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

In the Matter of Windstream Telephone System FCC Tariff No. 6	Transmittal No. 119

PETITION OF VERIZON TO REJECT OR SUSPEND AND INVESTIGATE WINDSTREAM'S TARIFF

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INTRODUCTION

Under § 1.773 of the Commission's rules,[1] Verizon[2] requests that the Commission reject or suspend and investigate the tariff revision that Windstream Telephone System ("Windstream") filed on August 15, 2023. *See* Tariff F.C.C. No. 6, Transmittal No. 119 (attached as Exhibit A). Windstream's tariff filing changes the way it may bill customers that order "mixed use" access circuits — that is, high-capacity facilities that are used for both special access and switched access services. This change is unlawful for the following four reasons.

First, Windstream grants itself the "sole discretion" to choose between two methods of billing for mixed use access circuits: either the current method based on the voice-grade equivalents of the switched access services a customer ordered, or a new method that uses the results of a traffic study of the customer's minutes of switched access usage, regardless of how many switched access circuits the customer has ordered. Ex. A, § 7.2.7. The Commission long ago held that a tariff provision that grants the carrier the "sole discretion" to choose among two different methods of billing is "unreasonable under section 201(b) of the Act."[3]

Second, Windstream's new language is ambiguous. It states that, if Windstream exercises its "sole discretion" to bill using a traffic study, the calculated purchase volume "will apply . . . until [Windstream] conducts a subsequent [traffic] study," without specifying whether, when, or why Windstream will do so. Ex. A, § 7.2.7. In addition, while the tariff language allows a customer to request that Windstream conduct another traffic study — the customer

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[1] 47 C.F.R. § 1.773(a)(2)(iii).

[2] The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

[3] Memorandum Opinion and Order, *Sprint Commc'ns Co. v. N. Valley Commc'ns, LLC*, 26 FCC Rcd 10780, ¶ 12 (2011) ("*Sprint-Northern Valley Order*").

"may" do so — the tariff language does not compel Windstream to honor that request or set a deadline for Windstream to conduct and complete it. *Id.*

Third, the new language renders the tariff ambiguous for a second reason. The section of Windstream's existing tariff that explains how a customer can order mixed use access circuits does not specify any minimum monthly usage requirement for switched access DS1 circuits. But Windstream's new tariff language effectively imposes an ongoing minimum monthly usage requirement of 250,000 minutes for each ordered DS1 circuit. If the customer fails to meet this usage requirement during any rolling three-month period, Windstream can exercise its "sole discretion" and effectively reclassify some of the ordered DS1 circuits as special access when billing the mixed use access circuit. The new language thus renders Windstream's tariff "internally inconsistent," which the Commission has previously held is not "clear and explicit" and thus unlawful.[4]

Fourth, the new language would allow Windstream to circumvent the rate cap on switched access services. *See* 47 C.F.R. § 51.907(a). As the Commission previously recognized, a provision that grants a carrier the "sole discretion" to choose among billing methods allows it to "manipulate the [choice] so as to maximize its access charges."[5] Here, Windstream's tariff language grants it "sole discretion" to use a traffic study to arrive at a calculated quantity of switched access services that is *lower than* the quantity of switched access services the customer actually purchased. As a result, Windstream will apply its higher special access rates to circuits that the customer purchased for lower-priced switched access — a prohibited rate increase on those switched access circuits.

[4] *Sprint-Northern Valley Order* ¶ 9.

[5] *Sprint-Northern Valley Order* ¶ 12.

BACKGROUND

Customers like Verizon often order DS1 circuits for switched access that ride the same DS3 circuit as other DS1 circuits ordered for special access. Under Windstream's current tariff — based on language that has been in place since at least 2009 — ordering those DS1 switched access circuits has the effect of lowering the price for the DS3 circuit:

> As each individual channel of a Special Access High Capacity Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, and Multiplexing rates *will be reduced accordingly* (e.g., 1/24th for a DS1 service, 1/672nd for a DS3 service, etc.).[6]

That is because "Switched Access Service rates and charges . . . will apply for each channel that is used to provide a Switched Access Service."[7]

For example, if Verizon orders a DS3 circuit from Windstream, as well as 14 switched access DS1 circuits and 14 special access DS1 circuits, this tariff language requires Windstream to price the DS3 circuit based on that 50/50 split. That is, Windstream must bill Verizon a price for the DS3 circuit that equals 50 percent of the DS3 special access rate plus 50 percent of the DS3 switched access rate. So, for a 10-mile DS3 special access transport circuit between a serving wire center and the tandem, Windstream's Service Guide currently sets out rates totaling $13,145.96.[8] In contrast, the tariffed switched access rate for that same 10-mile DS3 transport

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[6] Windstream Telephone System, Tariff F.C.C. No. 6, § 7.2.7 (eff. Jan. 3, 2009) (emphasis added) (Ex. B).

