

REGULATIONS AND SCHEDULE OF INTRASTATE CHARGES  
GOVERNING THE PROVISION OF ONE-WAY AND/OR TWO-WAY  
TRANSMISSION SERVICES  
FOR CONNECTION TO PUBLIC AND PRIVATE  
COMMUNICATIONS FACILITIES WITHIN  
THE STATE OF UTAH

This Tariff applies to the provision of one-way and/or two-way transmission services furnished by Zayo Group, LLC between one or more points in the State of Utah. This tariff is on file with the Utah Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business, 400 Centennial Parkway, Suite 200, Louisville, CO 80027.

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
400 Centennial Parkway, Suite 200  
Louisville, CO 80027

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CHECK SHEET

The pages of this tariff are effective as of the date shown. The original and revised sheets named below contain all changes from the original tariff and are in effect on the date shown.

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**SECTION 1 - EXPLANATION OF SYMBOLS, REFERENCE MARKS, AND ABBREVIATIONS  
OF TECHNICAL TERMS USED IN THIS TARIFF**

The following symbols shall be used in this Tariff for the purpose indicated below:

- C - To signify changed regulation.
- D - To signify discontinued rate or regulation.
- I - To signify increased rate.
- M - To signify a move in the location of text.
- N - To signify new rate or regulation.
- R - To signify reduced rate.
- S - To signify reissued matter.
- T - To signify a change in text but no change in rate or regulation.

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SECTION 2 - DEFINITIONS

Certain terms used generally throughout this Tariff are described below.

Advance Payment

Part or all of a payment required before the start of service, limited to recurring monthly charges for current month in advance.

Access Services

The Company's interstate telephone services offered pursuant to this Tariff.

Authorized User

A person, firm or corporation which is authorized by the Customer or joint user to be connected to the service of the Customer or joint user, respectively.

Carrier or Company or Zayo

Zayo Group, LLC, the issuer of this Tariff.

Commission

The Utah Public Service Commission.

Company Optical Fiber Termination Point, Central Office or "CO"

Any Company owned, leased, controlled or designated node, facility, structure or other connection point designated by the Company.

Customer

The person, firm or corporation which orders service and is responsible for the payment of charges and compliance with the Company's regulations.

Dedicated or Private Line

A facility or equipment system or subsystem set aside for the sole use of a specific Customer.

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**SECTION 2 - DEFINITIONS (Cont'd)****End User or User**

Any person or entity that obtains the Company's services provided under this Tariff, regardless of whether such person or entity is so authorized by the Customer.

**ICB or Individual Case Basis**

A service arrangement in which the regulation, rates and charges are developed based on the specific circumstances of the case.

**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; or any other geographic area designated as a LATA in the NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc. Tariff F.C.C. No. 4.

**Network**

Refers to the Company's facilities, equipment, and services provided under this Tariff.

**Network Service or Service**

Communications service consisting of (i) Ethernet Virtual Private Line Service ("EVPLS") which will provide point-to-point connectivity between diverse locations within a metropolitan area with Ethernet based transport, (ii) Ethernet Virtual Private LAN Service ("EVLAN") will provide point to multipoint, or any point to any point connectivity across multiple diverse locations within a metropolitan area with Ethernet based transport, (iii) Ethernet Internet Access Service ("EIA") will provide a connection with a bandwidth profile from 1Mbps to 1,000 Mbps to the Internet backbone. EIA provides Customer only with access to the Company's backbone network that serves as a transmission conduit through which Customer may connect its data servers to the Internet. The Company does not operate, process, or control the information, services, opinions or other content of the Customer's data servers or the information, services, opinions or other content of the Internet; nor does the Company engage in any protocol or information processing or conversion in connection therewith, (iv) or other one-way and/or two-way transmission paths for the delivery of electronic or photonic signals; between one (1) or more points within the State of Utah. EVPLS, EVLAN, and EIA are hereinafter referred to as Metro Ethernet Virtual Private Line Service ("Metro EVPLS").

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**SECTION 2 - DEFINITIONS** (Cont'd)**On-net**

Telecommunications services which are transported exclusively over facilities installed by the Company rather than the facilities of another carrier.

**Regulation(s)**

Any and all law(s), rule(s), regulation(s) (including without limitation those set forth in this Tariff), order(s), policy or policies, ruling(s), judgment(s), decree(s) or other determination(s) which are made by the Commission or any other federal, state, or local governmental authority.

**Service Commencement Date**

The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this Tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed Service Order from a Customer, the Service Commencement Date will be the first date on which the service or facility was used by a Customer.

**Service Order**

The written request for services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the Parties as set forth therein and pursuant to this Tariff, but the duration of the service is calculated from the Service Commencement Date. Should a Customer use the Company's service without an executed Service Order, the Company will then request the Customer to submit a Service Order.

**Shared**

A facility or equipment system or subsystem that can be used simultaneously by several Customers.

**SONET or Synchronous Optical NETWORK**

A family of fiber-optic transmission rates from 51.84 Mbps to 13.22 Gbps. SONET is an optical interface standard that allows internetworking of transmission products from multiple vendors.

