

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of Cbeyond Communications,
LLC Against AT&T Florida for failure
to pay intrastate access charges pursuant
to Cbeyond's Price List and for violation
of Section 364.16(3)(a), Florida Statutes.

Docket No. _____

Filed: March 19, 2009

_____ /

COMPLAINT

Cbeyond Communications, LLC (Cbeyond), through its undersigned counsel and pursuant to rules 28-106.201 and 25-22.036, Florida Administrative Code, hereby files this Complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T). Cbeyond requests that the Commission enter a final order finding that:

1. AT&T has violated Cbeyond's Access Services Price List, filed with this Commission, setting forth its intrastate access charges.

2. AT&T has violated section 364.16(3), Florida Statutes, by intentionally and knowingly delivering traffic to Cbeyond to which terminating access applies but failing to pay such incurred terminating access charges.

3. In an earlier workshop on this subject, AT&T expressly represented that it was not only obligated to pay the tariff access rate, but that a refusal to do so would be unlawful. Excerpts from those comments are attached as Exhibit 1. Cbeyond agrees.

As a result of those findings, Cbeyond requests that the Commission:

1. Order AT&T to pay all intrastate access charges due and owing to Cbeyond for intrastate access charges.

2. Order such other relief as the Commission deems appropriate, including the assessment of penalties to the fullest extent allowed by section 364.285, Florida Statutes.

In support of this Complaint, Cbeyond states:

PARTIES

1. The name and address of Petitioner is:

Cbeyond Communications, LLC
320 Interstate North Parkway, Suite 300
Atlanta, Georgia 30339

2. The name, address, and telephone number of Complainant's representatives for purposes of service during the proceeding are:

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3. Cbeyond is a certified CLEC and interexchange carrier (IXC) authorized to do business in Florida. It provides local exchange services in Florida, including interconnection services and exchange access services pursuant to its Price List on file with the Commission and the Federal Communications Commission (FCC) and pursuant to interconnection agreements with incumbent local exchange companies, including AT&T.

4. AT&T is a certificated incumbent local exchange company (ILEC) in Florida. It provides wholesale services and retail services in the state. AT&T also provides long distance service.

5. AT&T Florida's address is:

150 South Monroe Street, Suite 400
Tallahassee, FL 32301

JURISDICTION

6. The Commission has jurisdiction over this Complaint pursuant to sections 364.01, 364.02, 364.16, 364.163, 364.185, 364.19, 364.27, 364.285, 364.337, Florida Statutes.

FACTUAL BACKGROUND

7. When Cbeyond terminates interexchange traffic to one of its customers that originates from a non-Cbeyond customer, it is entitled to assess access charges to the customer's carrier.

8. Thus, when interexchange traffic destined for a Cbeyond customer is sent from an AT&T customer to Cbeyond, Cbeyond is entitled to be compensated for terminating such traffic via access charges.

9. Cbeyond has on file with this Commission an Access Services Price List, effective March 21, 2008 (attached hereto as Exhibit 2) which sets out the prices for access services.

10. Cbeyond has been providing interexchange access services in Florida pursuant to its Access Services Price List since March 22, 2008. AT&T has utilized Cbeyond's intrastate access services since that date and continues to use these services today.

11. Cbeyond has timely billed AT&T for the intrastate access services by sending monthly invoices beginning in April 2008 and continuing to date. AT&T paid the first two invoices, April and May 2008, in full and then began paying only a small portion of the

remaining invoices activities. The total outstanding balance on all invoices is \$13,739.43 through February 2009.

12. The parties have endeavored to resolve this billing dispute to no avail.

COUNT I

Violation of Section 364.16(3), Florida Statutes

13. Cbeyond realleges the allegations made in paragraphs 1 through 12 of this Complaint as though fully set forth herein.

14. Section 364.16(3)(a), Florida Statutes, provides:

No local exchange telecommunications company or competitive local exchange telecommunications company shall knowingly deliver traffic, for which terminating access service charges would otherwise apply, through a local interconnection arrangement without paying the appropriate charges for such terminating access service.

15. Section 364.16(3)(b), Florida Statutes, provides:

Any party with a substantial interest may petition the commission for an investigation of any suspected violation of paragraph (a). In the event any certificated local exchange service provider knowingly violates paragraph (a), the commission shall have jurisdiction to arbitrate bona fide complaints arising from the requirements of this subsection and shall, upon such complaint, have access to all relevant customer records and accounts of any telecommunications company.

16. AT&T knowingly delivered interexchange traffic to Cbeyond. Therefore, AT&T should have paid Cbeyond access charges for the termination of interexchange traffic.

17. Cbeyond alleges that AT&T knew that traffic delivered to Cbeyond was, in fact, interexchange traffic, and that such traffic was knowingly delivered with no intent to pay Cbeyond for termination of such traffic.¹

18. AT&T is well aware of and has admitted its obligation to pay access charges for intrastate traffic. In comments filed with this Commission on September 5, 2008, AT&T responded to the following question:

13. Do large IXCs have monopsony power in their purchase of switched access services from CLECs? If so, *do those IXCs use that monopsony power to withhold payment* and to engage in other unjust and unreasonable conduct to force CLECs to provide access service at rates other than tariffed rates?

[AT&T] Response:

CompSouth's response to this question erroneously implies that Large IXCs have meaningful influence on the CLEC pricing, and suggests that IXCs can refuse payment or engage in other self help methods. Comp South is wrong; *all of the self help practices alleged are prohibited either by statute or regulations.*

...

Second, once the CLEC rate is filed, AT&T is *compelled to pay...*²

19. In support of its statement that it must pay CLEC access charges, AT&T included the following footnote to the above paragraph:

See Hyperion Order, 12 FCC Rcd 8596, 8608-8611, 1111 23-29 (1997). *Cf. Advemtel*, 118 F. Supp. 2d at 687 (concluding that parties are precluded from negotiating separate agreements that affect the rate for services once a tariff has been filed with the Commission). See *also* e.g. Order No. PSC-04-0974-FOF-TP,

¹ In a matter before the Kentucky Public Service Commission, *Brandenbrug Telecom LLC v. AT&T Communications of the South Central States, Inc.* the Kentucky Commission found that: "AT&T admits that it provides long-distance service to customers in Kentucky, including some end-users who receive local exchange service from Brandenburg. AT&T admits that it has not paid Brandenburg for intrastate switched access services. AT&T has informed Brandenburg that it will pay only for access services that it orders through a CSA for access service. AT&T claims that this document will contain additional terms and conditions not found in Brandenburg's tariff." *Order* at 1-2 (May 1, 2003).

² AT&T Reply Comments, Docket No. 080000, CLEC Intrastate Access Charges Workshop at 10-11 (Sept. 5, 2008), emphasis supplied. (Exhibit 1).

issued October 7, 2004 (discussion of the "filed rate doctrine" and finding that the tariff rates that were on file were the rates *that* were required to be charged).³

20. Further, when AT&T's Mr. Follensbee was questioned regarding instances where AT&T had refused to pay access charges to CLECs, he disclaimed such a policy and said:

I didn't know this [failure to pay access charges] was going on, and I will find out more about it, because this [obligation to pay] was clearly the policy of the company. We wouldn't have put it in there [response to question 13] if it wasn't. So now I've got to go back and say, all right, guys, why is practice not policy.⁴

21. Thus, AT&T has admitted and recognized that it is required to pay access charges on the intrastate interexchange traffic it sends to Cbeyond.

22. Based on the foregoing, AT&T has violated section 364.16(3)(a), Florida Statutes, by knowingly delivering traffic for which terminating access service charges would apply without paying the appropriate charges for such access service. Cbeyond has estimated the amount of access charges due to be in excess of \$13,000 plus interest, for the period April 2008 February 2009. AT&T continues to route interexchange traffic to Cbeyond. Therefore, Cbeyond reserves the right to amend this count to include additional amounts that have accrued since February 2009 and will accrue after the filing of this Complaint.

23. AT&T has refused to comply with or willfully violated section 364.16(3)(a), Florida Statutes.

COUNT II

Failure to Pay Tariffed Charges

24. Cbeyond realleges the allegations made in paragraphs 1 through 23 of this Complaint as though fully set forth herein.

³ *Id.* at 10.

⁴ Transcript of Staff Workshop, July 26, 2008 at 159-160.

25. During the period at issue, Cbeyond has had on file with the Commission its Access Services Price List by which Cbeyond provides IXCs access services and assesses charges for such services.

26. The Access Services Price List requires payment of access charges for Cbeyond termination of interexchange traffic to AT&T users.

27. Order No. PSC-04-0974-FOF-TP, which AT&T relied on in its response to question 13 quoted above (Exhibit 1), states:

The 'filed rate doctrine holds that where a regulated company has a rate for service on file with the applicable regulatory agency, the filed rate is the only rate that may be charged. 'Global Access Limited v. AT&T Corp., 978 F. Supp. 1068 (S.D. Fla. 1997); citing Florida Mun. Power Agency v. Florida Power & Light Co., 64 F.3d 614, 615 (11th Cir. 1995). Simply, BellSouth states, the filed rate doctrine precludes a party from disputing a filed rate. 'Application of the filed rate doctrine can at times be harsh, but its justification lies in the principle that carriers should not be able to discriminate against customers in the setting of service rates; one rate -- the filed rate -- is the applicable rate for all... .' Global Access Limited, 978 F. Supp. at 1073; see also MCI Telecomm. Corp. v. Best Tel. Co., 898 F. Supp. 868, 872 (S.D. Fla. 1994).

