

ACCESS SERVICE

RATES, RULES AND CHARGES

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23. Pricing Flexibility Contract Offerings

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer23.4.1 General Description

(N)

(Nx)

Contract Offer No. 4 - 2005 Access Extension Offer is an access discount plan for which subscription is required to the following access tariffs: Ameritech Operating Companies (Ameritech) Tariff F.C.C. No. 2, Southwestern Bell Telephone Company Tariff F.C.C. No. 73, Nevada Bell Telephone Company Tariff F.C.C. No. 1, The Southern New England Telephone Company Tariff F.C.C. No. 39, and Pacific Bell Telephone Company Tariff F.C.C. No. 1. (Ameritech, Southwestern Bell Telephone Company, Nevada Bell Telephone Company and Southern New England Telephone Company shall be identified herein as the Qualified Companies). To be eligible for discounts under this Contract Offer, the Customer must meet the Eligibility Criteria set forth in Section 23.4.2 and also must comply with all terms and conditions of this Contract Offer.

(Nx)

(N)

Contract Offer No. 4 requires eligible customers to establish and maintain a Total Revenue Commitment (TRC), as described in Section 23.4.6 following. The TRC shall include all Contributory Services purchased from the Qualified Companies eligible under this Contract Offer. Contributory Services include Contributory Subject Services, as listed in Section 23.4.5, Table 3, herein, in addition to Contributory Non-Subject Services (that are not Contributory Subject Services), as described in Section 23.4.5, Table 4, herein. Contributory Non-Subject Services shall not be eligible for discounts or other incentives provided under this Contract Offer. All Contributory Services described in Section 23.4.5 must be purchased through the SBC wholesale sales channel (SBC Industry Markets).

(N)

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23. Pricing Flexibility Contract Offerings

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer23.4.2 Eligibility Criteria

(N)

(Nx)

The following eligibility criteria must be met to subscribe to Contract Offer No. 4:

(A) Managed Value Plan (MVP) Subscription

(1) At the time of subscription to this Contract Offer, the Customer must have MVP agreements pursuant to

- (a) SWBT Tariff F.C.C No. 73, Section 38; and
- (b) Ameritech Tariff F.C.C. No. 2, Section 19; and
- (c) Pacific Bell Tariff FCC No. 1, Section 22.

(Nx)

(2) The Customer must maintain eligibility under all MVP agreements until they expire.

(3) Such MVP agreements must all be expiring in 2005.

(B) Customer must have billed revenue from Contributory Services, as listed in Section 23.4.5, net of all discounts, credits, and adjustments equal to or greater than 86.6 percent of 2004 Gross Spend rounded to the nearest million times 7/12's as of August 1, 2005 or must buy-up to that amount no later than 60 days after August 1, 2005 in order to qualify and remain qualified for Contract Offer No. 4.

(N)

(Nx)

(C) Concurrent Subscription

The Customer must concurrently subscribe to the identical Contract Offer of Contract Offer No. 4 pursuant to the following tariffs:

- (1) SWBT Tariff F.C.C No. 73, Section 41, Contract Offer No. 54;
- (2) Ameritech Tariff F.C.C. No. 2, Section 22, Contract Offer No. 73;
- (3) The Southern New England Telephone Company Tariff F.C.C. No. 39, Section 25, Contract Offer No. 17; and
- (4) Pacific Bell Tariff FCC No. 1, Section 33, Contract Offer No. 65.

(Nx)

(N)

(D) Discounts applied under Contract Offer No. 4 are applicable for services located in MSAs as listed in Tariff F.C.C. No. 1, Section 22.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.3 Terms and Conditions(A) Term Period

The contract term (Term Period) will begin when the Customer submits a Letter of Subscription (LOS) and will end on December 31, 2005.

