

ORIGINAL

Before the  
FLORIDA PUBLIC SERVICE COMMISSION

Eureka Telecom, L.L.C. )  
 )  
Petition for a Certificate of )  
Authority to Provide )  
Interexchange Telecommunications )  
Within the State of Florida )

Docket No. 001201-TI

PETITION FOR CERTIFICATION TO PROVIDE  
INTEREXCHANGE TELECOMMUNICATIONS SERVICE

David Ellen  
Vice President and General Counsel  
Eureka Broadband Corporation  
270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016  
Telephone: (646) 935-2500  
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Chérie R. Kiser  
Mintz, Levin, Cohn, Ferris, Glovsky  
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701 Pennsylvania Avenue, N.W.  
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Counsel for Eureka Telecom, L.L.C.

DOCUMENT NUMBER-DATE

10339 AUG 23 06

FPSC-REGISTRATION REPORTING

(1) **This is an application for (check one)**

**Original certificate** (new company)

**Approval of transfer of existing certificate:** Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority.

**Approval of transfer of control:** Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

(2) **Name of Company**

Eureka Telecom, L.L.C.

(3) **Name under which the applicant will do business (fictitious name, etc.):**

Eureka Telecom, L.L.C.

(4) **Official mailing address (including street name & number, post office box, city, state, zip code):**

Eureka Telecom, L.L.C.  
270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

(5) **Florida address (including street name & number, post office box, city, state, zip code):**

800 West Cypress Creek Road  
Suite 410  
Ft. Lauderdale, FL 33309

(6) **Select type of business your company will be conducting v (check all that apply):**

**Facilities-based carrier** - company owns and operates or plans to own and operate telecommunications switches and transmission facilities in Florida.

**Operator Service Provider** - company provides or plans to provide alternative operator services for IXCs; or toll operator services to call aggregator locations; or clearinghouse services to bill such calls.

**Reseller** - company has or plans to have one or more switches but primarily leases the transmission facilities of other carriers. Bills its own customer base for services used.

- ( ) **Switchless Rebiller** - company has no switch or transmission facilities but may have a billing computer. Aggregates traffic to obtain bulk discounts from underlying carrier. Rebills end users at a rate above its unaggregated traffic.
- ( ) **Multi-Location Discount Aggregator** - company contracts with unaffiliated entities to obtain bulk/volume discounts under multi-location discount plans from certain underlying carriers, then offers resold service by enrolling unaffiliated customers.
- ( ) **Prepaid Debit Card Provider** - any person or entity that purchases 800 access from an underlying carrier or unaffiliated entity for use with prepaid debit card service and/or encodes the cards with personal identification numbers.

**(7) Structure of organization:**

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| ( ) <b>Individual</b>                                      | ( ) <b>Corporation</b>         |
| ( ) <b>Foreign Corporation</b>                             | ( ) <b>Foreign Partnership</b> |
| ( ) <b>General Partnership</b>                             | ( ) <b>Limited Partnership</b> |
| ( <b>X</b> ) <b>Other <u>Limited Liability Company</u></b> |                                |

**(8) If individual, provide:**

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
 Internet E-Mail Address: \_\_\_\_\_  
 Internet Website Address: \_\_\_\_\_

Applicant is not an individual.

**(9) If incorporated in Florida, provide proof of authority to operate in Florida:**

- (a) The Florida Secretary of State corporate registration number:

Applicant is not incorporated in Florida.

**(10) If foreign corporation, provide proof of authority to operate in Florida:**

- (a) The Florida Secretary of State corporate registration number:

M00000001313

(11) **If using fictitious name - d/b/a**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida:

(a) The Florida Secretary of State fictitious name registration number:

Applicant will not be using a fictitious name.

(12) **If a limited liability partnership**, provide proof of a registration to operate in Florida:

(a) The Florida Secretary of State registration number:

Applicant is not a limited liability partnership.

(13) **If a partnership**, provide name, title and address of all partners and a copy of the partner agreement.

Name:

Title:

Address:

City/State/Zip:

Telephone No.

Fax No.:

Internet E-Mail Address:

Internet Website Address:

Applicant is not a partnership.

(14) **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable.

(a) The Florida registration number:

Applicant is not a foreign limited partnership.

(15) **Provide F.E.I. Number** (if applicable)

52-2247045

(16) **Provide the following** (if applicable)

(a) Will the name of your company appear on the bill for your services?

(  ) Yes (  ) No

(b) If not, who will bill for your services?

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

(c) How is this information provided?

\_\_\_\_\_  
\_\_\_\_\_

(17) Who will receive the bills for your service?

- |                                                           |                                                           |
|-----------------------------------------------------------|-----------------------------------------------------------|
| <input checked="" type="checkbox"/> Residential Customers | <input checked="" type="checkbox"/> Business Customers    |
| <input type="checkbox"/> PATs providers                   | <input type="checkbox"/> PATs station end-users           |
| <input type="checkbox"/> Hotels & motels                  | <input type="checkbox"/> Hotel & motel guests             |
| <input type="checkbox"/> Universities                     | <input type="checkbox"/> Universities dormitory residents |
| <input type="checkbox"/> Other: (specify) _____           |                                                           |

(18) Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: Chérie R. Kiser

Title: Counsel for Eureka Telecom, L.L.C.

Address: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C.

701 Pennsylvania Avenue, N.W. Suite 900

City/State/Zip: Washington, D.C. 20004

Telephone No.: (202) 434-7300 Fax No.: (202) 434-7400

Internet E-Mail Address: Crkiser@mintz.com

Internet Website Address: www.mintz.com

**(b) Official point of contact for the ongoing operations of the company:**

Name: David Ellen  
Title: Vice President and General Counsel  
Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
City/State/Zip: New York, NY 10016  
Telephone No.: (646) 935-2500 Fax No.: (646) 935-2509  
Internet E-Mail Address: David.Ellen@eurekabroadband.com  
Internet Website Address: www.eurekabroadband.com

**(c) Complaints/Inquiries from customers:**

Name: Liza Novobilski  
Title: Customer Care Representative  
Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
City/State/Zip: New York, NY 10016  
Telephone No.: (800) 562-4206 Fax No.: (646) 935-2509  
Internet E-Mail Address: liza.novobilski@Eurekabroadband.com  
Internet Website Address: www.eurekabroadband.com

**(19) List the states in which the applicant:**

**(a) has operated as an interexchange telecommunications company.**

Eureka Telecom, L.L.C. ("Eureka") is a wholly-owned subsidiary of Eureka Broadband Corporation ("Eureka Broadband"), a privately held Delaware corporation. Eureka does not provide intrastate, interLATA telecommunications service to customers in any state.

**(b) has applications pending to be certificated as an interexchange telecommunications company.**

Eureka has applications pending to provide interexchange telecommunications services in New York and California.

