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VIA HAND DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 090327-TP - Petition of DeltaCom, Inc. for Order Determining DeltaCom, Inc. Not Liable for Access Charges of KMC Data, LLC and Hypercube Telecom, LLC

Dear Ms. Cole:

Please find attached for filing in the above-referenced docket on behalf of DeltaCom, Inc., an original and fifteen (15) copies of the Prefiled Direct Testimony and Exhibits of Don J. Wood. The exhibits attached are labeled Exhibits Nos. DJW-1 through DJW-7. A CD containing a PDF versions of the testimony and exhibits is also enclosed.

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew Feil

COM 5
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ECR _____
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{TL229189;1} Attachment

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the prefiled testimony and exhibits of Don J. Wood was served upon the following by Email and/or U.S. Mail this 15th day of June, 2010.

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By: _____

Matthew Feil

PREFILED DIRECT TESTIMONY OF:

DON J. WOOD

FILED ON BEHALF OF DELTACOM, INC.

June 15, 2010

DOCKET NO. 090327-TP – Petition of DeltaCom, Inc. for Order Determining
DeltaCom, Inc. Not Liable for Access Charges of KMC Data, LLC and
Hypercube Telecom, LLC

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1 **I. Introduction and Qualifications**

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Don J. Wood. I am a principal in the firm of Wood & Wood, an
4 economic and financial consulting firm. My business address is 914 Stream
5 Valley Trail, Alpharetta, Georgia 30022. I provide economic and regulatory
6 analysis of telecommunications and related convergence industries with an
7 emphasis on economic and regulatory policy, competitive market
8 development, and cost-of-service issues.

9

10 Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.

11 A. I received a BBA in Finance with distinction from Emory University and an
12 MBA with concentrations in Finance and Microeconomics from the College of
13 William and Mary. My telecommunications experience includes employment
14 at both a Regional Bell Operating Company ("RBOC") and an Interexchange
15 Carrier ("IXC").

16 Specifically, I was employed in the local exchange industry by
17 BellSouth Services, Inc. in its Pricing and Economics, Service Cost Division.
18 My responsibilities included performing cost analyses of new and existing
19 services, preparing documentation for filings with state regulatory
20 commissions and the Federal Communications Commission ("FCC"),
21 developing methodology and computer models for use by other analysts, and
22 performing special assembly cost studies.

1 I was employed in the interexchange industry by MCI
2 Telecommunications Corporation, as Manager of Regulatory Analysis for the
3 Southern Division. In this capacity I was responsible for the development and
4 implementation of regulatory policy for operations in the southern U. S. I then
5 served as a Manager in MCI's Economic Analysis and Regulatory Affairs
6 Organization, where I participated in the development of regulatory policy for
7 national issues.

8

9 Q. HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE STATE
10 REGULATORS?

11 A. Yes. I have testified on telecommunications issues before the regulatory
12 commissions of forty-two states, Puerto Rico, and the District of Columbia. I
13 have also presented testimony regarding telecommunications issues in state,
14 federal, and overseas courts, before alternative dispute resolution tribunals, and
15 at the FCC. A listing of my previous testimony is attached as Exhibit DJW-1.

16

17 Q. PLEASE DESCRIBE YOUR EXPERIENCE WITH STATE AND FEDERAL
18 ACCESS CHARGES.

19 A. While at BellSouth Services, I was responsible for conducting the cost analysis
20 required to support BellSouth's rates for special access and for the transport-
21 related elements of switched access. My responsibility extended to both

1 intrastate rates (including those filed in Florida tariffs) and interstate rates
2 (filed in FCC tariffs).

3 While at MCI, my access-related responsibilities included the
4 following: analysis of the rates, terms, and conditions of BellSouth's annual
5 access filing at the FCC; review of Carrier Access Billing System ("CABS")
6 bills received by MCI in order to ensure that the charges were consistent with
7 the provisions of applicable access tariffs; and ensuring that MCI's intrastate
8 service tariffs were properly filed with state regulators in the BellSouth region.

9 As a consultant, I have continued to analyze the rates, terms, and
10 conditions of access tariffs and have assisted with the review and validation of
11 CABS bills.

12
13 Q. DO YOU HAVE EXPERIENCE WITH HOW CALLS ARE ROUTED
14 ACROSS THE NETWORKS OF DIFFERENT CARRIERS, AND
15 SPECIFICALLY WITH HOW CALLS ORIGINATED BY THE
16 CUSTOMERS OF WIRELESS CARRIERS ARE ROUTED AND
17 COMPLETED?

18 A. Yes. I have been directly involved with the negotiation and arbitration of
19 interconnection agreements between wireless and wireline carriers in Alabama,
20 Connecticut, Illinois, Kansas, Kentucky, Michigan, Montana, North Carolina,
21 Pennsylvania, and South Dakota. Call routing and intercarrier compensation
22 was at issue in each of these cases. I have also testified in cases that have

1 addressed the difficulty inherent in determining the jurisdiction of wireless-
2 originated calls.

3 Most recently, I was involved in a comprehensive network redesign
4 effort for a regional wireless carrier. This project included a review of the
5 routing for all call types and of all network interconnection points for the
6 processing of voice and data calls.

7

8 **II. Purpose of Testimony**

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10 A. I have been asked by DeltaCom, Inc. (“DeltaCom”) to review its October 23,
11 2009 *First Amended Petition of DeltaCom, Inc. for Order Determining*
12 *DeltaCom, Inc. Not Liable for Access Charges of KMC Data, LLC and*
13 *Hypercube Telecom, LLC* (“Amended Petition”), the November 23, 2009
14 *Answer to Amended Petition of DeltaCom, Inc. and Amended Counterclaim of*
15 *Hypercube Telecom, LLC f/k/a KMC Data, LLC* (“Hypercube Answer”), and
16 the December 23, 2009 *Answer of DeltaCom to Amended Counterclaim of*
17 *Hypercube* (“DeltaCom Answer”). My testimony addresses the factual
18 assertions set forth in the *Amended Petition, Hypercube Answer, and*
19 *DeltaCom Answer*. I will also provide facts and analysis associated with the
20 Issues List adopted by the Commission in its April 20, 2010 *Order*
21 *Establishing Procedure*.

22

1 Q. WHAT ARE THE DOLLAR AMOUNTS IN DISPUTE?

2 A. From November 2005 through the June 7, 2010 invoice, Hypercube (and its
3 predecessor, KMC) issued invoices to DeltaCom totaling approximately
4 \$1,638,051.07, purportedly for originating access services in Florida. Of this
5 amount, \$1,159,640.34 has been for a rate element listed as “transport blended
6 rate,” \$101,027.05 has been for a rate element listed as “800 database query,”
7 and \$377,383.68 has been for late fees. And, for the time period from
8 September 2008 through May 2010, DeltaCom billed Hypercube \$1,217,
9 507.50 for Intermediate Provider Access Service pursuant to its Florida price
10 list.

11

12 **III. The Nature of the Traffic in Dispute**

13 Q. WHAT CALL TYPES ARE AT ISSUE IN THIS CASE?

14 A. The charges in dispute are related to a single call type. Specifically, these calls
15 are:

16 1) Originated by a customer of a wireless provider on that wireless provider’s
17 network,

18 2) Dialed using an 8YY-NXX-XXXX dialing pattern (what is commonly
19 referred to as an “800” call), and

20 3) Made to an “8YY” number assigned to a carrier with whom the wireless
21 provider is not directly interconnected at its Mobile Telephone Switching
22 office (“MTSO”).

1 Q. WHY DOES IT MATTER WHETHER A CALL IS ORIGINATED ON THE
2 NETWORK OF A WIRELESS CARRIER OR ON THE NETWORK OF A
3 WIRELINE LEC (ILEC OR CLEC)?

4 A. The type of originating carrier is important because the permitted forms of
5 intercarrier compensation are different. The FCC has consistently concluded
6 that wireless carriers may not impose access charges on IXCs, such as
7 DeltaCom, for traffic that originates or terminates on the wireless carrier's
8 network. While wireless carriers and IXCs are free to negotiate rates for all
9 forms of interconnection and include those rates in a contract, the wireless
10 carrier cannot "unilaterally impose" such charges on an IXC or otherwise
11 "establish a duty to pay" such charges absent such a contract.¹

12
13 Q. WHY IS THE USE OF AN "8YY" DIALING PATTERN IMPORTANT IN
14 THIS CASE?

15 A. In short, it is important because only wireless-originated calls dialed using an
16 "8YY-NXX-XXXX" pattern are being redirected to Hypercube before
17 resuming the path toward their ultimate destination.

18 When its customer originates an inter-MTA "toll" or "long distance"
19 call, a wireless carrier must deliver that call to the correct IXC so that the call
20 can be completed. For calls made using an "NPA-NXX-XXXX" format, the

¹ *Petitions of Sprint PCS and AT&T Corp. for Declaratory Ruling Regarding CMRS Access Charges*, 17 FCC Rcd 13192 (2002) ("*Sprint PCS Declaratory Ruling*"), ¶¶8-15.

1 wireless carrier directs the call to the IXC that is assigned to that customer's
2 account. For calls made using an "8YY-NXX-XXXX" format, the wireless
3 carrier directs the call to the IXC to whom that particular "8YY" number is
4 assigned.

5 For the wireless carriers who have a contract with Hypercube, if a
6 wireless customer makes an "NPA-NXX-XXXX" call, the call is being
7 directed by the originating wireless carrier to the IXC associated with that
8 customer.² If, however, that customer makes an "8YY-NXX-XXXX" call, the
9 wireless carrier is redirecting the call to Hypercube rather than to the
10 appropriate IXC.³ As a result, Hypercube is only being inserted into the call
11 flow for "8YY" calls, and only claims to be submitting invoices to DeltaCom
12 for calls that were originated by the wireless carrier's customer using this
13 dialing pattern.⁴

² The wireless carrier directs the call to the IXC either: (1) directly, if that IXC is directly interconnected to the MTSO, or (2) indirectly, by directing the call to a tandem switch where the IXC is interconnected.

³ As explained in Section V of my testimony below, Hypercube must route the diverted traffic back to the ILEC tandem in order for the call to be completed, and provides no functionality beyond that which must be provided by the wireless carrier when it originates the call.

⁴ As I will explain in more detail later in Section VI of my testimony, there is a significant disconnect between the services that Hypercube claims to provide and those that it has demonstrated to have provided. The insertion of Hypercube into a call flow essentially "leaves no trace" that can be detected by DeltaCom or any other IXC. As a result, while Hypercube claims to have somehow participated in the routing of certain "8YY-NXX-XXX" calls to DeltaCom, Hypercube has not proven – and DeltaCom cannot verify – that any of the calls in question ever traversed any Hypercube network facilities or that Hypercube ever performed any required network functions for DeltaCom or any other carrier.

1 Q. WHY ARE ONLY THOSE CALLS MADE TO AN “8YY” NUMBER THAT
2 IS ASSIGNED TO A CARRIER WITH WHOM THE WIRELESS
3 PROVIDER DOES NOT DIRECTLY INTERCONNECT AT ISSUE HERE?

4 A. When the customer of a wireless carrier originates a “toll” call (whether dialed
5 on an “NPA-NXX-XXXX” or “8YY-NXX-XXXX” basis), the wireless carrier
6 must direct that call to the appropriate IXC. If that IXC is directly connected
7 to the MTSO, the wireless carrier will deliver the call without the participation
8 of any other carrier.⁵ If the IXC is not directly connected, the wireless carrier
9 directs the call to a tandem switch where the IXC does have a point of
10 presence, or “POP” (DeltaCom maintains POPs at ILEC tandems and receives
11 traffic at those locations). It is this transport segment between the wireless
12 carrier’s originating MTSO and the ILEC tandem that creates an opportunity
13 for Hypercube to make its “parasitic insertion” into the call flow.

14

15 **IV. Limitations to the Application of Intrastate Access Charges**

16 Q. HYPERCUBE HAS SUBMITTED INVOICES TO DELTACOM FOR
17 INTRASTATE ACCESS SERVICES FOR THE TYPE OF CALL THAT
18 YOU DESCRIBED IN THE PREVIOUS SECTION. UNDER WHAT

⁵ It is important to note that direct interconnection between wireless carriers and IXCs occurs only where traffic volumes are sufficient to make it economically feasible. In many locations, the level of traffic being exchanged is not sufficient to make direct interconnection an efficient or desirable option. At these locations, indirect interconnection is achieved by routing calls through the ILEC tandem.

1 CIRCUMSTANCES CAN A CARRIER COLLECT INTRASTATE ACCESS
2 CHARGES FROM AN IXC?

3 A. Intrastate access charges can only be imposed by a carrier if, at a minimum,
4 each of the following conditions is met:

- 5 1. The call is interexchange (and, in the case of a wireless-originated call,
6 inter-MTA),
7 2. The call is intrastate,
8 3. The carrier that originates the call and provides originating access functions
9 has the authority to impose access charges,
10 4. The carrier seeking to impose the charges has a valid tariff or contractual
11 arrangement in effect for intrastate access.

12 I will address each of these conditions in turn below.

13

14 Q. WHAT IS THE BASIS FOR YOUR CONCLUSION THAT INTRASTATE
15 ACCESS CHARGES CANNOT BE ASSESSED FOR A WIRELESS-
16 ORIGINATED CALL THAT IS INTRA-MTA?

17 A. The FCC has consistently concluded that “traffic to or from a CMRS network
18 that originates and terminates within the same MTA is subject to transport and
19 termination rates under section 251(b)(5) (i.e., reciprocal compensation), rather
20 than interstate and intrastate access charges.”⁶ Even if a wireless carrier and

⁶ See *Implementation of the Local Competition provisions of the telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial*

1 IXC have a contract in place that would permit intrastate access charges to be
2 assessed, such charges would not apply to calls that originate and terminate
3 within the same MTA.

4

5 Q. YOU STATED THAT IN ORDER FOR INTRASTATE ACCESS CHARGES
6 TO APPLY FOR A GIVEN CALL, THAT CALL MUST BE INTRASTATE.
7 SHOULD THERE BE ANY DISPUTE ABOUT THIS?

8 A. No. Even when all other conditions are met, a carrier could only assess
9 *intrastate* access charges for calls whose originating and terminating locations
10 are within the same state. Of course, the calls must also be interexchange, and,
11 in the case of a wireless-originated call, inter-MTA.

12

13 Q. PLEASE EXPLAIN WHAT YOU MEAN BY “THE CARRIER THAT
14 ORIGINATES THE CALL AND PROVIDES ORIGINATING ACCESS
15 FUNCTIONS MUST HAVE THE AUTHORITY TO IMPOSE ACCESS
16 CHARGES” IN ORDER TO DO SO.

17 A. As described in Section III above, the traffic at issue consists of calls that have
18 been originated by the customers of wireless carriers. As the originating
19 carrier, the wireless carrier has provided – at a minimum – the primary (and
20 essential) component of originating switched access: end office switching.

Mobile Radio Service Providers, 11 FCC Rcd 15499 (1996) (“*First Report and Order*”) ¶1036, *Developing a Unified Intercarrier Compensation Regime*, 20 FCC Rcd 4685 (2005) (“*Intercarrier Compensation NPRM*”), ¶1034.

1 There can be no real factual dispute about this; before any call could be routed
2 to Hypercube by a wireless carrier, the call must first be processed by the
3 wireless carrier's MTSO.

4 A threshold question, then, is whether the wireless carrier has the
5 ability to impose originating access charges on an IXC such as DeltaCom. The
6 FCC has concluded that while a wireless carrier "may *seek* to collect access
7 charges from [an IXC]" through a contract arrangement, it may not
8 "*unilaterally impose* such charges."⁷ In a dispute in which Sprint PCS sought
9 to impose access charges on AT&T, the FCC reasoned as follows: "there are
10 three ways in which a carrier seeking to impose charges on another carrier can
11 establish a duty to pay such charges: pursuant to (1) Commission rule, (2)
12 tariff, or (3) contract."⁸

13 Regarding tariffs, the FCC – the agency with primary jurisdiction over
14 wireless carriers – concluded that "CMRS access services are subject to
15 mandatory detariffing, and it is therefore undisputed that Sprint PCS could not
16 have imposed access charges on AT&T pursuant to any tariff."⁹ The FCC then
17 provided additional clarification on this point: "our forbearance policy does not
18 mean that a detariffed carrier unilaterally can impose a charge merely by
19 billing an IXC as Sprint PCS has attempted to do here."¹⁰

⁷ *Sprint PCS Declaratory Ruling*, ¶8 (emphasis in original).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*, ¶10.

1 Because wireless carriers cannot tariff access services, the FCC
2 concluded that it “need only consider whether Sprint PCS can impose access
3 charges on AT&T pursuant to Commission rules or a contract between the
4 parties.”¹¹ After a review of its rules, the FCC further concluded that “we find
5 that there is no Commission rule that enables Sprint PCS unilaterally to impose
6 access charges on AT&T.”¹²

7 As a result, the only way that a wireless carrier seeking to assess access
8 charges on an IXC “can establish a duty to pay such charges” is through a
9 contract between the parties. No such contracts are in place between
10 DeltaCom and the wireless carriers who are originating the calls at issue in this
11 case.

12
13 Q. HERE IT IS HYPERCUBE, RATHER THAN THE WIRELESS CARRIER
14 THAT ORIGINATES THE CALL, THAT IS SEEKING TO IMPOSE
15 ACCESS CHARGES ON DELTACOM. HAS THE FCC ADDRESSED
16 SUCH A SCENARIO?

17 A. Yes. The FCC contemplated a possible scenario in which multiple carriers
18 might somehow “jointly provide” access services, and that in these
19 circumstances a competitive LEC might “bill an IXC on behalf of itself and

¹¹ *Id.*, ¶8.

¹² *Id.*, ¶9. I recognize that the access charges at issue in this case are intrastate rather than interstate. I not aware of any Commission rule that would permit or enable a wireless carrier to unilaterally impose intrastate access charges on an IXC.

1 another carrier for jointly provided access services pursuant to meet point
2 billing methods.”¹³

3 This hypothetical “joint provisioning” scenario does not apply in this
4 case for several reasons.¹⁴ As an initial matter, it is not clear that Hypercube is
5 providing any of the functions of originating access, either jointly with the
6 originating wireless carrier or otherwise. As explained above (and in more
7 detail in Section V of my testimony), at a minimum the wireless carrier is
8 providing the primary component of originating access: end office switching.¹⁵
9 This is true for all of the calls originated on its network, including but not
10 limited to “8YY” calls. And as I will address in Section VI, at no time does
11 Hypercube’s tariff state that the charges it seeks to impose on DeltaCom are
12 for “jointly provided access.”¹⁶ Instead, Hypercube is seeking to impose access

¹³ *Eighth Report and Order and Fifth Order on Reconsideration*, 19 FCC Rcd 9108 (2004) (“*Eighth Report and Order*”), ¶16.

¹⁴ It is important to remember that while the FCC has primary jurisdiction over wireless carriers, it shares jurisdiction over CLECs and IXCs with state commissions. Thus, while the FCC’s CLEC access charge regulations may be instructive, they do not apply to intrastate calls and related CLEC intrastate access charge billing, except to the extent that such access charges and billing encompass wireless carrier-provided access services.

¹⁵ At most, it appears that wireless carriers may be using Hypercube facilities to transport “8YY” calls from its MTSO to the ILEC tandem. The wireless carrier can use its own or another carrier’s facilities to transport the call to the ILEC tandem, but a wireless carrier’s use of another carrier’s facilities does not constitute “jointly provided access.”

¹⁶ Section 3.2.5 of Hypercube’s tariff does refer to calls that have been “initiated by a wireless provider’s end user” and processed by a wireless carrier’s end office switch, but goes on to say that Hypercube will charge for only the elements that it provides. As I will explain in detail in section VI, Hypercube then seeks to impose a rate that

1 charges as if it were the originating carrier actually providing the functions of
2 originating access.

3

4 Q. IS THERE A REASON THAT HYPERCUBE MIGHT NOT WANT TO
5 CLEARLY DISCLOSE IN ITS TARIFF THE FACT THAT IT IS BILLING
6 FOR ORIGINATING ACCESS FUNCTIONS ACTUALLY BEING
7 PERFORMED BY, OR ON BEHALF OF, THE WIRELESS CARRIER
8 THAT ORIGINATES THE CALL?

9 A. Yes; the FCC has made it clear that it has no right to collect such charges.

10 In the *Eighth Report and Order*, the FCC concluded that the validity of
11 any bill for “jointly provided access” is premised “on each carrier that is party
12 to the arrangement billing only what it is entitled to collect from the IXC for
13 the service it provides.” Setting aside the questions of whether Hypercube
14 itself actually provides any access functionality or whether the required joint
15 billing agreement is in place, Hypercube cannot bill for access functions
16 performed by another carrier if that carrier did not independently have the right
17 to impose access charges on the IXC: “in cases where the carrier serving the
18 end user had no independent right to collect from the IXC, industry billing

includes the recovery of end office switching costs as if it, and not the wireless carrier, had provided this function.

1 guidelines do not, and cannot, bestow on a LEC the right to collect charges on
2 behalf of that carrier.”¹⁷

3 The FCC went on to address the specific example of calls originated by
4 a wireless carrier: “for example, the Commission has held that a CMRS carrier
5 is entitled to collect access charges from an IXC only pursuant to a contract
6 with that IXC. If a CMRS carrier has no contract with an IXC, it follows that a
7 competitive LEC has no right to collect access charges for the portion of the
8 service provided by the CMRS provider.” The FCC then went on to make a
9 dispositive conclusion on this issue: “we reject the argument made by Verizon
10 Wireless that the *Sprint/AT&T Declaratory Ruling* does not limit the ability of
11 a CMRS provider to collect access charges from an IXC if the CMRS provider
12 has a contract with an intermediate competitive LEC. We will not interpret our
13 rules or prior orders in a manner that allows CMRS carriers to do indirectly
14 that which we have held they may not do directly.”¹⁸

15 According to the FCC, even if Hypercube is found to be providing
16 some functions of originating access (and if it meets all other requirements for
17 assessing and collecting charges for those functions), it “has no right to collect
18 access charges for the portion of the service provided by the CMRS provider.”
19 As a result, any rate in its access price list/tariff that is designed to recover
20 costs associated with wireless-provided access functions – at a minimum the

¹⁷ *Eighth Report and Order*, ¶16.

¹⁸ *Id.*

1 originating end office switching function – cannot be imposed on an IXC by
2 Hypercube.

3

4 **V. Description of Call Flows and the Functions, if Any, Provided by Hypercube**

5 Q. IN SECTION III, YOU STATED THAT THE CALLS IN DISPUTE IN THIS
6 PROCEEDING ARE LIMITED TO “8YY” CALLS ORIGINATED BY THE
7 CUSTOMER OF A WIRELESS CARRIER. PLEASE EXPLAIN IN DETAIL
8 HOW THE WIRELESS CARRIER ORIGINATES SUCH A CALL.

9 A. When a wireless customer initiates a call, the signal travels from the
10 customer’s handset to the originating cell tower, and from there to the wireless
11 carrier’s switch, or MTSO. Software in the MTSO reviews the called digits in
12 order to gather information about the call type and destination.

13 For a call made using the “NPA-NXX-XXXX” format, the MTSO
14 determines whether the dialed number is intra- or inter-MTA. Intra-MTA calls
15 are either completed over the wireless carrier’s own network (if the called
16 number is assigned to one of its customers), or routed to a local
17 interconnection trunk that will deliver the call to the carrier serving the dialed
18 number. Inter-MTA calls are delivered to the IXC that has been assigned to
19 the telephone number of the customer making the call.

20 For a call made using the “8YY-NXX-XXXX” format, call processing
21 is somewhat more complex. Before an “8YY” call can be routed, the
22 originating carrier must first translate the “8YY-NXX-XXXX” number dialed

1 in order to identify the IXC to which that given “8YY” number has been
2 assigned. This translation process is accomplished by initiating a Signaling
3 System 7 (“SS7”) query to an 800 database. Once the translation is complete,
4 the originating carrier routes the call to the appropriate IXC.

5

6 Q. HAS HYPERCUBE PRODUCED CALL DIAGRAMS THAT SHOW HOW
7 THIS CALL PROCESSING IS ACCOMPLISHED BY THE WIRELESS
8 CARRIER?

9 A. Yes. *Hypercube Answer* Exhibit A shows how a wireless carrier processes an
10 “8YY” call originated by one of its customers in two possible scenarios. A
11 copy of the Hypercube Exhibit A is attached to my testimony as Exhibit DJW-
12 2.

13 The first scenario is one in which the IXC is directly connected to the
14 wireless MTSO. I have reproduced this portion of Hypercube’s diagram¹⁹
15 below:

16

17

18

19

20

¹⁹ *Hypercube Answer*, Exhibit A, Page 2 of 2.

Direct Interconnection Between DeltaCom and Calling Party's Carrier

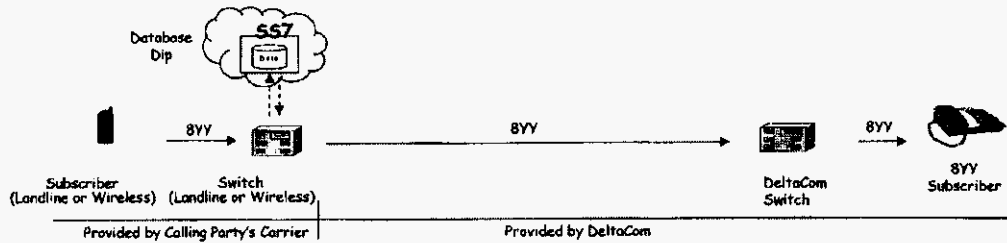


Diagram 1.

1
2
3
4
5
6
7 Q. BASED ON HYPERCUBE'S DIAGRAM, IS THERE ANY QUESTION
8 THAT THE WIRELESS CARRIER PROVIDES THE ORIGINATING
9 SWITCHING FUNCTION IN THE DIRECT INTERCONNECTION
10 SCENARIO?

11 A. No. The diagram correctly shows the call being processed at the wireless
12 carrier's switch, and correctly identifies the originating switching function as
13 one that is "provided by the calling party's carrier."

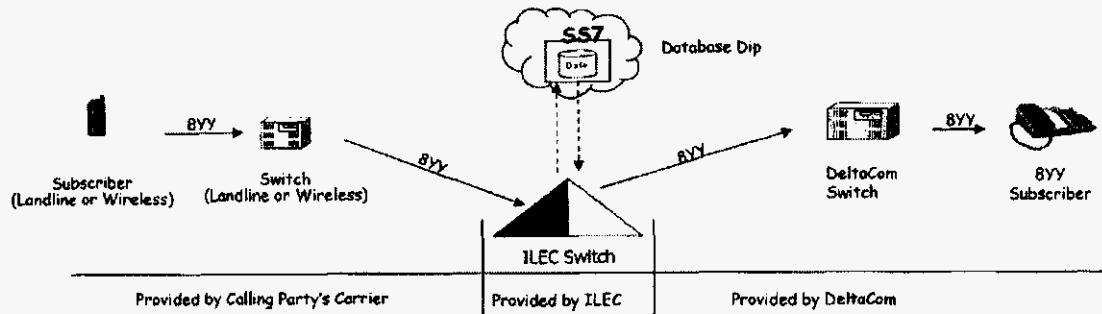
14
15 Q. BASED ON HYPERCUBE'S DIAGRAM, IS THERE ANY QUESTION
16 ABOUT WHETHER THE WIRELESS CARRIER IS CAPABLE OF, AND
17 RESPONSIBLE FOR, INITIATING THE 800 DATABASE QUERY FROM
18 ITS MTSO?

19 A. No. The diagram correctly shows the 800 database query being initiated by the
20 MTSO, and correctly identifies the 800 database query as one that is "provided
21 by the calling party's carrier."
22

1 Q. DO THE HYPERCUBE DIAGRAMS SHOW THE CALL FLOW FOR AN
2 “8YY” CALL IF THE IXC IS NOT DIRECTLY CONNECTED TO THE
3 WIRELESS MTSO?

4 A. Yes. This portion of Hypercube’s diagram²⁰ has been reproduced below:

5 **Direct Interconnection Between DeltaCom and ILEC**



12 **Diagram 2.**

13 Q. BASED ON HYPERCUBE’S DIAGRAM, IS THERE ANY QUESTION
14 THAT THE WIRELESS CARRIER PROVIDES THE ORIGINATING
15 SWITCHING FUNCTION IN THE INDIRECT INTERCONNECTION
16 SCENARIO?

17 A. No. The diagram correctly shows the call being processed at the wireless
18 carrier’s switch, and correctly identifies the originating switching function as
19 one that is “provided by the calling party’s carrier.”

²⁰ *Hypercube Answer*, Exhibit A, Page 1 of 2.

1 Q. IN THIS SCENARIO, THE CALL MUST THEN BE DELIVERED TO AN
2 ILEC TANDEM WHERE DELTACOM HAS A POINT OF PRESENCE, OR
3 POP. DOES HYPERCUBE'S DIAGRAM SHOW THIS TRANSPORT
4 FUNCTIONALITY?

5 A. Yes. The diagram shows a line between the wireless MTSO and the ILEC
6 tandem switch and an arrow showing the direction of the call flow (here, the
7 call is being delivered from the switch of the originating wireless carrier to the
8 ILEC tandem). The Hypercube diagram also correctly identifies this transport
9 functionality as one that is "provided by the calling party's carrier." Wireless
10 carriers have the transport facilities and arrangements in place to perform this
11 transport function.

12
13 Q. IN DIAGRAM 2, HYPERCUBE SHOWS THE 800 DATABASE QUERY
14 BEING INITIATED BY THE ILEC TANDEM RATHER THAN BY THE
15 WIRELESS MTSO. IS THIS A POSSIBILITY?

16 A. Yes, but it is not a requirement. Depending on the interconnection agreement
17 between the wireless carrier and the ILEC, the wireless carrier can request that
18 the ILEC perform this function pursuant to whatever compensation
19 arrangement they can agree upon. Such an agreement is not mandatory,
20 however: as Diagram 1 shows, such a query can be – and often is – initiated by

1 the wireless MTSO.²¹ Whether it performs the task itself or reaches an
2 agreement for another carrier to perform the function, the originating carrier
3 must ensure that the necessary translations have taken place so that the call
4 placed by one of its customers can be completed.

5
6 Q. LET'S REVIEW. DO THE HYPERCUBE DIAGRAMS (REPRODUCED
7 AS DIAGRAM 1 AND DIAGRAM 2 IN YOUR TESTIMONY) DEPICT
8 CALL FLOWS IN WHICH AN "8YY" CALL ORIGINATED BY THE
9 CUSTOMER OF A WIRELESS CARRIER CAN BE SUCCESSFULLY
10 COMPLETED?

11 A. Yes. Calls would be successfully and efficiently completed under either
12 scenario.²²

13

14 Q. ARE ALL OF THE NECESSARY ACCESS FUNCTIONS BEING
15 PROVIDED BY THE ORIGINATING CARRIER?

16 A. Yes. Originating end office switching, transport (if necessary) to the ILEC
17 tandem, and an 800 database query are all being "provided by the calling

²¹ To perform this function at the MTSO, the wireless carrier has the option of maintaining its own 800 internal data base or of making a query from the MTSO to an external source.

²² The volume of traffic being exchanged would be the primary factor when determining whether direct or indirect interconnection between the wireless carrier and the IXC would be most efficient. In many cases, traffic volumes may not be sufficient to justify direct interconnect, making indirect interconnection the most efficient and preferred option.

1 party's carrier" – here, the wireless carrier whose customer makes the "8YY"
2 call.

3

4 Q. DO ANY HYPERCUBE NETWORK FACILITIES APPEAR IN EITHER
5 DIAGRAM 1 OR DIAGRAM 2?

6 A. No. "8YY" calls would be efficiently completed, and all required originating
7 access functions would be provided, without the presence of Hypercube.

8

9 Q. HAS HYPERCUBE PRODUCED A DIAGRAM THAT SHOWS HOW IT
10 HAS INSERTED ITSELF INTO THE CALL FLOW FOR CERTAIN "8YY"
11 CALLS?

12 A. Yes. I have reproduced this portion of Hypercube's diagram²³ below:

13

Indirect Interconnection Between DeltaCom and Hypercube

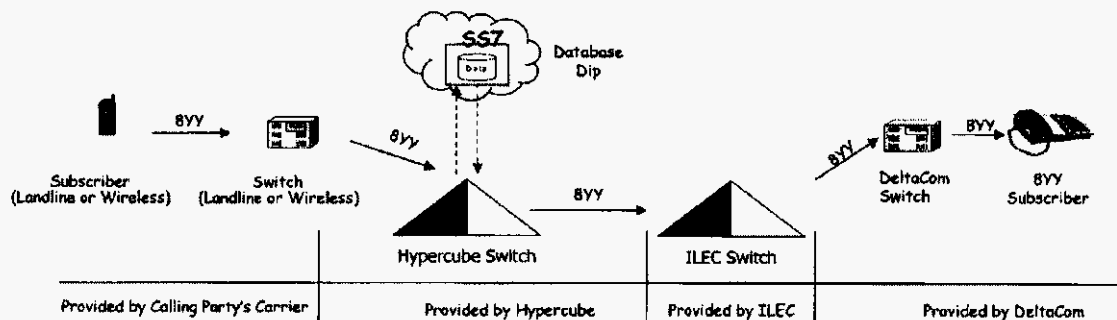
14

15

16

17

18



19 **Diagram 3.**

20

²³ Hypercube Answer, Exhibit A, Page 2 of 2.

1 This diagram is conceptually the same as Diagram 2, except here Hypercube
2 has (1) replaced the simple transport link between the wireless MTSO and
3 ILEC tandem with its own switch and two transport links, and (2) replaced the
4 800 database query previously performed either by the wireless carrier, or for
5 the wireless carrier by the ILEC, with a query performed for the wireless
6 carrier by Hypercube.

7

8 Q. DOES DIAGRAM 3 INCLUDE ANY NETWORK FUNCTIONALITY
9 THAT WAS NOT PRESENT IN DIAGRAM 2?

10 A. No. While the call flow has become more complex, the network functionality
11 remains the same: originating switching at the wireless MTSO, transport to the
12 ILEC tandem (where DeltaCom maintains a POP), and a query of the 800
13 database. Each of these functions ultimately must, as Hypercube's diagrams
14 indicate, be "provided by the calling party's carrier," either via the use of its
15 own network facilities or by other carriers on the originating carrier's behalf.

