Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Wide Voice, LLC, July 3, 2019 Access Charge Tariff Filing, Transmittal No. 13	WC Docket No. 19-__________

RESPONSE OF WIDE VOICE, LLC TO PETITION OF VERIZON AND AT&T TO SUSPEND OR REJECT WIDE VOICE'S REVISED TARIFF

Wide Voice, LLC ("Wide Voice" or "Company") pursuant to 47 C.F.R. § 1.773(b)(1)(iii), hereby responds to the Petition of Verizon and AT&T to Suspend or Reject Wide Voice's Tariff FCC No. 3, Transmittal No. 13 ("Petition"). The Petition presents no credible basis to suspend or reject Wide Voice's FCC Tariff No. 3 (the "Tariff"), filed on July 3, 2019.[1] Accordingly, the Commission should summarily reject the Petition.

SUMMARY OF ARGUMENT

The Commission should reject the Petition for two reasons.[2] First, Petitioners fatally fail even to attempt to satisfy the four-part test set forth in 47 C.F.R. § 1.773(a)(ii).

[1] The sections of the Tariff Petitioners challenge are attached hereto.
[2] Wide Voice submits that the Commission should reject the Petition for failing to comply with the service rules set forth in 47 C.F.R. §1773(a)(4). Petitioners neither served the company contacts provided for in the tariff transmittal nor Wide Voice's Washington, DC agent for service of process, available on the FCC's website. Rather Petitioners for unknown reasons transmitted their petition to an attorney who is not representing Wide Voice in this matter. *In the Matter of License Renewal Application of Central Illinois*

Under this provision, the Commission will not suspend a tariff filing unless the Petitioners demonstrate:

(A) That there is a high probability the tariff would be found unlawful after investigation;
(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;
(C) That irreparable injury will result if the tariff filing is not suspended; and
(D) That the suspension would not otherwise be contrary to the public interest.

Petitioners made no effort to prove any of these elements, when even failing to prove one element mandates rejection of the Petition. For this reason alone, the Commission is obligated to reject the Petition.

Second, each of the Petitioners' alleged "five reasons" Wide Voice's tariff filing is purportedly "unlawful" utterly fails. The Tariff lawfully and explicitly describes Wide Voice's access rate benchmarking and application, further describes the Company's and the Customer's obligations when disputing invoices, restricts the circumstances under which non-payment can lead to discontinuance of service, expands on the implications of service discontinuance, and provides additional support for the Company's DTTP rates and DTTP rate benchmarking. These revisions present standard tariff language, which tracks exactly firmly-established, fully-vetted industry tariff language (including language found in Petitioners own FCC Access tariffs[3]).

Broadcasting Co., 10 FCC Rcd. 1617 ¶ 3 (1995) (returning a petition for reconsideration on grounds that service on the wrong attorney made ineffective).

[3] Here, and elsewhere in the Reply, references to "Petitioners" include the various Verizon and AT&T price cap ILECs.

Petitioners first falsely claim that the Commission has prescribed a rate not "more than $0" for certain tandem-switched access services provided by CLECs while allowing the competing ILEC to charge its full rate for those same services.[4] The Commission did no such thing, and Wide Voice's tariff clearly sets forth lawful rates for its tandem-switched access rate elements. The rates in § 3.6.4 comply with the Commission's step-down and benchmarking rules. Wide Voice's tariff provision is not new or unique; rather it can be found in many other CLEC tariffs.[5] The Petition does not argue for a proper step-down of rates or even proper benchmarking. Instead, contrary to the fundamental essence of benchmarking – like rates for like services -- Petitioners seek free service from Wide Voice at the same time Petitioners pay other LECs in full (or, in the case of Petitioners as ILECs, *charge* full rates) for similar service. Benchmarking by definition requires equal rates, not disparate rates as Petitioners would have it. Wide Voice's rates for tandem-switched transport reflect nothing more than the incumbent LEC tariffs to which Wide Voice benchmarks pursuant to Section 61.26 of the Commissions' rules.[6]

Second, Petitioners oddly claim that Wide Voice's tariff may not include service discontinuance provisions.[7] That claim is strange because the Petitioners' FCC tariffs, among others, include **identical** provisions for discontinuance of service. As with their

[4] Petition at 1.
[5] Much of what Petitioners are objecting to goes back to the Step 6 filings in mid-2017. Petitioners, and AT&T in particular, were fully aware of the Company's, and other CLECs with the same provisions, benchmarking approach, and chose not to challenge these tariffs until now.
[6] 47 CFR 61.26 (the "Benchmarking Rule").
[7] Petition at 1.

step-down and benchmarking argument, Petitioners embrace for themselves what they seek to deny for their competitors.

Third, Petitioners' objection to Wide Voice's dispute resolution provisions is particularly curious since Wide Voice's "reasonable time" provision is **identical** to the provision that *resulted from* the resolution of a complaint against another CLEC and is specifically <u>not</u> the language that led to the complaint. Petitioners repeatedly cite the case and its findings while seeming not to realize that this case fully supports Wide Voice's Tariff provisions on these points.

Fourth, Petitioners' complaint about the Tariffs' provision concerning attorneys' fees objection is similarly misplaced since Wide Voice's collection fees provision is **identical** to the provision that *resulted from* a complaint against another CLEC and, again, is specifically <u>not</u> the language that led to the complaint.

In both of these cases, FCC Staff accepted the provisions once that company addressed the objections identified in FCC's Order regarding the original proposed language.

Fifth, Petitioners argue that Wide Voice's attempt to bill flat-rate monthly charges by applying an arbitrary usage factor results in unlawful rates that far exceed the competing ILEC's rates. Again, the Petitioners are wrong. What the Petitioners incorrectly term an "arbitrary" usage factor has a long history of use by the FCC, and Wide Voice can demonstrate that, if anything, over the course of its relationship with both Verizon and AT&T, the factor *understates* the rate rather than overstates it.

Petitioners provide no support for their exaggerated port utilization numbers – the numbers necessary to defend the Petitioners' accusation of Wide Voice exceeding the benchmark rates for the DTTP element -- because no support exists for their self-serving argument. In fact, Petitioners use the per port usage assumption – the one they are now objecting to – and have filed it in their own FCC access tariffs.

Each of these arguments is set forth in greater detail in the paragraphs that follow.

ARGUMENT

I. THE PETITIONERS FAIL TO MEET THEIR BURDEN UNDER SECTION 1.773(A)(L)(II)

Petitioners acknowledge their burden to satisfy "the factors in § 1.773(a)(1)(ii)" for tariff challenges (Pet. at 18), yet they failed even to do even a cursory analysis of them. Section 1.773(a)(1)(ii) requires tariff challenger to make the following showing:[8]

(A) That there is a high probability the tariff would be found unlawful after investigation;
(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;
(C) That irreparable injury will result if the tariff filing is not suspended; **and**
(D) That the suspension would not otherwise be contrary to the public interest.

Wide Voice's tariff is "*prima facia* lawful," and the Commission "will not" suspend a tariff filing unless all four prongs are satisfied. *Id.*, see also Ameritech Operating Companies Tariff F.C.C. #2 Transmittal No. 1666 et al. FCC 08-42 (Feb. 7, 2008) (denying petitions to reject or suspend tariff transmittals filed by AT&T Inc. and noting that a petitioner must satisfy each and every one of the elements of the four part test).