(B) Terms and Conditions

- (1) The Customer must establish and maintain a TRC as described in Section 23.4.6 following.
- (2) Two (2) true-up periods will occur during the Term Period of this Contract Offer:
 - (a) The first true-up will include all billing with respect to periods from the time of subscription to Contract Offer No. 4 up to and including the final MVP true-up and will take place no later than 30 days after the expiration of the Customer's final MVP regional contract, as described in 23.4.7 (A).
 - (b) The final true-up will include all billing with respect to periods from the first day following the expiration of the Customer's final MVP contract up to and including December 31, 2005 and will take place no later than 30 days thereafter, as described in 23.4.7(B).
- (3) MVP credits will continue to apply, if applicable. The MVP MATA process will take place as part of the first true-up described in Section 23.4.7 herein.
- (4) Contract Offer No. 4 is only available for subscription from August 1, 2005 through August 31, 2005.
- (5) Any transfer of services from non-SBC wholesale entities/Access Customer Name Abbreviation (ACNA) will require an equivalent increase in the TRC commitment based on the amount of revenue associated with the transferred services. The Customer's maximum Basic Credit Amount will not change as a result of the transfer.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.3 Terms and Conditions (Cont'd)(B) Terms and Conditions (Cont'd)

- (6) Customer will be eligible to subscribe to contract offers in Section 23 (or any successor section) filed prior to (providing the subscription window is still open) or after Contract Offer No. 4, as long as such contract offers do not reduce the TRC requirement under Contract Offer No. 4 and the Customer qualifies for and adheres to the terms, conditions and eligibility requirements of the contract offer. For any contract offer which states that subscribers under such contract offer are not eligible to combine such contract offer with other contract offers, the Customer will not be permitted to earn any Achievement Credits with respect to such purchases, except that for any contract offer that by its terms states that nonrecurring charges apply under such contract offer the Customer will not be eligible to earn Basic or Achievement Credits associated with those nonrecurring charges.
- (7) Terms and Conditions for Contributory Subject Services pursuant to other contract offers the Customer is currently subscribed to at the time of subscription to this Contract Offer shall continue to apply to those Contributory Subject Services covered under the other contract offers.
- (8) Contributory Services continue to be governed by the respective terms and conditions (including MVP provisions with respect to services subject to MVP for so long as the Customer's MVP subscription remains in effect) as defined in F.C.C. Tariff No. 1, except as noted herein.
- (9) The Customer must subscribe to the services available under this Contract Offer No. 4 in accordance with the regulations set forth in Section 5 - Ordering Options for Switched and Special Access Service.
- (10) The Customer must submit a completed Letter of Subscription (LOS) to the Qualified Companies as described in 23.4.3(A).

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.3 Terms and Conditions (Cont'd)(B) Terms and Conditions (Cont'd)

- (11) The Customer must maintain an Access Service Ratio, equal to or greater than 95 percent. The Access Service Ratio is defined in Section 23.4.4 and will be measured monthly.
- (12) The Customer must remit bill payments as described in F.C.C. 1 Section 2.4.1 for all Contributory Services via electronic payment process. The Qualified Companies will provide Customer with written notice if customer fails to comply with the requirement. The Customer will have ten (10) business days from receipt of such written notice to comply. If the Customer does not comply, the Qualified Companies shall have the right to terminate this Contract Offer. In the event of termination by the Qualified Companies, termination liability charges as set forth in Section 23.4.11 will apply. Credits, if applicable, will not be issued until the Customer has paid all billed charges
- (13) If the Customer discontinues service under Contract Offer No. 4 during the Term Period, termination liability charges will apply in accordance with Section 23.4.11.

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.4 Access Service Ratio

(A) As referenced in Section 23.4.4, the Customer and its affiliates must maintain an Access Service Ratio of 95 percent or greater. The ratio, calculated monthly, is the Access Revenue divided by Access Revenue plus Wholesale Revenue. To maintain compliance with this contract offer, the ratio must be greater than or equal to 95 percent.

The 95-percent ratio is calculated as follows:

$$\frac{\text{Access Revenue}}{\text{Access Revenue} + \text{Wholesale Revenue}}$$

(1) Access Revenue is the Customer's and its affiliates' current interstate recurring billed revenue associated with the rate elements, as defined in Table 1 below, or comparable interstate access services, from all Qualified Companies:

TABLE 1:

| Service | General/Basic Description |
|---|---------------------------|
| Voice Grade | 7.7.1 |
| Generic Digital Transport (DS0), High Capacity (DS1 and DS3) Services | 7.10.1 & 7.11.1 |
| Optical Carrier Network | 21.1 |
| GigaMAN | 7.13.1 |

(2) Wholesale Revenue is the Customer's and its affiliates' recurring billed revenue for associated rate elements, as defined in Table 2 below, from all Qualified Companies not included in the interstate or intrastate access tariff(s).