**(c) is certificated to operate as an interexchange telecommunications company.**

Eureka is not yet certificated in any state to operate as an interexchange telecommunications company.

- (d) has been denied authority to operate as an interexchange telecommunications company and the circumstances involved.**

Neither Eureka nor Eureka Broadband have been denied authority to operate as an interexchange telecommunications company in any state.

- (e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.**

Neither Eureka nor Eureka Broadband have ever had any regulatory penalties imposed.

- (f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.**

Neither Eureka nor Eureka Broadband have been involved in civil court proceedings with any interexchange carrier.

- (20) Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:**

- (a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, please explain.**

No, to the best of our knowledge.

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- (b) an officer, director, partner or stockholder in any other Florida certified telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.**

No, to the best of our knowledge.

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(21) The applicant will provide the following interexchange carrier services v (check all that apply):

a.  MTS with distance sensitive per minute rates

Method of access is FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

b.  MTS with route specific rates per minute

Method of access if FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

c.  MTS with statewide flat rates per minute (i.e. not distance sensitive)

Method of access if FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

d.  MTS for pay telephone service providers

e.  Block-of-time calling plan (Reach Out Florida, Ring America, etc.).

f.  800 service (toll free)

g.  WATS type service (bulk or volume discount)

Method of access is via dedicated facilities

Method of access is via switched facilities



h.  **Private line services (Channel Services**  
(For ex. 1.544 mbs., DS-3, etc.)

i.  **Travel Service**

**Method of access is 950**

**Method of access is 800**

j.  **900 service**

k.  **Operator services**

**Available to presubscribed customers**

**Available to non presubscribed customers (for example, to Patrons of hotels, students in universities, patients in hospitals).**

l. **Services included are:**

**Station assistance**

**Person-to-person assistance**

**Directory assistance**

**Operator verify and interrupt**

**Conference calling**

The applicant's initial tariff (see Attachment A) may not reflect all of the above interexchange carrier services. The applicant may offer such services as indicated in this section the future, and will file the appropriate tariff revisions prior to offering such services to its end user customers.

**(22) Submit the proposed tariff under which the company plans to begin operation. Use the format required by Commission Rule 25-24.485**

See Attachment A.

**(23) Submit the following:**

A. **Financial capability.**

See Attachment B.

The application **should contain** the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall be so stated.

The unaudited financial statements should be signed by the applicants' chief executive officer and chief financial officer **affirming that the financial statements are true and correct** and should include:

1. the balance sheet;
2. income statement; and
3. statement of retained earnings.

**NOTE:** This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

Further, the following (which includes supporting documentation) should be provided:

1. **written explanation** that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. **written explanation** that the applicant has sufficient financial capacity to maintain the requested service.
3. **written explanation** that the applicant has sufficient financial capability to meet its lease or ownership obligations.

See Attachment B.

- B. Managerial capability: gives resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

See Attachment C.

- C. Technical capability: give resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what the company has been contracted to conduct technical maintenance.

See Attachment C.

**APPLICANT ACKNOWLEDGMENT STATEMENT**

- 1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
- 2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
- 3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
- 4. **APPLICATION FEE:** I understand that a non-refundable application fee of \$250.00 must be submitted with the application.

UTILITY OFFICIAL:

David Ell  
Signature

8/8/00  
Date

Vice President and General Counsel  
Title

(646) 935-2500  
Telephone No.

Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

(646) 559-2509  
Fax No.

(NOT APPLICABLE)

**\*\*APPENDIX A\*\***

**CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT**

I, (Name) \_\_\_\_\_,

(Title) \_\_\_\_\_ of (Name of Company)

\_\_\_\_\_ and current holder of Florida Public Service Commission Certificate Number # \_\_\_\_\_

\_\_\_\_\_, have reviewed this application and join in the petitioner's request for a:

sale

transfer

assignment

of the above-mentioned certificate.

UTILITY OFFICIAL:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone No.

Address: \_\_\_\_\_

\_\_\_\_\_  
Fax No.

\_\_\_\_\_

**APPLICANT ACKNOWLEDGMENT STATEMENT**

A statement of how the Commission can be assured of the security of the customer's deposits and advance payments may be provided in one of the following ways (applicant, please check one):

- ( X )      The applicant will **not** collect deposits nor will it collect payments for service more than one month in advance.
  
- (    )      The applicant intends to collect deposits and/or advance payments for more than one month's service and will file and maintain a surety bond with the Commission in an amount equal to the current balance of deposits and advance payments in excess of one month.  
(The bond must accompany the application)

UTILITY OFFICIAL:

David Ell  
Signature

8/8/00  
Date

Vice President and General Counsel  
Title

(646) 935-2500  
Telephone No.

Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

(646) 935-2509  
Fax No.

**CURRENT FLORIDA INTRASTATE SERVICES**

Applicant **has** ( ) or **has not** ( **X** ) previously provided intrastate telecommunications in Florida.

If the answer is has, fully describe the following:

**(a) What services have been provided and when did these services begin?**

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**(b) If the services are not currently offered, when were they discontinued?**

---

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UTILITY OFFICIAL:

David Ellis  
Signature

8/8/00  
Date

Vice President and General Counsel  
Title

(646) 906-2500  
Telephone No.

Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

(646) 559-2509  
Fax No.

**AFFIDAVIT**

By my signature below, I the undersigned, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative local exchange service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

**Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s.775.082 and s.775.083."**

UTILITY OFFICIAL:

David Ellin  
Signature

8/8/00  
Date

Vice President and General Counsel  
Title

(646) 935-2500  
Telephone No.

Address: 270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

(646) 935-2509  
Fax No.

**ATTACHMENT A**

**PROPOSED TARIFF**



**FLORIDA TELECOMMUNICATIONS TARIFF**

This Tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services within the State of Florida by Eureka Telecom, L.L.C.

---

Issued:

Effective:

David Ellen  
Vice President and General Counsel  
Eureka Telecom, L.L.C.  
270 Madison Avenue, 6<sup>th</sup> Floor  
New York, NY 10016

---

CHECK SHEET

The title page and pages 1-46 inclusive of this Tariff are effective as of the date shown. Original and revised sheets, as named below, comprise all changes from the original Tariff in effect on the date indicated.

