

ACCESS SERVICE

32. Contract Tariffs (Cont'd)

32.48 Contract Tariff Option 47

(N)

(A) Scope

Contract Tariff Option 47 (**Option 47**) provides a customer with Billing Credits (as defined below) on certain Facilities Management Service (**FMS**) Channel Mileage rate elements when the customer maintains a minimum number of FMS Transport Miles (as defined below) and satisfies the other criteria as set forth in this Option 47.

(B) Definitions

Unless otherwise defined in this Option 47, the following terms are used in this Option 47.

- (1) **Alternative Tariff Arrangement** shall mean collectively any other generally available tariff arrangement, contract tariff option, special service arrangement, or Individual Case Basis (**ICB**) tariff arrangement offered by the Telephone Company and available to the customer pursuant to this tariff with respect to any of the services covered by this Option 47.
- (2) **BANS** shall mean Billing Account Numbers of the customer which shall be used to provide the Billing Credits (if any) to the customer.
- (3) **Billing Credit** shall mean collectively the amounts (if any) provided to the customer as a credit on its monthly bill at the end of each Quarter during the Service Period based on the applicable Discounts on the specific services (as set forth in (H) following) offered to the customer pursuant to this Option 47. Calculation of the applicable Billing Credits is described in (I) following.
- (4) **Discount** shall mean collectively the discounts (if any) on FMS Channel Mileage Rate Elements as provided under the terms of Option 47 of this tariff and Option 46 of the Telephone Company's Tariff F.C.C. No. 1 (FCC 1). Discounts offered on FMS Channel Mileage Rate Elements is described in (H) following.

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32. Contract Tariffs (Cont'd)

32.48 Contract Tariff Option 47 (Cont'd)

(N)

(B) Definitions (Cont'd)

(5) **FMS Channel Mileage Rate Elements** shall mean the monthly recurring rates for the channel mileage rate elements included within the FMS Plan as follows.

(a) The FMS Channel Mileage Rate Elements for this tariff are described in Section 6.2.12(F)(3) preceding for Switched Access FMS and Section 7.2.16(F)(3) preceding for Special Access FMS.

(b) The monthly recurring rates for FMS Channel Mileage in this tariff are set forth in Sections 30.6.9(A)(2) and (B)(2) preceding for Price Band rates and Section 31.6.9(A)(2) and (B)(2) preceding for all other rates for Switched Access FMS and preceding for Special Access FMS Sections 30.7.18(A)(2) and (B)(2) preceding for Price Band rates and Sections 31.7.18(A)(2) and (B)(2) preceding for all other rates (as determined in accordance with Section 15.3 preceding).

(c) The FMS Channel Mileage Rate Elements for FCC 1 are described in Section 6.8.26(D)(10) for Switched Access FMS and Section 7.2.13(D)(11) for Special Access FMS.

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(d) The monthly recurring rates for Switched Access FMS Channel Mileage for FCC 1 are set forth in Section 6.9.10(D) as determined in Section 14.7. The monthly recurring rates for Special Access FMS Channel Mileage for FCC 1 are set forth in Section 7.5.18(C) as determined in Section 14.7.

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(6) **FMS Plan** shall mean the Switched Access or Special Access FMS Services provided pursuant to Sections 6.8.26 and 7.2.13 preceding of this tariff and Sections 6.2.12 and 7.2.16 of FCC 1.

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(7) **FMS Transport Miles** shall mean the aggregate number of miles billed by the Telephone Company to the customer for FMS Channel Mileage Rate Elements during each month of the Service Period for all FMS Plan Services provided pursuant to this tariff and to FCC 1, and which miles are not subject to dispute by the customer. If the customer disputes the billing of any mileage for the FMS Channel Mileage Rate Elements (e.g., number of miles billed for a circuit is incorrect), then such miles shall not be included in the calculation of FMS Transport Miles. Unless manifest error can be demonstrated by the customer, the Telephone Company's calculation of such aggregate mileage shall be deemed to be accurate, and shall not be subject to dispute by the customer.