[7] *Id.*

[8] This is the sum of the Windstream Standard, Inc. special access rates for channel termination ($3,787.81), DS3-DS1 multiplexing ($2,673.75), and 10 miles of channel mileage ($668.44 per mile) for the state of Georgia. *See* Windstream Interstate BDS Guidebook § 17.1.8(B)(2), https://bit.ly/45l4GGm.

circuit is only $789.46.[9] Therefore, for a 10-mile DS3 transport circuit with a 50/50 split, Windstream would charge Verizon $6,967.71 per month.[10]

Windstream's recent tariff filing proposes to change the way it may bill for mixed use access circuits:

> The Telephone Company, at its sole discretion and in lieu of the table shown above, may calculate and bill customer the ratio of derived Switched Access Service channels based on a study of actual Switched Access channel minutes of use utilization for the prior three months. Switched Access channel utilization will be based on 250,000 minutes of use at the DS1 level and extrapolated for channel services at higher levels. The Telephone Company calculated ratio of Switched Access Service channels will apply to customer billing until the Telephone Company conducts a subsequent study. Customer may request Telephone Company to conduct subsequent studies no more often than two times in a twelve-month period.[11]

This new language would give Windstream the "sole discretion" to change the way it bills a particular customer from the methodology that has been in its tariff since at least 2009 to a new methodology that is based on a traffic study of "actual Switched Access channel minutes of use utilization," with every 250,000 switched access minutes of use being treated as a derived switched access DS1 circuit.[12] Thus, under the new methodology, Windstream counts minutes of usage, rather than the customer's order of switched access circuits. To return to the example above, if Verizon were sending 2 million minutes of switched access use over the 14 DS1 switched access circuits it purchased, this new methodology would allow Windstream to bill Verizon as though it had purchased only 8 DS1 circuits to ride that DS3. By treating the

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[9] This is the sum of the Windstream Standard, Inc. tariffed switched access rates for channel termination ($309.86), DS3-DS1 multiplexing ($302.10), and 10 miles of channel mileage ($17.75 per mile) for the state of Georgia. *See* Windstream Telephone System, Tariff F.C.C. No. 6, § 17.2.2(A).

[10] ($13,145.96 x 0.5) + ($789.46 x 0.5) = $6,967.71.

[11] Ex. A, § 7.2.7.

[12] *Id.*

additional 6 DS1 switched access circuits that Verizon ordered as though they were special access circuits, Windstream could raise its price for the DS3 circuit to $9,027.13[13] — a nearly *30 percent* rate increase.[14]

The new language also gives Windstream the sole discretion to revert back to the original, order-based methodology or to conduct a new traffic study. While a customer "may request" that Windstream conduct another traffic study, the tariff language does not require Windstream to heed the request or to complete the traffic study within a specific period of time. Instead, the most recent traffic study "will apply to [the] customer['s] billing until" Windstream completes a new study.[15]

ARGUMENT

It is well established that the "Commission may reject a tariff filed by a carrier if the filing is 'so patently a nullity as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket.'"[16] As the courts have explained, "the Commission has 'the power and in some cases the duty' to reject a tariff that is demonstrably unlawful on its face, or that conflicts with a

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[13] ($13,145.96 x 16/24) + ($789.46 x 8/24) = $9,027.13.

[14] Verizon's complaint here is *not* with the special access rates in Windstream's Service Guide. Rather, it is with Windstream's proposed language that would permit it to apply those Service Guide rates to switched access circuits that Verizon ordered from its tariff, not its Service Guide.

[15] Ex. A, § 7.2.7.