(N)

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(N)

23. Pricing Flexibility Contract Offerings (Cont'd)23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.4 Access Service Ratio (Cont'd)

(A) (Cont'd)

(2) (Cont'd)

Table 2

| Service Level | Associated Rate Elements Not Included in Interstate Tariff |
|--------------------------|--|
| Voice Grade/DS0 | 2-wire analog and 2-wire digital loops 2-wire analog and digital transport |
| DS1/LT1 | 4-wire digital loop DS1 Entrance Facilities DS1 Interoffice Transport DS1 Cross Connects DS1 Multiplexing All DS1 non-tariffed Committed Information Rate Broadband Services |
| DS3/LT3 | DS3 Loop DS3 Entrance Facilities DS3 Interoffice Transport DS3 Cross Connects DS1/DS3 Multiplexing All DS3 non-tariffed Committed Information Rate Broadband Services |
| OC-3 OC-12 OC-48 | OC-3 Entrance Facilities OC-3 Interoffice Transport OC-3 Cross Connects OC-3 Multiplexing OC-12 Entrance Facility OC-12 Interoffice Transport OC-12 Cross Connects OC-12 Multiplexing OC-48 Entrance Facilities OC-48 Interoffice Transport OC-48 Cross Connects OC-48 Multiplexing All OCN equivalent non-tariffed Committed Information Rate Broadband Service |
| Other Transport Products | Dark Fiber - Interoffice Dark Fiber - Loop Dark Fiber - Subloop Dark Fiber Cross Connects Unbundled Dedicated Transport |

(3) As new rate elements are introduced to Table 1 in this section, all recurring revenues associated with the new rate elements will automatically be added to the Customer's Access Revenue, as defined in this section, for calculation of the Access Service Ratio.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.4 Access Service Ratio (Cont'd)

(A) (Cont'd)

(4) As new rate elements are introduced to table 2 in Section 23.4.4(A)(1), all recurring revenues associated with the new rate elements will automatically be added to the Customer's Annual Wholesale Revenue, as defined in Section 23.4.4(A)(1) preceding, for calculation of the Access Service Ratio.

(5) If the Customer fails to meet the Access Service Ratio in any given month of the Term Period, upon notification from the Qualified Companies, the Customer will have ten (10) business days to notify the Qualified Companies in writing that it will meet or exceed the 95-percent Access Service ratio within 60 days. Failure to achieve compliance in 60 days will constitute a default and Qualified Companies shall have the right to terminate Contract Offer No. 4. In the event of a termination by Qualified Companies, termination liability charges will apply as set forth in Section 23.4.11 following.

Credits will not be issued until the Customer has met the 95-percent Access Service Ratio.

23.4.5 Contributory Services

The TRC shall include all Contributory Services purchased from the Qualified Companies eligible under this Contract Offer. Contributory Services include Contributory Subject Services, as listed in Section 23.4.5, Table 3, in addition to Contributory Non-Subject Services (that are not Contributory Subject Services), as described in Section 23.4.5, Table 4, herein.

Contributory Subject Services and Contributory Non-Subject Services shall together be known as Contributory Services.

(A) Contributory Subject Services

Contract Offer No. 4 applies to pricing flexibility qualified access services (referred to as Contributory Subject Services) located in pricing flexibility Metropolitan Statistical Areas (MSAs) as listed in Tariff F.C.C. No. 1, Section 22. Contributory Subject Services are eligible for discounts and credits under this Contract Offer and are listed in Table 3.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.5 Contributory Services (Cont'd)(B) Contributory Non-Subject Services

Contributory Non-Subject Services shall not be eligible for discounts or other incentives provided under this Contract Offer.

Customer's TRC includes revenue from all Contributory Services being provided by the Qualified Companies, as listed in Table 3 and 4 below.

Any new Special Access services added to the respective tariffs by SBC during the Term Period will qualify as Contributory Services and will be deemed to be added to the tables below.

