

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd) (D)

2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic

A. Scope

This section only applies to toll VoIP-PSTN traffic exchanged between the Company and the customer in time division multiplexing ("TDM") format that originates and/or terminates in Internet protocol ("IP") format. Toll VoIP-PSTN traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment. (T) (T)

1. This section governs the identification of originating and terminating intrastate toll VoIP-PSTN traffic and facilities to which interstate switched access rates apply (unless the parties have agreed otherwise) in accordance with the transitional Intercarrier Compensation framework for toll VoIP-PSTN traffic adopted by the Federal Communications Commission in its Report and Order, FCC Release No. 11-161 (Nov. 18, 2011) ("FCC Order"). Specifically, this section establishes the method that will be used to identify the percentage of the customer's intrastate access traffic, that will be treated as intrastate toll VoIP-PSTN traffic (referred to in this tariff as " Relevant Toll VoIP-PSTN Traffic"),
2. This section applies to originating and terminating intrastate switched access minutes of use ("MOU") and facility rate elements of all Access customers.
3. The customer shall not modify its reported PIU factor to account for the toll VoIP-PSTN Traffic for MOU and facility rate elements.

B. Rating of Toll VoIP-PSTN Traffic

The Relevant Toll VoIP-PSTN Traffic terminating from the customer to the Company and facility rate elements identified in accordance with this tariff section will be billed at rates equal to the Company's applicable tariffed terminating interstate switched access rates as specified at <http://serviceguide.att.com/ABS/ext/TariffDetails.cfm> in AT&T's F.C.C. No. 28, Section 17.13.3-17.15.1, unless the corresponding intrastate rate is lower. If the intrastate rate is lower, then the intrastate rate will be applied to the relevant VoIP-PSTN Traffic for billing. Relevant VoIP-PSTN Traffic originating from the Company or another provider to the customer will be rated using intrastate rates and rate structure until June 30, 2014. (T) (T) (T) (N) (N)

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2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd) (D)

2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic (Continued)

C. Calculation and Application of Percent-VoIP-Usage Factors

The Company will determine the number of Relevant Toll VoIP-PSTN Traffic terminating MOU and facility rate elements to which VOIP rates will be applied under subsection (B), above, by applying the Percent VoIP Usage ("PVU") factor to the intrastate access terminating MOU exchanged and facilities between the Company and the customer. The PVU factors will be derived and applied as follows: (T)

1. The customer will calculate and furnish to the Company a factor (the "PVUC") on an ACNA basis which would aggregate traffic from Carrier Identification Code(s) ("CIC") or Operating Company Numbers ("OCNs") associated with the ACNA. This PVUC represents the percentage (whole number) of the total terminating intrastate access MOU that the customer exchanges with the Company end users in the State, that is sent to the Telephone Company that originated in IP format at the end user. This PVUC 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. (T)

2. The Company will calculate and periodically update a factor (the "PVUT") representing the percentage (whole number) of the total intrastate access MOU that the Company exchanges with the customer end users in the State, that is received from the Customer and terminated in IP format at the end user. This PVUT 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. (T)

2. GENERAL REGULATIONS

- 2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd) (D)
- 2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic (Continued)
- C. Calculation and Application of Percent-VoIP-Usage Factors (Continued)
3. The Company will develop a Customer Percent VoIP Usage ("PVU") factors combining the Customer's PVUC factor with the Company's PVUT factor. (T)
- a. The PVU calculation below is applied when the Company does not bill based on actual call detail records for the intrastate Company's IP traffic at relevant VOIP rates. (T)
- PVU = PVUC + [PVUT x (1-PVUC)] is applied to the traffic exchanged between the Company and customers end user's total intrastate MOU and facility rate elements (T)
- Example: The customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following: (T)
- PVU = 40% plus (10% times (1-40%)) = 46%
- This means that 46% of the terminating Intrastate MOU exchanged between the customer and the Company's end users will be rated at VOIP rates. (T)

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- 2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic (Continued)
- C. Calculation and Application of Percent-VoIP-Usage Factors (Continued)
- b. The PVU calculation below is applied when the Company bills are based on the actual call detail records for the intrastate Company's IP traffic at VOIP rates. (T)
- The formula for usage will be as follows:
- PVU = PVUC x (1-PVUT) applied to the traffic exchanged between the customer and the Company's TDM end user's total terminating intrastate MOU. (T)
- PVU = PVUC + [PVUT x (1-PVUC)] is applied to the facility rate elements
- Example: The Company has identified that there was 10,500 Intrastate MOU that were identified exchanged between the Customer and the Company's IP end users. The Customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following: (T)
- PVU = 40% times (1-10%) = 36% (T)
- This means that 36% of the terminating Intrastate MOU exchanged between the Customer and the Company's TDM end users will be rated at VOIP rates and the intrastate 10,500 MOU will also be rated at Interstate rates. (T)
- For the facility rate elements the formula that is applied to the intrastate dedicated facilities is as follows:
- PVU = 40% plus (10% times (1-40%)) = 46%
- Therefore 46% of the Intrastate facilities will be rated at VOIP rates. (T)
4. If the customer does not furnish the Company with a PVUC pursuant to the preceding paragraph (C) (1), the Company will utilize a customer PVUC of 0%. (T)

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2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

(D)

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(D)

(D)

D. PVU Factor Updates

The customer and the Company must update the PVUC factor using the method set forth in subsection (C) (1) through (4), above. The customer shall forward to the Company, no later than September 15, 2012, this new PVUC factor.

