

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

In the matter of the tariff filing of)	
Navigator Telecommunications, LLC)	Case No. _____
concerning a new Access Recovery)	Tariff No. JC-2007-0928
Surcharge)	

MOTION TO SUSPEND

The Office of the Public Counsel moves the Public Service Commission to suspend Tariff No. JC-2007-0928 filed by Navigator Telecommunications, LLC. to amend its tariffs to add a monthly recurring surcharge on its customers known as an Access Recovery Charge. The tariff and the copy of the associated customer notice identify the charge as follows: “This surcharge is due to regulatory changes adopted by the Federal Communications Commission that resulted in higher cost for gaining access to incumbent networks.”

The tariff and the copy of the associated customer notice violates the Commission’s Rule 4 CSR 240-33.045 Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills in that it says suggests that the FCC is the reason why this surcharge exists suggesting that it may be a mandated or authorized separate charge.

4 CSR 240-33.045

(1) All telecommunications companies shall provide a clear, full and meaningful disclosure of all monthly charges and usage sensitive rates that are applicable to the services the customer has ordered or is considering ordering. Such disclosure shall be provided prior to an agreement for service. This disclosure shall be in addition to the itemized account of monthly charges during the customer .s first billing period for the equipment and service for which the customer has contracted, as required by 4 CSR 240-33.040(8). Allowed charges that may vary, depending on the location of the customer or the amount of the customer bill, can

simply be identified without specifying the specific dollar amount that would be applied to the customer.

(2) Telecommunications companies shall not include on a customer's bill any charge misrepresented as governmentally mandated or specifically authorized by:

(A) Disguising it;

(B) Naming, labeling or placing it on the bill in a way that implies that it is governmentally mandated or specifically authorized; or

(C) Giving it a name or label that is confusingly similar to the name or label of a governmentally mandated or specifically authorized charge.

(3) Governmentally mandated or specifically authorized charges include, but are not limited to, separately identified charges to recover costs associated with any monthly charge mandated or specifically authorized by federal, state or local government. These monthly charges shall be identified on the customer's bill in easy to understand terms and in a manner consistent with their purpose or applicability.

(4) Companies imposing separately identified charges that appear to be governmentally mandated or specifically authorized charges shall provide, upon request by the commission staff, such federal, state or local government order, decision, ruling, mandate or other authority on which it relies in placing such a charge on the customer's bill.

The charge is unjust, unfair, and unreasonable, is discriminatory in violation of Section 392.200, RSMO 2000 in that it gives a preference to customers with high usage and disadvantages lower usage customers without a rationale justification for the disparate treatment of similarly situated customers. *State ex rel. Laundry, Inc. v. Public Service Commission*, 34 SW 2d 37, 43-45 (Mo 1931) ; *State ex rel. City of St. Louis v. Public Service Commission*, 327 Mo. 318, 36 S.W.2d 947, 950(Mo 1931; *State ex rel. DePaul Hospital School of Nursing v. PSC*, 464 SW2d 737 (Mo App 1970) The highest surcharge percentage is for customers with the least amount of monthly recurring charges and customers with charges over \$1200 a month are exempt from the surcharge.

The tariff fails to comply with 4 CSR 240-33.045 Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills. The purpose of this rule is intended to clarify items that may be separately identified on customer bills, provide guidance for labeling and require clear disclosure to customers of the total anticipated service charges for new services subscribe to services less than \$10.00 without a rationale justification for the disparate treatment of similarly situated customers.

These proposed surcharges are not in the public interest because they conflicts with the PSC's rules on disclosure and are disguised as a federally mandated or authorized separate billing item. It is against public policy and contrary to the interests of the ratepayer and the public interest (Sec. 392.185, RSMO) to impose a discriminatory surcharge that disadvantages the low usage customer and benefits the high usage customer when the alleged purpose is to recover general operating costs of access to ILEC networks.

A copy of the proposed tariff is attached to this motion.

For these reasons, Public Counsel asks the PSC to suspend the tariff and hold an evidentiary hearing to determine whether the proposed tariff is just, reasonable, and lawful and otherwise in the public interest or, in the alternative, reject the tariff for violation of Commission rules.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Michael F. Dandino

BY: _____

Michael F. Dandino (Bar No. 24590)

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed or hand delivered this 12th day of July, 2007 to the following:

General Counsel .
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Missouri Public Service Commission.
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GenCounsel@psc.mo.gov
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/s/ Michael F. Dandino



NAVIGATOR TELECOMMUNICATIONS, LLC.

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RECEIVED²

JUN 21 2007

*Records
Public Service Commission*

June 20, 2007

Executive Secretary
Missouri Public Service Commission
P.O. Box 360
200 Madison, Suite 100
Jefferson City, MO 65102-0537

RE: CLEC Tariff Revisions – Navigator Telecommunications, LLC.

Dear Executive Secretary,

Enclosed for filing with the Missouri Public Service Commission are an original and three (3) copies of revisions to the Competitive Local Exchange Carrier tariff of Navigator Telecommunications, LLC. Also enclosed are copies of customer notices required by this filing. The purpose of this filing is to revise payphone rates for customers in the service territory of AT&T Missouri and to add a new Access Recovery Charge. Proposed revisions include the following:

Introduction

- First Revised Page 7 – Addition of Section 12 for the Access Recovery Surcharge that will apply to all customers.