This doctrine is equally applicable to rates AT&T must pay.

28. AT&T has knowingly delivered traffic for which terminating access service charges would apply without paying the appropriate charges for such access service. Cbeyond has estimated the amount of access charges due to be in excess of \$13,000, plus interest. AT&T continues to route interexchange traffic to Cbeyond. Therefore, Cbeyond reserves the right to amend this count to include additional amounts that have accrued since February 2009 and will accrue after the filing of this Complaint.

WHEREFORE, for the reasons set forth above, Cbeyond respectfully requests that the Commission issue an Order:

A. Find that AT&T has failed to pay Cbeyond access charges due and owing under Cbeyond's Access Services Price List since March 2008;

B. Find AT&T to be in violation of section 364.16(3)(a), Florida Statutes, for knowingly terminating traffic for which access charges would apply without paying the appropriate access charges for such service;

C. Require AT&T to pay the sums identified herein for unpaid access charges plus interest at the maximum statutory rate, and applicable late payment penalties;

D. Find that AT&T refused to comply with or willfully violated section 364.16(3)(a), Florida Statutes, and is therefore subject to penalties to be determined by the Commission pursuant to section 364.285, Florida Statutes; and

E. Grant such other relief as the Commission deems just and proper.

s/ Vicki Gordon Kaufman

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Attorneys for Cbeyond

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Complaint was served via Electronic Mail and U.S. Mail this 19th day of March, 2009 to the following:

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Staff Counsel
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s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: CLEC Intrastate Access Charges Workshop)
Undocketed 080000)
Filed: September 5, 2008)
_____)

AT&T FLORIDA'S REPLY COMMENTS

The AT&T companies certified in Florida¹ respond to the post-workshop comments of CompSouth and Sprint Nextel Corporation ("Sprint"), neither of which provided any information that would cause this Commission to not consider opening a docket to constrain the intrastate switched access rates of competitive local exchange carriers ("CLECs"). The following are specific comments of the CLECs to the 12 questions posed by the Commission staff. In addition, while not posed by the Commission staff, AT&T Florida is also responding to the 6 additional questions posed by CompSouth.

- 1. What are the key factors that CLECs consider when determining how to set their access charge rate?**

Response:

AT&T Florida continues to stand by its response it filed on July 9, 2008.

- 2. Are the access rates being charged by Florida's CLECs cost-based?**

Response:

¹ These entities include AT&T Communications of the Southern States, LLC d/b/a AT&T, TCG South Florida, BellSouth Telecommunications, Inc, d/b/a AT&T Florida, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, SBC Long Distance, LLC d/b/a AT&T Long Distance, and SNET America, Inc. d/b/a AT&T Long Distance.

reasons in AT&T response to Question 5, all of which still provide valid reasons for the benchmarking approach we suggest. As a result, CompSouth comments should be rejected.

- 13. Do large IXC's have monopsony power in their purchase of switched access services from CLECs? If so, do those IXC's use that monopsony power to withhold payment and to engage in other unjust and unreasonable conduct to force CLECs to provide access service at rates other than tariffed rates?**

Response:

CompSouth's response to this question erroneously implies that Large IXC's have meaningful influence on the CLEC pricing, and suggests that IXC's can refuse payment or engage in other self help methods. Comp South is wrong; all of the self help practices alleged are prohibited either by statute or regulations.³

The size of the CLEC relative to the IXC's is not relevant when the IXC's face institutional factors that make them unable to react normally to existing market conditions, and as a result the CLECs are able to charge and sustain unreasonably high rates. For example, under the current access structure IXC's

³ See *Hyperion Order*, 12 FCC Rcd 8596, 8608-8611, ¶¶ 23-29 (1997). Cf. *Advantel*, 118 F. Supp. 2d at 687 (concluding that parties are precluded from negotiating separate agreements that affect the rate for services once a tariff has been filed with the Commission). See also e.g. Order No. PSC-04-0974-FOF-TP, issued October 7, 2004 (discussion of the "filed rate doctrine" and finding that the tariff rates that were on file were the rates that were required to be charged).

(regardless of their size) cannot decline high rates tariffed by the CLECs. The reasons are as follows.

First, as discussed in our response to staff's question 5, AT&T must use the called party's *particular* local exchange carrier for the completion of the long distance call AT&T is carrying for its (originating) end-user customer. Because the terminating access service must be purchased for AT&T to complete the call and because, by definition, there is no other provider that can terminate a call that is already programmed for delivery to the called party, the called party's CLEC has – regardless of its size – the power to set whatever rate can pass through the tariff filing system.

Second, once the CLEC rate is filed, AT&T is compelled to pay despite the fact that the rate exceeds by many times the ILEC rate for the same service.

Third, because of the section 254(g) obligation regarding geographic averaging of toll rates, IXCs are unable to pass directly the intrastate access cost to an end user that originates a call from a CLEC with high access rates. Rather, if a CLEC charges high originating access rates in Florida, a large IXC like AT&T cannot reject it but would be forced to raise its toll rates for all of its long distance customers to recover the high access costs. If the CLEC has a relatively small customer base, then the high access rate will be spread over the large IXC's relatively larger customer base throughout Florida. Thus a small CLEC can

increase its originating access rates with a significantly diluted impact on other carrier's customers.

All of these practical factors do not support Comp South's allegation that Large IXCs could unilaterally control CLEC rates, rather the correct conclusion that must be reached is that the current CLEC pricing structure has characteristics that make the IXCs captive, and indeed unwilling consumers of the CLEC's access services.

- 14. Should the Commission consider cost increases the ILECs impose on CLECs for access to network elements (as a result of the TRRO, supra-competitive SPA pricing, forbearance grants) and interconnection in this proceeding?**

Response:

The price that CLECs pay the ILECs for unbundled network elements and special access facilities, to the extent CLECs rely on these to provide intrastate switched access in Florida, cannot be the reason the CLEC intrastate access are so outrageously high. The UNE rates in Florida are 10 times lower than the rates CLECs charge for access. See also AT&T response to #16 below where we discuss the role of CLEC costs.

- 15. What factors do ILECs (large and small) consider in determining their access rates?**

Cbeyond Communications, LLC

320 Interstate North Parkway
Atlanta, Georgia 30339

ACCESS SERVICES PRICE LIST

This price list contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by Cbeyond Communications. This price list is on file with the Florida Public Service Commission (FPSC). Copies may be inspected during normal business hours at the Company's principal place of business at 320 Interstate North Parkway, Atlanta, Georgia 30339.

Issued: March 21, 2008

Effective: March 22, 2008

By: William H. Weber, Vice President and Corporate Counsel
320 Interstate North Parkway
Atlanta, Georgia 30339

EXHIBIT 2

CHECK SHEET

Sheets of this price list are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original price list and are currently in effect as of the date on the bottom of this page.

<u>Page</u>	<u>Revision</u>	<u>Page</u>	<u>Revision</u>	<u>Page</u>	<u>Revision</u>
1	Original *	30	Original *	59	Original *
2	Original *	31	Original *	60	Original *
3	Original *	32	Original *	61	Original *
4	Original *	33	Original *	62	Original *
5	Original *	34	Original *	63	Original *
6	Original *	35	Original *	64	Original *
7	Original *	36	Original *	65	Original *
8	Original *	37	Original *	66	Original *
9	Original *	38	Original *	67	Original *
10	Original *	39	Original *	68	Original *
11	Original *	40	Original *	69	Original *
12	Original *	41	Original *	70	Original *
13	Original *	42	Original *	71	Original *
14	Original *	43	Original *	72	Original *
15	Original *	44	Original *	73	Original *
16	Original *	45	Original *	74	Original *
17	Original *	46	Original *	75	Original *
18	Original *	47	Original *		
19	Original *	48	Original *		
20	Original *	49	Original *		
21	Original *	50	Original *		
22	Original *	51	Original *		
23	Original *	52	Original *		
24	Original *	53	Original *		
25	Original *	54	Original *		
26	Original *	55	Original *		
27	Original *	56	Original *		
28	Original *	57	Original *		
29	Original *	58	Original *		

* - indicates pages included in this filing

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SYMBOLS

The following are the only symbols used for the purposes indicated below:

D - Delete or discontinue.

I - Change resulting in an increase to a customer's bill.

M - Moved from another price list location.

N - New.

R - Change resulting in a reduction to a customer's bill.

T - Change in text or regulation but no change in rate or charge.

PRICE LIST FORMAT

A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the price list. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.

B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. 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 its price list approval process, the most current sheet number on file with the FPSC is not always the price list 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 the 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).