<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>
Title	Original	23	Original
1	Original	24	Original
2	Original	25	Original
3	Original	26	Original
4	Original	27	Original
5	Original	28	Original
6	Original	29	Original
7	Original	30	Original
8	Original	31	Original
9	Original	32	Original
10	Original	33	Original
11	Original	34	Original
12	Original	35	Original
13	Original	36	Original
14	Original	37	Original
15	Original	38	Original
16	Original	39	Original
17	Original	40	Original
18	Original	41	Original
19	Original	42	Original
20	Original	43	Original
21	Original	44	Original
22	Original	45	Original
		46	Original

\* New or Revised Sheets

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New York, NY 10016

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CONCURRING, CONNECTING AND OTHER PARTICIPATING CARRIERS

CONCURRING CARRIERS:

No Concurring Carriers

CONNECTING CARRIERS:

No Connecting Carriers

OTHER PARTICIPATING CARRIERS:

No Participating Carriers

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TARIFF FORMAT

- A. Sheet Numbering - Sheet numbers appear in the upper right hand corner of the page. Sheets are numbered sequentially and from time to time new pages may be added to the Tariff. When a new page is added between existing pages, a decimal is added to the preceding page number. For example, a new page added between Pages 3 and 4 would be numbered 3.1.
- B. Sheet Revisions Numbers - Revision numbers also appear in the upper right corner of each. These numbers are used to determine the most current sheet version on file with the FPSC. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc, the FPSC follows in their tariff approval process, the most current sheet number on file with the Commission is not always the tariff page in effect. Consult the Check Sheet for the sheet currently in effect.
- C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2.
  - 2.1.
  - 2.1.1.
  - 2.1.1.A.
  - 2.1.1.A.1.
  - 2.1.1.A.1.(a).
  - 2.1.1.A.1.(a).I.
  - 2.1.1.A.1.(a).I.(i).
  - 2.1.1.A.1.(a).I.(i).(1).

Check Sheets - When a Tariff filing is made with the FPSC, an updated check sheet accompanies the Tariff filing. The check sheet lists the pages contained in the Tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision, all revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it. The Tariff user should refer to the latest check sheet to find out if a particular page is the most current on file with the FPSC.

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APPLICABILITY

This Tariff contains the Service offerings, rates, terms and conditions applicable to the furnishing of intrastate interexchange telecommunications services within the State of Florida by Eureka Telecom, L.L.C. (hereinafter "Company").

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EXPLANATION OF SYMBOLS

- (D) To signify discontinued material
- (I) To signify a rate or charge increase
- (M) To signify material relocated without change in text or rate
- (N) To signify new material
- (R) To signify a reduction
- (T) To signify a change in text but no change in rate or regulation.

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1. TECHNICAL TERMS AND ABBREVIATIONS

For the purpose of this Tariff, the following definitions will apply:

Access Coordination

Provides for the design, ordering, installation, coordination, pre-service testing, service turn-up and maintenance on a Company or Customer provided Local Access Channel.

Administrative Change

A change in Customer billing address or contact name

Alternate Access

Alternate Access is a form of Local Access except that the provider of the Service is an entity, other than the Local Exchange Carrier, authorized or permitted to provide such Service. The charges for Alternate Access may be subject to private agreement rather than published or special tariff if permitted by applicable governmental rules.

Application for Service

A standard Company order form which includes all pertinent billing, technical and other descriptive information which will enable the Company to provide a communication Service as required.

ASR

ASR (Access Service Request) means an order placed with a Local Access Provider for Local Access.

Authorized User

A person, firm, corporation, or other entity that either is authorized by the Customer to receive or send communications or is placed in a position by the Customer, either through acts or omissions, to send or receive communications.

Bandwidth

The total frequency band, in hertz, allocated for a channel.

Bill Date

The date on which billing information is compiled and sent to the Customer.

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Call

A completed connection between the Calling and Called Stations.

Called Station

The telephone number called.

Calling Station

The telephone number from which a Call originates.

Cancellation of Order

A Customer initiated request to discontinue processing a Service order, either in part or in its entirety, prior to its completion. Cancellation charges will be assessed for each Circuit-end or Dedicated Access line canceled from an order prior to its completion by the Company, under the following circumstances: (1) if the LEC has confirmed in writing to the Company that the Circuit-end or Dedicated Access line will be installed; or (2) if the Company has already submitted facilities orders to an interconnecting telephone company.

Channel or Circuit

A dedicated communications path between two or more points having a Bandwidth or Transmission Speed specified in this Tariff and selected by a Customer.

Commission (or "FPSC")

Florida Public Service Commission

Company

Eureka Telecom, L.L.C.

Company Recognized National Holidays

The following are Company Recognized National Holidays determined at the location of the originator of the Call: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day.

The evening rate is used unless a lower rate would normally apply. When a Call begins in one rate period and ends in another, the rate in effect in each rate period applies to the portion of the Call occurring within that rate period. In the event that a minute is split between two rate periods, the rate in effect at the start of that minute applies.

---

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Customer

The person, firm, corporation or governmental unit which orders Service and which is responsible for the payment of charges and for compliance with the Company's Tariff regulations. A Customer is considered to be an account for billing purposes. The term Customer also includes an entity that remains presubscribed to the Company Service after its account(s) are removed from the Company's billing system, subsequently continues to use Company's network, and is billed by a local exchange carrier for such use, or otherwise uses Service for which no other Customer is obligated to compensate Company.

Customer Premises/Customer's Premises

Locations designated by a Customer where Service is originated/terminated whether for its own communications needs or for the use of its resale customers.

DCS

DCS means Digital Cross-Connect System

Dedicated Access/Special Access

Dedicated Local Access between the Customer's Premises or serving wire center and the Company's Point-of-Presence for origination or termination of Calls.

DS-0

DS-0 means Digital Signal Level 0 Service and is a 64 Kbps signal.

DS-1

DS-1 means Digital Signal Level 1 Service and is a 1.544 Mbps signal.

DS-0 with VF Access

DS-0 Service with VF Local Access facilities provides for the transmission of analog voice and/or data within 300 Hz to 3000 Hz frequency range.

DS-0 with DDS Access

DS-0 Service with DDS Local Access facilities provides for the transmission of digital data at speeds 2.4, 4.8, 9.6 or 56 Kbps.

Due Date

The Due Date is the date on which payment is due.

Expedite

A Service order initiated at the request of the Customer that is processed in a time period shorter than the Company's standard Service interval.

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FCC

Federal Communications Commission

FPSC (or "Commission")

Florida Public Service Commission

Individual Case Basis (ICB)

Individual Case Basis (ICB) determinations involve situations where complex Customer-specific Company arrangements are required to satisfactorily serve the customer. The nature of such Service requirements makes it difficult or impossible to establish general tariff provisions for such circumstances. When it becomes possible to determine specific terms and conditions for such offerings, they will be offered pursuant to such terms and conditions.

Installation

The connection of a Circuit, Dedicated Access line, or port for new, changed or an additional Service.

Interexchange Service

Interexchange Service means that portion of a communications channel between a Company-designated Point-of-Presence in one exchange and a Point-of-Presence in another exchange.

Interruption

Interruption shall mean a condition whereby the Service or a portion thereof is inoperative, beginning at the time of notice by the Customer to Company that such Service is inoperative and ending at the time of restoration.

Kbps

Kilobits per second.

LATA (Local Access Transport Area)

A geographical area established for the provision and administration of communications Service of a local exchange company.

Local Access

Local Access means the Service between a Customer Premises and a Company designated Point-of-Presence.

