

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

FILED
FEB 03 2003

In Re the matter of Ciera Network Systems, Inc)
proposed tariff to add a new intrastate)
connection fee to recover access costs charged)
by local telephone companies)

**Missouri Public
Service Commission**

Case No.
Tariff No. JX-2003-1330

**OFFICE OF THE PUBLIC COUNSEL'S MOTION TO SUSPEND
TARIFF AND FOR EVIDENTIARY AND PUBLIC HEARINGS**

The Office of the Public Counsel (Public Counsel) respectfully asks the Public Service Commission of Missouri to suspend the proposed tariff of Ciera Network Systems, Inc. (the Company) introducing and establishing a \$1.86 per access line monthly service charge known as an "Access Recover Charge" for the Company's customers in Missouri. The tariff provides that the \$1.86 recovery charge is assessed per line, with a maximum charge of 5 lines per customer account. If a customer has 5 lines, the Access Recover Charge for that customer will be \$9.30.

A. Public Counsel states that the proposed charge is vague, confusing, and drafted in a manner that makes it difficult to determine on what basis other than access lines, if any, the charge will be imposed. The tariff and the cover letter do not disclose or identify which customers are going to be assessed the charge

B. Public Counsel states that the tariff violates PSC Rule 4 CSR 240-30.010 (25) because the Company at the time of the filing of the tariff failed to provide a brief summary of 100 words or less on the effect of the proposed tariff on customers and failed to disclose that the tariff imposes a new charge to recover access charges. In fact, the cover letter does not disclose the imposition of this new access recovery charge.

C. Public Counsel states that the charge is discriminatory and unjust and unreasonable for the following reasons and as more fully discussed in this motion:

1. The tariff violates Section 254 (g) of the Federal Telecommunications Act of 1996 and FCC Report and Order barring deaveraging of rates and prohibiting carriers from charging higher interstate rates based on geography and by state.
2. The flat rated charge distorts the true cost of service to the consumer by using an indirect means to raise rates (and recover a cost of doing business) via a surcharge for a cost element that is already part of the existing per minute rate. The intrastate access recovery charge increases the effective price paid per minute by the company's customers affected by this tariff.
3. The surcharge is discriminatory in that it only applies to "Missouri intrastate" customers even though other Missouri customers cause access charges for the company.
4. The surcharge is discriminatory because it is applied to customers with little or no usage of in-state long distance service who pay the same charge as high volume users with significant number and minutes of in-state calling. This results in an undue and unreasonable preference and advantage to those high volume customers and an unreasonable prejudice and disadvantage to low volume users of in-state calling, all in violation of Sections 392.220.2 and .3, RSMo, Low volume users pay a disproportionate share of the access cost recovery when their usage has no bearing on the amount of recovery these customers are expected to contribute.

D. Public Counsel states that as a result of the manner and reasons for the Company imposing this access recover surcharge the Company is in effect levying a special surcharge for its customers residing in Missouri. This is inconsistent with the protection of the ratepayers and is inconsistent with the public interest, and should be rejected. (Section 392.185, RSMo 2000).

Introduction

This Company joins the parade of interexchange long distance carriers that have filed tariffs to impose an access recovery charge on Missouri customers. The Company, like AT&T, MCI, and Sprint, has decided to use a special surcharge to confuse the consumer and to hide rate increases and the true cost of the service to customer. Once again, a long distance carrier has decided to double-charge the customer for costs already included in its existing rates by adding a surcharge or separate charge to "recover" these same costs. And once again, Missouri customers will be subjected to discriminatory treatment since the effective rates they pay for interstate long distance will be higher than the same effective rate paid by customers in other states.

A customer with a low volume of toll pays the same as a high volume user even though a high volume toll user can cause the company to incur significantly more access costs. The impact of this special surcharge is discrimination without justification or reason. This access recovery charge and those similar recovery charges of AT&T, MCI WorldCom and Sprint result in unjust and unreasonable rates that unlawfully discriminates against Missouri customers.