[16] Order, *GS Texas Ventures, LLC Tariff F.C.C. No. 1*, 29 FCC Rcd 10541, ¶ 4 (Pricing Pol'y Div. 2014) ("*GS Texas Ventures Order*") (quoting *Mun. Light Bds. v. FPC*, 450 F.2d 1341, 1346 (D.C. Cir. 1971)); *see also*, *e.g.*, *Cap. Network Sys., Inc. v. FCC*, 28 F.3d 201, 204 (D.C. Cir. 1994); Order, *Teliax Colorado, LLC Tariff F.C.C. No. 1*, 36 FCC Rcd 8285, ¶ 7 & n.26 (Pricing Pol'y Div. 2021) ("In deciding whether to reject proposed tariff revisions, we look at whether the revisions are unlawful on their face").

statute, agency regulation or order."[17] This is such a case. Windstream's revised tariff is unlawful for four reasons.

First, Windstream's revised tariff violates 47 U.S.C. § 201(b) because it explicitly grants Windstream the "sole discretion" to choose between two different methodologies for billing for mixed use access circuits, on a customer-by-customer basis. The Commission reached the same conclusion about a Northern Valley tariff filing that similarly purported to give that carrier the ability, "at its sole discretion, [to] use a different PIU Factor" from the one its IXC customer supplied.[18] Like Northern Valley's unlawful provision, Windstream's language gives it "unfettered discretion to use" the minutes-based methodology and, therefore, "the ability to rely on unspecified and potentially arbitrary and discriminatory factors" in deciding which methodology to apply to individual customers.[19] The result of Windstream's minutes-based methodology — as shown in the example above — may also result in a quantity of DS1 switched access circuits "that bears no relationship to the actual" quantity the customer ordered.[20] Windstream, therefore, has the incentive "to manipulate" its choice of methodology "so as to maximize its access charges by choosing" the method yielding "higher rates" for each of its customers (or just for ones it disfavors).[21] Just like Northern Valley's "sole discretion" PIU

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[17] *GS Texas Ventures Order* ¶ 4 (quoting *Associated Press v. FCC*, 448 F.2d 1095, 1103 (D.C. Cir. 1971)).

[18] *Sprint-Northern Valley Order* ¶ 12.

[19] *Id.*

[20] *Id.*

[21] *Id.* The Commission's ruling in the *Sprint-Northern Valley Order* implements the basic directive of the filed rate doctrine: to prevent "unjust discrimination." *Maislin Indus., U.S., Inc. v. Primary Steel, Inc.*, 497 U.S. 116, 126 (1990).

Factor tariff language, Windstream's proposed "sole discretion" language is "unreasonable under section 201(b) of the Act."[22]

Second, Windstream's revised tariff is unlawful because it does not "contain clear and explicit explanatory statements regarding the rates and regulations."[23] The Commission regularly "reject[s] tariffs for failing to meet this standard."[24] In addition to failing to explain how Windstream will exercise its "sole discretion," the new tariff language is also ambiguous about how and when Windstream will update the traffic study if it selects that methodology. The tariff states that the results of a traffic study "will apply to [the] customer['s] billing until" Windstream completes a new study.[25] While that language is clear, the tariff contains no language specifying when — or why — Windstream will decide to conduct a subsequent traffic study or whether it will be bound by the results of that study. And although the tariff language allows a customer to "request" that Windstream conduct additional traffic studies, the tariff contains no language compelling Windstream to honor such a request or setting deadlines for Windstream to complete a new traffic study.[26] All of these issues are apparently left to Windstream's sole discretion. Because "a party could not reasonably ascertain the 'proper application' of the" the new tariff language in § 7.2.7 "at the time it was filed," the new language is ambiguous and unlawful.[27]

[22] *Sprint-Northern Valley Order* ¶ 12.

[23] 47 C.F.R. § 61.2(a).

[24] Memorandum Opinion and Order, *Core Communications, Inc., et al. Tariff F.C.C. No. 3*, 36 FCC Rcd 15128, ¶ 48 & n.178 (2021) (citing cases).

[25] Ex. A, § 7.2.7.

[26] *Id.*

[27] *Global NAPs, Inc. v. FCC*, 247 F.3d 252, 258 (D.C. Cir. 2001).