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(N)
(N)

Prospectively, the customer may update the PVUC factor quarterly using the method set forth in subsection (C) (1) through (4) above. If the customer chooses to submit such updates, it shall forward to the Company, no later than 15 days after the first day of January, April, July and/or October of each year, a revised PVUC factor based on data for the prior three months, ending the last day of December, March, June and September, respectively. The Company will use the revised PVUC to calculate a revised PVU. The revised PVU factor will only apply prospectively and serve as the basis for billing until superseded by a new PVU.

(N)
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(T)

E. PVU Factor Verification

Not more than twice in any year, either party may ask to verify the PVU factor furnished. Both parties shall comply and shall reasonably provide the records and other information used to determine their PVU, as specified in section (C) (1) and (4) above. Both parties shall retain and maintain (for verification purposes) the records and other information used to determine the PVU for at least 12 months after the PVU is filed (or longer if any other section of the Company's tariffs or applicable law requires a longer period). The verification process shall be conducted consistent with the provisions in the AT&T F.C.C. No. 28, Section 2.3.10. Any billing disputes related to PVU factors will be addressed using the existing claim process outlined in AT&T F.C.C. No. 28, Section 2.4.2-2.

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2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic (Continued)

F. Verification Process

(N)

The Company will review these Customers provided PVUC records referenced in E. above. If the review results represent what the Company considers to be a substantial deviation from the customer's previously reported PVUC or if the PVUC appears unreasonable as compared to other related types of data, the Company will contact the customer within 30 days. This deviation issue will be dealt within one of the following ways. The current PVUC will continue to be utilized until resolution from either of the 2 methods below.

1. The Company and the customer will come to an agreement as to an appropriate PVUC within 30 days of receipt of the customer's PVUC records, bringing the issue to the customer's attention.
2. Within 45 days of the receipt of these records by the Company, either the Company or the customer may make the customer's PVUC records available to an independent auditor (no less reputable than the firm that such party would use in the normal course of business for its annual report) for review and to determine the PVUC. The party requesting the independent audit will be responsible for all costs associated with the audit. If these PVUC records are not available or these records are not reasonable enough for the auditor to calculate the PVUC, then a PVUC factor of zero will be assigned if this is the customer's initial factor. If this is an update to a previous factor, the previous factor will be utilized until either a PVUC can be agreed upon between the Company and the customer or an audit can be completed utilizing records acceptable for determination of a PVUC by the auditor. When an auditor determines a PVUC, that PVUC will be employed until the next customer-provided PVUC is available as referenced in the (D) or (F) procedures above. The Company will apply the auditor-determined PVUC retroactively to the date when the reviewed PVUC was submitted by the Customer.

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2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.16 Identification and Rating of Toll VoIP-PSTN Traffic (Continued)

F. Verification Process (Continued)

3. If the review of the Company's PVUT factor represents what the customer considers to be a substantial deviation from the Company's previously applied PVUT, or if the PVUT appears unreasonable as compared to other related types of data, the customer will notify the Company within 30 days of receipt and the question of reasonableness and acceptance will be resolved.

- a. The Company will provide the records within 10 days after notice, and the Company and the customer may agree to an appropriate PVUT within 30 days of the provision of the PVUT records.
- b. Within 45 days of the receipt of these records by the customer, either the Company or the customer may make the Company PVUT records available to an independent auditor (no less reputable than the firm that such party would use in the normal course of business for its annual report) for review and to determine the PVUT. The party requesting the independent audit will be responsible for all costs associated with the audit. The Company will apply the auditor-determined PVUT retroactively to the date when the customer's most recent PVUT was submitted.

G. Initial PVU Factor

If the PVU factors are not available and/or cannot be implemented in the Company's billing system by January 1, 2012, when the factors are available and can be implemented in the Company's billing systems, the Company will adjust the customer's bills to reflect the PVU factors retroactively to January 2012 usage and facilities. In calculating the initial PVUC factors, the Company will employ the customer-specified PVUC retroactively to January 2012 usage and facilities, provided that the customer provides the factor to the Company no later than 30 days from the effective date of this tariff. Otherwise, it will set the initial PVU factors, as specified in subsection (C)(4) above.

(N)

(N)

2. GENERAL REGULATIONS

2.6 DEFINITIONS

Access Minutes

For the purpose of calculating chargeable usage, the term "Access Minutes" denotes Customer usage, in minutes of use, of Access Service in the provision of intrastate service. Unless otherwise provided in this tariff, on the originating end of an intrastate Call, usage is measured from the time the originating End User's Call is delivered by the Company to and acknowledged as received by the Customer's facilities connected with the originating exchange, and on the terminating end of an intrastate Call, usage is measured from the time the Call is received by the End User in the terminating exchange. Unless otherwise provided in this tariff, timing of usage at both originating and terminating ends of an intrastate Call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating exchanges, as applicable.

Access Service

The term "Access Service" denotes the use of the network or facilities of the Company to enable a Customer to originate or terminate a Call. Notwithstanding the foregoing, "Access Service" does not include any service that constitutes Network Interconnection Service.

Access Tandem

The term "Access Tandem" denotes a switching system which provides a concentration and distribution function for originating or terminating traffic between the Customer Premises and End Offices that are served by such Access Tandem.

ACNA

(N)

Access Customers Name Abbreviation

(N)

Affiliate

The term "Affiliate" denotes a person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person or entity. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of 50 percent or more.

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