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PUBLIC SERVICE COMMISSION

January 31, 2012

Mr. Darrell Nitschke
Executive Secretary
Public Service Commission
State Capitol
600 East Boulevard Ave
Bismarck, ND 58505-0480

Dear Mr. Nitschke:

On behalf of Daktel Communications, LLC, I am enclosing an original and seven copies of our new Section 12 associated with the identification and rating of VoIP – PSTN Traffic, as well as, the revised table of contents page.

It is our desire to have Section12 become effective March 1, 2012.

Please contact me at 701-652-6105 if you have any questions.

Sincerely,

Keith A. Larson
General Manager

1 **PU-12-60** Filed: 2/1/2012 Pages: 9
VOIP-PSTN Traffic

Daktel Communications LLC

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12. VoIP – PSTN TRAFFIC

A. Identification and Rating of VoIP-PSTN Traffic

This section governs the identification of Toll VoIP-PSTN Traffic which the FCC in its Report and Order in WC Dockets Nos. 10-90, etc., F.C.C. Release No. 11-161 (November 187, 2011) (F.C.C. Order) has allowed it to be tariffed in both federal and state access tariffs unless the parties have a negotiated agreement.¹ The Telephone Company recognizes that according to the FCC Order all VoIP-PSTN traffic is governed by section 251(b)(5) Framework including Toll PSTN VoIP Traffic which is included in this tariff.

For the purposes of this Tariff Toll VoIP-PSTN Traffic is defined as interexchange traffic exchanged between a Telephone Company end user and the customer in Time Division Multiplexing (TDM) format that originates and/or terminates in Internet Protocol (IP) format. Toll VoIP-PSTN traffic originated and/or terminates in IP format when it originates from and/or terminates to an end user customer of a service that requires IP-compatible customer premises equipment.

The customer shall deliver all Toll VoIP-PSTN traffic on its facilities that deliver other voice access traffic. Toll VoIP-PSTN traffic shall not be delivered on local trunk groups.

Specifically, this section establishes the method of separating Toll VoIP-PSTN Traffic from the customer's traditional intrastate access traffic, so that Toll VoIP PSTN Traffic can be billed in accordance with the F.C.C. Order.

Toll VoIP-PSTN Traffic identified in accordance with this tariff section will be billed at rates equal to the Telephone Company's applicable tariffed interstate switched access rates as set forth in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 5. If the F.C.C. Order is stayed or overturned, Toll VoIP-PSTN Traffic that is jurisdictionally intrastate will be billed at rates under this Tariff. The addition of this Section 12 is to comply with the F.C.C. Order.

¹ Although the Company has taken the position that this tariff, by its own terms, already applies to VoIP-PSTN traffic, as defined herein, the Company has included this Section in the Tariff out of an abundance of caution to prevent any claim that it does not so apply, and to implement the decision by the Federal Communications Commission in its Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (November 18, 2011) ("FCC Order") that VoIP-PSTN access traffic should be exchanged at interstate access rates (unless the parties have agreed otherwise). By its terms, the FCC Order is prospective only, and does not address preexisting law with regard to the applicability of intercarrier compensation or the enhanced service providers ("ESP") exemption to VoIP-PSTN Traffic

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1. Calculation and Application of Percent-VoIP Usage Factors

- a) The Telephone Company will determine the number of intrastate Toll VoIP-PSTN Traffic minutes of Use (MOU) to which interstate rates will be applied under Section 2.3.3 by applying an originating Percent Toll VoIP-PSTN Usage (PVU) factor to the total intrastate access MOU originated by a Telephone Company end user and delivered to the customer and by applying a terminating PVU factor to the total intrastate access MOU terminated by a customer to the Telephone Company's end user.
- b) The customer will calculate and furnish to the Telephone Company an originating PVU factor representing the whole number percentage of the customer's total originating intrastate access MOU that the customer exchanges with the Telephone Company in the state that is received from the telephone Company and that is terminated in IP format and that would be billed by the Telephone Company at interstate rates.
- c) The customer will calculate and furnish to the Telephone Company a terminating PVU factor representing the whole number percentage of the customer's total terminating intrastate access MOU that the customer exchanges with the Telephone Company in the state that is sent to the Telephone Company and which originated in IP format and that would be billed by the Telephone Company as interstate access MOU.
- d) The customer shall not modify their reported PIU factor to account for Toll VoIP-PSTN Traffic.
- e) Both the customer provided originating PVU and the terminating PVU shall be based on information such as the number of the customer's retail Toll VoIP subscriptions in the state (E.G. as reported on F.C.C. Form 477), traffic studies, actual call detail or other relevant and verifiable information which will be provided to the Telephone Company upon request.
- f) The customer shall retain the call detail, work papers, and information used to develop the PVU factors for a minimum of one year.
- g) If the Customer does not furnish the Telephone Company with a PVU factor according to Section 12(A)(1)(b) and (c) above, the Telephone Company will utilize a PVU equal to zero.

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2. PVU Factor

The customer may provide PVU to Telephone Company upon the effective date of this Tariff or with an initial order. Such PVU shall be implemented in the billing cycle following the receipt of the PVU. The customer may update the PVU factors quarterly using the method set forth in 1.c, preceding, if the customer chooses to submit such updates, it shall forward to the Telephone Company, no later than 15 days after the first day of January, April, July and/or October of each year, revised PVU factors based on date for the prior three months, ending the last day of December, March, June, and September, respectively. The revised PVU factors will serve as the basis for future billing and will be effective on the bill date of each such month and shall serve as the basis for subsequent monthly billing until superseded by new PVU factors. No prorating or back billing will be done based on the updated PVU factors.