Third, the new tariff language is ambiguous for an additional reason. Section 5 of Windstream's existing tariff contains the provisions that govern the ordering of switched access circuits.[28] Section 5.2.4 explains that, where a customer orders a mixed use access circuit, "individual services utilizing these facilities must be ordered either as Switched Access Service or Special Access Service."[29] Nothing in the existing tariff language regarding the ordering of mixed use access circuits states that a customer's purchase of switched access DS1 service is subject to an ongoing minimum usage requirement. Yet that is exactly the effect of Windstream's new tariff language. If the customer fails to maintain a minimum of 250,000 minutes of use during any rolling three-month period on any circuit the customer ordered as DS1 switched access service, Windstream can exercise its discretion to effectively reclassify some of the ordered DS1 circuits as special access when billing the mixed use access circuit. The new language Windstream proposes to add to § 7.2.7 is thus inconsistent with the unchanged ordering language in § 5.2.4. The Commission has previously held that where, as here, a tariff amendment renders a tariff "internally inconsistent," that language "is not 'clear and explicit' as required by rule 61.2(a)" and, therefore, is unlawful.[30]

Fourth, the new tariff language is unlawful because it enables Windstream to circumvent 47 C.F.R. § 51.907(a), which required "Price Cap Carrier[s]," like Windstream, to "cap the[ir]

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[28] *See* Windstream Telephone System, Tariff F.C.C. No. 6, § 5.1 ("This section sets forth the regulations and order related charges for services set forth in other sections of this tariff.").

[29] *Id.* § 5.2.4. While this section states that relevant terms and conditions are "further elaborated and set forth in 6.4.7 and 7.2.7," *id.*, the former section simply describes when "[m]ixed use occurs," *id.* § 6.4.7, and Windstream proposes to move — but not change — the language in the latter section regarding ordering, Ex. A, § 7.2.7 (marking the following text with "(M)": "The customer must place an order for each individual Switched or Special Access Service utilizing the Mixed Use Facilities and specify the channel assignment for each such service.").

[30] *Sprint-Northern Valley Order* ¶ 9.

rates for [these] interstate rate elements" as of "December 29, 2011."[31] As shown above, under Windstream's tariff provisions in effect on December 29, 2011, Windstream would charge for a DS3 circuit used for both switched and special access services based on the quantity of switched access DS1 circuits a customer ordered. If Windstream may — at its "sole discretion" — switch to a methodology that calculates switched access DS1s based on minutes of use, rather than circuits ordered, Windstream will surely only exercise that discretion when the minutes-of-use methodology results in a higher price for the DS3 circuit than the circuits-purchased methodology. And the effect of that changed methodology will be to bill for the customer-ordered interstate switched access services at the higher special access rates in Windstream's Service Guide. The effect of Windstream's tariff language — which allows it to pretend that circuits its customers ordered as switched access are not in fact switched access circuits regardless of how much switched access traffic they carry — is no different from a tariff change that raised Windstream's tariffed DS3 switched access rates for entrance facility, channel termination, DS3-DS1 multiplexing, and channel mileage. Section 51.907(a) clearly prohibits the latter change. The Commission should find that it prohibits the former change as well.

CONCLUSION

For each of these reasons, the Commission should reject or suspend and investigate § 7.2.7 of Windstream's revised tariff.

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[31] The cap in § 51.907(a) applies not only to the "services contained in the definitions of Interstate End Office Access Services, Tandem Switched Transport Access Services, and Dedicated Transport Access Services," but also to "any interstate and intrastate rate elements in the 'traffic sensitive basket' and the 'trunking basket' as described in 47 C.F.R. § 61.42(d)(2) and (3) to the extent that such rate elements are not contained in [those] definitions." 47 C.F.R. § 51.907(a). The mixed use access circuits at issue here fall within the "trunking basket" to the extent they do not fall within the defined terms.

August 22, 2023

Respectfully submitted,

/s/ *Scott H. Angstreich*

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EXHIBIT A

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August 15, 2023
Via ETFS Filing
This material is filed on 15 days' notice
under Section 204(a)(3) of the Communications Act

Windstream Access
4001 Rodney Parham Road 1170 B3F03-84A
Little Rock, AR 72212

FRN: 0014409924
TRANSMITTAL No. 119

Secretary, Federal Communications Commission
Washington, DC 20554
ATTN: Wireline Competition Bureau

Dear Madam Secretary:

The accompanying tariff material, issued by Windstream Telephone System (“WTS”), bearing Tariff FCC No. 6, effective August 30, 2023, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended.

This filing revises rate regulations for mixed use Special Access Service.