Local Access Provider

Local Access Provider means an entity providing Local Access.

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Local Exchange Carrier (LEC)

The local telephone utility that provides telephone exchange services.

Mbps

Megabits per second.

Multiplexing

Multiplexing is the sequential combining of lower bit rate Private Line Services onto a higher bit rate Private Line Service for more efficient facility capacity usage or vice versa.

N/A

Not available.

Nonrecurring Charges

Nonrecurring Charges are one-time charges.

Payment Method

The manner which the Customer designates as the means of billing charges for Calls using the Company's Service.

Physical Change

The modification of an existing Circuit, Dedicated Access line or port, at the request of the Customer, requiring some Physical Change or retermination.

Point-of-Presence (POP)

A Company-designated location where a facility is maintained for the purpose of providing access to its Service.

Primary Route

The route which, in the absence of Customer-designated routing or temporary re-routing, would be used by the Company in the provision of Service.

Private Line

A dedicated transmission channel furnished to a customer without intermediate switching arrangements for full-time customer use.

Private Line Service

A dedicated full-time transmission Service utilizing dedicated access arrangements.

Rate Center

A specified geographical location used for determining mileage measurements.

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Requested Service Date

The Requested Service Date is the date requested by the Customer for commencement of Service and agreed to by the Company.

Restore

To make Service operative following an interruption by repair, reassignment, re-routing, substitution of component parts, or otherwise, as determined by the carrier(s) involved.

Route Diversity

Two channels which are furnished partially or entirely over two physically separate routes.

Service

Service means any or all Service(s) provided pursuant to this Tariff.

Service Commitment Period

The term selected by the Customer and stated on the Service order during which the Company will provide the Services subscribed to by the Customer. The term can be monthly or in the case of Private Line Services for a period of up to 5 years.

Special Promotional Offering

Special trial offerings, discounts, or modifications of its regular Service offerings which the Company may, from time to time, offer to its Customers for a particular Service. Such offerings may be limited to certain dates, times, and locations.

Start of Service Date

The Requested Service Date or the date Service first is made available by the Company, whichever is later.

Tariff

The current Intrastate Services Tariff and effective revisions thereto filed by the Company with the FPSC.

Transmission Speed

Data transmission speed or rate, in bits per seconds (bps).

Two-Way Conversation

A Two-Way Conversation is a telephone conversation between or among two or more parties.

VF

VF is voice frequency or voice-grade Service designed for private-line Service. Normal transmission is in the 300 hertz to 3000 hertz frequency band.

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**2. RULES AND REGULATIONS****2.1. Description and Limitations of Services**

- 2.1.1. Intrastate Interexchange Telecommunications Service ("Service") is the furnishing of Company communication Services contained herein between specified locations under the terms of this Tariff.
- 2.1.2. Any member of the general public (including any natural person or legally organized entity such as a corporation, partnership, or governmental body) is entitled to obtain Service under this Tariff, provided that the Company reserves the right to deny Service: (A) to any Customer that, in the Company's reasonable opinion, presents an undue risk of nonpayment, (B) in circumstances in which the Company has reason to believe that the use of the Service would violate the provisions of this Tariff or any applicable law or if any applicable law restricts or prohibits provision of the Service, or (C) if insufficient facilities are available to provide the Service (in such cases Company shall make best efforts to accommodate the needs of all potential Customers by means of facility improvements or purchases, of capacity, if such efforts will, in the Company's opinion, provide the Company with a reasonable return on its expenditures), but only for so long as such unavailability exists.
- 2.1.3. Company, when acting at the Customer's request and as its authorizing agent, will make reasonable efforts to arrange for Service requirements, such as special routing, Diversity, Alternate Access, or circuit conditioning.
- 2.1.4. Service is offered in equal access exchanges subject to the availability of facilities and the provisions of this Tariff. Company reserves the right to refuse to provide Service to or from any location where the necessary facilities and/or equipment are not available.
- 2.1.5. Service may be discontinued as provided in Section 2.5 of this tariff.

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2. RULES AND REGULATIONS (cont'd)

2.1. Description and Limitations of Services (cont'd)

- 2.1.6. Service begins on the date that billing becomes effective and is provided on the basis of a minimum period of at least one month, 24 hours a day. For the purposes of computing charges in this Tariff, a month is considered to have 30 days.
- 2.1.7. Service will be provided until canceled, by the Customer on not less than thirty (30) days' written notice from the date of postmark on the letter giving notice of cancellation.
- 2.1.8. Nothing herein, or in any other provision of this Tariff, or in any marketing materials issued by the Company shall give any person any ownership, interest, or proprietary right in any code or 800 number issued by the Company to its Customers.
- 2.1.9. The Company reserves the right to discontinue furnishing Services or billing options, upon written notice, when necessitated by conditions beyond its control. Conditions beyond the Company's control include, but are not limited to, a Customer's having Call volume or a calling pattern that results, or may result, in network blockage or other Service degradation which adversely affects Service to the calling party, the Customer, or other Customers of the Company.
- 2.1.10 Except as otherwise provided in this Tariff or as specified in writing by the party entitled to receive Service, notice may be given orally or in writing to the persons whose names and business addresses appear on the executed Service order and except as otherwise provided herein, the effective date of any notice shall be the date of delivery of such notice, not the date of mailing. By written notice, Company or Customer may change the party to receive notice and/or the address to which such notice is to be delivered. In the event no Customer or Company address is provided in the executed Service order, notice shall be given to the last known business address of Customer or, as appropriate.

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**2.2 Other Terms and Conditions**

- 2.2.1. The name(s) of the Customer(s) desiring to use the Service must be stipulated in the application for Service.
- 2.2.2. The Customer agrees to operate the Company provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void the Company liability for interruption of Service and may make Customer responsible for damage to equipment pursuant to Section 2.2.3 below.
- 2.2.3. Customer agrees to return to the Company all Company-provided equipment delivered to Customer within five (5) days of termination of the Service in connection with which the equipment was used. Said equipment shall be in the same condition as when delivered to Customer, normal wear and tear excepted. Customer shall reimburse the Company, upon demand, for any costs incurred by the Company due to Customer's failure to comply with this provision.
- 2.2.4. A Customer shall not use any service mark or trademark of the Company or refer to the Company in connection with any product, equipment, promotion, or publication of the Customer without prior written approval of the Company.
- 2.2.5. In the event suit is brought or any attorney is retained by the Company to enforce the terms of this Tariff, the Company shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.
- 2.2.6. The provision of Service will not create a partnership or joint venture between the Company and the Customer nor result in joint Service offerings to their respective Customers.
- 2.2.7. The rate or volume discount level applicable to a Customer for a particular Service or Services shall be the rate or volume discount level in effect at the beginning of the monthly billing period applicable to the Customer for the particular Service or Services. When a Service is subject to a minimum monthly charge, account charge, port charge or other recurring charge or Nonrecurring Charge for both intrastate and interstate Service, only one such charge shall apply per account and the charge shall be the interstate charge.