Although the long distance market is considered competitive, there is still a high percentage of market concentration. On a national level, AT&T, MCI WorldCom, and Sprint control about 64% of the total toll market based on 2000 toll service revenues, the latest reported year. (Federal Communications Commission, *Trends in Telephone Service*, May 22, 2002, (www.fcc.gov/wcb/stats), FCC, *Trends*, p.10-14). Even with competition, these three carriers have over a 70% market share of residential customers in Missouri, making it more difficult for customers to easily find and transfer to a well-

known competitor to avoid the access cost recover surcharges. The actions by these three companies affect over a million Missouri residential telephone customers. Competition has not protected these million of Missourians from being assessed this added surcharge. The competitive positions of the "big three" gives them the market power to increase prices and impose this special surcharge on the very customers who are less likely to switch carriers or seek alternatives. Because the marketplace has not protected these customers from these unjust, unreasonable, arbitrary, and discriminatory rate increases in the guise of special surcharges, the Public Service Commission must act when the competitive market fails to protect the consumer. See, Section 392.185, RSMo 2000.

Argument

The Company proposes the following: "Recurring Charges: 4.4.2 An Access Recovery Charge of \$1.86 will be assessed per line, with a maximum charge of five (5) lines per customer account."

The rationale for the access recovery charge is not disclosed by the Company. By making the charge based on an access line call volume and the intrastate or interstate nature of the calls are not factored into the access cost recovery mechanism. This discriminates against those with multiple lines, but low calling volume. The exemption of access lines over 5 on one account again does not consider call volume or the nature of the calls. It also exempts a large account holder from additional charges per line when the recovery mechanism is based on a per line basis. The exemption those lines in excess of 5 creates an unreasonable preference. The Company offers no justification for the exemption or for basing the recovery on a per line basis when access costs are usage sensitive charges.

Public Counsel suggests that this new charge is a discriminatory rate increase for Missouri customers who subscribe to the Company's long distance services. The effect of the charge is to increase the effective price per minute for a Missouri customer so that the Missouri customer pays more per minute for toll service (interstate) than a Company customer in another state where this access recovery fee is not charged or is charged at a lower rate. This violates Section 254 (g) of the Federal Telecommunications Act of 1996.

Section 254 (g) of the Federal Telecommunications Act of 1996 and FCC Report and Order, *Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket No. 96-61 (August 7, 1996) (11 FCC Rcd 9564) requires interexchange carriers such as MCI WorldCom to "provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State . . . to ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers." (para.80).

The Missouri surcharge is discriminatory in that this surcharge is not levied on similarly situated customers in other states. Company has singled out Missouri customers for discriminatory treatment so that when the per minute charge for interstate toll is factored with this special Missouri specific access cost recovery surcharge each month, Missouri customers pay a higher per minute price for Company's interstate toll service than Company customers in other states. The FCC ruling and the clear import of Section 254 (g) of the Federal Telecom Act prohibit such discrimination between states.

Company's proposed charge is unjust and unreasonable because it does not bear a reasonable relationship to its stated purpose to recover the access charges Company pays to the local telephone companies to use their local phone lines. The recovery charge makes no distinction based on the amount of toll and, therefore, the access costs incurred. If the customer is presubscribed to Company and makes \$1.10 in Company toll calls during a month, the customer is charged \$1.86. A customer with \$10,000 in toll calls will be charged \$1.86. Each customer pays the same amount no matter how many toll calls are made and no matter how long the calls are. Customers who make few, if any, long distance and local toll calls are treated as if they are business or industrial giants, such as Hallmark or Boeing, or are customers with a substantial monthly long distance or international calling.

The tariff does not exempt low income or disabled participants in the Lifeline and Link-up programs. This failure to provide such an exemption is unreasonable and contrary to the public interest. Assessing low-income customers on Lifeline and Link-Up programs defeats the public policy goals embodied in Universal Service legislation that minimizes the cost to connect to the network and maintain service. Therefore, the tariff works against these public policy goals and is inconsistent with the public interest.

The access recovery charge is unjust and unreasonable because the same \$1.95 fee is applied to each account without differentiating between in-state toll calls and interstate toll calls, InterLATA calls and IntraLATA calls, domestic or international calls and the different access rate structure involved for each type of call. Even though Missouri access rates on interstate charges are less than the access rates for intrastate charges, the cost recovery charge is applied on a per account basis without recognition of

the difference in these rate structures and without any recognition of whether the customer's toll calling pattern is exclusively or even predominately interstate or intrastate calling. There is often a different access rate charged for intraLATA calls than for interLATA calls, yet the same \$1.86 fee per line applies to all accounts without distinction. The surcharge will be applied to a customer even if the customer subscribes to a toll saver plan that does not cause Company to incur in state access fees.