This material, being filed on a fifteen (15) days’ notice, consists of tariff pages as indicated on the following check sheet:

WTS FCC Tariff No. 6	96th Revised Page 1

This transmittal letter and revised tariff pages are being filed electronically today via the Federal Communications Commission's Electronic Tariff Filing System (ETFS). Payment in the amount of $1,040.00 has been electronically transmitted under FRN 0014409924 to the U.S. Bank in St. Louis, Missouri in accordance with the fee program procedures.

Petitions pertaining to this filing may be served in person or by facsimile to:

Contact:	DiAnne Nichol
Address:	4001 N Rodney Parham Road Little Rock, AR 72212
Facsimile:	501-748-6583

Any questions you may have regarding this filing should be directed to my attention at 407-740-3031 or via email to Sthomas@inteserra.com. Thank you for your assistance in this matter.

Sincerely,

/s/ Sharon Thomas

Sharon Thomas
Consultant

tms: Transmittal 119
ST/sp

FCC Registration Numbers for Tariff Participants

0004966594
0004967774
0004967790
0004967030
0004965992
0004966552
0004967741
0004967055
0004967683
0004967725
0004967634
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0004967360

ACCESS SERVICE

CHECK SHEET

Title Pages 1 to 4 and Pages 1 to 22-41 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement No. 1 contain all changes from the original tariff that are in effect on the date hereof.

Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated
Title Page 1	1^{st}	7-4	1^{st}	7-79	Original
Title Page 3	2^{nd}	7-6	1^{st}	7-80	Original
Title Page 4	2nd	7-7	Original	7-81	1^{st}
1	96^{th} *	7-11	1^{st}	7-82	Original
2	20^{th}	7-12	1^{st}	7-83	Original
3	1^{st}	7-14.1	3^{rd}	7-84	Original
16	1^{st}	7-15	1^{st}	7-85	Original
18	1^{st}	7-16	1^{st}	7-86	Original
21	1^{st}	7-17	1^{st}	7-87	Original
22	1^{st}	7-24	1^{st}	7-88	Original
23	2^{nd}	7-26	1^{st}	7-89	Original
27	1^{st}	7-28	2^{nd} *	7-90	Original
30	1^{st}	7-29	1^{st} *	8-2	1^{st}
1-1	1^{st}	7-29.1	Original *	16-1	1^{st}
2-9	2^{nd}	7-30	3^{rd}	16-2	1^{st}
2-11	2^{nd}	7-31	2^{nd}	16-3	1^{st}
2-27	1^{st}	7-32	1^{st}	16-4	1^{st}
2-28	1^{st}	7-33	1^{st}	16-5	1^{st}
2-28.1	3^{rd}	7-34	1^{st}	16-6	1^{st}
2-47	2^{nd}	7-35	1^{st}	17-1	3^{rd}
2-49.1	1^{st}	7-36	1^{st}	17-2	2^{nd}
2-50	1^{st}	7-37	1^{st}	17-3	21^{st}
2-50.1	Original	7-38	1^{st}	17-4	25^{th}
2-50.2	Original	7-39	1^{st}	17-5	22^{nd}
2-50.3	Original	7-40.1	4^{th}	17-6	5^{th}
2-50.4	Original	7-40.2	2^{nd}	17-7	61^{st}
2-50.5	Original	7-40.3	4^{th}	17-8	61^{st}
2-50.6	Original	7-40.4	2^{nd}	17-9	3^{rd}
2-50.7	Original	7-40.5	3^{rd}	17-10	3^{rd}
2-50.8	Original	7-40.6	1^{st}	17-11	1^{s}
2-50.9	Original	7-40.7	Original	17-12	13^{th}
2-57	1^{st}	7-40.8	2^{nd}	17-13	11^{th}
2-75	1^{st}	7-40.9	Original	17-14	13^{th}
2-76	1^{st}	7-40.10	1^{st}	17-16	3^{rd}
4-1	1^{st}	7-60	1^{st}	17-17	3^{rd}
4-3	1^{st}	7-61	1^{st}	17-18	3^{rd}
4-4	1^{st}	7-63	1^{st}	17-19	1st
4-6	1^{st}	7-64	1^{st}	17-20	3^{rd}
4-8	Original	7-65	1^{st}	17-21	4^{th}
4-9	Original	7-66	1^{st}	17-22	3^{rd}
4-10	Original	7-67	1^{st}	17-23	3^{rd}
5-1	1^{st}	7-68	1^{st}	17-24	4^{th}
5-4	1^{st}	7-69	1^{st}	17-25	3^{rd}
5-10	1^{st}	7-71	Original	17-26	3^{rd}
5-23	2^{nd}	7-72	Original	17-27	3^{rd}
6-1	1^{st}	7-73	Original	17-28	3^{rd}
6-13	1^{st}	7-74	Original	17-29	1^{st}
6-14	1^{st}	7-75	1^{st}	17-30	9^{th}
6-59	1^{st}	7-76	1^{st}	17-31	9^{th}
7-2	1^{st}	7-77	1^{st}	17-32	9^{th}
7-3	1^{st}	7-78	Original		

