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ATTORNEYS AT LAW

ORIGINAL

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FACSIMILE (573) 499-0638

October 29, 1999

FILED

OCT 29 1999

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

TA-2000-303

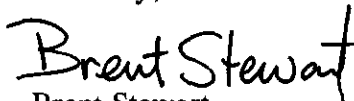
Re: BroadStream Corporation
Interexchange/Non-Switched Local Exchange Application

Dear Mr. Roberts:

Please find enclosed for filing in the above-referenced case an original and fourteen copies of BroadStream Corporation's Application For Interexchange and Non-switched Local Exchange Authority and Competitive Classification. This Application includes as Appendix B Applicant's proposed tariff bearing a forty-five day effective date. Also please find enclosed an additional three copies of Applicant's proposed tariff for the Commission's tariff file.

Copies of this filing have been sent this date to the General Counsel's Office and the Office of the Public Counsel. Thank you.

Sincerely,


Brent Stewart

CBS/bt

Enclosure

cc: General Counsel's Office
Office of the Public Counsel
Brenda Boykin

0000415

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

ORIGINAL

In the Matter of the Application of)
BroadStream Corporation for a Certificate)
of Service Authority to Provide Intrastate)
Interexchange and Non-Switched Local)
Exchange Telecommunications Services to)
the public within the State of Missouri and)
for Competitive Classification.)

Case No. TA ²⁰⁰⁰⁻~~69~~ 303

FILED
OCT 29 1999

Missouri Public
Service Commission

APPLICATION FOR INTEREXCHANGE AND
NON-SWITCHED LOCAL EXCHANGE AUTHORITY
AND COMPETITIVE CLASSIFICATION

Comes now BroadStream Corporation ("BroadStream"), by and through counsel, and pursuant to Sections 392.361, 392.420, 392.440 RSMo 1994, Section 392.410 RSMo Supp. 1998, and 4 CSR 240-2.060(4), files this Verified Application requesting that the Missouri Public Service Commission (hereinafter "the Commission") issue an order that:

- (a) grants BroadStream a certificate of service authority to provide intrastate interexchange and non-switched local exchange telecommunications services, as herein more specifically defined, pursuant to Chapter 392 RSMo;
- (b) grants competitive status to BroadStream and BroadStream's requested services; and
- (c) waives certain Commission rules and statutory provisions pursuant to Sections 392.420 and 392.361 RSMo 1994, consistent with the Commission's past treatment of other certificated providers of competitive interexchange/dedicated private line telecommunications services.

In support of its request, BroadStream states that:

1. BroadStream is a corporation formed and operating under the laws of the State of Delaware and is duly authorized to transact business in the State of Missouri. Pursuant to the relevant provisions of 4 CSR 240-2.060, a certificate of authority from the Missouri Secretary of

State's Office is attached hereto and incorporated herein by reference as Appendix A. BroadStream's principal place of business is 4513 Pin Oak Court, Sioux Falls, South Dakota 57103 and its telephone number is (605) 335-5504.

2. All communications, notices, orders and decisions respecting this Application and proceeding should be addressed to:

Charles Brent Stewart
Stewart & Keevil, L.L.C.
1001 Cherry Street
Suite 302
Columbia, Missouri 65201
(573) 499-0635
(573) 499-0638 (fax)

Louis Gurman
Brenda Boykin
Gurman, Blask & Freidman, Chartered
1400 Sixteenth Street, N.W.
Suite 500
Washington, D.C. 20003
(202) 328-8200
(202) 462-1784 (fax)

with a copy to:

Laurie Arthur
BroadStream Corporation
4513 Pin Oak Court
Sioux Falls, South Dakota 57103
(605) 338-3632
(605) 338-3938 (fax)

All inquiries or communications regarding BroadStream's ongoing operations should be addressed to Ms. Arthur at the above address and phone number. Questions regarding BroadStream's proposed tariff should be directed to Mr. Stewart.

3. By this Application, BroadStream proposes to provide various types of intrastate interexchange and non-switched local exchange telecommunications services throughout the state of Missouri on a resold basis. At this time, BroadStream *is* seeking authority to provide non-switched, dedicated private line services. Specifically, BroadStream seeks authority to provide a full range of "1+" interexchange services, MTS, out-WATS, in-WATS, Calling Card Services, and where appropriate, non-switched local exchange/private line services. BroadStream seeks to

provide its services to small and medium volume business users. BroadStream will combine high quality transmission services with very competitive rates, flexible end user billing, professional customer service and excellent reporting to create a unique blend which meets individualized needs of such business customers.

BroadStream intends to engage in "switchless" and facilities-based resale. BroadStream will arrange for the traffic of underlying subscribers to be routed directly over the networks of BroadStream's network providers, or will arrange for that traffic to be routed using a combination of other carriers' currents and BroadStream's own switching facilities. Concurrent with this Application, BroadStream has filed this date with the Commission its Application to provide facilities-based and resold basic local telecommunications services.

Pursuant to 4 CSR 240-2.060(4)(H) and for purposes of this Application, BroadStream's proposed tariff bearing a forty-five day effective date is attached hereto and incorporated herein by reference as Appendix B.

4. BroadStream requests that it and all its services proposed herein be classified as competitive. BroadStream's proposed services herein fall within the category of the types of services which have routinely been authorized by the Commission for numerous other competitive carriers upon verified application without the need for evidentiary hearings. BroadStream's proposed services will be subject to sufficient competition to justify a lesser degree of regulation; granting this Application will allow greater price and service options for telecommunications customers and will be in the public interest. Granting BroadStream's requested competitive classifications is consistent with past Commission treatment of other competitive certificated interexchange/non-switched local exchange carriers and will encourage competition consistent with the public policy of Federal Telecommunications Act of 1996 and Chapter 392 RSMo.

5. BroadStream is willing to comply with all applicable Commission orders, rules and regulations. BroadStream requests however, pursuant to Section 392.440 RSMo 1994, that the Commission at minimum waive the application of the following rules and statutory provisions as they relate to the regulation of BroadStream to the extent that they previously and routinely have been waived for other certificated competitive interexchange/non-switched local exchange carriers:

Statutes

392.240(1)--ratemaking
392.270--valuation of property (ratemaking)
392.280--depreciation accounts
392.290--issuance of securities
392.310--stock & debt issuance
392.320--stock dividend payment
392.330--issuance of securities, debts and notes
392.340--reorganizations

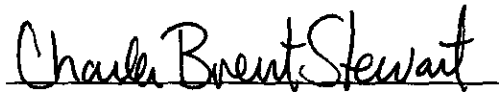
Commission Rules

| | |
|------------------------|-------------------------------|
| 4 CSR 240-10.020 | --depreciation fund income |
| 4 CSR 240-30.010(2)(C) | --rate schedules |
| 4 CSR 240-30.040 | --Uniform System of Accounts |
| 4 CSR 240-32.030(1)(B) | --exchange boundary maps |
| 4 CSR 240-32.030(1)(C) | --record keeping |
| 4 CSR 240-32.030(2) | --in-state record keeping |
| 4 CSR 240-32.050(3) | --local office record keeping |
| 4 CSR 240-32.050(4) | --telephone directories |
| 4 CSR 240-32.050(5) | --call intercept |
| 4 CSR 240-32.050(6) | --telephone number changes |
| 4 CSR 240-32.070(4) | --public coin telephone |
| 4 CSR 240-33.030 | --minimum charges rule |
| 4 CSR 240-33.040(5) | --financing fees |

6. BroadStream is financially capable of providing the services proposed. Applicant also possesses the necessary technical and managerial expertise and experience necessary to provide the services it proposes to offer at standards that will meet or exceed all service standards established by the Commission.

WHEREFORE, BroadStream Corporation respectfully requests that the Commission: 1) expeditiously grant it a certificate of service authority to provide intrastate, resold interexchange and non-switched local exchange telecommunications services within the State of Missouri; 2) grant BroadStream and its proposed services competitive status; and 3) waive the application of the above-referenced statutes and Commission rules; all consistent with past Commission practice and the Commission's treatment of other certificated, competitive providers of intrastate interexchange and non-switched local exchange telecommunications services.

Respectfully submitted,



Charles Brent Stewart MoBar, #34885
STEWART & KEEVIL, L.L.C.
1001 Cherry Street, Suite 302
Columbia, Missouri 65201
(573) 499-0635

ATTORNEY FOR APPLICANT
BROADSTREAM CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Application has been sent this date to the General Counsel's Office and the Office of the Public Counsel by hand-delivery, this 29th day of October, 1999.