Table 3 - Contributory Subject Services

| Contributory Subject Services | |
|--|---|
| Interstate Special Access | VG, DS0, DS1, DS3, OCN PTP, DSRS, SRAS, STN, FGTS, BCS, MON, Gigaman, DAL, Program Audio, Video |
| Interstate Switched Transport | Entrance Facility, Direct Transport |
| Includes Recurring and Non-Recurring Charges (including termination charges) associated with the products listed where applicable, except as described in Section 23.4.7 following, for all services located in Pricing Flexibility MSA's. | |

Table 4 - Contributory Non-Subject Services

| Contributory Non-Subject Services | |
|--|--|
| Interstate Special Access | VG, DS0, DS1, DS3, OCN PTP, DSRS, SRAS, STN, FGTS, BCS, MON, Gigaman, Opt-E-MAN, DAL, Program Audio, Video |
| Interstate Switched Transport | Entrance Facility, Direct Transport |
| Intrastate Special Access | Equivalent services as Interstate Special Access above if available |
| Includes all Recurring and Non-Recurring Charges (including termination charges) associated with the products listed where applicable, except as described in Section 23.4.7 following, for all non-price flex qualified services. | |

All Terms and Conditions for all Contributory Services are governed by their respective tariff sections.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC)

The Customer must establish and maintain a Total Revenue Commitment (TRC) as provided in this Contract offer. Upon subscription, the Customer TRC will be established based on billed revenue from Contributory Services, as listed in Section 23.4.5, net of all discounts, credits, and adjustments as specified in Section 23.4.6 (B)(1)(b) equal to 86.6 percent of 2004 Gross Spend rounded to the nearest million times 5/12's.

Example: Customer subscribes to this Contract Offer on August 1, 2005. Customer's 2004 Gross Spend equals \$121.3M. 86.6% of 121.3M equals \$105M (rounded to the nearest million). 5/12's of \$105M equals \$43.75 TRC.

$$\$121.3M * 86.6\% = \$105M/12 = \$8.75M * 5 = \$43.75M$$

(A) Gross Spend, as defined in Section 23.4.6 (A)(1),(2), (3),(4),(5), and (6) is calculated by taking the sum of all of the purchases from the Qualified Companies, as described in Section 23.4.5 preceding, based on billed revenue. The Gross Spend is net of all discounts from existing optional payment plans or other tariffs or offers utilized by the Customer as of the date of subscription to this Contract Offer, any renewals, replacements or extensions of the foregoing, and any underlying tariff performance credits, but does not include discounts received under MVP (MARC or SLA credits).

(1) Interstate Special Access recurring charges billed to the Customer associated with services described in Section 23.4.5 Table 3 and 4 preceding.

(2) Interstate Special Access non-recurring charges billed to the Customer (including but not limited to items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges) except as noted in 23.4.6(A)(6).

(3) Intrastate Special Access recurring charges billed to the Customer associated with services described in Section 23.4.5 Table 4 preceding.

(4) Intrastate Special Access non-recurring charges billed to the Customer (including but not limited to items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges) except as noted in 23.4.6(A)(6) below.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)

(A) (Cont'd)

- (5) Interstate Switched Access Dedicated Transport recurring and non-recurring charges (including but not limited to items such as termination liability charges, expedite charges, cancellation charges, rearrangement charges, installation charges, and access order charges) billed to the Customer for rate elements in Table 5 below.

Table 5

| Service | General Basic Description |
|------------------------|---------------------------|
| Entrance Facilities | Section 6.7.1(D)1 |
| Direct Trunk Transport | Section 6.7.1(D)2 |

- (6) Non-recurring charges detailed in 23.4.6(A)(2),(4), and (5) above exclude Special Construction and unregulated time and materials charges (e.g. Inside Wire, Custom Work Orders, etc.)

(B) Application of Credits

The Customer is eligible to receive two (2) types of credits under this Contract Offer.

(1) Basic Credit

The Basic Credit is equal to the difference between the TRC and the purchase of Contributory Services up to 148.9 percent of the TRC (rounded to the nearest million). The Customer will receive Basic Credits on Contributory Subject Services.

- (a) Calculation of the Basic Credit. To determine the amount of Basic Credit the Customer can achieve, the TRC is multiplied by 148.9 percent. This amount less the TRC will equal the potential eligible Basic Credit rounded to the nearest million. If qualified, award of Basic Credit under this Contract Offer shall satisfy the Qualified Companies' Basic Credit obligations.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)(B) Application of Credits (Cont'd)(1) Basic Credit (Cont'd)

(a) (Cont'd)

Example:

The Customer has 2004 Gross Spend of \$121.3M.
86.6 percent of 2004 Gross Spend equals \$105M
rounded to the nearest million.