* New or revised page. (TR 119)

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7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.7 Mixed Use

Mixed use refers to a rate application applicable only when the customer orders High Capacity or Synchronous Optical Channel Service Special Access facilities between a customer designated premises and a Telephone Company hub or ADM equipped wire center where the Telephone Company performs multiplexing/de-multiplexing functions and the same customer then orders the derived channels as Special and Switched Access Services. If the customer has Switched Access Service between a customer designated premises and an end office that is multiplexed at a Telephone Company hub or ADM equipped wire center and subsequently orders the derived channels as Special and Switched Access Service, rates and charges will apply as if the service were ordered as mixed use. **(T)**

Except as noted above, the High Capacity or Synchronous Optical Channel Service facility will be ordered, provided and rated as Special Access Service (i.e., Channel Termination, Channel Mileage, as appropriate, and Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing). The nonrecurring charge that applies when the mixed use facility is installed will be the nonrecurring charge associated with the appropriate Special Access High Capacity or Synchronous Optical Channel Service Channel Termination. Recurring and nonrecurring charges will apply as described in 7.1.9 preceding.

Rating as Special Access will continue until such time as the customer chooses to use a portion of the available capacity for Switched Access Service. Individual service (i.e., Switched or Special Access) nonrecurring charges will not apply to the individual channels of the mixed use facility.

When Special Access Service is provided utilizing a channel of the mixed use facility to a hub, High Capacity rates and charges will apply for the facility to the hub, as set forth preceding, and individual service rates and charges will apply from the hub to the customer designated premises. The rates and charges that will apply to the portion from the hub to the customer designated premises will be dependent on the specific type of Special Access Service that is provided (e.g., Voice Grade, Telegraph, etc.). The applicable rates and charges will include a Channel Termination and Channel Mileage, if applicable. Rates and charges for Optional Features and Functions associated with the service, if any, will apply for the appropriate channel type.

(TR 119)

7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.7 Mixed Use (Cont'd)

As each individual channel of a Special Access High Capacity Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, and Multiplexing rates will be reduced accordingly as described below. **(C)**

Similarly, as each individual channel of a Special Access Synchronous Optical Channel Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, Customer Node, Customer Premises Port, and Add/Drop Multiplexing rates will be reduced accordingly as **(C)**
described below. **(C)**

If the Special Access charges for the mixed use facility are subject to Service Discount Plan discounts (e.g., Term Discount Optional Rate Plan) as set forth in 7.2.8 following, the Special Access charges will be reduced to reflect mixed use before the Service Discount Plan discounts are applied.

Switched Access Service rates and charges, as set forth in 17.2 following, will apply for each channel or channel **(C)**
utilization that is used to provide a Switched Access **(C)**
Service. Additionally, the Switched Access Service Entrance Facility, Direct Trunked Transport, Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing charges, if applicable, will be reduced by multiplying their respective rates by the ratio of derived Switched Access Service channels to the total number of channels. **(C)**

Some material previously located on this page is now located on Original Page 7-29.1

(TR 119)

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ACCESS SERVICE

7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.7 Mixed Use (Cont'd)

The following table shows the total equivalents for each of the services that may be used for Mixed Use: (C) (M)

High Capacity or Synchronous Optical Channel Service	DS3 Quantities	DS1 Quantities	Voice Grade Equivalents
DS1	n/a	1	24
DS3	1	28	672
OC3	3	84	2,016
OC12	12	336	8,064

(M)

The Telephone Company, at its sole discretion and in lieu of the table shown above, may calculate and bill customer the ratio of derived Switched Access Service channels based on a study of actual Switched Access channel minutes of use utilization for the prior three months. Switched Access channel utilization will be based on 250,000 minutes of use at the DS1 level and extrapolated for channel services at higher levels. The Telephone Company calculated ratio of Switched Access Service channels will apply to customer billing until the Telephone Company conducts a subsequent study. Customer may request Telephone Company to conduct subsequent studies no more often than two times in a twelve-month period. (N)