D. Check Sheets - When a price list filing is made with the FPSC, an updated Check Sheet accompanies the price list filing. The Check Sheet lists the sheets contained in the price list, 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 (i.e., the format, etc. remain the same, just revised revision levels on some pages.) The price list user should refer to the latest Check Sheet to find out if a particular sheet is the most current on file with the FPSC.

SECTION 1 - DEFINITIONS

Certain terms used generally throughout this price list for the Access Services of this Company are defined below.

Access Code: A uniform seven digit code assigned by the Company to an individual Customer. The seven digit code has the form 101XXXX.

Access Service: Switched Access to the network of an Interexchange Carrier for the purpose of originating or terminating communications.

Access Service Request (ASR): The industry service order format used by Access Service Customers and access providers as agreed to by the Ordering and Billing Forum.

Access Tandem: An Exchange Carrier's switching system that provides a concentration and/or distribution function for originating or terminating traffic between local switching centers and Customers' premises.

Authorized User: A person, firm, corporation or other entity that either is authorized by the Customer to use Access Services or is placed in a position by the Customer, either through acts or omissions, to use Access Services.

Carrier or Common Carrier: See Interexchange Carrier or Exchange Carrier.

Cbeyond: Cbeyond Communications.

Co-Carrier: Any other Telecommunications provider authorized by the Commission to provide local exchange service in the state.

Commission - The Florida Public Service Commission.

Common Channel Signaling (CCS): A high-speed packet switched communications network which is separate (out of band) from the public packet switched and message networks. It is used to carry addressed signaling messages for individual trunk circuits and/or database related services between signaling points in the CCS network.

SECTION 1 - DEFINITIONS, (CONT'D)

Company: Cbeyond Communications, LLC.

Constructive Order: Delivery of calls to the Company for termination to the Company's End Users or acceptance of calls from the Customer's End Users over Company-switched local exchange services or acceptance of 800 Data Base Access Service (see definition below) or other SAC codes (500, 700, 900) calls from the Company's End Users over Company-switched local exchange services constitutes a Constructive Order by the Customer to purchase switched access services as described and priced herein. Similarly the selection of the Customer by an End User as the End User's PIC constitutes a Constructive Order for switched access by the Customer.

Customer: The person, firm, corporation or other entity which orders Service and is responsible for the payment of charges and for compliance with the Company's price list regulations. The Customer could be an interexchange carrier, a wireless provider, or any other carrier authorized to operate in the state.

800 Data Base Access Service: The term "800 Data Base Access Service" denotes a toll-free originating Trunkside Access Service when the 8NN Service Access Code (i.e., 800, 822, 833, 844, 855, 866, 877, or 888 as available) is used. The term 8NN is used interchangeably with 800 Data Base Service throughout this Price list to describe this service.

End User: Any individual, association, corporation, governmental agency or any other entity other than an Interexchange Carrier which subscribes to intrastate service provided by an Exchange Carrier.

End User Serving Wire Center: Denotes the Local Switching Center from which the End User would normally obtain dial tone from the Company.

Entrance Facility: A trunk facility connecting the Customer's point of presence with the local switching center.

Exchange Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in the provision of local exchange telephone service.

Firm Order Confirmation (FOC): Acknowledgment by the Company of receipt of an Access Service Request from the Customer and assignment by the Company of a Service Date.

Individual Case Basis: A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer's situation.

SECTION 1 - DEFINITIONS, (CONT'D)

Interexchange Carrier (IXC) or Interexchange Common Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in state or foreign communication for hire by wire or radio, between two or more exchanges.

LATA: A local access and transport area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192 for the provision and administration of communications services.

Line Information Data Base (LIDB): The data base which contains base information such as telephone numbers, calling card numbers and associated billed number restriction data used in connection with the validation and billing of calls.

Local Access: The connection between a Customer's premises and a point of presence of the Exchange Carrier.

Local Switching Center: The switching center where telephone exchange service Customer station Channels are terminated for purposes of interconnection to each other and to interoffice Trunks.

Meet Point: A point of interconnection that is not an end office or tandem.

Meet Point Billing: The arrangement through which multiple Exchange Carriers involved in providing Access Services, divide the ordering, rating, and billing of such services on a proportional basis, so that each Exchange Carrier involved in providing a portion of the Access Service agrees to bill under its respective tariff/price list.

Mobile Telephone Switching Office: Location where the wireless Customer maintains a facility for purposes of interconnecting to the Company's Network.

SECTION 1 - DEFINITIONS, (CONT'D)

Mutual Traffic Exchange: A compensation arrangement between certified local exchange service providers where local exchange service providers pay each other "in kind" for terminating local exchange traffic on the other's network.

Network Services: The Company's telecommunications Access Services offered on the Company's Network.

Non-Recurring Charges: The one-time initial charges for services or facilities, including but not limited to charges for construction, installation, or special fees, for which the Customer becomes liable at the time the Service Order is executed.

Off-Hook: The active condition of Switched Access or a telephone exchange service line.

On-Hook: The idle condition of switched access or a telephone exchange service line.

Out of Band Signaling: An exchange access signaling feature which allows customers to exchange call control and signaling information over a communications path which is separate from the message path.

Point of Presence: Location where the Customer maintains a facility for purposes of interconnecting to the Company's Network.

Premises: The space occupied by a Customer or Authorized User in a building or buildings or on contiguous property (except railroad rights-of-way, etc.).

Presubscription: An arrangement whereby an End User may select and designate to the Company an Interexchange Carrier (IXC) or Carriers it wishes to access, without an Access Code, for completing both intraLATA toll calls and/or interLATA calls. The selected IXC(s) are referred to as the End User's Primary Interexchange Carrier (PIC).

SECTION 1 - DEFINITIONS, (CONT'D)

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

Service Order: The written request for Network Services executed by the Customer and the Company in a format devised by the Company; or, in the alternative, the submission of an Access Service Request by the Customer in the manner specified in this price list.

Service(s): The Company's telecommunications Access Services offered on the Company's Network.

Signaling Point of Interface: The Customer designated location where the SS7 signaling information is exchanged between the Company and the Customer.

Signaling System 7 (SS7): The common Channel Out of Band Signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI).

Switched Access Service: Access to the switched network of an Exchange Carrier for the purpose of originating or terminating communications. Switched Access is available to carriers, as defined in this price list.

Trunk: A communications path connecting two switching systems in a network, used in the establishment of an end-to-end connection.

Wireless Provider: Any carrier authorized to operate as a provider of cellular, personal communications, paging or any other form of wireless transmission.

SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of Cbeyond

2.1.1 Scope

The Company's services offered pursuant to this price list are furnished for Switched Access Service. The Company may offer these services over its own or leased facilities.

The Company installs, operates, and maintains the communications services provided herein in accordance with the terms and conditions set forth under this price list. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities as required in the Commission's rules and orders, when authorized by the Customer, to allow connection of a Customer's location to the Company network. The Customer shall be responsible for all charges due for such service agreement.

The Company's services and facilities are provided on a monthly basis unless otherwise indicated, and are available twenty-four hours per day, seven days per week.

2.1.2 Shortage of Equipment or Facilities

- A. The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company when necessary because of lack of facilities or due to some other cause beyond the Company's control.
- B. The furnishing of service under this price list is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the company may obtain from other Carriers from time to time, to furnish service as required at the sole discretion of the Company.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.3 Terms and Conditions

- A. Except as otherwise provided herein, service is provided and billed on the basis of a minimum period of at least one month, and shall continue to be provided until canceled by the Customer, in writing, on not less than 30 days notice. Unless otherwise specified herein, for the purpose of computing charges in this price list, a month is considered to have 30 days.
- B. The Customer agrees to operate Company-provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void Company liability for interruption of service and may make the Customer responsible for damage to equipment pursuant to section 2.1.3.C below.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.3 Terms and Conditions, (cont'd)

- C. The 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 only 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.