3. PVU Factor Verification

- a) Not more than twice in any year, the Telephone Company may request from the customer an overview of the process used to determine the PVU factors, the call detail records, description of the method for determining how the end user originates and terminated call in IP format, and other information used to determine the customer's PVU factors furnished to the Telephone Company in order to validate the PVU factors supplied. The customer shall comply, and shall reasonably supply the requested data and information within 15 days of the Telephone Company's request.
- b) The Telephone Company may dispute the Customer's PVU factor based upon:
 - A review of the requested data and information provided by the customer;
 - The Telephone Company's reasonable review of other market information, F.C.C. reports on VoIP lines, such as F.C.C. Form 477 or state level results based on the F.C.C. Local Competition Report or other relevant data;
 - A change in the reported PVU factor by more than five percentage points from preceding quarter.
- c) If after review of the data and information, the customer and the Telephone Company established revised PVU factors, the Telephone

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Company will begin using those revised PVU factors with the next bill period.

- d) If the dispute is unresolved, the Telephone Company may initiate an audit. The Telephone Company shall limit audits of the customer's PVU factor to no more than twice per year. The customer may request that the audit be conducted by an independent auditor. In such cases the associated auditing expenses will be paid by the customer.
- In the event that the customer fails to provide adequate records to enable the Telephone Company or an independent auditor to conduct an audit verifying the customer's PVU factors, the Telephone Company will bill the usage for all contested periods using the most recent undisputed accepted PVU factors reported by the customer. These PVU factors will remain in effect until the audit can be completed.
 - During the audit, the most recent undisputed PVU factors from the previous reporting period will be used by the Telephone Company.
 - The Telephone Company will adjust the Customer's PVU factors based on the results of the audit and implement the revised PVU in the next billing period or quarterly report date, whichever is first. The revised PVU factors will apply for the next two quarters before new factors can be submitted by the customer.
 - If the audit supports the customer's PVU factors, the usage for the contested periods will be adjusted to reflect the customer's audited PVU factors.

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B. Definitions

Internet Protocol (IP)

The term "Internet Protocol" denotes a packet data-oriented protocol used for communicating call signaling information.

Multi-Frequency Signaling (MF)

An in-band signaling method in which call signaling information is transmitted between network switches using the same voiceband channel used for voice.

Originating Direction

The use of access service for the origination of calls from an End User Premises to an IC Premises or a Customer's Premises.

Public Switch Telephone Network (PSTN)

Public Switch Telephone Network refers to the local, long distance and international phone system which we use every day. In the United States, PSTN refers to the entire interconnected collection of local, long distance and international phone companies, which could be thousands.

Remote Switching Modules and/or Remote Switching Systems

Small, remotely controlled electronic end office switches which obtain all or part of their call processing capability from a Host Office. The Remote Switching Modules and/or Remote Switching systems cannot accommodate direct trunks.

Termination Direction

The use of Access Service for the completion of calls from an IC premises or a Customer's premises to an End User Premises.

Toll VoIP-PSTN Traffic

The term "toll VoIP-PSTN Traffic" denotes a customer's interexchange voice traffic exchanged with the Telephone Company in Time Division Multiplexing format over PSTN facilities, which originates and/or terminates in Internet Protocol (IP) format. "Toll VoIP-PSTN Traffic" originates and/or terminates in

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IP format when it originates from and/or terminates to an end user customer of a service that requires IP-compatible customer premises equipment.

VoIP-PSTN Traffic

VoIP-PSTN Traffic is defined as traffic exchanged between the Company end user and the Customer in TDM format that originates and/or terminates in IP signaling format. VoIP-PSTN traffic includes tariff that is jurisdictionally local, intrastate intraLATA, intrastate InterLATA and interstate.

C. General

The following provision applies to the treatment of Toll VoIP-PSTN Traffic pursuant to the F.C.C.'s part 51 Interconnection Rules in Compliance with the F.C.C.'s Report and Order and Further Notice of Proposed Rulemaking in CC Docket Nos. 96-45 and 01-92; GN Docket No. 09-51, WC Docket Nos. 03-109, 05-337, 07-135 and 10-90; and WT Docket No. 10-208, adopted October 27, 2011 and released November 18, 2011 (FCC 11-161). In the absence of a negotiated agreement between the Telephone Company and the customer specifying the treatment of Toll VoIP-PSTN Traffic, the Telephone Company will bill the customer the applicable Interstate switched access rates on all jurisdictionally intrastate voice traffic identified as Toll VoIP-PSTN Traffic.

D. Rate Categories

1. There are three rate categories which apply to Switch Access Service*:
 - Local Transport;
 - End Office (which includes Line Termination, Local Switching and Information Surcharge);
 - VoIP-PSTN Traffic.

*These are in addition to carrier common line rates. See Section 3.

E. Rate Regulations

1. VoIP-PSTN Traffic

Toll VoIP-PSTN Traffic identified in accordance with this tariff will be billed at rates equal to the Telephone Company's applicable tariffed interstate switched access rates as specified in NECA's Tariff #5 Section 17.2 and

Daktel Communication, LLC
ACCESS SERVICES
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17.5.1 which can be found at:

https://www.neca.org/cms400min/Neca_templates/Tariff_5_Landing_Page.aspx