16

17 Q. YOU STATED THAT WHILE THE CALL FLOW IN DIAGRAM 3 (IN
18 WHICH HYPERCUBE IS PRESENT) IS MORE COMPLEX THAN THE
19 CALL FLOW IN DIAGRAM 2 (IN WHICH HYPERCUBE IS NOT
20 PRESENT), IT PROVIDES NO ADDITIONAL NETWORK
21 FUNCTIONALITY. WHAT ARE THE IMPLICATIONS OF THIS?

1 A. Providing the same functionality through a more complex arrangement
2 increases the number of failure points in the network, potentially making
3 service less reliable for end users.

4

5 Q. DOES THE MORE COMPLEX CALL FLOW SHOWN IN DIAGRAM 3
6 INTRODUCE ANY BENEFITS TO END USER CUSTOMERS?

7 A. No. *At best*, a call routed as shown on Diagram 3 would, from the point of
8 view of the end users making and receiving the call, be identical to a call
9 routed as shown on Diagram 2. Given the increased complexity of the routing,
10 it is possible that what end user customers would actually experience as a
11 result of Hypercube's insertion into the call flow would be degradation in call
12 quality and an increased likelihood of call failure.

13

14 Q. WHAT CAN YOU CONCLUDE ABOUT HYPERCUBE'S PRESENCE IN
15 THE CALL FLOW?

16 A. The presence of Hypercube does not add value for the end user making the
17 call, the IXC, or the "8YY" customer of the IXC (if anything, the increased
18 complexity of the call flow is detrimental to each of these entities). To the
19 extent the wireless carrier originating the call has elected not to use its own
20 network facilities to perform the 800 database query or to transport the call to
21 the ILEC tandem, the presence of Hypercube as an alternative provider of
22 these functions could provide value *to the wireless carrier*. It would be

1 reasonable to expect that the carrier that is receiving value from Hypercube
2 would be the carrier making payment to Hypercube; yet in this case Hypercube
3 is making payments *to* the wireless carrier while seeking to extract
4 compensation from DeltaCom (who receives no value whatsoever from
5 Hypercube's presence).

6

7 Q. BASED ON YOUR EXPERIENCE IN THE INDUSTRY, WHAT
8 CONCLUSION CAN BE DRAWN WHEN THE CARRIER THAT IS
9 RECEIVING VALUE IS ALSO THE CARRIER THAT IS RECEIVING
10 PAYMENT?

11 A. Based on my experience, it is safe to conclude that something is amiss.

12

13 Q. IS ANY PART OF HYPERCUBE'S DIAGRAM (REPRODUCED AS
14 DIAGRAM 3) INCORRECT OR MISLEADING?

15 A. Yes. As explained above, the difference between Diagram 2 and Diagram 3 is
16 that in the Diagram 3 call flow, Hypercube has (1) replaced the simple
17 transport link between the wireless MTSO and ILEC tandem with its own
18 switch and two transport links, and (2) replaced the 800 database query
19 previously performed either by the wireless carrier or for the wireless carrier
20 by the ILEC, with a query performed for the wireless carrier by Hypercube.
21 Hypercube labels these functions as "provided by Hypercube." From a

1 technical standpoint, this may – or may not²⁴ – be true, but Hypercube’s
2 diagram glosses over an important (and impermissible) shift in the financial
3 responsibility for these functions.

4 As Diagrams 1 and 2 show, the carrier whose customer makes the
5 “8YY” call in question must perform the functions of originating switching,
6 query of the 800 database, and (if necessary) transport of the call to the ILEC
7 tandem. The originating carrier can perform these functions using its own
8 network facilities, or it may have other carriers perform some or all of these
9 functions on its behalf for an agreed-upon price. What a wireless carrier
10 *cannot* do is impose access charges on an IXC for these functions. In Diagram
11 3, Hypercube is performing the 800 database query and transport functions for
12 the originating wireless carrier. *Rather than looking to the wireless carrier for*
13 *compensation for the functions performed on its behalf, Hypercube is*
14 *attempting to have DeltaCom pay for this functionality and is then remitting*
15 *some portion of the proceeds back to the wireless carrier: in effect, allowing*
16 *the wireless carrier to impose access charges.* This appears to be exactly the
17 scenario rejected by the FCC: “we will not interpret our rules or prior orders in
18 a manner that allows CMRS carriers to do indirectly that which we have held
19 they may not do directly.”
20

²⁴ As noted in Section III of my testimony, Hypercube has not demonstrated, and DeltaCom cannot verify, that Hypercube is actually performing any of these functions. Hypercube has simply rendered invoices for functions that it claims to be providing.

1 Q. HAVE OTHER STATE REGULATORS REACHED SIMILAR
2 CONCLUSIONS ABOUT THE NETWORK FUNCTIONS PURPORTEDLY
3 BEING PROVIDED BY HYPERCUBE?

4 A. Yes. On March 29, 2010, the Staff of the Public Utility Commission of Texas
5 issued a recommendation in a similar proceeding involving Hypercube. In that
6 case, Hypercube sought payment from Level 3 Communications, LLC for
7 intrastate access charges associated with wireless-originated "8YY" calls. The
8 Texas Staff reasoned as follows:

9 It is clear from the forgoing as well as its own assertions that
10 Hypercube's traffic originates from customers of wireless carriers with
11 which it has an agreement for the calls to be routed to Hypercube and
12 for which the wireless carrier receives remuneration. In its Eighth
13 Report and Order, the FCC clearly stated:

14
15 In cases where the carrier serving the end user had no
16 independent right to collect from the IXC, industry
17 billing guidelines do not, and cannot, bestow on a LEC
18 the right to collect charges on behalf of that carrier. For
19 example, the Commission has held that a CMRS carrier
20 is entitled to collect access charges from an IXC only
21 pursuant to a contract with that IXC. If a CMRS carrier
22 has no contract with an IXC, it follows that a
23 competitive LEC has no right to collect access charges
24 for the portion of the service provided by the CMRS
25 provider.

26
27 Because Hypercube has no contract with Level 3 for the payment for
28 the access services it provides CMRS carriers, the FCC has made it
29 clear that Hypercube cannot charge Level 3 for those services.
30

31 The Texas Staff went on to reach the following conclusion: "The
32 CMRS carrier cannot charge for access services absent a contract, therefore it
33 cannot receive compensation for the access services indirectly through

1 agreement with Hypercube to route 8YY calls. There is no claim stated upon
2 which relief can be granted, therefore Hypercube's complaint must be
3 dismissed."²⁵

4 On May 20, 2010, the California Public Utilities Commission likewise
5 dismissed a complaint by Hypercube to collect intrastate access charges from
6 Level 3. The California PUC's reasoning was as follows:

7 Under the facts alleged in the complaint, Hypercube is arguably
8 seeking to collect originating access charges on behalf of a CMRS
9 carrier. However, Hypercube has not alleged the existence of a joint
10 billing arrangement that provides Hypercube the right to collect rates
11 for the CMRS carrier ... Even if such a contract existed, Hypercube has
12 not alleged that the CMRS carrier has an independent right to collect
13 access charges from Level 3. The FCC has long held that CMRS
14 carriers may not file tariffs for call origination or termination but,
15 instead, the CMRS carrier must establish an independent right to
16 compensation. Accordingly, Hypercube has not alleged sufficient facts
17 to establish its right to collect originating access charges from Level 3
18 on behalf of the CMRS carrier under a joint billing arrangement or
19 under an independent agreement between the CMRS carrier and Level
20 3.
21

22 The California PUC went on to conclude that "as such, the facts alleged
23 by Hypercube, even if true, state no cause of action against Level 3 under
24 applicable law."
25

²⁵ *Commission Staff's Response to Order No. 5 and Recommendation*, Public Utility Commission of Texas Docket No. 37599, March 29, 2010.

1 **VI. Hypercube's Florida Tariff/Price List**

2 Q. WHY IS THE VALIDITY – OR LACK OF VALIDITY – OF
3 HYPERCUBE'S FLORIDA TARIFF POTENTIALLY IMPORTANT?

4 A. Hypercube does not have an interconnection agreement or any other contract in
5 place with DeltaCom that would permit Hypercube to provide any network
6 functions to DeltaCom or to bill for any such functions. If the Commission
7 concludes that Hypercube can impose charges on DeltaCom for originating
8 access functions that are either (1) performed by a wireless carrier, or (2)
9 performed by Hypercube for, and on behalf of, the wireless carrier,²⁶ the
10 question becomes whether Hypercube has somehow created a duty for
11 DeltaCom to pay the invoiced amount.

12 Hypercube acknowledges that no contract or other agreement is in
13 place, and bases its claim solely on an assertion that Hypercube has performed
14 services for DeltaCom "pursuant to Hypercube's Commission-approved Price
15 List ... which sets forth the rates, terms, and conditions for Hypercube's
16 provision of intrastate access services to DeltaCom and others."²⁷ A copy of
17 Hypercube's Florida tariff/price list is attached to my testimony as Exhibit
18 DJW-3.

²⁶ For the reasons set forth in Sections IV and V above, it is clear that Hypercube cannot impose access charges on DeltaCom for access functions performed by a wireless carrier or on a wireless carrier's behalf. If the Commission reaches this conclusion, the validity of Hypercube's Florida tariff becomes a moot point: it may not matter whether Hypercube has an appropriate vehicle in place to bill for services that it has no right to bill for in the first place.

²⁷ *Hypercube Answer*, p. 17.

1 Q. DO YOU AGREE WITH HYPERCUBE'S ASSERTION?

2 A. I disagree in part and agree in part. I certainly disagree with an assertion that
3 Hypercube has provided any services to DeltaCom. To the extent it has
4 provided any services at all, it has provided those services to the wireless
5 carrier whose customer originated the call. I also disagree with any assertion
6 that Hypercube has provided "intrastate access services" for these calls. Based
7 on its own call flow diagrams (reproduced as Diagrams 1-3 in the previous
8 section of my testimony), it appears that Hypercube may be providing an 800
9 database query service for wireless carriers that elect not to perform this
10 function themselves, and may be providing an interoffice transport function
11 that the wireless carrier needs in order to provision originating access. But
12 Hypercube itself cannot be providing originating "intrastate access services"
13 for the calls at issue, because it does not (and cannot) provide originating end
14 office switching – the one access function that *must* be present for every call
15 and for every call type (including but not limited to "8YY" calls).
16 Hypercube's own call flow diagrams show this essential access function as
17 being providing by the wireless carrier that originates the call.

18 I do agree with Hypercube on one important point: if a carrier is going
19 to provide services – and impose charges for those services – based on a price
20 list or tariff, that price list/tariff must clearly and accurately describe the
21 service and must clearly set forth "the rates, terms, and conditions" for that

1 service. As I describe later in this section, Hypercube's tariff²⁸ contains a
2 number of omissions, inconsistencies, and ambiguities that render it
3 inapplicable.

4

5 Q. HAS HYPERCUBE HAD A TARIFF IN PLACE IN FLORIDA FOR THE
6 ENTIRE TIME PERIOD IN DISPUTE?

7 A. No. The Florida tariff that Hypercube relies upon was originally filed by KMC
8 Data, LLC. In fact, Section 1 of the tariff still defines the "company" as KMC
9 Data, LLC, and this self-identifier has remained throughout the tariff.

10 In October 2008, Hypercube received authority from the Commission
11 (via Order No. PSC-08-0657-FOF-TP) to change the name on CLEC
12 Certificate No. 7955 from KMC Data, LLC to Hypercube Telecom, LLC. It is
13 my understanding that Hypercube Telecom, LLC is the Hypercube entity that
14 is a party to this proceeding.

15 As a result, prior to October 2008 the invoices to DeltaCom for any
16 services claimed to have been performed pursuant to the tariff at issue should

²⁸ The terms "tariff" and "price list" have been used interchangeably in this proceeding; Hypercube's pleadings refer to a "price list" (see *Hypercube Answer* at p. 17), but the document in question consistently describes itself as a "tariff." I understand that in Florida, CLECs file "price lists." For administrative ease and to be consistent with the document's internal references, I will refer to the document that purports to set forth the "rates, terms, and conditions" for Hypercube's services in Florida as its "tariff," even though I understand "price list" to be the technically correct term.

1 have been from KMC Data, LLC, and invoices subsequent to October 2008
2 should have been from Hypercube Telecom, LLC.

3

4 Q. HAVE YOU REVIEWED THE INVOICES SUBMITTED TO DELTACOM
5 OVER THIS TIME PERIOD?

6 A. I have reviewed a sample of the invoices submitted to DeltaCom over this
7 period.

8

9 Q. WERE THE INVOICES YOU REVIEWED ISSUED BY THE CORRECT
10 ENTITY; THAT IS, KMC DATA, LLC BEFORE OCTOBER 2008 AND
11 HYPERCUBE TELECOM, LLC SUBSEQUENT TO OCTOBER 2008?

12 A. No. The February 2006 invoice came from KMC Telecom, LLC (not KMC
13 Data, LLC), and all of the remaining invoices that I reviewed were issued by
14 Hypercube, LLC (neither KMC Data, LLC nor Hypercube Telecom, LLC).
15 For each of the invoices I reviewed, the entity identified on the invoice was
16 different than the entity identified on the filed tariff.

17

18 Q. HYPERCUBE CLAIMS TO HAVE PROVIDED "INTRASTATE ACCESS
19 SERVICES" TO DELTACOM. HOW DOES HYPERCUBE'S TARIFF
20 DEFINE THE TERM "ACCESS SERVICE"?

21 A. Section 1 of the Hypercube tariff defines Access Service as follows:

22 ~~Access Service:~~ Switched Access to the network of an Interexchange Carrier for the purpose of originating or terminating
 communications.

1 Q. BASED ON THIS DEFINITION, IS HYPERCUBE PROVIDING “ACCESS
2 SERVICE”?

3 A. No. Hypercube is not “originating” or “terminating” any communications.
4 For the calls at issue, the wireless carrier whose customer initiates the call is
5 the originating carrier. The wireless carrier provides the essential function of
6 call origination and of originating access: the first point of switching. Because
7 it does not provide the originating end office switching for these calls, it is
8 impossible for Hypercube to be providing originating access service.
9 Hypercube is not providing access to an IXC; but rather is providing a
10 transport link between the originating wireless carrier and another LEC (here,
11 the ILEC tandem).

12
13 Q. HYPERCUBE IS SEEKING TO IMPOSE RATES FROM THE “SWITCHED
14 ACCESS SERVICE” SECTION OF ITS TARIFF. IS HYPERCUBE
15 PROVIDING SWITCHED ACCESS?

16 A. No. Section 3.1 of the Hypercube tariff defines “switched access service” as
17 follows:

18 **3.1 General**

19 **Switched Access Service, which is available to Customers for their use in furnishing their services to End Users, provides a two-point communications path between a Customer and an End User. It provides for the use of common terminating, switching and transport facilities. Switched Access Service provides the ability to originate calls from an End User to a Customer, and to terminate calls from a Customer to an End User.**

20 **Switched Access Service is available when originating or terminating calls from or to an End User.**

21 **Rates and charges are set forth in Section 4. The application of rates for Switched Access Service is described in Section 4.**

1 Pursuant to this definition, Hypercube cannot be providing “switched
2 access service” for several reasons.

3 First, Hypercube cannot provide a “communications path between a
4 Customer²⁹ and an End User” if that customer is assumed to be DeltaCom (as
5 Hypercube alleges and DeltaCom denies). On the end user end of this claimed
6 “communications path,” Hypercube does not provide service to end users and
7 has no network facilities to connect to the end users who are originating the
8 calls at issue. On the “customer” end of this claimed “communications path,”
9 Hypercube has no network facilities to connect to DeltaCom. The only
10 “communications path” that Hypercube can provide, even in theory, is between
11 the wireless carrier MTSO and the ILEC access tandem.

12 Second, Hypercube cannot “provide for the use of common
13 terminating, switching, and transport facilities” because it has no such
14 facilities. “Terminating facilities” include local switching and a connection
15 between the local switch and the end user customer; Hypercube has neither of
16 these. Hypercube, at least according to its own call flow diagrams, may have
17 some tandem switching capability, but it does not have the end office

²⁹ In the language of Hypercube’s tariff, the “Customer” is not an end user, but the carrier that is allegedly receiving access service from Hypercube. According to the definition in Section 1, a Customer could be “an interexchange carrier, a local exchange carrier, a wireless provider, or any other carrier that operates in the state.” For the reasons set forth in the previous section of my testimony, to the extent Hypercube is providing any network functions at all, its “Customer” for these functions is the wireless carrier, not DeltaCom. Hypercube nevertheless maintains that the “Customer” referenced in these sections of its tariff is properly assumed to be DeltaCom.

1 switching capability that is essential for either originating or terminating
2 access. Finally, the only “transport” capability that Hypercube offers, again
3 according to its own call flow diagrams, is the transport that it provides to the
4 originating wireless carrier so that the wireless carrier can deliver the call to
5 the ILEC tandem (the ILEC then delivers the call to the DeltaCom POP).
6 Hypercube has no transport facilities that connect to DeltaCom.

7 Third, Hypercube cannot provide “the ability to originate calls from an
8 end user to a customer.” For the calls at issue, Hypercube would need (at a
9 minimum) a connection from the end user making the call to the first point of
10 switching, end office switching capability, and a transport connection to
11 DeltaCom – but in reality, Hypercube has none of these facilities.

12 Finally, the phrase “switched access service is available when
13 originating or terminating calls from or to an End User” establishes that
14 “switched access service” is not available from Hypercube (at least with
15 respect to the wireless-originated calls at issue): Hypercube has no wireless
16 end user customers or facilities to connect to these end user customers, and
17 therefore can neither originate nor terminate calls.

18

19 Q. DOES HYPERCUBE CLAIM TO OFFER DIFFERENT TYPES OF
20 “SWITCHED ACCESS SERVICE”?

21 A. Yes. Section 3.2.3 of the Hypercube tariff describes three separate and distinct
22 forms of switched access:

1 **3.2.3 Call Types**

2 **The following Switched Access Service call types are available:**

- 3 **A. Originating FG Access**
4 **B. Originating 800 FG Access**
5 **C. Terminating FG Access**

6 **Q. WHICH TYPE OF SWITCHED ACCESS DOES HYPERCUBE CLAIM TO**
7 **BE PROVIDING TO DELTACOM?**

8 **A. This is not entirely clear. Section 3.2.4 defines “originating FG access” in a**
9 **very precise way:**

10 **3.2.4 Originating FG Access**

11 The access code for FG Access switching is a uniform access code of the form 1+ or 011+ or
12 101XXXX. For 101XXXX dialing a single access code will be the assigned number of all FG Access
13 provided to the Customer by a Common Carrier. When the access code is used, FG Access switching
14 also provides for dialing the digit 0 for access to the Customer’s operator service, 911 for access to
15 emergency service, and/or the end of dialing digit (11) for cut-through access to the Customer’s
16 premises. The Company will provide originating routing information access consistent with dialing
17 parity obligations.

18 Hypercube cannot be imposing charges for “originating FG access,”
19 because this category is limited to calls originated using a “1+ or 011+ or
20 101XXXX” format, and none of the calls at issue were originated using these
21 dialing patterns.

22 Section 3.2.6 defines “terminating FG access” in a similarly precise
23 way:

24 **3.2.6 Terminating FG Access**

25 FG Access, when used in the terminating direction, may only be used to access End Users who are
26 connected to the Company. Calls in the terminating direction will not be completed to 950-XXXX or
27 950-1XXX access codes, local operator assistance (0-and 0+), Directory Assistance, (411 or 555-1212)
28 service codes 611 and 911 and 101XXXX access codes.

1 Hypercube certainly cannot be providing “terminating FG access,”
2 because its only claimed intervention into the call flow is on the originating
3 end. This leaves “originating 800 FG access” as the only remaining option.

4
5 Q. HOW DOES HYPERCUBE’S TARIFF DEFINE “ORIGINATING 800 FG
6 ACCESS”?

7 A. This variation of access service is defined in Section 3.2.5:

8 3.2.5 Originating 800 FG Access

9 800 Data Base Access Service is a service offering utilizing originating Trunk side Switched Access
10 Service. When an 8XX + NXX + XXXX call is originated by an End User, the Company will utilize the
11 Signaling System 7 (SS7) network to query an 800 data base to identify the Customer to whom the call
12 will be delivered and provide vertical features based on the dialed ten digits. The call will then be
13 routed to the identified Customer over FGD switched access. The 800 series includes the following
14 service access codes: 800, 888, 877, 866, 855, 844, 833 and 822.

15 Of the three different switched access call types described in Section
16 3.2.3, this is the only type that could potentially apply because it is the only
17 category that is based on an “8YY-NXX-XXXX” calling pattern.

18 Q. IS HYPERCUBE PROVIDING “ORIGINATING 800 FG ACCESS” TO
19 DELTACOM PURSUANT TO THE DEFINITION OF THIS SERVICE
20 CONTAINED IN SECTION 3.2.5?

21 A. No. The definition in Section 3.2.5 states that “the call will then be routed to
22 the identified Customer over FGD switched access.” Hypercube does not
23 deliver calls to DeltaCom (over FGD access trunks or otherwise), but instead
24 delivers the call to an ILEC tandem – just as would have happened if
25 Hypercube had not inserted itself into the call flow. In reality, the call flow

1 shown in Diagram 3 (that includes Hypercube) gets the call no closer to
2 DeltaCom than the call flow shown in Diagram 2 (in which Hypercube is not
3 present). If by being present Hypercube is getting the call no closer to
4 DeltaCom than would be the case if Hypercube were not present at all,
5 Hypercube can hardly be claiming to have “delivered” the call to DeltaCom.

6 The reality may be even worse than one of “no benefit” provided by
7 Hypercube: DeltaCom test calls have indicated that when Hypercube claims to
8 be involved in the call flow, calls are often delivered to the wrong ILEC
9 tandem, including tandems in states other than the one in which the call was
10 originated. In these cases, by inserting itself into the call flow Hypercube
11 actually takes the call further from its destination than would have been the
12 case if it had not been involved at all. Taking a call further from its destination
13 cannot accurately be described as “delivering” the call. It should also be noted
14 that to the extent that Hypercube takes the call from a point in one exchange or
15 MTA and delivers it to a point in another MTA, it is not providing any kind of
16 access service, but is instead providing an interexchange service.

17 As a result, Section 3.2.5 is not an accurate description (as it must be
18 for the tariff to be valid) of the service that Hypercube claims to be providing
19 to DeltaCom.

20

21 Q. HAS ANY LANGUAGE BEEN ADDED TO HYPERCUBE’S DEFINITION
22 OF “ORIGINATING 800 FG ACCESS”?

1 A. Yes. The following paragraph was added³⁰ to Section 3.2.5:

2 **Originating 800 FG Access includes the delivery of 8XX traffic that is initiated by a Wireless Provider's**
3 **End User and is delivered from a CMRS Mobile Telephone Switching Office to the Company switch**
4 **and then to a Customer. The Company will charge for all elements of service that it provides in**
5 **routing such traffic.**

6 Once again, the definition is inaccurate: Hypercube does not (assuming
7 that it performs any functions at all for the calls in question) “deliver” the call
8 to DeltaCom, but instead delivers the call to the ILEC tandem. The added
9 language does make it reasonably clear that this is the type of access service
10 that Hypercube claims to be providing to DeltaCom.

11 Q. WHAT RATE HAS HYPERCUBE TARIFFED FOR THE “ORIGINATING
12 800 FG ACCESS” THAT IT CLAIMS TO BE PROVIDING TO
13 DELTACOM?

14 A. There is no tariffed rate for this “service.”

15 Section 4.4 contains the “rates and charges” set forth in the Hypercube
16 tariff. This section is reproduced in its entirety below:

17 **4.4 Rates and Charges**

18 **4.4.1 Blended Carrier Switched Access**

19 **KMC Data, LLC bills originating and terminating access per minute as a blended rate. The blended rate**
20 **includes Switching and Transport.**

Originating FG Access	\$0.025
Terminating FG Access	\$0.025

³⁰ This language has an “N” designation in the right-hand margin of the tariff, indicating that is “new.” It appears on Hypercube’s “1st Revised Page 40,” but did not appear on Hypercube’s “Original Page 40.”

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4.4 Rates and Charges (Cont.)

4.4.2 800 Data Base Access Service Queries

Per Query	
Basic	\$0.005
Vertical Feature	\$0.0055

4.4.3 Switched Access Optional Features

All Optional Features are offered on an Individual Case Basis (ICB).

The Hypercube tariff contains a rate for two of the three distinct call types listed in Section 3.2.3: “originating FG access” (defined in Section 3.2.4) and “terminating FG access” (defined in Section 3.2.6). But the tariff contains no rate for the third listed access category, “originating 800 FG access” (defined in Section 3.2.5). The only rates associated with calls originated using an “8YY-NXX-XXXX” calling pattern are the “800 data base access service queries.”

Q. IS THIS OMISSION SIGNIFICANT?

A. Yes. Hypercube’s stated basis for its claim that it can impose access charges on DeltaCom for the calls at issue is the presence of a valid tariffed rate for the service that it claims to provide. But this is not the case: the service that Hypercube claims to provide has no associated rate in the Hypercube tariff. In effect, Hypercube is asking the Commission to apply the filed rate doctrine to a rate that was never actually filed.

1 Q. COULD HYPERCUBE'S TARIFFED RATE FOR EITHER "ORIGINATING
2 FG ACCESS" OR "TERMINATING FG ACCESS" BE APPLIED TO
3 "ORIGINATING 800 FG ACCESS"?

4 A. No, for at least two reasons.

5 First, there is no language in the tariff that clearly states (as it must) that
6 either of these rates are intended to apply to "originating 800 FG access."
7 "Originating FG access" is *not* a general category of services that can
8 encompass various forms of access; it has a specific definition set forth in
9 Section 3.2.4. "Originating 800 FG access" also has a specific definition (set
10 forth in Section 3.2.5), and these definitions are fundamentally different.

11 Second, the rate for "originating FG access" is, according to
12 Hypercube, a "blended rate" that combines multiple network functions.
13 Section 4.2.1 states that this blended rate includes, among other cost
14 categories, costs associated with "the use of office switching equipment,"
15 including end office switching, and "the termination in the office of lines."

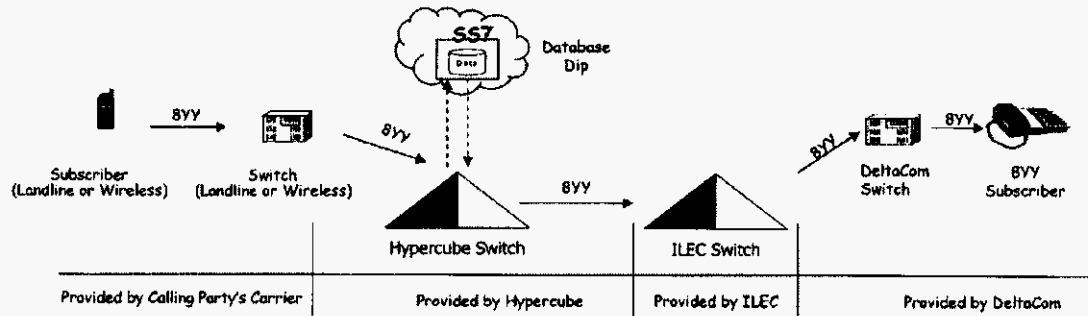
16

17 Q. DOES HYPERCUBE ACTUALLY PROVIDE THE USE OF END OFFICE
18 SWITCHING EQUIPMENT DESCRIBED IN SECTION 4.2.1?

19 A. No. As described in section V above and shown in Diagram 3, the end office
20 switching functionality for the calls at issue is provided by the wireless carrier
21 that originates the call:

22

1 **Indirect Interconnection Between DeltaCom and Hypercube**



7 **Diagram 3.**

8 According to Hypercube's own call flow diagram, the "end office
9 switching equipment" is "provided by the calling party's carrier." For the calls
10 at issue, this is the wireless carrier. If Hypercube were to apply the "blended
11 rate" tariffed for "originating FG access" to the calls at issue here, it clearly
12 and undeniably would be seeking to collect access charges on behalf of the
13 wireless carrier – something that the FCC has explicitly prohibited.

14

15 Q. IN THE LANGUAGE ADDED TO SECTION 3.2.5, HYPERCUBE STATES
16 THAT FOR TRAFFIC THAT IS "INITIATED BY A WIRELESS
17 PROVIDER'S END USER AND IS DELIVERED FROM A CMRS MOBILE
18 TELEPHONE SWITCHING OFFICE," HYPERCUBE "WILL CHARGE
19 FOR ALL *ELEMENTS OF SERVICE THAT IT PROVIDES* IN ROUTING
20 SUCH TRAFFIC" (EMPHASIS ADDED). WOULD THE APPLICATION
21 OF THE BLENDED RATE FOR "ORIGINATING FG ACCESS" BE
22 CONSISTENT WITH THIS LANGUAGE?

1 A. No; in fact, Hypercube’s attempt to impose the blended rate would be directly
2 at odds with its language. The “blended rate” in Section 4.4.1 contains,
3 according to Hypercube’s own description, a bundle of functions: some of
4 these (such as transport) are functions that Hypercube could at least
5 theoretically provide, while others (such as end office switching equipment)
6 are functions that Hypercube could not provide because it has no such facilities
7 connected to wireless end users.

8 The fundamental problem with the idea of Hypercube charging for the
9 “elements of service that it provides” is that it has no rates in its tariff that are
10 directly associated with these elements. Based on Diagram 3, it appears that
11 Hypercube is claiming to provide some form of interoffice transport and
12 tandem switching – yet it has no rate elements and no rates in its tariff for
13 either “transport” or “tandem switching.” In reality, it has no tariffed rate for
14 “originating 800 FG access” at all, and the blended rate that it has tariffed for
15 other access services is explicitly defined to contain functions that Hypercube
16 does not even claim to provide.

17

18 Q. WHAT ARE THE IMPLICATIONS OF THIS OMISSION?

19 A. Setting aside the issue of whether Hypercube is performing any functions that
20 would allow it to properly impose access charges on DeltaCom in the first

1 place, the fact remains that Hypercube has no tariffed rates for the functions
2 that it claims to provide.³¹

3

4 Q. HAVE YOU REVIEWED THE INVOICES SUBMITTED BY HYPERCUBE
5 TO DELTACOM THAT ARE IN DISPUTE?

6 A. Yes.

7

8 Q. WHICH RATE ELEMENTS AND RATES ACTUALLY APPEAR ON
9 THOSE INVOICES?

10 A. The first category of charges is “800 data base query.” This appears to
11 correlate to the rates found in Section 4.4.2 of Hypercube’s tariff.

12

13 Q. ARE “800 DATA BASE QUERY” CHARGES PROPERLY IMPOSED ON
14 DELTACOM?

15 A. No. As explained previously, the 800 database query is a function associated
16 with originating switching. In order to perform this function, the wireless
17 carrier has the option of maintaining an internal 800 database, initiating a
18 query from the MTSO to an external 800 database, or have another carrier,

³¹ The only exceptions to this observation are the rates for “800 data base access service queries.” As explained previously, the 800 database query is the responsibility of the originating carrier (for the calls at issue, the wireless carrier). To the extent that Hypercube is actually providing this function, it is doing so on behalf of – and as a service to – the wireless carrier, not DeltaCom. As a result, Hypercube should seek compensation from wireless carriers for this function, and cannot impose a charge on IXCs for this function on behalf of the wireless carrier.

1 such as Hypercube, perform the query on its behalf. But the wireless carrier
2 cannot impose a charge directly on an IXC for this component of originating
3 access, and cannot indirectly impose a charge on IXCs by having Hypercube
4 submit the invoice to DeltaCom.

5

6 Q. WHAT IS THE NEXT TYPE OF CHARGE THAT APPEARS ON
7 HYPERCUBE'S INVOICES TO DELTACOM?

8 A. The next category of charges is labeled "transport blended access." There is
9 no reference to a rate element called "transport blended access" in the
10 Hypercube tariff, and the tariff includes no definition of this term.

11

12 Q. ARE "TRANSPORT BLENDED ACCESS" CHARGES PROPERLY
13 IMPOSED ON DELTACOM?

14 A. No. As an initial matter, there is no tariffed rate for such an element.³² The
15 term "blended" does appear in Section 4.4.1, but never in association with the
16 term "transport." In fact, the "blended rate" contained in Section 4.4.1 is
17 explicitly associated with a combination of switching *and* transport. There is

³² Since Hypercube elected not to use USOCs in its tariff, the process of matching the rate elements shown on the invoices and the rate elements contained in the tariff becomes one of guesswork. Given Hypercube's decision to rely solely on verbal descriptions, in order to represent a valid charge the title and description of a rate element shown on an invoice should be identical to (or at least very closely match in a way that is in no way ambiguous) the title and description shown in the tariff. Hypercube's billing process fails this most basic – yet essential – task.

1 no reference at all to a transport-specific rate, or an explanation of what
2 functions would be “blended” if only transport is being provided.

3 Of course, even if the rate element on the invoice actually matched one
4 of the two “blended carrier switched access” rate elements in the tariff, the fact
5 remains that the only “blended access” rates in Hypercube’s tariff are those
6 that explicitly contain functions that Hypercube does not itself provide, and
7 that are instead provided by the originating wireless carrier. Hypercube cannot
8 impose a rate that includes access functions performed by a wireless carrier.

9

10 Q. HAVE YOU IDENTIFIED ANY OTHER PROBLEMS WITH THE
11 HYPERCUBE TARIFF?

12 A. Yes. As noted in section IV of my testimony, the FCC has determined that
13 “traffic to or from a CMRS network that originates and terminates within the
14 same MTA is subject to transport and termination rates under section 251(b)(5)
15 (i.e., reciprocal compensation), rather than interstate and intrastate access
16 charges.”³³ Setting aside all other issues associated with Hypercube’s ability
17 to impose access charges for calls originated on the network of a wireless
18 carrier, it is clear that Hypercube cannot under any circumstances impose
19 access charges for calls that originate and terminate in the same MTA.

20

³³ *First Report and Order*, ¶1034.

1 Q. DOES THE HYPERCUBE TARIFF ADDRESS THE ISSUE OF INTRA-
2 MTA CALLS?

3 A. No. While the tariff clearly contemplates that Hypercube will be attempting to
4 impose access charges for at least some of the functions associated with
5 wireless-originated calls (see, for example, the language added to Section 3.2.5
6 discussed above), it has no provisions for ensuring that Hypercube will bill
7 only for inter-MTA calls.

8
9 Q. IS IT LIKELY THAT A SIGNIFICANT PORTION OF WIRELESS-
10 ORIGINATED “8YY” CALLS THAT ARE INTRASTATE WILL ALSO BE
11 INTRA-MTA IN FLORIDA?