2.1.4 Liability of the Company

- A. The liability of the Company for damages arising out of the furnishing of its Services, including but not limited to mistakes, omissions, interruptions, delays, errors, other defects, or representations by the Company, or use of these services or damages arising out of the failure to furnish the service whether caused by act or omission, shall be limited to the extension of allowances for interruption as set forth in 2.6 below. The extension of such allowances for interruption shall be the sole remedy of the Customer and the sole liability of the Company. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to Customer as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of the Company's employees or agents.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.4 Liability of the Company, (cont'd)

- B. The Company shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction action, or request of The United States government or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or of any military authority; preemption of existing service in compliance with national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials; or strikes, lockouts work stoppages, or other labor difficulties.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.4 Liability of the Company, (cont'd)

- C. The Company shall not be liable for (a) any act or omission of any entity furnishing the Company or the Company's Customers facilities or equipment used for the interconnection with Access Services; or (b) for the acts or omissions of other Common Carriers.
- D. The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- E. The Customer shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits, or other actions, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, condition, location, or use of any installation or equipment provided by the Company. The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this Section 2.1.4.F as a condition precedent to such installations.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.4 Liability of the Company, (cont'd)

- F. The Company shall not be liable for any defacement of or damage to Customers Premises resulting from the furnishing of services or equipment on such Premises or the installation or removal thereof, unless such defacement or damage is caused by the gross negligence or willful misconduct of the Company's agents or employees. No agents or employees of other participating Carriers shall be deemed to be agents or employees' of the Company.
- G. Notwithstanding the Customer's obligations as set forth in Section 2.3 below, the Company shall be indemnified, defended and held harmless by the Customer, or by others authorized by it to use the service, against any claim, loss or damage arising from Customer's use of services furnished under this price list, including: claims for libel, slander, invasion of privacy or infringement of copyright arising from the material, data, information, or other content transmitted via the Company's service; and patent infringement claims arising from combining or connecting the service offered by the Company with apparatus and systems of the Customer or others; all other claims arising out of any act or omission of the Customer or others, in connection with any service provided by the Company pursuant to this price list.
- H. The Company shall be indemnified and held harmless by the End User against any claim, loss or damage arising from the End User's use of services offered under this price list including: claims for libel, slander, invasion of privacy or infringement of copyright arising from the End User's own communications; patent infringement claims arising from the End User's combining or connecting the service offered by the Company with facilities or equipment furnished by the End User of another Interexchange Carrier; or all other claims arising out of any act or omission of the End User in connection with any service provided pursuant to this price list.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.4 Liability of the Company, (cont'd)

- I. The entire liability of the Company for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid to the Company by the Customer for the specific services giving rise to the claim, and no action or proceeding against the Company shall be commenced more than one year after the service is rendered.
- J. The Company makes no warranties or representation, express or implied, including warranties or merchant's ability or fitness for a particular use, except those expressly set forth herein.
- K. The Company does not guarantee nor make any warranty with respect to service installations at locations at which there is present an atmosphere that is explosive, prone to fire, dangerous or otherwise unsuitable for such installations.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)**2.1 Undertaking of Cbeyond, (cont'd)****2.1.4 Liability of the Company, (cont'd)**

- L. The Company shall not be liable for the Customer's failure to fulfill its obligations to take all necessary steps including, without limitation, obtaining, installing and maintaining all necessary equipment, materials and supplies, for interconnecting the terminal equipment or communications system of the Customer, or any third party acting as its agent, to the Company's Network. The Customer shall secure all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the Customer shall ensure that its equipment and/or system or that of its agent is properly interfaced with the Company's service, that the signals emitted into the Company's Network are of the proper mode, band-width, power, data speed, and signal level for the intended use of the Customer and in compliance with the criteria set forth in Section 2.1.6 following, and that the signals do not damage Company equipment, injure its personnel or degrade service to other Customers. If the Customer or its agent fails to maintain and operate its equipment and/or system or that of its agent properly, with resulting imminent harm to Company equipment, personnel, or the quality of service to other Customers, the Company, may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, the Company may, upon written notice, terminate the Customer's service without liability.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.5 [Reserved for Future Use]

2.1.6 Provisions of Equipment and Facilities

- A. The Company shall use reasonable efforts to make available services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this price list. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any Customer.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.6 Provisions of Equipment and Facilities, (cont'd)

- B. The Company shall use reasonable efforts to maintain facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- C. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided the Customer.
- D. Equipment the Company provides or installs at the Customer Premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided it.
- E. The Customer shall be responsible for the payment of service charges imposed on the Company by another entity, for visits to the Customer Premises when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.6 Provisions of Equipment and Facilities, (cont'd)

- F. The Company shall not be responsible for the installation, operation, or maintenance of any Customer provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this price list, the responsibility of the Company shall be limited to the furnishing of facilities offered under this price list and to the maintenance and operation of such facilities. Notwithstanding the above, the Company shall not be responsible for:
 - 1. the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission;
 - 2. the reception of signals by Customer-provided equipment; or
 - 3. network control signaling where such signaling is performed by Customer-provided network control signaling equipment.
- G. The Company intends to work cooperatively with the Customer to develop network contingency plans in order to maintain maximum network capability following natural or man-made disasters which affect telecommunications services.
- H. The Company reserves the reasonable right to assign, designate or change telephone numbers, any other call number designations associated with Access Services, or the Company serving central office prefixes associated with such numbers, when necessary in the conduct of its business.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.7 Non-routine Installation

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in unusual locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

2.1.8 Special Construction

Subject to the arrangement of the Company and to all of the regulations contained in this price list, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special construction is that construction undertaken and characterized by one or more of the following:

- A. where facilities are not presently available and there is no other requirement for the facilities so constructed;
- B. of a type other than that which the Company would normally utilize in the furnishing of its services;
- C. where facilities are to be installed over a route other than that which the Company would normally utilize in the furnishing of its services;
- D. where facilities are requested in a quantity greater than that which the Company would normally construct;
- E. where installation is on an expedited basis;

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.1 Undertaking of Cbeyond, (cont'd)

2.1.8 Special Construction, (cont'd)

- F. on a temporary basis until permanent facilities are available;
- G. installation involving abnormal costs; or
- H. in advance of its normal construction schedules.

Special construction charges for Switched Access Service will be determined on an individual use basis.

2.1.9 Ownership of Facilities

Title to all facilities provided in accordance with this price list remains in the Company, its agents, contractors or suppliers.

2.2 Prohibited Uses

- 2.2.1 The services the Company offers shall not be used for any unlawful purposes or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- 2.2.2 The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming their use of the Company's offerings complies with relevant laws and applicable state regulations, policies, orders, and decisions; and if the Reseller intends to provide intrastate services, is certified with the appropriate state entity.
- 2.2.3 The Company may require a Customer to immediately shut down its transmission of signals if said transmission is causing interference to others.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer

2.3.1 The Customer shall be responsible for:

- A. the payment of all applicable charges pursuant to this price list;
- B. reimbursing the Company for damage to, or loss of, the Company's facilities or equipment caused by the acts or omissions of the Customer; or the noncompliance by the Customer with these regulations; or by fire or theft or other casualty on the Customer Premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company. The Company will, upon reimbursement for damages to its facilities or equipment, cooperate with the Customer in prosecuting a claim against the person causing such damage and the Customer shall be subjugated in the Company's right of recovery of damages to the extent of such payment;
- C. providing at no charge, as specified from time to time by the Company, any needed personnel, equipment, space, and power to operate Company facilities and equipment installed on the Customer Premises, and the level of heating and air conditioning necessary to maintain the proper operating environment on such Premises;
- D. obtaining, maintaining, and otherwise having full responsibility for all rights-of-way and conduit necessary for installation of fiber optic cable and associated equipment used to provide Access Services to the Customer from the cable building entrance or property line to the location of the equipment space described in 2.3.1.C above. Any costs associated with obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be owned entirely by, or may be charged by the Company to, the Customer. The Company may require the Customer to demonstrate its compliance with this subsection prior to accepting an order for service;

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.1 The Customer shall be responsible for, (cont'd):

- E. providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing, and disposing of any hazardous material (e.g. asbestos) prior to any construction or installation work;
- F. complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses, and permits as may be required with respect to, the location of Company facilities and equipment in any Customer Premises or the rights-of-way for which Customer is responsible obtaining under Section 2.3.1.D above; and granting or obtaining permission for Company agents or employees to enter the Customer Premises at any time for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company; and
- G. not creating or allowing to be placed or maintained any liens or other encumbrances on the Company's equipment or facilities.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.2 Claims

With respect to any service or facility provided by the Company, Customer shall indemnify, defend and hold harmless the Company from all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees for:

- A. any loss, destruction or damage to property of the Company or any third party, or the death of or injury to persons, including, but not limited to employees or invitees of either the Company or the Customer, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer, its employees, agents, representatives or invitees;
- B. any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, including, without limitation, use of the Company's services and facilities in a manner not contemplated by the agreement between the Customer and the Company.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements

A. Jurisdictional Reports

1. Percent Interstate Usage (PIU)

- (a) Pursuant to Federal Communications Commission Order FCC 85-145 adopted April 16, 1985, interstate usage is to be developed as though every call that enters a customer network at a point within the same state as that in which the called station (as designated by the called station number) is situated is an intrastate communication and every call for which the point of entry is in a state other than that where the called station (as designated by the called number) is situated is an interstate communication.
- (b) When a customer initially orders Switched Access service, the customer shall state in its order the Percentage Interstate Usage (PIU) on a statewide, LATA or billing account number level (at the option of the customer) on a local exchange company specific basis, separately for each of the following:

- FGD
- 500
- 700 Service Access
- 8NN Toll Free
- 900
- Entrance Facilities
- Dedicated Interoffice Channel

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

A. Jurisdictional Reports, (cont'd)

1. Percent Interstate Usage (PIU), (cont'd)

(b) (cont'd)

For FGD, 500, 700, 8NN Toll Free, and 900, this PIU will be applicable to all flat and minute of use based rate elements, as applicable. In the event the customer does not supply the projected PIU and the Telephone Company does not have sufficient call detail to determine the jurisdiction of the call, then a PIU of 50 percent will be applied.

The PIU factor provided for flat-rated services shall reflect the combination of all traffic types which transverse such facility category.