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**2.2 Other Terms and Conditions (cont'd)**

- 2.2.8. Service requested by Customer and to be provided pursuant to this Tariff shall be requested on Company Service Order forms in effect from time to time or Customer's forms accepted in writing by an authorized headquarters representative of the Company (collectively referred to as "Service Orders").
- 2.2.9. If an entity other than the Company (e.g., another carrier or a supplier) imposes charges on the Company in connection with a Service, that entity's charges will be passed through to the Customer also.
- 2.2.10. The Service Commitment Period for any Service shall be established by the Service Order relevant thereto and commence on the Start of Service Date. Upon expiration, each Service Commitment Period for such Service shall automatically be extended subject to written notice of termination by either Company or Customer as of a date not less than thirty (30) days after delivery of said notice to the other. The charges for Interexchange Service during any such extension shall not exceed the then current Company month-to-month charges applicable to such Service.
- 2.2.11 Restoration of service shall be done in accordance with FPSC's rules and regulations.

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**2.3. Liability**

- 2.3.1. Except as provided otherwise in this Tariff, the Company shall not be liable to Customer or any other person, firm or entity for any failure of performance hereunder if such failure is due to any cause or causes beyond the reasonable control of the Company. Such causes shall include, without limitation, acts of God, fire, explosion, vandalism, cable cut, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or of any other government or of any civil or military authority, national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, or preemption of existing Services to restore service in compliance with Part 64, Subpart D, Appendix A, of the FCC's Rules and Regulations.
- 2.3.2. With respect to Services contained herein and except as otherwise provided herein, the Company's liability shall not exceed an amount equal to the charge applicable to a one minute Call to the Called Station at the time the affected Call was made. If the initial minute rate is higher than the additional minute rate, the higher rate shall apply. For those Services with monthly recurring charges, the Company's liability is limited to an amount equal to the proportionate monthly recurring charges for the period during which Service was affected.
- 2.3.3. The Company is not liable for any act or omission of any other company or companies (including any Company affiliate that is a participating or concurring carrier) furnishing a portion of the Service or facilities, equipment, or Services associated with such Service.
- 2.3.4. The Customer is responsible for taking all necessary legal steps for interconnecting the Customer provided terminal equipment with the Company facilities. The Customer shall ensure that the signals emitted into the Company's network do not damage Company equipment, injure personnel or degrade Service to other Customers. The Customer is responsible for securing all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the Customer shall comply with applicable LEC signal power limitations.
- 2.3.5. The Company may rely on Local Exchange Carriers or other third parties for the performance of other Services such as Local Access. Upon Customer request and execution and delivery of appropriate authorizing documents, the Company may act as agent for Customer in obtaining such other Services. Customer's liability for charges hereunder shall not be reduced by untimely Installation or non-operation of Customer provided facilities and equipment.

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**2.3. Liability (cont'd)**

- 2.3.6. The failure to give notice of default, to enforce or insist upon compliance with any of the terms or conditions herein, the waiver of any term or conditions herein, or the granting of an extension of time for performance by the Company or the Customer shall not constitute the permanent waiver of any term or condition herein. Each of the provisions shall remain at all times in full force and effect until modified in writing.
- 2.3.7. The Company shall not be liable to the Customer or any other person, firm or entity in any respect whatsoever as a result of mistakes, accidents, errors, omissions, interruptions, delays, or defects in Service (collectively "Defects"). Defects caused by or contributed to, directly or indirectly, by any act or omission of Customer or its customers, affiliates, agents, representatives, invitees, licensees, successors or assigns or which arise from or are caused by the use of facilities or equipment of Customer or related parties shall not result in the imposition of any liability whatsoever upon the Company, and Customer shall pay to the Company any reasonable costs, expenses, damages, fees or penalties incurred by the Company as a result thereof, including penalties incurred by the Company as a result thereof, including costs of Local Access Providers' labor and materials. In addition, all or a portion of the Service may be provided over facilities of third parties, or sold by third parties, and the Company shall not be liable to Customer or any other person, firm or entity in any respect whatsoever arising out of Defects caused by such third parties. THE COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, ACTUAL, EXEMPLARY, PUNITIVE OR ANY OTHER DAMAGES, OR BUSINESS INTERRUPTION, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, TO CUSTOMER OR OTHERS USING THE SERVICE SUPPLIED TO CUSTOMER BY THE COMPANY, AS A RESULT OF ANY COMPANY SERVICE, EQUIPMENT, OR FACILITIES, OR THE ACTS, OMISSIONS, OR NEGLIGENCE OF THE COMPANY'S EMPLOYEES, AGENTS, OR SUPPLIERS, OR ARISING OUT OF ANY DEFECTS OR ANY OTHER CAUSE, INCLUDING THE DELAYED INSTALLATION OF THE COMPANY'S FACILITIES OR COMMENCEMENT OF SERVICE. THIS WARRANTY AND THESE REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT OF AN INTERRUPTION IN SERVICE OR ANY DEFECT IN THE SERVICE WHATSOEVER, NEITHER COMPANY NOR ANY AFFILIATED OR UNAFFILIATED THIRD PARTY, THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, ACTUAL, EXEMPLARY, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER.

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**2.3. Liability (cont'd)**

- 2.3.8. With respect to the routing of calls by the Company to public safety answering points or municipal Emergency Service providers, Company liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by the Customer as the direct result of the Company's action, or failure to act, in routing the Call, or (b) the sum of \$1,000.00.
- 2.3.9. In the event parties other than Customer (e.g., Customer's customers) shall have use of the Service directly or indirectly through Customer, then Customer agrees to forever indemnify and hold Company and any affiliated or unaffiliated third-party, third-party provider or operator of facilities employed in provision of the Service harmless from an against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties arising out of or relating to any Defects.
- 2.3.10. In the event that Company is required to perform a Circuit redesign due to inaccurate information provided by the Customer; or, circumstances in which such costs and expenses are caused by the Customer or reasonably incurred by the Company for the benefit of the Customer, the Customer is responsible for the payment of all such charges.
- 2.3.11 With respect to any other claim or suit, by a Customer or by others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption or restoration of any service or facilities offered under this tariff, and subject to the provisions of Section 2.6, the Company's liability, if any, shall be limited as provided in 2.3.2.