Company is following the same course that AT&T, MCI, and Sprint laid out with the AT&T In-state Connection Fee approved in TT-2001-129. As Public Counsel feared and predicted, the approval of the AT&T surcharge lit the fire for interexchange carriers to increase their rates by filing separate surcharges for access rate recovery in Missouri. Now that the three largest long distance carriers in Missouri and in the nation have these surcharges and separate charges, this tariff leaves little doubt that the rest of the industry will follow their lead. Given the telecommunications market and industry woes, carriers will try to shift as much costs as possible to residential customers. As a result, the consumer will be inhibited and perhaps effectively blocked from selecting a "competitive choice" that avoids this surcharge.

In its decisions approving the MCI and Sprint access recovery fees, the PSC indicated that because of the number of competitors for long distance service, protection of the consumer can be left to the marketplace. The PSC justifies its "hands off" policy on grounds that consumers can avoid the surcharge by changing carriers. This presupposes that unjust and unreasonable and unlawful charges are acceptable so long as the customer can go to another carrier for its long distance service. This assumption does violence to the PSC's statutory duty to serve the public interest under Section 392.185 (4)

and (6), RSMo to protect the consumer. It also assumes that consumers will have the information and ability to switch to comparable long distance providers that do not charge the access recovery fee.

The Commission cannot ignore its duty in Section 392.185 (4) to "Ensure that customers pay only reasonable charges for telecommunications service" by stating that it need not review the charges since customers can go somewhere else. Likewise, the Commission cannot completely delegate to competition the protection of consumers when the emphasis of Section 392.185 (6) is to allow competition to "function as a substitute for regulation when consistent with the protection of the ratepayers and otherwise consistent with the public interest." The key here is that protection of ratepayers and the promotion of the public interest is paramount to the functioning of competition. The protection offered by "full and fair competition" occurs only when there is widespread knowledge and information readily available for consumers to investigate alternatives and understand the price and service variations offered by the firms in the marketplace.

Customers may not change carriers for a variety of reasons, including, but not limited to, the high costs in time and knowledge required to search for alternatives and the consumer's awareness, education, commercial or purchasing sophistication, health, ability, and intelligence or mental capacity. The statute does not exempt these ratepayers from protection from unreasonable and unjust pricing schemes.

Company does not explain the rationale for seeking the recovery of these access costs in a separate \$1.86 charge that only applies to Missouri customers. AT&T had based its surcharge for access recovery on its claim that Missouri access charges are

“excessive.” The Commission should not automatically accept the interexchange carriers’ claims without investigating the underlying reasons and rationale. No evidence has been developed in support of the access recovery tariffs to show that this claim had any real substance or validity. Public Counsel suggests that the investigation into the cost of access service for CLECs in Missouri shed light on Missouri telephone service rates. The evidence adduced in TR-2001-65 and the results and the analysis of cost studies in that case cast serious doubts on claims that Missouri access rates are “excessive.”

The tariff violates Section 392.200, RSMo 2000 because it discriminates against Missouri customers in that it unreasonably applies a charge designed to recover toll access costs paid by the company on customers that have little toll usage. The same charge is made for all accounts. This could include a Company customer who made no billed toll calls. If the customer has a Company plan with a minimum payment, the customer could have no toll calls and, therefore, did not cause Company to incur access fees, yet still be billed the \$1.86 to recover access charges that were not incurred.

The access recovery charge is discriminatory because it is applied as a flat rate without regard to the type, amount and duration of toll calls and the resultant access charges incurred by the company, if any. The charge results in an unreasonable and prejudicial disadvantage for a class of Company customers that have a low amount or no toll calling. Customers with considerable toll calling are given an undue and unreasonable preference and advantage by paying the same amount per month as those customers with low volume.

Section 392.200.3 RSMo provides:

“No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation or

locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever except that telecommunications messages may be classified into such classes as are just and reasonable, and different rates may be charged for the different classes of messages.”