VERIFICATION


)

)

SS.

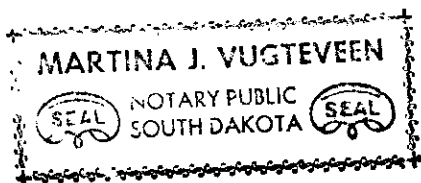
)

_____, I, Lori Jean Furness, under penalty of perjury, declare that I am Assistant Vice President of BroadStream Corporation, the Applicant in the subject proceeding; that I am authorized by BroadStream Corporation to file this Application for a Certificate of Service Authority to Provide Resold Interexchange Telecommunications Services with the Missouri Public Service Commission; that I am familiar with the Application; and that the statements of fact set forth in the Application are true and correct to the best of my knowledge, information and belief.


Lori Jean Furness, Assistant Vice President
BroadStream Corporation

Subscribed and sworn to before me this 27 day of October, 1999.

Martina J. Gustafson
Notary Public



My Commission Expires
October 22, 2004

BROADSTREAM CORPORATION

**IXC/PRIVATE LINE CERTIFICATE
APPLICATION**

APPENDIX A

MISSOURI SECRETARY OF STATE DOCUMENTS

STATE OF MISSOURI



Rebecca McDowell Cook
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF CORPORATE RECORDS

BROADSTREAM CORPORATION

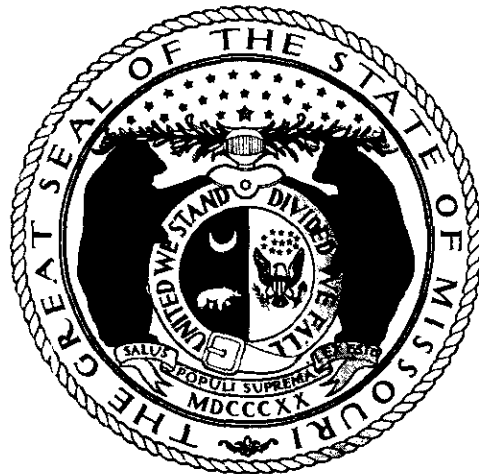
USING IN MISSOURI THE NAME

BROADSTREAM CORPORATION

I, REBECCA McDOWELL COOK, SECRETARY OF STATE OF THE STATE OF MISSOURI AND KEEPER OF THE GREAT SEAL THEREOF, DO HEREBY CERTIFY THAT THE ANNEXED PAGES CONTAIN A FULL, TRUE AND COMPLETE COPY OF THE ORIGINAL DOCUMENTS ON FILE AND OF RECORD IN THIS OFFICE.

IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND IMPRINTED THE GREAT SEAL OF THE STATE OF MISSOURI, ON THIS, THE 29TH DAY OF OCTOBER, 1999.

Rebecca McDowell Cook
Secretary of State



STATE OF MISSOURI



Rebecca McDowell Cook
Secretary of State

CORPORATION DIVISION
 AMENDED CERTIFICATE OF AUTHORITY
 OF A FOREIGN CORPORATION

WHEREAS,

BROADSTREAM CORPORATION

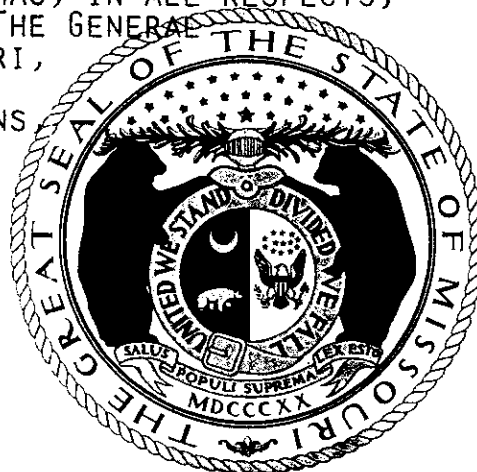
FORMERLY,

COMMCOTEC CORPORATION

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND NOW IN EXISTENCE AND IN GOOD STANDING IN SAID STATE, AND QUALIFIED TO TRANSACT BUSINESS IN MISSOURI HAS DELIVERED TO ME, DULY AUTHENTICATED EVIDENCE OF AN AMENDMENT TO ITS ARTICLES OF INCORPORATION AS PROVIDED BY LAW, AND HAS, IN ALL RESPECTS, COMPLIED WITH THE REQUIREMENTS OF THE THE GENERAL AND BUSINESS CORPORATION LAW OF MISSOURI, GOVERNING AMENDMENTS TO THE ARTICLES OF INCORPORATION OF FOREIGN CORPORATIONS AND IN ACCORDANCE THEREWITH ISSUE THIS CERTIFICATE OF AMENDMENT.

IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND IMPRINTED THE GREAT SEAL OF THE STATE OF MISSOURI, ON THIS, THE 29TH DAY (OF OCTOBER), 1999.

Rebecca McDowell Cook
 Secretary of State



\$25.00



State of Missouri

Rebecca McDowell Cook, Secretary of State

P.O. Box 778, Jefferson City, Mo. 65102

Corporation Division AUTHORITY ISSUED

ORIGINAL

FILED

AMENDED CERTIFICATE OF

OCT 29 1999

Application for an Amended Certificate of Authority for a Foreign Corporation

(Submit in duplicate with filing fee of \$25.00)

Rebecca McDowell Cook
SECRETARY OF STATE

The below corporation, relating to amending its certificate of authority of Foreign Corporation, does hereby state:

- (1) Its name is: CommcoTec Corporation
and is incorporated in the State of: Delaware; and it was qualified in the State of Missouri on December 15, 1998
(month/day/year)
- (2) By appropriate corporate action on: September 13, 1999, the corporation:
(month/day/year)
BroadStream Corporation
 - (1) Changed its corporate name to: _____
Name it will use in Missouri if new name not available: N/A
 - (2) Changed its period of duration to: N/A
 - (3) Changed the state or country of its incorporation to: N/A
- (3) There is attached hereto a Certificate of the Secretary of State of the State of Delaware relating to the amendment(s), set forth in item 2 above and showing that the Corporation is in existence and in good standing in said State.
- (4) The effective date of this document is the date it is filed by the Secretary of State of Missouri, unless you indicate a future date, as follows: _____
(Date may not be more than 90 days after the filing date in this office)

In affirmation thereon, the facts stated above are true.

Laurie Arthur
(Authorized signature of officer or chairman of the board)

Corp. Asst. Secretary
(Title)

10-26-99
(Date of signature)

Attached is a current certificate attesting to the change, duly authenticated by the secretary of state or other official having custody of corporate records in the state or country of incorporation.

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "BROADSTREAM CORPORATION" IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-SIXTH DAY OF OCTOBER, A.D. 1999.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

2903483 8300

991452678

0045775

10-26-99



Edward J. Freel

Edward J. Freel, Secretary of State

AUTHENTICATION: .

DATE:

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "COMMCOTEC CORPORATION", FILED A RESTATED CERTIFICATE, CHANGING ITS NAME TO "BROADSTREAM CORPORATION", THE THIRTEENTH DAY OF SEPTEMBER, A.D. 1999, AT 2 O'CLOCK P.M.

2903483 8320

991452086

0045258

10-26-99



Edward J. Freel

Edward J. Freel, Secretary of State

AUTHENTICATION:

DATE:

State of Delaware
Office of the Secretary of State

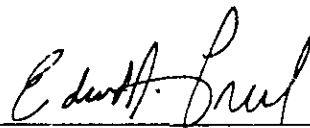
PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "COMMCOTEC CORPORATION", CHANGING ITS NAME FROM "COMMCOTEC CORPORATION" TO "BROADCASTREAM CORPORATION", FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF SEPTEMBER, A.D. 1999, AT 2 O'CLOCK P.M.



2903483 8100

991426585


Edward J. Freel, Secretary of State

AUTHENTICATION:

DATE:

0025072

10-14-99

RESTATED CERTIFICATE OF INCORPORATION
OF
COMMCO TEC CORPORATION

CommcoTec Corporation, a corporation organized and existing under the laws of the State of Delaware, for the purpose of amending and restating its Certificate of Incorporation, does hereby certify as follows:

FIRST: The original Certificate of Incorporation (the "Original Certificate") was filed with the Secretary of State of the State of Delaware on June 2, 1998, pursuant to and by virtue of the General Corporation Law of the State of Delaware (the "DGCL").