**User**

A Customer, joint user, or any other person authorized by a Customer to use service provided under this Tariff.

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SECTION 3 - APPLICATION OF TARIFF

3.1 This Tariff applies to intrastate private line service supplied to Customers.

This Tariff applies only to the extent that services provided hereunder are used by a Customer for the purpose of originating or terminating intrastate communications. A communication is "intrastate" only if all points of origination and termination are located within the State of Utah.

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**SECTION 4 - REGULATIONS****4.1 Undertaking of the Company****4.1.1. Scope**

The Company undertakes to furnish the dedicated services described herein solely to business Customers in accordance with the terms and conditions set forth in this Tariff.

**4.1.2 Shortage of Facilities**

All service is subject to the availability of suitable facilities. The Company reserves the right to limit the length of communications or to discontinue furnishing services when necessary because of the lack of transmission medium capacity or because of any causes beyond its control.

**4.1.3 Terms and Conditions**

- A) Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this Tariff, a month is considered to have 30 days.
- B) Customers may be required to enter into written Service Orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this Tariff. Customers will also be required to execute any other documents as may be reasonably requested by the Company.
- C) In any action between the Parties to enforce any provision of this Tariff, the prevailing Party shall be entitled to recover its legal fees and court costs from the non-prevailing Party in addition to other relief a court may award.

SECTION 4 - REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.3 Terms and Conditions (Cont'd)

- D) This Tariff shall be interpreted and governed by the laws of the State of Utah regardless of its choice of laws provision.

4.1.4 Limitations on Liability

- A) Except as otherwise stated in this section, the liability of the Company for damages arising out of either: ( 1 ) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, misrepresentations, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in this Tariff.
- B) Except for the extension of allowances to the Customer for interruptions in service as set forth in this Tariff, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.4 Limitations on Liability (Cont'd)**

- C) The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.
- D) The Company shall not be liable for any claims for loss or damages involving:
- 1) Any act or omission of: (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
  - 2) If the performance of Company or Customer (collectively, the "Parties") under this Tariff, or any obligation hereunder, is prevented, restricted or interfered with by reason of (i) weather or environmental disturbances (including without limitation earthquakes, floods, fires, storms, and other disturbances) or acts of God; (ii) war, revolution, civil commotion, acts of public enemies, terrorism or national emergency, blockage or embargo; (iii) acts of any domestic federal, state, or local governmental authority or any foreign governmental authority (such acts including without limitation any regulatory or administrative decisions making said performance or obligation economically or technically unfeasible); (iv) labor difficulties, including, without limitation, strikes, slowdowns, picketing or boycotts; (v) failure of any third party (including any other carrier or supplier) to provide services, facilities or equipment required for such performance or obligation (or any other act or omission by said third party); or (vi) any other circumstances beyond the reasonable control of the Party affected (said events described in clauses (i) through (vi) foregoing collectively referred to as "Force Majeure Events", the Party whose performance is affected by said Force Majeure Event, upon giving prompt notice to the other Party, shall be excused from such performance (excluding, however, either Party's

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.4 Limitations on Liability (Cont'd)****D) (Cont'd)**

- 2) payment obligations to the other for any service or other performance not directly affected by the Force Majeure Event) on a day-to-day basis to the extent of such prevention, restriction, or interference and the other Party likewise (except for its payment obligations for performance prior to the commencement of the Force Majeure Event) shall be excused from performance of its obligations on a day-to-day basis to the extent such Party's obligations are related to the other's performance so prevented, restricted or interfered with); provided, however, that the Party whose performance is so affected by the Force Majeure Event shall use its commercially reasonable efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease. In the event Company is unable to deliver service for seven (7) consecutive days as a result of any Force Majeure Events, Customer shall not be obligated to pay Company for the affected service for so long as Company is unable to deliver; provided, however, that the Service Term of such service shall be extended for the period of time that the Force Majeure Event continues. Customer's excused payment obligations will be calculated, pro rata, based on number of days that Force Majeure Event continues, rounded up to the nearest day; for purposes of this calculation, a month is deemed to have thirty (30) days.
- 3) Any unlawful or unauthorized use of the Company's facilities and services;
- 4) Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;

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SECTION 4 - REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

D) (Cont'd)

- 5) Breach in the privacy or security of communications transmitted over the Company's facilities;
- 6) Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in this Tariff.
- 7) Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- 8) Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- 9) Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company;
- 10) Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Tariff;

SECTION 4 - REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

D) (Cont'd)

- 11) Any noncompletion of calls due to network busy conditions;
- 12) Any calls not actually attempted to be completed during any period that service is unavailable.

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.4 Limitations on Liability (Cont'd)**

- E) The Company shall be indemnified, defended and held harmless by the Customer or end user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, 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, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any Company or Customer equipment or facilities or service provided by the Company.
- F) The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, including attorney fees, 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, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service, so provided. Company reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this section as a condition prior to such installation.