Section 392.200, RSMo 2000, subsection 2, provides in pertinent part:

“No telecommunications company shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to telecommunications or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to telecommunications under the same or substantially the same circumstances and conditions.”

Company has failed to disclose the justification and basis for singling out these customers for discriminatory treatment and extra charges. Company has not justified how and in what manner this discriminatory method of assessing a cost recovery charge is reasonable and proper and in the public interest. Company should be required to make a showing that this discrimination and the recovery of these costs in this manner is based upon reasonable and fair conditions which equitably and logically justify this tariffed rate. *State ex rel. DePaul Hospital School of Nursing v. PSC*, 464 SW2d 737 (Mo App 1970).

Access charges have a long history and the interexchange carriers have incorporated this cost factor and element into their rates. The competitive marketplace determines to what extent the carrier will seek to recover all or any part of those costs in its rates. By separating this cost element from the normal rate structure, Company distorts the competitive toll rate structure. It also seeks to recover this cost twice and without regard to customer actual usage or costs by charging a separate, additional

surcharge to customers for access costs. It also seeks to recover the costs from only one class of customers without any justification for the discrimination in treatment and rates.

Section 392.200. 1, RSMo provides:

Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. **All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission.** Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful. (emphasis supplied)

Section 392.185, RSMo provides in part:

The provisions of this chapter shall be construed to:

(4) Ensure that customers pay only reasonable charges for telecommunications service;

(6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest[.]

Company's separate and distinct additional charge is in reality a rate increase dressed up in different terminology to disguise its true effect. This flat rate charge unfairly inflates the per minute rate charged by Company and hides the true cost to the consumer in a list of separate charges. The resulting effective rates are unreasonable and unjust.

Commission's jurisdiction for review and suspension

Public Counsel suggests that Sections 392.200, and 392.185, RSMo 2000 provide the statutory basis for the PSC to review and suspend this tariff. In addition, the PSC has

broad power to protect consumers even if the telecommunications provider is a competitive company and is providing a competitive service. Section 392.185, RSMo. The Commission's oversight and authority to suspend is an essential power of the PSC to carryout the legislative purpose of Chapters 386 and 392, RSMo.

In Case No. TO-99- 596, *In re Competitive Local Exchange Telecommunication Companies*, June 13, 2000, the Commission set out the scope of its jurisdiction and duty:

"In construing Chapter 392, including Section 392.361.3, the Commission must be mindful of the contents of Section 392.185, RSMo Supp. 1999, which has been set out in part above. In addition to reasonable prices and the protection of ratepayers, that section provides that the purpose of the chapter is to "[p]ermit flexible regulation of competitive telecommunications companies and competitive telecommunications services[.]" Section 392.185(5), RSMo Supp. 1999. Additionally, Section 392.200.4(2), RSMo Supp. 1999, declares that "[i]t is the intent of this act to bring the benefits of competition to all customers[.]"

The offer of competitive services does not mean that customers are fair game for unreasonable and unjust rates. Here the company introduces a fee under the guise of a non-usage sensitive surcharge for the recovery of access rates paid by the company on a usage sensitive basis. The surcharge increases the effective rates for long distance service on a selective basis. The entire burden of recovering access charges through this tariff is placed on the company customers. The public interest is not served by allowing such surcharges to go into effect without an examination into whether such rates and surcharges are proper, reasonable, and just or are discriminatory.

For the foregoing reasons, Public Counsel asks the PSC to suspend the tariff and set this matter for an evidentiary hearing. In addition, Public Counsel asks the PSC to hold a public hearing on the broad impact this tariff has on Missouri toll customers.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY:

A handwritten signature in black ink, appearing to read "Michael F. Dandino". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Dandino".