Additionally, upon employing the 700 Access Code over FGD, the customer must provide the Telephone Company the PIU for the 700 calls. A PIU of less than 100 percent is not allowed in those LATAs where the service is not also available as an intrastate access service.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

A. Jurisdictional Reports, (cont'd)

1. Percent Interstate Usage (PIU), (cont'd)

(b) (cont'd)

Each quarter the customer shall furnish to the Telephone Company a report of the PIU on a statewide, LATA or billing account number level (at the option of the customer) on a local exchange company specific basis, separately for each of the following:

- FGD Terminating
- 500
- 700 Service Access
- 8NN Toll Free
- 900
- Entrance Facilities
- Dedicated Interoffice Channel

The customer shall compute the PIU using the following formula (rounded to a whole percentage).

Total Interstate Originating Minutes	+	Total Interstate Terminating Minutes

Total	+	Total
Originating Minutes		Terminating Minutes

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

A. Jurisdictional Reports, (cont'd)

1. Percent Interstate Usage (PIU), (cont'd)

- (c) When the customer computes the PIU it shall subtract the developed percentage from 100 and the difference is the percent intrastate usage. The sum of the interstate and intrastate percentages shall equal 100 percent.

2. [Reserved for Future Use]

SECTION 2 - RULES AND REGULATIONS, (CONT'D)**2.3 Obligations of the Customer, (cont'd)****2.3.3 Jurisdictional Report Requirements (cont'd)****A. Jurisdictional Reports, (cont'd)**

3. When a customer initially orders FGD, the customer shall state in its order the Percentage Interstate Usage (PIU). When a customer orders FGD, 500, 8NN Toll Free or 900, the Telephone Company, where the jurisdiction can be determined from the call detail, will determine the interstate percentage as follows. For originating access minutes, the interstate percentage will be developed on a monthly basis by end office when the FGD, 500, 8NN Toll Free or 900 access minutes are measured by dividing the measured interstate originating access minutes (the access minutes where the calling number is in one state and the called number is in another state) by the total originating access minutes when the call detail is adequate to determine the appropriate jurisdiction. When originating call details are insufficient to determine the jurisdiction for the call, the customer shall supply the projected interstate percentage or authorize the Telephone Company to use the Telephone Company developed percentage. In the event the customer does not supply the projected PIU and the Telephone Company does not have the sufficient call detail to develop a PIU, then a PIU of 50 percent shall be used by the Telephone Company as the interstate percentage for such call detail.

As indicated herein, the customer must supply the interstate PIU on a statewide, LATA or billing account number level for terminating FGD service. The PIU supplied shall be on a local exchange company specific basis. All customers must supply the interstate PIU for terminating FGD service following the criteria set forth in this price list. The Telephone Company will designate the number obtained by subtracting the interstate percentage for originating and terminating access minutes calculated by the Telephone Company from 100 (100 - Telephone Company calculated projected interstate percentage - intrastate percentage) as the projected intrastate percentage of use. A PIU of less than 100 percent is not allowed in those LATAs where the interstate service is not also available in the appropriate intrastate access price list.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

A. Jurisdictional Reports, (cont'd)

4. For usage originating from or terminating to an end office that is located in a state that is part of a LATA of a different state (cross boundary), the customer shall provide a statewide PIU per service type for the state where the end office is physically located. The Telephone Company will apply this state level PIU when the call detail is insufficient to determine the appropriate jurisdiction of the call. In the event the customer does not supply the projected state level PIU and the Telephone Company does not have the sufficient call detail to develop a PIU, than a PIU of 50 percent shall be used by the Telephone Company as the interstate percentage for such call detail.
5. For Billing Name and Address for ANI service, the customer shall state in its initial order the projected PIU factor. PIU information shall also be furnished quarterly to the Telephone Company thereafter. The Billing Name and Address for ANI PIU factor shall be reported as required herein.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

A. Jurisdictional Reports, (cont'd)

6. Effective on the first of January, April, July and October of each year the customer shall update the interstate and intrastate jurisdictional report, except where Telephone Company Measured Access minutes are used as set forth in 3. preceding. The customer shall forward to the Telephone Company, to be received no later than 30 days after the first of each such month, a revised report or letter for all services showing the interstate and intrastate percentage of use for the past three months ending the last day of December, March, June and September, respectively, for each service arranged for interstate use. The revised report or letter will serve as the basis for the next three months' billing and will be effective on the bill date for that service. If the customer does not supply an updated quarterly report or letter, the Telephone Company will assume percentages to be the same as those provided in the last quarterly report or letter accepted by the Telephone Company. If an audit has been completed and an updated quarterly report or letter has not been submitted subsequent to the audit, the Telephone Company will assume the PIU factors to be the most recent audited results. For those cases in which a quarterly report or letter has never been received from the customer, the Telephone Company will assume the PIU factors to be the most recent audit results, to be the same as provided in the order for service if no audit has been performed, or 50 percent.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

B. Jurisdictional Report Verification

1. When a customer provides a projected interstate usage percent as set forth preceding, or when a billing dispute arises or a regulatory commission questions the projected interstate percentage for Access, the Telephone Company may, by written request, require the customer to provide the data the customer used to determine the projected interstate percentage. This written request will be considered the initiation of the audit. The customer shall supply the data to an independent auditor or the Telephone Company within 30 days of the Telephone Company request. The customer shall keep records of call detail from which the percentage of interstate and intrastate use can be ascertained as set forth following and upon request of the Telephone Company make the records available for inspections at an agreed upon location during normal business hours as reasonably necessary for purposes of verification of the percentages. The Telephone Company will audit data from one quarter unless a longer period is requested by the customer and agreed to by the Telephone Company.

Changes to the reported PIU will not be made for the test period. If the customer does not provide the requested data to the Telephone Company or independent auditor within thirty (30) days of the notice of audit, the customer will be in violation of this price list and subject to the remedies described herein.

2. Verification audits may be conducted no more frequently than once per year except in extreme circumstances. The Telephone Company and customer will attempt to limit the audit to a reasonable time to effectively complete the audit. The Telephone Company and customer shall respond promptly to requests generated during the audit to ensure timely completion of the audit.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

B. Jurisdictional Report Verification, (cont'd)

3. Audits may be conducted by: (a) an independent auditor under contract to the Telephone Company; (b) a mutually agreed upon independent auditor; or (c) an independent auditor selected and paid for by the customer. If the customer selects option (c), where it pays for its own independent audit, the selected auditor must certify that the audit was performed following F.C.C. procedures for measuring interstate traffic as established by Commission Order, and provide to the Telephone Company a report with supporting documentation to verify such procedures.

4. If a billing dispute arises or a regulatory commission questions the projected interstate percentage, the Telephone Company will ask the customer to provide the data the customer used to determine the projected interstate percentage. The customer shall supply the data within 30 days of the Telephone Company request. The customer shall keep records from which the percentage was determined and upon request of the Telephone Company make the records available for inspection as reasonably necessary for purposes of verification of the percentages.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

C. Maintenance of PIU Records

1. The customer shall retain for a minimum of six (6) months call detail records that substantiate the interstate percent provided to the Telephone Company as set forth preceding. Such records shall consist of (a) and (b), if applicable, following:
 - (a) All call detail records such as workpapers and/or backup documentation including paper, magnetic tapes or any other form of records for billed customer traffic, call information including call terminating address (i.e., called number), the call duration, all originating and terminating trunk groups or access lines over which the call is routed, and the point at which the call enters the customer's network and;
 - (b) If the customer has a mechanized system in place that calculated the PIU, then a description of that system and the methodology used to calculate the PIU must be furnished and any other pertinent information (such as but not limited to flowcharts, source code, etc.) relating to such system must also be made available.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

D. PIU Audit Results

1. Audit results will be furnished to the customer via Certified U.S. Mail (return receipt requested). The Telephone Company will adjust the customer's PIU based upon the audit results. The PIU resulting from the audit shall be applied to the usage for the quarter the audit is completed, the usage for the quarter prior to completion of the audit, and the usage for the two (2) quarters following the completion of the audit. After that time, the customer may report a revised PIU pursuant to A. preceding. If the revised PIU submitted by the customer represents a deviation of 5 percentage points or more, from the audited PIU, and that deviation is not due to identifiable reasons, the provisions in B. preceding may be applied.
2. Both credit and debit adjustments will be made to the customer's interstate access charges for the specified period to accurately reflect the interstate usage for the customer's account consistent with the provisions set forth herein.
3. If, as a result of an audit conducted by an independent auditor, a customer is found to have over-stated the PIU by 20 percentage points or more, the Telephone Company shall require reimbursement from the Customer for the cost of the audit. Such bill (s) shall be due and paid in immediately available funds 30 days from receipt and shall carry a late payment penalty as set forth herein if not paid within the 30 days.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