SECOND: Effective immediately upon the filing of this Restated Certificate of Incorporation in the office of the Secretary of State of the State of Delaware (the "Effective Time"), each share of previously existing Class A Common Stock, par value \$.01 per share, and Class B Common Stock, par value \$.01 per share, issued and outstanding or held in treasury shall be and hereby is converted into and reclassified as .0025 shares of Common Stock (as defined in Article FOURTH of this Restated Certificate of Incorporation). Certificates which prior to the Effective Time represented shares of capital stock shall, at the Effective Time, be hereby canceled and upon presentation of the canceled certificates to BroadStream Corporation, the holders thereof shall be entitled to receive certificate(s) representing the shares of Common Stock into which such canceled shares have been converted.

THIRD: This Restated Certificate of Incorporation, having been duly adopted in accordance with the provisions of Sections 228, 242 and 245 of the DGCL by the unanimous written consent of the Board of Directors and the written consent of the stockholders of BroadStream Corporation, restates and integrates and further amends the provisions of the Original Certificate. As so restated and integrated and further amended, the Restated Certificate of Incorporation (hereinafter, the "Certificate of Incorporation") reads as follows:

ARTICLE FIRST

Name of Corporation

The name of the corporation is BroadStream Corporation (the "Corporation").

ARTICLE SECOND

Registered Office and Registered Agent

The address of the Corporation's registered office in the State of Delaware is One Rodney Square, 10th Floor, Tenth and King Streets, in the City of Wilmington, County of Newcastle, Delaware 19801. The name of the registered agent of the Corporation at such address is RL&F Service Corp.

ARTICLE THIRD

Purpose

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE FOURTH

Capital Stock

The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 50,000 shares of common stock, par value \$.01 per share (the "Common Stock").

ARTICLE FIFTH

Board of Directors

A. The number of directors of the Corporation shall initially be fixed at two and may be increased or decreased from time to time pursuant to a resolution adopted by the affirmative vote of a majority of the directors then in office, though less than a quorum of the Board of Directors, but the number of directors shall not be less than two nor more than twelve.

B. Unless and except to the extent that the By-laws so require, the election of directors of the Corporation need not be by written ballot.

C. Vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors or other cause, may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director.

ARTICLE SIXTH

Certain Matters Relating to Stockholder Actions

Any action required or permitted to be taken by the stockholders of the Corporation shall be effected at a duly called annual or special meeting of stockholders of the Corporation, and the stockholders of the Corporation shall be permitted to take action by written consent.

ARTICLE SEVENTH

Limitation on Director Liability

A. To the fullest extent permitted by the DGCL as it now exists and as it may hereafter be amended, no director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of any fiduciary or other duty as a director.

B. The rights and authority conferred in this Article SEVENTH shall not be exclusive of any other right which any person may otherwise have or hereafter acquire.

C. Neither the amendment, alteration or repeal of this Article SEVENTH, nor the adoption of any provision inconsistent with this Article SEVENTH, shall adversely affect any right or protection of a director of the Corporation existing at the time of such amendment, alteration or repeal with respect to acts or omissions occurring prior to such amendment, alteration, repeal or adoption.

ARTICLE EIGHTH

Indemnification

Each person who is or was a director or officer of the Corporation shall be indemnified by the Corporation to the fullest extent permitted from time to time by the DGCL as the same exists or may hereafter be amended (but, if permitted by applicable law, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) or any other applicable laws as presently or hereafter in effect. The Corporation may, by action of the Board of Directors, provide indemnification to employees and agents (other than a director or officer) of the Corporation, to directors, officers, employees or agents of a subsidiary, and to each person serving as a director, officer, partner, member, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, at the request of the Corporation, with the same scope and effect as the foregoing indemnification of directors and officers of the Corporation. The Corporation shall be required to indemnify any person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors or is a proceeding to enforce such person's claim to indemnification pursuant to the rights granted by this Certificate of Incorporation or otherwise by the Corporation. Without limiting the generality or the effect of the foregoing, the Corporation may enter into one or more agreements with any person which provide for indemnification greater or different than that provided in this Article EIGHTH. Any amendment or repeal of this Article EIGHTH shall not adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such amendment or repeal.

ARTICLE NINTH

Amendments to By-laws by the Board of Directors

In furtherance of, and not in limitation of, the powers conferred by law, the Board of Directors is expressly authorized and empowered to:

- (1) adopt any By-laws a majority of the Board of Directors may deem necessary or desirable in connection with the conduct of the affairs of the Corporation,

including provisions governing the conduct of, and the matters which may properly be brought before, meetings of the stockholders and provisions specifying the manner and extent to which advance notice shall be given of and any other procedures regarding (i) the submission of proposals to be considered at any such meeting or (ii) nominations for the election of directors to be held at any such meeting; and

(2) repeal, alter or amend the By-laws by the affirmative vote of a majority of the Board of Directors.

ARTICLE TENTH

Foreign Ownership Restrictions

The following provisions are included for the purpose of ensuring that ownership of the Corporation remains with United States persons or entities, to the extent required by the Communications Act of 1934, as amended and the rules and regulations promulgated thereunder, as the same may be amended from time to time:

A. If the Corporation is a direct licensee of a broadcast or common carrier station, the Corporation shall not issue to "Aliens" (which term shall include (i) a person who is a citizen of a country other than the United States; (ii) any entity organized under the laws of a government other than the government of the United States or any state, territory, or possession of the United States; (iii) a government other than the government of the United States or of any state, territory, or possession of the United States; and (iv) a representative of, or an individual or entity controlled by, any of the foregoing), either individually or in the aggregate, in excess of 20 percent of the total number of shares of capital stock of the Corporation outstanding at any time and shall seek not to permit the transfer on the books of the Corporation of any capital stock to any Alien that would result in the total number of shares of such capital stock held by Aliens exceeding such 20 percent limit. If the Corporation is not a direct licensee of a broadcast or common carrier station but directly or indirectly controls such a licensee, the foregoing limit shall be 25 percent, unless the Federal Communications Commission approves a higher limit. In the event that the FCC amends the foregoing limits, such amended limits shall apply to this paragraph A of Article TENTH.

B. If the Corporation is a direct licensee of a broadcast or common carrier station, no Alien or Aliens shall be entitled to vote or direct or control the vote of more than 20 percent of (i) the total number of shares of capital stock of the Corporation outstanding and entitled to vote at any time and from time to time, or (ii) the total voting power of all shares of capital stock of the Corporation outstanding and entitled to vote at any time and from time to time. If the Corporation is not a direct licensee of a broadcast station but directly or indirectly controls such licensee, the foregoing limits shall be 25 percent, unless Federal Communications Commission approves a higher limit. In the event that the FCC amends the foregoing limits, such amended limits shall apply to this paragraph B of Article TENTH.

C. Without limiting the generality of the foregoing and notwithstanding any other provision of these Articles of Incorporation to the contrary, any shares of capital stock of the Corporation determined by the Board of Directors to be owned by an Alien or Aliens shall always be subject to redemption by the Corporation by action of the Board of Directors or any other applicable provision of law, to the extent necessary in the judgment of the Board of Directors to comply with the Alien ownership restrictions described in this Article TENTH. The terms, conditions and procedures of such redemption shall be as follows:

(1) the redemption price of the shares to be redeemed pursuant to this Article TENTH shall be equal to the fair market value of the shares to be redeemed, as determined by the Board of Directors in good faith;

(2) the redemption price of such shares may be paid in cash, securities or any combination thereof as determined by the Board of Directors;

(3) if less than all the shares held by Aliens are to be redeemed, the shares to be redeemed shall be selected in any manner determined by the Board of Directors to be fair and equitable;

(4) at least 10 days' prior written notice of the redemption, which notice shall specify the date the redemption is to be effective (the "Redemption Date"), shall be given to the holders of the shares selected to be redeemed (unless waived in writing by any such holder); provided that the Redemption Date may be the date on which written notice shall be given to holders if the cash or securities necessary to effect the redemption shall have been deposited in trust for the

benefit of such holders and such cash and securities are subject to immediate withdrawal by them upon surrender of the stock certificates for their shares to be redeemed duly endorsed in blank or accompanied by duly executed proper instruments of transfer;

(5) without limiting any of the rights or remedies set forth in this Article TENTH, from and after the Redemption Date, the shares to be redeemed shall cease to be regarded as outstanding and any and all rights of the holders in respect of the shares to be redeemed or attaching to such shares of whatever nature (including any rights to vote or participate in dividends declared on capital stock of the same class or series as such shares, excepting only payment of dividends declared prior to the Redemption Date for which the record date precedes the Redemption Date) shall cease and terminate, and the holders thereof thereafter shall be entitled only to receive the cash or securities payable upon redemption; and

(6) such other terms and conditions as the Board of Directors shall determine.

