1 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 facilities on the interrupted portion of the circuit will receive a credit.
- 5.2.2 Credits will be made for service interruptions of eight (8) or more hours during a continuous twenty-four (24) hour period after being reported by the Customer or found to be out of order by the Company, whichever occurs first. The adjustment will be a credit on the monthly bill proportional to the duration of the service interruption, with each occurrence of the loss of service for 8 or more hours during the 24-hour time period counting as one day. For purposes of computing a credit every month is considered to have 30 days.
- 5.2.3 Credit Allowances Cannot Exceed Monthly Charges - The credit allowance(s) for an interruption or for a series of interruptions shall not exceed any monthly charges for the service interrupted in any one billing period.

## **5. ALLOWANCES FOR INTERRUPTIONS IN SERVICE (CONT'D)**

### **5.3 No Credit Allowance Will be Made for:**

- 5.3.1 interruptions due to the negligence of, or noncompliance with the provisions of the tariffs of the Company by, the Customer, End User, or other common carrier providing service connected to the service of the Company;
- 5.3.2 interruptions due to the negligence of any person other than the Company, including but not limited to the Customer or other common carriers connected to the Company's facilities;
- 5.3.3 interruptions of service due to the failure or malfunction of facilities, power or equipment provided by the Customer, End User, Joint User, or other common carrier providing service connected to the services or facilities of the Company;
- 5.3.4 interruptions of service during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;
- 5.3.5 interruptions of service during a period in which the Customer continues to use the service on an impaired basis;
- 5.3.6 interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- 5.3.7 interruption of service due to circumstances or causes beyond the control of the Company; and
- 5.3.8 interruptions of service that occur or continue due to the Customer's failure to authorize replacement of any element of special construction.

## **5. ALLOWANCES FOR INTERRUPTIONS IN SERVICE (CONT'D)**

### **5.4 Use of an Alternative Service Provided by the Company**

- 5.4.1 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.

### **5.5 Temporary Surrender of a Service**

- 5.5.1 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.

### **5.6 Title or Ownership Rights**

- 5.6.1 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.

## **6 SERVICE DESCRIPTIONS**

### **6.1 Individual Case Basis (“ICB”) Offerings**

- 6.1.1 Arrangements may be developed on a case-by-case basis for tariffed service or services to a specific Customer at rates, terms or conditions provided through an agreement instead of pursuant to tariff. The Company may or may not have an equivalent service in its tariff on file with the Commission, and the quoted ICB rates may be different than the tariffed rates. The Company will maintain records of its ICB contracts for Commission review as conditions or circumstances may require.

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Issued: November 8, 2013

Transmittal Letter No. 1

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## **7 RATES AND CHARGES**

### **7.1 Carrier Common Line Access Charges**

#### 7.1.1 Premium

7.1.1.1 Originating \$0.00000 per access minute

7.1.1.2 Terminating \$0.00000 per access minute

#### 7.1.2 Non-Premium

7.1.2.1 Originating \$0.00000 per access minute

7.1.2.2 Terminating \$0.00000 per access minute

#### 7.1.3 Local Switching

7.1.3.1 Local Switching Usage Premium (LS1) \$0.046644 per access minute

#### 7.1.4 Tandem Switched Transport

7.1.4.1 Rate per access minute \$0.002171

7.1.4.2 Rate per access mile \$0.000418

#### 7.1.5 Tandem Switching

7.1.5.1 Rate per access minute \$0.005476

#### 7.1.6 8YY Database Query

7.1.6.1 Rate per query launched \$0.005500

*Reference NECA Tariff FCC No. 5; Section 17.2 Switched Access Service*

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