12 A. Yes. Exhibit DJW-4 is a map of the 51 MTAs in the country.³⁴ Most of
13 Florida is covered by only three MTAs (37, 13, and 15), with a small portion
14 of the western panhandle covered by MTA 17. Given the large size of these
15 areas, it is reasonable to expect that a significant number of calls will originate
16 and terminate within a given MTA.

17
18 Q. WITHOUT A TARIFF PROVISION GOVERNING THIS ISSUE, HOW
19 DOES HYPERCUBE ENSURE THAT IT IS NOT BILLING DELTACOM
20 FOR WIRELESS-ORIGINATED, INTRA-MTA CALLS?

³⁴ This map can be found on the FCC website at
<http://wireless.fcc.gov/auctions/data/maps/mta.pdf>.

1 A. It does not appear that Hypercube makes any effort to distinguish between
2 intra- and inter-MTA calls; and as a result improperly imposes access charges
3 on calls that are intra-MTA.

4
5 Q. DOES THE LANGUAGE OF HYPERCUBE'S TARIFF SUPPORT A
6 CLAIM THAT DELTACOM HAS ORDERED ANY SERVICES FROM
7 HYPERCUBE OR IS OTHERWISE A CUSTOMER OF HYPERCUBE?

8 A. No. Section 1 of the Hypercube tariff defines a "customer" as:

9 Customer: The person, firm, corporation or other entity which orders Service or receives service including through a
10 Constructive Order and is responsible for the payment of charges and for compliance with the Company's tariff
regulations. The Customer could be an interexchange carrier, a local exchange carrier, a wireless provider, or any other
Carrier that operates in the state.

11 According to this language, there are two ways that an entity can
12 become a "customer" of Hypercube – it can directly order service or it can
13 constructively order service. Fortunately, both of these options are explicitly
14 defined in the Hypercube tariff's "definitions" section.

15
16 Q. HAS DELTACOM DIRECTLY ORDERED SERVICE FROM
17 HYPERCUBE?

18 A. No. Hypercube's tariff describes a service order as follows:

19 Service Order: The written request for Network Services executed by the Customer and the Company in a format devised
20 by the Company; or, in the alternative, the submission of an Access Service Request by the Customer in the manner
specified in this tariff.

1 DeltaCom has not submitted a “written request for network services,”
2 nor has it submitted an “access service request” to Hypercube. Based on
3 Hypercube’s definition, DeltaCom has not directly ordered service.

4
5 Q. HAS DELTACOM CONSTRUCTIVELY ORDERED SERVICE FROM
6 HYPERCUBE?

7 A. No. Hypercube’s tariff describes “constructive order” as follows:

8 Constructive Order: Delivery of calls to or acceptance of calls from the Company's locations constitutes a Constructive
9 Order by the Customer to purchase switched access services as described herein. Similarly the selection by a Company's
 End User of the Customer as the presubscribed IXC constitutes a Constructive Order of switched access by the Customer.

10 This language sets forth three ways, and only three ways, that a
11 “constructive order” can be placed:

- 12 1. A Hypercube end user can select an IXC as its presubscribed carrier.
- 13 2. A carrier can deliver calls to a Hypercube location,
- 14 3. A carrier can accept calls from a Hypercube location,

15

16 Q. FOR THE CALL TYPE AT ISSUE, CAN A HYPERCUBE END USER BE
17 PRESUBSCRIBED TO DELTACOM?

18 A. No, for two reasons. First, Hypercube is not a wireless carrier, and by
19 definition does not have end users who can initiate a wireless-originated call.
20 Second, the calls at issue are originated using an “8YY-NXX-XXXX” format;
21 and these calls are directed to the IXC to which the “8YY” number is assigned,
22 not to the IXC that has been presubscribed for a given customer.

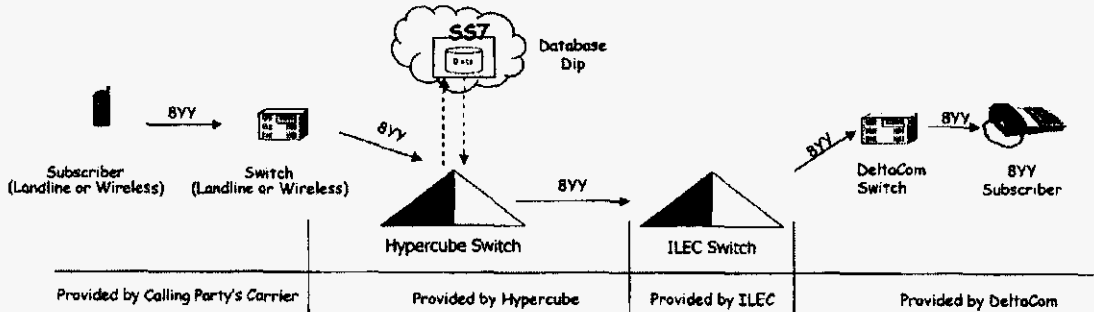
1 Q. HAS DELTACOM EVER DELIVERED CALLS TO A HYPERCUBE
2 LOCATION?

3 A. No.

4
5 Q. HAS DELTACOM EVER ACCEPTED CALLS FROM A HYPERCUBE
6 LOCATION?

7 A. No. Hypercube has never attempted to deliver calls from its network to
8 DeltaCom, and DeltaCom has never accepted traffic from Hypercube.
9 Hypercube's own call flow diagrams clearly show that Hypercube does not
10 claim to deliver calls to DeltaCom, but instead delivers calls to an ILEC
11 tandem:

Indirect Interconnection Between DeltaCom and Hypercube



17 **Diagram 3.**

18 DeltaCom accepts the calls at issue from the ILEC, *not* from
19 Hypercube. This is *exactly the same way* that DeltaCom would accept these
20 calls if Hypercube had not inserted itself into the call flow:

21
22

Direct Interconnection Between DeltaCom and ILEC

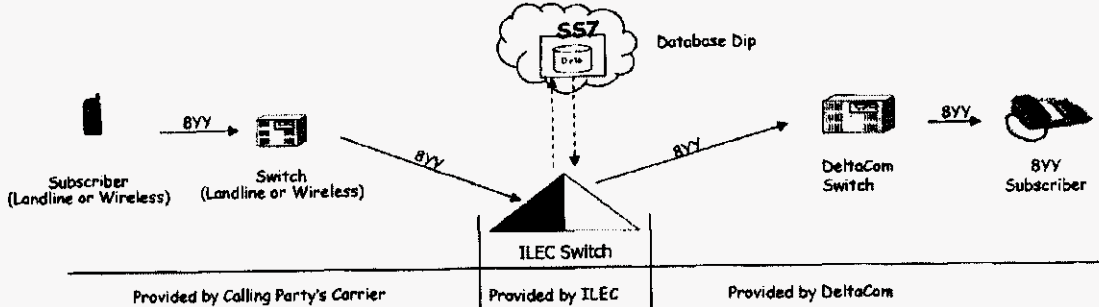


Diagram 2.

In each call flow, DeltaCom receives the call from the ILEC tandem over the same trunks. It does not, and has never, received traffic from Hypercube.

Q. AS DELTACOM RECEIVES THESE CALLS FROM THE ILEC TANDEM, DO ANY CALL CHARACTERISTICS REVEAL TO DELTACOM THAT HYPERCUBE HAS SOMEHOW BEEN INVOLVED IN PROCESSING THE CALL?

A. No. As noted previously (assuming for the sake of this discussion that Hypercube actually takes part in processing a given call as shown in Diagram 3: something that has been claimed, but not demonstrated), no functionality is provided beyond the functionality that would be provided if Hypercube did not exist. In other words, a call received by DeltaCom pursuant to the call flow shown in Diagram 2 (in which Hypercube is not present) appears to DeltaCom to be exactly the same as a call received by DeltaCom pursuant to the call flow

1 shown in Diagram 3 in which Hypercube has allegedly inserted itself into the
2 call flow). Nothing about the call in Diagram 3 would provide any indication
3 to DeltaCom that Hypercube had inserted itself into the call flow.

4

5 Q. AS DELTACOM RECEIVES THESE CALLS FROM THE ILEC TANDEM,
6 DO ANY CALL RECORDS REVEAL TO DELTACOM THAT
7 HYPERCUBE HAS SOMEHOW BEEN INVOLVED IN PROCESSING THE
8 CALL?

9 A. No. When it receives a call from the ILEC tandem, DeltaCom receives with
10 the call the necessary routing information. This information is exactly the
11 same for the call flows shown in Diagram 2 and Diagram 3; there is no
12 information provided to DeltaCom that reveals Hypercube's alleged
13 involvement in the processing of the call. It is my understanding that
14 DeltaCom requested and received some sample call detail records provided by
15 Hypercube which allegedly related to the wireless 8YY calls for which
16 Hypercube had billed DeltaCom (though Hypercube has refused DeltaCom's
17 request that it provide complete call detail records to support its invoices).³⁵
18 Those records also failed to provide any indication that Hypercube had inserted
19 itself into the call flow.

³⁵ Specifically, Hypercube has provided 11-01-25 call detail records to DeltaCom for two selected months. No information related to Hypercube's alleged involvement with processing the call appears on these records.

1 At the time it receives a call, DeltaCom cannot be “constructively
2 ordering” service from Hypercube because (1) the call is not delivered by
3 Hypercube or from Hypercube network facilities, and (2) there is absolutely no
4 indication at that time of Hypercube’s involvement.

5

6 Q. HOW THEN DOES DELTACOM KNOW THAT HYPERCUBE HAS BEEN
7 INSERTED INTO THE CALL FLOW?

8 A. In short, it doesn’t know. The only way that DeltaCom becomes aware after
9 the fact that Hypercube *claims* to have inserted itself into the call flow is when
10 it receives an invoice from Hypercube – an invoice for a service that DeltaCom
11 did not order, did not need, and could not be aware of at the time that it was
12 provided (assuming that any “service” was actually provided). If the only way
13 that a carrier can find out that a “service” has allegedly been provided is by
14 opening a bill after the fact, any suggestion that the service has been
15 constructively ordered is simply nonsense.

16

17 Q. COULD DELTACOM REFUSE TO RECEIVE CALLS THAT
18 HYPERCUBE CLAIMS TO HAVE BEEN INVOLVED WITH; IN OTHER
19 WORDS, IS THERE ANY WAY THAT DELTACOM COULD DECLINE
20 HYPERCUBE’S “SERVICE” IF IT CHOSE TO DO SO?

21 A. No. DeltaCom cannot block or otherwise refuse calls that Hypercube claims to
22 have participated in, because these calls look exactly like calls that Hypercube

1 does not claim to have participated in. Both types of calls are functionally
2 identical, are received with the same records, and are received over the same
3 trunks from the ILEC tandem.
4

5 Q. PLEASE SUMMARIZE YOUR UNDERSTANDING OF HYPERCUBE'S
6 VIEW OF A "CUSTOMER" FOR ITS ACCESS SERVICE.

7 A. According to Hypercube, a "customer" is a carrier who (1) has never made a
8 request for any "service" from Hypercube, (2) receives no added value from
9 Hypercube's "service," (3) does not know (and cannot know) at the time that it
10 is receiving a "service" from Hypercube, (4) has no ability to refuse the
11 "service," (5) does not know until it receives a bill that any "service" has
12 allegedly been provided, (6) cannot verify that a service has been received, but
13 (7) has no choice but to pay the invoice presented by Hypercube.
14

15 Q. DOES THE LANGUAGE OF HYPERCUBE'S TARIFF SUPPORT THIS
16 VIEW OF WHAT CONSTITUTES A "CUSTOMER"?

17 A. No. The language of its tariff simply does not support the claims that
18 Hypercube seeks to make. The reality is that DeltaCom has never knowingly
19 or voluntarily accepted Hypercube's alleged "service."
20

1 **VII. The Application of a PIU Factor to the Calls Billed by Hypercube**

2 Q. IN SECTION IV OF YOUR TESTIMONY, YOU STATED THAT IN
3 ORDER FOR ACCESS CHARGES TO BE IMPOSED, AT LEAST FOUR
4 CONDITIONS MUST BE MET. HAS HYPERCUBE MET THOSE
5 CONDITIONS?

6 A. No. Intrastate access charges can only be imposed by a carrier if, at a
7 minimum, each of the following conditions is met:

- 8 1. The call is interexchange (and, in the case of a wireless-originated call,
9 inter-MTA),
- 10 2. The call is intrastate,
- 11 3. The carrier that originates the call and provides originating access functions
12 has the authority to impose access charges,
- 13 4. The carrier seeking to impose the charges has a valid tariff in effect for
14 intrastate access.

15 **Hypercube has not limited its billing to calls that are inter-MTA.**
16 While it is likely that a significant number of wireless-originated “8YY” calls
17 are intra-MTA, Hypercube has apparently elected to bill DeltaCom for all
18 wireless-originated “8YY” calls that it alleges to have traversed its network
19 facilities.

20 **The carriers that originate the calls in question do not have the**
21 **authority to impose access charges.** The calls at issue are originated by the
22 customers of wireless carriers, and the wireless carriers provide – at a

1 minimum – the essential component of originating access: end office
2 switching. The FCC has been clear that wireless carrier cannot impose access
3 charges on IXCs without a contractual agreement with the IXC to do so (and
4 no such contracts are in effect for the carriers at issue). The FCC has also been
5 clear that other carriers cannot impose access charges for the network functions
6 provided by wireless carriers, yet the rate Hypercube that seeks to impose
7 explicitly includes end office switching that Hypercube does not and cannot
8 provide.³⁶

9 **Hypercube does not have a valid tariff in effect for the charges that**
10 **it seeks to impose.** According to the definitions in Hypercube’s tariff,
11 DeltaCom is not a “customer” of Hypercube (it has not initiated a service
12 request nor has it constructively ordered service). Hypercube’s tariff fails to
13 specify a rate for the type of access that it claims to be providing to DeltaCom,
14 and is seeking to impose one rate for a different service and other rates that do
15 not appear in the tariff at all.

16 Individually, each of these failures provides a basis for the Commission
17 to grant the relief requested in DeltaCom’s *Amended Petition*.

18

³⁶ The other network functions provided by Hypercube are the responsibility of the originating carrier, and if they are actually being provided by Hypercube, are being provided on behalf of the originating wireless carrier.

1 Q. THAT LEAVES THE QUESTION OF WHETHER THE BILLED CALLS
2 ARE INTRASTATE. HAS HYPERCUBE BILLED DELTACOM ONLY
3 FOR CALLS THAT IT HAS DETERMINED ARE INTRASTATE?

4 A. No. It appears that Hypercube has attempted to impose access charges for all
5 of the wireless-originated "8YY" that it alleges to have traversed its network
6 (including calls that are intra-MTA and therefore not subject to access charges
7 under any circumstances). At some point Hypercube began to apply a default
8 50% Percent Interstate Usage ("PIU") to this traffic, and to bill DeltaCom for
9 50% of the calls based on interstate access rates and 50% of the calls based on
10 intrastate access rates. By doing so, Hypercube has failed to apply the
11 provisions of its own tariff.

12
13 Q. TO BE CLEAR, IF HYPERCUBE CANNOT PROPERLY IMPOSE ACCESS
14 CHARGES ON DELTACOM FOR ALL OF THE REASONS PREVIOUSLY
15 SET FORTH IN YOUR TESTIMONY, DOES IT MATTER WHAT
16 PERCENTAGE OF THE CALLS AT ISSUE ARE INTRASTATE?

17 A. No. I am addressing this issue in my testimony because if the Commission
18 were to somehow conclude that some access charge can be applied by
19 Hypercube for some portion of this traffic, it would be important to note that
20 the language of Hypercube's tariff dictates that the PIU provided by DeltaCom
21 be applied instead of Hypercube's "default PIU."

22

1 Q. WHAT SECTION OF HYPERCUBE'S TARIFF ADDRESSES THIS ISSUE?

2 A. Section 2.3.3 addresses jurisdictional reporting, though based on the language
3 it is not clear that this section of the tariff actually applies to the traffic at issue.

4 Section 2.3.3 begins as follows:

5 2.3.3 Jurisdictional Reporting

6 The jurisdictional reporting requirements will be as specified below. When a Customer orders Access
7 Service or uses Access Service based upon a Constructive Order, its projected Percent Interstate Usage
(PIU) must be provided in whole numbers to the Company. These whole number percentages will be
8 used by the Company to apportion the use and/or charges between interstate and intrastate until a revised
9 report is received as set forth herein. Reported or default PIU factors are used only where the call detail
10 is insufficient to determine the appropriate jurisdiction of the traffic.

11 One problem immediately becomes apparent when attempting to apply
12 this language to the situation here: the PIU reporting provisions apply "when a
13 customer orders Access Service or uses Access Service based on a
14 Constructive Order." As explained in section VI of my testimony, DeltaCom
15 has never issued a service order and has never constructively ordered service
16 through any of the three ways set forth in Hypercube's tariff.

17 It is also important to note that if an alleged "customer" *does* provide a
18 PIU, that reported PIU "will be used" by Hypercube "to apportion the use
19 and/or charges between interstate and intrastate until a revised report is
20 received."

21 The Hypercube tariff then goes on to specify requirements for different
22 access types:

- 1 A. *Originating Access: Originating access minutes is only traffic originating from the Company*
2 *Local Switching Center(s). The Customer should provide the Company with a projected PIU*
3 *factor on a quarterly basis.*
- If no PIU for originating minutes is submitted as specified herein, then the projected PIU will be
4 set on a default basis of 50 percent interstate traffic and 50 percent intrastate traffic.
- 5 B. *Terminating Access: For Feature Group D Switched Access Service(s), the Customer should*
6 *provide the Company with a projected PIU factor by supplying the Company with an interstate*
7 *percentage of terminating access minutes on a quarterly basis, as described in Sections 2.3.3.E*
8 *below.*
- If no projected PIU factor is submitted by the Customer, then the projected PIU will be set on a
9 default basis of 50 percent interstate traffic and 50 percent intrastate traffic.
- 10 C. *800 Originating Access: 800 Originating Access is for 8XX traffic that is switched by the*
 Company's switches and originated by an End User of an Exchange Carrier.
- If no projected PIU factor is submitted by the Customer, then the projected PIU will be set on a
11 default basis of 50 percent interstate traffic and 50 percent intrastate traffic.
- 12 D. *Except where the Company measured access minutes are used as set forth above, the Customer*
13 *reported Projected PIU factor as set forth above will be used until the Customer reports a*
14 *different projected PIU factor, as set forth below.*

11 Q. IS THIS SECTION THE SOURCE OF THE "DEFAULT PIU" THAT
12 HYPERCUBE SEEKS TO APPLY TO THE TRAFFIC AT ISSUE?

13 A. It appears to be. I have reviewed the tariff and have been unable to find other
14 sections that purport to set forth a default percentage.

16 Q. ACCORDING TO THE LANGUAGE OF SECTION 2.3.3, UNDER WHAT
17 CIRCUMSTANCES DOES THE DEFAULT PIU APPLY?

18 A. Section 2.3.3 C applies to "800 originating access," which Hypercube claims
19 to be providing to DeltaCom. The language of this subsection states that "the
20 projected PIU will be set on a default basis of 50 percent interstate and 50
21 percent intrastate traffic" *if* "no projected PIU factor is submitted by the

1 customer.” This is the only scenario in which the default PIU would be
2 applied under this section.

3

4 Q. DO ANY OTHER SUBSECTIONS OF THE HYPERCUBE TARIFF REFER
5 TO THE DEFAULT PIU?

6 A. Yes, but only one. Section 2.3.3 E states that if a PIU report “has never been
7 received from the customer, the company will assume the percentages to be the
8 same as those provided in 2.3.3A and 2.3.3B above.” 2.3.3 E makes no
9 reference to 2.3.3 C (the subsection related to “800 originating access),” so it
10 does not appear that it would have any application to the traffic at issue here.

11

12 Q. HAS DELTACOM PROVIDED A PROJECTED PIU TO HYPERCUBE?

13 A. Yes. While DeltaCom disagrees that it is a customer of Hypercube or that it
14 has ever (directly or constructively) ordered any service from Hypercube,
15 DeltaCom did nevertheless provide (with appropriate reservations) a projected
16 PIU of 100% to Hypercube in October 2007.³⁷ As a result, any tariff
17 provisions that are conditioned on the phrase “if no projected PIU factor is
18 submitted by the customer” or if a PIU report “has never been received from
19 the customer” cannot apply. In other words, according to the language of
20 Hypercube’s tariff, once DeltaCom has provided a PIU there is no scenario in
21 which the “default PIU” can ever come into play.

³⁷ A copy of DeltaCom’s PIU report is attached as Exhibit DJW-5.

1

2 Q. IF HYPERCUBE DISAGREES WITH THE PIU REPORTED BY AN IXC,
3 WHAT REMEDY DOES THE TARIFF PROVIDE?

4 A. Section 2.3.4 states that Hypercube may, at is discretion, initiate a
5 “jurisdictional audit.”

6

7 Q. HAS HYPERCUBE INITIATED A “JURISDICTIONAL AUDIT”
8 PURSUANT TO THE TERMS OF SECTION 2.3.4 OF ITS TARIFF?

9 A. No. Instead, Hypercube informed DeltaCom in May 2008 that it had
10 unilaterally declared, without conducting an audit, DeltaCom’s projected PIU
11 to be “invalid,” and would be applying a “default jurisdictional rate of 50%
12 interstate use in accordance with Hypercube’s interstate and intrastate
13 tariffs.”³⁸

14 This response is demonstrably *not* “in accordance” with the language of
15 Hypercube’s intrastate tariff for at least two reasons. First, I have been unable
16 to identify any provision that permits Hypercube to simply declare a reported
17 PIU to be invalid. It may accept a carrier’s reported PIU, or it may initiate an
18 audit pursuant to Section 2.3.4, but it cannot simply reject a PIU because it
19 doesn’t like the number. Second, once a PIU has been reported to Hypercube,
20 there is no provision in the tariff that permits it to apply the default PIU from

³⁸ A copy of Hypercube’s response is attached as Exhibit DJW-6.

1 Section 2.3.3. This is true whether or not Hypercube likes the value that has
2 been reported.

3

4 Q. PURSUANT TO THE LANGUAGE OF ITS TARIFF, WHAT PIU MUST
5 HYPERCUBE APPLY WHEN BILLING DELTACOM?

6 A. Hypercube must apply the PIU provided by DeltaCom. This is the number that
7 Hypercube's tariff clearly states "will be used" for this purpose.

8

9 **VIII. DeltaCom's Intermediate Provider Access Service**

10 Q. IN ITS AMENDED PETITION, DELTACOM ASSERTS THAT
11 HYPERCUBE HAS FAILED TO PAY CERTAIN CHARGES THAT WERE
12 ASSESSED BASED ON DELTACOM'S FLORIDA TARIFF/PRICE LIST.
13 WHAT IS YOUR UNDERSTANDING OF THIS CLAIM?

14 A. Section 3.5 of DeltaCom's tariff describes DeltaCom's Intermediate Provider
15 Access Service ("IPAS"):

16 **3.5 Intermediate Provider Access Service**

17 Intermediate Provider Access Service is the origination or termination by the Company of a call any
18 portion of which has been associated with the services provided by an Intermediate Provider.

18 An Intermediate Provider is a provider that:

- 19 (A) is not the telecommunications carrier for the customer who is either the originating end user
20 or the terminating end user;
(B) does not have a direct connection with the Company or a written agreement, executed by the
21 Company, for the provision of such services; and,
(C) seeks to levy any charge or fee, by tariff or otherwise, against the Company.

21

22

1 Q. WITH THIS LANGUAGE, DOES THE DELTACOM TARIFF CLEARLY
2 AND UNAMBIGUOUSLY DEFINE THE TERMS “INTERMEDIATE
3 PROVIDER”?

4 A. Yes.

5

6 Q. DOES HYPERCUBE MEET THE DEFINITION OF “INTERMEDIATE
7 PROVIDER” AS IT IS DEFINED IN THIS SECTION?

8 A. Yes. To the extent Hypercube is actually involved in the processing of the
9 traffic in question, there is no dispute about the following: (A) Hypercube is
10 not the carrier serving the end user who originates the call, (B) Hypercube does
11 not have a direct connection with DeltaCom and does not have an executed
12 written agreement to provide any services to DeltaCom, and (C) Hypercube is
13 seeking to levy a charge related to this traffic.

14

15 Q. DOES THE DELTACOM TARIFF CLEARLY SET FORTH THE RATES
16 APPLICABLE TO IPAS?

17 A. Yes. Section 3.7 of DeltaCom’s tariff describes the rates and charges
18 applicable to DeltaCom services. Section 3.7.9 specifically addresses IPAS as
19 follows:

20

21

22

1 **3.7.9 Intermediate Provider Access Service**

2 Rates will be billed at the greater of:

3 (A)	Per Minute Rate	\$0.025
(B)	Per Call Rate*	\$0.005

4 *The Per Call Rate is in addition to the Per Minute Rate.

5 Or, the amount charged to the Company by the Intermediate Provider plus an administrative fee equal to 10% of the total amount charged.

6 Q. DO THE RATES FOR IPAS SET FORTH IN DELTACOM'S FLORIDA
7 TARIFF REPRESENT "FILED RATES"?

8 A. Yes; DeltaCom's rates certainly appear to have at least equal standing with the
9 rates that Hypercube claims are its "filed rates." To the extent that
10 Hypercube's charges to DeltaCom are found to be valid because they appear in
11 a tariff or price list filed with the Commission, DeltaCom's charges to
12 Hypercube must be found to be equally valid.

13

14 **IX. Summary and Conclusions**

15 Q. ATTACHMENT A TO THE COMMISSION'S ORDER NO. PSC-10-0245-
16 PCO-TP SETS FORTH AN ISSUES LIST FOR THIS PROCEEDING. ARE
17 YOU ADDRESSING EACH OF THE IDENTIFIED ISSUES IN YOUR
18 TESTIMONY?

19 A. Yes and no. Issue Nos. 4, 5, 6, 7, 8, 9 and 10 call largely for legal conclusions,
20 and it has not been my intention to address those issues directly but rather to
21 establish the required factual predicate (which, for Issue No. 4 and others,
22 includes the legal and regulatory framework for wireless call origination and

1 related intercarrier charges) and related analysis so that DeltaCom's lawyers
2 can address them more completely in their briefs. For example, with respect
3 to Issue No. 5, I discussed earlier the names of the entities from whom
4 DeltaCom received bills and compared them to the name of the CLEC who had
5 a tariff/price list on file with the Commission. For Issue No. 6, I describe at
6 length the rates terms and conditions of Hypercube's tariff/price list and
7 conclude they do not apply or are otherwise inappropriate but, again, I leave it
8 to the lawyers to argue the rest. And as to Issue No. 7, I discussed DeltaCom's
9 charges to Hypercube and describe how DeltaCom's rates, terms and
10 conditions apply in this case if the Commission decides
11 Hypercube's tariff/price list has any validity.

12 Some of the identified issues are more fact oriented, however,
13 and I will address each of those issues below:

14 **Issue No. 1: What services, if any, are being provided by**
15 **Hypercube to DeltaCom (or to other carriers in the call flow) and how?**
16

17 As explained in section V of my testimony, DeltaCom cannot verify –
18 based on the information available – that Hypercube has in fact provided any
19 services to any carrier. Available call records, include those previously
20 produced by Hypercube, do not reveal any involvement by Hypercube in the
21 call flow. To the extent Hypercube is involved in processing the calls at issue
22 in this case, it is not providing any functionality beyond that which would be
23

1 provided if it were not present; no value is being created by Hypercube for
2 either DeltaCom or the end users who originate or receive these calls.

3 Hypercube claims to be providing 800 database query and transport
4 functions (see Diagram 3 in section V, above). To the extent Hypercube is
5 providing these functions, it is doing so for, and on behalf of, the wireless
6 carrier whose customer originates one of the calls at issue. Hypercube's own
7 call flow diagrams (see Diagrams 1 and 2 in section V, above) reveal that if
8 Hypercube were not present, the originating wireless carrier would itself – as
9 the originating carrier responsible for performing these functions – be
10 initiating the 800 database query and transporting the call to the ILEC tandem
11 (the functions that Hypercube claims to provide).

12

13 **Issue No. 1a: Do such services fit into the regulatory framework in**
14 **Florida? If so, how?**

15

16 The originating access services provided by the originating wireless
17 carrier are outside of this Commission's regulatory framework. The FCC has
18 primary jurisdiction for the regulation of wireless carriers, and the Commission
19 does not regulate wireless-originated traffic. To the extent that Hypercube is
20 performing some of the originating access functions for the wireless provider,
21 these services are subject to a contractual agreement between Hypercube and
22 the wireless carrier. To the extent that Hypercube has attempted to impose
23 access charges for intra-MTA wireless traffic, that traffic is also outside the

1 Commission's regulatory framework because such wireless traffic is not
2 subject to access charges.

3

4 **Issue No. 1b: Is it appropriate or lawful to include such services in**
5 **Hypercube's price list?**

6

7 While I cannot speak directly to the lawfulness of the services
8 contained in Hypercube's Florida price list/tariff, I can state that to the extent
9 the rates, terms, and conditions of such services could theoretically have been
10 lawfully included in Hypercube's price list, it has failed in its effort to do so.
11 As explained in section VI above, the services Hypercube claims to provide do
12 not meet the definition of either "access service" or "switched access service"
13 as these terms are defined in Hypercube's tariff. The functions that Hypercube
14 claims to be providing are inconsistent with the definition of "originating 800
15 FG access" that Hypercube seeks to bill to DeltaCom, and Hypercube failed to
16 list a rate for "originating 800 FG access" anywhere in its tariff. The rate that
17 Hypercube appears to have used in its invoices to DeltaCom is defined as
18 including functions that Hypercube does not and cannot provide for the calls at
19 issue.

20

21 **Issue No. 2: Does the filed rate doctrine apply to this case and if so,**
22 **how should it be applied?**

23

1 It is my understanding of the “filed rate doctrine” principle that simply
2 having a rate on file with a regulator does not give a carrier the ability to
3 impose charges for functions that the carrier does not actually provide or
4 permit the carrier to impose charges on behalf of another carrier if the other
5 carrier could not impose such charges on its own behalf. It certainly does not
6 permit a carrier to impose a charge that has been omitted from its filed price
7 list or tariff, or give the carrier the ability to substitute the charge for a different
8 rate element for the omitted charge (particularly if the charge being imposed is
9 for a rate element defined as including functions not being provided). As
10 explained in section VI, Hypercube is stretching the filed rate doctrine concept
11 well beyond its limits and is attempting to engage in each of these acts.

12 To the extent the filed rate doctrine applies to the tariffs/price list on
13 file with the Commission by Hypercube, it applies equally to the tariff/price
14 list filed with the Commission by DeltaCom.

15
16 **Issue No. 3: What are the proper procedures regarding Percent**
17 **Interstate Usage under Hypercube’s price list and were those procedures**
18 **followed? Which Percent Interstate Usage should have been applied?**

19 As explained in section VII of my testimony, Hypercube’s tariff
20 contains specific provisions regarding PIU reporting and application. Section
21 2.3.3 permits the application of a “default PIU,” but if, and only if, no PIU has
22 been reported by the IXC. This section clearly states that once a PIU has been
23

1 reported, that PIU will be used until the IXC updates its reported PIU or
2 Hypercube completes an audit of the reported PIU pursuant to Section 2.3.4.

3 Hypercube has not followed the procedures set forth in its own tariff.
4 Instead, Hypercube has elected to declare DeltaCom's reported PIU to be
5 "invalid" (something that its tariff makes no provision for), and has applied the
6 "default PIU" contained in Section 2.3.3 (even though the language of the
7 tariff is clear that the default PIU cannot be applied once an IXC has reported a
8 PIU to Hypercube).

9 To the extent any of the charges billed by Hypercube are valid, the
10 applicable rates are those that would be generated if DeltaCom's reported PIU
11 is applied. Hypercube's tariff provides for no other alternative.

12

13 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

14 A. The calls at issue in this case are originated by the end user customer of
15 wireless carriers using an "8YY" dialing pattern. So that its customers' calls
16 of this type can be completed, the originating wireless carrier must perform an
17 800 database query in order to translate the "8YY" number and deliver the call
18 to the IXC to which that number is assigned. For calls made to "8YY"
19 numbers assigned to DeltaCom, the calls are delivered to an ILEC tandem
20 where DeltaCom has a POP.

21 The FCC has consistently concluded that, absent a contractual
22 arrangement with the IXC to do so, wireless carriers cannot impose originating

1 access charges on IXCs for calls originated by the wireless carrier's customers.
2 The FCC has also been clear that the introduction of an intermediate carrier
3 does not create an opportunity for a wireless carrier to indirectly charge the
4 IXC for originating access. In other words, because a wireless carrier cannot
5 impose an access charge for end office switching, an intermediate carrier
6 cannot charge the IXC for end office switching and then pass the money back
7 to the wireless carrier.

8 For "8YY" calls originated by some wireless carriers, Hypercube has
9 inserted itself into the call flow between the wireless carrier's MTSO (end
10 office switch) and the ILEC tandem. The presence of Hypercube does not
11 introduce any new functionality, and no value is added for the end user making
12 the call, the end user receiving the call, or the IXC. To the extent Hypercube is
13 providing any service at all, it is providing 800 database query and transport
14 functions to the wireless carrier (without Hypercube, the wireless carrier would
15 provide these functions for itself).

16 Hypercube bills IXCs a rate for originating access that, according to its
17 own tariff, is intended to cover the cost categories of transport (which is
18 provided *to* the originating wireless carrier) and end office switching (which is
19 provided *by* the wireless carrier). Hypercube then passes a portion of the
20 invoiced amount back to the wireless carrier. Such an arrangement has no
21 purpose other than to bypass the FCC's prohibition of the imposition of
22 originating access for the functions provided by wireless carriers.

1 The service that Hypercube claims to provide is inconsistent with the
2 language of its filed price list/tariff. DeltaCom has never directly or
3 constructively ordered any service from Hypercube (as these terms are defined
4 in the tariff), and DeltaCom does not meet the definition of a Hypercube
5 “customer” as that term is set forth in the tariff. The service that Hypercube
6 claims to provide does not meet the tariff’s definitions of “access service” or
7 “switched access service.” For the type of service that Hypercube claims to
8 have provided to DeltaCom (originating 800 FG access), Hypercube has no
9 rate in its tariff. Absent a filed rate for the service it actually claims to provide,
10 Hypercube is seeking to impose a rate for a different form of access, but the
11 rate it seeks to impose is defined in the tariff as including the end office
12 switching functionality – a function that Hypercube does not provide and
13 cannot impose on behalf of the originating wireless carrier.