D. The Board of Directors shall have all powers necessary to implement the provisions of this Article TENTH.

FROM RICHARDS, LAYTON & FINGER #10

(TUE) 9.14'99 11:00/ST. 10:55/NO. 4861878544 P 9

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IN WITNESS WHEREOF, CommcoTec Corporation has caused this Restated Certificate of Incorporation to be executed by the following authorized officer of said corporation on this 13 day of September, 1999.

COMMCO TEC CORPORATION,

by



Name: Roderick M. Sherwood III
Title: Chief Financial Officer

BROADSTREAM CORPORATION

**IXC/PRIVATE LINE CERTIFICATE
APPLICATION**

APPENDIX B

PROPOSED TARIFF

**INTEREXCHANGE/NON-SWITCHED LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES TARIFF
FOR SERVICES PROVIDED BY
Broadstream Corporation**

This Tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services within the State of Missouri by BroadStream Corporation. This Tariff is on file with the Missouri Public Service Commission, and copies may also be inspected, during normal business hours, at the following location: 4513 Pin Oak Court, Sioux Falls, South Dakota 57103. BroadStream Corporation. has been classified as a "competitive" telecommunications company by the Missouri Public Service Commission.

Issued: October 29, 1999

Effective: December 13, 1999

Issued By: Michael D. Heil, President and CEO
4513 Pin Oak Court
Sioux Falls, South Dakota 57103

WAIVER OF RULES AND REGULATIONS

The Missouri Public Service Commission has waived the following Rules and Regulations for the purpose of offering telecommunications services as set forth herein:

Statutory Provisions

| | | |
|------------|---|------------------------------------|
| 392.240(1) | - | Ratemaking |
| 392.270 | - | Valuation of Property (Ratemaking) |
| 392.280 | - | Depreciation of Accounts |
| 392.290 | - | Issuance of Securities |
| 392.310 | - | Stock and Debt Issuance |
| 392.320 | - | Stock and Dividend Payment |
| 392.330 | - | Issuance of Securities |
| 392.340 | - | Reorganization(s) |

Commission Rules

| | | |
|------------------------|---|-----------------------------|
| 4 CSR 240-10.020 | - | Depreciation Fund Income |
| 4 CSR 240-30.010(2)(C) | - | Rate Schedules |
| 4 CSR 240-30.040 | - | Uniform System of Accounts |
| 4 CSR 240-32.030(1)(B) | - | Exchange Boundary Maps |
| 4 CSR 240-32.030(1)(C) | - | Record Keeping |
| 4 CSR 240-32.030(2) | - | In-State Record Keeping |
| 4 CSR 240-32.050(3) | - | Local Office Record Keeping |
| 4 CSR 240-32.050(4) | - | Telephone Directories |
| 4 CSR 240-32.050(5) | - | Call Intercept |
| 4 CSR 240-32.050(6) | - | Telephone Number Changes |
| 4 CSR 240-32.070(4) | - | Public Coin Telephone |
| 4 CSR 240-33.030 | - | Minimum Charges Rule |
| 4 CSR 240-33.040(5) | - | Finance Fee |

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CONCURRING, CONNECTING AND OTHER PARTICIPATING CARRIERS

CONCURRING CARRIERS:

No Concurring Carriers

CONNECTING CARRIERS:

No Connecting Carriers

OTHER PARTICIPATING CARRIERS:

No Participating Carriers

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TARIFF FORMAT

Page Numbering - Page numbers appear in the upper right hand corner of the page. Pages are numbered sequentially and from time to time new pages may be added to the Tariff. When a new page is added between existing pages, a decimal is added to the preceding page number. For example, a new page added between Pages 3 and 4 would be numbered 3.1.

Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1.
- 2.1.1.
- 2.1.1.A.
- 2.1.1.A.1.
- 2.1.1.A.1.(a).
- 2.1.1.A.1.(a).I.
- 2.1.1.A.1.(a).I.(i).
- 2.1.1.A.1.(a).I.(i).(1).

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APPLICABILITY

This Tariff contains the Service offerings, rates, terms and conditions applicable to the furnishing of intrastate interexchange and non-switched local exchange telecommunications Services within the State of Missouri by BroadStream Corporation. (hereinafter "Company"). The Missouri Public Service Commission has classified the services offered hereunder to be "competitive".

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EXPLANATION OF SYMBOLS

- (D) To signify discontinued material
- (I) To signify a rate or charge increase
- (M) To signify material relocated without change in text or rate
- (N) To signify new material
- (R) To signify a reduction
- (T) To signify a change in text but no change in rate or regulation

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TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| WAIVER OF RULES AND REGULATIONS | 2 |
| CONCURRING, CONNECTING AND OTHER PARTICIPATING CARRIERS | 3 |
| TARIFF FORMAT | 4 |
| APPLICABILITY | 5 |
| EXPLANATION OF SYMBOLS | 6 |
| TABLE OF CONTENTS | 7 |
| 1. <u>DEFINITION OF TERMS</u> | 10 |
| 2. <u>RULES AND REGULATIONS</u> | 18 |
| 2.1. <u>Description and Limitations of Services</u> | 18 |
| 2.2. <u>Other Terms and Conditions</u> | 19 |
| 2.3. <u>Liability</u> | 20 |
| 2.4. <u>Cancellation of Service by a Customer</u> | 22 |
| 2.5. <u>Cancellation for Cause by the Company</u> | 23 |
| 2.6. <u>Credit Allowance</u> | 24 |
| 2.7. <u>Use of Service</u> | 25 |
| 2.8. <u>Payment Arrangements</u> | 26 |
| 2.9. <u>Assignment</u> | 27 |
| 2.10. <u>Tax and Fee Adjustments</u> | 27 |
| 2.11. <u>Method for Calculation of Airline Mileage</u> | 28 |
| 2.12. <u>Time of Day Rate Periods</u> | 29 |

Issued: October 29, 1999

Effective: December 13, 1999

Issued By: Michael D. Heil, President and CEO
4513 Pin Oak Court
Sioux Falls, South Dakota 57103

| | | |
|-------|---|----|
| 2.13. | <u>Special Customer Arrangements</u> | 29 |
| 2.14. | <u>Inspection</u> | 29 |
| 3. | <u>DESCRIPTION OF SERVICES</u> | 30 |
| 3.1. | <u>Wide Area ("WATS") and Message ("MTS") Toll Services</u> | 30 |
| 3.2. | <u>Switched Inbound Service</u> | 30 |
| 3.3. | <u>Dedicated Inbound Service</u> | 30 |
| 3.4. | <u>Switched Outbound Service</u> | 30 |
| 3.5. | <u>Dedicated Outbound Service</u> | 30 |
| 3.6. | <u>Calling Card Service</u> | 30 |
| 3.7. | <u>Timing of Calls</u> | 30 |
| 3.8. | <u>Minimum Call Completion Rate</u> | 31 |
| 4. | <u>RATES AND CHARGES</u> | 32 |
| 4.1. | <u>Usage Rates</u> | 32 |
| 4.2. | <u>Switched Inbound Usage Rates</u> | 33 |
| 4.3. | <u>Dedicated Inbound Usage Rates</u> | 34 |
| 4.4. | <u>Switched Outbound Usage Rates</u> | 35 |
| 4.5. | <u>Dedicated Outbound Usage Rates</u> | 36 |
| 4.6. | <u>Calling Card Usage Rates</u> | 37 |
| 4.7. | <u>Special Promotional Offering</u> | 38 |
| 4.8. | <u>Emergency Calls</u> | 38 |
| 4.9. | <u>Payphone Use Service Charge</u> | 38 |
| 4.10. | <u>Long Distance Directory Assistance</u> | 38 |

Issued: October 29, 1999

Effective: December 13, 1999

Issued By: Michael D. Heil, President and CEO
4513 Pin Oak Court
Sioux Falls, South Dakota 57103

| | | |
|-------|--|----|
| 4.11. | <u>Returned Check Charge</u> | 38 |
| 4.12. | <u>Other Recurring Charges</u> | 38 |
| 4.13. | <u>Other Non-recurring Charges</u> | 38 |

Issued: October 29, 1999

Effective: December 13, 1999

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Sioux Falls, South Dakota 57103

1. DEFINITION OF TERMS

For the purpose of this Tariff, the following definitions will apply:

Access Coordination

Provides for the design, ordering, installation, coordination, pre-service testing, service turn-up and maintenance on a Company or Customer provided Local Access Channel.