The TRC is equal to 5/12's of \$105M.
5/12's of \$105M equals 43.75M

The eligible total Basic Credit available is:

$\$43.75 * 148.9\% = \$65.14M$
 $\$65.14M - \$43.75M = \$21M$ eligible Basic Credits
rounded to the nearest million.

- (b) The following credits issued to the Customer associated with the Contributory Services covered under the TRC -- MVP Commitment credits, MVP SLA credits, and credit received under the first true-up attributable to this Contract Offer -- but not including any discounts or credits described in 23.4.6(B)(1)(c) below, will be used by the Qualified Companies to satisfy any applicable Basic and Achievement Credit obligations under this Contract Offer.

Example:

The Customer has TRC of \$43.75M. The Customer achieves 148.9 percent of TRC equal to \$65.14M. The Customer has received or is entitled to receive a total of \$7M in MVP Commitment Credits and \$2M in MVP SLA Credits for a total of \$9M in credits unrelated to this Contract Offer.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)(B) Application of Credits (Cont'd)(1) Basic Credit (Cont'd)

(b) (Cont'd)

Table 6

| 2004 Gross Spend calculated as described above | 86.6 percent of 2004 Gross Spend (rounded) | TRC = 5/12's of 86.6 percent 2004 Gross Spend | 148.9 percent of TRC as described above |
|--|--|---|---|
| \$121.3M | \$105M | \$43.75M | \$65.14M |

SBC's Basic Credit obligations to the Customer in the amount of \$21M (\$65.14M - \$43.75M, rounded to the nearest million) under Contract Offer No. 4 will be satisfied by the \$9M in non-contract related credits acquired by the Customer under MVP and MVP SLA, and \$12M in Basic Credits paid related to this Contract Offer. This amount will be determined at the final true-up period once all other credits have been applied accordingly as described in table 6.

- (c) MVP Commitment credits applicable to periods prior to 2005, MVP SLA credits applicable to periods prior to 2005, or other credits applicable to periods prior to 2005; other discounts from optional payment plans or other tariffs or offers utilized by the Customer as of the date of subscription to this Contract Offer, any renewals, replacements, or extensions of the foregoing, and any underlying tariff performance credits (other than MVP SLA credits) will not be used to satisfy any applicable Basic or Achievement Credit Obligations under this Contract Offer.

The Customer will not pay less than the TRC for the Term Period, except as described in Section 23.4.8 following; if the Customer does not achieve the TRC through the purchase of Contributory Services as of December 31, 2005, the Customer will be required to pay the deficiency.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)(B) Application of Credits (Cont'd)(1) Basic Credit (Cont'd)

(c) (Cont'd)

Basic Credits shall be calculated and awarded on an aggregate basis across the Qualified Companies. If qualified for a Basic Credit, an award of Basic Credit under this Contract Offer shall satisfy any Basic Credit obligations of the other Qualified Companies under the tariff offerings listed in Section 23.4.2(C), and an award of Basic Credit under such other Contract Offers shall satisfy any Basic Credit obligations under this Contract Offer No. 4.

The total Basic Credit will be increased dollar for dollar to the extent that any amount by which Gross Spend during the Term Period exceeds 148.9 percent of the TRC is attributable to increases in tariff rates effective after March 31, 2005.

Example:

Customer's Gross Spend increased \$10M due to applicable tariff rate increases after March 31, 2005.

Customer exceeds 148.9% of TRC by \$30M.

Of the \$30M, \$10M is added to Basic Credit
\$20M would receive Achievement Credit equal 17%

(2) Achievement Credits

Achievement Credits are those credits the Customer will receive based on purchases of Contributory Subject Services above 148.9 percent of the TRC.

- (a) Achievement Credits are applied to purchase of services as described in Section 23.4.5 in excess of 148.9 percent of the TRC commitment. The amount of applicable credit will be determined based on the amount of Gross Spend above the TRC commitment as defined in Section 23.4.6 preceding, measured at the final true-up period described in Section 23.4.7 below. The Customer will receive a discount on Contributory Subject Services equal to 17 percent of total revenue above 148.9 percent of the TRC.

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(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)(B) Application of Credits (Cont'd)(2) Achievement Credits

(a) (Cont'd)

Achievement Credits shall be calculated and awarded on an aggregate basis across the Qualified Companies. If qualified, award of Achievement Credit under this Contract Offer shall satisfy the Qualified Companies' Achievement Credit obligations.

