DESCRIPTION AND JUSTIFICATION
John Staurulakis, Inc. Tariff F.C.C. No. 1
Transmittal No. 88
Issued November 21, 2003
Effective December 6, 2003

1. INTRODUCTION

With this filing, John Staurulakis, Inc. (JSI) proposes to make two sets of modifications to existing regulations in JSI Tariff FCC No. 1.

The first set of modifications is for Sections 2.1.8 and 2.4.1 regarding refusal and discontinuance of service and payment of rates, charges and deposits, respectively. The modifications parallel those made by the National Exchange Carrier Association (NECA) in NECA Tariff FCC No. 5 in Transmittals No. 995 and No. 999[1] effective August 20, 2003.[2]

The second set of modifications is for Section 2.3.11, regarding use of actual data when available to determine jurisdiction of Switched Access Services. The modifications parallel those made by NECA in NECA Tariff FCC No. 5 in Transmittal No. 986 effective June 18, 2003.

In addition to the modifications paralleling NECA changes in regulations, JSI proposes modifications to Section 1, Application of Tariff to eliminate unnecessary or obsolete language.

[1] NECA Transmittal 999 reflected modifications to changes originally proposed under NECA Transmittal No. 955. The modifications made under Transmittal No. 999 reflected clarifications. NECA filed Transmittal No. 999 under Special Permission No. 03-081.
[2] Since the initial issuance of JSI Tariff FCC No. 1 the tariff has generally paralleled NECA Tariff FCC No. 5 with respect to general regulations.

2. DESCRIPTION OF TARIFF FILING

a. Changes in Regulations Respecting Deposits and Collections

As was the case for NECA Transmittals No. 995 and No. 999 with respect to carriers participating in NECA Tariff FCC No. 5, the proposed tariff revisions are being made to JSI Tariff FCC No. 1 to protect the financial interests of telephone companies participating in the tariff and to ensure that adequate security is held as a guarantee of future payment for customers that have established a history of late payments. As pointed out by NECA in Transmittal No. 995, the following modifications are consistent with the Federal Communications Commission's (Commission's) *Policy Statement*[3] and the effective tariffs of other local exchange carriers.

Section 2.1.8, Refusal and Discontinuance of Service, is being modified to introduce an optional, shortened customer notice period of 15 days for non-payment of undisputed bills and/or deposits. Introduction of the shortened notice period is tied to the timely arrival of interstate access bills or deposit requests in compliance with the Commission's *Policy Statement.*[4] The shortened notice provision can only be used when the telephone company meets one of the following conditions:

[3] Verizon Petition for Emergency Declaratory and Other Relief, WC Docket No. 02-202, 17 FCC Rcd 26884 (2002) (*Policy Statement*).
[4] See *Policy Statement* at ¶ 29.

- The bill was sent to the customer within seven (7) business days of the bill date; or
- The bill was sent to the customer more than thirty (30) calendar days before the shortened notice was sent; or
- The deposit request was sent to the customer more than fifteen (15) business days before the shortened notice was sent.

Any JSI Tariff FCC No. 1 issuing carrier that does not satisfy these requirements will adhere to the existing 30-day notice provision. In either case, the telephone company will be required to address such written notice of non-compliance to the individual designated by the customer to receive such notice and will exclude charges that a customer does not pay based on the submission of a good faith dispute.

Section 2.4.1(A), Deposits, is being revised consistent with the *Policy Statement*[5] to define a "proven history of late payments" as two or more late payments on undisputed bills within the preceding twelve months, provided:

- The payment was not received within three (3) business days following the payment due date, and
- The outstanding undisputed amount of each unpaid bill represented at least ten (10) percent of the monthly bill.

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[5] See *Policy Statement* at ¶29.

This section is also being modified to specify the telephone company's obligation to provide written notice to the contact designated by the customer to receive such notice and the customer's obligation to remit payment for the deposit within fifteen (15) business days following such notice.