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**2.4. Cancellation of Service by a Customer**

- 2.4.1. If a Customer cancels a Service order before the Service begins, before completion of the Minimum Period, or before completion of some other period mutually agreed upon by the Customer and the Company, a charge will be levied upon the Customer for the nonrecoverable portions of expenditures or liabilities incurred expressly on behalf of the Customer by the Company and not fully reimbursed by Installation and monthly charges. If, based on a Service order by a Customer, any construction has either begun or been completed, but no Services provided, the nonrecoverable costs of such construction shall be borne by the Customer.
- 2.4.2. Upon thirty (30) days' prior written notice, either Customer or Company shall have the right, without cancellation charges or other liability, to cancel the affected portion of the Service, if the Company is prohibited by governmental authority from furnishing said portion, or if any material rate or term contained herein and relevant to the affected Service is substantially changed by order of the highest court of competent jurisdiction to which the matter is appealed, the Federal Communications Commission, or other local, state or federal government authority.

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**2.5 Cancellation for Cause by the Company**

- 2.5.1 Upon nonpayment of any sum owing to the Company after the Due Date specified in Section 2.8, or upon a violation of any of the provisions governing the furnishing of Service under this Tariff, the Company may, upon five business days written notification to the Customer, except in extreme cases, without incurring any liability, immediately discontinue the furnishing of such Service. The written notice may be separate and apart from the regular monthly bill for Service. Customer shall be deemed to have canceled Service as of the date of such disconnection and shall be liable for any cancellation charges set forth in this Tariff.
- 2.5.2 Service may be discontinued after five business days written notice to the Customer if:
- A. the Customer is using the Service in violation of this Tariff; or
  - B. the Customer is using the Service in violation of the law or DPUC regulation.
- 2.5.3. Without incurring any liability, the Company may discontinue the furnishing of Service(s) to a Customer immediately and without written notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or Services under the following circumstances:
- A. When the Customer's user of Service or equipment adversely affects the Company's equipment or Service to others;
  - B. When the Customer refuses to furnish information or provides false information to the Company regarding the Customer's identity, address, credit-worthiness, its past or current use of common carrier communications Services or its planned use of the Company's Service(s);
  - C. For neglect or refusal to provide reasonable access to the Company for the purpose of inspection and maintenance of equipment owned by the Company
  - D. In the event of hazardous conditions or tampering with the equipment furnished and owned by the Company.
  - E. In the event of unauthorized use.

Following the discontinuance of service for any of these reasons, the Company or the local exchange utility acting as Company agent, will notify the end user/Customer that Service was discontinued and why. The notice will include all reasons for the discontinuance and will include a toll-free number where an end user/Customer can obtain additional information.

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**2.5 Cancellation for Cause by the Company (cont'd)**

- 2.5.4 Notice under Section 2.5 shall be deemed received upon deposit, postage prepaid, in the U.S. Mail to the Customer's last known address and in compliance with the Commission's rules.
- 2.5.5. The discontinuance of Service(s) by the Company pursuant to this Section does not relieve the Customer of any obligations to pay the Company for charges due and owing for Service(s) furnished up to the time of discontinuance. The remedies set forth herein shall not be exclusive and the Company shall at all time be entitled to all rights available to it under either law or equity.
- 2.5.6. The Customer shall have the privilege of paying any delinquent account at any time prior to the actual permanent disconnection or turning off of the Company's service where the Company has sent the Customer a notice of discontinuance for non-payment.

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**2.6. Credit Allowance**

- 2.6.1 When the use of service or facilities furnished by the Company is interrupted due to any cause other than the negligence or willful act of the Customer, or the operation or failure of the facilities or equipment provided by the Customer, a pro rata adjustment of the recurring Monthly Charges subject to interruption will be allowed for the service and facilities rendered useless and inoperative by reason of the interruption whenever said interruption continues for a period of twenty-four (24) hours or more from the time the interruption is reported to the Company, except as otherwise specified in the Company's tariffs. Credit ceases when services have been restored. If the Customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted. Credits are applicable only to that portion of Service interrupted.
- 2.6.2 A credit allowance is applied on a pro rata basis against monthly charges and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit. For calculating credit allowances, every month is considered to have thirty (30) days. Where service is interrupted for any fraction of a day in excess of the initial twenty-four (24) consecutive hours period, the applicable credit allowance will rounded up to the next full twenty-four (24) hours.
- 2.6.3. No credit shall be allowed:
- A. interruptions due to the negligence or willful act of the Customer, Authorized-User or Joint-User, including but not limited to noncompliance with the provisions of this tariff.
  - B. interruptions due to the failure or malfunction of Customer provided facilities or the failure or malfunction of any other non-Company equipment;
  - C. interruptions due to electric power failure where the Customer furnishes such electric power;
  - D. interruptions of service during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;
  - E. interruptions of service during a period in which the Customer continues to use the service on an impaired basis;
  - F. interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
  - G. interruption of service due to circumstances or causes beyond the Company's control.

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2.6. Credit Allowance (cont'd)

- 2.6.4. Should the Customer elect to use an alternative service provided by the Company during the period that a service is interrupted, the Customer must pay the tariffed rates and charges for the alternative service.

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**2.7. Use of Service**

- 2.7.1. The Services offered herein may be used for any lawful purpose, including residential, business, governmental, or other use. There are no restrictions on sharing or resale of Services. However, the Customer remains liable for all obligations under this Tariff notwithstanding such sharing or resale and regardless of the Company's knowledge of same. The Company shall have no liability to any person or entity other than the Customer and only as set forth in Section 2.3. The Customer shall not use nor permit others to use the Service in a manner that could interfere with Services provided to others or that could harm the facilities of the Company or others.
- 2.7.2. Service furnished by the Company may be arranged for joint use or authorized use. The joint user or Authorized User shall be permitted to use such Service in the same manner as the Customer, but subject to the following:
- A. One joint user or Authorized User must be designated as the Customer.
  - B. All charges for the Service will be computed as if Service were to be billed to one Customer. The joint user or Authorized User which has been designated as the Customer will be billed for all components of the Service and will be responsible for all payments to the Company. In the event that the designated Customer fails to pay the Company, each joint user or Authorized User shall be liable to the Company for all charges incurred as a result of its use of the Company's Service.
- 2.7.3. In addition to the other provisions in this Tariff, Customers reselling Company Services shall be responsible for all interaction and interface with their own subscribers or customers. The provision of the Service will not create a partnership or joint venture between Company and Customer nor result in a joint communications Service offering to the Customers of either the Company or the Customer.
- 2.7.4. Service furnished by the Company shall not be used for any unlawful or fraudulent purposes.
- 2.7.5. The Customer will be billed directly by the LEC for certain Dedicated Access arrangements selected by the Customer for the provisioning of direct access arrangements. In those instances where the Company at the Customers request may act as agent in the ordering of such arrangements, the Company will bill the Customer Local Access charges.