Example:

The Customer has TRC of \$43.75M. The Customer achieves 155 percent of TRC equal to \$67.8M. The Customer will receive \$21M in Basic Credits as described above, and the Customer will receive \$452K in Achievement Credits calculated as follows:

$$(\$67.8\text{M minus (TRC} \times 148.9\%)) \times 17\%$$

$$\begin{aligned} \$67.8\text{M} - \$65.14\text{M} (\$43.75\text{M} \times 148.9\%) &= \$2.66\text{M} \\ \$2.66\text{M} \times 17\% &= \$452\text{K (Achievement Credits).} \end{aligned}$$

Table 7

| | |
|---|----------|
| 148.9% of TRC | \$65.14M |
| Gross Spend Achievement during Term Period (GSA) | \$67.8M |
| Difference between 148.9% of TRC and GSA | \$2.66M |
| Credit due for billed revenue above 148.9% of TRC x 17% | \$452K |

The Customer receives \$21M in Basic Credits plus \$452K in Achievement Credits for total credits of \$21.452M as described in table 7.

(3) Transfer of Qualified Services

- (a) Any transfer of services from non-SBC wholesale entities/ACNAs will require an equivalent increase in the TRC commitment based on the amount of revenue associated with the transferred services. The Customer's maximum Basic Credit Amount will not change as a result of the transfer.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.6 Calculation of the Total Revenue Commitment (TRC) (Cont'd)(B) Application of Credits (Cont'd)(3) Transfer of Qualified Services

(a) (Cont'd)

Example: Customer has a TRC of \$43.75M and is eligible to earn up to a maximum of \$21M in Basic Credits. Customer transfers \$10M of services from a non-SBC wholesale entity. The Customer's new TRC will be \$53.75M (\$43.75M plus \$10M = \$53.75M). The Customer's maximum Basic Credit Amount (\$21M) will not change as a result of the transfer.

23.4.7 True-up Process

To determine TRC achievement, two true-up calculations will be performed as follows:

- (A) First True Up - At the expiration of the final regional MVP agreement, the minimum required revenue will be based on the TRC proportionately divided between the months of 2005 in whole or in part under MVP and the months of 2005 not under MVP plus 7/12's of 86.6 percent of 2004 Gross Spend as described in Section 23.4.2 preceding.

Example 1: MVP expires 8/31/05. The Customer must meet a minimum of 1/5 of \$43.75M TRC commitment which is equivalent to \$8.75M plus 7/12's of 86.6 percent of 2004 Gross Spend as described in Section 23.4.2 preceding.

Example 2: MVP agreements expire 8/31/05 and 10/31/05. The Customer must meet a minimum of 3/5's of \$43.75M TRC which is equivalent to \$26.25M plus 7/12's of 86.6% of 2004 Gross Spend as described in Section 23.4.2 preceding.

If the Customer's purchase of Contributory Services, after all credits as described above, is greater than the minimum required revenue at time of true-up, the Customer will receive a Basic Credit equivalent to revenue above the minimum required revenue amount.

If the Customer's purchase of Contributory Services is below the minimum required revenue at the time of true-up, the Customer will be billed the amount required to meet the minimum revenue amount required and will pay such bill pursuant to Section 23.4.7(D).

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.7 True-up Process (Cont'd)

- (B) Final True Up - On December 31, 2005 calculation of final TRC achievement will be made to determine any eligible Basic or Achievement credits.

If the Customer purchase of Contributory Services, after all credits as described above, is greater than the TRC required at time of true-up, the Customer will receive a Basic Credit against Contributory Subject Services equal to the amount above the TRC not to exceed the amount outlined in Section 23.4.6(B) preceding.

Example 3: The Customer's TRC is \$43.75M.

The Customer's purchase of Contributory Services is \$54M
The Customer will receive Basic Credit equal to \$11.75M

If the Customer purchase of Contributory Services, after all credits as described above, is below the TRC at the time of the final true-up, the Customer will be billed the amount required to meet the TRC commitment amount and will pay such charge pursuant to Section 23.4.7(D).

Example 4: The Customer's TRC is \$43.75M.

The Customer's purchase of Contributory Services is \$38.75M
The Customer must pay \$5M.