Administrative Change

A change in Customer billing address or contact name.

Alternate Access

Alternate Access is a form of Local Access except that the provider of the Service is an entity, other than the Local Exchange Carrier, authorized or permitted to provide such Service. The charges for Alternate Access may be subject to private agreement rather than published or special tariff if permitted by applicable governmental rules.

Application for Service

A standard Company order form which includes all pertinent billing, technical and other descriptive information which will enable the Company to provide a communication Service as required.

ASR

ASR (Access Service Request) means an order placed with a Local Access Provider for Local Access.

Authorized User

A person, firm, corporation or other entity that either is authorized by the Customer to receive or send communications or is placed in a position by the Customer, either through acts or omissions, to send or receive communications.

Bandwidth

The total frequency band, in hertz, allocated for a channel.

Bill Date

The date on which billing information is compiled and sent to the Customer.

Call

A completed connection between the Calling and Called Stations.

Called Station

The telephone number called.

Calling Station

The telephone number from which a Call originates.

Cancellation of Order

A Customer initiated request to discontinue processing a Service order, either in part or in its entirety, prior to its completion. Cancellation charges will be assessed for each Circuit-end or Dedicated Access line canceled from an order prior to its completion by the Company, under the following circumstances: (1) if the LEC has confirmed in writing to the Company that the Circuit-end or Dedicated Access line will be installed; or (2) if the Company has already submitted facilities orders to and interconnecting telephone company.

Channel or Circuit

A dedicated communications path between two or more points having a Bandwidth or Transmission Speed specified in this Tariff and selected by a Customer.

Commission

Missouri Public Service Commission

Company

BroadStream Corporation.

Company Recognized National Holidays

The following are Company Recognized National Holidays determined at the location of the originator of the Call. The Company observes the following federally recognized holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day. The evening rate is used unless a lower rate would normally apply. When a Call begins in one rate period and ends in another, the rate in effect in each rate period applies to the portion of the Call occurring within that rate period. In the event that a minute is split between two rate periods, the rate in effect at the start of that minute applies.

Customer

The person, firm, corporation or governmental unit which orders Service and which is responsible for the payment of charges and for compliance with the Company's Tariff regulations. A Customer is considered to be an account for billing purposes. The term Customer also includes an entity that remains presubscribed to the Company Service after its account(s) are removed from the Company's billing system, subsequently continues to use Company's network, and is billed by a local exchange carrier for such use, or otherwise uses Service for which no other Customer is obligated to compensate Company.

Customer Premises/Customer's Premises

Locations designated by a Customer where Service is originated/terminated whether for its own communications needs or for the use of its resale customers.

Dedicated Access/Special Access

Dedicated Local Access between the Customer's Premises or serving wire center and the Company's Point-of-Presence for origination or termination of Calls.

DS-0

DS-0 means Digital Signal Level 0 Service and is a 64 Kbps signal.

DS-1

DS-1 means Digital Signal Level 1 Service and is a 1.544 Mbps signal.

DS-0 with VF Access

DS-0 Service with VF Local Access facilities provides for the transmission of analog voice and/or data within 300 Hz to 3000 Hz frequency range.

DS-0 with DDS Access

DS-0 Service with DDS Access facilities provides for the transmission of digital data at speeds 2.4, 4.8, 9.6 or 56 Kbps.

Due Date

The Due Date is the date on which payment is due.

Expedite

A Service order initiated at the request of the Customer that is processed in a time period shorter than the Company's standard Service interval.

FCC

Federal Communications Commission

Individual Case Basis (ICB)

Individual Case Basis (ICB) determinations involve situations where complex Customer-specific Company arrangements are required to satisfactorily serve the Customer. The nature of such Service requirements makes it difficult or impossible to establish general tariff provisions for such circumstances. ICB provisioning is only available for Dedicated Access and Private Line services. ICB rates will be structured to recover the Company's cost of providing the services and will be made available to customers in a non-discriminatory manner. Terms of specific ICB contracts will be made available to the Commission staff upon request on a proprietary basis.

Installation

The connection of a Circuit, Dedicated Access line, or port for new, changed or an additional Service.

Interexchange Service

Interexchange Service means that portion of a communications channel between a Company-designated Point-of-Presence in one exchange and a Point-of-Presence in another exchange.

Interruption

Interruption shall mean a condition whereby the Service or a portion thereof is inoperative, beginning at the time of notice by the Customer to Company that such Service is inoperative and ending at the time of restoration.

Kbps

Kilobits per second.

LATA (Local Access and Transport Area)

A geographical area established for the provision and administration of communications Service of a local exchange company.

Local Access

Local Access means the Service between a Customer Premises and a Company designated Point-of-Presence.

Local Access Provider

Local Access Provider means an entity providing Local Access.

Local Exchange Carrier (LEC)

The local telephone utility that provides telephone exchange services.

Mbps

Megabits per second.

Multiplexing

Multiplexing is the sequential combining of lower bit rate Private Line Services onto a higher bit rate Private Line Service for more efficient facility capacity usage or vice versa.

N/A

Not available.

Nonrecurring Charges

Nonrecurring Charges are one-time charges.

Payment Method

The manner which the Customer designates as the means of billing charges for Calls using the Company's Service.

Physical Change

The modification of an existing Circuit, Dedicated Access line or port, at the request of the Customer, requiring some Physical Change or retermination.

Point-of-Presence (POP)

A Company-designated location where a facility is maintained for the purpose of providing access to its Service.

Primary Route

The route which, in the absence of Customer-designated routing or temporary re-routing, would be used by the Company in the provision of Service.

Private Line

A dedicated transmission channel furnished to a customer without intermediate switching arrangements for full-time customer use.

Private Line Service

A dedicated full-time transmission Service utilizing dedicated access arrangements.

Rate Center

A specified geographical location used for determining mileage measurements.

Requested Service Date

The Requested Service Date is the date requested by the Customer for commencement of Service and agreed to by the Company.

Restore

To make Service operative following an interruption by repair, reassignment, re-routing, substitution of component parts, or otherwise, as determined by the carrier(s) involved.

Route Diversity

Two channels which are furnished partially or entirely over two physically separate routes.

Service

Service means any or all Service(s) provided pursuant to this Tariff.

Service Commitment Period

The term elected by the Customer and stated on the Service order during which the Company will provide the Services subscribed to by the Customer. The term can be monthly or in the case of Private Line Services for a period of up to 5 years.

Special Promotional Offerings

Special trial offerings, discounts, or modifications of its regular Service offerings which the Company may, from time to time, offer to its Customers for a particular Service. Such offerings may be limited to certain dates, times, and locations. The Company may from time to time engage in special promotional offerings designed to attract new customers or to increase existing customers awareness of a particular tariff offering. These promotions will be subject to prior notification and approval by the Commission.

Start of Service Date

The Requested Service Date or the date Service first is made available by the Company whichever is later.

Tariff

The current Intrastate Services Tariff and effective revisions thereto filed by the Company with the Missouri Public Service Commission.

Transmission Speed

Data transmission speed or rate, in bits per seconds (bps).

Twelve O'Clock

In designated time, 12:00 a.m. refers to 12:00 Midnight and 12:00 p.m. refers to 12:00 Noon.

Two-Way Conversation

A Two-Way Conversation is a telephone conversation between or among two or more parties.

VF

VF is voice frequency or voice-grade Service designed for private-line Service. Normal transmission is in the 300 hertz to 3000 hertz frequency band.