Most obvious, Petitioners make no effort at all even to suggest that "irreparable injury will result if the tariff filing is not suspended."[9] Indeed, the words "irreparable injury" appear nowhere in the Petition, nor do potentially similar phrases, like "irreparable harm." Petitioners could make no such claim, nor can they claim any injury at all, as both of the Petitioners currently withhold the majority of Wide Voice's

[8] 47 C.F.R. § 1.773(a)(1)(ii) (emphasis added).
[9] 47 C.F.R. § 1.773(a)(1)(ii)(C).

switched access charges. These charges have been withheld based on unsupported dispute allegations – which is what created the need for Wide Voice to file an even clearer tariff. Petitioners similarly offer nothing resembling the public interest analysis required by 47 C.F.R. § 1.773(a)(1)(ii)(D). These reasons alone require Commission rejection of the Petitioners' tariff challenge.

To the extent it could be said (and this is entirely unclear), that Petitioners have attempted to satisfy 47 C.F.R. § 1.773(a)(1)(ii)(A) and (B), Petitioners fail on both counts. As described in the section that follows, Wide Voice demonstrates that its tariff fully complies with all of the Commission's regulations, including the switched access rate benchmarking requirement, which appears to be the focus of the Petitioners' failed effort. And the only thing harming "competition" and causing "injury to the public" is the Petitioners' bottomless effort to impede Wide Voice's business by refusing to pay it for services lawfully rendered pursuant to lawful tariffs.

II. THE TARIFF RATES FOR TANDEM-SWITCHED TRANSPORT ARE LAWFUL.

Petitioners summarize their position by alleging that the Tariff revisions reflect an effort to *"avoid the transition to bill-and-keep and collect higher rates than the Commission has authorized, including by making it more difficult for customers to challenge Wide Voice's unlawful actions."*[10] The Petitioners are wrong. Wide Voice benchmarks its rates to those of the relevant incumbent LEC, as required by *Transformation Order* and related

[10] Petition at 2.

implementing regulations.[11] The Petitioners' step-down access tariff filings always *preceded* Wide Voice's filings, and Wide Voice's tariff pricing revisions always benchmarked to those rates as required.[12] Put simply:

1. The step-downs of incumbent LECs access rates are set forth at 47 C.F.R. §§ 51.907(g)(2) and (h), the application of which was determined by the FCC in the *Level 3 v. AT&T Order*.[13]
2. 47 C.F.R. § 61.26 requires Wide Voice and other CLECs to benchmark to the incumbent LEC rates.

Because Wide Voice's tariff properly benchmarks to the incumbent LECs rates, Wide Voice's tariff is lawful, valid, and complies with the Commission's regulations and orders.

A. The Step-Down Requirements.

In 2011, the Commission adopted the *Transformation Order*, which established the policy foundation for a multi-year transition to "bill-and-keep" for certain types of intercarrier compensation as well as for certain regulatory classification of carriers. One element of the transition to a "bill-and-keep" arrangement in the *Transformation*

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[11] Three times Petitioners bring up a composite rate of $0.03993227. Petitioners know full well this is Wide Voice's rate for Alaska which is properly benchmarked to the competing ILEC – ACS of Anchorage. Wide Voice, in response to Petitioners unreasonable benchmarking claim, could easily turn this around by stating "Petitioners are seeking to require CLECs to charge zero for the exact tandem-switched transport services the ILEC charges up to $0.03993227 to provide."

[12] Petitioners' position that the Commission's rules somehow require Wide Voice to "benchmark" its rates to "$0.00" when the competing ILEC rate is non-zero is ridiculous and nonsensical. If the Commission wanted to prescribe a rate of $0.00 it easily could have done so. That the Commission did not do so, but rather required CLECs to benchmark to ILECs demonstrates the obvious falsity of the Petitioners' claims.

[13] *Memorandum Opinion and Order*, Level 3 Commc'ns, LLC v. AT&T Inc., 33 FCC Rcd 2388, ¶ 1 (2018) ("*Level 3 v. AT&T Order*").

Order, relevant here, requires Price Cap LECs to charge a step down rate for tandem switching and transport billable functions when a Price Cap Carrier terminates to a Price Cap LEC end office with which it is affiliated.

Specifically, the year six step-down, codified in Section 51.907(g)(2), provides that "beginning July 1, 2017" price cap carriers "shall establish, for interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliates owns, Tandem-Switched Access Service rates no greater than $0.0007 per minute." Under the year seven step-down, codified in Section 51.907(h), price cap carriers must further reduce such rates to zero by July 1, 2018.

Whether the step-down rate applies to tandem switching and transport traffic ***depends upon the regulatory classification of the end office carrier***. The Commission has made clear that the step-down rates in Sections 51.907(g)(2) and (h) "appl[y] ***only*** to tandem switching and transport traffic that terminates to a price cap carrier end office."[14] Furthermore, this is consistent with how both ATT and Verizon have filed their tariffs by charging full tandem switching rates to their non-price cap affiliates -- e.g., CLEC, CMRS, and IPES. (It is also important to keep in mind that if an ILEC like AT&T or Verizon wanted Wide Voice to have a rate of zero to those destinations, it would simply need to set its own tandem switching rates to zero for those destinations and Wide Voice would *have to follow*. They alone control Wide Voice rates via the benchmarking requirement.)

[14] *Level 3 v. AT&T Order*, ¶¶ 3, 11, (emphasis added).

In *Level 3 v. AT&T,* as Petitioner AT&T well knows, Level 3 argued that AT&T's tariff violated the step-down provision for tandem switching and transport charges (i.e., Sections 51.907(g)(2) and (h)). AT&T's tariff charges standard – i.e., non step-down – rates where a non-price cap carrier affiliate of AT&T terminates traffic that traversed a tandem owned by an AT&T Price Cap Carrier. For AT&T, the non-price cap carrier affiliates included wireless (CMRS), VoIP, ***and competitive LEC affiliate* end offices**. Level 3 contended that regulatory identity of the end office carrier did not matter (CMRS, VoIP, or CLEC); as long as the end office carrier was an affiliate of AT&T, the tandem switching and transport charges must step-down. Level 3 argued that the reference to "terminating carrier" in Section 51.907 (g)(2) and (h) includes "a wireless carrier, VoIP provider, or CLEC."[15]

In response, AT&T contended that the term "terminating carrier" in 47 C.F.R. 51.907 "can only be a Price Cap Carrier that owns the end office. "[16] And thus, according to AT&T, the step-down prescribed "a 'rate transition [that reduce[s] tandem switching and transport charges only when the *terminating price cap carrier* also owns the tandem in the serving area.'"[17]

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[15] Level 3 Compl. ¶ 34.
[16] AT&T's position in the *Level 3 v. AT&T,* upon which it ultimately prevailed, is in direct contrast to the position it takes in the Petition. Under the principal of estoppel, AT&T should be prohibited from making its arguments about Wide Voice's tandem switching and transport rates here. It has presented contrary arguments contrary to the ones it makes here to the Commission and won on those arguments. Thus, it cannot under equitable principles challenge the Tariff on this basis. That AT&T challenges Wide Voice's tariff on these grounds highlights that the Petition has neither been made in good faith nor on any cognizable legal grounds. Simply, AT&T believes that it can play by its own set of rules.
[17] AT&T even argues that it would make no sense for the rule to apply to termination to non-price cap carriers. AT&T Brief In Support of Answer at 22 (explaining that if "terminating carrier" "referred to a carrier other than the Price Cap Carrier (such as a CLEC or CMRS carrier), then the rule makes no literal

The Commission agreed that AT&T's was the "reasonable interpretation" of the regulation, ruling that the step-down rule only applies when the Price Cap Carrier is the "terminating carrier" and, as such, owns both the end office and the tandem switch. The Commission ruled:

> Specifically, we find that the rule applies ***only*** in situations where a 'Price Cap Carrier' is 'terminating traffic' and the price cap carrier (or its affiliate) also owns the tandem switch that the traffic traverses.[18]

Level 3 v. AT&T Order at ¶11 (emphasis added). In so ruling, the Commission found "valid policy reasons" for limiting the step-down to circumstances where a price cap carrier is terminating traffic (rather than an entity that is an affiliated CLEC or CMRS provider) and that the price cap carrier (or its affiliate) also owns the tandem switch. The Commission stated:

> Applying the rule in situations where traffic is terminated by the price cap carrier's ***CLEC*** and CMRS affiliates would result in disparate treatment of tandem services depending on affiliation with the tandem owner ***rather than the regulatory classification of the terminating carrier***. Such a rule would create an unlevel playing field, violating the principle of competitive neutrality.