14 The Hypercube tariff sets forth the means by which traffic will be
15 separated into intrastate and interstate categories. According to the tariff, if the
16 IXC provides a PIU, that PIU will be used by Hypercube for billing purposes
17 until either the IXC provides a new PIU or Hypercube engages in an audit.
18 Hypercube has apparently decided to set aside the language of its own tariff by
19 unilaterally declaring DeltaCom’s PIU invalid and applying a “default PIU.”
20 It is to this incorrectly calculated measure of intrastate traffic that Hypercube is
21 applying a rate for a different access service that includes functions that

1 Hypercube does not provide and is prohibited from billing for, that DeltaCom
2 never ordered, and that add no value to either end users or DeltaCom.

3

4 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

5 A. Yes.

Curriculum Vitae of Don J. Wood
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CURRENT EMPLOYMENT

Don J. Wood is a principal in the firm of Wood & Wood. He provides economic, financial, and regulatory analysis services in technology-driven industries, specializing in economic policy related to the development of competitive markets, cost of service issues, and the calculation of financial damages. In addition, Mr. Wood advises industry associations on regulatory and economic policy and assists investors in their evaluation of investment opportunities.

In the area of administrative law, Mr. Wood has presented testimony before the regulatory bodies of forty-two states, the District of Columbia, and Puerto Rico, and has prepared comments and testimony for filing with the Federal Communications Commission. The subject matter of his testimony has ranged from broad policy issues to detailed cost and rate analysis.

Mr. Wood has also presented testimony in state, federal, and overseas courts regarding business plans and strategies, competition policy, and cost of service issues. He has presented studies of the damages incurred by plaintiffs and has provided rebuttal testimony to damage calculations performed by others. Mr. Wood has also testified in alternative dispute resolution proceedings conducted pursuant to both AAA and CPR rules.

Mr. Wood is an experienced commercial mediator and is registered as a neutral with the Georgia Office of Dispute Resolution.

PREVIOUS EMPLOYMENT

Klick, Kent & Allen/FTI Consulting, Inc.

Regional Director.

GDS Associates, Inc.

Senior Project Manager.

MCI Telecommunications Corporation

Manager of Regulatory Analysis, Southeast Division.

Manager, Corporate Economic Analysis and Regulatory Affairs.

BellSouth Services, Inc.

Staff Manager.

Georgia Power Company/Southern Company Services, Inc.

Generating Plant Construction cost analyst and scheduler.

EDUCATION

Emory University, Atlanta, Ga.

BBA in Finance, with Distinction (1985).

College of William and Mary, Williamsburg, Va.

MBA, with concentrations in Finance and Microeconomics (1987).

TESTIMONY - STATE REGULATORY COMMISSIONS:

Alabama Public Service Commission

Docket No. 19356, Phase III: Alabama Public Service Commission vs. All Telephone Companies Operating in Alabama, and Docket 21455: AT&T Communications of the South Central States, Inc., Applicant, Application for a Certificate of Public Convenience and Necessity to Provide Limited IntraLATA Telecommunications Service in the State of Alabama.

Docket No. 20895: In Re: Petition for Approval to Introduce Business Line Termination for MCI's 800 Service.

Docket No. 21071: In Re: Petition by South Central Bell for Introduction of Bidirectional Measured Service.

Docket No. 21067: In Re: Petition by South Central Bell to Offer Dial Back-Up Service and 2400 BPS Central Office Data Set for Use with PulseLink Public Packet Switching Network Service.

Docket No. 21378: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. 21865: In Re: Petition by South Central Bell for Approval of Tariff Revisions to Introduce Network Services to be Offered as a Part of Open Network Architecture.

Docket No. 25703: In Re: In the Matter of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 25704: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated and CONTEL of the South, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996.

Docket No. 25835: In Re: Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to §252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a §271 Petition for In-Region InterLATA Authority with the Federal Communications Commission Pursuant to the Telecommunications Act of 1996.

Docket No. 26029: In Re: Generic Proceeding - Consideration of TELRIC Studies.

Docket No. 25980: Implementation of the Universal Support Requirements of Section 254 of the Telecommunications Act of 1996.

Docket No. 27091: Petition for Arbitration by ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 27821: Generic Proceeding to Establish Prices for Interconnection Services and Unbundled Network Elements.

Docket Nos. 27989 and 15957: BellSouth "Full Circle" Promotion and Generic Proceeding Considering the Promulgation of Telephone Rules Governing Promotions.

Docket No. 28841: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 29075: Petition of CenturyTel to Establish Wholesale Avoidable Cost Discount Rates for Resale of Local Exchange Service.

Docket No. 29054: IN RE: Implementation of the Federal Communications Commission's Triennial Review Order (Phase II – Local Switching for Mass Market Customers).

Docket No. 29172: Southern Public Communication Association, Complainant, and BellSouth Telecommunications, Inc., Defendant.

The Regulatory Commission of Alaska

Case No. U-02-039: In the Matter of Request by Alaska Digitel, LLC for Designation as a Carrier Eligible To Receive Federal Universal Service Support Under the Telecommunications Act of 1996.

Case No. U-04-62: In the Matter of the Request by Alaska Wireless Communications, LLC For Designation as a Carrier Eligible to Receive Federal Universal Service Support Under the Telecommunications Act of 1996.

Arkansas Public Service Commission

Docket No. 92-337-R: In the Matter of the Application for a Rule Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Public Utilities Commission of the State of California

Rulemaking 00-02-005: Order Instituting Rulemaking on the Commission's Own Motion into Reciprocal Compensation for Telephone Traffic Transmitted to Internet Service Provider Modems.

Application Nos. 01-02-024, 01-02-035, 02-02-031, 02-02-032, 02-02-034, 02-03-002: Applications for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application No. 05-02-027: In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application No. 05-04-020: In the Matter of the Joint Application of Verizon Communications Inc. ("Verizon") and MCI, Inc. ("MCI") to Transfer Control of MCI's California Utility Subsidiaries to Verizon, Which Will Occur Indirectly as a Result of Verizon's Acquisition of MCI.

Public Utilities Commission of the State of Colorado

Docket No. 96A-345T: In the Matter of the Interconnection Contract Negotiations Between AT&T Communications of the Mountain States, Inc., and US West Communications, Inc., Pursuant to 47 U.S.C. Section 252. Docket No. 96A-366T: In the Matter of the Petition of MCIMetro Access Transmission Services, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with US West Communications, Inc. (consolidated).

Docket No. 96S-257T: In Re: The Investigation and Suspension of Tariff Sheets Filed by US West Communications, Inc., with Advice Letter No. 2608 Regarding Proposed Rate Changes.

Docket No. 98F-146T: Colorado Payphone Association, Complainant, v. US West Communications, Inc., Respondent.

Docket No. 02A-276T: In the Matter of the Application of Wiggins Telephone Association for Approval of its Disaggregation Plan

Docket No. 02A-444T: In the Matter of NECC's Application to Redefine the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc., and Sunflower Telephone Co., Inc.

Docket No. 07A-153T: In the Matter of the Combined Application of N.E. Colorado Cellular, Inc. for Designation as an Eligible Telecommunications Carrier and Eligible Provider in Additional Areas of Colorado.

Docket No. 09a-107t: In the Matter of the Application of N.E. Colorado Cellular, Inc. D/B/A Viaero Wireless for Initial Receipt of Support From Colorado High Cost Support Mechanism for New Territories.

State of Connecticut, Department of Utility Control

Docket 91-12-19: DPUC Review of Intrastate Telecommunications Services Open to Competition (Comments).

Docket No. 94-07-02: Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the Eight Criteria Set Forth in Section 6 of Public Act 94-83 (Comments).

Docket No. 03-11-16: Petition of Tel Comm Technologies, et. al., for Review and Amendment of Southern New England Telephone Company's Charges for Pay Telephone Access Services.

Delaware Public Service Commission

Docket No. 93-31T: In the Matter of the Application of The Diamond State Telephone Company for Establishment of Rules and Rates for the Provision of IntelliLinQ-PRI and IntelliLinQ-BRI.

Docket No. 41: In the Matter of the Development of Regulations for the Implementation of the Telecommunications Technology Investment Act.

Docket No. 96-324: In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of its Statement of Terms and Conditions Under Section 252(f) of the Telecommunications Act of 1996 (Phase II).

Docket No. 02-001: In the Matter of the Inquiry into Verizon Delaware Inc.'s Compliance with the Conditions Set Forth in 47 U.S.C. § 271(c).

Florida Public Service Commission

Docket No. 881257-TL: In Re: Proposed Tariff by Southern Bell to Introduce New Features for Digital ESSX Service, and to Provide Structural Changes for both ESSX Service and Digital ESSX Service.

Docket No. 880812-TP: In Re: Investigation into Equal Access Exchange Areas (EAEAs), Toll Monopoly Areas (TMAs), 1+ Restriction to the Local Exchange Companies (LECs), and Elimination of the Access Discount.

Docket No. 890183-TL: In Re: Generic Investigation into the Operations of Alternate Access Vendors.

Docket No. 870347-TI: In Re: Petition of AT&T Communications of the Southern States for Commission Forbearance from Earnings Regulation and Waiver of Rule 25-4.495(1) and 25-24.480 (1) (b), F.A.C., for a trial period.

Docket No. 900708-TL: In Re: Investigation of Methodology to Account for Access Charges in Local Exchange Company (LEC) Toll Pricing.

Docket No. 900633-TL: In Re: Development of Local Exchange Company Cost of Service Study Methodology.

Docket No. 910757-TP: In Re: Investigation into the Regulatory Safeguards Required to Prevent Cross-Subsidization by Telephone Companies.

Docket No. 920260-TL: In Re: Petition of Southern Bell Telephone and Telegraph Company for Rate Stabilization, Implementation Orders, and Other Relief.

Docket No. 950985-TP: In Re: Resolution of Petitions to establish 1995 rates, terms, and conditions for interconnection involving local exchange companies and alternative local exchange companies pursuant to Section 364.162, Florida Statutes.

Docket No. 960846-TP: In Re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for Arbitration of Certain Terms and Conditions of a proposed agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 and Docket No. 960833-TP: In Re: Petition by AT&T Communications of the Southern States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 960847-TP and 960980-TP: In Re: Petition by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation, MCI Metro Access Transmission Service, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 961230-TP: In Re: Petition by MCI Telecommunications Corporation for Arbitration with United Telephone Company of Florida and Central Telephone Company of Florida Concerning Interconnection Rates, Terms, and Conditions, Pursuant to the Federal Telecommunications Act of 1996.

Docket No. 960786-TL: In Re: Consideration of BellSouth Telecommunications, Inc.'s Entry Into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996.

Docket Nos. 960833-TP, 960846-TP, 960757-TP, and 971140-TP: Investigation to develop permanent rates for certain unbundled network elements.

Docket No. 980696-TP: In Re: Determination of the cost of basic local telecommunications service, pursuant to Section 364.025 Florida Statutes.

Docket No. 990750-TP: Petition by ITC^DeltaCom Communications, Inc., d/b/a/ ITC^DeltaCom, for arbitration of certain unresolved issues in interconnection negotiations between ITC^DeltaCom and BellSouth Telecommunications, Inc.

Docket No. 991605-TP: Petition of BellSouth Telecommunications, Inc. for Arbitration of the Interconnection Agreement Between Time Warner Telecom of Florida, L.P., pursuant to Section 252 (b) of the Telecommunications Act of 1996.

Docket No. 030137-TP: In re: Petition for Arbitration of Unresolved Issues in Negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc. by ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom.

Docket No. 030300-TP: In re: Petition for expedited review of BellSouth Telecommunications, Inc.'s intrastate tariffs for pay telephone access services (PTAS) rate with respect to rates for payphone line access, usage, and features, by Florida Public Telecommunications Association.

Docket No. 030851-TP: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 040353-TP: In Re: Petition of Supra Telecommunications and Information Systems, Inc. to Review and Cancel BellSouth's Promotional Offering Tariffs Offered In Conjunction with its New Flat Rate Service Known as PreferredPack.

Docket No. 040604-TL: In Re: Adoption of the National School Lunch Program and an Income-based Criterion at or Below 135% of the Federal Poverty Guidelines as Eligibility Criteria for the Lifeline and Linkup Programs.

Docket No. 050119-TP: Joint Petition of TDS Telecom d/b/a TDS Telecom/Quincy Telephone, ALLTEL Florida, Inc., Northeast Florida Telephone Company d/b/a NEFCOM, GTC, Inc. d/b/a GT Com, Smart City Telecommunications, LLC d/b/a Smart City Telecom, ITS Telecommunications Systems, Inc., and Frontier Communications of the South, LLC ("Joint Petitioners") objecting to and requesting suspension of Proposed Transit Traffic Service Tariff filed by BellSouth Telecommunications, Inc. and Docket No. 050125-TP: Petition and complaint for suspension and cancellation of Transit Tariff Service No. FL 2004-284 filed by BellSouth Telecommunications, Inc. by AT&T Communications of the Southern States, LLC (consolidated).

Docket No. 060598-TL: In Re: Petition by BellSouth Telecommunications, Inc., Pursuant to Florida Statutes §364.051(4) to Recover 2005 Tropical System Related Costs and Expenses.

Docket No. 060644-TL: Petition by Embarq Florida, Inc., Pursuant to Florida Statutes §364.051(4) to Recover 2005 Tropical System Related Costs and Expenses.

Docket No. 060763-TL: In Re: Petition for waiver of carrier of last resort obligations for multitenant property in Collier County known as Treviso Bay, by Embarq Florida, Inc.

Georgia Public Service Commission

Docket No. 3882-U: In Re: Investigation into Incentive Telephone Regulation in Georgia.

Docket No. 3883-U: In Re: Investigation into the Level and Structure of Intrastate Access Charges.

Docket No. 3921-U: In Re: Compliance and Implementation of Senate Bill 524.

Docket No. 3905-U: In Re: Southern Bell Rule Nisi.

Docket No. 3995-U: In Re: IntraLATA Toll Competition.

Docket No. 4018-U: In Re: Review of Open Network Architecture (ONA) (Comments).

Docket No. 5258-U: In Re: Petition of BellSouth Telecommunications for Consideration and Approval of its "Georgians FIRST" (Price Caps) Proposal.

Docket No. 5825-U: In Re: The Creation of a Universal Access Fund as Required by the Telecommunications Competition and Development Act of 1995.

Docket No. 6801-U: In Re: Interconnection Negotiations Between BellSouth Telecommunications, Inc. and AT&T Communications of the Southern States, Inc., Pursuant to Sections 251-252 and 271 of the Telecommunications Act of 1996.

Docket No. 6865-U: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Docket No. 7253-U: In Re: BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions Under Section 252 (f) of the Telecommunications Act of 1996.

Docket No. 7061-U: In Re: Review of Cost Studies and Methodologies for Interconnection and Unbundling of BellSouth Telecommunications Services.

Docket No. 10692-U: In Re: Generic Proceeding to Establish Long-Term Pricing Policies for Unbundled Network Elements.

Docket No. 10854-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 16583-U: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 17749-U: In Re: FCC's Triennial Review Order Regarding the Impairment of Local Switching for Mass Market Customers.

Docket No. 22682-U: In Re: Notice of Merger of AT&T, Inc. and BellSouth Corporation together with its Certificated Georgia Subsidiaries.

Public Utilities Commission of Hawaii

Docket No. 7702: In the Matter of Instituting a Proceeding on Communications, Including an Investigation of the Communications Infrastructure of the State of Hawaii.

Idaho Public Utilities Commission

Case No. GNR-T-03-08: In the Matter of the Petition of IAT Communications, Inc., d/b/a NTCDIdaho, Inc., or ClearTalk, for Designation as an Eligible Telecommunications Carrier, and Case No. GNR-T-03-16: In the Matter of the Application of NCPR, Inc., d/b/a Nextel Partners, seeking designation as an Eligible Telecommunications Carrier.

Illinois Commerce Commission

Docket No. 04-0653: USCOC of Illinois RSA #1, LLC., USCOC of Illinois RSA #4 LLC., USCOC of Illinois Rockford, LLC., and USCOC of Central Illinois, LLC. Petition for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. Section 214(e)(2).

Docket Nos. 05-0644, 05-0649, and 05-0657: Petition of Hamilton County Telephone Co-Op et. al. for Arbitration under the Telecommunications Act to Establish Terms and Conditions for Reciprocal Compensation with Verizon Wireless and its Constituent Companies.

Indiana Utility Regulatory Commission

Cause No. 42303: In the Matter of the Complaint of the Indiana Payphone Association for a Commission Determination of Just and Reasonable Rates and Charges and Compliance with Federal Regulations.

Cause No. 41052-ETC-43: In the Matter of the Designation of Eligible Telecommunications Carriers by the Indiana Utility Regulatory Commission Pursuant to the Telecommunications Act of 1996 and Related FCC Orders. In Particular, the Application of NPCR, Inc. d/b/a Nextel Partners to be Designated.

Cause No. 42530: In the Matter of the Indiana Utility Regulatory Commission's Investigation of Matters Related to Competition in the State of Indiana Pursuant to Ind. Code 8-1-2 *et seq.*

Iowa Utilities Board

Docket No. RPU-95-10.

Docket No. RPU-95-11.

State Corporation Commission of the State of Kansas

Docket No. 00-GIMT-1054-GIT: In the Matter of a General Investigation to Determine Whether Reciprocal Compensation Should Be Paid for Traffic to an Internet Service Provider.

Docket No. 04-RCCT-338-ETC: In the Matter of Petition of RCC Minnesota, Inc. for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Docket No. 07-GIMT-498-GIT: In the Matter of a Review of the Commission's Federal USF Certification Requirements to Remove All Expenses and Investments by Competitive Eligible Telecommunications Carriers in a Southwestern Bell Telephone, L.P., Study Area from the Competitive Eligible Telecommunications Carrier's Justification of Use of High Cost Federal USF Support.

Docket No. 06-GIMT-187-GIT: IN the Matter of the General Investigation into the Commission's Telecommunications Billing Practices Standards.

Kentucky Public Service Commission

Administrative Case No. 10321: In the Matter of the Tariff Filing of South Central Bell Telephone Company to Establish and Offer Pulselink Service.

Administrative Case No. 323: In the Matter of An Inquiry into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

- Phase IA: Determination of whether intraLATA toll competition is in the public interest.
- Phase IB: Determination of a method of implementing intraLATA competition.
- Rehearing on issue of Imputation.

Administrative Case No. 90-256, Phase II: In the Matter of A Review of the Rates and Charges and Incentive Regulation Plan of South Central Bell Telephone Company.

Administrative Case No. 336: In the Matter of an Investigation into the Elimination of Switched Access Service Discounts and Adoption of Time of Day Switch Access Service Rates.

Administrative Case No. 91-250: In the Matter of South Central Bell Telephone Company's Proposed Area Calling Service Tariff.

Administrative Case No. 96-431: In Re: Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-478: In Re: The Petition by AT&T Communications of the South Central States, Inc. for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE South Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996.

Administrative Case No. 96-482: In Re: The Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Administrative Case No. 360: In the Matter of: An Inquiry into Universal Service and Funding Issues.

Administrative Case No. 96-608: In the Matter of: Investigation Concerning the Provision of InterLATA Services by BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Administrative Case No. 382: An Inquiry into the Development of Deaveraged Rates for Unbundled Network Elements.

Case No. 2003-00143: In the Matter of: Petition of NCPR, Inc., d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky.

Case No. 2003-00397: Review of Federal Communications Commission's Triennial Review Order Regarding Unbundling Requirements for Individual Network Elements.

Case Nos. 2006-00215: Petition of Ballard Rural Telephone Cooperative Corporation, Inc. for Arbitration of Certain Terms and Conditions of Proposed Interconnection Agreement with American Cellular f/k/a ACC Kentucky License LLC, Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and consolidated Case Nos. 2006-00217, 2006-00218, 2006-00220, 2006-00252, 2006-00255, 2006-00288, 2006-00292, 2006-00294, 2006-00296, 2006-00298, and 2006-00300.

Case No. 2008-00135: In the Matter of Complaint of Sprint Communications Company L.P. Against Brandenburg Telephone Company for the Unlawful Imposition of Access Charges.

Louisiana Public Service Commission

Docket No. 17970: In Re: Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of AT&T Communications of the South Central States, Inc., in its Louisiana Operations.

Docket No. U-17949: In the Matter of an Investigation of the Revenue Requirements, Rate Structures, Charges, Services, Rate of Return, and Construction Program of South Central Bell Telephone Company, Its Louisiana Intrastate Operations, The Appropriate Level of Access Charges, and All Matters Relevant to the Rates and Service Rendered by the Company.

- Subdocket A (SCB Earnings Phase)
- Subdocket B (Generic Competition Phase)

Docket No. 18913-U: In Re: South Central Bell's Request for Approval of Tariff Revisions to Restructure ESSX and Digital ESSX Service.

Docket No. U-18851: In Re: Petition for Elimination of Disparity in Access Tariff Rates.

Docket No. U-22022: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s TSLRIC and LRIC Cost Studies Submitted Pursuant to Sections 901(C) and 1001(E) of the Regulations for Competition in the Local Telecommunications Market as Adopted by General Order Dated March 15, 1996 in Order to Determine the Cost of Interconnection Services and Unbundled Network Components to Establish Reasonable, Non-Discriminatory, Cost Based Tariffed Rates and Docket No. U-22093: In Re: Review and Consideration of BellSouth Telecommunications, Inc.'s Tariff Filing of April 1, 1996, Filed Pursuant to Section 901 and 1001 of the Regulations for Competition in the Local Telecommunications Market Which Tariff Introduces Interconnection and Unbundled Services and Establishes the Rates, Terms and Conditions for Such Service Offerings (consolidated).

Docket No. U-22145: In the Matter of Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. U-22252: In Re: Consideration and Review of BST's Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, including but not limited to the fourteen requirements set forth in Section 271 (c) (2) (b) in order to verify compliance with section 271 and provide a recommendation to the FCC regarding BST's application to provide interLATA services originating in-region.

Docket No. U-20883 Subdocket A: In Re: Submission of the Louisiana Public Service Commission's Forward Looking Cost Study to the FCC for Purposes of Calculating Federal Universal Service Support.

Docket No. U-24206: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. U-22632: In Re: BellSouth Telecommunications, Inc. Filing of New Cost Studies for Providing Access Line Service for Customer Provided Public Telephones and Smartline Service for Public Telephone Access.

Docket No. Docket No. U-24714-A: In Re: Final Deaveraging of BellSouth Telecommunications, Inc. UNE Rates Pursuant to FCC 96-45 Ninth Report and Order and Order on Eighteenth Order on Reconsideration Released November 2, 1999.

Docket No. U-27571: In Re: Louisiana Public Service Commission Implementation of the Requirements Arising from The Federal Communications Commission's Triennial Review Order, Order 03-36: Unbundled Local Circuit Switching for Mass Market Customers and Establishment of a Batch Cut Migration Process.

Public Service Commission of Maryland

Case 8584, Phase II: In the Matter of the Application of MFS Intelenet of Maryland, Inc. for Authority to Provide and Resell Local Exchange and Intrastate Telecommunications Services in Areas Served by C&P Telephone Company of Maryland.

Case 8715: In the Matter of the Inquiry into Alternative Forms of Regulating Telephone Companies.

Case 8731: In the Matter of the Petitions for Approval of Agreements and Arbitration of Unresolved Issues Arising Under Section 252 of the Telecommunications Act of 1996.

Massachusetts Department of Telecommunications and Energy

D.P.U./D.T.E. 97088/97-18 (Phase II): Investigation by the Department of Telecommunications & Energy on its own motion regarding (1) implementation of section 276 of the Telecommunications Act of 1996 relative to public interest payphones, (2) Entry and Exit Barriers for the Payphone Marketplace, (3) New England Telephone and Telegraph Company d/b/a NYNEX's Public Access Smart-Pay Service, and (4) the rate policy for operator service providers.

Michigan Public Service Commission

Case No. U-14781: In the matter on the Commission's Own Motion to examine the total service long run incremental costs of the Michigan Exchange Carriers Association Companies, including Ace Telephone Company, Barry County Telephone Company, Deerfield Farmers' Telephone Company, Kaleva Telephone Company, Lennon telephone Company, Ogden telephone Company, Pigeon Telephone Company, Upper Peninsula Telephone Company, and Waldron Telephone Company.

Minnesota Public Utilities Commission

PUC Docket No. PT6153/AM-02-686, OAH Docket No. 3-2500-14980-2: In the Matter of Petition of Midwest Wireless Communications, LLC for Designation as an Eligible Communications carrier under 47 U.S.C. § 214(e)(2).

PUC Docket No. PT-6182, 6181/M-02-1503: In the Matter of RCC Minnesota, Inc. and Wireless Alliance, LLC for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Mississippi Public Service Commission

Docket No. U-5086: In Re: MCI Telecommunications Corporation's Metered Use Service Option D (Prism I) and Option E (Prism II).

Docket No. U-5112: In Re: MCI Telecommunications Corporation's Metered Use Option H (800 Service).

Docket No. U-5318: In Re: Petition of MCI for Approval of MCI's Provision of Service to a Specific Commercial Banking Customers for Intrastate Interexchange Telecommunications Service.

Docket 89-UN-5453: In Re: Notice and Application of South Central Bell Telephone Company for Adoption and Implementation of a Rate Stabilization Plan for its Mississippi Operations.

Docket No. 90-UA-0280: In Re: Order of the Mississippi Public Service Commission Initiating Hearings Concerning (1) IntraLATA Competition in the Telecommunications Industry and (2) Payment of Compensation by Interexchange Carriers and Resellers to Local Exchange Companies in Addition to Access Charges.

Docket No. 92-UA-0227: In Re: Order Implementing IntraLATA Competition.

Docket No. 96-AD-0559: In Re: In the Matter of the Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 98-AD-035: Universal Service.

Docket No. 97-AD-544: In Re: Generic Proceeding to Establish Permanent Prices for BellSouth Interconnection and Unbundled Network Elements.

Docket No. 2003-AD-714: Generic Proceeding to Review the Federal Communications Commission's Triennial Review Order.

Public Service Commission of the State of Missouri

Case No. TO-2004-0527: In the Matter of the Application of WWC License, LLC, d/b/a CellularOne, for Designation as an Eligible Telecommunications Carrier, and Petition for Redefinition of Rural Telephone Company Areas.

Case No. to-2005-0384: Application of USCOC of Greater Missouri, LLC For Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Public Service Commission of the State of Montana

Docket No. D2000.8.124: In the Matter of Touch America, Inc.'s Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 of the Terms and Conditions of Interconnection with Qwest Corporation, f/k/a US West Communications, Inc.

Docket No. D2000.6.89: In the Matter of Qwest Corporation's Application to Establish Rates for Interconnection, Unbundled Network Elements, Transport and Termination, and Resale Services.

Docket No. D2003.1.14: In the Matter of WWC Holding Co. Application for Designation as an Eligible Telecommunications Carrier in Montana Areas Served by Qwest Corporation.

Docket No. D2007.7.86: In the Matter of the Filing of a Notice of the Making of a Bona Fide Request for Interconnection with Ronan Telephone Company by Gold Creek Cellular of Montana Limited Partnership and Verizon Wireless LLC Both d/b/a Verizon Wireless Pursuant to 47 U.S.C. §§251 and 252 and §69-3-834, MCA; and Docket No. D.2007.7.87: In the Matter of the Filing of a Notice of the Making of a Bona Fide Request for Interconnection with Hot Springs Telephone Company by Gold Creek Cellular of Montana Limited Partnership and Verizon Wireless LLC Both d/b/a Verizon Wireless Pursuant to 47 U.S.C. §§251 and 252 and §69-3-834, MCA (consolidated).

Nebraska Public Service Commission

Docket No. C-1385: In the Matter of a Petition for Arbitration of an Interconnection Agreement Between AT&T Communications of the Midwest, Inc., and US West Communications, Inc.

Application No. C-3324: In the Matter of the Petition of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless for designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2).

Docket No. 3725: In the Matter of Application of United States Cellular Corporation for Designation as an Eligible Telecommunications Carrier Pursuant To Section 214(e)(2) of the Communications Act of 1934.

Public Utilities Commission of Nevada

Docket No. 04-3030: In re: Application of WWD License LLC, d/b/a CellularOne, for redefinition of its service area as a designated Eligible Telecommunications Carrier.

Docket No. 08-12017: In the Matter of Commnet of Nevada, LLC, Application for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal Universal Service Support.

New Jersey Board of Public Utilities

Docket No. TM0530189: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for Approval of Merger.

New York Public Service Commission

Case No. 28425: Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgement and the Federal Communications Commission's Docket 78-72 on the Provision of Toll Service in New York State.

North Carolina Public Utilities Commission

Docket No. P-100, Sub 72: In the Matter of the Petition of AT&T to Amend Commission Rules Governing Regulation of Interexchange Carriers (Comments).

Docket No. P-141, Sub 19: In the Matter of the Application of MCI Telecommunications Corporation to Provide InterLATA Facilities-Based Telecommunications Services (Comments).

Docket No. P-55, Sub 1013: In the Matter of Application of BellSouth Telecommunications, Inc. for, and Election of, Price Regulation.

Docket Nos. P-7, Sub 825 and P-10, Sub 479: In the Matter of Petition of Carolina Telephone and Telegraph and Central Telephone Company for Approval of a Price Regulation Plan Pursuant to G.S. 62-133.5.

Docket No. P-19, Sub 277: In the Matter of Application of GTE South Incorporated for and Election of, Price Regulation.

Docket No. P-141, Sub 29: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with BellSouth Telecommunications, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with BellSouth Telecommunications, Inc. (consolidated).

Docket No. P-141, Sub 30: In the Matter of: Petition of MCI Telecommunications Corporation for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc., Petition of AT&T Communications of the Southern States, Inc. for Arbitration of Interconnection with General Telephone Company of North Carolina, Inc. (consolidated).

Docket No. P-100, Sub 133b: Re: In the Matter of Establishment of Universal Support Mechanisms Pursuant to Section 254 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133d: Re: Proceeding to Determine Permanent Pricing for Unbundled Network Elements.

Docket No. P-100, Sub 84b: Re: In the Matter of Petition of North Carolina Payphone Association for Review of Local Exchange Company Tariffs for Basic Payphone Services (Comments).

Docket No. P-561, Sub 10: BellSouth Telecommunications, Inc., Complainant, v. US LEC of North Carolina, LLC, and Metacomm, LLC, Respondents.

Docket No. P-472, Sub 15: In the Matter of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Time Warner Telecom of North Carolina, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996.

Docket Nos. P-7, Sub 995; P-10, Sub 633: ALEC., Inc. v. Carolina Telephone and Telegraph Company and Central Telephone Company.

Docket No. P-500, Sub 18: In the Matter of: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. P-118, Sub 30: In the matter of: Petition of Celco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996.

Docket No. P-100, Sub 133q: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Public Utilities Commission of Ohio

Case No. 93-487-TP-ALT: In the Matter of the Application of The Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation.

Case No. 05-0269-TP-ACO: In the matter of the Joint Application of SBC Communications, Inc. and AT&T Corp. for Consent and Approval of a Change of Control.

Oklahoma Corporation Commission

Cause No. PUD 01448: In the Matter of the Application for an Order Limiting Collocation for Special Access to Virtual or Physical Collocation at the Option of the Local Exchange Carrier.

Cause No. PUD 200300195: Application of United States Cellular Corporation for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200300239: Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.

Cause No. PUD 200500122: In the matter of Dobson Cellular Systems, Inc., and American Cellular Corporation application for designation as a competitive eligible telecommunications carrier and redefinition of the service area requirement pursuant to Section 214(e) of the Telecommunications Act of 1996.

Public Utility Commission of Oregon

Docket No. UT 119: In the Matter of an Investigation into Tariffs Filed by US West Communications, Inc., United Telephone of the Northwest, Pacific Telecom, Inc., and GTE Northwest, Inc. in Accordance with ORS 759.185(4).

Docket No. ARB 3: In the Matter of the Petition of AT&T Communications of the Pacific Northwest, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996. Docket No. ARB 6: In the Matter of the Petition of MCI Metro Access Transmission Services, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 (consolidated).

Docket No. ARB 9: In the Matter of the Petition of an Interconnection Agreement Between MCI Metro Access Transportation Services, Inc. and GTE Northwest Incorporated, Pursuant to 47 U.S.C. Section 252.

Docket No. UT-125: In the Matter of the Application of US West Communications, Inc. for an Increase in Revenues.

Docket No. UM 1083: RCC Minnesota, Inc. Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Docket No. UM 1084: United States Cellular Corporation Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996.

Docket No. UM 1217: Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support.

Pennsylvania Public Utilities Commission

Docket No. I-00910010: In Re: Generic Investigation into the Current Provision of InterLATA Toll Service.

Docket No. P-00930715: In Re: The Bell Telephone Company of Pennsylvania's Petition and Plan for Alternative Form of Regulation under Chapter 30.

Docket No. R-00943008: In Re: Pennsylvania Public Utility Commission v. Bell Atlantic-Pennsylvania, Inc. (Investigation of Proposed Promotional Offerings Tariff).

Docket No. M-00940587: In Re: Investigation pursuant to Section 3005 of the Public Utility Code, 66 Pa. C. S. § 3005, and the Commission's Opinion and Order at Docket No. P-930715, to establish standards and safeguards for competitive services, with particular emphasis in the areas of cost allocations, cost studies, unbundling, and imputation, and to consider generic issues for future rulemaking.

Docket No. A-310489F7004: Petition of Cellco Partnership d/b/a Verizon Wireless for Arbitration Pursuant to Section 252 of the telecommunications Act of 1996.

Docket Nos. A-310580F9, A-310401F6, A-310407F3, A-312025F5, A-310752F6, A-310364F3: Joint Application of Verizon Communications Inc. and MCI, Inc. For Approval of Agreement and Plan of Merger.

South Carolina Public Service Commission

Docket No. 90-626-C: In Re: Generic Proceeding to Consider Intrastate Incentive Regulation.

Docket No. 90-321-C: In Re: Petition of Southern Bell Telephone and Telegraph Company for Revisions to its Access Service Tariff Nos. E2 and E16.

Docket No. 88-472-C: In Re: Petition of AT&T of the Southern States, Inc., Requesting the Commission to Initiate an Investigation Concerning the Level and Structure of Intrastate Carrier Common Line (CCL) Access Charges.

Docket No. 92-163-C: In Re: Position of Certain Participating South Carolina Local Exchange Companies for Approval of an Expanded Area Calling (EAC) Plan.

Docket No. 92-182-C: In Re: Application of MCI Telecommunications Corporation, AT&T Communications of the Southern States, Inc., and Sprint Communications Company, L.P., to Provide IntraLATA Telecommunications Services.