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32. Contract Tariffs (Cont'd)32.48 Contract Tariff Option 47 (Cont'd)

(B) Definitions (Cont'd)

- (8) **Grooms** shall mean a change in the connecting facility assignment (CFA) or termination point of a Special Access DS1 or DS3 Service, and shall include any of the following types of moves, rearrangements, reterminations, disconnection, and reconnection, or other changes (however characterized) to the Special Access Service: (i) a change in the Customer Designated Premises from one location to another; (ii) a change in the CFA or termination point within a single Telephone Company wire center; or (iii) a change in the CFA or termination point from one Telephone Company wire center to CFA in another Telephone Company wire center (CFA can be associated with a facility provided by either the Telephone Company or provided by a collocator).
- (9) **Maximum Monthly Grooms** shall have the meaning set forth in (J) following.
- (10) **Minimum FMS Transport Miles** shall have the meaning set forth in (G) following.
- (11) **MRC** shall mean monthly recurring rates or charges for the services provided pursuant to Telephone Company tariffs.
- (12) **Prior Contract Options** shall mean Contract Tariff Option 40 preceding of this tariff and Contract Tariff Option 37 of FCC 1.
- (13) **Quarter** shall mean either of the following periods, as applicable: (i) the period from May 1, 2007 to July 31, 2007; or (ii) August 1, 2007 to October 31, 2007.

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32. Contract Tariffs (Cont'd)

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(N)

(J) Limitation on Grooms

In consideration for the terms and conditions set forth herein, including the Discounts and Billing Credit offered by the Telephone Company, the customer and the Telephone Company agree to the following:

- (1) Subject to the terms of this Section (J), commencing on May 1, 2007, and during each month of the Service Period, the Telephone Company shall not be required to perform Grooms of more than twenty-five (25) Special Access circuits per month, of which number no more than two (2) Special Access circuits may be equal to DS3 or greater bandwidth (**Maximum Monthly Grooms**).
- (2) The Maximum Monthly Grooms limitation set forth in (J)(1) preceding shall only apply to the following LATAs: 128, 132, 130, 134, 136, 140, 224, 226, 228, 230, 234, 236, 238, 248, 252. When determining the Maximum Monthly Grooms limitation, the Telephone Company shall count all Grooms ordered during the month in any of the operating territories for such LATAs of this tariff and FCC 1 and within any of the operating territories specified for such LATAs in the Telephone Company's Tariffs F.C.C. No. 14 and/or F.C.C. No. 16.

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32. Contract Tariffs (Cont'd)

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(N)

(K) Termination of Plan

- (1) Subject to the terms set forth in this Section (K), the customer may terminate this Option 47 at any time during the Service Period. The customer must provide written notice of termination at least thirty (30) days prior to the requested date of termination of this Option 47, and termination of this Option 47 shall be deemed to be an automatic termination of Option 46 in FCC 1.
- (2) If the customer terminates or cancels this Option 47 at any time during the Service Period, then the customer shall pay (no later than thirty (30) days after such date of termination) to the Telephone Company an amount equal to one hundred percent (100%) of all Billing Credits paid up to the date of such termination under this Option 47 (i.e., all Billing Credits paid since May 1, 2007). The terms of (J) preceding shall continue to apply until the end of the Service Period regardless of any early termination by the customer as set forth in this Section (K).

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(L) FMS Plan Extension and Combined Commitment Levels

(1) Extension of FMS Plan

The customer and the Telephone Company hereby agree that the FMS Plans which are expiring as of May 1, 2007 shall be extended to October 31, 2007. In the event that the customer terminates any FMS Plan prior to October 31, 2007, termination liability under each FMS Plan shall apply as set forth in Sections 6.2.12(G)(3) and 7.2.16(G)(3) preceding of this tariff and Sections 6.8.26(F) and 7.2.13(F) of FCC 1.

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(2) Combined Commitment Levels

The customer shall establish one DS-0 commitment level (as specified in Sections 7.2.16(E)(5) and 6.2.12(E)(5) preceding of this tariff and Sections 7.2.13(D)(3) and 6.8.26(D)(3) of FCC 1 (**Combined Commitment Level**) for all of its FMS Special Access and Switched Access under both FMS Plans, thereby allowing the Telephone Company to manage the FMS Plans as a single plan across both this tariff and FCC 1. An Annual Review (as described in this tariff and in FCC 1) will be conducted following the expiration of the Service Period hereunder. In the event that the customer does not meet the Combined Commitment Level at the time of the Annual Review (as described in this tariff and in FCC 1), then the customer shall be subject to any applicable shortfall penalties that may be assessed in accordance with Sections 6.2.12(E)(4)(b) and 7.2.16(E)(4)(b) preceding of this tariff and Sections 6.8.26(D)(3)(b)(ii) and 7.2.13(D)(3)(b)(ii) of FCC 1.

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