Section 3

- Second Revised Page 66.1 – Line rates for Payphone Exchange Access Services for customers in the service territory of AT&T Missouri are being revised.

Section 12

- Original Page 1 – Section 12.1 is being added to include the new Access Recovery Surcharge that will apply to all customers in all service areas.

Please contact Mark Herring at (501) 954-4053 if you require additional information about this filing. Thank you for your assistance in this matter.

Sincerely,

Michael McAlister
General Counsel
Navigator Telecommunications, LLC.
(501) 954-4051
mike@navtel.com

Enclosures

cc: Office of Public Counsel (w/enclosure)

July 6, 2007

IMPORTANT NOTICE ABOUT YOUR SERVICE RATES IN MISSOURI

Thank you for choosing Navigator Telecommunications for your communication needs. Effective **July 20, 2007** an Access Recovery Surcharge (ARS) will be added to each customer's bill based on monthly recurring charges (MRC).

This surcharge is due to regulatory changes adopted by the Federal Communications Commission that resulted in higher costs for gaining access to incumbent networks.

This surcharge, where permitted, is a percentage (*see table below*) of each customer's MRC from the previous month.

<u>MRC</u>	<u>ARS Rate</u>	<u>MRC</u>	<u>ARS Rate</u>
\$0 to \$99.99	17.0%	\$500 to \$699.99	12.5%
\$100 to \$199.99	16.0%	\$700 to \$1,199.99	10.0%
\$200 to \$499.99	15.0%	\$1,200 and above	0.0%

As always, thank you for being our valued customer. If we can answer any questions about this letter or if you would like to cancel or change your service as a result of this increase, please contact us toll-free:

Business 877 628-0035
Coin 800 238-9716
Residential 888 662-8835

Best Regards,

NAVIGATOR TELECOMMUNICATIONS

July 6, 2007

IMPORTANT NOTICE ABOUT YOUR COIN TELEPHONE RATES IN MISSOURI AT&T SERVICE AREA

Thank you for choosing Navigator Telecommunications for your communication needs. This notification is to advise you of pending rate changes. Effective **July 20, 2007**, rates for the services listed below are scheduled to change as noted, also an Access Recovery Surcharge (ARS) will be added to each customer's bill based on monthly recurring charges (MRC).

This surcharge is due to regulatory changes adopted by the Federal Communications Commission that resulted in higher costs for gaining access to incumbent networks.

This surcharge, where permitted, is a percentage (*see table below*) of each customer's MRC from the previous month.

Line Rate Changes:		Rate Groups		
		A	B	C - D
Payphone Line	Current Rate	\$30.00	\$28.00	\$27.50
	New Rate	\$30.25	\$29.25	\$29.00

MRC	ARS Rate	MRC	ARS Rate
\$0 to \$99.99	17.0%	\$500 to \$699.99	12.5%
\$100 to \$199.99	16.0%	\$700 to \$1,199.99	10.0%
\$200 to \$499.99	15.0%	\$1,200 and above	0.0%

As always, thank you for being our valued customer. If we can answer any questions about this letter or if you would like to cancel or change your service as a result of this increase, please contact us toll-free: (800) 238-9716

Best Regards,

NAVIGATOR TELECOMMUNICATIONS

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SECTION 3 - RATES - SOUTHWESTERN BELL SERVICE AREAS, CONT.

3.5 Payphone Exchange Access Services, cont.

3.5.2 Rates and Charges, cont.

H. Exchange Access Line Rates

	Rate Group A	Rate Group B	Rate Groups C/D
Access Line	\$30.25	\$29.25	\$29.00

(I)

- I. Conversion Charge per line \$9.95
- applicable when existing lines are converted from
an Incumbent Local Exchange Carrier or Competitive
Provider to Navigator

SECTION 12 – ACCESS RECOVERY SURCHARGE

12.1 Description

The Access Recovery Surcharge (ARS) is not a tax or charge imposed by a government entity. This fee is used to recover materially increased Navigator Telecommunications' costs resulting from regulatory changes adopted by the Federal Communications Commission in the *Matter of Unbundled Access to Network Elements and Review of the Unbundling Obligations of Incumbent Local Exchange Carriers*, (CC Docket 01-338 and WC Docket 04-313). Specifically, the charge will offset recent increases in Navigator's costs of gaining access to incumbent networks. The ARS is not a fixed monthly recurring charge. Rather, the ARS is a percentage of the customer bill based on the total monthly recurring charges (MRCs), less any taxes, or surcharges. The ARS is calculated by application of a percentage to each customer's total monthly recurring charges incurred in the previous calendar month. The ARS percentage to be applied will be determined by the customer's total MRCs on its monthly invoice for the previous month, based on the schedule outlined below.

Customer Account Monthly Recurring ARS	
MRC Revenue Tier	Charge %
\$0.00 to \$99.99	17.00%
\$100.00 to \$199.99	16.00%
\$200.00 to \$299.99	15.00%
\$300.00 to \$399.99	15.00%
\$400.00 to \$499.99	15.00%
\$500.00 to \$599.99	12.50%
\$600.00 to \$699.99	12.50%
\$700.00 to \$799.99	10.00%
\$800.00 to \$899.99	10.00%
\$900.00 to \$999.99	10.00%
\$1,000.00 to \$1,099.99	10.00%
\$1,100.00 to \$1,199.99	10.00%
\$1,200.00 and above	0.00%