If the Customer's purchase of Contributory Services, after all credits as described above, is greater than 148.9 percent of the TRC commitment, the Customer will receive a Basic Credit against Contributory Subject Services equal to the difference between the TRC and 148.9 percent of TRC, and an Achievement Credit against Contributory Subject Services equal to a 17 percent discount on services above 148.9 percent of TRC.

Example 5: The Customer's TRC is \$43.75M

The Customer's purchase of Contributory Services is \$67.8M
The Customer receives \$21M in Basic Credits and \$452K in Achievement credits.

- (C) If at the time of final true-up the Qualified Companies owe the Customer a Basic Credit amount as described above, the credit will be applied to the Customer's bill no later than 30 days after the final true-up date.

- (D) If at the time of true-up the Customer must buy-up to meet the TRC as described above, payment must be submitted to the Qualified Companies no later than 30 days after the true-up date.

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.8 Service Level Agreement (SLA)

The Qualified Companies will calculate the MVP SLA 1 performance measurement point value and the SLA 2 performance measurement as described in F.C.C. 1 Section 22.3(G), as if it were applicable for the full 2005 calendar year. The Qualified Companies will calculate the MVP SLA 1 performance measurement point value and the SLA2 performance measurement as described in F.C.C. 1 Section 22.3(G) as if it were applicable for the full 2004 calendar year. No credits will be rendered with respect to 2005 based on these calculations, but if these calculations show that the Qualified Companies would have paid out a higher amount under the MVP SLAs in calendar year 2005 (if the Customer had been eligible to receive credits under the MVP SLAs through calendar year 2005) than what the Qualified Companies would have paid out under the MVP SLAs in calendar year 2004, the Qualified Companies will determine the difference between what the Qualified Companies paid out under MVP SLA in calendar year 2004 versus what the Customer would have been eligible to receive under MVP SLA if MVP extended through calendar year 2005. If the MVP SLA credit amount the Qualified Companies would have paid out for calendar year 2005 is greater than the MVP SLA credit amount paid out for calendar year 2004, then the MVP SLA credit amount the Customer received in calendar year 2004 will be subtracted from the amount of MVP SLA credit the Customer would have qualified for in calendar year 2005 and, if a positive number, the amount of any difference, less any impact based on an MVP MARC increase, will be deducted from the Customer's TRC.

Any credits due to the Customer resulting from any deduction to the TRC under this section will be determined and applied after the December 31, 2005 true-up process is finalized.

Example A: MVP calendar year 2005 effective SLA credit would be greater than MVP calendar year 2004 SLA credit

The Customer MVP MARC = \$30M (with MVP term agreement expiration August 31, 2005)

MVP calendar year 2004 total SLA credit = 1%

$\$30M * 1\% = \$300K$ total SLA credit received by the Customer in calendar year 2004

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.8 Service Level Agreement (SLA) (Cont'd)Example A: (Cont'd)

MVP calendar year 2005 effective SLA credit the Customer would have received if MVP extended through December 31, 2005 = 2%

$\$30M * 2\% = \$600K$ total SLA credit the Customer would have received in calendar year 2005.

MVP calendar year 2005 effective SLA credit (\$600K) minus MVP calendar year 2004 credit (\$300K) = \$300K

The Customer qualifies for a \$300K SLA credit to be applied to the Customer TRC.

$\$105M - \$300K = \$104.7M$ (new TRC)

Example B: MVP calendar year 2005 effective SLA credit is less than or equal to MVP calendar year 2004 SLA credit

The Customer MVP MARC = \$30M (with MVP term agreement expiration August 31, 2005)

MVP calendar year 2004 total SLA credit = 1%

$\$30M * 1\% = \$300K$ total SLA credit received by the Customer in 2004.

MVP calendar year 2005 effective SLA credit the Customer would have received if MVP extended through December 31, 2005 = 1%

$\$30M * 1\% = \$300K$ effective SLA credit the Customer would have received in 2005.

