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SECTION 10 – Toll VOIP-PSTN TRAFFIC

10.1 Toll Voice Over Internet Protocol – Public Switched Telephone Network ("VoIP - PSTN") Traffic

A. This section governs the identification and treatment of toll VoIP-PSTN Traffic that is required to be compensated at interstate access rates unless the parties have agreed otherwise in a written agreement. Specifically, this section establishes the method of separating such traffic (referred to in this tariff as "Relevant VoIP-PSTN Traffic") from a Customer's traditional intrastate access tariff, so that such Relevant VoIP-PSTN Traffic can be billed in accordance with the FCC Order. (N) (N)

B. Company will bill and collect interstate switched access rates on traffic exchanged with Customers when such traffic originates and/or terminates in Internet Protocol format, as set forth in Section 51.913 of the Federal Communications Commission's rules, 47 C.F.R. §51.913, regardless of whether the Company itself delivers such traffic to the called party's premises or the call is delivered to the called party's premises by an affiliated or unaffiliated provider of
interconnected Voice over Internet Protocol service or a non-interconnected Voice over Internet Protocol service that does not itself seek to collect interstate access charges. [1] (N) (N)

C. Toll intrastate VoIP – PSTN traffic is subject to the Company's applicable interstate switched access rate per minute, as set forth in the Company's F.C.C. Tariff No. 2.

D. Calculations and Applications of Percent VoIP-PSTN (N)

Company will determine the number of Relevant VoIP-PSTN Traffic minutes of use ("MOU") to which interstate rates will be applied under subsection 10.1.A above, by applying a Percent VoIP Usage ("PVU") factor to the total intrastate access MOU exchanged between a Company End User and the Customer. The PVU will be derived and applied as follows. (N)

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1 *See, In the Matter of Connect America Fund A National Broadband Plan for Our Future Establishing Just and Reasonable Rates for Local Exchange Carriers High-Cost Universal Service Support Developing an Unified Intercarrier Compensation Regime Federal-State Joint Board on Universal Service Lifeline and Link-Up Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, Docket Nos. WC Docket No. 10-90, *et al.*, FCC 11-161, (Rel. November 18, 2011) paragraphs #940-#960.

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1. The Customer will calculate and furnish to Company a factor (the "PVU-A") representing the percentage of the total intrastate MOU that the Customer exchanges with Company in the State, that (a) is sent to Company and that originated in IP format; or (b) is received from Company and terminated in IP format. This PVU-A shall be based on information such as the number of the Customer's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information. (N)

2. Company will similarly calculate a factor (the "PVU-B") representing the percentage of Company's total intrastate MOU in the State that Company originates or terminates on its network in IP format. This PVU-B shall be based on information such as the number of Company's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information.

3. Company will use the PVU-A and PVU-B factors to calculate a PVU factor that represents the percentage of total intrastate MOU exchanged between a Company End User and the Customer that is originated or terminated in IP format, whether at Company's end, at the Customer's end, or at both ends. The PVU factor will be calculated as the sum of: (A) the PVU-A factor and (B) the PVU-B factor times (1.0 minus the PVU-A factor).

4. Company will apply the PVU factor to the total intrastate access MOU exchanged with the Customer to determine the number of Relevant VoIP-PSTN Traffic MOUs.

   Example 1: The PVU-B is 10% and the PVU-A is 40%. The PVU factor is equal to 40% + (10% x 60%) = 46%. Company will bill 46% of the Customer's intrastate access MOU at its applicable tariffed interstate rates.

(N)

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Example 2: The PVU-B is 10% and the PVU-A is 0%. The PVU factor is 0% + (100% x 10%) = 10%. Company will bill 10% of the Customer's intrastate access MOU at Company's applicable tariffed interstate switched access rates. (N)

Example 3: The PVU-A is 100%. No matter what the PVU-B factor is, the PVU is 100%. Company will bill 100% of the Customer's intrastate access MOU at Company's applicable tariffed interstate switched access rates.