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**2.8. Payment Arrangements**

- 2.8.1. The Customer is responsible for payment of all charges for Services furnished to the Customer or its joint or Authorized Users. This responsibility is not changed due to any use, misuse, or abuse of the Customer's Service or Customer provided equipment by third parties, the Customer's employees, or the public.
- 2.8.2. Payment of the Company's bills is due on or before the Due Date printed on each bill. The Due Date shall not be sooner than 15 days after receipt of the bill by the Customer. For the purposes of Section 2.8 of this tariff, a Customer's receipt of the Company's bill is deemed to have occurred upon deposit by the Company, postage prepaid, in the U.S. Mail to the Customer's last known address and in compliance with the Commission's rules. Amounts not paid on or before the Due Date of the invoice are considered past due. Customers will be assessed a late fee on past due amounts in the amount not to exceed the maximum lawful rate under applicable state law. If a Customer presents an undue risk of nonpayment at any time, the Company may require that Customer to pay its bills within a specified number of days and to make such payments in cash or the equivalent of cash.
- 2.8.3. In determining whether a Customer presents an undue risk of nonpayment, the Company shall consider the following factors: (A) the Customer's payment history (if any) with the Company and its affiliates, (B) Customer's ability to demonstrate adequate ability to pay for the Service, (C) credit and related information provided by Customer, lawfully obtained from third parties or publicly available, and (D) information relating to Customer's management, owners and affiliates (if any).
- 2.8.4. Disputes with respect to charges must be presented to the Company in writing within thirty days from the date the invoice is rendered or such invoice will be deemed to be correct and binding on the Customer.
- 2.8.5. If a LEC has established or establishes a Special Access surcharge, the Company will bill the surcharge beginning on the effective date of such surcharge for Special Access arrangements presently in Service. The Company will cease billing the Special Access surcharge upon receipt of an Exemption Certificate or if the surcharge is removed by the LEC.
- 2.8.6. In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.
- 2.8.7. Company will not require deposits or advance payments by Customers for Services.

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New York, NY 10016

2.9. Assignment

- 2.9.1. The obligations set forth in this Tariff shall be binding upon and inure to the benefit of the parties hereto and their respective successor or assigns, provided, however, the Customer shall not assign or transfer its rights or obligations without the prior written consent of the Company.

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**2.10. Taxes**

- 2.10.1. All state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates.
- 2.10.2. If at any future time a municipality acquires the legal right to impose an occupation tax, license tax, permit fee, franchise fee, or other similar charge upon the Carrier, and imposes the same by ordinance or otherwise, such taxes, fees or charges shall be billed to the end users receiving service within the territorial limits of such municipality. Such billing shall allocate the tax, fee or charge among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax, fee or charge.
- 2.10.3. If at any future time a county or other local taxing authority acquires the legal right to impose an occupation tax, license tax, permit fee, franchise fee, or other similar charge upon the Carrier, and imposes the same by ordinance or otherwise, such taxes, fees or charges shall be billed to the end users receiving service within the territorial limits of such county or other taxing authority. Such billing shall allocate the tax, fee or charge among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax, fee or charge.
- 2.10.4. When utility or telecommunications assessments, franchise fees, or privilege, license, occupational, excise or other similar taxes or fees, based on interstate or intrastate receipts are imposed by certain taxing jurisdictions upon the Company or upon local exchange companies and passed on to the Company through or with interstate or intrastate access charges, the amounts of such taxes or fees will be billed to Customers in such a taxing jurisdiction on a prorated basis. The amount of charge that is prorated to each Customer's bill is determined by the interstate or intrastate telecommunications service provided to and billed to an end user/customer service location in such a taxing jurisdiction with the aggregate of such charges equal to the amount of the tax or fee imposed upon or passed on to the Company.
- 2.10.5. When any municipality, or other political subdivision, local agency of government, or department of public utilities imposes upon and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee or regulatory fee, such taxes and fees shall, insofar as practicable, be billed pro rata to the Company's Customers receiving service within the territorial limits of such municipality, other political subdivision, local agency of government, or public utility commission, provided that all such non-tax surcharges are first approved by and set forth on the Customer's bill as required by the Commission.

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**2.10. Taxes (cont'd)**

- 2.10.6. Subject to prior Commission approval, the Company may adjust its rates and charges or impose additional rates and charges on its Customers in order to recover amount it is required by governmental or quasi-government authorities to collect from or pay to others in support of statutory or regulatory programs. Examples of such programs include, but are not limited to, the Universal Service Fund, the Primary Interexchange Carrier Charge, and compensation to payphone service providers for use of their payphones to access the Company's services.

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**2.11. Method for Calculation of Airline Mileage**

2.11.1. The airline mileage between two cities can be calculated using the Vertical (V) and Horizontal (H) coordinates of the serving wire centers associated with the Company's POP locations. The method for calculating the airline mileage is obtained by reference to AT&T's Tariff F.C.C. No. 10 in accordance with the following formula:

$$\text{the square root of: } \frac{(V1-V2)^2 + (H1-H2)^2}{10}$$

where V1 and H1 correspond to the V&H coordinates of City 1 and V2 and H2 correspond to the V&H coordinates of City 2.

Example:		V	H
	City 1	5004	1406
	City 2	5987	3424

$$\text{the square root of: } \frac{(5004-5987)^2 + (1406-3424)^2}{10}$$

The result is 709.83 miles. Any fractional miles are rounded to the next higher whole number; therefore, the airline mileage for this example is 710 miles.

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**2.12. Time of Day Rate Periods**

2.12.1. Time of Day Rate Periods are determined by the time of day at the location of the Calling station.

The rates shown in Section 4 apply as follows:

DAY: From 8:01 AM to 5:00 PM Monday - Friday

EVENING: From 5:01 PM to 11:00 PM Monday - Friday and Sunday

NIGHT/

WEEKEND: From 11:01 PM to 8:00 AM Everyday  
From 8:01 AM to 11:00 PM Saturday  
From 8:01 AM to 5:00 PM Sunday

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**2.13. Special Customer Arrangements**

- 2.13.1. In cases where a Customer requests a special or unique arrangement which may include engineering, conditioning, Installation, construction, facilities, assembly, purchase or lease of facilities and/or other special Services not offered under this Tariff, the Company, at this option, may provide the requested Services. Appropriate recurring charges and/or Nonrecurring Charges and other terms and conditions will be developed for the Customer for the provisioning of such arrangements.

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2.14. Inspection

- 2.14.1 The Company may, upon notice, make such tests and inspections as may be necessary to determine that the requirements of this Tariff are being complied with in the Installation, operation or maintenance of Customer or the Company equipment. The Company may interrupt the Service at any time, without penalty to the Company, should Customer violate any provision herein.

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### 3. DESCRIPTION OF SERVICES

#### 3.1. Wide Area ("WATS") and Message ("MTS") Toll Services

3.1.1. The Company offers WATS and MTS intrastate interexchange and intraexchange long distance service utilizing switched or dedicated access arrangements between the Customers Premises and the Company's facilities for call origination. Call termination is completed through a combination of Company facilities and LEC switched access arrangements.