Michael F. Dandino (Bar No. 24590)
Senior Public Counsel
200 Madison Street, Box 7800
Jefferson City, MO 65102
Telephone: (573) 751-5559
Facsimile: (573) 751-5562
E-mail: mdandino@ded.state.mo.us

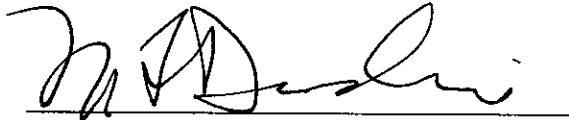
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was emailed or hand delivered this 3rd day of February, 2003 to the attached service list:

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Robin Norton
Technologies Management
210 N. Park Avenue
Winter Park, FL 32789

Robert W. Livingston
Ciera Network Systems, Inc.
1250 Wood Branch Park Drive
Houston, TX 77079

A handwritten signature in black ink, appearing to read "R. W. Livingston", is written over a horizontal line.



RECEIVED⁴
JAN 13 2003
Records
Public Service Commission

January 10, 2003
Overnight Delivery

210 N. Park Ave.
Winter Park, FL
32789

Mr. Dale Roberts, Executive Secretary and Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, MO 65101

P.O. Drawer 200
Winter Park, FL
32790-0200

RE: **IXC Tariff Revision for Ciera Network Systems, Inc.**

Tel: 407-740-8575
Fax: 407-740-0613
tmi@tminc.com

Dear Mr. Roberts:

Enclosed please find an original and two (2) copies of revised long distance tariff pages for behalf of Ciera Network Systems, Inc. This filing changes the company address, returned check charge, introduces new switched rates and payphone service charges. The Company respectfully requests an effective date of February 13, 2003.

The following revised tariff pages are attached:

1 st Revised Page 1	Changes company address
1 st Revised Page 31	Changes returned check charge
1 st Revised Page 34	Adds new switched inbound rates
1 st Revised Page 35	Adds new switched outbound rates
1 st Revised Page 36	Adds new calling card rates
1 st Revised Page 37	Changes text; changes DA rate

Please acknowledge receipt of this filing by date-stamping the extra copy of this cover letter and returning it to me in the self-addressed, stamped envelope provided for that purpose.

Any questions you may have regarding this filing may be directed to my attention (407) 740-8575.

Sincerely,

Robin Norton
Consultant to Ciera Network Systems, Inc.

cc: Office of Public Counsel
Rebecca McGrew - Ciera
file: Ciera - MO IXC
tms: MOi0302

**INTEREXCHANGE/NON-SWITCHED LOCAL EXCHANGE
TELECOMMUNICATIONS TARIFF
FOR SERVICES PROVIDED BY
CIERA NETWORK SYSTEMS, INC.**

This Tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for interexchange and non-switched local exchange telecommunications services within the State of Missouri by Ciera Network Systems, Inc. Tariff is on file with the Missouri Public Service Commission, and copies may also be inspected, during normal business hours, at the following location: 1250 Wood Branch Park Drive, Suite 500, Houston, Texas 77079.

(T)

Ciera Network Systems, Inc. has been classified as a "competitive" telecommunications company by the Missouri Public Service Commission.

Issued: January 13, 2003

Effective: February 13, 2003

Issued By: Robert W. Livingston, Chief Executive Officer
1250 Wood Branch Park Drive
Houston, Texas 77079

MOi0302

2. RULES AND REGULATIONS, (CONT'D.)

2.13 Special Customer Arrangements

2.13.1 In cases where a Customer requests a special or unique arrangement which may include engineering, conditioning, Installation, construction, facilities, assembly, purchase or lease of facilities, the Company, at its option, may provide the requested Services. Appropriate recurring charges and/or Nonrecurring Charges and other terms and conditions will be developed for the Customer for the provisioning of such arrangements consistent with the definition of ICB provisioning contained herein.

2.14 Inspection

2.14.1 The Company may, upon notice, make such tests and inspections as may be necessary to determine that the requirements of this Tariff are being complied with in the Installation, operation or maintenance of Customer or the Company equipment. The Company may interrupt the Service at any time, without penalty to the Company, should Customer violate any provision herein.

2.15 Returned Check Charge

A service charge equal to \$25.00 will be assessed in accordance with Missouri law for all checks returned by a bank or other financial institution for: Insufficient or uncollected funds, closed account, apparent tampering, missing signature or endorsement, or any other insufficiency or discrepancy necessitating return of the instrument at the discretion of the drawee bank or other financial institution.

(N)

(N)

4. RATES AND CHARGES

The following are the per minute usage charges which apply to all calls. These charges are in addition to the Non-recurring Charges and Recurring Charges referred to herein. (Please refer to 4.5 for Recurring Charges for all customers.)