2. RULES AND REGULATIONS

2.1. Description and Limitations of Services

- 2.1.1. Intrastate Telecommunications Service ("Service") is the furnishing of Company communication Services contained herein between specified locations under the terms of this Tariff.
- 2.1.2. Any member of the general public (including any natural person or legally organized entity such as a corporation, partnership, or governmental body) is entitled to obtain Service under this Tariff, provided that the Company reserves the right to deny Service: (A) to any Customer that, in the Company's reasonable opinion, presents an undue risk of nonpayment and refuses to comply with the deposit requirements set forth in Section 2.7.3, (B) in circumstances in which the Company has reason to believe that the use of the Service would violate the provisions of this Tariff or any applicable law or if any applicable law restricts or prohibits provision of the Service, or (C) if insufficient facilities are available to provide the Service (in such cases Company shall make best efforts to accommodate the needs of all potential Customers by means of facility improvements or purchases, of capacity, if such efforts will, in the Company's opinion, provide the Company with a reasonable return on its expenditures), but only for so long as such unavailability exists.
- 2.1.3. Company, when acting at the Customer's request and as its authorized agent, will make reasonable efforts to arrange for Service requirements, such as special routing, Diversity, Alternate Access, or circuit conditioning.
- 2.1.4. Service is offered in equal access exchanges subject to the availability of facilities and the provisions of this Tariff. Company reserves the right to refuse to provide Service to or from any location where the necessary facilities and/or equipment are not available.
- 2.1.5. Service may be discontinued after five business days written notice to the Customer if:
- 2.1.5.A. the Customer is using the Service in violation of this Tariff; or
 - 2.1.5.B. the Customer is using the Service in violation of the law or Commission regulation.
- 2.1.6. Service begins on the date that billing becomes effective and is provided on the basis of a minimum period of at least one month, 24 hours per day. For the purposes of computing charges in this Tariff, a month is considered to have 30 days.
- 2.1.7. Business service will be provided until canceled, by the Customer, on not less than thirty (30) days' written notice from the date of postmark on the letter giving notice of cancellation. Residential service may be canceled by the Customer by verbal notice.

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- 2.1.8. The Company reserves the right to discontinue furnishing Services or billing options, upon written notice, when necessitated by conditions beyond its control. Conditions beyond the Company's control include, but are not limited to, a Customer's having Call volume or a calling pattern that results, or may result, in network blockage or other Service degradation which adversely affects Service to the calling party, the Customer, or other Customers of the Company.
- 2.1.9. Except as otherwise provided in this Tariff or as specified in writing by the party entitled to receive Service, notice may be given orally or in writing to the persons whose names and business addresses appear on the executed Service order and the effective date of any notice shall be the date of delivery of such notice, not the date of mailing. By written notice, Company or Customer may change the party to receive notice and/or the address to which such notice is to be delivered. In the event no Customer or Company address is provided in the executed Service order, notice shall be given to the last known business address of Customer or, as appropriate.
- 2.2. Other Terms and Conditions
- 2.2.1. The name(s) of the Customer(s) desiring to use the Service must be stipulated in the Application for Service.
- 2.2.2. The Customer agrees to operate the Company provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void the Company liability for interruption of Service and may make Customer responsible for damage to equipment pursuant to Section 2.2.3 below.
- 2.2.3. Customer agrees to return to the Company all Company-provided equipment delivered to Customer within five (5) days of termination of the Service in connection with which the equipment was used. Said equipment shall be in the same condition as when delivered to Customer, normal wear and tear only excepted. Customer shall reimburse the Company, upon demand, for any costs incurred by the Company due to Customer's failure to comply with this provision.
- 2.2.4. A Customer shall not use any service-mark or trademark of the Company or refer to the Company in connection with any product, equipment, promotion, or publication of the Customer without prior written approval of the Company.
- 2.2.5. The provision of Service will not create a partnership or joint venture between the Company and the Customer nor result in joint Service offerings to their respective Customers.

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- 2.2.6. The rate or volume discount level applicable to a Customer for a particular Service or Services shall be the rate or volume discount level in effect at the beginning of the monthly billing period applicable to the Customer for the particular Service or Services. When a Service is subject to a minimum monthly charge, account charge, port charge or other Recurring Charge or Nonrecurring Charge for both intrastate and interstate Service, only one such charge shall apply per account and that charge shall be the interstate charge.
- 2.2.7. Business Service requested by Customer and to be provided pursuant to this Tariff shall be requested on Company Service Order forms in effect from time to time or Customer's forms accepted in writing by an authorized headquarters representative of the Company (collectively referred to as "Service Orders"). Residential Service may be ordered by a Customer verbally.
- 2.2.8. [Reserved for future use]
- 2.2.9. The Service Commitment Period for any Business Service shall be established by the Service Order relevant thereto and commence on the Start of Service Date. Upon expiration, each Service Commitment Period for such Service shall automatically be extended subject to written notice of termination by either Company or Customer as of a date not less than thirty (30) days after delivery of said notice to the other. The charges for Interexchange Service during any such extension shall not exceed the then current Company month-to-month charges applicable to such Service.
- 2.3. Liability
- 2.3.1. Except as provided otherwise in this Tariff, the Company shall not be liable to Customer or any other person, firm or entity for any failure of performance hereunder if such failure is due to any cause or causes beyond the reasonable control of the Company. Such causes shall include, without limitation, acts of God, fire, explosion, vandalism, cable cut, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or of any other government or of any civil or military authority, national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, or preemption of existing Services to restore service in compliance with Part 64, Subpart D, Appendix A, of the FCC's Rules and Regulations.
- 2.3.2. With respect to the Services contained herein and except as otherwise provided herein, the Company's liability shall not exceed an amount equal to the charge applicable to a one minute Call to the Called Station at the time the affected Call was made. If the initial minute rate is higher than the additional minute rate, the higher rate shall apply. For those Services with monthly recurring charges, the Company's liability is limited to an amount equal to the proportionate monthly recurring charges for the period during which Service was affected.

- 2.3.3. The Company is not liable for any act or omission of any other company or companies (including any Company affiliate that is a participating or concurring carrier) furnishing a portion of the Service or facilities, equipment, or Services associated with such Service.
- 2.3.4. The Customer is responsible for taking all necessary legal steps for interconnecting the Customer provided terminal equipment with the Company facilities. The Customer shall ensure that the signals emitted into the Company's network do not damage Company equipment, injure personnel or degrade Service to other Customers. The Customer is responsible for securing all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the customer shall comply with applicable LEC signal power limitations.
- 2.3.5. The Company may rely on Local Exchange Carriers or other third parties for the performance of other Services such as Local Access. Upon Customer request and execution and delivery of appropriate authorizing documents, the Company may act as agent for Customer in obtaining such other Services. Customer's liability for charges hereunder shall not be reduced by untimely Installation or non-operation of Customer provided facilities and equipment.
- 2.3.6. The failure to give notice of default, to enforce or insist upon compliance with any of the terms or conditions herein, the waiver of any term or conditions herein, or the granting of an extension of time for performance by the Company or the Customer shall not constitute the permanent waiver of any term or condition herein. Each of the provisions shall remain at all time in full force and effect until modified in writing.
- 2.3.7. The Company shall not be liable to the Customer or any other person, firm or entity in any respect whatsoever as a result of mistakes, accidents, errors, omissions, interruptions, delays, or defects in Service (collectively "Defects"). Defects caused by or contributed to, directly or indirectly, by any act or omission of Customer or its customers, affiliates, agents, representatives, invitees, licensees, successors or assigns or which arise from or are caused by the use of facilities or equipment of Customer or related parties shall not result in the imposition of any liability whatsoever upon the Company, and Customer shall pay to the Company any reasonable costs, expenses, damages, fees or penalties incurred by the Company as a result thereof, including penalties incurred by the Company as a result thereof, including costs of Local Access Providers' labor and materials. In addition, all or a portion of the Service may be provided over facilities of third parties, or sold by third parties, and the Company shall not be liable to Customer or any other person, firm or entity in any respect whatsoever arising out of Defects caused by such third parties. THE COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR BUSINESS INTERRUPTION, FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF ANY DEFECTS OR ANY OTHER CAUSE. THE

COMPANY'S LIABILITY, IF ANY, WITH REGARD TO THE DELAYED INSTALLATION OF THE COMPANY'S FACILITIES OR COMMENCEMENT OF SERVICE SHALL NOT EXCEED \$1,000. THIS WARRANTY AND THESE REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT OF AN INTERRUPTION IN SERVICE OR ANY DEFECT IN THE SERVICE WHATSOEVER, NEITHER COMPANY NOR ANY AFFILIATED OR UNAFFILIATED THIRD PARTY, THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER.