Moreover, applying the step-down rule in the way Petitioners advocate would cause Wide Voice, and other CLECs that use their own tandem switches, competitive harm. Under the Petitioners' proposed step-down rule, Petitioners would be permitted to charge full tandem-switched transport rates for *all* CLEC (including their own)

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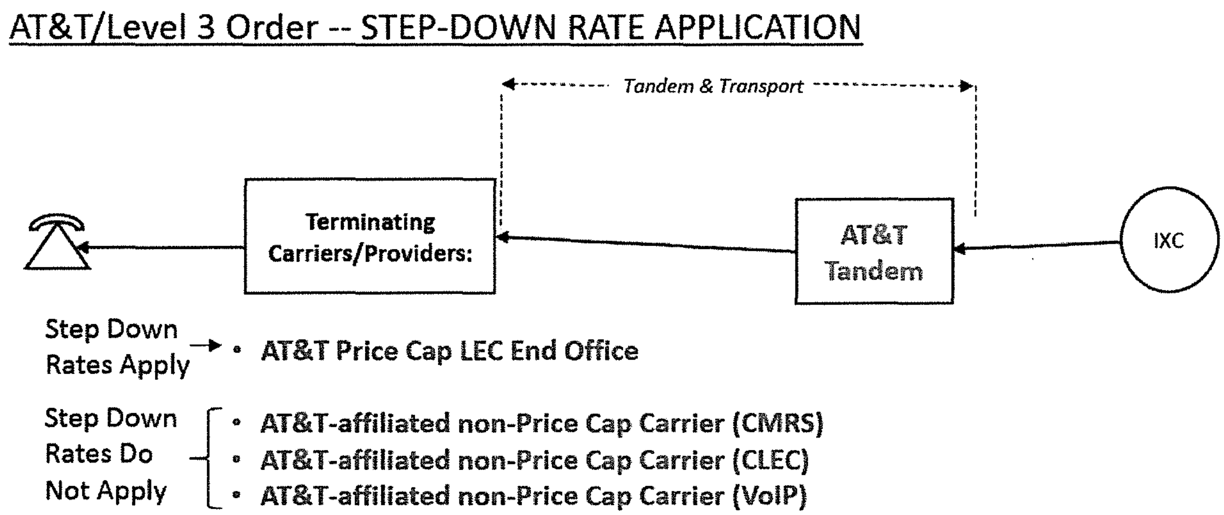
sense, and under Level 3 interpretation, would already address many of the more difficult intermediate situations on which the Commission sought comment in the FNPRM (and on which it currently has asked for a refreshing of the record 'in light of developments' since 2011.")

[18] *Level 3 v. AT&T Order*, ¶17.

termination, while CLECs that provide the exact same tandem-switched transport would have their ability to charge restricted. Thus, tandem switch owners, in Petitioners' world, would have distorted incentives to artificially favor some tandem subtending relationships over others.

Under the language of 47 C.F.R. §§ 51.907(g)(2) and (h), the *Level 3 v. AT&T Order*, and the *Transformation Order*, the following diagrams demonstrate when the step-down tandem switching and transport rates apply under the current law:



As demonstrated above, the Commission's (and the applicable law's) focus is the regulatory classification of the terminating carrier. The Commission made clear in the *Transformation Order* that the rules promulgated from it are not all inclusive and do not fully address "the transition to bill-and-keep tandem switching and transport traffic that a price cap carrier hands off to a non-price cap carrier affiliate for termination."[19] While Petitioners make policy arguments of what the law should be, such arguments are not appropriate in this proceeding and should be rejected.[20] Such policy arguments do not and cannot change the meaning of the current rules as written and explained by the Commission. In an adjudicative proceeding, an agency may not alter "an established rule defining permissible conduct which has been generally recognized and relied on throughout the industry that it regulates."[21] The Commission has "drawn a distinction between agency decisions that 'substitut[e] . . . new law for old law that was reasonably clear' and those which are merely 'new applications of existing law, clarifications, and additions.'"[22]

Rather, the Commission must evaluate Wide Voice's Tariff on the current state of the law, not what Petitioners think the law *should* be. In the *Level 3 v AT&T* case, AT&T made the very same arguments in defending its tariff against Level 3 concerning tandem switched rates, claiming "Level 3's 'policy' arguments were

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[19] *Level 3 v. AT&T Order*, ¶ 19.

[20] In another proceeding re: Wide Voice's tariff, Verizon v. Wide Voice; Bureau ID Number EB-19-MD-003, "Reply in Support of Formal Complaint of MCI Communications Services, Inc.," Verizon goes as far as to challenge the FCC's conclusions in the *Level 3 v. AT&T Order*, claiming that to the extent the Order does not support Verizon's conclusions, the FCC's Order is wrong (Page 5). Later in the Reply (page 10), Verizon dismisses FCC Staff's review of the Northern Valley tariff as a non-binding, "Staff-level decision."

[21] *NLRB v. Majestic Waving Co.*, 355 F.2d 854, 860 (2d Cir. 1966).

[22] *AT&T v. FCC*, 454 F.3d 329, 332 (D.C. Cir. 2006) (quoting *Verizon Tel. Cos. v. FCC*, 269 F.3d 1098, 1109 (D.C. Cir. 2001)).

misdirected."[23] AT&T forcefully argued that such policy arguments are more properly addressed to the Commission in the FNPRM;[24] and the Commission agreed.[25]

B. The Benchmark Rule

The Petitioners contend that Wide Voice's tandem-switched access rates also violate the CLEC Benchmark Rule and are thus, unlawful. The Petitioners' argument on this point misconstrues the benchmark rule and is incorrect. Petitioners are actually advocating that the Commission continue to entitle the ILECs to whom Wide Voice benchmarks to charge their full rates to affiliated non-price cap LECs (e.g., CLECs) as well as other unaffiliated entities, while requiring Wide Voice to provide those exact services for free.

The Benchmarking Rule provides that a CLEC may tariff interstate switched exchange access charges if its rates are no higher than the rates charged for such services by the competing ILEC (the "Benchmarking Rule"). Specifically, Section 61.26(c) provides that "[t]he benchmark rate for a CLEC's switched exchange access services will be the rate charged for similar services by the *competing ILEC*."[26] But, contrary to Petitioners' argument, that does not mean that Wide Voice must offer similar services for free when the competing ILEC is charging for such services. In

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[23] AT&T Br. in Supp. of Answer at 32.
[24] *Id at 32.*
[25] *Level 3 v. AT&T Order*, ¶ 20.
[26] 47 C.F.R. § 61.26(c) (emphasis added). Petitioners irrationally argue that the benchmark rule requires CLECs to always set a rate of $0.00 if they own the end office and the tandem switch while holding that the same is <u>not</u> true for traffic traversing Petitioners' tandems terminating to their own CLECs.

other words, as shown below, Petitioners are advocating an interpretation of the rule that has no basis in the rule itself:

> The Actual Rule: "[t]he benchmark rate for a CLEC's switched exchange access services will be at or below the rate charged for similar services by the *competing ILEC*."