5. If the Customer does not furnish Company with a PVU factor, the Company will utilize –the Company's PVU.

E. Initial PVU Factor

If the PVU factor is not available and/or cannot be implemented in Company's billing systems by January 1, 2012, once the factor is available and can be implemented the Company will adjust the Customer's bill to reflect the PVU factor retroactively to January 1, 2012. In calculating the initial PVU Factor, the Company will take the Customer specified PVU-A into account retroactively to January 1, 2012, provided that the Customer provide it's PVU-A to the Company no later than April 15, 2012; otherwise; the Company will set the initial PVU equal to the Company's PVU (PVU-B) as specified in Section 10.1 D. 5. (N)

F. PVU Factor Updates

The Customer may update the PVU factors quarterly. The Customer shall submit such updates no later than the 15th day of January, April, July and October of each year. Revised PVU factors must be based on data for the prior three months ending the last day of December, March, June and September respectively. The revised PVU factors will be used for future billing and will be effective on the bill date of each month and will be used for subsequent monthly billing until superseded by a new PVU factor. No prorating or backbilling will be done based on the updated PVU factors. (M) (M) (N)

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G. PVU Verification

(N)

Not more than twice in any year, Company may ask the Customer to verify the PVU-A factor furnished to Company and a Customer may ask Company to verify the PVU-B factor and the calculation of the PVU factor. The party so requested shall comply, and shall reasonably provide the records and other information used to determine the respective PVU-A and PVU-B factors. (N)

H. Auditing Procedures:

a. If the Company questions the information provided by the Customer to justify its PVU, the Company will send a letter to the Customer (by certified US Mail, return receipt requested) requesting that the Customer contact the Company to discuss and explain their report within thirty (30) days of the Company's request. (M)

b. If no response is received from the Customer, the Company will send a letter to the Customer (by certified U.S. Mail, return receipt requested) requesting the work papers and summary as described in D., preceding, used by the Customer to substantiate the most recent PVU percentage. The requested information must be submitted by the Customer to the Company within thirty (30) days after receipt of the certified letter.

c. If the Customer submits the work papers and summary as requested in b., the Company will review this information within thirty (30) days after receipt of the Customer information.

d. If after review of the documentation, the Company and the Customer establish a revised PVU, the Company will begin using that percentage with the next billing period prospectively. (M)

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e. If the Company and the Customer do not establish a revised PVU, the Company will begin the procedures as set forth in g., following. (M)

f. If no response is received from the Customer, the Company will begin the auditing procedures as set forth in g., following.

g. When the jurisdictional PVU is disputed, the Company may request an audit. The audit procedures and responsible parties for payment of the audit expenses will be determined as follows:

*If the Company and the Customer mutually agree upon an independent Certified Public Accountant (CPA) auditing firm and the parties agree to equally share in the payment of audit expenses, both the Company and the Customer will be bound by such an agreement; or

- The Customer may select an independent CPA auditing firm and pay all audit expenses.
- If the audit is not conducted as set forth preceding, the Company may select an independent CPA auditing firm and pay all the expenses.
- Once completed, if the Company and Customer audits differ, the
- Company shall continue to utilize the most recent undisputed PVU factors until the dispute is resolved.

h. The Company will adjust the Customer's PVU based upon the audit results. The PVU resulting from the audit shall be applied to the usage for the quarter the audit is completed and the usage for the quarter prior to the completion of the audit. After that time, the Customer may report a revised PVU pursuant to D., preceding. The Company will implement the revised PVU tin the next billing period or next quarterly report date, whichever is first.

(M)

I. This section of the tariff does not preclude the parties from negotiating different rates, terms and conditions governing compensation for toll VoIP-PSTN traffic. This tariff does not supersede rates, terms and conditions compensation for toll VoIP- PSTN traffic in existing interconnection agreements. Rates, terms and conditions governing reciprocal compensation for toll VoIP-PSTN traffic in this tariff apply prospectively. (M)

(M)

(D)