Docket No. 95-720-C: In Re: Application of BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company for Approval of an Alternative Regulation Plan.

Docket No. 96-358-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. § 252.

Docket No. 96-375-C: In Re: Interconnection Agreement Negotiations Between AT&T Communications of the Southern States, Inc. and GTE South Incorporated Pursuant to 47 U.S.C. § 252.

Docket No. 97-101-C: In Re: Entry of BellSouth Telecommunications, Inc. into the InterLATA Toll Market.

Docket No. 97-374-C: In Re: Proceeding to Review BellSouth Telecommunications, Inc. Cost for Unbundled Network Elements.

Docket No. 97-239-C: Intrastate Universal Service Fund.

Docket No. 97-124-C: BellSouth Telecommunications, Inc. Revisions to its General Subscriber Services Tariff and Access Service Tariff to Comply with the FCC's Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.

Docket No. 1999-268-C: Petition of Myrtle Beach Telephone, LLC, for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Horry Telephone Cooperative, Inc.

Docket No. 1999-259-C: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996.

Docket No. 2001-65-C: Generic Proceeding to Establish Prices for BellSouth's Interconnection Services, Unbundled Network Elements and Other Related Elements and Services.

Docket No. 2003-326-C: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 2003-227-C: Application of Hargray Wireless, LLC for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. 214(e)(2).

South Dakota Public Utilities Commission

Docket No. TC03-191: In the Matter of the Filing by WWC License, LLC d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Other Rural Areas.

Docket No. TC03-193: In the Matter of the Petition of RCC Minnesota, Inc., and Wireless Alliance, L.L.C., for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. §214(e)(2).

Tennessee Public Service Commission

Docket No. 90-05953: In Re: Earnings Investigation of South Central Bell Telephone Company.

Docket Nos. 89-11065, 89-11735, 89-12677: AT&T Communications of the South Central States, MCI Telecommunications Corporation, US Sprint Communications Company -- Application for Limited IntraLATA Telecommunications Certificate of Public Convenience and Necessity.

Docket No. 91-07501: South Central Bell Telephone Company's Application to Reflect Changes in its Switched Access Service Tariff to Limit Use of the 700 Access Code.

Tennessee Regulatory Authority

Docket No. 96-01152: In Re: Petition by AT&T Communications of the South Central States, Inc. for Arbitration under the Telecommunications Act of 1996 and Docket No. 96-01271: In Re: Petition by MCI Telecommunications Corporation for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996 (consolidated).

Docket No. 96-01262: In Re: Interconnection Agreement Negotiations Between AT&T of the South Central States, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. § 252.

Docket No. 97-01262: Proceeding to Establish Permanent Prices for Interconnection and Unbundled Network Elements.

Docket No. 97-00888: Universal Service Generic Contested Case.

Docket No. 99-00430: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996.

Docket No. 97-00409: In Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Commission Docket No. 96-128.

Docket No. 03-00119: In Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc.

Docket No. 03-00491: In Re: Implementation of Requirements Arising from Federal Communications Commission Triennial UNE Review: Local Circuit Switching for Mass Market Customers.

Docket No. 06-00093: In Re: Joint Filing of AT&T, Inc., BellSouth Corporation, and BellSouth's Certified Tennessee Subsidiaries Regarding Change of Control.

Public Utility Commission of Texas

Docket No. 12879: Application of Southwestern Bell Telephone Company for Expanded Interconnection for Special Access Services and Switched Transport Services and Unbundling of Special Access DS1 and DS3 Services Pursuant to P. U. C. Subst. R. 23.26.

Docket No. 18082: Complaint of Time Warner Communications against Southwestern Bell Telephone Company.

Docket No. 21982: Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996.

Docket No. 23396: Joint Petition of CoServ, LLC d/b/a CoServ Communications and Multitechnology Services, LP d/b/a CoServ Broadband Services for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with Southwestern Bell Telephone Company.

Docket No. 24015: Consolidated Complaints and Requests of Post-Interconnection Dispute Resolution Regarding Inter-Carrier Compensation for FX-Type Traffic Against Southwestern Bell Telephone Company.

PUC Docket No. 27709: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

PUC Docket No. 28744: Impairment Analysis for Dedicated Transport.

PUC Docket No. 28745: Impairment Analysis for Enterprise Loops.

PUC Docket No. 29144: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

State of Vermont Public Service Board

Docket No. 6533: Application of Verizon New England Inc. d/b/a Verizon Vermont for a Favorable Recommendation to Offer InterLATA Services Under 47 U.S.C. 271.

Docket No. 6882: Investigation into Public Access Line Rates of Verizon New England, Inc., d/b/a Verizon Vermont.

Docket No. 6934: Petition of RCC Atlantic Inc. for designation as an Eligible Telecommunications Carrier in areas served by rural telephone companies under the Telecommunications Act of 1996.

Virginia State Corporation Commission

Case No. PUC920043: Application of Virginia Metrotel, Inc. for a Certificate of Public Convenience and Necessity to Provide InterLATA Interexchange Telecommunications Services.

Case No. PUC920029: Ex Parte: In the Matter of Evaluating the Experimental Plan for Alternative Regulation of Virginia Telephone Companies.

Case No. PUC930035: Application of Contel of Virginia, Inc. d/b/a GTE Virginia to implement community calling plans in various GTE Virginia exchanges within the Richmond and Lynchburg LATAs.

Case No. PUC930036: Ex Parte: In the Matter of Investigating Telephone Regulatory Methods Pursuant to Virginia Code § 56-235.5, & Etc.

Case No. PUC-200540051: Application of Verizon Communications Inc. and MCI, Inc. for approval of Agreement and Plan of Merger resulting in the indirect transfer of control of MCImetro Access Transmission Services of Virginia, Inc., to Verizon Communications Inc.

Washington Utilities and Transportation Commission

Docket Nos. UT-941464, UT-941465, UT-950146, and UT-950265 (Consolidated): Washington Utilities and Transportation Commission, Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle and Digital Direct of Seattle, Inc., Complainant, vs. US West Communications, Inc., Respondent; TCG Seattle, Complainant, vs. GTE Northwest Inc., Respondent; Electric Lightwave, Inc., vs. GTE Northwest, Inc., Respondent.

Docket No. UT-950200: In the Matter of the Request of US West Communications, Inc. for an Increase in its Rates and Charges.

Docket No. UT-000883: In the Matter of the Petition of U S West Communications, Inc. for Competitive Classification.

Docket No. UT-050814: In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for a Declaratory Order Disclaiming Jurisdiction Over or, in the Alternative a Joint Application for Approval of, Agreement and Plan of Merger.

Public Service Commission of West Virginia

Case No. 02-1453-T-PC: Highland Cellular, Inc. Petition for consent and approval to be designated as an eligible telecommunications carrier in the areas served by Citizens Telecommunications Company of West Virginia.

Case No. 03-0935-T-PC: Easterbrooke Cellular Corporation Petition for consent and approval to be designated as an eligible telecommunications carrier in the area served by Citizens Telecommunications Company of West Virginia d/b/a Frontier Communications of West Virginia.

Public Service Commission of Wyoming

Docket No. 70000-TR-95-238: In the Matter of the General Rate/Price Case Application of US West Communications, Inc. (Phase I).

Docket No. PSC-96-32: In the Matter of Proposed Rule Regarding Total Service Long Run Incremental Cost (TSLRIC) Studies.

Docket No. 70000-TR-98-420: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase III).

Docket No. 70000-TR-99-480: In the Matter of the Application of US West Communications, Inc. for authority to implement price ceilings in conjunction with its proposed Wyoming Price Regulation Plan for essential and noncompetitive telecommunications services (Phase IV).

Docket No. 70000-TR-00-556: In the Matter of the Filing by US West Communications, Inc. for Authority to File its TSLRIC 2000 Annual Input Filing and Docket No. 70000-TR-00-570: In the Matter of the Application of US West Communications, Inc. for Authority to File its 2000 Annual TSLRIC Study Filing.

Docket No. 70042-AT-04-4: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Areas Served by Qwest Corporation, and Docket No. 70042-AT-04-5: In the Matter of the Petition of WWC Holding Co., Inc., d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Clark, Basin, Frannie, Greybull, Lovell, Meeteetse, Burlington, Hyattville, and Tensleep (consolidated).

Public Service Commission of the District of Columbia

Formal Case No. 814, Phase IV: In the Matter of the Investigation into the Impact of the AT&T Divestiture and Decisions of the Federal Communications Commission on Bell Atlantic - Washington, D. C. Inc.'s Jurisdictional Rates.

Puerto Rico Telecommunications Regulatory Board

Case No. 98-Q-0001: In Re: Payphone Tariffs.

Case No. JRT-2001-AR-0002: In the Matter of Interconnection Rates, Terms and Conditions between WorldNet Telecommunications, Inc. and Puerto Rico Telephone Company.

Case No. JRT-2003-AR-0001: Re: Petition for Arbitration pursuant to Section 252(b) of the Federal Communications Act, and Section 5(b), Chapter II of the Puerto Rico Telecommunications Act, regarding interconnection rates, terms, and conditions.

Case No. JRT-2004-Q-0068: Telefónica Larga Distancia de Puerto Rico, Inc., Complainant, v. Puerto Rico Telephone Company, Defendant.

Case Nos. JRT-2005-Q-0121 and JRT-2005-Q-0218: Telefónica Larga Distancia de Puerto Rico, Inc., and WorldNet Telecommunications, Inc., Plaintiffs, v. Puerto Rico Telephone Company, Inc., Defendant.

COMMENTS/DECLARATIONS - FEDERAL COMMUNICATIONS COMMISSION

CC Docket No. 92-91: In the Matter of Open Network Architecture Tariffs of Bell Operating Companies.

CC Docket No. 93-162: Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access.

CC Docket No. 91-141: Common Carrier Bureau Inquiry into Local Exchange Company Term and Volume Discount Plans for Special Access.

CC Docket No. 94-97: Review of Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 94-128: Open Network Architecture Tariffs of US West Communications, Inc.

CC Docket No. 94-97, Phase II: Investigation of Cost Issues, Virtual Expanded Interconnection Service Tariffs.

CC Docket No. 96-98: In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996.

CC Docket No. 97-231: Application by BellSouth to Provide In-Region InterLATA Services.

CC Docket No. 98-121: Application by BellSouth to Provide In-Region InterLATA Services.

CCB/CPD No. 99-27: In the Matter of Petition of North Carolina Payphone Association for Expedited Review of, and/or Declaratory Ruling Concerning, Local Exchange Company Tariffs for Basic Payphone Services.

CC Docket No. 96-128: In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CCB/CPD No. 99-31: Oklahoma Independent Telephone Companies Petition for Declaratory Ruling (consolidated).

CCB/CPD No. 00-1: In the Matter of the Wisconsin Public Service Commission Order Directing Filings.

CC Docket No. 99-68: In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic.

File No. EB-01-MD-020: In the Matter of Sprint Communications Company, L.P., Complainant v. Time Warner Telecom, Inc. Defendant.

Request by the American Public Communications Council that the Commission Issue a Notice of Proposed Rulemaking to Update the Dial-Around Compensation Rate.

File Nos. EB-02-MD-018-030: In the Matter of Communications Vending Corp. of Arizona, et. al., Complainants, v. Citizens Communications Co. f/k/a Citizens Utilities Co. and Citizens Telecommunications Co., et. al., Defendants.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Cellular South License, Inc., RCC Holdings, Inc., Petitions for designation as an Eligible Telecommunications Carrier in the State of Alabama.

CC Docket No. 96-45: In the Matter of Federal-State Joint Board on Universal Service, Declaration in Support of the Comments to the Federal-State Joint Board of the Rural Cellular Association and the Alliance of Rural CMRS Carriers.

REPRESENTATIVE TESTIMONY – STATE, FEDERAL, AND OVERSEAS COURTS

Court of Common Pleas, Philadelphia County, Pennsylvania

Shared Communications Services of 1800-80 JFK Boulevard, Inc., Plaintiff, v. Bell Atlantic Properties, Inc., Defendant.

Texas State Office of Administrative Hearings

SOAH Docket No. 473-00-0731: Office of Customer Protection (OCP) Investigation of Axces, Inc. for Continuing Violations of PUC Substantive Rule §26.130, Selection of Telecommunications Utilities, Pursuant to Procedural Rules 22.246 Administrative Penalties.

SOAH Docket No. 473-03-3673: Application of NPCR, Inc., dba Nextel Partners for Eligible Telecommunications Carrier Designation (ETC).

SOAH Docket No. 473-04-4450: Application of Dobson Cellular Systems, Inc., for Designation as an Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 241 (e) and P.U. C. Subst. Rule 26.418.

Superior Court for the State of Alaska, First Judicial District

Richard R. Watson, David K. Brown and Ketchikan Internet Services, a partnership of Richard R. Watson and David K. Brown, Plaintiffs, v. Karl Amylon and the City of Ketchikan, Defendants.

Superior Court for the State of Alaska, Third Judicial District

Dobson Cellular Systems, Inc., Plaintiff, v. Frontline Hospital, LLC, Defendant.

United States District Court for the District of South Carolina, Columbia Division

Brian Wesley Jeffcoat, on behalf of himself and others similarly situated, Plaintiffs, v. Time Warner Entertainment - Advance/Newhouse Partnership, Defendant.

United States District Court for the Northern District of Texas, Fort Worth Division

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Southwestern Bell Telephone Company, Defendant.

Multitechnology Services, L. P. d/b/a CoServ Broadband Services, Plaintiffs, v. Verizon Southwest f/k/a GTE Southwest Incorporated, Defendant.

United States District Court for the District of Oregon

Time Warner Telecom of Oregon, LLC, and Qwest Communications Corporation, Plaintiffs, v. The City of Portland, Defendant.

High Court of the Hong Kong Special Administrative Region, Court of First Instance

Commercial List No. 229 of 1999: Cable and Wireless HKT International Limited, Plaintiff v. New World Telephone Limited, Defendant.

REPRESENTATIVE TESTIMONY – PRIVATE COMMERCIAL ARBITRATION TRIBUNALS

American Arbitration Association

Southwestern Bell Telephone Company, Claimant vs. Time Warner Telecom, Respondent.

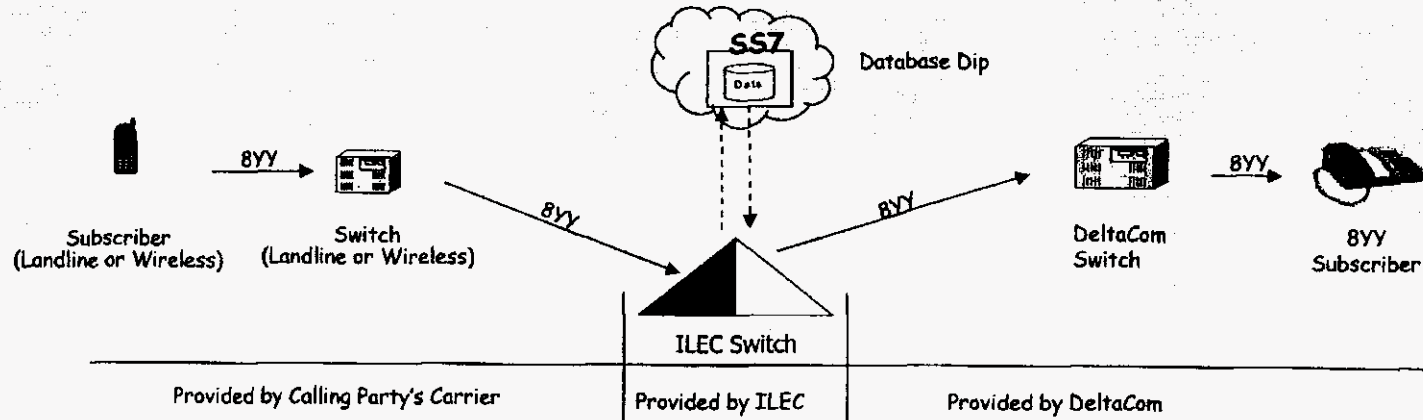
New Access Communications LLC, Choicetel LLC and Emergent Communications LLC, Claimants vs. Qwest Corporation, Respondent (Case No. 77 Y 1818 0031603).

CPR Institute for Dispute Resolution

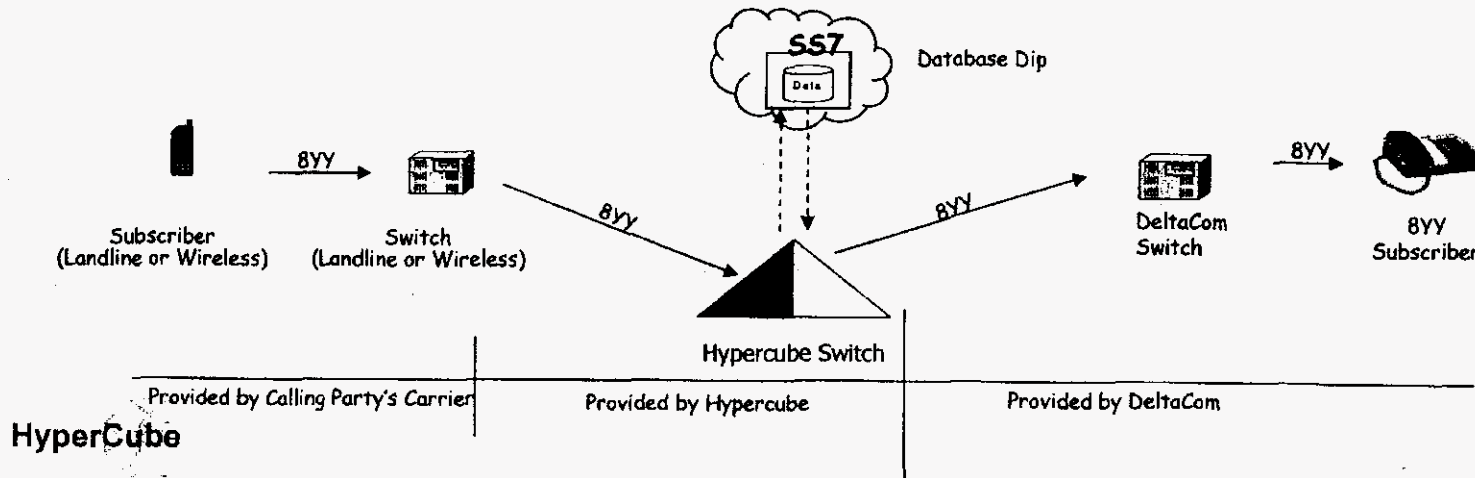
Supra Telecommunications and Information Systems, Inc., Claimant vs. BellSouth Telecommunications, Inc., Respondent.

Toll-Free Call Flow – Slide 1

Direct Interconnection Between DeltaCom and ILEC

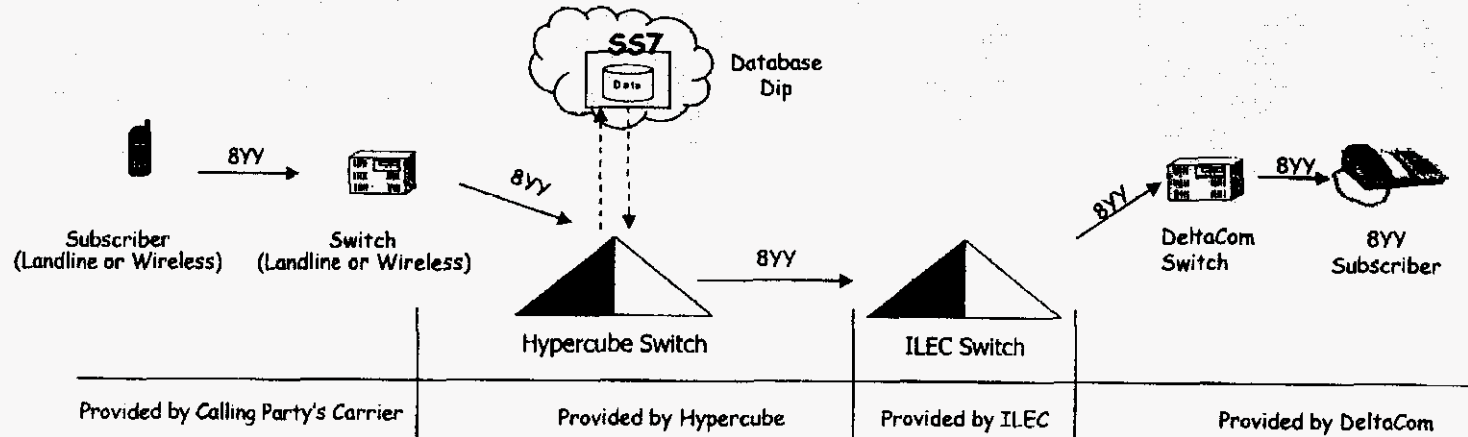


Direct Interconnection Between DeltaCom and Hypercube

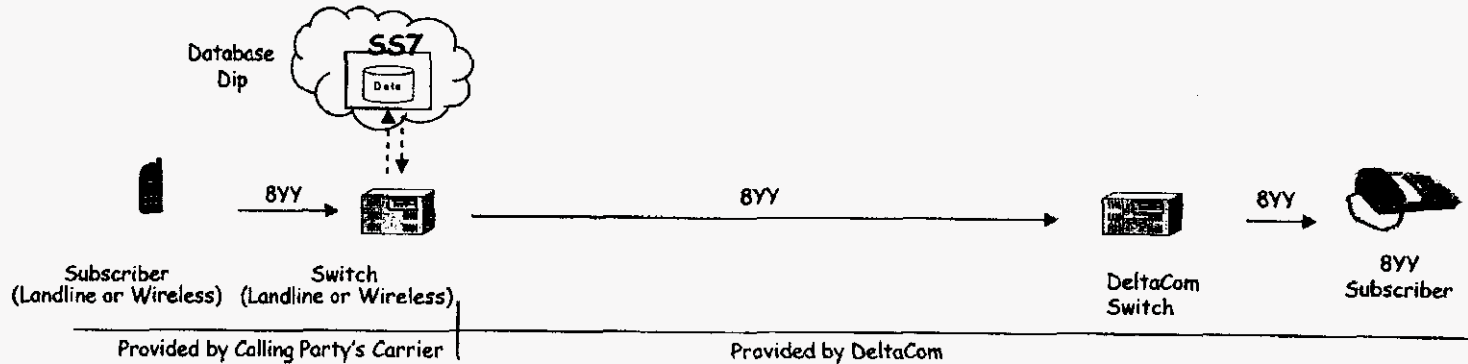


Toll-Free Call Flow – Slide 2

Indirect Interconnection Between DeltaCom and Hypercube



Direct Interconnection Between DeltaCom and Calling Party's Carrier



HyperCube

HYPERCUBE TELECOM, LLC

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ACCESS SERVICES

REGULATION AND SCHEDULE OF INTRASTATE CHARGES
GOVERNING THE PROVISION OF SWITCHED ACCESS SERVICES
FOR CONNECTION TO COMMUNICATIONS FACILITIES WITHIN
THE STATE OF FLORIDA

This tariff contains the descriptions, regulations and rates applicable to the furnishing of competitive access service and facilities for telecommunications services provided by KMC Data, LLC within the State of Florida. This tariff is on file with the Florida Public Service Commission. Copies may be inspected during normal business hours at the Company's principal place of business at 5300 Oakbrook Parkway, Bldg 300, Suite 330, Norcross, GA 30093.

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DOCUMENT ON FILE WITH THE
FLORIDA PUBLIC SERVICE COMMISSION

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ACCESS SERVICES

CHECK SHEET

Sheets of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

SHEET	REVISION	SHEET	REVISION	SHEET	REVISION
1	1 st Revised	26	1 st Revised	D	D
2	1 st Revised	27	1 st Revised	D	D
3	1 st Revised	28	1 st Revised	D	D
4	1 st Revised	29	1 st Revised		
5	1 st Revised	30	1 st Revised		
6	1 st Revised	31	1 st Revised		
7	1 st Revised	32	1 st Revised		
8	1 st Revised	33	1 st Revised		
9	1 st Revised	34	1 st Revised		
10	1 st Revised	35	1 st Revised		
11	1 st Revised	36	1 st Revised		
12	1 st Revised	37	1 st Revised		
13	1 st Revised	38	1 st Revised		
14	1 st Revised	39	1 st Revised		
15	1 st Revised	40	1 st Revised		
16	1 st Revised	40.1	Original		
17	1 st Revised	41	1 st Revised		
18	1 st Revised	42	1 st Revised		
19	1 st Revised	43	1 st Revised		
20	1 st Revised	44	1 st Revised		
21	1 st Revised	45	1 st Revised		
22	1 st Revised	46	1 st Revised		
23	1 st Revised	47	1 st Revised		
24	1 st Revised	48	1 st Revised		
25	1 st Revised	D	D		

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ACCESS SERVICES

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ACCESS SERVICES

SYMBOLS

The following are the only symbols used for the purposes indicated below:

- | | | |
|----------|---|---|
| D | Delete or discontinue. | |
| I | Change resulting in an increase to a Customer's bill. | T |
| M | Moved from another tariff location. | |
| N | New. | |
| R | Change resulting in a reduction to a Customer's bill. | T |
| T | Change in text or regulation but no change in rate or charge. | |

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ACCESS SERVICES

TARIFF FORMAT

A. Sheet Numbering - Sheet numbers appear in the upper right corner of the sheet. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.

B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each sheet. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in its tariff approval process, the most current sheet number on file with the Commission is not always the sheet in effect. Consult the Check Sheet for the sheet currently in effect.

C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to the 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).

D. Check Sheets - When a tariff filing is made with the FCC, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the sheets contained in the tariff, with a cross-reference to the current revision number. When new sheets are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc. remain the same, just revised revision levels on some sheets.) The tariff user should refer to the latest Check Sheet to find out if a particular sheet is the most current on file with the FCC.

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ACCESS SERVICES

SECTION 1 - DEFINITIONS

Certain terms used generally throughout this tariff for the Access Services of this Company are defined below.

Access Code: A uniform seven digit code assigned by a Common Carrier to an individual customer. The seven digit code has the form 950-XXXX or 101XXXX.

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Access Service: Switched Access to the network of an Interexchange Carrier for the purpose of originating or terminating communications.

Access Service Request (ASR): The industry service order format used by Access Service Customers and access providers as agreed to by the Ordering and Billing Forum.

Access Tandem: A switching system that provides traffic concentration and distribution function for originating or terminating traffic as an intermediate carrier between other switching facilities that originate or terminate calls to or from an End User.

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Authorized User: A person, firm, corporation or other entity that either is authorized by the Customer to use Access Services or is placed in a position by the Customer, either through acts or omissions, to use Access Services.

Carrier or Common Carrier: See Interexchange Carrier or Exchange Carrier.

CMRS: Commercial Mobile Radio Service

T

Co-Carrier: Any other Telecommunications provider authorized by the Commission to provide local exchange service in the state.

Commission: The Florida Public Service Commission

Common Channel Signaling (CCS): A high-speed packet switched communications network which is separate (out of band) from the public packet switched and message networks. It is used to carry addressed signaling messages for individual trunk circuits and/or database related services between signaling points in the CCS network.

Company: KMC Data, LLC, issuer of this tariff.

Constructive Order: Delivery of calls to or acceptance of calls from the Company's locations constitutes a Constructive Order by the Customer to purchase switched access services as described herein. Similarly the selection by a Company's End User of the Customer as the presubscribed IXC constitutes a Constructive Order of switched access by the Customer.

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Customer: The person, firm, corporation or other entity which orders Service or receives service including through a Constructive Order and is responsible for the payment of charges and for compliance with the Company's tariff regulations. The Customer could be an interexchange carrier, a local exchange carrier, a wireless provider, or any other Carrier that operates in the state.

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8XX Data Base Access Service: The term "8XX Data Base Access Service" denotes a toll-free originating Trunkside Access Service when the 8XX Service Access Code (i.e., 800, 822, 833, 844, 855, 866, 877, or 888 as available) is used.

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ACCESS SERVICES

SECTION 1 - DEFINITIONS (Cont.)

End User: Any individual, association, corporation, governmental agency or any other entity other than an Interexchange Carrier which subscribes to local exchange services, interexchange services, CMRS, VOIP services, or other telecommunications service provided by an Exchange Carrier, Common Carrier, Wireless Provider, VOIP Provider or other provider of services that transit the Company's facilities. T

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Entrance Facility: A trunk facility connecting the Customer's point of presence with the local switching center.

Exchange Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in the provision of local exchange telephone service, CMRS, wireless services or VOIP services. T

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Firm Order Confirmation (FOC): Acknowledgment by the Company of receipt of an Access Service Request from the Customer and commitment by the Company of a Service Date.

Individual Case Basis: A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer's situation.

Inter-MTA Traffic: Wireless traffic originating on the network of a CMRS provider within one MTA and terminating to End Users in another MTA. T

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Intra-MTA Traffic: Wireless traffic originating on the network of a CMRS provider within a MTA and terminating to End Users in the same MTA. T

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Interexchange Carrier (IXC) or Interexchange Common Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in state or foreign communication for hire by wire or radio, between two or more exchanges.

LATA: A local access and transport area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192 for the provision and administration of communications services.

Line Information Data Base (LIDB): The data base which contains base information such as telephone numbers, calling card numbers and associated billed number restriction data used in connection with the validation and billing of calls.

Local Access: The connection between a Customer's premises and a point of presence of the Exchange Carrier.

Local Switching Center: The switching center where telephone exchange service Customer station Channels are terminated for purposes of interconnection to each other and to interoffice Trunks.

Local Traffic: Traffic, other than 8XX calls, is "Local Traffic" under this tariff if: (i) the call originates and terminates in the same exchange area; or (ii) the call originates and terminates within different KMC Data, LLC Exchanges that share a common mandatory local calling area, e.g., a mandatory Extended Local Calling Service (ELCS) or Extended Area Service areas (EAS) or other like types of mandatory local calling scopes. T

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Meet Point: A point of interconnection that is not an end office or tandem.

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ACCESS SERVICES

SECTION 1 - DEFINITIONS (Cont.)

Meet Point Billing: The arrangement through which multiple Exchange Carriers involved in providing Access Services, divide the ordering, rating, and billing of such services on a proportional basis, so that each Exchange Carrier involved in providing a portion of the Access Service agrees to bill under its respective tariff.

Mobile Telephone Switching Office: Location where the wireless Customer maintains a facility for purposes of interconnecting to the Company's Network.

Mutual Traffic Exchange: A compensation arrangement between certified local exchange service providers where local exchange service providers pay each other "in kind" for terminating local exchange traffic on the other's network.

Network Services: The Company's telecommunications Access Services offered on the Company's Network.

Non-Recurring Charges: The one-time initial charges for services or facilities, including but not limited to charges for construction, installation, or special fees, for which the Customer becomes liable at the time the Service Order is executed.

Off-Hook: The active condition of Switched Access or a telephone exchange service line.

Optional Expanded Area Service Traffic (OEAS): Optional service found in large urban areas financed by separate charge on end users that elect service as defined by a tariff approved by the Commission.

On-Hook: The idle condition of switched access or a telephone exchange service line.

Out of Band Signaling: An exchange access signaling feature which allows Customers to exchange call control and signaling information over a communications path which is separate from the message path. T

Point of Presence: Location where the Customer maintains a facility for purposes of interconnecting to the Company's Network.

Premises: The space occupied by a Customer or Authorized User in a building or buildings or on contiguous property (except railroad rights-of-way, etc.).

Presubscription: An arrangement whereby an End User may select and designate to the Company an Interexchange Carrier (IXC) or Carriers it wishes to access, without an Access Code, for completing both intraLATA toll calls and/or interLATA calls. The selected IXC(s) are referred to as the End User's Primary Interexchange Carrier (PIC).

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

Service Order: The written request for Network Services executed by the Customer and the Company in a format devised by the Company; or, in the alternative, the submission of an Access Service Request by the Customer in the manner specified in this tariff.

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ACCESS SERVICES

SECTION 1 - DEFINITIONS (Cont.)

Service(s): The Company's telecommunications Access Services offered on the Company's Network.

Signaling Point of Interface: The Customer designated location where the SS7 signaling information is exchanged between the Company and the Customer.

Signaling System 7 (SS7): The common Channel Out of Band Signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI).

Switched Access Service: Access to the switched network of an Exchange Carrier for the purpose of originating or terminating communications. Switched Access is available to Carriers, as defined in this tariff.

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Trunk: A communications path connecting two switching systems in a network, used in the establishment of an end-to-end connection.

VOIP Provider: Any individual association, corporation, governmental agency or any other entity that is providing voice over internet protocol. The VOIP provider may or may not be certified by the Florida Public Service Commission.

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Wireless Provider: Any carrier authorized to operate as a provider of cellular, personal communications, paging CMRS or any other form of wireless transmission.

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HYPERCUBE TELECOM, LLC

ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS

2.1 Undertaking of KMC Data, LLC

2.1.1 Scope

KMC Data, LLC' services offered pursuant to this tariff are furnished for Switched Access Service. KMC Data, LLC may offer these services over its own or resold facilities.

KMC Data, LLC installs, operates, and maintains the communications services provided herein in accordance with the terms and conditions set forth under this tariff. KMC Data, LLC may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities as required in the Commission's rules and orders, when authorized by the Customer, to allow connection of a Customer's location to the KMC Data, LLC network. The Customer shall be responsible for all charges due for such service agreement.

The Company's services and facilities are provided on a monthly basis unless otherwise indicated, and are available twenty-four hours per day, seven days per week.

2.1 .2 Shortage of Equipment or Facilities

- A. The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company when necessary because of lack of facilities or due to some other cause beyond the Company's control.
- B. The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the company may obtain from other Carriers from time to time, to furnish service as required at the sole discretion of the Company.
- C. The provisioning and restoration of service in emergencies shall be in accordance with Part 64, Subpart D, Appendix A of the Federal Communications Commission's Rules and Regulations, which specifies the priority system for such activities.

2.1.3 Terms and Conditions

- A. Except as otherwise provided herein, service is provided and billed on the basis of a minimum period of at least one month, and shall continue to be provided until canceled by the Customer, in writing, on not less than 30 days notice. Unless otherwise specified herein, for the purpose of computing charges in this tariff, a month is considered to have 30 days.
- B. Customers seeking to cancel service have an affirmative obligation to block traffic originating from or terminating to the Company's network. By originating traffic from or originating traffic to the Company's network, the Customer will have constructively ordered the Company's switched access service.

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HYPERCUBE TELECOM, LLC

ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.3 Terms and Conditions (Cont.)