#### 3.2. DS-0 (Digital Signal Level 0) Service

3.2.1. DS-0 Service is an intrastate interLATA 64 Kbps dedicated digital Interexchange Channel Service. With analog Voice Frequency (VF) Local Access facilities, DS-0 Service will support the transmission of analog voice and/or data within the frequency range of 300 3000 Hz.

#### 3.3. DS-1 (Digital Signal Level 1) Service

3.3.1. DS-1 Service is high capacity point-to-point Private Line Service designed for the simultaneous full-duplex transmission of digital signals at a nominal speed of 1.544Mbps.

#### 3.4. Timing of Calls

3.4.1. Long distance usage charges are based on the actual usage of the Company network. Timing for all calls begins when the Called Party answers the call (i.e., when two-way communications are established). Answer detection is based on standard industry answer detection methods, including hardware and software answer detection. Chargeable time for all calls ends when one of the parties disconnects from the call. There are no billing charges applied for incomplete calls.

3.4.2. Unless otherwise specified in this Tariff, the minimum call duration for billing purposes is six (6) seconds. In addition, unless otherwise specified in this Tariff, usage is measured thereafter in six (6) second increments and rounded to the next higher six (6) second period.

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4. RATES AND CHARGES4.1. Usage Rates

4.1.1. The following are the per minute usage charges which apply to all calls. These charges are in addition to the Non-recurring Charges and Recurring Charges referred to herein.

4.2. Switched Inbound Usage Rates

4.2.1. Switched inbound service permits inward calling (via 800 codes) to a specific location-utilizing premium switched Feature Group D access on both ends.

<u>Mileage</u>	<u>Day / Evening / Night</u>	
	<u>Initial 30 Seconds</u>	<u>Additional 6 Seconds</u>
All	\$0.0900	\$0.0180

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**4.3. Dedicated Inbound Usage Rates**

- 4.3.1. Dedicated inbound service permits inward calling (via 800 codes) to a specific location featuring the use of a dedicated, special access type connection on the terminating end. Customers will be responsible for all applicable local loop charges.

<u>Mileage</u>	<u>Day / Evening / Night</u>	
	<u>Initial 18 Seconds</u>	<u>Additional 6 Seconds</u>
All	\$0.0366	\$0.0122

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**4.4. Switched Outbound Usage Rates**

4.4.1. Switched outbound service permits outward calling utilizing premium-switched Feature Group D access on both the originating and terminating end.

<u>Mileage</u>	<u>Day / Evening / Night</u>	
	<u>Initial 30 Seconds</u>	<u>Additional 6 Seconds</u>
All	\$0.0865	\$0.0173

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4.5. Dedicated Outbound Usage Rates

- 4.5.1. Dedicated outbound service permits outward calling to stations in diverse service areas. Dedicated outbound service is distinguished from other services by the existence of a dedicated, special access connection on one end.

<u>Mileage</u>	<u>Day / Evening / Night</u>	
	<u>Initial 30 Seconds</u>	<u>Additional 6 Seconds</u>
All	\$0.0366	\$0.0122

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**4.6. Calling Card Service**

- 4.6.1. The Company offers a Calling Card for Customers subscribing to Company's inbound or outbound Services. Company issues Customer a Calling Card and access code, and allow Customer to access Company's network by dialing an 800 number. Company bills calls to Customer's account.

<u>Mileage</u>	<u>Day / Evening / Night</u>	
	<u>Initial 60 Seconds</u>	<u>Additional 60 Seconds</u>
All	\$0.25	\$0.25

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**4.7 Discounts for Hearing Impaired Customers**

- 4.7.1. Intrastate toll message rates for TDD users, which is communications using a telecommunications device for the deaf (TDD) by properly certified business establishments or individuals equipped with TDDs for communications with hearing or speech impaired person, shall be evening rates for daytime calls and night rates for evening and night falls.
- 4.7.2. In accordance with the Commission's rules, the Company will not charge for the first 50 directory assistance calls initiated per billing cycle by handicapped persons.
- 4.7.3. Intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay call will be discounted by 50 percent of the applicable rate for a voice non-relay call except that either the Calling or Called Party indicates that either party is both hearing and visually impaired, the call will be discontinued 60 percent off the applicable rate for voice non-relay call. The above discounts apply only to time-sensitive elements of a charge for the call and shall not apply to per call charges such as a credit card surcharge.

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**4.8. Special Promotional Offering**

- 4.8.1. The Company may from time to time engage in Special Promotional Offerings or Trial Service Offerings limited to certain dates, times or locations designed to attract new subscribers or increase subscriber usage when approved by the Commission. Company will not have special promotional offerings for more than 90 days in any 12-month period. In all such cases, the rates charged will not exceed those specified in Section 4 hereof.

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4.9. Emergency Calls

4.9.1. Customer shall configure its PBX or other switch vehicle from which a Customer places a call so that 911 emergency calls, where available, and similar emergency calls will be automatically routed to the emergency answering point for the geographical location where the call originated without the intervention of the Company.

- A. 911 calls are not routed but are completed through the local network. No billing applies to emergency calls.

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4.10. Directory Assistance

4.10.1. Customers incur a \$0.85 per call charge for calls to Directory Assistance.

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4.11. Returned Check Charge

4.11.1. Customers incur a \$25.00 per check charge for returned checks.

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## **ATTACHMENT B**

### **FINANCIAL CAPABILITY**

Eureka Telecom, L.L.C. is financially qualified to provide facilities-based and resold interexchange telecommunications services in Florida. Because Applicant is a newly formed company, and therefore has no detailed income and profit and loss statements at present. Attached are the most recent financial statements for Eureka's parent corporation, Eureka Broadband. Eureka has submitted a Motion concurrently with this Application seeking confidential treatment of this highly proprietary and competitively sensitive information. These exhibits are being offered to demonstrate Eureka's financial ability to provide the proposed services. With the resources of Eureka Broadband, Eureka Telecom, L.L.C. possesses the sound financial support necessary to effectively procure, install and operate the facilities and services requested in this Application.

**CONFIDENTIAL**

**AFFIDAVIT**

State of NEW YORK )  
County NEW YORK )

I, the undersigned Chief Financial Officer of Eureka Broadband Corporation on my oath do say that the foregoing financial statements have been prepared, under my direction, from the original books, papers and records of the petitioner, that I have carefully examined the same, and declare the same to be a complete and correct statement of the business and affairs of the above named petitioner in respect to each and every matter and thing therein set forth, and I further say that the accounts and figures contained in the foregoing documents embrace all of the financial operations of the petitioner during the period for which said documents are made to the best of my knowledge, information and belief.

*Christina Armi*  
Chief Financial Officer

Subscribed and sworn to before me  
this 17<sup>th</sup> day of August, 2000.

*Melvin S. Zuck*  
Notary Public

Identification Number:

**MELODOR HERRA  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 42240  
QUALIFIED IN NASSAU COUNTY  
COMMISSION EXPIRES  
JANUARY 31, 2002**