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ANDREW O. ISAR

Via Electronic and U.S. Mail

February 7, 2012

Mr. Darrell Nitchke
Executive Secretary
Public Service Commission of North Dakota
600 E. Boulevard Ave., Dept. 408
Bismarck, North Dakota 58505-0480

RE: 360networks (USA) inc. Tariff North Dakota P.S.C. Tariff No. 1, Advice Letter No.
5

Dear Mr. Nitchke:

Enclosed for filing with the North Dakota Public Service Commission are an original and seven (7) copies of amended sheets 2, 53.1, and original sheets 53.2 to 53.4 to 360networks (USA) inc.'s ("360") switched exchange access tariff, North Dakota P.S.C. Tariff No. 1, for incorporation into the Company's Tariff.

With this filing, 360 makes amendments to its December 20, 2011 filing in Advice Letter No. 4, which complied with the Federal Communications Commission's ("FCC") Report and Order and Further Notice of Proposed Rulemaking, in Docket Nos. WC Docket No. 10-90, et al., FCC 11-161, by implementing provisions governing Voice over Internet Protocol telephony – Public Switched Telephone Network ("VoIP-PSTN") Traffic. These amendments are responsive to Verizon's February 6, 2012 letter raising concerns over 360's methodology for calculation of the Percentage of Voice over Internet Protocol telephony usage ("PVU")

Verizon inter alia states that section 4.1.2. of 360's tariff proposes to determine the volume of traffic to be billed at interstate switched access rates by applying a PVU factor only to a Customer delivering traffic to Company. Under this arrangement, according to Verizon, 360 "would charge carriers higher intrastate rates for originating access, while [360networks] would enjoy the benefit of lower interstate rates when it buys originating access from Verizon and other carriers that have correctly implemented the FCC's regime for all VoIP-PSTN traffic."

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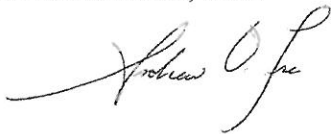
It is not 360's intent to apply interstate rates to only traffic that a Customer originates in IP format and is terminated by 360. Section 1 of 360s tariff defines "VOIP-PSTN" traffic as "VoIP-PSTN Traffic is traffic exchanged between the Company and the Customer in Time Division Multiplexing (TDM) format that originates and/or terminates in Internet Protocol (IP) format." (emphasis added). Further, section 4.1.42. expressly states that "Intrastate VOIP-PSTN traffic is subject to the Company's applicable interstate switched access rate, as set forth in the Company's FCC Tariff No. 1.

It is not now, and was not, 360's intent to apply interstate access to only a portion of VOIP-PSTN traffic. Nevertheless, 360 wishes to cooperate with Verizon and has no objection to clarifying how it identifies VOIP-PSTN traffic. As can be seen from the attached revised tariff pages, 360's approach for identifying VOIP-PSTN traffic is not materially different from Verizon own procedures.

Please acknowledge receipt of this filing by return electronic mail to me at aisar@millerisar.com. Thank you for your attention to this matter. Questions regarding this filing may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

A handwritten signature in cursive script, appearing to read "Andrew O. Isar".

Andrew O. Isar

Regulatory Consultants to
360networks (USA) inc.

Attachment

CHECK SHEET

The sheets of this Tariff are effective as of the date shown. The original and revised sheets named below contain all changes from the original Tariff and are in effect on the date shown. An asterisk (*) reflects the revision number of Sheets included in a current filing with the Commission.

<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>
1	First	30	Original	55	Original		
2	Fourth*	31	Original				
3	Original	32	Original				
4	First	33	Original				
5	Original	34	Original				
6	Original	35	Original				
7	Original	36	Original				
8	Original	37	Original				
9	Original	38	Original				
10	First	39	Original				
11	First	40	Original				
12	Original	41	Original				
13	Original	42	Original				
14	Original	43	Original				
15	Original	44	Original				
16	Original	45	Original				
17	Original	46	Original				
18	Original	47	Original				
19	Original	48	First				
20	Original	49	Original				
21	Original	50	Original				
22	Original	51	Second				
23	Original	52	Second				
24	Original	53	First				
25	Original	53.1	First*				
26	Original	53.2	Original*				
27	Original	53.3	Original*				
28	Original	53.4	Original*				
29	Original	54	Third				

Issued: February 7, 2012

Effective: February 18, 2012

Issued By:

Gary Ray
 Vice President and Co-General Counsel
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RATES (cont'd)

4.1 Access Service (cont'd)

4.1.2. Voice over Internet Protocol – Public Switched Telephone Network (“VoIP - PSTN”) Traffic

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

(T)

Company will bill and collect the full Access Reciprocal Compensation on traffic exchanged with Customers when such traffic originates and/or terminates in Internet Protocol format, as set forth in Section 51.913 of the Federal Communications Commission’s rules, 47 C.F.R. §51.913, regardless of whether the Company itself delivers such traffic to the called party’s premises or delivers the call to the called party’s premises via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected Voice over Internet Protocol service or a non-interconnected Voice over Internet Protocol service that does not itself seek to collect Access Reciprocal Compensation charges for this traffic. 2

Intrastate VoIP – PSTN traffic is subject to the Company’s applicable interstate switched access rate per minute, as set forth in the Company’s F.C.C. Tariff No. 1.

(T)

(D)

(D)

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

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RATES (cont'd)4.1 Access Service (cont'd)

(N)

4.1.4. Voice over Internet Protocol – Public Switched Telephone Network (“VoIP - PSTN”) Traffic (cont'd)

B) Calculations and Application of Percent-VoIP-PSTN Usage

Company will determine the number of Relevant VoIP-PSTN Traffic minutes of use (“MOU”) to which interstate rates will be applied under subsection 4.1.4.A, above, by applying a Percent VoIP Usage (“PVU”) factor to the total intrastate access MOU exchanged between a Company End User and the Customer. The PVU will be derived and applied as follows.

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

(N)

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RATES (cont'd)

4.1 Access Service (cont'd)

(N)

4.1.2. Voice over Internet Protocol – Public Switched Telephone Network (“VoIP - PSTN”) Traffic (cont'd)

B) Calculations and Application of Percent-VoIP-PSTN Usage

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

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

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

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

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

5. If the Customer does not furnish Company with a PVU factor, the Company will utilize a PVU--A factor of zero.

(N)

RATES (cont'd)

4.1 Access Service (cont'd)

4.1.2. Voice over Internet Protocol – Public Switched Telephone Network (“VoIP - PSTN”) Traffic (cont'd)

C. Initial PVU-A Factor.

If the PVU-A factor is not available and/or cannot be implemented in Company’s billing systems by April 15, 2012, the Company will adjust the Customer’s initial PVU-A to zero retroactively to January 1, 2012.

D. PVU Factor Updates

The Customer may update the PVU-A factor quarterly. The Customer shall submit such update no later than the 15th day of January, April, July, and October of each year. Revised PVU factors must be based on the data for the prior three months ending the last day of December, March, June, and September respectively. The Company will use the revised PVU-A factor to calculate a revised PVU. The revised PVU will be used for future billing and will be effective on the bid date of each month and will be used for subsequent monthly billing until superseded by a new PVU factor. No prorating or back billing will be done based on the updated PVU factors. The PVU factor will be billed beginning on January 1, 2012.

E. PVU Factor Verification

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

(N)

(N)