> Petitioners' Altered Rule: "[t]he benchmark rate for a CLEC's switched exchange access services will be $0.00, without regard to the competing ILEC's rate for similar services."

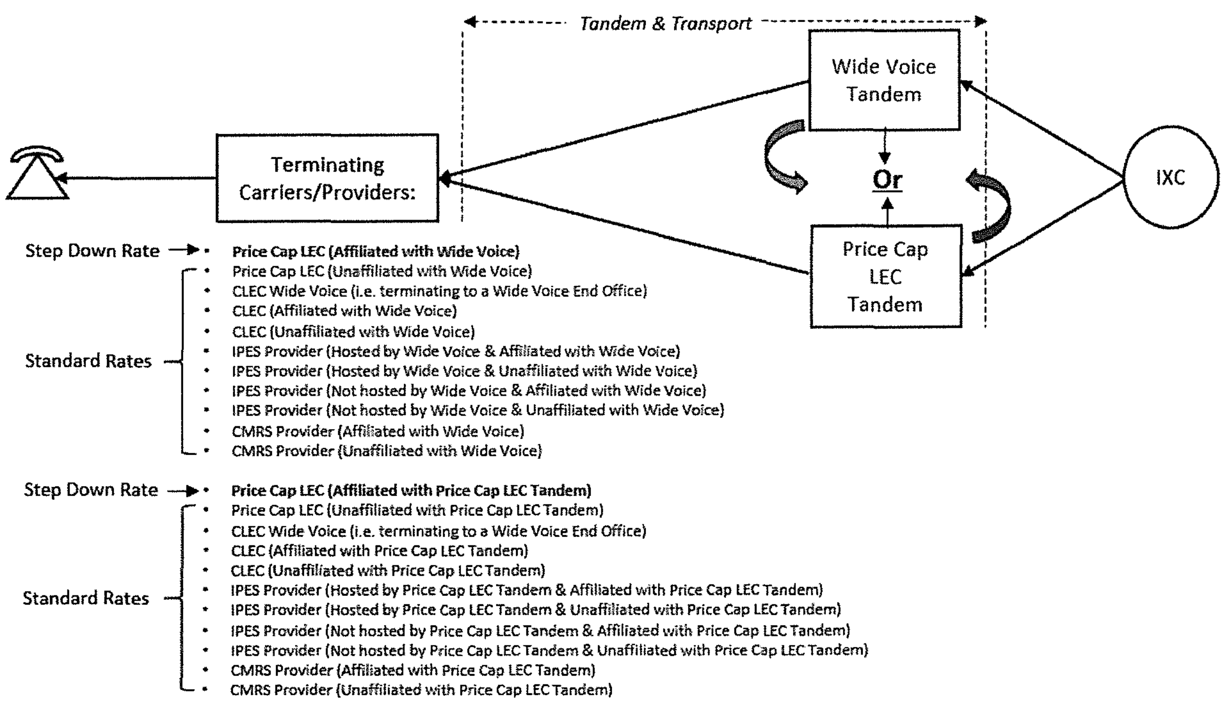
Petitioners are free to pursue such a regulation through the rulemaking process, but it may not obtain any such rule change in a tariff proceeding.

In any event, for the purpose of the actual Commission regulation, the "service" at issue here is tandem-switched access. Thus, the proper inquiry is whether Wide Voice properly benchmarked its **<u>tandem-switched access charges</u>** to the competing ILEC **<u>tandem-switched access charges</u>**. Stated differently, the question of whether there is proper benchmarking turns on whether a buyer of tandem-switched access service pays the same rate under Wide Voice's tariff as it would under a competing ILEC's tariff. The answer is resoundingly yes.

Wide Voice's benchmarking obligations are best illustrated in the diagrams presented below. First, replace Wide Voice as tandem with a price cap LEC as tandem (or vice versa), and second, evaluate any effects on the applicable rates either provider can assess based on the terminating -- or end office -- carrier/provider. In these scenarios, tandem-switched transport rates are being charged by either Wide Voice or the competing price cap LEC for delivering traffic to various terminating carriers/providers, which are defined by their regulatory classification and their affiliation with the tandem.

Therefore, the key question in determining the accuracy of Wide Voice's benchmarking approach is whether its rates are the same (or lower) for a particular terminating destination when Wide Voice is the tandem provider as when the competing price cap LEC is the tandem provider. Again, the answer is yes.

Terminating Traffic via Wide Voice Tandem or Price Cap LEC Tandem



This exercise proves that Wide Voice's tariff tandem switched access rates are properly benchmarked.

C. Wide Voice's Tandem Switched Access Charges Are Lawful.

Petitioners challenge Wide Voice's tariff with respect to traffic where Wide Voice is both the terminating carrier and the tandem provider.[27] They claim that in all instances in which Wide Voice is both the terminating and tandem provider it must charge the step-down rate of zero. It is their contention that benchmarking mandates such a result because, they allege, the price cap carrier to which Wide Voice must benchmark would also step down. But Petitioners' "syllogism" is not at all as "straightforward" as they would have the Commission believe.

Petitioners' position is wrong. Put simply:

1. The step-down of incumbent LECs access rates are set forth at 47 C.F.R. §§ 51.907(g)(2) and (h), the application of which was determined by the FCC in the *Level 3 v. AT&T Order*.[50]

2. 47 C.F.R. § 61.26 requires Wide Voice and other CLECs to benchmark to the incumbent LEC rates.

First, the text of Section 51.901, read together with the *Level 3 v. AT&T Order*, mandates that the transition applies only to a price cap carrier terminating destinations, not to a CLEC, a Wireless, or VoIP provider destination.

[27] Petition at 7.

Second, because Wide Voice's tariff properly benchmarks to the incumbent LEC's rates, Wide Voice's Tariff is lawful, valid, and complies with the Commission's regulations and orders. As demonstrated by the above diagrams, a price cap carrier providing tandem switching does not, in most instances, step-down when it is owned by or affiliated with the end office carrier.

Third, Petitioners' position adopts an alternate reality in which benchmarking requires Wide Voice to assume the regulatory classification of a price cap carrier end office rather than benchmarking to the rate for the same tandem switching service, as the law requires. Petitioners' interpretation of benchmarking to the tandem-switched access rate would require that Wide Voice (and every single other CLEC) assume the price cap carrier regulatory classification when that CLEC owns the end office and the tandem switch. This logic conflicts with both AT&T's and Verizon's ILEC practice of charging full tandem switching for traffic terminating to their affiliated CLEC entities as well as the Commissions' *Level 3 v. AT&T Order.*

Unequivocally, benchmarking does not require that Wide Voice assume the regulatory classification and "become" a price cap carrier end office for the purposes of properly benchmarking to the proper tandem-switched transport rate. An ILEC's non-price cap LEC end office (e.g., CLEC) is not obligated to assume this regulatory classification. Thus, to force that obligation on Wide Voice, and by extension all other CLECs, in instances where the CLEC end office owns or is affiliated with the tandem switch carrier would result in disparate and unfair treatment.

Wide Voice's Tariff steps down under the same circumstances as the ILECs to which it benchmarks. Wide Voice describes 11 terminating carrier/tandem provider combinations and the Petitioners challenged just one. As illustrated earlier, the same chart could appear in the ILECs' tariffs with just the replacement of "Wide Voice" as tandem provider with "Price Cap LEC Tandem" and the chart would reflect exactly how the price cap LECs apply their terminating tandem-switched transport rates.

