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RECEIVED

January 13, 2012

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Via E-Mail - ndpsc@nd.gov

PUBLIC SERVICE COMMISSION

Ms. Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol Building
600 East Boulevard
Bismarck, ND 58505

Re: AT&T Communications of the Midwest, Inc.

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing are revisions to AT&T Communications of the Midwest, Inc.'s Access Services and Network Interconnection Services tariff. This filing addresses the treatment of VOIP Access according to a recent FCC Order and adds language to the General Regulations section of the Access Tariff.

AT&T requests an effective date of February 2, 2012.

The following pages of AT&T's Tariff is enclosed:

<u>Section</u>	<u>Page</u>	<u>Revision</u>
2.3	22.1	0
2.3	22.2	0
2.3	22.3	0
2.3	22.4	0

Please contact me if you have any questions or concerns at (303) 299-5703.

Sincerely,

Jon Blessing

Enclosures

1 **PU-12-77** Filed: 1/13/2012 Pages: 5
VOIP-PSTN Traffic

2. GENERAL REGULATIONS

(N)

2.3. OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate, Interstate and/or Local Usage (Cont'd)

C. Identification and Rating of VoIP-PSTN Traffic

(A) Scope

This section applies to VoIP-PSTN traffic exchanged between the Company and the customer in time division multiplexing ("TDM") format that originates and/or terminates in Internet protocol ("IP") format. VoIP-PSTN traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment. [1]

- (1) This section governs the identification of originating and terminating intrastate toll VoIP-PSTN traffic and facilities to which interstate switched access rates apply (unless the parties have agreed otherwise) in accordance with the transitional Intercarrier Compensation framework for VoIP-PSTN traffic adopted by the Federal Communications Commission in its Report and Order, FCC Release No. 11-161 (Nov. 18, 2011) ("FCC Order"). Specifically, this section establishes the method that will be used to identify the percentage of the customer's intrastate access traffic that will be treated as intrastate toll VoIP-PSTN traffic (referred to in this tariff as "Relevant VoIP-PSTN Traffic").
- (2) This section applies to originating and terminating intrastate switched access minutes of use ("MOU") and facility rate elements of all Access customers.
- (3) The customer shall not modify its reported PIU factor to account for the VoIP-PSTN Traffic for MOU and facility rate elements.

[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 (Nov. 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. Including this section in the tariff in no way alters or otherwise affects the applicability of this tariff to VoIP-PSTN Traffic before the effective date of the FCC Order.

(N)

2. GENERAL REGULATIONS

(N)

2.3. OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate, Interstate
and/or Local Usage (Cont'd)

C. Identification and Rating of VoIP-PSTN Traffic (Cont'd)

(B) Rating of VoIP-PSTN Traffic

The Relevant VoIP-PSTN Traffic and facility rate elements identified in accordance with this tariff section will be billed at rates equal to the Company's applicable tariffed interstate switched access rates as specified at <http://serviceguide.att.com/ABS/ext/TariffDetails.cfm>, (AT&T FCC Tariff No. 28, Sect. 17.13.3-17.15.1)

(C) Calculation and Application of Percent-VoIP-Usage Factors

The Company will determine the number of Relevant VoIP-PSTN Traffic MOU and facility rate elements to which interstate rates will be applied under subsection (B), above, by applying the Percent VoIP Usage ("PVU") factor to the intrastate access MOU exchanged and facilities between the Company and the customer. The PVU factors will be derived and applied as follows:

- (1) The customer, will calculate and furnish to the Company a factor (the "PVUC") delineated by Carrier Identification Code ("CIC") or Operating Company Numbers ("OCNs"), representing the percentage (whole number) of the total intrastate access MOU that the customer exchanges with the Company end users in the State, that (a) is sent to the Company that originated in IP format at the end user; or (b) is received from Company and terminated in IP format at the end user. This PVUC 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 satisfactory to the Company.
- (2) The Company will calculate and periodically update a factor (the "PVUT") representing the percentage (whole number) of the total intrastate access MOU that the Company exchanges with the customer end users in the State, that (a) is sent to the Customer that originated in IP format at the end user; or (b) is received from the Customer and terminated in IP format at the end user. This PVUT 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.

