

ACCESS SERVICE

14. Voice Over Internet Protocol - Public Switched Telephone Network Factor

14.1 General.

14.1.a The following prospective Intercarrier Compensation ("ICC") framework shall apply to Voice over Internet Protocol ("VoIP") - Public Switched Telephone Network ("PSTN") traffic that would otherwise be subject to the Telephone Company's terminating intrastate toll access charges. This framework is being established solely as a result of the Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, released November 18, 2011 (the "Report and Order") by the Federal Communications Commission ("FCC") and the FCC's Order, DA 12-147, released February 3, 2012. (T)

14.1.b The filing of this Section 14 by the Telephone Company is not and may not be used as an admission that the prior ICC frameworks applicable to the assessment of access charges to intrastate traffic originated on or terminated to the Telephone Company's network do not apply.

14.1.c The Telephone Company retains the right to alter the terms and conditions of this Section 14 in order to conform to the requirements of the Report and Order, including any and all changes that may be made to the ICC structure adopted by the FCC in the Report and Order.

14.2 Scope of Section 14.

14.2.a The terms of this Section 14 shall only apply to traffic that a customer, in good faith, demonstrates to be within the definition of "Intrastate Toll VoIP-PSTN Traffic."

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14.2.b For purposes of applying the definition of Intrastate Toll VoIP-PSTN Traffic the following shall apply:

14.2.b.i The term "Intrastate Toll" means traffic involving calling and called end users, both of which are identified as being located in the State of Nebraska, one of which is identified as being located outside of the local calling area of the Telephone Company, and the other of which is a Telephone Company end user identified as being located within the local calling area. The determination of Intrastate Toll shall be made through the application of the traffic identification provisions of this Tariff and those that may exist in the Telephone Company's then effective interstate tariff (including provisions related to Percent Interstate Use) or through some other negotiated traffic identification arrangements included in an interconnection agreement between the customer and the Telephone Company.

14.2.b.ii The term "VoIP" means traffic that is originated by or terminated to an end user in Internet Protocol format, *i.e.*, calls that utilize Internet protocol-compatible customer premises equipment.

14.2.b.iii The term "PSTN" means traffic that, regardless of the originating or terminating format used by the customer and the Telephone Company, is exchanged between the customer and the Telephone Company in Time Division Multiplexing format.

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14.3 Establishment of the Percent VoIP Usage Factor

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- 14.3.a Should the customer desire to avail itself of the provisions of this Section 14, the customer shall first provide to the Telephone Company a factor for Intrastate Toll VoIP-PSTN Traffic identified through the application of Section 14.2, above (the "Percent VoIP Usage" or "PVU" factor).
- 14.3.b No customer shall provide a PVU factor without, in good faith, the ability to promptly supply traffic studies or other reasonable analyses to demonstrate the accuracy of the PVU factor.
- 14.3.c Timing of and procedures applicable to the update of a PVU factor by a customer shall be governed by the provisions applicable to updating of a Percent Interstate Usage as contained in this Tariff or in the Telephone Company's interstate exchange access tariff.
- 14.3.d Timing of and procedures applicable to an audit by the Telephone Company of a customer's PVU factor shall be governed by the audit provisions applicable to the Percent Interstate Usage as contained in this Tariff or in the Telephone Company's interstate exchange access tariff. Notwithstanding anything to the contrary set forth herein, upon reasonable request by the Telephone Company, a customer shall promptly provide the Telephone Company with the customer's traffic studies or other reasonable analyses that demonstrate the accuracy of the PVU factor.

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14.3.e Provided that the customer has not already included such traffic in its PVU factor calculation, in the event that the Telephone Company provides service to its end users via Internet Protocol-capable customer premises equipment, the Telephone Company shall report to the customer the percentage of its end users that utilize such an arrangement and shall apply such percentage to the total Intrastate Toll traffic and rate such traffic in a manner consistent with Section 14.4, below.

14.4 Application of the PVU Factor.

14.4.a Although subject to the dispute provisions of this Tariff and treated as intrastate jurisdictional traffic by the Telephone Company, traffic delivered to the customer or received from the customer for termination on the Telephone Company's network that is determined to be Intrastate Toll VoIP-PSTN Traffic by application of the PVU factor shall be subject to the lower of then (T)
applicable interstate access rates and rate structure (T)
established by the Telephone Company or the Company's (T)
corresponding then existing intrastate access rates. (T)

14.4.b Any dispute arising from the provisions of this Section 14 shall be subject to the dispute provisions of this Tariff. Notwithstanding any provision to the contrary, should a dispute arise under this Section 14 regarding the level of the reported PVU factor, until such time as such dispute is resolved, the customer shall pay the Telephone Company the applicable interstate access rate for the Intrastate Toll VoIP-PSTN Traffic that is subject to the dispute based on the Customer's reported PVU factor. True-ups of charges by the Telephone Company shall be based on the resolution of the dispute along with applicable interest as provided for in the dispute provisions of this Tariff.

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