(N)
(N)
(N)**4.1 Switched Inbound Service**

(T)

4.1.1 Usage Rates – Business and Residential

(T)

<u>Plan</u>	<u>Usage Rate</u>	<u>Monthly Commitment</u>
Plan 1	\$0.249	none
Plan 2	\$0.229	\$ 25.00
Plan 3	\$0.199	\$ 50.00
Plan 4	\$0.179	\$100.00
Plan 5	\$0.159	\$150.00

(T)
(N)
|
|
|
(N)(M)
|
|
(M)

(Some material previously found on this page has been moved to Page 37)

4. RATES AND CHARGES, (CONT'D.)**4.2 Switched Outbound Service****4.2.1 Usage Rates -- Business and Residential**

<u>Plan</u>	<u>Usage Rate</u>	<u>Monthly Commitment</u>
Plan 1	\$0.249	none
Plan 2	\$0.229	\$ 25.00
Plan 3	\$0.199	\$ 50.00
Plan 4	\$0.179	\$100.00
Plan 5	\$0.159	\$150.00

(T)

(T)

(T)

(N)

|

|

|

(N)

|

|

(M)

|

|

(M)

(Some material previously found on this page has been moved to Page 37)

Issued: January 13, 2003

Effective: February 13, 2003

Issued By: Robert W. Livingston, Chief Executive Officer
1250 Wood Branch Park Drive
Houston, Texas 77079

MOi0302

4. RATES AND CHARGES, (CONT'D.)**4.3 Calling Card Rates and Charges**

(T)

4.3.1 Customers using the Company's Calling Card to place long distance calls incur a \$0.30 per call charge in addition to the per minute usage charge set forth hereinafter.

(T)

4.3.2 Usage Rates – Business and Residential

(T)

<u>Plan</u>	<u>Usage Rate</u>	<u>Monthly Commitment</u>
Plan 1	\$0.249	none
Plan 2	\$0.229	\$ 25.00
Plan 3	\$0.199	\$ 50.00
Plan 4	\$0.149	\$100.00
Plan 5	\$0.129	\$150.00

(N)

|
|
|
|
|
(N)

(M)

|
|
(M)

(Some material previously found on this page has been moved to Page 37)

Issued: January 13, 2003

Effective: February 13, 2003

Issued By: Robert W. Livingston, Chief Executive Officer
1250 Wood Branch Park Drive
Houston, Texas 77079

MOi0302

4. RATES AND CHARGES, (CONT'D.)

4.4 Recurring Charges

(T)

4.4.1 Customers will incur a \$3.95 per month service fee, per account.

(T,I)

4.4.2 An Access Recovery Charge of \$1.86 will be assessed per line, with a maximum charge of five (5) lines per customer account.

(I)

4.5 Special Promotional Offerings

(T)

4.5.1 The Company may from time to time engage in Special Promotional Offerings or Trial Service Offerings limited to certain dates, times or locations designed to attract new subscribers or increase subscriber usage when approved by the Commission. Company will not have special promotional offerings for more than 90 days in any 12 month period. In all such cases, the rates charged will not exceed those specified in Section 4 hereof.

4.6 Emergency Calls

4.6.1 Customer shall configure its PBX or other switch vehicle from which a customer places a call so that 911 emergency calls, where available, and similar emergency calls will be automatically routed to the emergency answering point for the geographical location where the call originated without the intervention of Company.

4.7 Payphone Use Service Charge

4.7.1 A Payphone Use Service Charge applies to each completed interLATA and intraLATA non-sent paid message made over a pay phone owned by a utility or Customer Owned Pay Telephone (COPT) Service. This includes calling card service, collect calls, calls billed to a third number, completed calls to Directory Assistance and Prepaid Card Service calls. All Customers will pay the Company a per call service charge of \$.35.

(T)

4.8 Directory Assistance

(M,R)

Directory Assistance Calls are billed at \$.75 per call.

Issued: January 13, 2003

Effective: February 13, 2003

Issued By: Robert W. Livingston, Chief Executive Officer
1250 Wood Branch Park Drive
Houston, Texas 77079

MOi0302