



7852 Walker Drive, Suite 200, Greenbelt, MD 20770
phone: 301-459-7590, fax: 301-577-5575
internet: www.jsitel.com, e-mail: jsi@jsitel.com

RECEIVED

APR 30 2012

PUBLIC SERVICE COMMISSION

April 26, 2012

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
State Capitol
600 East Boulevard Avenue, Twelfth Floor
Bismarck, ND 58505-0480

Re: Dickey Rural Telephone Cooperative and Dickey Rural Communications, Inc.
VoIP/PSTN Tariff Provisions

Dear Mr. Nitschke:

John Staurulakis, Inc. (JSI) is filing an original and seven (7) copies of attached new tariff pages on behalf of Dickey Rural Telephone Cooperative. The purpose of this filing is to reflect recently enacted FCC rules pursuant to the FCC's report and Order and Further Notice of Rulemaking, Docket No. WC Docket No. 10-90, *et al*, FCC 11-161 (Released November 18, 2011).¹ The FCC's Rules in this Order became effective on December 29, 2011. This filing adds language to reflect the FCC's directive regarding the treatment of VOIP-PSTN traffic. The following tariff pages are included in this filing:

Section 7, Original Page 7.1 through Original Page 7.7

This filing is made under authority of Chapter 49-21-01 and Chapter 49-21-04. Dickey Rural Telephone Company proposes an effective date of May 15, 2012.

It is important to note that Dickey Rural Telephone Cooperative is an ILEC that assesses NECA Tariff FCC No. 5 default rates for interstate access service instead of assessing the rates of the ILEC that provides service within the same service territory.

¹ *In the matter of Connect American Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High Cost Universal 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, Released November 18, 2011.*


Mr. Darrell Nitschke
Executive Secretary
Page 2

Additionally, JSI has had informal conversations with North Dakota Public Service Commission (NDPSC) Staff about this filing, and was directed to modify Section 7 and Section 7.1.4 of the proposed tariff revisions to reference NECA Tariff FCC No. 5 as of a specific date. The proposed revisions now indicate that a copy of the excerpts from NECA Tariff FCC No. 5, dated February 1, 2012, that are referenced in Section 7.1.4 of the proposed tariff revisions for Dickey Rural Telephone Cooperative, are on file with the NDPSC.

Accordingly, a hard copy and a soft copy on CD of the aforementioned excerpts from NECA Tariff FCC No. 5, effective February 1, 2012, are enclosed with this filing and are being provided for your convenience. JSI will also email an electronic copy of this filing and the excerpts from NECA Tariff FCC No. 5 to NDPSC Staff, for your convenience as well.

Enclosed is a copy of this transmittal letter marked "File Stamp Copy" to be stamped and returned to JSI as confirmation that this filing has been received by the NDPSC. Please return the stamped copy of this transmittal letter in the envelope provided for this purpose. If there are any questions regarding this filing, please feel free to contact me at (301) 459-7590.

Sincerely,



Kenneth T. Cartmell
Manager-JSI Regulatory Affairs

on behalf of Dickey Rural Telephone
Cooperative

KTC/tms
Enclosure

cc: Patrick Fahn, North Dakota Public Service Commission
Dickey Rural Telephone Cooperative

7. VoIP-PSTN Traffic

7.1 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 18, 2011) (F.C.C. Order) has allowed in its 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 on February 1, 2012. 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 7.1 is to comply with the F.C.C. Order.

7.1.1 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 B, preceding, 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

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.

7. VoIP-PSTN Traffic

7.1.1 Calculation and Application of Percent-VoIP- Usage Factors (Cont'd)

(N)

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 as intrastate access MOU at rates equal to 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 Telephone Company and which originated in IP format and that would be billed by the Telephone Company as intrastate access MOU at rates equal to interstate.
- 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 this section, the Telephone Company will utilize a PVU equal to zero. At the time of this tariff filing, Telephone Company has a PVU of zero. The Telephone Company shall provide a PVU if it offers VoIP service.

(N)

7. VoIP-PSTN Traffic

7.1.2 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 data 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.

7.1.3 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 the preceding quarter.

(N)

(N)

7. VoIP-PSTN Traffic

7.1.3 PVU Factor Verification (Cont'd)

- C. If after review of the data and information, the customer and the Telephone Company established revised PVU factors, the Telephone 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.
- E. 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 sent to Telephone Company and which terminated in IP format and that would be billed by the Telephone Company as intrastate access MOU charged at rates equal to interstate rates.

(N)

(N)

7. VoIP-PSTN Traffic

7.1.3 PVU Factor Verification (Cont'd)

- F. 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 Telephone Company and which originated in IP format and that would be billed by the Telephone Company as intrastate access MOU charged at rates equal to interstate rates.

7.1.4 Rate Regulation-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 17.5.1 as of February 1, 2012, which is on file with the North Dakota Public Service Commission.

(N)

(N)

7. VoIP-PSTN Traffic

7.2 DEFINITIONS

Customers

Any individual, partnership, association, joint-stock company, trust, corporation, or governmental entity or other entity which orders to the services offered under this tariff, including Local Exchange Carrier(s), Interexchange Carrier(s) (IC's), providers of originating and terminating VoIP-PSTN traffic and End Users(s).

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.

(N)

(N)

7. VoIP-PSTN Traffic

7.2 DEFINITIONS (cont'd)

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 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.

(N)
|
(N)