The customer must place an order for each individual Switched or Special Access Service utilizing the Mixed Use Facilities and specify the channel assignment for each such service. (M)

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(TR 119)

EXHIBIT B

7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.7 Mixed Use

Mixed use refers to a rate application applicable only when the customer orders High Capacity or Sychronous Optical Channel Service Special Access facilities between a customer designated premises and a Telephone Company hub or ADM equipped wire center where the Telephone Company performs multiplexing/de-multiplexing functions and the same customer then orders the derived channels as Special and Switched Access Services. If the customer has Switched Access Service between a customer designated premises and an end office that is multiplexed at a Telephone Company hub or ADM equipped wire center and subsequently orders the derived channels as Special and Switched Access Service, rates and charges will apply as if the service were ordered as mixed use.

Except as noted above, the High Capacity or Synchronous Optical Channel Service facility will be ordered, provided and rated as Special Access Service (i.e., Channel Termination, Channel Mileage, as appropriate, and Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing). The nonrecurring charge that applies when the mixed use facility is installed will be the nonrecurring charge associated with the appropriate Special Access High Capacity or Synchronous Optical Channel Service Channel Termination. Recurring and nonrecurring charges will apply as **(C)**
described in 7.1.9 preceding **(C)**

Rating as Special Access will continue until such time as the customer chooses to use a portion of the available capacity for Switched Access Service. Individual service (i.e., Switched or Special Access) nonrecurring charges will not apply to the individual channels of the mixed use facility.

When Special Access Service is provided utilizing a channel of the mixed use facility to a hub, High Capacity rates and charges will apply for the facility to the hub, as set forth preceding, and individual service rates and charges will apply from the hub to the customer designated premises. The rates and charges that will apply to the portion from the hub to the customer designated premises will be dependent on the specific type of Special Access Service that is provided (e.g., Voice Grade, Telegraph, etc.). The applicable rates and charges will include a Channel Termination and Channel Mileage, if applicable. Rates and charges for Optional Features and Functions associated with the service, if any, will apply for the appropriate channel type.

(TR 93)

7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.7 Mixed Use (Cont'd)

As each individual channel of a Special Access High Capacity Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, and Multiplexing rates will be reduced accordingly (e.g., 1/24th for a DS1 service, 1/672nd for a DS3 service, etc.).

Similarly, as each individual channel of a Special Access Synchronous Optical Channel Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, Customer Node, Customer Premises Port, and Add/Drop Multiplexing rates will be reduced accordingly (e.g. 1/2016th for an OC3 service, 1-8064th for an OC12 service).

If the Special Access charges for the mixed use facility are subject to Service Discount Plan discounts (e.g., Term Discount Optional Rate Plan) as set forth in 7.2.8 following, the Special Access charges will be reduced to reflect mixed use before the Service Discount Plan discounts are applied.

Switched Access Service rates and charges, as set forth in 17.2 following, will apply for each channel that is used to provide a Switched Access Service. Additionally, the Switched Access Service Entrance Facility, Direct Trunked Transport, Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing charges, if applicable, will be reduced by multiplying their respective rates by the ratio of derived Switched Access Service channels to the total number of Voice Grade channels that can be derived.

The following table shows the total voice grade equivalents for each of the services that may be used for Mixed Use:

High Capacity or Synchronous Optical Channel Service	DS3 Quantities	DS1 Quantities	Voice Grade Equivalents
DS1	n/a	1	24
DS3	1	28	672
OC3	3	84	2,016
OC12	12	336	8,064

The customer must place an order for each individual Switched or Special Access Service utilizing the Mixed Use Facilities and specify the channel assignment for each such service.

(TR19)

CERTIFICATE OF SERVICE

I, Scott H. Angstreich, do hereby certify that, on this 22nd day of August 2023, the foregoing **PETITION OF VERIZON TO REJECT OR SUSPEND AND INVESTIGATE WINDSTREAM'S TARIFF** was served on the following via fax:

DiAnne Nichol
4001 N Rodney Parham Road
Little Rock, AR 72212
Fax: 501-748-6583

/s/ *Scott H. Angstreich*
Scott H. Angstreich