- 2.3.8. With respect to the routing of Calls by the Company to public safety answering points or municipal Emergency Service providers, Company liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by the Customer as the direct result of the Company's action, or failure to act, in routing the Call, or (b) the sum of \$1,000.00.
- 2.3.9. In the event parties other than Customer (e.g., Customer's customers) shall have use of the Service directly or indirectly through Customer, then Customer agrees to forever indemnify and hold Company and any affiliated or unaffiliated third-party, third-party provider or operator of facilities employed in provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties arising out of or relating to any Defects.
- 2.3.10. In the event that Company is required to perform a Circuit redesign due to inaccurate information provided by the Customer; or, circumstances in which such costs and expenses are caused by the Customer or reasonably incurred by the Company for the benefit of the Customer, the Customer is responsible for the payment of all such charges.
- 2.4. Cancellation of Service by a Customer
- 2.4.1. If a Customer cancels a Service Order before the Service begins, before completion of the Minimum Period, or before completion of some other period mutually agreed upon by the Customer and the Company, a charge will be levied upon the Customer for the nonrecoverable portions of expenditures or liabilities incurred expressly on behalf of the Customer by the Company and not fully reimbursed by Installation and monthly charges. If, based on a Service order by a Customer, any construction has either begun or been completed, but no Services provided, the nonrecoverable costs of such construction shall be borne by the Customer.

2.4.2. Upon thirty (30) days' prior written notice, either Customer or Company shall have the right, without cancellation charge or other liability, to cancel the affected portion of the Service, if the Company is prohibited by governmental authority from furnishing said portion, or if any material rate or term contained herein and relevant to the affected Service is substantially changed by order of the highest court of competent jurisdiction to which the matter is appeal, the Federal Communications Commission, or other local, state or federal government authority.

2.5. Cancellation for Cause by the Company

2.5.1. Upon nonpayment of any undisputed past due amount owed to the Company, or upon a violation of any of the provisions governing the furnishing of Service under this Tariff, the Company may, upon five business days written notification to the Customer, without incurring any liability, immediately discontinue the furnishing of such Service. The written notice may be separate and apart from the regular monthly bill for service. Customer shall be deemed to have canceled Service as of the date of such disconnection and shall be liable for any cancellation charges set forth in this Tariff.

2.5.2. Without incurring any liability, and upon 5 days written notice, the Company may discontinue the furnishing of Service(s) to a Customer immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or Services under the following circumstances:

2.5.2.A. if the Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of common carrier communications Services or its planned use of Service(s);

2.5.2.B. if the Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of Customer communications Services, or its planned use of the Company Service(s);

2.5.2.C. if the Customer states that it will not comply with a request of the Company for reasonable security for the payment for Service(s);

2.5.2.D. if the Customer has been given five business days written notice in a separate mailing by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's communications Services to which the Customer either subscribes or had subscribed or used;

- 2.5.3. The discontinuance of Service(s) by the Company pursuant to this Section does not relieve the Customer of any obligations to pay the Company for charges due and owing for Service(s) furnished up to the time of discontinuance. The remedies set forth herein shall not be exclusive and the Company shall at all times be entitled to all rights available to it under either law or equity.
- 2.6. Credit Allowance
- 2.6.1. Credit allowance for the interruption of Service is subject to the general liability provisions set forth in this Tariff. Customers shall receive no credit allowance for the interruption of service which is due to the Company's testing or adjusting, negligence of the Customer, or to the failure of channels or equipment provided by the Customer. The Customer should notify the Company when the Customer is aware of any interruption in Service for which a credit allowance is desired. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission within Customer's control, or is not in wiring or equipment, if any, furnished by the Customer in connection with the Company's Services.
- 2.6.2. No credit is allowed in the event service must be interrupted in order to provide routine service quality or related investigations.
- 2.6.3. No credit shall be allowed:
- 2.6.3.A. For failure of services or facilities of Customer; or
- 2.6.3.B. For failure of services or equipment caused by the negligence or willful acts of Customer.
- 2.6.4. Credit for an interruption shall commence after Customer notifies Company of the interruption and ceases when services have been restored.
- 2.6.5. Credits are applicable only to that portion of Service interrupted.
- 2.6.6. For purposes of credit computation, every month shall be considered to have 720 hours.
- 2.6.7. No credit shall be allowed for an interruption of a continuous duration of less than two hours.

- 2.6.8. The Customer shall be credited for an interruption of two hours or more at a rate of 1/720th of the monthly recurring charge for the service affected for each hour or major fraction thereof that the interruption continues. Calculations of the credit shall be made in accordance with the following formula.

Credit Formula: Credit = $\frac{A}{720} \times B$

"A" = outage time in hours

"B" = total monthly charge for affected facility

2.7. Use of Service

- 2.7.1. The Services offered herein may be used for any lawful purpose, including residential, business, governmental, or other use. There are no restrictions on sharing or resale of Services. However, the Customer remains liable for all obligations under this Tariff notwithstanding such sharing or resale and regardless of the Company's knowledge of same. The Company shall have no liability to any person or entity other than the Customer and only as set forth in Section 2.3. The Customer shall not use nor permit others to use the Service in a manner that could interfere with Services provided to others or that could harm the facilities of the Company or others.
- 2.7.2. Service furnished by the Company may be arranged for joint use or authorized use. The joint user or Authorized User shall be permitted to use such Service in the same manner as the Customer, but subject to the following:
- 2.7.2.A. One joint user or Authorized User must be designated as the Customer.
- 2.7.2.B. All charges for the Service will be computed as if the Service were to be billed to one Customer. The joint user or Authorized User which has been designated as the Customer will be billed for all components of the Service and will be responsible for all payments to the Company. In the event that the designated Customer fails to pay the Company, each joint user or Authorized User shall be liable to the Company for all charges incurred as a result of its use of the Company's Service.
- 2.7.3. In addition to the other provisions in this Tariff, Customers reselling Company Services shall be responsible for all interaction and interface with their own subscribers or customers. The provision of the Service will not create a partnership or joint venture between Company and Customer nor result in a joint communications Service offering to the Customers of either the Company or the Customer.

- 2.7.4. Service furnished by the Company shall not be used for any unlawful or fraudulent purposes.
- 2.7.5. The Customer will be billed directly by the LEC for certain Dedicated Access arrangements selected by the Customer for the provisioning of direct access arrangements. In those instances where the Company at the Customer's request may act as agent in the ordering of such arrangements, the Company will bill the Customer Local Access charges.
- 2.8. Payment Arrangements
- 2.8.1. The Customer is responsible for payment of all charges for Services furnished to the Customer or its joint or Authorized Users. This responsibility is not changed due to any use, misuse, or abuse of the Customer's Service or Customer provided equipment by third parties, the Customer's employees, or the public.
- 2.8.2. The Company's bills are due upon receipt. Amounts not paid within 30 days from the Bill Date of the invoice will be considered past due. Customers will be assessed a late fee on past due amounts in the amount equal to 1 ½ % per month. If a Customer presents an undue risk of nonpayment at any time, the Company may require that Customer to pay its bills within a specified number of days and to make such payments in cash or the equivalent of cash.
- 2.8.3. In determining whether a Customer presents an undue risk of nonpayment, the Company shall consider the following factors: (A) the Customer's payment history (if any) with the Company and its affiliates, (B) Customer's ability to demonstrate adequate ability to pay for the Service, (C) credit and related information provided by Customer, lawfully obtained from third parties or publicly available, and (D) information relating to Customer's management, owners and affiliates (if any). For end users or Customers whom the Company believes an advance payment is necessary, Company reserves the right to collect an amount not to exceed one (1) month's estimated charges as an advance payment for service which will be applied to Customer's subsequent bill or bills until paid down pursuant to Commission rules.
- 2.8.4. If a LEC has established or establishes a Special Access surcharge, the Company will bill the surcharge beginning on the effective date of such surcharge for Special Access arrangements presently in Service. The Company will cease billing the Special Access surcharge upon receipt of an Exemption Certificate or if the surcharge is removed by the LEC.

2.9. Assignment

- 2.9.1. The obligations set forth in this Tariff shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, the Customer shall not assign or transfer its rights or obligations without the prior written consent of the Company.