- C. The Customer agrees to operate Company-provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void Company liability for interruption of service and may make the Customer responsible for damage to equipment pursuant to section 2.1.3.D below.
- D. The 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.
- E. A Customer that uses access services provided by KMC Data, LLC without submitting an actual order will be presumed to have ordered access services by using said services and charging its End User for retail services that could not be provided without the use of access services.
- F. In any action between the parties to enforce any provision of this tariff, KMC Data, LLC shall be entitled to recover its legal fees and court costs from the Customer in addition to other relief a court may award when it is the prevailing party.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.4 Liability of the Company

- A. The liability of the Company for damages arising out of the furnishing of its Services, including but not limited to mistakes, omissions, interruptions, delays, errors, other defects, or representations by the Company, or use of these services or damages arising out of the failure to furnish the service whether caused by act or omission, shall be limited to the extension of allowances for interruption as set forth in 2.6 below. The extension of such allowances for interruption shall be the sole remedy of the Customer and the sole liability of the Company. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to Customer as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of the Company's employees or agents.
- B. With respect to any other claim or suit, by a Customer or by any others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair interruption or restoration of any service or facilities offered under this tariff, and subject to the provisions of the Company's liability, if any, shall be limited as provided herein.
- C. The Company shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction action, or request of The United States government or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or of any military authority; preemption of existing service in compliance with national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials; or strikes, lockouts work stoppages, or other labor difficulties.
- D. The Company shall not be liable for (a) any act or omission of any entity furnishing the Company or the Company's Customers facilities or equipment used for the interconnection with Access Services; or (b) for the acts or omissions of other Common Carriers.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.4 Liability of the Company (Cont.)

- E. The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- F. The Customer shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits, or other actions, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, condition, location, or use of any installation or equipment provided by the Company. The Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this Section 2.1.4.F as a condition precedent to such installations.
- G. The Company shall not be liable for any defacement of or damage to Customers Premises resulting from the furnishing of services or equipment on such Premises or the installation or removal thereof, unless such defacement or damage is caused by the gross negligence or willful misconduct of the Company's agents or employees. No agents or employees of other participating Carriers shall be deemed to be agents or employees' of the Company.
- H. Notwithstanding the Customer's obligations as set forth in Section 2.3 below, the Company shall be indemnified, defended and held harmless by the Customer, or by others authorized by it to use the service, against any claim, loss or damage arising from Customer's use of services furnished under this tariff, including: claims for libel, slander, invasion of privacy or infringement of copyright arising from the material, data, information, or other content transmitted via the Company's service; and patent infringement claims arising from combining or connecting the service offered by the Company with apparatus and systems of the Customer or others; all other claims arising out of any act or omission of the Customer or others, in connection with any service provided by the Company pursuant to this tariff.
- I. The Company shall be indemnified and held harmless by the End User against any claim, loss or damage arising from the End User's use of services offered under this tariff including: claims for libel, slander, invasion of privacy or infringement of copyright arising from the End User's own communications; patent infringement claims arising from the End User's combining or connecting the service offered by the Company with facilities or equipment furnished by the End User of another Interexchange Carrier; or all other claims arising out of any act or omission of the End User in connection with any service provided pursuant to this tariff.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.4 Liability of the Company (Cont.)

- J. The entire liability of the Company for any claim, loss, damage or expense from any cause whatsoever shall in no event exceed sums actually paid to the Company by the Customer for the specific services giving rise to the claim, and no action or proceeding against the Company shall be commenced more than one year after the service is rendered.
- K. The Company makes no warranties or representation, express or implied, including warranties or merchant's ability or fitness for a particular use, except those expressly set forth herein.
- L. The Company shall not be liable for any act or omission of any other company or companies furnishing a portion of the service, or for damages associated with service, Channels, or equipment which result from the operation of Customer-provided systems, equipment, facilities or service which are interconnected with Company services.
- M. The Company does not guarantee nor make any warranty with respect to service installations at locations at which there is present an atmosphere that is explosive, prone to fire, dangerous or otherwise unsuitable for such installations. The Customer and End User shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits or other actions, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to, or death of, any person or persons, or for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, locations or use of service furnished by the Company at such locations.
- N. The Company shall not be liable for the Customer's failure to fulfill its obligations to take all necessary steps including, without limitation, obtaining, installing and maintaining all necessary equipment, materials and supplies, for interconnecting the terminal equipment or communications system of the Customer, or any third party acting as its agent, to the Company's Network. The Customer shall secure all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the Customer shall ensure that its equipment and/or system or that of its agent is properly interfaced with the Company's service, that the signals emitted into the Company's Network are of the proper mode, band-width, power, data speed, and signal level for the intended use of the Customer and in compliance with the criteria set forth in Section 2.1.6 following, and that the signals do not damage Company equipment, injure its personnel or degrade service to other Customers. If the Customer or its agent fails to maintain and operate its equipment and/or system or that of its agent properly, with resulting imminent harm to Company equipment, personnel, or the quality of service to other Customers, the Company, may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, the Company may, upon written notice, terminate the Customer's service without liability.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.5 Notification of Service-Affecting Activities

The Company will provide the Customer reasonable notification of service-affecting activities within its control that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.6 Provisions of Equipment and Facilities

- A. The Company shall use reasonable efforts to make available services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any Customer.
- B. The Company shall use reasonable efforts to maintain facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- C. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided the Customer.
- D. Equipment the Company provides or installs at the Customer Premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided it.
- E. The Customer shall be responsible for the payment of service charges imposed on the Company by another entity, for visits to the Customer Premises when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.6 Provisions of Equipment and Facilities (Cont.)

- F. The Company shall not be responsible for the installation, operation, or maintenance of any Customer provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities. Notwithstanding the above, the Company shall not be responsible for:
 - 1. the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission;
 - 2. the reception of signals by Customer-provided equipment; or
 - 3. network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

- G. The Company intends to work cooperatively with the Customer to develop network contingency plans in order to maintain maximum network capability following natural or man-made disasters which affect telecommunications services.

- H. The Company reserves the reasonable right to assign, designate or change telephone numbers, any other call number designations associated with Access Services, or the Company serving central office prefixes associated with such numbers, when necessary in the conduct of its business.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.7 Non-routine Installation

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in unusual locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

2.1.8 Special Construction

Subject to the arrangement of the Company and to all of the regulations contained in this tariff, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special construction is that construction undertaken and characterized by one or more of the following:

- A. where facilities are not presently available and there is no other requirement for the facilities so constructed;
- B. of a type other than that which the Company would normally utilize in the furnishing of its services;
- C. where facilities are to be installed over a route other than that which the Company would normally utilize in the furnishing of its services;
- D. where facilities are requested in a quantity greater than that which the Company would normally construct;
- E. where installation is on an expedited basis;

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.1 Undertaking of KMC Data, LLC (Cont.)

2.1.8 Special Construction (Cont.)

- F. on a temporary basis until permanent facilities are available;
- G. installation involving abnormal costs; or
- H. in advance of its normal construction schedules.

Special construction charges for Switched Access Service will be determined on an individual use basis.

2.1.9 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents, contractors or suppliers.

2.2 Prohibited Uses

- 2.2.1 The services the Company offers shall not be used for any unlawful purposes or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- 2.2.2 The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming their use of the Company's offerings complies with relevant laws and applicable state regulations, policies, orders, and decisions; and if the Reseller intends to provide intrastate services, is certified with the appropriate state entity.
- 2.2.3 The Company may require a Customer to immediately shut down its transmission of signals if said transmission is causing interference to others.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer

2.3.1 The Customer shall be responsible for:

- A. the payment of all applicable charges pursuant to this tariff. For the avoidance of doubt and notwithstanding any other provision in this Tariff or other Customer service agreement or arrangement, including but not limited to Meet Point Billing arrangements, in addition to service charges imposed by KMC Data, LLC for the Service, the Customer shall be responsible for and reimburse KMC Data, LLC for any and all charges, fees, assessments of any kind or nature, including but not limited to interstate and intrastate switched access charges, imposed by any third party (collectively "Third Party Charges") upon KMC Data, LLC relating to usage incurred by the Customer in connection with the Services. The Customer hereby indemnifies KMC Data, LLC for all Third Party Charges and agrees to defend and hold KMC Data, LLC harmless for all damages, losses, claims or judgments arising out any Third Party Charges; T
- B. reimbursing the Company for damage to, or loss of, the Company's facilities or equipment caused by the acts or omissions of the Customer; or the noncompliance by the Customer with these regulations; or by fire or theft or other casualty on the Customer Premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company. The Company will, upon reimbursement for damages to its facilities or equipment, cooperate with the Customer in prosecuting a claim against the person causing such damage and the Customer shall be subjugated in the Company's right of recovery of damages to the extent of such payment; T
- C. providing at no charge, as specified from time to time by the Company, any needed personnel, equipment, space, and power to operate Company facilities and equipment installed on the Customer Premises, and the level of heating and air conditioning necessary to maintain the proper operating environment on such Premises; T
- D. obtaining, maintaining, and otherwise having full responsibility for all rights-of-way and conduit necessary for installation of fiber optic cable and associated equipment used to provide Access Services to the Customer from the cable building entrance or property line to the location of the equipment space described in 2.3.1.C above. Any costs associated with obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be owned entirely by, or may be charged by the Company to, the Customer. The Company may require the Customer to demonstrate its compliance with this subsection prior to accepting an order for service; T

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer (Cont.)

2.3.1 The Customer shall be responsible for, (cont.):

- E. providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing, and disposing of any hazardous material (e.g. friable asbestos) prior to any construction or installation work;
- F. complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses, and permits as may be required with respect to, the location of Company facilities and equipment in any Customer Premises or the rights-of-way for which Customer is responsible obtaining under Section 2.3.1.D above; and granting or obtaining permission for Company agents or employees to enter the Customer Premises at any time for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company; and
- G. not creating or allowing to be placed or maintained any liens or other encumbrances on the Company's equipment or facilities.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer (Cont.)

2.3.2 Claims

With respect to any service or facility provided by the Company, Customer shall indemnify, defend and hold harmless the Company from all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees for:

- A any loss, destruction or damage to property of the Company or any third party, or the death of or injury to persons, including, but not limited to employees or invitees of either the Company or the Customer, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer, its employees, agents, representatives or invitees;
- B any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, including, without limitation, use of the Company's services and facilities in a manner not contemplated by the agreement between the Customer and the Company.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer (Cont.)

2.3.3 Jurisdictional Reporting

The jurisdictional reporting requirements will be as specified below. When a Customer orders Access Service or uses Access Service based upon a Constructive Order, its projected Percent Interstate Usage (PIU) must be provided in whole numbers to the Company. These whole number percentages will be used by the Company to apportion the use and/or charges between interstate and intrastate until a revised report is received as set forth herein. Reported or default PIU factors are used only where the call detail is insufficient to determine the appropriate jurisdiction of the traffic.

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A. **Originating Access:** Originating access minutes is only traffic originating from the Company Local Switching Center(s). The Customer should provide the Company with a projected PIU factor on a quarterly basis.

If no PIU for originating minutes is submitted as specified herein, then the projected PIU will be set on a default basis of 50 percent interstate traffic and 50 percent intrastate traffic.

B. **Terminating Access:** For Feature Group D Switched Access Service(s), the Customer should provide the Company with a projected PIU factor by supplying the Company with an interstate percentage of terminating access minutes on a quarterly basis, as described in Sections 2.3.3.E below.

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If no projected PIU factor is submitted by the Customer, then the projected PIU will be set on a default basis of 50 percent interstate traffic and 50 percent intrastate traffic.

C. **800 Originating Access:** 800 Originating Access is for 8XX traffic that is switched by the Company's switches and originated by an End User of an Exchange Carrier.

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If no projected PIU factor is submitted by the Customer, then the projected PIU will be set on a default basis of 50 percent interstate traffic and 50 percent intrastate traffic.

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D. Except where the Company measured access minutes are used as set forth above, the Customer reported Projected PIU factor as set forth above will be used until the Customer reports a different projected PIU factor, as set forth below.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer (Cont.)

2.3.3 Jurisdictional Reporting (cont.)

- E. Effective on the first of January, April, July and October of each year the Customer should update its interstate and intrastate jurisdictional report. The Customer should forward to the Company, to be received no later than 15 days after the first of each such month, a revised report showing the interstate and intrastate percentage of use for the past three months ending the last day of December, March, June, and September, respectively, for each service arranged for interstate use, based solely on the traffic originating from or terminating to the Company. The revised report will serve as the basis for the next three months: billing and will be effective on the bill date for that service. No prorating or back billing will be done based upon the report. If the Customer does not supply the reports for those services where reports are needed, the Company will assume the percentage to be the same as that provided previously. For those cases in which a quarterly report has never been received from the Customer, the Company will assume the percentages to be the same as those provided in 2.3.3A and 2.3.3B above. T
- F. Jurisdictional Reports Verification: For Switched Access Service, if a billing dispute arises or a regulatory commission questions the projected PIU factor, the Customer will provide the data issued to determine the projected PIU factor. The Customer will supply the data within 30 days of the Company request. T
- The Customer shall keep records of call detail from which the percentage of interstate and intrastate use can be ascertained and, upon request of the Company, shall make the records available for inspection as reasonably necessary for purposes of verification of the percentages. The Company reserves the right to conduct an audit at any time during the year. The Customer, as its own expense, has the right to retain an independent auditing firm.
- G. For switched access services for which the Company cannot determine the jurisdictional nature of Customer traffic and its related access minutes, the company reserves the right to require the Customer to provide a projected estimate of its traffic, split between the interstate and intrastate jurisdictions. The Customer shall upon ordering service, and quarterly thereafter, report the percentage of interstate use and such report will be used for billing purposes until the Customer reports a different projected interstate percentage for a working trunk group. When the Customer adds trunks to or removes trunks from an existing group, the Customer shall furnish a revised projected interstate percentage for each service arranged for interstate use. The revised report will serve as the basis for future billing and will be effective on the next bill date. No prorating or back billing will be done based on the report. T
- H. The Company may request detailed information in support of the reported annually and retains the right to retroactively adjust the Customer's most recent bills covering the preceding eleven months if a substantial discrepancy is found to exist. If an audit of the reported percentages reveals a substantial deviation from the Customer's previously reported PIU for the period upon which audit was based, the call detail records may be requested more than once annually. T

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.3 Obligations of the Customer (Cont.)

2.3.4 Jurisdictional Audits

- A. The Customer shall keep sufficient detail from which the percentages of interstate and intrastate intraLATA use reported to the Company can be verified and upon request of the Company make such records available for inspection and audit. The Customer must maintain these records for 24 months from the date the report became effective for billing purposes. T
- B. Initiation of an audit will be at the sole discretion of the Company. An audit may be initiated by the Company for a single Customer no more than once per year. The Customer shall supply required data within 30 calendar days of the Company request. T
- C. In the event that an audit reveals that any Customer reported PIU or PLU was incorrect, the Company shall apply the audit result to all usage affected by the audit. The Customer shall be back billed for a period retroactive to the date that the incorrect percentage was reported, but not to exceed 24 months. Back billed amounts are subject to a late payment penalty and payment shall be made in immediately available funds, within 31 days from receipt of bill or by the following bill date, whichever is shorter period. T
- D. Should an audit reveal that the misreported percentage(s) of use has resulted in an underpayment of Access charges to the Company of five percent or more the total switched Access Services bill, the Customer shall reimburse the Company for the cost of the audit. Proof of cost shall be the bills, in reasonable detail submitted to the Company by the auditor. T
- E. Within 15 days of completion of the auditor's report, the Company will furnish a copy of the audit results to the person designated by the Customer to receive such results. T

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.4 Customer Equipment and Channels

2.4.1 General

A Customer may transmit or receive information or signals via the facilities of the Company.

2.4.2 Station Equipment

- A. The Customer is responsible for providing and maintaining any terminal equipment on the Customer Premises. The electric power consumed by such equipment shall be provided by, and maintained at the expense of, the Customer. All such terminal equipment must be registered with the FCC under 47 C.F.R., Part 68 and all wiring must be installed and maintained in compliance with those regulations. The Company will, where practicable, notify the Customer that temporary discontinuance of the use of a service may be required; however, where prior notice is not practicable, nothing contained herein shall be deemed to impair the Company's right to discontinue forthwith the use of a service temporarily if such action is reasonable under the circumstances. In case of such temporary discontinuance, the Customer will be promptly notified and afforded the opportunity to correct the condition which gave rise to the temporary discontinuance. During such period of temporary discontinuance, credit allowance for service interruptions as set forth in Section 2.6 following is not applicable.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.4 Customer Equipment and Channels (Cont.)

2.4.2 Station Equipment (Cont.)

- B. The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

2.4.3 Interconnection of Facilities

- A. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Access Services and the Channels, facilities, or equipment of others shall be provided at the Customers expense.
- B. Access Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carriers which are applicable to such connections.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.4 Customer Equipment and Channels (Cont.)

2.4.4 Inspections

- A. Upon reasonable notification of the Customer, and at reasonable times, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth in Section 2.4.2.B for the installation, operation, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment. No credit will be allowed for any interruptions occurring during such inspections.
- B. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm. The Company will, upon request 24 hours in advance, provide the Customer with a statement of technical parameters that the Customer's equipment must meet.

2.5 Payment Arrangements

2.5.1 Payment for Service

The Customer is responsible for payment of all charges for services and facilities furnished by the Company to the Customer or its Joint or Authorized Users. Customer must pay KMC Data, LLC for all services provided regardless of whether the Customer submitted an order to KMC Data, LLC to provide such services.

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A. Taxes

The Customer is responsible for the payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however designated) excluding taxes on the Company's net income imposed on or based upon the provision, sale or use of Access Services. All such taxes shall be separately designated on the Company's invoices.

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ACCESS SERVICES

SECTION 2- RULES AND REGULATIONS (Cont.)

2.5 Payment Arrangements (Cont.)

2.5.2 Billing and Collection of Charges

Unless otherwise specified herein, bills are due and payable upon receipt.

The Company shall bill on a current basis all charges incurred by, and credits due to, the Customer under this Tariff attributable to services established, provided, or discontinued during the preceding billing period. Any known unbilled charges for prior periods and any known adjustments also will be applied to the current bill.

Non-Recurring Charges are due and payable within 30 days after the invoice date.

The Company shall present invoices for all Charges monthly to the Customer.

Amounts not paid within 30 days after the date of invoice will be considered past due. KMC Data, LLC will assess a late payment charge equal to 1.5% per month for any past due balance that exceeds 30 days. If the Company becomes concerned at any time about the ability of a Customer to pay its bills, the Company may require that the Customer pay its bills within a specified number of days and make such payments in cash or the equivalent of cash.

If the Customer does not provide remittance advice with its payments, payments will be applied to outstanding charges in the following order: 1.) the oldest to the most recent late payment charges, 2.) the oldest to the most recent outstanding intrastate charges, and finally to 3.) the oldest to most recent outstanding interstate charges.

If a service is disconnected by the Company in accordance with Section 2.5.3 following and later restored, restoration of service will be subject to all applicable installation charges.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.5 Payment Arrangements (Cont.)

2.5.2 Billing and Collection of Charges (Cont.)

The Customer shall notify the Company of any disputed items on an invoice within 90 days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the Commission in accordance with the Commission's rules of procedures.

Any disputed charges must be paid when due. After the dispute is settled, the Customer will be credited with any payments in excess of those actually due the Company. The Company will also remit interest for all such credited amounts. Interest will be paid at rate required by the Commission for Customer deposits.

2.5.3 Refusal and Discontinuance of Service

- A. Upon nonpayment of any amounts owing to the Company, the Company may, by giving requisite prior written notice to the Customer discontinue or suspend service without incurring any liability. KMC Data, LLC may deliver such notice via electronic mail, facsimile, regular mail or certified mail.
- B. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 10 days' prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- C. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- D. Upon any governmental prohibition, or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any Liability.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.5 Payment Arrangements (Cont.)

2.5.3 Refusal and Discontinuance of Service (Cont.)

- E. Upon the Company's discontinuance of service to the Customer under Section 2.5.3.A or 2.5.3.B above, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable.

- F. The Company may discontinue the furnishings of any and/or all service(s) to Customer, without incurring any liability:
 - 1. 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. The Company may discontinue service pursuant to this sub-section 2.5.3.F.1. (a-e), if
 - (a) 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); or
 - (b) The Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of Common Carrier communications services, or its planned use of the Company's service(s); or

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.5 Payment Arrangements (Cont.)

2.5.3 Refusal and Discontinuance of Service (Cont.)

F. (cont.)

1. (cont.)

- (c) The Customer states that it will not comply with a request of the Company for security for the payment for service(s) in accordance with Section 2.5.3.A above, or
- (d) The Customer has been given written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's other Common Carrier communications services to which the Customer either subscribes or had subscribed or used; or
- (e) The Customer uses, or attempts or use, service with the intent to void the payment, either in whole or in part, of the tariff charges for the service by:
 - I. Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this tariff, or
 - II. Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices; or
 - III. By delivering calls to or accepting calls from the Company's locations over Company switched local exchange services; or
 - IV. Continuing to have Company End Users presubscribed to the Customer; or
 - V. Any other Fraudulent means or devices; or

2. Upon ten (10) days written notice to the Customer of any sum thirty (30) days past due;

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.5 Payment Arrangements (Cont.)

2.5.3 Refusal and Discontinuance of Service (Cont.)

F. (cont.)

- 3. Upon ten (10) days: written notice to the Customer, after failure of the Customer to comply with a request made by the Company for security for the payment of service in accordance with Section 2.5.3.A, above; or
- 4. Seven (7) days after sending the Customer written notice of noncompliance with any provision of this tariff if the noncompliance is not corrected within that seven (7) day period. The discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance.

G. In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

2.5.4 Cancellation of Application for Service

Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the company that would have been chargeable to the Customer had service begun.

The special charges described will be calculated and applied on a case-by-case basis.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.6 Allowances for Interruptions in Service

Interruptions in service which are not due to the negligence of or noncompliance with the provisions of this tariff by, the Customer or the operation or malfunction of the facilities, power, or equipment provided by the Customer will be credited to the Customer as set forth in 2.6.1 for the part of the service that the interruption affects.

The credit allowance will be calculated by the Company after the Customer notifies the Company of service interruption. The amount of the allowance will depend on the length of the outage and the service impacted. Service Outage conditions are defined as complete loss of call origination and/or receipt capability. Credit Allowances, if any, will be deducted from the charges payable by the IXC and will be expressly indicated on the next invoice. A Service Outage begins when the IXC reports the outage to KMC Data, LLC. A Service Outage ends when the affected circuit and/or associated KMC Data, LLC equipment is fully operational in accordance with the technical specifications.

Credit allowances do not apply to outages (i) caused by the IXC; (ii) due to failure of equipment provided by the IXC; (iii) during any period in which KMC Data, LLC is not given access to the service premises; (iv) failures of LEC facilities or equipment which are carrying the failures resulting from the activities or negligence of LEC employees; (v) inability to gain access to the IXC's equipment; and (vii) due to mutually agreed upon maintenance and repair.

Credit Allowances received by KMC Data, LLC from the LEC for Off-Net facility outages which affects the IXC's Switched Services will be passed through to the IXC in the form of a credit on the next invoice.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.6 Allowances for Interruptions in Service (Cont.)

2.6.1 Limitations on Allowances

No credit allowance will be made for:

- A. interruptions due to the negligence of, or noncompliance with the provisions of this tariff by, the Customer, Authorized User, Joint-User, or other Common Carrier providing service connected to the service of Company;
- B. interruptions due to the negligence of any person other than the Company, including, but not limited to, the Customer or other Common Carriers connected to the Company's facilities;
- C. interruptions due to the failure or malfunction of non-Company equipment;
- D. interruptions of service during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;
- E. interruptions of service during a period in which the Customer continues to use the service on an impaired basis;
- F. interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- G. interruption of service due to circumstances or causes beyond the control of the Company.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.7 Transfers and Assignments

Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties (a) to any subsidiary, parent Company or affiliate of the Company (b) pursuant to any sale or transfer of substantially all the assets of the Company; or pursuant to any financing, merger or reorganization of the Company.

2.8 Notices and Communications

2.8.1 Delivery of calls to or acceptance of calls from the Company's locations over Company-switched exchange services constitutes an order by the Customer to purchase switched access services as described herein. Similarly the selection by a Company's End User of the Customer as the presubscribed *IXC* constitutes an order of switched access by the Customer. In these cases, an invoice will be the first communication from the Company to the Customer. In other instances a Service Order may be used. T

2.8.2 The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that the Customer may also designate a separate address to which the Company's bills for service shall be mailed.

2.8.3 The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that the Company may designate a separate address, on each bill for service, to which the Customer shall mail payment on that bill.

2.8.4 All notices or other communications required to be given pursuant to this tariff shall be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following deposit of the notice, communication, or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.

2.8.5 The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

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SECTION 2- RULES AND REGULATIONS (Cont.)

2.9 Meet Point Billing

Meet Point Billing applies when more than one Exchange Company is involved in the provision of Access Service. All recurring and nonrecurring charges for services provided by each Exchange Company are billed under each company's applicable rates as set forth below.

The Company accepts and adheres to the Ordering and Billing Forum guidelines, Multiple Exchange Carrier Access Billing (MECAB) and Multiple Exchange Carrier Ordering and Design (MECOD).

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ACCESS SERVICES

SECTION 3 - SWITCHED ACCESS SERVICE

3.1 General

Switched Access Service, which is available to Customers for their use in furnishing their services to End Users, provides a two-point communications path between a Customer and an End User. It provides for the use of common terminating, switching and transport facilities. Switched Access Service provides the ability to originate calls from an End User to a Customer, and to terminate calls from a Customer to an End User.

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Switched Access Service is available when originating or terminating calls from or to an End User.

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Rates and charges are set forth in Section 4. The application of rates for Switched Access Service is described in Section 4.

3.2 Provision and Description of Switched Access Service Arrangements

3.2.1 Feature Group Access

FG Access is provisioned at the DS-1 level and provides trunk-side access to Switching Center switches, for the Customer's use in originating and terminating communications. Basic FG Access service will be provided with Multi-Frequency In Band Signaling (SS7 is also available, where capabilities exist).

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All traffic is routed to and from the Company's switching center via direct trunking or via an alternative route when direct trunking has not been arranged. Delivery of calls to, or acceptance of calls from, the Company's locations over Company-switched exchange services shall constitute an agreement by the Customer to purchase switched access services as described herein. The Company reserves the right to require the Customer to submit an ASR for switched access.

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ACCESS SERVICES

SECTION 3- SWITCHED ACCESS SERVICE (Cont.)

3.2 Provision and Description of Switched Access Service Arrangements (Cont.)

3.2.5 Originating 800 FG Access

800 Data Base Access Service is a service offering utilizing originating Trunk side Switched Access Service. When an 8XX + NXX + XXXX call is originated by an End User, the Company will utilize the Signaling System 7 (SS7) network to query an 800 data base to identify the Customer to whom the call will be delivered and provide vertical features based on the dialed ten digits. The call will then be routed to the identified Customer over FGD switched access. The 800 series includes the following service access codes: 800, 888, 877, 866, 855, 844, 833 and 822.

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Originating FG Access is assessed for each minute of use.

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Originating 800 FG Access includes the delivery of 8XX traffic that is initiated by a Wireless Provider's End User and is delivered from a CMRS Mobile Telephone Switching Office to the Company switch and then to a Customer. The Company will charge for all elements of service that it provides in routing such traffic.

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A Basic or Vertical Feature Query charge is assessed for each completed query returned from the data base identifying the Customer to whom the call will be delivered whether or not the actual call is delivered to the Customer. The Basic Query provides the identification of the Customer to whom the call will be delivered and includes area of service routing which allows routing of 800 series calls by telephone companies to different interexchange carriers based on the Local Access Transport Area (LATA) in which the call originates. The Vertical Feature Query provides the same Customer identification as the basic query and vertical features which may include: (1) call validation, (ensuring that calls originate from subscribed service areas); (2) POTS translation of 800 series numbers; (3) alternate POTS translation (which allows subscribers to vary the routing of 800 series calls based on factors such as time of day, place or origination of the call, etc.); and (4) multiple carrier routing (which allows subscribers to route to different carriers based on factors similar to those in (3)).

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3.2.6 Terminating FG Access

FG Access, when used in the terminating direction, may only be used to access End Users who are connected to the Company. Calls in the terminating direction will not be completed to 950-OXXX or 950-1XXX access codes, local operator assistance (0-and 0+), Directory Assistance, (411 or 555-1212) service codes 611 and 911 and IO1XXXX access codes.

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Terminating FG Access is assessed for each minute of use.

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SECTION 3- SWITCHED ACCESS SERVICE (Cont.)

3.3 Reports and Testing

- 3.3.1 Design Layout Report: At the request of the Customer, the Company will provide to the Customer the makeup of the facilities and services provided from the Customer's Premises to the first point of switching. This information will be provided in the form of a Design Layout Report. The Design Layout Report will be provided to the Customer at no charge.
- 3.3.2 Acceptance Testing: At no additional charge, the Company will, at the Customer's request, cooperatively test, at the time of installation, the following parameters: loss, C-notched noise, Cmessage noise, 3-tone slope, d.c. continuity and operational signaling.

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ACCESS SERVICES

SECTION 4-SWITCHED ACCESS RATES

4.1 General

This section contains the specific regulations governing the rates and charges that apply for Switched Access Services:

There are three types of rates and charges that apply to Switched Access Service:

- Non-Recurring Charges: One-time charges that apply for a specific work activity.
- Recurring Charges: Fixed charges apply each month and depend on the number and type of facilities in place.
- Usage Charges: Charges that are applied on a per access minute basis. Usage rates are accumulated over a monthly period.

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SECTION 4- SWITCHED ACCESS RATES, (Cont.)

4.2 Rate Categories

4.2.1 There are several rate categories which apply to Switched Access Service:

- Blended Carrier Switched Access Originating
- Blended Carrier Switched Access Terminating
- 800 Data Base Access Service

The Company provides originating and terminating switched access service through a single blended rate based on aggregate traffic volumes from the following cost categories:

Switched Transport

The Switched Transport cost category establishes the charges related to the transmission and tandem switching facilities between the Customer designated premises and the end office switch(es) where the Customer's traffic is switched to originate or terminate the Customer's communications.

Switching – (End Office, Tandem or both)

The Switching cost category establishes the charges related to the use of office switching equipment, the terminations in the office of lines, the terminations of calls at Company Intercept Operators or recordings, the Signaling Transfer Point (STP) costs, and the SS7 signaling function between the switching office and the STP.

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ACCESS SERVICES

SECTION 4- SWITCHED ACCESS RATES, (Cont.)

4.2 Rate Categories (Cont.)

4.2.2 800 Data Base Query

The 800 Data Base Query Charge will apply for each Toll-Free 8XX call query received at the Company's (or its provider's) Toll-Free 8XX data base.

4.2.3 Optional Features

Other optional features may be available on an Individual Case Basis (ICB).

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SECTION 4- SWITCHED ACCESS RATES (Cont.)

4.3 Billing of Access Minutes

When recording originating calls over FG Access with multi-frequency address signaling, usage measurement begins when the first wink supervisory signal is forwarded from the Customer's facilities. The measurement of originating call usage over FG Access ends when the originating FG Access entry switch receives disconnect supervision from either the originating End User's Local Switching Center-(indicating that the originating End User has disconnected), or the Customer's facilities, whichever is recognized first by the entry switch.

For terminating calls over FG Access with multi-frequency address signaling, the measurement of access minutes begins when a seizure signal is received from the Carrier's trunk group at the Point of Presence within the LATA. The measurement of terminating call usage over FG Access ends when a disconnect signal is received, indicating that either the originating or terminating user has disconnected.

When recording originating calls over FG Access with SS7 signaling, usage measurement begins with the transmission of the initial address message by the switch for direct trunk groups and with the receipt of an exit message by the switch for tandem trunk groups. The measurement of originating FG Access usage ends when the entry switch receives or sends a release message, whichever occurs first.

For terminating calls over FG Access with SS7 signaling, the measurement of access minutes begins when the terminating recording switch receives the initial address message from the terminating End User. On directly routed trunk groups or on tandem routed trunk groups, the Company switch receives the initial address message and sends the indication to the Customer in the form of an answer message. The measurement of terminating FG Access call usage ends when the entry switch receives or sends a release message, whichever occurs first.

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SECTION 4- SWITCHED ACCESS RATES (Cont.)

4.4 Rates and Charges

4.4.1 Blended Carrier Switched Access

KMC Data, LLC bills originating and terminating access per minute as a blended rate. The blended rate includes Switching and Transport.

Originating FG Access	\$0.025
Terminating FG Access	\$0.025

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SECTION 4- SWITCHED ACCESS RATES (Cont.)

4.4 Rates and Charges (Cont.)

4.4.2 800 Data Base Access Service Queries

Per Query

Basic	\$0.005
Vertical Feature	\$0.0055

4.4.3 Switched Access Optional Features

All Optional Features are offered on an Individual Case Basis (ICB).

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ACCESS SERVICES

SECTION 5 CONTRACTS AND INDIVIDUAL CASE BASIS ARRANGEMENTS

5.1 Contracts

The Company may provide any of the services offered under this tariff, or combinations of services, to Customers on a contractual basis. The terms and conditions of each contract offering are subject to the agreement of both the Customer and Company. Such contract offerings will be made available to similarly situated Customers in substantially similar circumstances. Rates in other sections of this tariff do not apply to Customers who agree to contract arrangements, with respect to services within the scope of the contract.

Services provided under contract are not eligible for any promotional offerings which may be offered by the Company from time to time.

5.2 Individual Case Basis Arrangements

Arrangements will be developed on an individual case basis (ICB) in response to a bona fide special request from a Customer or prospective Customer to develop a competitive bid for a service. ICB rates will be offered to the Customer in writing and on a non-discriminatory basis.

Issued: August 28, 2006

Effective: August 29, 2006

Issued By: James M. Mertz
Vice President of Government Affairs T
Hypercube Telecom, LLC T
5300 Oakbrook Parkway T
Bldg 300, Suite 330 T
Norcross, GA 30093 T

HYPERCUBE TELECOM, LLC

Florida Price List No. 3
1st Revised Page 48
Cancels Original Page 48

ACCESS SERVICES

SECTION 6 - MISCELLANEOUS SERVICES

6.1 Presubscription

Presubscription is the process by which End User Customers may select and designate to the Company an IXC to access, without an access code, for intrastate toll calls. This IXC is referred to as the End User's presubscribed long distance carrier.