FCC Staff voiced no objection to Wide Voice's benchmarking approach while Wide Voice was seeking informal guidance in advance of this filing.

D. CLEC Tariffing Since Step 6 Reveals Ongoing Inconsistencies and Errors in Benchmarking

Many of the CLEC access tariffs that were filed nearly two years ago in response to the Step 6 and Step 7 rate reductions, and corresponding benchmarking requirements, are identical, or substantially similar to, Wide Voice's filings.[28]

At least one provider – Petitioner's (AT&T) affiliate CLEC, Teleport Communications Group ("TCG") -- has apparently included no provisions for a rate step-down *at all* even though it includes several pages of terminating tandem and transport rates.[29] So, when Petitioners assert, incorrectly, "Wide Voice claims that it is never subject to the bill-and-keep rule in Step Seven"[30], they need to look no further

[28] For example, see Onvoy, LLC, Tariff FCC No. 1, https://apps.fcc.gov/etfs/public/tariff.action?idTariff=868; Neutral Tandem, Inc., Tariff FCC No. 2, https://apps.fcc.gov/etfs/public/tariff.action?idTariff=494; and West Telecom Services, LLC, Tariff FCC No. 1, https://apps.fcc.gov/etfs/public/tariff.action?idTariff=940.

[29] Teleport Communications Group Operating Companies Tariff, FCC No. 2, https://apps.fcc.gov/etfs/public/tariff.action?idTariff=461

[30] Petition at 7.

than one of their own affiliates for a tariff that truly claims not to be subject to the step-down.

Level 3, on the other hand, adopts the wording of the ILEC tariffs such that it can retain full tandem and transport rates if it were, for example, to be the tandem provider for any or all of its CenturyLink price cap ILEC affiliate end offices.[31]

If nothing else, the disparate handling of the step-down and benchmarking requirements among the CLECs illustrates that the requirements have been unclear to some parties.

III. THE TARIFF DOES NOT PROVIDE FOR "CALL BLOCKING," IT MERELY INCLUDES TIME TESTED TARIFF LANGUAGE ON THE DISCONTINUANCE OF SERVICE.

Petitioners make much of what they refer to as "call blocking" while the provisions in question do nothing more than describe discontinuance of service. Petitioners appear to have forgotten about how commonplace these provisions are – they have, after all, been in place for decades – but access tariffs include provisions for discontinuance of service for ongoing nonpayment.

Curiously, Petitioners challenge 2.10.4(D), 2.14.3(a), and 2.14.4, yet these *exact* provisions appear in AT&T's own ILEC tariffs (see table below for just one example – more are provided in the Exhibit). As with their step-down and benchmarking

[31] Level 3 Communications, LLC , Tariff FCC No. 4, https://apps.fcc.gov/etfs/public/tariff.action?idTariff=415

argument, Petitioners embrace for themselves what they seek to deny for their competitors.

Wide Voice Tariff FCC No. 3 - Section 2.10.4(D): The date of resolution shall be the date on which the Company completes its investigation of the dispute, notifies the Customer in writing of the disposition and, if the billing dispute is resolved in favor of the Customer, applies the credit for the amount of the dispute resolved in the Customer's favor to the Customer's bill.	**Ameritech Tariff FCC No. 2 - Section2.4.1(B)(3)(c)(3):** The date of resolution shall be the date on which the Telephone Company completes its investigation of the dispute, notifies the customer in writing of the disposition and, if the billing dispute is resolved in favor of the customer, applies the credit for the amount of the dispute resolved in the customer's favor to the customer's bill.
Wide Voice Tariff FCC No. 3 -Section 2.14.3(a): The Company will not initiate the actions described in 2.14.3(a) above as to disputed bill amounts where the Customer does not pay disputed bill amounts by the bill due date as specified in Section 2.10.3, and the Company has not rendered a decision on the dispute. The dispute process is outlined in 2.10.4.	**Ameritech Tariff FCC No. 2 - Section 2.1.8(A)(2):** The Telephone Company will not initiate any of the actions described in paragraphs (1) and (2) above as to disputed bill amounts where the customer does not pay disputed bill amounts by the bill due date as specified in Section 2.4.1(B)(3)(a), and the Telephone Company has not rendered a decision on the dispute. The dispute process is outlined in 2.4.1(B)(3)(c).
Wide Voice Tariff FCC No. 3 - Section 2.14.4: If the Company discontinues service, it will no longer route any switched access traffic that uses the Customer's Carrier Identification Code(s) (CIC). 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 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 noncomplying Customer without further notice.	**Ameritech Tariff FCC No. 2 - Section 2.1.8 (A)(2):** If the Telephone Company discontinues service, it will no longer route any switched access traffic that uses the customer's Carrier Identification Code(s) (CIC). In the case of such discontinuance, all applicable charges, including termination charges, shall become due. If the Telephone Company does not discontinue the provision of the services involved on the date specified in the notice and the customer's noncompliance continues, nothing contained herein shall preclude the Telephone Company's right to discontinue the provision of the services to the noncomplying customer without further notice.

Additionally, the FCC's orders on call blocking cannot be conflated to prevent a carrier from discontinuing service to an IXC for its failure to pay. While the FCC's call blocking rule prohibits an IXC from blocking calls and thereby not terminate such calls so as to avoid paying a LEC's access charges,[32] the FCC has always allowed LECs to suspend or discontinue services to IXCs if they are delinquent in paying for services the LEC rendered to the IXC.[33]

FCC Staff voiced no remaining objection to Wide Voice's discontinuance provision while Wide Voice was seeking informal guidance in advance of this filing.

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[32] *See*, e.g., *2011 CAF Order*, ¶¶ 973-974 & n.2043(explaining call blocking by IXCs to avoid access charges is unlawful)

[33] The FCC has reiterated that "***if a carrier has failed to pay the lawful charges*** for services or facilities obtained from another carrier, the recourse of the unpaid carrier is an action in contract to compel payment, ***or a termination or disconnection of service until those charges have been paid.***" *In the Matter of All American Telephone, E-Pinnacle Communications, Inc. and Chasecom v. AT&T*, Memorandum Opinion and Order, 26 FCC Rcd 723, ¶ 14 (2011) (quoting *In the Matter of Tel-Cent. of Jefferson City, Missouri, Inc.*, 4 FCC Rcd 8338 (1989)) (emphasis added). The FCC has also often noted that it will not intervene where a billing dispute results in a service suspension. *See Affinity Network, Inc. v. AT&T*, 7 FCC Rcd 7885, ¶ 3 (1992) ("The Commission generally is disinclined to intervene in matters involving a carrier's decision to terminate service of a particular customer that has failed to pay legally effective and overdue tariffed charges for tariffed service that the carrier has duly rendered. ... Such determinations properly are matters within the carrier's business judgment and, as such, ordinarily will be left undisturbed, absent a showing that the carrier acted unreasonably or unduly discriminated.") (citing *Business Choice Network v. AT&T*, 7 FCC Rcd 7702, 7702 (1992)); *Business WATS, Inc. v. AT&T*, 7 FCC Rcd 7942 (1992) (same); *Nos Commun., Inc. v. AT&T*, 7 FCC Rcd 7889 (1992) (same). Thus, as the FCC has stated, it "will not intervene if a carrier threatens to, or, in fact, suspends a customer's service ***absent a showing that the disconnection would be or is wrongful***, e.g., if payment for service is not due or the terms of the tariff provide no legitimate grounds for suspension of service." *In the Matter of Lexitel Corporation v. AT&T*, FCC 86-20, File No. E-85-36, 1986 WL 292557, Memorandum Opinion and Order, ¶ 4 (1986) (citing *Pacific Teletronics Inc.*, 74 FCC 2d 286 (1979)) (emphasis added).