E. Contested Audits

1. When a PIU audit is conducted by an independent auditor selected by the Telephone Company, the audit results will be furnished to the customer by Certified U.S. Mail (return receipt requested). The customer may contest the audit results based on substantive cause by providing written notification, by Certified U.S. Mail (return receipt requested), to the Telephone Company within thirty (30) calendar days from the date the audit report is furnished to the customer. When a PIU audit is conducted by an independent auditor selected by the customer, the audit results will be furnished to the Telephone Company by Certified U.S. Mail (return receipt requested). The Telephone Company may contest the audit results by providing written notification, by Certified U.S. Mail (return receipt requested), to the customer within thirty (30) calendar days from the date the audit report is furnished to the Telephone Company.
2. Contested audits may be resolved by a neutral arbitrator mutually agreed upon by the Telephone Company and the customer. Arbitration is an option provided in addition to the customer's existing right to file a complaint or legal action in a court of law or at the FCC for resolution of the dispute. The arbitration hearing will be conducted in a state or location within the Telephone Company operating territory where the customer maintains a principle or significant presence or a state and location within the Telephone Company operating territory that is mutually agreed upon by both parties. The arbitration proceeding shall be governed by the law (both statutory and case) of the state in which the arbitration hearing is held, including, but not limited to, the Uniform Arbitration Act, as adopted in that state. The arbitrator shall determine the customer's PIU based on A. preceding.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.3 Obligations of the Customer, (cont'd)

2.3.3 Jurisdictional Report Requirements (cont'd)

E. Contested Audits, (cont'd)

3. Prior to the arbitration hearing, each party shall notify the arbitrator of the PIU percentage which that party believes to be correct. The arbitrator, in deciding, may adopt the PIU percentage of either party or may adopt a PIU percentage different from those proposed by the parties. If the arbitrator adopts a PIU percentage proposed by one of the parties, the other party (whose PIU percentage was not adopted) shall pay all costs of the arbitration. If the arbitrator adopts a PIU percentage higher than either of the PIU percentages proposed by the parties, then the party proposing the lower PIU percentage shall pay all costs of the arbitration. If the arbitrator adopts a PIU percentage lower than either of the PIU percentages proposed by the parties, then the party proposing the higher PIU percentage shall pay all costs of the arbitration. If the arbitrator adopts a PIU percentage which falls between the two percentages adopted by the parties, then the parties shall each pay one-half of the arbitration costs.
4. Absent written notification, within the time frame noted above, the customer must comply with the provisions set forth herein. If the customer fails to comply with these provisions, the Telephone Company may refuse additional applications for service and/or refuse to complete any and all pending orders for service or may discontinue the provision of the services to the customer as specified herein.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.4 Customer Equipment and Channels

2.4.1 General

A Customer may transmit or receive information or signals via the facilities of the Company.

2.4.2 Station Equipment

A The Customer is responsible for providing and maintaining any terminal equipment on the Customer Premises. The electric power consumed by such equipment shall be provided by, and maintained at the expense of, the Customer. All such terminal equipment must be registered with the FCC under 47 C.F.R., Part 68 and all wiring must be installed and maintained in compliance with those regulations. The Company will, where practicable, notify the Customer that temporary discontinuance of the use of a service may be required; however, where prior notice is not practicable, nothing contained herein shall be deemed to impair the Company's right to discontinue forthwith the use of a service temporarily if such action is reasonable under the circumstances.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.4 Customer Equipment and Channels, (cont'd)

2.4.2 Station Equipment, (cont'd)

- A. (cont'd)
In case of such temporary discontinuance, the Customer will be promptly notified and afforded the opportunity to correct the condition which gave rise to the temporary discontinuance. During such period of temporary discontinuance, credit allowance for service interruptions as set forth in Section 2.6 following is not applicable.
- B. The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

2.4.3 Interconnection of Facilities

- A. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Access Services and the Channels, facilities, or equipment of others shall be provided at the Customer's expense.
- B. Access Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs or price lists of the other communications carriers which are applicable to such connections.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.4 Customer Equipment and Channels, (cont'd)

2.4.4 Inspections

- A. Upon reasonable notification of the Customer, and at reasonable times, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth in Section 2.4.2.B for the installation, operation, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment. No credit will be allowed for any interruptions occurring during such inspections.
- B. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm. The Company will, upon request 24 hours in advance, provide the Customer with a statement of technical parameters that the Customer's equipment must meet.

2.5 Payment Arrangements

2.5.1 Payment for Service

The Customer is responsible for payment of all charges for services and facilities furnished by the Company to the Customer or its Joint or Authorized Users.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.1 Payment for Service, (cont'd)

A. Taxes

The Customer is responsible for the payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) excluding taxes on the Company's net income imposed on or based upon the provision, sale or use of Access Services. All such taxes shall be separately designated on the Company's invoices.

2.5.2 Billing and Collection of Charges

Unless otherwise specified herein, bills are due and payable upon receipt.

The Company shall bill on a current basis all charges incurred by, and credits due to, the Customer under this price list attributable to services established, provided, or discontinued during the preceding billing period.

Non-Recurring Charges are due and payable within 30 days after the invoice date.

The Company shall present invoices for all Charges monthly to the Customer.

Amounts not paid within 30 days after the date of invoice will be considered past due. The Company will assess a late payment charge equal to 1.5% per month for any past due balance that exceeds 30 days. If the Company becomes concerned at any time about the ability of a Customer to pay its bills, the Company may require that the Customer pay its bills within a specified number of days and make such payments in cash or the equivalent of cash.

If a service is disconnected by the Company in accordance with Section 2.5.3 following and later restored, restoration of service will be subject to all applicable installation charges.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.2 Billing and Collection of Charges, (cont'd)

The Customer shall notify the Company of any disputed items on an invoice within 90 days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the Commission in accordance with the Commission's rules of procedures.

2.5.3 Refusal and Discontinuance of Service

- A. Upon nonpayment of any amounts owing to the Company, the Company may, by giving requisite prior written notice to the Customer discontinue or suspend service without incurring any liability.
- B. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days' prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- C. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- D. Upon any governmental prohibition, or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any Liability.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.3 Refusal and Discontinuance of Service, (cont'd)

- E. Upon the Company's discontinuance of service to the Customer under Section 2.5.3.A or 2.5.3.B above, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this price list, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable.

- F. The Company may discontinue the furnishings of any and/or all service(s) to Customer, without incurring any liability:
 - 1. Immediately and without 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. The Company may discontinue service pursuant to this sub-section 2.5.3.F.1.(a-e), if
 - (a) The Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of Common Carrier communications services or its planned use of service(s); or

 - (b) The Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of Common Carrier communications services, or its planned use of the Company's service(s); or

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.3 Refusal and Discontinuance of Service, (cont'd)

F. (cont'd)

1. (cont'd)

(c) The Customer states that it will not comply with a request of the Company for security for the payment for service(s) in accordance with Section 2.5.3.A above; or

(d) The Customer has been given written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's other Common Carrier communications services to which the Customer either subscribes or had subscribed or used; or

(e) The Customer uses, or attempts or use, service with the intent to void the payment, either in whole or in part, of the price list charges for the service by:

I. Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this price list, or

II. Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices: or

III. Any other Fraudulent means or devices; or

2. Upon five (5) business days' written notice to the Customer of any sum thirty (30) days past due;

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.3 Refusal and Discontinuance of Service, (cont'd)

F. (cont'd)

3. Upon ten (10) days' written notice to the Customer, after failure of the Customer to comply with a request made by the Company for security for the payment of service in accordance with Section 2.5.3.A, above; or
4. Seven (7) days after sending the Customer written notice of noncompliance with any provision of this price list if the noncompliance is not corrected within that seven (7) day period. The discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance.

G. 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.

2.5.4 Cancellation of Application for Service

Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the company that would have been chargeable to the Customer had service begun.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.5 Payment Arrangements, (cont'd)

2.5.4 Cancellation of Application for Service, (cont'd)

The special charges described will be calculated and applied on a case-by-case basis.

Customers seeking to cancel service have an affirmative obligation to block traffic originating from or terminating to the Company's network.. By originating traffic from or terminating traffic to the Company's network, the Customer will have constructively ordered the Company's switched access service.

2.6 Allowances for Interruptions in Service

Interruptions in service which are not due to the negligence of or noncompliance with the provisions of this price list by, the Customer or the operation or malfunction of the facilities, power, or equipment provided by the Customer, will be credited to the Customer as set forth in 2.6.1 for the part of the service that the interruption affects.

The credit allowance will be calculated by the Company after the Customer notifies the Company of service interruption. The amount of the allowance will depend on the length of the outage and the service impacted. Service Outage conditions are defined as complete loss of call origination and/or receipt capability. Credit Allowances, if any, will be deducted from the charges payable by the IXC and will be expressly indicated on the next invoice. A Service Outage begins when the IXC reports the outage to the Company. A Service Outage ends when the affected circuit and/or associated Company equipment is fully operational in accordance with the technical specifications.

Credit allowances do not apply to outages (i) caused by the IXC; (ii) due to failure of equipment provided by the IXC; (iii) during any period in which the Company is not given access to the service premises; (iv) failures of LEC facilities or equipment which are carrying the failures resulting from the activities or negligence of LEC employees; (v) inability to gain access to the IXC's equipment; and (vii) due to mutually agreed upon maintenance and repair.