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End Users may select one of the following options at no charge:

T

- Indicate a primary IXC for all of its lines,
- Indicate a different IXC for each of its lines.

Only one IXC may be selected for each line or lines terminating in the same hunt group.

End Users may designate that they do not want to presubscribe to any IXC. The End User must arrange this designation by directly notifying the Company's business office. This choice will require the End User to dial an access code (101XXXXX) for all interstate calls.

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After the End User's initial selection of a predesignated IXC or the designation that they do not want to presubscribe to any IXC, for any change in selection after conversion to Equal Access in the serving end office, the following nonrecurring charge applies.

T

	Nonrecurring <u>Charge</u>	
Per Telephone Exchange Service line or trunk	\$ 5.00	

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T
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HYPERCUBE TELECOM, LLC

Docket No. 090327-TP
Hypercube's Price List No. 3
Exhibit DJW-3, Page 50 of 53

Florida Price List No. 3
1st Revised Page 49
Cancels Original Page 49

ACCESS SERVICES

SECTION 6 - MISCELLANEOUS SERVICES (Cont'd)

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ACCESS SERVICES

SECTION 6 - MISCELLANEOUS SERVICES (Cont'd)

D

D

Issued: August 28, 2006

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Issued By: James M. Mertz
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HYPERCUBE TELECOM, LLC

Docket No. 090327-TP
Hypercube's Price List No. 3
Exhibit DJW-3, Page 53 of 53

Florida Price List No. 3
1st Revised Page 52
Cancels Original Page 52

ACCESS SERVICES

SECTION 6 - MISCELLANEOUS SERVICES (Cont'd)

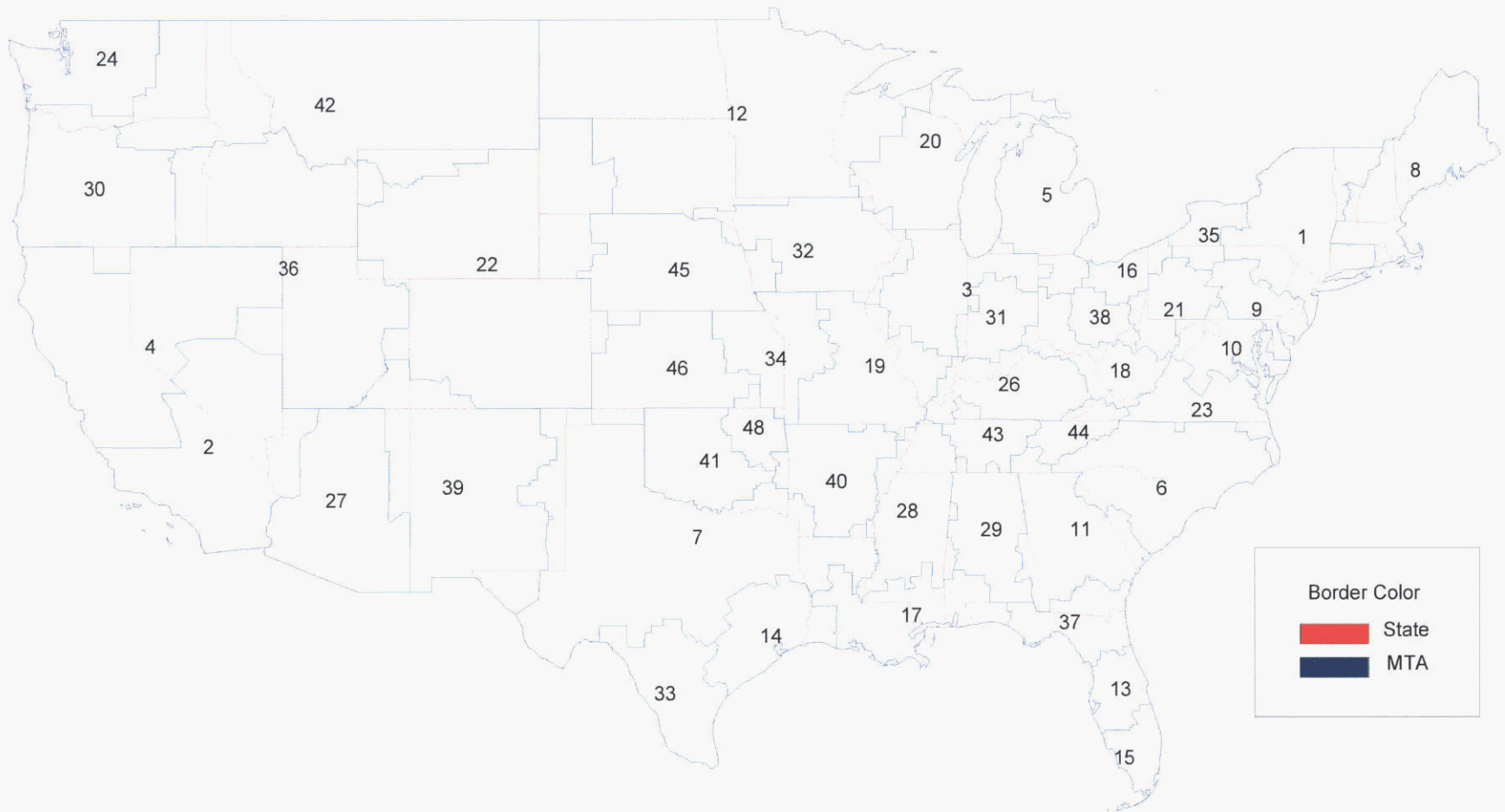
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Bldg 300, Suite 330 T
Norcross, GA 30093 T

The 51 Major Trading Areas (MTAs)



Border Color

- State
- MTA



MTA-Like areas not shown:
 M25 Puerto Rico & US Virgin Islands
 M49 Alaska
 M50 Guam and Northern Mariana Islands
 M51 American Samoa

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 05016 JUN 15 92

FPSC-COMMISSION CLERK

Docket No. 090327-TP
 MTA Map
 Exhibit DJW-4, Page 1 of 1



DeltaCom, Inc.
Business Telecom, Inc.
7037 Old Madison Pike
Huntsville, AL 35806

Subject: PIU Jurisdictional Reporting

DeltaCom, Inc. (f/k/a ITC^Deltacom Communications, Inc.) and Business Telecom, Inc. (collectively, the "Companies") provide the following jurisdictional reporting information with reservations.

As a threshold matter, the Companies expressly deny actively or constructively ordering service from KMC Data and/or Hypercube and reserve the right to challenge the validity and effect of any tariff, or any provision of any tariff, in each case separately and severally, filed by or on behalf of KMC Data and/or Hypercube in any jurisdiction. Notwithstanding and without waiving the foregoing denials and reservations of right, to the extent that KMC Data and/or Hypercube handles any traffic destined to either of the Companies (including its end-users), then KMC Data and Hypercube shall apply the jurisdictional factors set forth herein in accordance with the parties' compromise and settlement agreement, regardless of any other payment obligations that KMC Data and/or Hypercube believe their respective involvement in the call flow triggers.

The instant PIU factors shall apply to CICs 5374, 6233, 0233, 0249, and 0833 (ACNAs BTM, DLT, and SIR). Because the jurisdiction of wireless calls to tollfree numbers cannot be determined with certainty and, in the Companies' view, there is regulatory uncertainty surrounding the practices of KMC Data and/or Hypercube, including the reasonableness and applicability of associated tariffs, with respect to traffic destined to the Companies, Hypercube and/or KMC Data shall apply a jurisdictional factor across all states of PIU 100%, which most closely approximates the terms of our compromise and settlement agreement; provided, however, that the effective rate for the "origination" of any traffic shall not exceed \$0.001198/mou and the effective rate for tollfree (8YY) database queries shall not exceed a per query rate of \$0.004, pursuant to the agreement.

Please revise your billing accordingly. If you have any concerns regarding this notification, please contact the undersigned.

Sean Cathey
Sr. Manager, Line Cost
256-382-7047
deltacom

DOCUMENT NUMBER-DATE
05016 JUN 15 9
FPSC-COMMISSION CLERK



KMC Data LLC
A Hypercube Company

KMC Data LLC
3200 W. Pleasant Run Road
Suite 260
Lancaster, TX 75146

March 28, 2008

Via Certified Mail

ITC DeltaCom
Attn: Sean Cathey
Sr. Manager, Line Cost
7037 Old Madison Pike
Huntsville, AL 35806

Subject: ITC DeltaCom jurisdictional reporting and severe delinquency

KMC Data LLC and its affiliate Hypercube LLC (collectively "Hypercube") does not have a compromise and settlement agreement with ITC DeltaCom or any of its affiliates (collectively "ITCD") as you assert in your memorandum to Hypercube. Considering that ITCD references an agreement that does not exist between the parties in submitting jurisdictional factors, Hypercube considers such jurisdictional factors submitted by ITCD invalid. According to Hypercube's records, ITCD has never submitted valid jurisdictional factors by state for Hypercube's OCNs. Therefore, billing for switched access services to ITCD include a default jurisdictional rate of 50% interstate use in accordance with Hypercube's interstate and intrastate tariffs.

If ITCD has valid jurisdictional factors to submit to Hypercube by state for Hypercube's OCNs and for each CIC that ITCD is the responsible organization for, Hypercube will apply these factors to invoices generated to ITCD prospectively. Hypercube reserves its rights to audit the underlying traffic study data and validate the factors submitted.

ITCD remains severely delinquent on payment of the Hypercube's switched access invoices for interstate and intrastate switched access services. Hypercube's records reflect an amount due of \$976,002.02 for all outstanding invoices inclusive of late payment charges as outlined in Hypercube's interstate and intrastate tariffs.

Please be advised that due to ITCD's very poor payment history, Hypercube may require a security deposit equal to 3 months' billings for switched access in accordance with the Company's interstate and intrastate tariffs.

Hypercube reserves its rights to discontinue processing ITCD's switched access services at any time without further notice in accordance with the provisions of Hypercube's interstate and intrastate switched access tariffs. Discontinuance of services may occur entirely or it may occur in stages (e.g., on a state-by-state basis). In accordance with Hypercube's tariffs, (1) Hypercube shall have no liability to ITCD for discontinuance of services; (2) the discontinuance of service

DOCUMENT NUMBER DATE

05016 JUN 15 08

FPSC-COMMISSION CLERK

does not relieve ITCD of its obligation to pay for all services furnished to it by HyperCube prior to discontinuance; and (3) ITCD is liable to Hypercube for all fees and expenses, including attorney's fees, it reasonably incurs in collecting, or attempting to collect, those charges owed by ITCD to Hypercube.

REDACTED

You may remit payments of to: Citibank; ABA [REDACTED] Account Number [REDACTED] FBO
KMC Data LLC.

Please contact me if you have questions regarding this matter.

Sincerely,



Clay Myers
CFO
Hypercube LLC
469-727-1520
clay.myers@hypercube-llc.com

cc: Ron Beaumont
James Mertz

DeltaCom, Inc.

Switched Access Price List
Fifteenth Revised Page 2
Cancels Fourteenth Revised Page 2
Transmittal No. 15

Florida

CHECK SHEET

The pages of this tariff listed below are effective as of the date shown. Revised sheets contain all changes from the original tariff that are in effect as of the date indicated.

<u>Page</u>	<u>Revision</u>		<u>Page</u>	<u>Revision</u>
1	Third		24	Second
2	Fifteenth	*	24.1	Original
2.1	Ninth	*	25	Original
3	First		26	Original
4	Original		27	Original
5	Original		28	Original
6	Original		29	Original
7	Original		30	First
8	Second		31	Third
9	Original		31.1	First
10	First		31.2	Original
11	Original		31.3	Original
12	First		31.4	Original
13	Original		32	First
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21	Original			
22	Original			
23	First			

ISSUED: May 21, 2009

EFFECTIVE: May 22, 2009

Senior Manager – Regulatory Affairs
7037 Old Madison Pike
Huntsville, Alabama 35806

DeltaCom, Inc.

Switched Access Price List
Ninth Revised Page 2.1
Cancels Eighth Revised Page 2.1
Transmittal No. 15

Florida

CHECK SHEET

The pages of this tariff listed below are effective as of the date shown. Revised sheets contain all changes from the original tariff that are in effect as of the date indicated.

<u>Page</u>	<u>Revision</u>	<u>Page</u>	<u>Revision</u>
35	Original	50	First
36	Original	51	Second
37	Original	52	First
38	Original	53	Second
39	Original	54	Third *
40	Original	55	Original
41	First	56	First
42	First	56.1	First
43	First	56.1.1	First
44	First	56.1.2	First
45	First	56.1.3	First
46	Second	56.1.4	First
46.1	Original	56.1.5	First
46.2	Original	56.2	First
46.3	Original	56.3	First
46.4	Original	56.4	Original
46.5	Original	56.5	Original
46.6	Original	57	First
46.7	Original	57.1	First
46.8	Original	57.2	First
46.9	Original	57.3	First
46.10	Original	57.4	First
47	Original	57.5	First
48	First	57.6	First
49	First	57.7	First
49.1	Original	58	First
		59	First

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DeltaCom, Inc.
Florida

Switched Access Price List (T)
First Revised Page 3
Cancels Original Page 3
Transmittal No. 7

ISSUING CARRIERS

DELTACOM, INC. (T)

OTHER CARRIERS

NONE

CONCURRING CARRIERS

NONE

CONNECTING CARRIERS

NONE

OTHER PARTICIPATING CARRIERS

NONE

ISSUED: March 30, 2006

Senior Manager – Regulatory Affairs
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Huntsville, Alabama 35806

EFFECTIVE: March 31, 2006

(T)

DeltaCom, Inc.
Florida

Switched Access Price List
Original Page 4
Transmittal No. 1

EXPLANATION OF SYMBOLS AND ABBREVIATIONS

SYMBOLS

- (C) To signify changed listing, rule or condition which may affect rates or charges.
(D) To signify discontinued material, including listing, rate, rule, or condition.
(I) To signify an increase.
(M) To signify material relocated from or to another part of tariff schedule with no change in text, rate, rule or condition.
(N) To signify new material including listing, rate, rule or condition.
(R) To signify reduction.
(S) To signify reissued material.
(T) To signify change in wording of text but no change in rate, rule or condition.

ABBREVIATIONS

- ANI - Automatic Number Identification; the codes transmitted between carriers that indicate the telephone number of the originating line.
- B8ZS - Bipolar with 8-Zero Substitution; a line coding technique which permits DS1 transmission with 15 consecutive zeros. B8ZS support 64 KBPS clear channel transmission.
- BNA - Billing Name and Address; the customer of record and billing address associated with an originating ANI.
- CCS/SS7 - Common Channel Switching/Signaling System 7; a switching network and transmission control standard.

ISSUED: August 25, 1998

EFFECTIVE: August 26, 1998

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DeltaCom, Inc.

Switched Access Price List
Original Page 5
Transmittal No. 1

Florida

EXPLANATION OF SYMBOLS AND ABBREVIATIONS

- DACS - Digital Access Cross Connect.
- DNAL - Dedicated Network Access Line; a point to point circuit that provides interconnection to the CCS network and a dedicated Signal Transfer Point (STP) port. The DNAL provides the connection from the Customer designated premises to the Company STP.
- DS1 - Digital Signal Level 1; a dedicated, high capacity, full duplex channel with a line speed of 1.544 Mbps isochronous serial data having a line signal format of either Alternate Mark Inversion (AMI) or Bipolar with 8 Zero Substitution (B8ZS) and either Superframe (D4) or Extended Superframe (ESF) formats. DS1 Service has the equivalent capacity of 24 Voice Grade or DS0 services.
- FGD - Feature Group D; a trunk side switched access connection to the public switched network.
- FOC - Final Order Confirmation; the point prior to the start of installation when the order is confirmed.
- Gbps - Gigabits per second; billions of bits per second.

ISSUED: August 25, 1998

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DeltaCom, Inc.

Switched Access Price List
Original Page 6
Transmittal No. 1

Florida

EXPLANATION OF SYMBOLS AND ABBREVIATIONS, (Cont'd.)

ABBREVIATIONS, (Cont'd.)

- GTA - Global Title Address; software instructions in the Signal Transfer Point (STP) that identify the signaling message destination.
- ICB - Individual Case Basis; standard tariff pricing is not available. Each installation is individually priced and negotiated with the customer.
- Kbps - Kilobits per second; 1000s of bits per second.
- LATA - Local Access and Transport Area; a geographic area established by the US District Court for the District of Columbia in Civil Action No. 17-49, within which a Local Exchange Company provides communications services.
- LEC - BellSouth Telecommunications, Inc.
- Mbps - Megabits per second; millions of bits per second.
- OPC - Originating Point Code; a field within a signaling message that identifies the originating network Signaling Node.
- POP - The physical location of an interexchange carrier's facilities.

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EFFECTIVE: August 26, 1998

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DeltaCom, Inc.

Switched Access Price List
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Transmittal No. 1

Florida

EXPLANATION OF SYMBOLS AND ABBREVIATIONS

- SSP - Service Switching Point; an end office or tandem switch equipped with signaling link hardware and software to perform Signal Point functions. SSPs participate in processing a CCS/SS7 call by requesting and responding to call processing instructions issued by the SCP.
- STP - Signal Transfer Point; a specialized packet switch that routes and translates signaling messages in the CCS network.

ISSUED: August 25, 1998

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DeltaCom, Inc.
Florida

Switched Access Price List
Second Revised Page 8
Cancels First Revised Page 8
Transmittal 14

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ISSUED: March 31, 2009

EFFECTIVE: April 1, 2009

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DeltaCom, Inc.

Switched Access Price List
Original Page 9
Transmittal No. 1

Florida

SECTION 1 - DEFINITIONS

The following definitions are applicable to this tariff:

Access Code - Denotes a uniform code assigned by the Company to an individual Customer. The code has the form 10XXX, or 10XXXXXX.

Access Minutes - Denotes usage of exchange for the purpose of calculating chargeable usage.

Access Tandem - A switching system that provides a traffic concentration and distribution function for originating or terminating traffic between end offices and a Customer's premises.

Account - The Customer who has agreed, verbally or by signature, to honor the terms of service established by the Company. An account may have more than one access code billed to the same Customer address.

Answer Supervision - The transmission of the switch trunk equipment supervisory signal (off-hook or on-hook) to the Customer's point of termination as an indication that the called party has answered or disconnected.

Bit - The smallest unit of information in a binary system of notation.

Bits Per Second (bps) - The number of bits transmitted in a one second interval.

Channel - A path for electrical transmission between two or more points, the path having a bandwidth and termination of the Customer's choosing.

ISSUED: August 25, 1998

EFFECTIVE: August 26, 1998

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DeltaCom, Inc.
Florida

Switched Access Price List
First Revised Page 10
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SECTION 1- DEFINITIONS, (Cont'd.)

City - For the purposes of this tariff, the term City denotes a specific geographic area served by the Carrier. A City is typically a metropolitan area and may include one or more adjacent or nearby areas in which the Carrier has network facilities.

Call - A Customer attempt for which the complete address code is provided to the service end office.

Central Office - A local Company switching system where Customer station loops are terminated for purposes of interconnection to each other and to trunks.

Channel - A communications path between two or more points of termination.

Communications System - Denotes channels and other facilities which are capable of communications between terminal equipment provided by an entity other than the Company.

Collocation - Carrier facilities and/or equipment located in LEC central offices.

Commission - Florida Public Service Commission.

Constructive Order: Delivery of calls to or acceptance of calls from the Company's locations either by direct trunking or an alternate (indirect) route constitutes a Constructive Order by the Customer to purchase switched access services as described herein. Additionally, selection by a Company's End User of the Customer as the presubscribed IXC also constitutes a Constructive Order of switched access services by the Customer.

(N)
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(N)

Customer - Any person, firm, partnership, corporation or other entity which uses service under the terms and conditions of this tariff and is responsible for the payment of charges.

Customer Agreement - The mutual agreement between the Company and the Customer for the provision of the Company's service.

Customer Designated Premises - The interconnection point in the Company Serving Wire Center for the termination of the Company's service.

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EFFECTIVE: April 1, 2009

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DeltaCom, Inc.

Switched Access Price List
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Transmittal No. 1

Florida

SECTION 1- DEFINITIONS, (Cont'd.)

Customer Point of Presence - The physical location associated with the Customer's communication system.

Dedicated Access or Dedicated Transport - A method for a Customer to directly connect two locations of their choice with dedicated (non-switched) services.

Dual Tone Multifrequency (DTMF) - Tone signaling, also known as touch tone signaling.

End Office Switch - A Company switching system where station loops are terminated for purposes of interconnection to each other and to trunks.

End User - Any Customer of a telecommunications service provided by the Company that is not a Carrier or Common Carrier, except that a Carrier shall be deemed to be an End User when such Carrier uses a telecommunications service solely for administrative purposes. A person or entity that offers telecommunications service exclusively as a reseller shall be deemed to be an End User if all resale transmissions offered by such reseller originate on the premises of such reseller when making telecommunication service available to others, directly or indirectly.

Entry Switch - First point of switching.

Exchange - A group of lines in a unit generally smaller than a LATA established by the Company for the administration of communications service in a specified area. An Exchange may consist of one or more central offices together with the associated facilities used in furnishing communications service within that area.

ISSUED: August 25, 1998

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DeltaCom, Inc.
Florida

Switched Access Price List
First Revised Page 12
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SECTION 1- DEFINITIONS, (Cont'd.)

Facilities - Denotes any cable, pole, conduit, carrier equipment, wire center distribution frame, central office switching equipment, etc., utilized to provide the service offered under this tariff.

First Point of Switching - The first Company location at which switching occurs on the terminating path of a call proceeding from the Customer premises to the terminating end office and, at the same time, the last Company location at which switching occurs on the originating path of a call proceeding from the originating end office to the Customer premises.

Interexchange Carrier (IXC) - Any individual, partnership, association, corporation or other entity engaged in interstate communication for hire by wire, fiber or radio between two or more exchanges.

Hertz - A unit of frequency equal to one cycle per second.

Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Interstate - For the purpose of this tariff, the term Interstate applies to the regulatory jurisdiction of services used for communications between locations located in different states within the United States or between one or more location in the United States and one or more international locations.

Intrastate Communications - Any communications which originates and terminates within the same state. (InterLATA/IntraLATA)

Local Access and Transport Area (LATA) - A geographic area established for the provision and administration of communications service. A LATA encompasses designated exchanges, which are grouped to serve common social, economic and other purposes.

(T)

ISSUED: July 1, 1999

EFFECTIVE: July 2, 1999

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DeltaCom, Inc.
Florida

Switched Access Price List
Original Page 13
Transmittal No. 1

SECTION 1- DEFINITIONS, (Cont'd.)

Local Calling Area - A geographical area, as defined in the Company's local or general exchange service tariff, in which an End User may complete a call without incurring toll usage charges.

Message - A Message is a Call as defined above.

Off-Hook - The active condition of Switched Access Service or a telephone exchange line.

On-Hook - The idle condition of Switched Access Service or a telephone exchange line.

Originating Direction - The use of Switched Access Service for the origination of calls from an End User premises to an IXC premises.

Point of Presence - The physical location of an interexchange carrier's facilities.

Point of Termination - The point of demarcation within a Customer-designated premises at which the Company's responsibility for the provision of access service ends.

Premises - The physical space designated by the Customer for the termination of the Company's service.

Serving Wire Center - The wire center from which the Customer-designated premises would normally obtain dial tone from the Company.

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EFFECTIVE: August 26, 1998

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Switched Access Price List
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Transmittal No. 5

SECTION 1- DEFINITIONS, (Cont'd.)

Special Access - See Dedicated Access.

Tariff - For the purpose of this document, the term tariff should be replaced and referred to as Price List. (N)

Term Agreement - A method of purchasing the Company's services whereby the Customer agrees to purchase service between specific locations for a specified and mutually agreed upon length of time.

Terminal Equipment - Telecommunications devices, apparatus and associated wiring on the Customer-designated premises.

Terminating Direction - The use of Switched Access Service for the completion of calls from an IC's premises to an End User premises.

Transmission Path - An electrical path capable of transmitting signals within the range of the service offering. A transmission path is comprised of physical or derived facilities consisting of any form or configuration of plant used in the telecommunications industry.

Trunk - A communications path connecting two switching systems in a network, used in the establishment of an end-to-end connection.

Trunk Group - A set of trunks which are traffic engineered as a unit for the establishment of connections between switching systems in which all of the communications paths are interchangeable.

Wire Center - A physical location in which one or more central offices, used for the provision of exchange services, are located.

United States - The contiguous United States, Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands.

ISSUED: March 5, 2002

EFFECTIVE: March 6, 2002

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DeltaCom, Inc.
Florida

Switched Access Price List (T)
Second Revised Page 15
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Transmittal No. 7

SECTION 2- TERMS AND CONDITIONS

2.1 Undertaking of DeltaCom, Inc. (T)

The Company's service is furnished to Customers for intrastate communications. The Company's service is available twenty-four hours per day, seven days per week.

The Company arranges for installation, operation, and maintenance of the service provided in this tariff for the Customer in accordance with the terms and conditions set forth in this tariff.

2.2 Unauthorized Change Charge

If it is determined that an unauthorized change in service has occurred, DeltaCom will assess the Customer an Unauthorized Change Charge of \$50.00 per line. The appropriate nonrecurring charges to re-establish the end-user's service with the appropriate provider will also be assessed because of the unauthorized change.

2.3 Limitation On Service

2.3.1 Service is offered subject to the availability of the necessary facilities and/or equipment and subject to the provisions of this tariff. The Company may decline applications for service to or from a location where the necessary facilities or equipment are not available. The Company may discontinue furnishing service in accordance with the terms of this tariff.

ISSUED: March 30, 2006

EFFECTIVE: March 31, 2006

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(T)

DeltaCom, Inc.
Florida

Switched Access Price List
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Transmittal No. 1

SECTION 2- TERMS AND CONDITIONS

2.3 Limitation On Service, (Cont'd).

2.3.2 The Company reserves the right to discontinue or limit service when necessitated by conditions beyond its control (examples of these conditions are more fully set forth elsewhere in this tariff), or when service is used in violation of provisions of this tariff or the law.

2.3.3 The Company does not undertake to transmit messages, but offers the use of its service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.

2.3.4 The Company reserves the right to discontinue service, limit service, or to impose requirements as required to meet changing regulatory or statutory rules and standards, or when such rules and standards have an adverse material affect on the business or economic feasibility of providing service, as determined by the Company in its reasonable judgment.

2.4 Assignment or Transfer

All service provided under this tariff is directly or indirectly controlled by the Company and the Customer may not transfer or assign the use of service without the express prior written consent of the Company. Such transfer or assignment shall only apply where there is no interruption of the use or location of service. All terms and conditions contained in this tariff shall apply to all such permitted transferees or assignees, as well as all conditions of service.

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Florida

Switched Access Price List
Original Page 17
Transmittal No. 1

SECTION 2- TERMS AND CONDITIONS

ISSUED: August 25, 1998

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DeltaCom, Inc.
Florida

Switched Access Price List
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2.5 Location of Service

Service originates and terminates at locations within the state of Florida served by the Company.

2.6 Use of Service

2.6.1 Service may be used for any lawful purpose by the Customer or by any End User.

2.6.2 The Customer obtains no property right or interest in the use of any specific type of facility. Interest to such items remains at all time, solely with the Company.

2.6.3 Recording of telephone is prohibited except as authorized by applicable federal, state and local laws.

2.6.4 Any service provided under this tariff may be sold to or shared (jointly used) with other persons at the Customer's option. The Customer remains solely responsible for all use of service ordered by the Customer or billed to its account(s) pursuant to this tariff, for determining who is authorized to use its service, and for promptly notifying the Company of any unauthorized use. The Customer may advise its customers that a portion of its service is provided by the Company, but the Customer shall not represent that the Company jointly participates with the Customer in the provision of the service.

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2.7 Discontinuance and Restoration of Service

Service continues to be provided until canceled by the Customer, in writing, or until canceled by the Company as set forth below. The Company may render bills subsequent to the termination of service for charges incurred before termination.

2.7.1 Cancellation by the Customer

The Customer may have service discontinued upon written notice to the Company. The Company shall hold the Customer responsible for payment of all bills for service furnished until the cancellation date specified by the Customer or until the date that the written cancellation notice is received, whichever is later. A termination liability charge applies to early cancellation of a term agreement.

2.7.2 Cancellation by the Company

- (i) For Nonpayment: The Company, by written notice to the Customer and in accordance with applicable law, may discontinue service or cancel an application for service without incurring any liability after providing the Customer five (5) days prior written notice of any sum thirty (30) days past due.

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2.7 Discontinuance and Restoration of Service (Cont'd.)

2.7.2 Cancellation by the Company (cont'd.)

- (ii) For Returned Checks: The Customer whose check or draft is returned unpaid for any reason, after two attempts at collection, shall be subject to discontinuance of service in the same manner as provided for nonpayment of overdue charges. The return check charge is \$15.00.
- (iii) For any violation of law or of any of the provisions governing the furnishing of service under this tariff: The Customer shall be subject to discontinuance of service, without notice, for any violation of any law, rule, regulation or policy of any government authority having jurisdiction over service, or by reason of any order or decision of a court or other government authority having jurisdiction which prohibits the Company from furnishing such service.
- (iv) For the Company to comply with any order or request of any governmental authority having jurisdiction: The Customer shall be subject to discontinuance of service, without notice, for the Company to comply with any order or request of any governmental authority having jurisdiction.

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2.7 Discontinuance and Restoration of Service (Cont'd.)

2.7.3 Restoration of Service

- (i) If service has been discontinued for nonpayment or as otherwise provided herein and the Customer wishes it continued, service shall, at the Company's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected and the Customer pays a deposit at Company's discretion. Nonrecurring charges apply to restored services.
- (ii) Restoration of disrupted services shall be in accordance with the Florida Public Service Commission Rules and Regulations, which specify the priority system for such activities.

2.8 Cancellation of Application for Service

Where the Customer or applicant cancels an application for service prior to receipt of final order confirmation (FOC) or prior to the start of special construction, no charge applies.

Where installation of service has been started (after FOC) prior to the cancellation, a cancellation charge equal to the costs incurred by the Company may apply, but in no case shall such charge exceed the charge for the applicable installation charges.

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2.9 Minimum Period

The minimum period for which services are provided and for which rates and charges are applicable is one month unless otherwise specified in this tariff or by mutually agreed upon contract. When a service is discontinued prior to the expiration of the minimum period, charges are applicable, whether the service is used or not.

2.10 Billing and Payments

2.10.1 The Company shall bill on a current basis all charges incurred by and credits due to the Customer. The Customer may receive its bill in: 1) a paper format, 2) a paper format bill summary with a magnetic tape to provide the detailed information of the bill, 3) magnetic tape only, 4) computer disc, or 5) via electronic transmission. Such bills are due upon receipt regardless of the media utilized. The Company shall bill in advance charges for all services to be provided during the ensuing billing period except for charges associated with service usage. Adjustments for the quantities of service established or discontinued in any billing period beyond the minimum period in 2.9 will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of a bill.

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SECTION 2- TERMS AND CONDITIONS

2.10 Billing and Payments (Cont'd.)

2.10.2 Rating and Billing of Access Services Where More than One Exchange Telephone Company is Involved

Feature Group D Switched Access Service and/or Directory Assistance Service may be ordered by a Customer where one end of the Transport component is in the Company operating territory and the other end is in another Exchange Telephone Company operating territory. Each Exchange Telephone Company will provide and bill for the portion of the Transport in its operating territory to an interconnection point with another Exchange Telephone Company. The rates, billing and payment terms of the Company only apply to bills rendered by the Company. (T)

2.10.3 All bills for service provided to the Customer by the Company are due (payment date) by the next bill date (same day in the following month as the bill date) and are payable in immediately available funds. If such payment due date would cause payment to be due on a Saturday, Sunday or Legal Holiday, payment for such bills will be due from the Customer as follows: (T)

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SECTION 2- TERMS AND CONDITIONS

2.10 Billing and Payments (Cont'd.)

2.10.3 (cont'd.)

- .1 If such payment due date falls on a Sunday or on a Legal Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday date following such Sunday or Legal Holiday. If such payment due date falls on a Saturday or on a Legal Holiday which is observed on Tuesday, Wednesday, Thursday or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Legal Holiday.
- .2 Further, if any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment charge shall be due the Company. The late payment charge shall be that portion of the payment not received by the date due minus any charges billed as local taxes multiplied by the lesser of (i) 1.5 percent monthly or (ii) the highest amount allowable by law.
- .3 In the event the Company incurs fees or expenses, including attorney's fees and/or court costs, in collecting or attempting to collect any charges owed to the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

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SECTION 2- TERMS AND CONDITIONS

2.10 Billing and Payments (Cont'd.)

2.10.4 Invoice Reprint Charge

At the Customer's request, a reprint of a previous complete invoice can be provided. Charges for the provision of a duplicate invoice are set below.

The duplicate bill will contain the same billing detail as the primary bill.

Each FTP CD copy of monthly bill	\$25.00
Each BDT CD copy of monthly bill	\$25.00
Each BDT Electronic copy of monthly bill	\$25.00

Delivery Charges

Each package shipped via 2-day mail*	\$25.00
Each package sent electronically**	\$20.00

*Invoices will be sent via 2-day mail, so that proof of delivery will be received.

**Sending invoices electronically is only an option if the customer receives its regular invoices electronically. A system receipt showing date and time the file is received will act as proof of delivery.

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2.11 Claims and Disputes

In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Customer must submit a documented claim for the disputed amount. The Customer will submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 120 days of receipt of billing for those services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter.

2.11.1 If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest credits or penalties will apply.

2.11.2 If the dispute is resolved in favor of the Customer and the Customer has paid the disputed amount, the Customer will receive an interest credit from the Company for the disputed amount times a late factor as set forth in 2.10.3

2.11.3 In the event that the Company agrees to refund a credit by check or wire transfer, interest will be applied up to and including the date of issuance for either the check or wire transfer.

2.11.4 If the dispute is resolved in favor of the Company and the Customer has paid the disputed amount on or before the payment due date, no interest credit or penalties will apply.

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2.11 Claims and Disputes (Cont'd.)

2.11.5 If the dispute is resolved in favor of the Company and the Customer has withheld the disputed amount, any payments withheld pending settlement of the late disputed amount shall be subject to the late penalty as set forth in 2.10.3.

2.12 Payment of Deposits

2.12.1 The Company may, in order to safeguard its interests, require a Customer which has a proven history of late payments to the Company or does not have established credit to make a deposit prior to or at any time after the provision of service to the Customer, to be held by the Company as a guarantee of the payment of rates and charges. No such deposit will be required of a Customer which has established credit and does not have a history of late payments to the Company.