(N)

2. GENERAL REGULATIONS

(N)

2.3. OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate, Interstate and/or Local Usage (Cont'd)

C. Identification and Rating of VoIP-PSTN Traffic (Cont'd)

(3) The Company will develop a Customer Percent VoIP Usage ("PVU") factors combining the Customer's PVUC factor with the Company's PVUT factor.

a) The PVU calculation below is applied when the Company does not bill based on actual call detail records for the intrastate Company's IP traffic at interstate rates.

$PVU = PVUC + [PVUT \times (1 - PVUC)]$ applied to the Company's end user's total intrastate MOU and facility rate elements

Example: The customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following:
 $PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$
This means that 46% of the Intrastate MOU exchanged between the customer and the Company's end users will be rated at Interstate rates.

b) The PVU calculation below is applied when the Company bills are based on the actual call detail records for the intrastate Company's IP traffic at interstate rates.

The formula for usage will be as follows:

$PVU = PVUC \times (1 - PVUT)$ applied to the Company's TDM end user's total intrastate MOU.

$PVU = PVUC + [PVUT \times (1 - PVUC)]$ is applied to the facility rate elements

Example: The Company has identified that there was 10,500 Intrastate MOU that were identified exchanged between the Customer and the Company's IP end users. The Customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following:
 $PVU = 40\% \text{ times } (1 - 10\%) = 36\%$
This means that 36% of the Intrastate MOU exchanged between the Customer and the Company's TDM end users will be rated at Interstate rates and the intrastate 10,500 MOU will also be rated at Interstate rates.
For the facility rate elements the formula that is applied to the intrastate dedicated facilities is as follows:
 $PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$
Therefore 46% of the Intrastate facilities will be rated at interstate rates.

(N)

2. GENERAL REGULATIONS

(N)

2.3. OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate, Interstate
and/or Local Usage (Cont'd)

C. Identification and Rating of VoIP-PSTN Traffic (Cont'd)

- (4) If the customer does not furnish the Company with a PVUC pursuant to the preceding paragraph (C) (1), the Company will utilize a customer PVUC of 0%.

(D) Initial PVU Factor

If the PVU factors are not available and/or cannot be implemented in the Company's billing systems by January 1, 2012, when the factors are available and can be implemented in the Company billing systems, the Company will adjust the customer's bills to reflect the PVU factors retroactively to January 2012 usage and facilities. In calculating the initial PVU factors, the Company will employ the customer-specified PVUC retroactively to January 2012 usage and facilities, provided that the customer provides the factor to the Company no later than April 15, 2012. Otherwise, it will set the initial PVU factors as specified in subsection (C) (4) above.

(E) PVU Factor Updates

The customer may update the PVUC factor quarterly using the method set forth in subsection (C) (1) and (4), above. If the customer chooses to submit such updates, it shall forward to the Company, no later than 15 days after the first day of January, April, July and/or October of each year, a revised PVUC factor based on data for the prior three months, ending the last day of December, March, June and September, respectively. The Company will use the revised PVUC to calculate a revised PVU. The revised PVU factor will only apply prospectively and serve as the basis for billing until superseded by a new PVU.

(F) PVU Factor Verification

Not more than twice in any year, the Company may ask the Customer to verify the PVUC factor furnished to the Company. The customer shall comply, and shall reasonably provide the records and other information used to determine their PVUC as specified in section (C) (1) and (4) above. The customer shall retain and maintain (for verification purposes) the records and other information used to determine the PVUC, for at least 12 months after the PVUC is filed (or longer if any other section of the Company's tariffs or applicable law requires a longer period). The verification process shall be conducted consistent with the provisions in this Section.

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