Section 2.4.1(D), Billing Disputes, is being modified to define the information that must be provided in writing by the customer to initiate a "good faith" billing dispute. Such claim must identify the basis for the dispute, the account number under which the bill has been rendered if the customer withholds the disputed amounts, the date of the bill, and the specific items on the bill being disputed.

Additionally, the proposed revisions in this section describe how the customer may obtain instructions for submitting a dispute, as well as defining key terms used in the calculation of late payment charges and/or penalty interest credits, i.e., the date of dispute and date of resolution. The provisions clarify the calculation of late payment charges and/or penalty interest credits that may apply upon resolution of the dispute.

b. Changes in Regulations Respecting Measurement of Jurisdictional Usage

As was the case for NECA Transmittal No. 986 with respect to carriers participating in NECA Tariff FCC No. 5, the proposed tariff revisions herein are being made to JSI Tariff FCC No. 1 to modify provisions of its interstate access tariff pertaining to the jurisdictional determination of Switched Access Services and to clarify the conditions under which the telephone company will rely on customers' percentage interstate usage (PIU) factors.

The revisions make clear that when telephone call detail is available to the telephone company, such data will be used to determine the jurisdiction of switched access traffic in place of customer-supplied Percent Interstate Usage ("PIU") factors. In those cases where the telephone company must still rely on customer-supplied factors to determine the jurisdiction of traffic, the proposed modifications clarify when and how such customer-provided PIU factors would be required and used. Lastly, the proposed revisions modify existing provisions related to disputes over customer-provided PIU factors. The revisions establish procedures for authenticating PIUs and specify a course of action for when a customer does not respond to telephone company requests for documentation supporting the customer's provided PIU factors.

In order to change the accuracy of customers' bills, mitigate the potential for inaccurate PIU factors, and maintain consistency with NECA regulations for issuing carriers for JSI Tariff FCC No. 1, JSI proposes revisions that:

- Clarify that the telephone company will use customer-provided PIU factors only when it is unable to jurisdictionalize traffic using data available to the telephone company.
- Specify that if a customer fails to provide the required PIU factor(s) either on its initial order for service or subsequent updates, the telephone company will develop factors using the characteristics of the customer's traffic that the telephone company is able to jurisdictionalize. Such telephone company-developed factors will be used, as needed, until the customer provides updated factors.
- Introduce a provision that requires customers to retain, for a minimum of six months, call detail records that substantiate PIU factor(s) provided to the telephone company. If a customer uses a mechanized system, then a description of the system and the methodology used to determine the PIU factors will also be required.
- Modify the regulations related to billing disputes to introduce regulations for verification audits for switched access services. When there is a billing dispute the telephone company may, by written request, require the customer to provide the data the customer used to determine the projected PIU factor(s). This will be considered the initiation of an audit of the customer's data supporting the projected PIUs. The customer may select among four options as to who will conduct the audit:

- The telephone company;
- An independent auditor selected and paid for by the telephone company;
- A mutually agreed upon independent auditor paid for equally by the telephone company and customer; or
- An independent auditor selected and paid for by the customer.

In addition, clarifying language is being added to specify how FGA/FGB and FGC/FGD traffic should be jurisdictionalized based on call detail data.

c. Changes in Section 1, Application of Tariff

In this filing JSI is eliminating inadvertent inclusion in Section 1, Application of Tariff, of language allowing small company tariffs to reference JSI Tariff FCC No. 1. JSI inadvertently included the language in 1993 at the time of original issue of JSI Tariff FCC No. 1 based on paralleling NECA Tariff FCC No. 5 regulations.

Also respecting Section 1, Application of Tariff, JSI is eliminating obsolete language concerning NECA billing and administration of Universal Service Fund Charges and Lifeline Charges.

3. CONCLUSION

Based on the foregoing, JSI believes that the modifications proposed in this transmittal are reasonable and the Commission should permit this transmittal to become effective on December 6, 2003.