IV. WIDE VOICE'S DISPUTE PROVISION IS INDUSTRY STANDARD.

Wide Voice's dispute language matches word-for-word long-accepted, FCC-approved, industry standard language. Petitioners challenge 2.10.4(A), 2.10.4(B), and 2.10.4(J) and, in a bizarre line of reasoning, identify the Northern Valley tariff case ("Northern Valley Order"[34]) *in support of* their position. The opposite is true. The Northern Valley Order and subsequent revised tariff filing fully support Wide Voice's dispute provisions.

As Petitioners are aware, various provisions in the Northern Valley tariff filed on July 8, 2010, were found to be unlawful.[35] These are not the tariff provisions that Wide Voice has included in its tariff. Again, as Petitioners are aware, Northern Valley re-filed its tariff on July 26, 2011, in response to the *Northern Valley Order.* After drafting proposed revisions, Northern Valley's counsel shared those proposed revisions with two members of the FCC's Wireline Competition Bureau, Pricing Policy Division, which has regulatory authority over CLEC access service tariffs. Those individuals requested minor modifications to portions of the tariff, but did not request any modifications to the revised dispute-resolution provisions.[36] Ultimately, the Chief of the Pricing Policy Division, who concluded that the revised provisions were suitable for filing, reviewed all of the proposed revisions.[37] Northern Valley filed its

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[34] *N. Valley Order,* 26 FCC Rcd 10780
[35] *See id.*
[36] Decl. of G. David Carter, *Great Lakes Commc'n Corp. v. AT&T Corp.,* No. 5:13- cv-04117-DEO (July 8, 2014)
[37] *Id.* ¶¶ 7-9 & Exs. C-E

tariff revisions on July 26, 2011. Those revisions contained the identical dispute language at issue here. Thus, Wide Voice's disputed language mirrors vetted and approved dispute language that has been in effect for almost 8 years and under no circumstances is unreasonable.

FCC Staff voiced no remaining objection to Wide Voice's dispute provision while Wide Voice was seeking informal guidance in advance of this filing.

V. WIDE VOICE'S NEW COLLECTIONS PROVISION HAS ALREADY BEEN ADDRESSED BY THE COMMISSION

As explained in the previous section, Wide Voice has included only provisions that have already been vetted in previous filings and Orders. In the *Northern Valley Order*, the FCC had this to say about Northern Valley's collections fees provision (emphasis added):

> Finally, we conclude that Northern Valley's "Attorneys' Fees" provision is unreasonable ***because it permits Northern Valley to recover its attorneys' fees regardless of whether Northern Valley prevails on a claim***. A Buyer who successfully demonstrates in litigation that Northern Valley improperly billed should not be obligated to pay Northern Valley's attorneys' fees.

Wide Voice's tariff (like the Northern Valley provision that was filed almost eight years ago, as directed by this Order) remedies the FCC's stated objection by requiring Wide Voice to prevail on a claim before the provision applies.

In any event, contrary to the Petitioners' argument that provisions for attorneys' fees are not permissible in tariffs, there is no express statutory authority for that premise. The only time tariffs must be limited per Petitioners' arguments is when express statutory authority provides certain protections to consumers of LEC access services,[38] which is not the case here.

FCC Staff voiced no remaining objection to Wide Voice's attorney's fees provision while Wide Voice was seeking informal guidance in advance of this filing.

VI. WIDE VOICE'S "ARBITRARY USAGE FACTOR" DOES NOT OVERSTATE THE RATE.

Finally, Petitioners argue that Wide Voice's attempt to bill flat-rate monthly Dedicated Tandem Trunk Port ("DTTP") charges by applying an "arbitrary" usage factor results in unlawful rates that far exceed the competing ILEC's rates. The Petitioners are wrong. This usage factor has a long history of use by the FCC as well as by the Petitioners in their own price cap LEC affiliate access tariffs -- and Wide Voice can demonstrate that over the course of its relationship with both Verizon and AT&T, if anything, the factor *understates* the rate rather than overstates it. Petitioners provide no support for their port utilization numbers. Importantly, it is this rate structure that *demonstrates* Wide Voice's commitment to strict ILEC rate benchmarking.

The 216,000 MOU per DS1 (or, 9,000 MOU per DS0) factor is anything but arbitrary. This factor, used by the FCC to determine the reasonableness of tandem

[38] For instance, the statute of limitations under 47 USC 415 cannot be limited through tariff language. See Northern Valley, (D.C. Cir. June 6, 2013) (affirming FCC's decision that to disapproved a provision in Northern Valley's tariff that required long-distance carriers to dispute a charge in writing within 90 days if the carrier wanted to preserve a legal challenge. The FCC concluded that the 90-day provision conflicted with the two-year statute of limitations set forth in the statute. *See* 47 U.S.C. § 415(b).)

switched transport rates, was initially based on 1983 data submitted in the original MTS and WATS Market Structure proceeding. Later, in the First Report and Order, the FCC decided to move away from this factor for its original purpose because the record indicated it was *too high*.[39] -

More interesting than that, however, is that Petitioners' ILEC affiliates' tariffs continue to use this traffic assumption in their tariffs on file with the FCC for calculating credit allowances:[40]

> When a Switched Access direct trunked facility experiences an interruption of service, a credit will be applied for the facility itself. When a customer who has both Direct Trunked and Tandem Access facilities experiences an interruption of service, the customer will receive a credit based on the traffic on the out-of-service facility that is diverted to the tandem and charged at tandem rates.
>
> The MOU credit will be derived by ***assuming 9000 MOU per trunk per month***. Therefore, ***the daily credit would be limited to 300 MOU per trunk.***

Finally, Wide Voice's use of minute of use equivalent billing on DTTPs demonstrates its commitment to strict rate benchmarking. Wide Voice's tandems serve large geographic areas that include many different ILEC service areas. As AT&T correctly observed as recorded in FCC 04-110, there is only one "competing ILEC" and one "competing ILEC rate" for each particular end-user.[41] By structuring the port rate into a per-minute rate, Wide Voice is able to charge customers properly according to the

[39] First Report and Order, paragraph 206 - "Many commenters state that their actual traffic levels are substantially lower than 9000 minutes of use per month. Some incumbent LECs, particularly smaller LECs in rural areas, indicate that their actual traffic levels may be as low as 4000 minutes of use per month per voice-grade circuit."
[40] The Verizon Telephone Companies Tariff FCC No. 1, 1st Revised Page 2-83.3 (see tariff Exhibit)
[41] Eighth Report and Order, paragraph 47.

benchmark rate associated with each particular end-user rather than a rate associated with the physical location of the port. For example, a tandem port (DTTP) physically located in New York would be priced at $300 per month per DS1 port if it benchmarked to Verizon's rate. If that port, however, was used to route traffic to an end user in Texas (where, for this example, the rate would benchmark to Southwestern Bell (AT&T)), the relevant port rate would be significantly lower at just $16.08 per month per DS1. Under Wide Voice's MOU-equivalent billing, its DTTP rates are able to be benchmarked to the appropriate, end user-driven, competing ILEC rate. That would not be possible under the approach advocated by the Petitioners.

FCC Staff voiced no objection to Wide Voice's DTTP per minute equivalent billing while Wide Voice was seeking informal guidance in advance of this filing.