MVP plan year 2005 effective SLA credit (\$300K) minus MVP plan year 2004 SLA credit (\$300K) = \$0

The Customer does not qualify for any additional SLA credits toward its TRC.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.9 Assignment and Transfer

If the Customer wishes to assign or transfer its use of services under this Contract Offer No. 4 pursuant to F.C.C. No. 1, Section 2.1.2 of this Tariff, the Qualified Companies will acknowledge such transfer or assignment pursuant to the terms of F.C.C. No. 1, Section 2.1.2, unless:

- (1) the proposed assignee or transferee demonstrates a lack of credit worthiness under one of the criteria in (A) or (B) below, or
- (2) if the proposed assignee or transferee or its parent company has commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it).
 - (A) Any debt securities of the proposed assignee or transferee or its parent (defined as an entity that owns directly or indirectly, more than 50 percent of the equity of the proposed assignee or transferee) are rated below investment grade, as defined by the Securities and Exchange Commission or if any debt securities of a proposed assignee or transferee or its parent are rated the lowest investment grade and have been placed on review by the rating organization for a possible downgrade.
 - (B) The proposed assignee or transferee does not have any outstanding securities rated by credit rating agencies (e.g. Standard and Poor's), but does have a Dun and Bradstreet rating, and the proposed assignee or transferee is rated "fair" or below in a composite credit appraisal published by Dun and Bradstreet, or "high risk" in a Paydex score as published by Dun and Bradstreet.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.10 Mergers and Acquisitions

The Terms and Conditions of this Contract Offer shall continue in full force and in effect if the Customer, in whole or in part, merges with, acquires, is acquired by, sells all or substantially all its stock or assets to any other entity or purchases all stock or substantially all stock or certain assets of another company (the foregoing generally referred to herein as a merger or acquisition). Upon the Transaction Close Date of the merger or acquisition, if the other company involved in the merger or acquisition also purchases any services that are Contributory Services under this Contract Offer No. 4 from the Qualified Companies, the Contributory Services as provided for in this Contract Offer will continue to be maintained at the same volume, rates, terms, and conditions as outlined herein. The Transaction Close Date shall be defined as the date that the stock purchase is complete and/or the final date on which the assets of the acquired/merged company have been purchased.

The terms and conditions of Section 23.4.9 above do not apply when the merger or acquisition occurs in accordance with the provisions outlined in section 23.4.10 above.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.11 Termination Liability Charges

Termination liability language described below applies in lieu of the termination liability language in FCC 1, Section 7. If the Customer terminates Contract Offer No. 4 before the expiration of the Term Period for any reason whatsoever the Customer must pay the Qualified Companies termination liability charges as described below. These charges shall become due as of the effective date of the cancellation or termination. The Customer must provide written notification ninety (90) days prior to the desired date of termination to the Qualified Companies. This notification must include the date upon which the Customer will terminate the Contract Offer.

If the Customer fails to meet any of the eligibility criteria in Section 23.4.2, or fails to meet any of the Terms and Conditions in Contract Offer No 4, then the Qualified Companies shall provide the Customer with written notification of such non-compliance and the Customer will have sixty (60) days to return to compliance. If the Customer does not return to compliance within such time period, the Customer will be deemed to have terminated its participation in Contract Offer No. 4 and termination liability charges will apply as stated below and will be payable within thirty (30) days from the time the contract is deemed terminated.

If the Customer terminates its subscription to this Contract Offer prior to September 30, 2005, the Customer must pay termination liability charges in an amount equivalent to a prorated portion of the TRC based upon the remaining months of the TRC as shown below:

(A) Example:

The Customer's TRC is \$43.75M. The Customer subscribed to this contract offer August 1, 2005. The Customer terminates the contract on August 31, 2005. The Customer has 4 months remaining on the contract term and will owe \$35M in termination liability

$$\$44.75\text{M}/5 * 4 = \$35\text{M} = \text{in termination liability}$$

If the Customer terminates its subscription to this Contract Offer after September 30, 2005, the Customer must pay termination liability charges in an amount equivalent to a prorated portion of the TRC commitment based upon the remaining months of 2005, as well as any credits received under this Contract Offer.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.4 Contract Offering No. 4 - 2005 Access Extension Offer (Cont'd)23.4.11 Termination Liability Charges (Cont'd)

(B) Example:

The Customer's TRC is \$43.75M. The Customer subscribed to this contract offer August 1, 2005. The Customer terminates the contract on October 31, 2005. The Customer has 2 months remaining on the contract term and has received \$5M in the first true-up under this Contract Offer.

$\$43.75\text{M}/5 * 2 = \17.5M plus
\$5M in first true-up

$\$17.5\text{M} + \$5\text{M} = \$22.5\text{M}$ in termination liability

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