Credit Allowances received by the Company from the LEC for Off-Net facility outages which affects the IXC's Switched Services will be passed through to the IXC in the form of a credit on the next invoice.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.6 Allowances for Interruptions in Service, (cont'd)

2.6.1 Limitations on Allowances

No credit allowance will be made for:

- A. interruptions due to the negligence of, or noncompliance with the provisions of this price list by, the Customer, Authorized User, Joint-User, or other Common Carrier providing service connected to the service of Company;
- B. interruptions due to the negligence of any person other than the Company, including, but not limited to, the Customer or other Common Carriers connected to the Company's facilities;
- C. interruptions due to the failure or malfunction of non-Company equipment;
- 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 control of the Company.

2.7 Transfers and Assignments

Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties (a) to any subsidiary, parent Company or affiliate of the Company (b) pursuant to any sale or transfer of substantially all the assets of the Company; or pursuant to any financing, merger or reorganization of the Company.

SECTION 2 - RULES AND REGULATIONS, (CONT'D)

2.8 Notices and Communications

- 2.8.1 The Customer shall designate on the Service Order, or equivalent, an address to which the Company shall mail or deliver all notices and other communications, except that the Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- 2.8.2 The Company shall designate on the Service Order, or equivalent, an address to which the Customer shall mail or deliver all notices and other communications, except that the Company may designate a separate address, on each bill for service, to which the Customer shall mail payment on that bill.
- 2.8.3 All notices or other communications required to be given pursuant to this price list shall be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following deposit of the notice, communication, or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.
- 2.8.4 The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

2.9 Meet Point Billing

Meet Point Billing applies when more than one Exchange Telephone Company is involved in the provision of Access Service. All recurring and nonrecurring charges for services provided by each Exchange Telephone Company are billed under each company's applicable rates.

SECTION 3 - ORDERING OPTIONS FOR ACCESS SERVICE**3.1 General**

This section sets forth the regulations and order related charges for Access Service Requests (ASR) for Switched Access Service, as defined in this price list. These charges are in addition to other applicable charges set forth in other sections of this price list.

In the absence of an ASR as described in Section 3.2, delivery of calls to the Company for termination to the Company's End Users or acceptance of calls from the Customer's End Users over Company-switched local exchange services or acceptance of 800 Data Base Access Service (see definition below) or other SAC codes (500, 700, 900) calls from the Company's End Users over Company-switched local exchange services constitutes a Constructive Order by the Customer to purchase switched access services as described and priced herein.

3.1.1 Ordering Conditions

Unless otherwise specified herein, all services offered under this price list shall be ordered using an ASR. The format and terms of the ASR will be as specified in the industry Access Service Order Guidelines, unless otherwise specified herein. A Customer may order any number of services of the same type and between the same premises on a single ASR. All details for services for a particular order must be identical.

The Customer shall provide all information necessary for the Company to provide and bill for the requested service. When placing an order for Access Service, the Customer shall provide the following minimum information:

- A. Customer name and Premise(s) address(es);
- B. Billing name and address (when different from Customer name and address); and
- C. Customer contact name(s) and telephone number(s) for the following provisioning activities: order negotiation, order confirmation, interactive design, installation and billing.

SECTION 3 - ORDERING OPTIONS FOR ACCESS SERVICE, (CONT'D)

3.1 General, (cont'd)

3.1.2 Provision of Other Services

With the agreement of the Company, other services may subsequently be added to the ASR at any time, up to and including the service date for the Access Service.

3.2 Access Order

When a Customer requests new or additional Switched Access Service, one or more ASR's may be required. The number of orders required is dependent on the type of services and/or facilities being requested.

3.2.1 Access Service Date Intervals

Access Service Date Intervals will be negotiated on an individual case basis.

The Company will offer a Service Date based on the type and quantity of Access Services the Customer has requested.

SECTION 3 - ORDERING OPTIONS FOR ACCESS SERVICE, (CONT'D)

3.2 Access Order, (cont'd)

[Reserved for Future Use]

SECTION 3 - ORDERING OPTIONS FOR ACCESS SERVICE, (CONT'D)

3.2 Access Order, (cont'd)

3.2.2 Access Service Request Modifications

The Customer may request a modification of its ASR prior to the Service Commencement Date. All modifications must be in writing using the industry ASR process. The Company, in its sole discretion, may accept a verbal modification from the Customer. The Company will make every effort to accommodate a requested modification when it is able to do so with the normal work force assigned to complete such an order within normal business hours.

3.2.3 Minimum Period of Service

The minimum period for which Access Service is provided and for which charges are applicable is one month.

A. The following changes will be treated as a discontinuance of the existing service and a request for installation of a new service. All associated Non-Recurring Charges will apply for the new service, and a new minimum period will be established:

1. A change in the identity of the Customer of record; or
2. A move by the Customer to a different building.

B. When Access Service is disconnected prior to the expiration of the minimum period, charges are applicable for the balance of the minimum period.

All applicable Non-Recurring Charges for the service will be billed in addition to the Minimum Period Charge.

SECTION 3 - ORDERING OPTIONS FOR ACCESS SERVICE, (CONT'D)**3.3 Supplementary Charges**

Customer Requested Due Date Change ^{1,2}	ICB
Customer Requested Expedite ²	ICB
Cancellation (after 3 business days from order placement) ²	ICB
Design Change, DS0/DS1 ²	ICB
Design Change, DS3 and higher ²	ICB
Administrative Processing ²	ICB

¹ Company Due Date Change Policy - No due date change accepted at or after four (4) days prior to the current due date. If a Customer request is received during that time period, the supplemental charge will apply and, in addition, the billing will start on the current due date without exception.

² For services involving facilities leased from other telecommunications providers, Supplementary Charges will be priced on an Individual Case Basis, and will be based upon a pass-through of all charges assessed by other providers, and the Company's administrative costs.

SECTION 4 - SWITCHED ACCESS SERVICE

4.1 General

Switched Access Service, which is available to Customers for their use in furnishing their services to end users, provides a two-point communications path between a Customer's Premises and an End User's Premises. It provides for the use of common terminating, switching and transport facilities. Switched Access Service provides the ability to originate calls from an End User's Premises to a Customer's Premises, and to terminate calls from a Customer's Premises to an End User's Premises.

Switched Access Service is available when originating or terminating calls from or to an end user which subscribes to the Company's Local Exchange Services.

Rates and charges are set forth in Section 5. The application of rates for Switched Access Service is described in Section 5.

4.2 Provision and Description of Switched Access Service Arrangements

4.2.1 Switched Access

Switched Access is provisioned at the DS-1 level and provides trunk-side access to Local Switching Center switches, for the Customer's use in originating and terminating communications. Basic Switched Access service will be provided with SS7 Signaling.

Two types of Switched Access are available:

- 1) **Tandem Connect Access:** This option applies when the customer has no direct facilities to the End User Serving Wire Center. All traffic is routed to and from the Company's End User Serving Wire Center via a Company Access Tandem or another tandem provider. Delivery of calls to, or acceptance of calls from, the Company's End User location(s) via Company-provided Tandem Connect Access services shall constitute a Constructive Order and an agreement by the Customer to purchase the Company's switched access services as described and priced herein. The Company reserves the right to require the Customer to submit an ASR for Tandem Connect Access.

- 2) **Direct Connect Access:** This option applies when the Company or another service provider provides dedicated facilities between the Customer's premises and the End Office. This transmission path is dedicated to the use of a single Customer. The Company requires the Customer to submit an ASR or comparable documentation for the dedicated portion of Direct Connect Access. The dedicated portion of Direct Connect Access is provided on an Individual Case Basis as Special Service Arrangements pursuant to Section 6 of this price list.

SECTION 4 - SWITCHED ACCESS SERVICE, (CONT'D)

4.2 Provision and Description of Switched Access Service Arrangements, (cont'd)

4.2.2 Manner of Provision

Trunks used for Switched Access Service may be configured for one-way (either originating only or terminating only) or for two-way directionality. It is the Customer's responsibility to provide the Company with a usage demand estimate for the first 3 months of service. This demand estimate should be included with the access order information.

4.2.3 Call Types

The following Switched Access Service call types are available:¹

- A. Originating 101XXXX (FGD) Access
- B. Originating 800 Switched Access
- C. Terminating Switched Access

4.2.4 Originating 101XXXX Switched Access

The access code for Switched Access is a uniform access code of the form 101XXXX. A single access code will be the assigned number of all Switched Access provided to the Customer by the Company. When the access code is used, Switched Access also provides for dialing the digit 0 for access to the Customer's operator service and/or the end of dialing digit (#) for cut-through access to the Customer's premises. Originating service may also be available on a presubscription basis whereby the access code is not required (i.e., "1+" dialing).

¹ Other supported call types may include 500/700/900 access.

SECTION 4 - SWITCHED ACCESS SERVICE, (CONT'D)

4.2 Provision and Description of Switched Access Service Arrangements, (cont'd)

4.2.5 Originating 800 Switched Access

800 Data Base Access Service is a service offering utilizing originating Trunk side Switched Access Service. When an 8NN + NXX + XXXX call is originated by an End User, the Company will perform Customer identification based on screening of the full ten-digits of the 8NN number to determine the Customer location to which the call is to be routed.