CONCLUSION

If the Commission accepts the Petition even though it was improperly noticed, the Commission should reject the Petition for two reasons. Petitioners fatally fail even to attempt to satisfy the four-part test set forth in 47 C.F.R. § 1.773(a)(ii). Failing to prove any one of the elements mandates rejection of the Petition. For this reason alone, the Commission is obligated to reject the Petition.

Second, each of the Petitioners' alleged "five reasons" Wide Voice's tariff filing is purportedly "unlawful" utterly fails. First, Wide Voice's rate benchmarking is not new or unique; rather it can be found in many other CLEC tariffs. Wide Voice's rates for tandem-switched transport reflect nothing more than the incumbent LEC tariffs to which Wide Voice benchmarks pursuant to Section 61.26 of the Commissions' rules.

Second, Petitioners erroneously claim that Wide Voice's tariff may not include industry-standard service discontinuance provisions, even if those provisions exactly match those found in many of Petitioners' own FCC access tariffs.

Third, Petitioners' object to Wide Voice's dispute resolution provisions even though the FCC worked through these issues with another CLEC and another protest 8 years ago. Petitioners repeatedly cite a case and its findings that, in contrast to the Petitioners' claims, fully supports Wide Voice's Tariff provisions on these points.

Fourth, Petitioners' complaint about the Tariffs' provision concerning attorney's fees objection is similarly misplaced since Wide Voice's collection fees provision is **identical** to the provision that *resulted from* a complaint against another CLEC (again, 8 years ago) rather than the language that led to the complaint.

Fifth, Petitioners' argue that Wide Voice's MOU-based DTTP billing results in rates that exceed the competing ILEC's rates. Again, the Petitioners are wrong. The usage assumption to which Petitioners object has a long history of use by the FCC and tends to understate the effective rate. Moreover (and consistent with other Petitioner objections) the usage assumption is used by Petitioners and is contained in their effective tariffs *right now*.

The theme of Petitioners' objections is "preserve for me but deny to *them*." Wide Voice has shown that it is not breaking new ground with its tariff amendments, but instead is identifying, with clarity in the extreme, how it benchmarks to the rates the competing ILEC would charge if it were the tandem-switched transport provider. All other revisions borrow from existing tariff provisions – many of them from Petitioners' own tariffs.

The petition should be denied.

Respectfully submitted,

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Consultant to Wide Voice, LLC

July 16, 2019

CERTIFICATE OF SERVICE

I, Carey Roesel, do hereby certify that, on this 16th day of July 2019, the foregoing **RESPONSE OF WIDE VOICE, LLC TO PETITION OF VERIZON AND AT&T TO SUSPEND OR REJECT WIDE VOICE'S REVISED TARIFF** was served on the following parties via email:

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2. General Regulations (Cont'd)

2.7 Service Level Agreements

2.7.1 Basic Service Level Agreements (Basic SLAs)

2.7.1.1 Credit Allowance for Service Interruptions (Cont'd) (T)(x)

(B) When A Credit Allowance Applies (Cont'd) (M)(x)

(1) (Cont'd)

(M)

(b) Special Access, Switched Transport, or Packet Data Services (Cont'd) (T) (M)

When a Switched Access direct trunked facility experiences an interruption of service, a credit will be applied for the facility itself. When a customer who has both Direct Trunked and Tandem Access facilities experiences an interruption of service, the customer will receive a credit based on the traffic on the out-of-service facility that is diverted to the tandem and charged at tandem rates.

The MOU credit will be derived by assuming 9000 MOU per trunk per month. Therefore, the daily credit would be limited to 300 MOU per trunk. (M)(x)

(x) Certain material on this page formerly appeared on Original Page 2-34.1. Certain material previously found on this page can now be found on Original Page 2-83.17.

2. General Regulations (Cont'd)

2.5 Billing Regulations (Cont'd)

2.5.3 Payment of Rates and Charges (Cont'd) (D)

(D)
(N)

(B) Billing Disputes

In the event that a billing dispute occurs concerning any charges billed to the customer by the Telephone Company the following regulations will apply.

(1) A good faith dispute requires the customer to provide a written claim to the Telephone Company. Instructions for submitting a dispute can be obtained by calling the billing inquiry number shown on the customer's bill. Such claim must identify in detail the basis for the dispute, the account number under which the bill has been rendered, the date of the bill and the specific items on the bill being disputed, to permit the Telephone Company to investigate the merits of the dispute.

(2) The date of the dispute shall be the date on which the customer furnishes the Telephone Company the account information required by Section 2.5.3(B)(1) above.

(3) The date of resolution shall be the date on which the Telephone Company completes its investigation of the dispute, notifies the customer in writing of the disposition and, if the billing dispute is resolved in favor of the customer, applies the credit for the amount of the dispute resolved in the customer's favor to the customer's bill.

(4) If the dispute is decided to be in favor of the Telephone company, then the resolution date will be the date upon which a written decision on this dispute is sent to the customer. (N)

Material previously appearing on this page now appears on 7th Revised Page 2-64.

2. General Regulations (Cont'd)

2.1 Undertaking of the Telephone Company (Cont'd)

2.1.6 Refusal and Discontinuance of Services (Cont'd)

(A) (Cont'd)

(1) (Cont'd)

If an end user contacts the Telephone Company to designate the customer as the end user's PIC, the end user will be given the choice of either remaining with the end user's existing PIC or selecting a new PIC other than the customer. If the Telephone Company does (N)
not refuse additional applications for service or PIC (N)
changes to the customer on the date specified in the (C)
fifteen (15) or thirty (30) days notice, and the (C)
customer's noncompliance continues, nothing contained (C)
herein shall preclude the Telephone Company's right to (M)
refuse additional applications for service to the (M)
noncomplying customer or PIC changes to the customer (M)
without further notice. (C)

(2) Discontinue the provision of the services to the (T)
noncomplying customer. If the Telephone Company (T)
discontinues service, it will no longer route any (N)
switched access traffic that uses the customer's (N)
Carrier Identification Code(s) (CIC). In the case of (N)
such discontinuance, all applicable charges, including (N)
termination charges, shall become due. If the Telephone Company does not discontinue the provision of the services involved on the date specified in the
notice and the customer's noncompliance continues, (D)
nothing contained herein shall preclude the Telephone Company's right to discontinue the provision of the services to the noncomplying customer without further notice.

The Telephone Company will not initiate any of the (N)
actions described in paragraphs (1) and (2) above as to disputed bill amounts where the customer does not pay disputed bill amounts by the bill due date as specified in Section 2.5.3, and the Telephone Company has not rendered a decision on the dispute. The
dispute process is outlined in 2.5.3(B). (N)

Certain revised material appearing on this page previously appeared on 9th Revised Page 2-20.

Certain material previously appearing on this page now appears on 5th Revised Page 2-22.

2. General Regulations (Cont'd)

2.4 Payment Arrangements and Credit Allowances (Cont'd)

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

(B) (Cont'd)

(3) (Cont'd)

(c) In the event that a billing dispute occurs concerning any charges billed to the customer by the Telephone Company the following regulations will apply. (N)

(1) A good faith dispute requires the customer to provide a written claim to the Telephone Company. Instructions for submitting a dispute can be obtained by calling the billing inquiry number shown on the customer's bill. Such claim must identify in detail the basis for the dispute, the account number under which the bill has been rendered, the date of the bill and the specific items on the bill being disputed, to permit the Telephone Company to investigate the merits of the dispute.

(2) The date of the dispute shall be the date on which the customer furnishes the Telephone Company the account information required by Section 2.4.1(B)(3)(c)(1) above.