2.10. Tax and Fee Adjustments

- 2.10.1. All state and local taxes (i.e., gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates. All non-tax surcharges or fees shall be subject to prior Commission approval.
- 2.10.2. If at any future time a municipality acquires the legal right to impose an occupation tax, license tax, or other similar charge upon the Carrier, and imposes the same by ordinance or otherwise, such taxes shall be billed to the end users receiving service within the territorial limits of such municipality. Such billing shall allocate the tax among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax.
- 2.10.3. If at any future time a county or other local taxing authority acquires the legal right to impose an occupation tax, license tax or other similar tax upon the Carrier, and imposes the same by ordinance or otherwise, such taxes shall be billed to the end users receiving service within the territorial limits of such county or other taxing authority. Such billing shall allocate the tax among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax.
- 2.10.4. When utility or telecommunications assessments, occupational, excise, or other similar taxes, based on interstate or intrastate receipts are imposed by certain taxing jurisdictions upon the Company or upon local exchange companies and passed on to the Company through or with interstate or intrastate access charges, the amounts of such taxes will be billed to Customers in such a taxing jurisdiction on a prorated basis. The amount of tax that is prorated to each Customer's bill is determined by the interstate or intrastate telecommunications service provided to and billed to an end user/customer service location in such a taxing jurisdiction with the aggregate of such tax equal to the amount of the tax imposed upon or passed on to the Company. For example, should a taxing jurisdiction impose a 5% tax upon the Company for Missouri intrastate telecommunications services, the Company will impose a 5% tax upon the Customer for intrastate telecommunications services.

- 2.10.5. When any municipality, or other political subdivision, local agency of government, or department of public utilities imposes upon and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee or regulatory fee, such taxes and fees shall, insofar as practicable, be billed pro rata to the Company's Customers receiving service within the territorial limits of such municipality, other political subdivision, local agency of government, or public utility commission, provided that all such non-tax surcharges are first approved by the Commission.
- 2.10.6. The Company may adjust its rates and charges or impose additional rates and charges on its Customers in order to recover amount it is required by governmental or quasi-governmental authorities to collect from or pay to others in support of statutory or regulatory programs. Examples of such programs include, but are not limited to, the Universal Service Fund, the Primary Interexchange Carrier Charge, and compensation to payphone service providers for use of their payphones to access the Company's services.

2.10.7. All assessments other than taxes will be filed with the Commission for approval.

2.11. Method for Calculation of Airline Mileage

- 2.11.1. The airline mileage between two cities can be calculated using the Vertical (V) and Horizontal (H) coordinates of the serving wire centers associated with the Company's POP locations. The method for calculating the airline mileage is obtained by reference to AT&T's Tariff F.C.C. No. 10 according to the following formula:

$$\text{the square root of: } \frac{(V1-V2)^2 + (H1-H2)^2}{10}$$

where V1 and H1 correspond to the V&H coordinates of City 1 and V2 and H2 correspond to the V&H coordinates of City 2.

Example:

| | <u>V</u> | <u>H</u> |
|--------|----------|----------|
| City 1 | 5004 | 1406 |
| City 2 | 5987 | 3424 |

$$\text{the square root of: } \frac{(5004-5987)^2 + (1406-3424)^2}{10}$$

The result is 709.83 miles. Any fractional miles are rounded to the next higher whole number; therefore, the airline mileage for this example is 710 miles.

2.12. Time of Day Rate Periods

- 2.12.1. Time of Day Rate Periods are determined by the time of day at the location of the Calling Station.

The rates shown in Section 4 apply as follows:

DAY: From 8:01 AM to 5:00 PM Monday - Friday

EVENING: From 5:01 PM to 11:00 PM Monday - Friday and Sunday

NIGHT/

WEEKEND: From 11:01 PM to 8:00 AM Everyday
From 8:01 AM to 11:00 PM Saturday
From 8:01 AM to 5:00 PM Sunday

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 this 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.

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.

3. DESCRIPTION OF SERVICES

3.1. Wide Area ("WATS") and Message ("MTS") Toll Services

- 3.1.1. The Company offers WATS and MTS intrastate interexchange long distance service utilizing switched or dedicated access arrangements between the Customers Premises and the Company's facilities for call origination. Call termination is completed through a combination of Company facilities and LEC switched access arrangements.

3.2. Switched Inbound Service

- 3.2.1. Switched inbound service permits inward calling (via 800 codes) to a specific location utilizing premium switched, Feature Group D access on both ends.

3.3. Dedicated Inbound Service

- 3.3.1. [Reserved for future use]

3.4. Switched Outbound Service

- 3.4.1. Switched outbound services permits outward calling utilizing premium switched Feature Group D access on both the originating and terminating ends.

3.5. Dedicated Outbound Service

- 3.5.1. [Reserved for future use]

3.6. Calling Card Service

- 3.6.1. The Company's Calling Card Service permits Customers to place long distance calls utilizing Company issued Calling Cards for billing purposes.

3.7. Timing of Calls

- 3.7.1. Long distance usage charges are based on the actual usage of the Company network. Chargeable time begins when a connection is established between the Calling Station and the Called Station. Chargeable time ends when either party "hangs up" thereby releasing the network connection.

3.7.2. Unless otherwise specified in this Tariff, the minimum call duration for billing purposes is eighteen (18) seconds. In addition, unless otherwise specified in this Tariff, usage is measured thereafter in six (6) second increments and rounded to the next higher six (6) second period.

3.8. Minimum Call Completion Rate

3.8.1. A Customer can expect a call completion rate of not less than 90% during peak use periods for all services.

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4. RATES AND CHARGES

4.1. Usage Rates

- 4.1.1. 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.

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4.2. Switched Inbound Usage Rates**PCOM 1 - Switched Inbound Service**

- 4.2.1. The Company requires eligible subscribers to agree to a one (1) year term commitment to receive services available under PCOM 1.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0246 | 0.0082 |

PCOM 2 - Switched Inbound Service

- 4.2.2. The Company requires eligible subscribers to agree to a six (6) month term commitment to receive services available under PCOM 2.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0270 | 0.0090 |

PCOM 3 - Switched Inbound Service

- 4.2.3. The Company requires eligible subscribers to agree to a monthly commitment to receive services available under PCOM 3.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0270 | 0.0090 |

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4.3. Dedicated Inbound Usage Rates

4.3.1. [Reserved for future use]

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4.4. Switched Outbound Usage RatesPCOM 1 - Switched Outbound Service

- 4.4.1. The Company requires eligible subscribers to agree to a one (1) year term commitment to receive services available under PCOM 1.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0246 | 0.0090 |

PCOM 2 - Switched Outbound Service

- 4.4.2. The Company requires eligible subscribers to agree to a six (6) month term commitment to receive services available under PCOM 2.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0270 | 0.0090 |

PCOM 3 - Switched Outbound Service

- 4.4.3. The Company requires eligible subscribers to agree to a monthly commitment to receive services available under PCOM 3.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 18 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0270 | 0.0090 |

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4.5. Dedicated Outbound Usage Rates

4.5.1. [Reserved for future use]

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4.6. Calling Card Usage RatesPCOM 1 - Calling Card Service

- 4.6.1. The Company requires eligible subscribers to agree to a one (1) year term commitment to receive services available under PCOM 1.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 30 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0895 | 0.0179 |

PCOM 2 - Calling Card Service

- 4.6.2. The Company requires eligible subscribers to agree to a six (6) month term commitment to receive services available under PCOM 2.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 30 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0995 | 0.0199 |

PCOM 3 - Calling Card Service

- 4.6.3. The Company requires eligible subscribers to agree to a monthly commitment to receive services available under PCOM 3.

BUSINESS DAY
EVENING/NIGHT/WEEKEND

| Mileage | Initial 30 Seconds | Additional 6 Seconds |
|---------|--------------------|----------------------|
| All | 0.0995 | 0.0199 |

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4.7. Special Promotional Offering

- 4.7.1. Upon receiving Commission approval, 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 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.

4.8. Emergency Calls

- 4.8.1. 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.

4.9. Payphone Use Service Charge

- 4.9.1. 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. This charge is collected on behalf of the pay phone owner. All Customers will pay the Company a per call service charge of \$.30.

4.10. Long Distance Directory Assistance

- 4.10.1. The Company charges \$0.85 per call for long distance directory assistance.

4.11. Returned Check Charge

- 4.11.1. Customers will be assessed a maximum fee of \$10.00 for all returned checks.

4.12. Other Recurring Charges

- 4.12.1. [Reserved for future use]

4.13. Other Non-recurring Charges

- 4.13.1. [Reserved for future use]