2.12.2 A deposit may not exceed the actual or estimated rates and charges for the service for a two month period. The fact that a deposit has been made in no way relieves the Customer from complying with the Company's requirement as to the prompt payment of bills.

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SECTION 2- TERMS AND CONDITIONS

2.12 Payment of Deposits (cont'd.)

- 2.12.3** At such time as the provision of the service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance which may remain will be refunded. After the Customer has established a one year prompt payment record, such a deposit will be refunded or credited to the Customer account at any time prior to the termination of the provision of the service to the Customer.
- 2.12.4** In case of a cash deposit, for the period the deposit is held by the Company, simple annual interest will be applied to the deposit for the number of days from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company.
- 2.12.5** If the amount of a deposit is proven to be less than required to meet the requirements specified above, the Customer shall be required to pay an additional deposit upon request.

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2.13 Inspection, Testing and Adjustment

2.13.1 The Company may, upon reasonable notice, make such tests and inspections as may be necessary to determine whether the terms and conditions of this tariff are being complied with in the installation, operation or maintenance of the Customer's or the Company's facilities or equipment. The Company may interrupt service at any time, without penalty or liability, due to the departure from or reasonable suspicion of the departure from any of these terms and conditions.

2.13.2 Upon reasonable notice, the facilities or equipment provided by the Company shall be made available to the Company for such tests and adjustments as may be necessary for their maintenance in a condition satisfactory to the Company. No interruption allowance shall be granted for the time during which such tests and adjustments are made, unless such interruption exceeds twenty-four hours in length and is requested by the Customer.

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2.14 Interconnection

- 2.14.1** Service furnished by the Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to technical limitations established by the Company. Service furnished by the Company is not part of a joint undertaking with such other common carriers or systems. The Company does not undertake to provide any special facilities, equipment, or services to enable the Customer to interconnect the facilities or the equipment of the Company with services or facilities of other common carriers or with private systems.
- 2.14.2** Interconnection with the services or facilities of other common carriers shall be under the applicable terms and conditions of this tariff and the other common carrier's tariffs.
- 2.14.3** The Customer shall ensure that the facilities or equipment provided by the Customer are properly interconnected with the facilities or equipment of the Company. If the Customer maintains or operates the interconnected facilities or equipment in a manner which results or may result in harm to the Company's facilities, equipment, personnel, or the quality of service, the Company may, upon written notice, require the use of protective equipment at the Customer's expense.

If this written notice fails to eliminate the actual or potential harm, the Company may, upon written notice, terminate the existing service of the Customer.

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2.14 Interconnection (Cont'd.)

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2.14.4 Physical Network Interconnection Arrangements

2.14.4.1 SS7 Interconnection

A Customer may connect to the Company's SS7 Network in one of three ways:

- A. If a Customer chooses to connect to the Company's SS7 network using links(s) and port(s), the Customer shall pay the charges set forth in Section 3.6.8, or
- B. The Customer and Company agree on another signaling interconnection arrangement on an Individual Case Basis.
- C. Where the Company acts as an SS7 Hubbing Provider for Customer (i.e. Customer does not have its own SS7 network) and the Company receives billing on behalf of its Customer for its SS7 usage, Company reserves the right to "pass through" Customer's portion of the SS7 billing to Customer.

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*Material previously located on this page now appears on Page 30.
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2.15 Liability of the Company

2.15.1 The liability of the Company for damages of any nature arising from errors, mistakes, omissions, interruptions, or delays of the Company, its agents, servants, or employees, in the course of establishing, furnishing, rearranging, moving, terminating, or changing the service or facilities or equipment shall not exceed an amount equal to the charges applicable under this tariff (calculated on a proportionate basis where appropriate) to the period during which such error, mistake, omission, interruption or delay occurs.

2.15.2 In no event shall the Company be liable for any incidental, indirect, special, or consequential damages (including lost revenue or profits) of any kind whatsoever regardless of the cause or foreseeability thereof.

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2.15 Liability of the Company (Cont'd.)

- 2.15.3** When the services or facilities of other common carriers are used separately or in conjunction with the Company's facilities or equipment in establishing connection to points not reached by the Company's facilities or equipment, the Company shall not be liable for any act or omission of such other common carriers or their agents, servants or employees.
- 2.15.4** The Company shall not be liable 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 service to restore service in compliance with the Florida Public Service Commission's Rules and Regulations.

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SECTION 2- TERMS AND CONDITIONS

2.15 Liability of the Company (Cont'd.)

2.15.5 The Company shall not be liable for interruptions, delays, errors, or defects in transmission, or for any injury whatsoever, caused by the Customer, or the Customer's agents, End Users, or customers, or by facilities or equipment provided by the Customer.

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2.16 Liability of the Customer

The Customer shall indemnify, defend and hold harmless the Company (including the costs of reasonable attorney's fees) against:

- (i) Claims for libel, slander, infringement of copyright or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information, or other content transmitted over the Company's facilities or equipment; and
- (ii) Claims for patent infringement arising from combining or connecting the Company's facilities or equipment with facilities, equipment, apparatus or systems of the Customer; and
- (iii) All other claims (including, without limitation, claims for damage to any business or property, or injury to, or death of, any person) arising out of any act or omission of the Customer, or the Customer's agents, End Users, or customers, in connection with any service or facilities or equipment provided by the Company.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements

2.19.2 Jurisdictional Report Requirements

(A) Percent Interstate Usage (PIU)

The Customer must upon ordering or first receiving service from the Company furnish the projected percentage of interstate usage to the Company. The report shall identify the Customer's Carrier Identification Code (CIC) and provide PIU by state, Operating Company Number (OCN), traffic type and traffic direction. The report shall be delivered to the Company via U.S. Mail, email or overnight delivery to the address as listed on the Customer's monthly invoice.

For purposes of developing the projected interstate percentage, the Customer shall consider every call that originates from a calling party in one state and terminates to a called party in a different state to be interstate communications. The Customer shall consider every call that terminates to a called party within the same state as the state where the calling party is located to be intrastate communications. The manner in which a call is routed through the telecommunications network does not affect the jurisdiction of a call, i.e., a call between two points within the same state is an intrastate call even if it is routed through another state.

The Customer may only provide a PIU factor that is in a whole number format, i.e., a number from 0 to 100. When the Customer provides the PIU factor, the Company will subtract the provided PIU from 100 and the difference is the percent intrastate usage. The sum of the interstate and intrastate percentages will equal 100 percent.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements (Cont'd.)

2.19.2 Jurisdictional Report Requirements (Cont'd.)

(B) Report Updates

Customers that provide the Company with an initial report must provide quarterly updates. Quarterly updates must arrive for processing by the last business day of the month following each calendar quarter (e.g., last business day in January, April, July, and October). Except where the Company is billing according to actuals by jurisdiction, the revised report will serve as the basis for the next three months billing beginning with the first billing period after the Company processes the quarterly report. If the report is not received as specified herein, the Company will not be responsible for implementing the projected and/or revised PIU in the manner described herein. No prorating or back billing will be done based on the report. Any late reports delivered to the Company will go into effect the next calendar quarter.

If the Customer does not supply an initial projected PIU as specified herein, the Company will use a default PIU of zero percent until such time as the Customer does supply such reports. If, after the Customer supplies a projected and/or revised PIU, the Customer fails to update such PIU for any reporting period (to be effective January, April, July or October), the Company will use a default PIU of zero percent until such time as the Customer does supply a revised PIU as specified herein.

Section 2.20 has moved to Page 34.5.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements (Cont'd.)

(C)

2.19.3 Maintenance of Customer Records

The Customer shall retain for a minimum of nine (9) months call detail records that substantiate the interstate percent provided to the Company as set forth in 2.19.2 (B) preceding for Switched Access Service. Such records shall consist of the following, if applicable:

- (A) All call detail records such as work papers and/or backup documentation including paper, magnetic tapes or any other form of records for billed customer traffic, call information including call terminating address (i.e., called number), the call duration, all originating and terminating trunk groups or access lines over which the call is routed, and the point at which the call enters the Customer's network and;
- (B) If the Customer has a mechanized system in place that calculated the PIU, then a description of that system and the methodology used to calculate the PIU must be furnished and any other pertinent information (such as but not limited to flowcharts, source code, etc.) relating to such system must also be made available.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements (Cont'd)

(C)

2.19.4 Jurisdictional Reports Verification

(A) Billing Dispute/Regulatory Commission Inquiry

If a billing dispute arises or a regulatory commission questions the project PIU factor, the Company will ask the Customer to provide the data the Customer used to determine the projected PIU factor. The Customer shall supply the data within 30 days of the Company's request.

(B) Company Traffic Studies

The Company may, at its sole discretion, conduct its own traffic studies to validate the Customer's projected/revised PIU. If the Company determines from the traffic studies a variance in the reported PIU, the Company will ask the Customer to provide the data the Customer used to determine the projected PIU factor. The Customer shall supply the data within 30 days of the Company's request. The Customer's PIU may be adjusted based upon the Company's traffic studies if the Customer does not provide the information as requested by the Company.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements (Cont'd)

(C)

2.19.4 Jurisdictional Reports Verification (Cont'd.)

(C) Company Audit

On thirty (30) days written notice, the Customer must provide the Company the ability and opportunity to conduct an annual audit to ensure proper billing of traffic. The Customer shall keep records of call detail for a minimum of nine (9) months from which a PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the Customer. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by an independent auditor paid for by the Company unless the results of the audit determine that the Customer has overstated the PIU by ten percentage points (10%) or more, in which case the Customer will be responsible for the costs of the audit. Once the audit is completed, the PIU shall be adjusted based upon the audit results. The Company shall apply this audited PIU to the period covered by the audit. If in the Company's favor, the Company will apply this audited PIU to the usage for up to two quarters following the period covered by the audit and/or for up to the lesser of (i) two years prior to the period covered by the audit or (ii) the period covered by the applicable statute of limitations.

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SECTION 2- TERMS AND CONDITIONS

2.19 Determination of Switched Access Jurisdiction and Jurisdictional Reports Requirements (Cont'd) (C)

2.19.5 Mixed Interstate and Intrastate Access Service

When mixed interstate and intrastate Switched Access Service is provided, all charges, including nonrecurring charges, usage charges, and optional features, will be prorated between interstate and intrastate. The percentage provided in the reports as set forth in Section 2.19 will serve as the basis for prorating the charges unless the Company is billing according to actuals by jurisdiction. The percentage of an Access Service to be charged as intrastate is applied in the following manner:

- (A) For nonrecurring chargeable rate elements, multiply the percent intrastate use times the quantity of chargeable elements times the state tariff rate per element.
- (B) For usage sensitive chargeable rate elements, multiply the percent intrastate use times actual use (measure of Company assumed average use) times the tariffed rate.

(C)

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SECTION 2- TERMS AND CONDITIONS

2.20 Damages

The Customer shall reimburse the Company for damages to Company facilities utilized to provide services under this tariff caused by the negligence or willful act of the Customer, or resulting from improper use of the Company's facilities, or due to malfunction of any facilities or equipment provided by any entity other than the Company, except that no Customer shall be liable for another Customer's actions.

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SECTION 2- TERMS AND CONDITIONS

2.21 Ownership of Facilities

Facilities utilized by the Company to provide service under the provisions of this tariff shall remain the property of the Company. Such facilities shall be returned to the Company by the Customer, whenever requested, within a reasonable period following the request in as good condition as reasonable wear permits.

2.22 Testing

The service provided under this tariff shall be made available to the Company at times mutually agreed upon in order to permit the Company to make tests and adjustments appropriate for maintaining the services in satisfactory operating condition. No credit will be allowed for any interruption during such tests and adjustments.

2.23 Design of Customer Services

The Customer shall be responsible for its own expense for the overall design of its services and for any redesigning or rearrangements of its services which may be required because of changes in facilities, operations or procedures of the Company, minimum protection criteria or operating or maintenance characteristics of the facilities.

2.24 Network Contingency Coordination

The Customer shall, in cooperation with the Company, coordinate in planning the actions to be taken to maintain maximum network capability following natural or man-made disasters which affect telecommunications service.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.1 General

Switched Access Service, which is available to Customers for their use in furnishing their services to End Users, provides a two-point electrical communications path between a Customer's premises and an End-User's premises. It provides for the use of common terminating, switching and trunking facilities, and for the use of common subscriber plant of the Company. Switched Access Service provides for the ability to originate calls from an End-User's premises to a Customer's premises in the LATA(s) where it is provided.

The application of rates for Switched Access Service is described in Section 3.6 following. Rates and charges for services other than Switched Access Service, e.g., a Customer interLATA toll message service, may also be applicable when Switched Access Service is used in conjunction with these other services.

3.1.1 Measuring Access Minutes

Customer traffic to end offices will be measured (i.e. recorded or assumed) by the Company at end office switches or access tandem switches. Originating and terminating calls will be measured (i.e., recorded or assumed) by the Company to determine the basis for computing chargeable access minutes. The measured minutes are the chargeable access minutes.

For originating calls over FGD with multifrequency address signaling, usage measurement begins when the originating FGD, except when equipped with tandem signaling and entry switch, receives the first wink supervisory signal (the second wink when equipped with tandem signaling) forwarded from the Customer's point of termination. For originating calls over FGD with CCSAC, usage measurement begins when the last point of switching sends the initial address message to the customer.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.1 General (Cont'd.)

3.1.1 Measuring Access Minutes

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The measurement of originating call usage over FGD ends when the originating FGD entry switch receives disconnect supervision from either the originating end user's office, indicating the originating end user has disconnected, or the Customer's point of termination, whichever is recognized first by the entry switch.

For terminating calls over FGD, measurement of access minutes begins when the terminating FGD entry switch receives answer supervision from the terminating end user's end office, indicating the terminating end user has answered.

The measurement of terminating call usage over FGD ends when the terminating FGD entry switch receives disconnect supervision from either the terminating end user's end office, indicating the terminating end user has disconnected, or the customer's point of termination, whichever is recognized first by the entry switch.

3.1.2 Mileage Measurement

The mileage to be used to determine the rate for mileage-sensitive components is calculated on the airline distance using the method set forth in the National Exchange Carrier Association, Inc., Tariff F.C.C. No.4 for Wire Center Information (V&H coordinates).

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SECTION 3 - SWITCHED ACCESS SERVICE

3.1 General (Cont'd.)

3.1.3 Two types of Feature Group Access are available:

- 1) Tandem Connect Access: This option applies when the customer has no direct facilities to the End Office Switch. All traffic is routed to and from the End Office via the Access Tandem. Delivery of calls to, or acceptance of calls from, the Customer's End User location(s) via Company-provided Tandem Connect Access services shall constitute a Constructive Order and an agreement by the Customer to purchase the Company's switched access services as described and priced herein.
- 2) Direct Connect Access: This option applies when the customer uses dedicated facilities between the customer's premises and the End Office Switch. This transmission path is dedicated to the use of a single customer. Delivery of calls to, or acceptance of calls from, the Customer's End User location(s) via Company-provided Direct Connect Access services shall constitute a Constructive Order and an agreement by the Customer to purchase the Company's switched access services as described and priced herein.

3.2 Rate Categories

The Company combines traditional per minute switched access rate elements into a single composite per minute rate element. There are four main categories of service components which are used to derive the composite rate:

- End Office Local Switching
- Switched Transport
- Carrier Common Line

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories

3.2.1 End Office Local Switching

End Office Local Switching provides for the use of end office switching equipment. Included in Local Switching are: Common Switching which provides the local end office switching functions and optional features.

Transport Termination which provides for the trunk side arrangements terminate the Switched Transport facilities. The number of Transport Terminations provided will be determined by the Company. (T)

Where end offices are appropriately equipped, international dialing may be provided. International dialing provides the capability of switching international calls with service prefix and address codes having more digits than are capable of being switched through a standard equipped end office.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport

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The Switched Local Channel rate is assessed a monthly fixed charge based on the capacity (e.g. DS1) ordered. This charge applies when the Customer premises and the serving wire center are located in the same Telephone Company building.

The Company will work cooperatively with the Customer in determining (1) whether the service is to be directly routed to an end office switch or through an access tandem switch, and (2) the directionality of the service.

The Switched Transport component is related to the transmission and tandem switching facilities between the Customer designated premises and the end office switch(es) where the Customer's traffic is switched to originate or terminate the Customer's communications. The Switched Transport component also includes transport between an end office which serves as host for a remote switching system or module (RSS or RSM) and the RSS or RSM.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport (T)

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport (T)

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.2 Switched Transport

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A. Feature Group D

FGD is provided at Company designated end office switches whether routed directly or via Company designated access tandem switches. FGD is provided as trunk side switching through the use of end office or access tandem switch trunk equipment. The switch trunk equipment is provided with wink start-pulsing signals and answer and disconnect supervisory signaling, or without signaling when the CCSAC optional feature is specified. FGD is provided with multifrequency address signaling, or common channel signaling.

FGD is provided with Directory Assistance service via Company designated access tandem switches appropriately equipped for DA measurement. Completion of these calls is set forth in Section 3.2.5 preceding. When Directory Assistance Access Service is provided with FGD switching, calls routed to the access tandem will be completed to the DA location. Calls completed to the DA location are subject to the charges in Section 3.6.5.

Material previously located on this page now appears on Page 46.6.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.3 Common Line

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Common Line provides for the use of End User's Company-provided common lines by Customers for access to such End Users to furnish Intrastate Communications.

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3.2.4 8XX Toll Free Dialing

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Rate elements applicable to 8XX Toll Free Dialing depend upon the services provided in the translation and routing of End User dialed 8XX numbers. Charges are applied on a per query basis. In addition, standard Feature Group D charges apply.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories, (Cont'd.)

3.2.5 Directory Assistance Access Service

Directory Assistance Access Service provides: (1) service to Directory Assistance Access Service locations; (2) the use of Directory Assistance Access equipment; and (3) the use of Directory Assistance Access operators to provide telephone numbers. A Company Directory Assistance operator, when furnished a name and locality, will provide or attempt to provide the telephone number listed in the Company Directory Assistance records associated with the name given at the rates and charges in Section 3.6.5. The Company will not transfer, forward or redial a Customer's end user call to any other location for any purpose other than the provision of Directory Assistance Access service.

A maximum of two (2) requests for telephone numbers will be accepted per call to the Directory Assistance Access operator. A telephone number which is not listed in Directory Assistance Access records will not be available to the Customer's end user. When the access tandem is appropriately equipped for Directory Assistance measurement, the Company will route all DA traffic to the DA Access location for completion over the Customer's switched access provided from the access tandem.

Directory Transport provides the transmission facilities and transport termination between the premises of the ordering customer and the DA Access service location. The mileage is measured from the wire center to the DA Access service locations(s).

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SECTION 3 - SWITCHED ACCESS SERVICE

3.2 Rate Categories (Cont'd).

3.2.5 Directory Assistance Access Service (cont'd).

A local channel, interoffice channel and access tandem switching will be charged pursuant to 3.6, when applicable.

Type A Transmission Specification is provided.

In the event that the telephone number is unavailable, no credit applies for the charge for the call to the DA Operator.

3.2.5.1 Billing

The Customer shall be responsible for all contacts and arrangements with its end users concerning the provision and maintenance of DA Access Service, and the billing and collecting of charges for DA Access service furnished to its end users.

3.2.5.2 Credit Allowance

A credit will be provided to the Customer in the following circumstances:

- (1) an incorrect number has been provided, or
- (2) a call is not completed due to failure of DeltaCom's equipment.

The amount of the credit equals the amount charged for a DA Access Service Call.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.3 Obligations of the Company

The Company has obligations pertaining only to the provision of Switched Access Service. These obligations are as follows:

3.3.1 Network Management

The Company will administer its network to insure provision of acceptable service levels to all telecommunications users of the Company's network services. Generally, service levels are considered acceptable only when both End Users and Customers are able to establish connections with little or no delay encountered within the Company network. The Company maintains the right to apply protective controls, i.e., those actions such as call gapping, which selectively cancel the completion of traffic, over any traffic carried over its network, including that associated with a Customer's Switched Access Service. Generally, such protective measures would only be taken as a result of occurrences such as a failure or overload of Company or Customer facilities, natural disasters, mass calling or national security demands.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.3 Obligations of the Company

3.3.2 Design and Traffic Routing of Switched Access Service

The Company shall design and determine the routing of Switched Access Service, including the selection of the first point of switching and the selection of facilities from the interface to any switching point and to the end offices where busy hour minutes of capacity are ordered. The Company shall also decide if capacity is to be provided by originating only, terminating only, or two-way trunk groups. Finally, the Company will decide whether trunk side access will be provided through the use of two-wire or four-wire trunk terminating equipment. Selection of facilities and equipment and traffic routing of the service are based on standard engineering methods, available facilities and equipment and the Company's traffic routing plans. If the Customer desires different routing or directionality than that determined by the Company, the Company will work cooperatively with the Customer in determining (1) whether the service is to be routed directly to an end office or (2) the directionality of the service.

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SECTION 3 - SWITCHED ACCESS SERVICE

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SECTION 3 - SWITCHED ACCESS SERVICE

3.4 Obligations of the Customer

The Customer has certain specific obligations pertaining to the use of Switched Access Service. These obligations are as follows:

3.4.1 Report Requirements

Customers are responsible for providing the following reports to the Company, when applicable.

(A) Jurisdictional Reports

When a Customer orders or receives Switched Access Service for both interstate and intrastate use, the Customer is responsible for providing reports as set forth in Section 2.19 preceding. Charges will be apportioned in accordance with those reports.

(B) Code Screening Reports

The Customer must report the number of trunks and/or the appropriate codes to be instituted in each end office, for each of the arrangements ordered.

The Company will administer its network in such a manner that the impact of traffic surges due to access service traffic is minimized. Network controls as defined in Section 3.3.1 may be implemented at the Company's option to ensure acceptable service levels.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.4 Obligations of the Customer

3.4.2 On and Off-Hook Supervision

The Customer facilities shall provide the necessary on and off-hook supervision for accurate timing of calls.

3.4.3 Terminating Signaling

On all calls in the terminating direction, the Customer shall ensure that the calling party's number, if available to it, is transmitted to the Company's switch; and, on calls delivered over a common trunk group via another telephone company's tandem switch, that the Customer's carrier identification code (CIC) is transmitted to the Company's switch. Neither the Customer nor any intermediate carrier shall remove or alter either the calling party's number or the CIC. Any calls delivered from another telephone company's tandem switch to the Company's switch without a CIC, or with an invalid CIC, shall be the responsibility of the carrier operating the tandem switch, and that carrier shall be the Customer with respect to such calls.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.5 Intermediate Provider Access Service

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Intermediate Provider Access Service is the origination or termination by the Company of a call any portion of which has been associated with the services provided by an Intermediate Provider.

An Intermediate Provider is a provider that:

- (A) is not the telecommunications carrier for the customer who is either the originating end user or the terminating end user;
- (B) does not have a direct connection with the Company or a written agreement, executed by the Company, for the provision of such services; and,
- (C) seeks to levy any charge or fee, by tariff or otherwise, against the Company.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.6 [Reserved for Future Use]

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges

3.7.1 Rate Regulations

This section contains the specific regulations governing the rates and charges that apply for Switched Access Service.

Access Charges are applied on a per access minute basis. Access minute charges are accumulated over a monthly period.

3.7.2 Minimum Periods

Switched Access Service is provided for a minimum period of one month.

3.7.3 Charges

.1 End Office Local Switching*

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Usage Sensitive Rates
 - per access minute

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Service provided via UNE-P/Commercial Agreement

	<u>Originating</u>	<u>Terminating</u>
Tandem Connect Access – AT&T areas	\$0.039629	\$0.062299
Tandem Connect Access – Other ILEC areas	\$0.048569	\$0.101969
Direct Connect Access – AT&T areas	\$0.037102	\$0.059772
Direct Connect Access – Other ILEC areas	\$0.046042	\$0.099442

Service provided via Company Switches and Facilities

Tandem Connect Access – AT&T areas	\$0.043710	\$0.066380
Tandem Connect Access – Other ILEC areas	\$0.052650	\$0.106050

* This is a composite per minute access rate which includes Local Switching, Switched Transport, and Common Line components.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges, (Cont'd.)

3.7.3 Charges (Cont'd.)

.2 Switched Transport

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Nonrecurring Charges

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	<u>Monthly Rate</u>	<u>1st Service Installed</u>	<u>Additional Service</u>
Direct Network Interconnection	ICB	ICB	ICB

All access minutes are billed using a composite per minute access rate found in Section 3.6.3.1, Local Switching. This composite rate includes the elements traditionally billed as Switched Transport, as applicable.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges, (Cont'd.)

3.7.3 Charges (Cont'd.)

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3 Carrier Common Line Access Charges

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All access minutes are billed a composite per minute access rate found in Section 3.6.3.1, Local Switching. This composite rate includes the element traditionally billed as Carrier Common Line.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges, (Cont'd.)

3.7.4 8XX Toll Free Dialing

Per Query

- Per Toll Free Dialing Call with POTS Number
Delivery for Toll Free Dialing Numbers with Optional
Complex Features, e.g. Call Handling and Destination
Features (All but Vista-United)

\$0111

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Vista-United

\$2800

3.7.5 Directory Assistance Access Service

Directory Assistance Service Call (Each call)

\$.60

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges, (Cont'd.)

3.7.6 Service Order Charges

		<u>Nonrecurring Charges</u>	
A.	Change of service, per request		\$92.00
B.	Trunk Side Service -per transmission path		\$5.00
C.	Common Block/Translations Related -per end office and tandem office ^{1,2}		\$62.00
		<u>First</u>	<u>Each Additional</u>
D.	64 CCC Option FGD with CCSAC -per transmission path ¹	\$470.00	\$76.00
E.	DS1, per rearrangement	\$866.97	\$486.83

¹ Services requested on multiple ASRs will be treated as one request when requirements are met.

² This charge is in addition to that in 3.6.5A.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges, (Cont'd.)

3.7.6 Service Order Charges (Cont'd.)

F. Transfer of Service

Per Billing Number	\$170.00
Trunk Side Service	
Per transmission Path	\$9.00

3.7.7 Primary Interexchange Carrier (PIC) Charge

A \$15.00 PIC change charge will be incurred and billed to the carrier for each eligible line where a PIC change is made.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.6 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection

3.7.8.1 The rates that apply for ITC^DeltaCom Signaling Service apply where the Customer interconnects with the signaling network at the Company's STP from the Customers' own SP/SSPs or from a Third-Party Provider of SS7 services.

- A. There are recurring and non-recurring charges that apply for each Link Termination and Port that is established.
- B. Non-recurring charges apply for the establishment or disconnection of Originating Point Codes (OPC). An OPC installation charge applies for each OPC established, as well as each OPC added or changed subsequent to the establishment of STP Access. An OPC disconnection charge applied for each OPC removed. The OPC charge applies on a per service basis.
- C. Usage charges apply for the formulation, transport and switching of ISUP or TCAP messages related directly to the Customer's origination and termination of switched access services throughout the Company's network. The Company may bill these charges by using

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SECTION 3 - SWITCHED ACCESS SERVICE

3.6 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection

3.7.8.1 C. (Cont'd)

a surrogate charge or as a per message fee as delineated in 3.6.8 following. To the extent non-local SS7 messaging is billed to the Company by another carrier, the Company will bill the carrier reciprocal charges for the number of messages billed.

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D. Where the Customer chooses to bill on a per message basis, the Company will assess ISUP usage charges per signaling message delivered to or from the Customer, regardless of direction, through the dedicated port connection with the Company. TCAP usage charges will be assessed per signaling message delivered to or from the customer, regardless of direction, for such services as Toll Free Access Service, 500 Access Service, LIDB, LNP Query, EOLS, and TCAP Message Transmission.

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E. Reporting SPIU and SPLU Factors

1) SPIU

If Customer has access to CCS7 Signaling Services monitoring software, then that carrier may

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3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

3.7.8.1 E. (Cont'd)

1) SPIU (Cont'd)

use this software to identify the appropriate jurisdictional factors (Signaling Percent Interstate Usage and Signaling Percent Local Usage) on its signaling with Company and report these factors in the same format detailed herein. If however Customer does not have access to CCS7 Signaling Services monitoring software, then an SPIU for CCS7 Signaling Services shall be developed and reported based upon the associated billed minutes of use for SWA Usage based services. The signals associated with billed minutes that are jurisdictionally interstate, as a percentage of the signals associated with total billed minutes shall be reported as the CCS7 Access SPIU. Where the customer is a "third Party Provider" of CCS7 services then the SPIU will be developed based upon a weighted average of all of that provider's "Third Party Customer's" end user traffic

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

3.7.8.1 E. (Cont'd)

1) **SPIU (Cont'd)**

Carriers developing and reporting an SPIU in this manner shall inform Company of the methodology used to determine the signals associated with billed minutes that are jurisdictionally interstate and the methodology used to determine the signals associated with total billed minutes.

2) **SPLU**

Where Customer is an approved local service provider, then the Customer may report an SPLU in the following manner:

If Customer has access to CCS7 Signaling Services monitoring software, then that Customer may use this software to identify the appropriate jurisdictional factors (SPIU/SPLU) on its signaling with Company and report these factors in the same format detailed

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3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

3.7.8.1 E. (Cont'd)

2) SPLU (Cont'd)

herein. If, however, a Customer does not have access to CCS7 Signaling Services, factors shall be developed and reported based upon the associated billed minutes of use for SWA Usage based services and Local services. The signals associated with billed minutes that are jurisdictionally local as a percentage of the signals associated with total intrastate billed minutes shall be reported as the CCS7 Access SPLU. Where the customer is a Third Party provider of CCS7 services then the SPLU will be developed based upon a weighted average of all of that provider's "Third Party Customer's" end user traffic. Customers developing and reporting an SPLU in this manner shall inform Company of the methodology used to determine the signals associated with billed minutes that are jurisdictionally local and the methodology used to determine the signals associated with total

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3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

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3.7.8.1 E. (Cont'd)

2) SPLU (Cont'd)

intrastate billed minutes.

3) Example

In determining a factor for intrastate, non-local traffic, consider the following example:

Based on evaluating SWA usage-based services and local interconnection services, a Customer has determined that its signaling traffic merits an SPIU of 80 and SPLU of 60. As such the following will then be true:

80% of the carrier's signaling messages will be billed as interstate of the remaining 20%, 60% of the 20% (.60x .20 =.12), 12% will be billed as local. And, the final 8% will be billed as intrastate, non-local.

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SECTION 3'- SWITCHED ACCESS SERVICE

3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

1. CCS7 Signaling Connection

	<u>Monthly Rate</u>	<u>Nonrecurring Charge</u>
(a) Per 56 kbps facility	\$500.00	\$550.00

2. CCS7 Signaling Termination

	<u>Monthly Rate</u>	<u>Nonrecurring Charge</u>
(a) Per STP port	\$300.00	\$350.00

3. CCS7 Signaling

(1) Surrogate (per Link, per LATA, per month) (T)

	<u>Monthly Rate</u>	
(2) Per Message (ISUP, TCAP)	\$400.00	(N)
ISUP	\$.000035	
TCAP	\$.000123	
		(N)

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(M) Material originally appearing on this page has been moved to Original Page 56.3.

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges (Cont'd).

3.7.8 SS7 Interconnection (Cont'd)

4. CCS7 Point Code Establishment or Change

		Nonrecurring Charge	
		<u>First</u>	<u>Additional</u>
(a)	Originating Point Code, Established or Changed	\$40.00	\$20.00
(b)	Per Destination Point Code, Established or Changed	\$20.00	\$20.00

3.7.9 Intermediate Provider Access Service

Rates will be billed at the greater of:

(A)	Per Minute Rate	\$0.025
(B)	Per Call Rate*	\$0.005

*The Per Call Rate is in addition to the Per Minute Rate.

Or, the amount charged to the Company by the Intermediate Provider plus an administrative fee equal to 10% of the total amount charged.

(N)

(N)

(D)

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SECTION 3 - SWITCHED ACCESS SERVICE

3.7 Rates and Charges (Cont'd).

3.7.10 Wireless to Wireline Traffic

This section applies to traffic originated by a Commercial Mobile Radio Service (CMRS) provider and terminated to end-user subscribers of the Company (i.e., wireless to wireline traffic).

IntraMTA traffic refers wireless-to-wireline traffic that originates and terminates within the same Major Trading Area (MTA). InterMTA traffic refers to wireless-to-wireline traffic that originates and terminates in two different MTAs. The Major Trading Area as defined in 47 C.F.R. paragraph 24-102 of the FCC Rules and Regulations. The Switched Access rates in this tariff apply to interMTA traffic.

The Company shall issue a Switched Access bill to the CMRS provider based on the best information available to the Company including, but not limited to, records of terminating traffic created by the Company at its end office or tandem switch and/or records generated by a third party ILEC whose network is used to route the traffic. If possible, the CMRS provider will provide to the Company billing records in standard industry formats regarding calls it originates that terminate on the Company's network. Records will be provided at an individual call detail record, if possible, with sufficient information to identify the specific date and time of the call, the call duration, and the originating and terminating numbers.

If a CMRS provider is unable to provide sufficient billing records to the Company, the CMRS provider will have the responsibility of providing, on a quarterly basis (or as otherwise agreed to by the Company), a report to the Company providing the percentage of the CMRS provider's traffic terminated to the Company that is intraMTA or interMTA. The report will also detail what percentage of the interMTA traffic is intrastate and what percentage is interstate (PIU).

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SECTION 4 – RESERVED FOR FUTURE USE

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Material previously located on this page now appears on Pages 46.6 and 53.

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SECTION 5 – RESERVED FOR FUTURE USE

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SECTION 6 - PROMOTIONS

(T)

6.1 Promotions - General

(T)

From time to time the Company shall, at its option, promote subscription or stimulate network usage by offering to waive some or all of the nonrecurring or recurring charges for the Customer (if eligible) of target services for a limited duration. Such promotions shall be made available to all similarly situated Customers in the target market area.

6.2 Demonstration of Service

(T)

From time to time the Company shall demonstrate service by providing free channels for a period of time to be determined by the Company. The Company will charge usage sensitive rates.

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SECTION 7 - CONTRACT SERVICES

(T)

7.1 General

(T)

At the option of the Company, service may be offered on a contract basis to meet specialized requirements of the Customer not contemplated in this tariff. The terms of each contract shall be mutually agreed upon between the Customer and Company and may include discounts off of rates contained herein, waiver of recurring or nonrecurring charges, charges for specially designed and constructed services not contained in the Company's general service offerings, or other customized features. The terms of the contract may be based partially or completely on the term and volume commitment, mixture of services or other distinguishing features.

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