(3) The date of resolution shall be the date on which the Telephone Company completes its investigation of the dispute, notifies the customer in writing of the disposition and, if the billing dispute is resolved in favor of the customer, applies the credit for the amount of the dispute resolved in the customer's favor to the customer's bill.

(4) If the dispute is decided to be in favor of the Telephone company, then the resolution date will be the date upon which a written decision on this dispute is sent to the customer. (N)
(D)

(D)

Material previously appearing on this page now appears on 1st Revised Page 2-52.

2. General Regulations (Cont'd)

2.1 Undertaking of the Telephone Company (Cont'd)

2.1.8 Refusal and Discontinuance of Service (Cont'd)

(A) (Cont'd)

(2) Discontinue the provision of the services to the noncomplying customer. If the Telephone Company discontinues service, it will no longer route any switched access traffic that uses the customer's Carrier Identification Code(s) (CIC). In the case of such discontinuance, all applicable charges, including termination charges, shall become due. If the Telephone Company does not discontinue the provision of the services involved on the date specified in the notice, and the customer's noncompliance continues, nothing contained herein shall preclude the Telephone Company's right to discontinue the provision of the services to the noncomplying customer without further notice.

(N)
(C)
(N)
(N)
(C)
(C)
(M)
(C)
(M)
(M)
(M)
(M)
(N)

The Telephone Company will not initiate any of the actions described in paragraphs (1) and (2) above as to disputed bill amounts where the customer does not pay disputed bill amounts by the bill due date as specified in Section 2.4.1(B)(1), (2), (3)(a) and (b), and the Telephone Company has not rendered a decision on the dispute. The dispute process is outlined in 2.4.1(B)(3)(c), (d) and (e).

(B) When access service is provided by more than one telephone company, the companies involved in providing the joint service may individually or collectively deny service to a customer for nonpayment. Where the telephone companies affected by the nonpayment are incapable of effecting discontinuance of service without cooperation from the other joint providers of Switched Access Service, such other telephone companies will, if technically feasible, assist in denying the joint service to the customer. Service denial for such joint service will only include calls which originate or terminate within, or transit, the operating territory of the telephone companies initiating the service denial for nonpayment. When more than one of the joint providers must deny service to effectuate termination for nonpayment, in cases where a conflict exists in the applicable tariff provisions, the tariff regulations of the telephone company where the customer end office is located shall prevail for joint service discontinuance provisions. (N)

Revised material appearing on this page previously appeared on 4th Revised Page 2-17.

2.4 Payment Arrangements and Credit Allowances (Cont'd)

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

(G) The Telephone Company and the customer shall work cooperatively to resolve the dispute.

If additional information from the customer would assist in resolving the dispute, the customer may be requested to provide additional information relevant to the dispute and reasonably available to the customer. This data may include, but is not limited to summarized usage data by time of day. The request for such additional information shall not affect the dispute date established pursuant to 2.4.1(F) preceding.

(H) For purposes of 2.4.1(B)(3)(c), the resolution date is the date on which the Telephone Company completes the investigation of the dispute, and the Telephone Company's service representative notifies the customer of the disposition and notes the customer's account or when the Telephone Company forwards the amount of credit to the customer, depending upon customer preference.

(I) At the option of the customer, all nonrecurring charges associated with a Standard or Negotiated Interval Access Order may be billed over a three month period subject to the following:

- 50% of the total nonrecurring charges will be billed in the first monthly billing period after the charges are incurred, and 25% of the total nonrecurring charges plus an Extended Billing Plan Charge will be billed in each of the following two monthly billing periods.

- The Extended Billing Plan Charge is calculated at a rate of 1.0% per month or 12% annually, on the remaining balance of the nonrecurring charges.

- The customer must request extended billing on or before the Application Date as set forth in 5.1.1. following for a Standard or Negotiated Interval Access Order.

- If the customer disconnects service before the expiration of the plan period, all unbilled charges plus the Extended Billing Plan Charge, if applicable, will be included in the final bill rendered.

ACCESS SERVICE

2 - General Regulations (Cont'd)

2.1 Undertaking of the Telephone Company (Cont'd)

2.1.7 Changes and Substitutions (Cont'd)

be within the range as set forth in Section 6 and Section 7 following. The Telephone Company shall not be responsible if any such substitution, change or rearrangement renders any customer furnished services obsolete or requires modification or alteration thereof or otherwise affects their use or performance. If such substitution, change or rearrangement materially affects the operating characteristics of the facility, the Telephone Company will provide reasonable notification to the customer in writing. Reasonable time will be allowed for any redesign and implementation required by the change in operating characteristics. The Telephone Company will work cooperatively with the customer to determine reasonable notification requirements.

2.1.8 Refusal and Discontinuance of Service

(A) Unless the provisions of 2.2.1(B) or 2.5 following apply, if a customer fails to comply with 2.1.6 preceding or 2.2.2, 2.3.1, 2.3.4, 2.3.5, 2.3.10 or 2.4 following, including any payments to be made by it on the dates and times herein specified, the Telephone Company may, on thirty (30) calendar days written notice by Certified U.S. Mail or Overnight Delivery to the person designated by that customer to receive such notices of noncompliance, refuse additional applications for service and/or refuse to complete any pending orders for service by the noncomplying customer at any time thereafter. If the Telephone 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 Telephone Company's right to refuse additional applications for service to the noncomplying customer without further notice.

(B) Unless the provisions of 2.2.1(B) or 2.5 following apply, if a customer fails to comply with 2.1.6 preceding or 2.2.2, 2.3.1, 2.3.4, 2.3.5, 2.3.10 or 2.4 following, including any payments to be made by it on the dates and times herein specified, the Telephone Company may, on thirty (30) calendar days written notice by Certified U.S. Mail or Overnight Delivery to the person designated by that customer to receive such notices of noncompliance, discontinue the provision of the services to the noncomplying customer at any time thereafter. In the case of such discontinuance, all applicable charges, including termination charges, shall become due. If the Telephone 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 Telephone Company's right to discontinue the provision of the services to the noncomplying customer without further notice.

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2.1 Undertaking of the Telephone Company (Cont'd)

2.1.8 Refusal and Discontinuance of Service (Cont'd)

(C) In addition to and not in limitation of the provisions of 2.1.8(A) and 2.1.8(B) preceding, unless the provisions of 2.2.1(B) or 2.5 following apply, if a customer fails to comply with 2.4.1(A) or with 2.4.1(B)(3) following, including any payments to be made by it on the dates and times herein specified, the Telephone Company may take the actions specified in 2.1.8(A) and 2.1.8(B) on fifteen (15) calendar days written notice, such notice period to start the day after the notice is rendered by Certified Mail or Overnight Delivery, if the customer has not complied with respect to amounts due in a subject bill and either:

(1) The Telephone Company has within (7) business days of the subject bill date:

a. Mailed via the United States Postal Service (USPS) to the customer the subject bill in paper or CDROM form, or

b. Overnight service delivered to the customer the subject bill in Magnetic Tape form, or

c. Electronically Transmitted to the customer the subject bill.

The Telephone Company will maintain records sufficient to validate the date upon which a subject bill was rendered to the customer.

(2) The Telephone Company has rendered the subject bill, using one of the media described in (1) above, to the customer more than thirty (30) calendar days before notice under this section has been rendered.

In all other cases, the Telephone Company will give thirty (30) calendar days written notice pursuant to 2.1.8(A) or 2.1.8(B). Action will not be taken with regard to the subject bill if the customer cures the noncompliance prior to the expiration of the fifteen (15) or thirty (30) calendar day notice period, as applicable.

(D) If the National Exchange Carrier Association, Inc., notifies the Telephone Company in writing that the Customer has failed to comply with

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