4.2.6 Terminating Switched Access

Switched Access, when used in the terminating direction, may only be used to access end users who are subscribing to the Company's Local Exchange Services. Calls in the terminating direction will not be completed to 950-0XXX or 950-1XXX access codes, local operator assistance (0- and 0+), Directory Assistance, (411 or 555-1212) service codes 611 and 911 and 101XXXX access codes.

4.3 Reports and Testing

4.3.1 Design Layout Report: At the request of the Customer, the Company will provide to the Customer the makeup of the facilities and services provided from the Customer's Premises to the first point of switching.

4.3.2 Acceptance Testing: At no additional charge, the Company will, at the Customer's request, cooperatively test, at the time of installation, the following parameters: loss, C-notched noise, C-message noise, 3-tone slope, d.c. continuity (if applicable) and operational signaling.

SECTION 5 - SWITCHED ACCESS RATES

5.1 General

This section contains the specific regulations governing the rates and charges that apply for Switched Access Services:

There are three types of rates and charges that apply to Switched Access Service:

- Non-Recurring Charges: One-time charges that apply for a specific work activity.
- Recurring Charges: Fixed charges apply each month and depend on the number and type of facilities in place.
- Usage Charges: Charges that are applied on a per access minute basis. Usage rates are accumulated over a monthly period.

SECTION 5 - SWITCHED ACCESS RATES, (CONT'D)

5.2 Application of Rates

Originating 101XXXX/8NN Switched Access: Usage rates will apply to the total number of recorded minutes of use during the billing period. Usage rates will apply to both Tandem Connect Access and Direct Connect Access as set forth in 5.4.2. In addition, non-recurring rates will apply to Tandem Connect Access, and non-recurring and monthly recurring rates will apply to Direct Connect Access. These non-recurring and monthly recurring rates will be developed on an individual case basis (see Section 8).

Terminating Switched Access: Usage rates will apply to the total number of recorded minutes of use during the billing period. Usage rates will apply to both Tandem Connect Access and Direct Connect Access as set forth in 5.4.2. In addition, non-recurring rates will apply to Tandem Connect Access, and non-recurring and monthly recurring rates will apply to Direct Connect Access. These non-recurring and monthly recurring rates will be developed on an individual case basis (see Section 8).

Originating 8NN Switched Access Query: In addition to all other applicable usage charges, a data base query charge will apply per originating 8NN message.

SECTION 5 - SWITCHED ACCESS RATES, (CONT'D)

5.3 Billing of Access Minutes

When recording originating calls over Switched Access with SS7 signaling, usage measurement begins with the transmission of the initial address message by the switch for direct trunk groups and with the receipt of an exit message by the switch for tandem trunk groups. The measurement of originating Switched Access usage ends when the entry switch receives or sends a release message, whichever occurs first.

For terminating calls over Switched Access with SS7 signaling, the measurement of access minutes begins when the terminating recording switch receives the initial address message from the terminating End User. On directly routed trunk groups or on tandem routed trunk groups, the Company switch receives the initial address message and sends the indication to the Customer in the form of an answer message. The measurement of terminating Switched Access call usage ends when the entry switch receives or sends a release message, whichever occurs first.

SECTION 5 - SWITCHED ACCESS RATES, (CONT'D)

5.4 Rates and Charges

5.4.1 Non-Recurring and Monthly Recurring Charges

- | | | | |
|----|---|-------------|-------------|
| A. | Access Order Charge | | ICB |
| B. | Service Implementation/Installation Charge | | |
| 1. | Direct Connect Access: | | |
| | First | <u>DS-1</u> | <u>DS-3</u> |
| | Each Additional (same ASR as First) | ICB | ICB |
| 2. | Tandem Connect Access: | | |
| | Switched Trunk Installation (per trunk or signaling connection) | | |
| | First | | ICB |
| | Each Additional (same ASR as First) | | ICB |
| C. | Monthly Recurring Charges | | |
| 1. | Direct Connect Access: | <u>DS-1</u> | <u>DS-3</u> |
| | | ICB | ICB |
| 2. | Tandem Connect Access or Switched Transport: | | |
| | <i>Not Applicable</i> | | |

SECTION 5 - SWITCHED ACCESS RATES, (CONT'D)

5.4 Rates and Charges, (cont'd)

5.4.2 Switched Access

Originating 101XXXX Switched Access:

LATA	Rate per MOU	
	Tandem Connect	Direct Connect
All	\$0.0505	\$0.0500

Originating 8NN Switched Access:

LATA	Rate per MOU	
	Tandem Connect	Direct Connect
All	\$0.0505	\$0.0500

Terminating Switched Access:

LATA	Rate per MOU	
	Tandem Connect	Direct Connect
All	\$0.0545	\$0.0540

Originating 8NN Switched Access Query (in addition to all other applicable usage charges):

LATA	Rate per Query	
	Tandem Connect	Direct Connect
All	\$0.0100	\$0.0100

SECTION 6 - MISCELLANEOUS CHARGES

6.1 PIC Change Charge

Nonrecurring Charge per Change: \$5.00

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By: William H. Weber, Vice President and Corporate Counsel
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Atlanta, Georgia 30339

SECTION 6 - MISCELLANEOUS CHARGES, (CONT'D)

6.2 Billing Name and Address

6.2.1 Service Description

Billing Name and Address (BNA) service provides account detail of the Company's customers to interexchange carriers, operator service providers, enhanced service providers, and any other provider of intrastate telecommunications services.

6.2.2 General

- A. Upon acceptance of an order for BNA service, the Company will furnish account detail for each working number submitted. Account detail consists of current data base information including the end user's billing name and billing address.
- B. Only current information which resides in the Company's data base will be provided. Customers ordering BNA service must accept BNA account detail on an "as is" basis.
- C. The Company will specify the location where requests for BNA service are to be received, and the format in which the requests are to be provided.
- D. The subscribing customer must agree that BNA information will not be resold or otherwise provided to any other person, corporation, partnership or entity, other than Customer's authorized billing agent, and that Billing Name and Address shall be used by Customer or Customer's authorized billing agent solely for billing its customers for using Customer's telecommunications services.

SECTION 6 - MISCELLANEOUS CHARGES, (CONT'D)

6.2 Billing Name and Address (Cont'd)

6.2.2 General (Cont'd)

- E. For calling card calls and collect and third party billed calls, Billing Name and Address for ANI service is not available on accounts of nonpublished/unlisted end users who, by request to the Company (which request may be submitted at any time), have specified that such information not be released.

- F. Manual Request
 - 1. The Company will provide BNA via manual request procedures.
 - 2. BNA service information will be provided by the Company in standard paper format via facsimile or first class U.S. mail.
 - 3. Wherever possible, the Company will provide Billing Name and Address for ANI data no later than ten (10) business days from the date of receipt of the customer's request. Availability of data may be delayed if errors exist in the request received from the customer.
 - 4. In situations where the customer requests more than forty (40) BNA records on a single order, the Company will provide the requested BNA information in a time frame mutually agreed to by the customer and the Company.

SECTION 6 - MISCELLANEOUS CHARGES, (CONT'D)

6.2 Billing Name and Address (Cont'd)

6.2.3 Rate Regulations

The number of BNA records for which charges apply will be accumulated by the Company, and billed to the customer on a monthly basis at the rates set forth in 6.2.4 following.

6.2.4 Rates and Charges

BNA
Request
Manual

Billing Name and Address for ANI

- | | | |
|---|--|---------|
| - | Per Order | \$50.00 |
| - | Per Record (in addition to per Order charge) | \$ 0.35 |

SECTION 6 - MISCELLANEOUS CHARGES, (CONT'D)

[Reserved for Future Use]

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SECTION 7 - DEDICATED ACCESS SERVICE

The Company provides intrastate Dedicated Access Service for use as a stand-alone service, or in connection with other Company services. Dedicated Access Services are offered on a point-to-point basis. Each Dedicated Access Service is dedicated to the Customer and the entire usable bandwidth for each service is available to the Customer for their exclusive use.

Pricing for all Dedicated Access Services is on an Individual Case Basis (ICB).

SECTION 8 - SPECIAL ARRANGEMENTS

8.1 Individual Case Basis (ICB) Arrangements

Arrangements will be developed on an Individual Case Basis (ICB) in response to a bona fide special request from a Customer or prospective Customer to develop a competitive bid for a service, or to establish rates for services for which the Company has not yet established generically price listed rates. ICB rates will be offered to the Customer in writing and on a non-discriminatory basis.

8.2 Contracts

The Company may provide any of the services offered under this price list, or combinations of services, to Customers on a contractual basis. The terms and conditions of each contract offering are subject to the agreement of both the Customer and Company. Such contract offerings will be made available to similarly situated Customers in substantially similar circumstances. Rates in other sections of this price list do not apply to Customers who agree to contract arrangements, with respect to services within the scope of the contract.

Services provided under contract are not eligible for any promotional offerings which may be offered by the Company from time to time.