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.4 Limitations on Liability (Cont'd)**

- G) The Company assumes no responsibility for the availability or performance of any cable or satellite systems or related facilities under the control of other entities, or for other facilities provided by other entities used for service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or services. Such facilities are provided subject to such degree of protection or nonpreemptibility as may be provided by the other entities.
- H) Except as otherwise stated in this Tariff, any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- I) THE COMPANY MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.
- J) To the extent not otherwise excluded by the terms of this Tariff, the Company's liability (to the Customer or to any other person), except (i) where caused by the Company's willful misconduct or (ii) as otherwise set forth in this Tariff, shall not exceed an amount equal to the lesser of (a) provable direct damages or (b) ten thousand dollars (\$10,000) in the aggregate for any and all Service Orders, agreements or other arrangements for or in connection with services provided hereunder. To the extent not otherwise excluded by the terms of this Tariff, the Company's liability for (i) negligence and (ii) gross negligence, as the case may be, will also not exceed the amount set forth in the preceding sentence.

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.5 Testing and Adjusting**

Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.

**4.1.6 Provision of Equipment and Facilities**

- A) Except as otherwise indicated, Customer-provided station equipment at the Customer's premises for use in conjunction with this service shall be so constructed, maintained and operated as to work satisfactorily with the facilities of the Company.
- B) The Company shall not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where such equipment is connected to service furnished pursuant to this Tariff, the responsibility of the Company shall be limited to the furnishing of services under this Tariff and to the maintenance and operation of such services in the proper manner. Subject to this responsibility, the Company shall not be responsible for:
- 1) the through transmission of signals generated by Customer-provided equipment or for the quality of, or defects in, such transmission; or
  - 2) the reception of signals by Customer-provided equipment; or

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**SECTION 4 - REGULATIONS (Cont'd)****4.1 Undertaking of the Company (Cont'd)****4.1.6 Provision of Equipment and Facilities (Cont'd)****B) (Cont'd)**

- 3) network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

**4.1.7 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:

- (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) over a route other than that which the Company would normally utilize in the furnishing of its services;
- (D) in a quantity greater than that which the Company would normally construct;
- (E) on an expedited basis;

SECTION 4 - REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.7 Special Construction

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

Special construction charges will be determined as described herein.

4.1.8 Ownership of Facilities

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

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**SECTION 4 - REGULATIONS (Cont'd)****4.2 Prohibited Uses**

- A) The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- B) The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offering complies with relevant laws and regulations, policies, orders, and decisions.
- C) The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- D) A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated Access Services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this Tariff will apply.

SECTION 4 - REGULATIONS (Cont'd)

4.3 Obligations of the Customer

4.3.1 Customer Premises Provisions

- A) The Customer shall provide the personnel, power and space required to operate all facilities and associated equipment installed on the premises of the Customer.
- B) The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.

4.3.2 Liability of the Customer

- A) The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- B) To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other Tariff of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.

SECTION 4 - REGULATIONS (Cont'd)

4.3 Obligations of the Customer (Cont'd)

4.3.2 Liability of the Customer (Cont'd)

- C) The Customer shall not assert any claim against any other customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this Tariff including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other customer or user and not by any act or omission of the Company. Nothing in this Tariff is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

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**SECTION 4 - REGULATIONS (Cont'd)****4.4 Customer Equipment and Channels****4.4.1 Interconnection of Facilities**

- A) In order to protect the Company's facilities and personnel and the services furnished to other Customers by the Company from potentially harmful effects, the signals applied to the Company's service shall be such as not to cause damage to the facilities of the Company. Any special interface equipment necessary to achieve the compatibility between facilities of the Company and the channels or facilities of others shall be provided at the Customer's expense.

**4.4.2 Inspections**

- A) The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with in respect to the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.

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**SECTION 4 - REGULATIONS (Cont'd)****4.4 Customer Equipment and Channels (Cont'd)****4.4.2 Inspections (Cont'd)**

- B) If the protective requirements in connections with Customer provided equipment are not being complied with, the Company may take such action as necessary to protect its facilities and personnel and will promptly notify the Customer by registered mail in writing of the need for protective action. In the event that the Customer fails to advise the Company within 10 days after such notice is received or within the time specified in the notice that corrective action has been taken, the Company may take whatever additional action is deemed necessary, including canceling service, to protect its facilities and personnel from harm. The Company will upon request 24 hours in advance provide Customer with a statement of technical parameters that the Customer's equipment must meet.

**4.4.3 Station Equipment**

- A) Customer-provided terminal equipment on the premises of the Customer or other authorized user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer, authorized user, or joint user.

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**SECTION 4 - REGULATIONS (Cont'd)****4.4 Customer Equipment and Channels (Cont'd)****4.4.3 Station Equipment (Cont'd)**

- B) The Customer or other authorized user 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 to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the customer's expense.

**4.4.4 Interconnection Provisions**

Facilities furnished under this Tariff may be connected to Customer-provided terminal equipment in accordance with the provisions of this Tariff.

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**SECTION 4 - REGULATIONS (Cont'd)****4.5 Customer Deposits and Advance Payments****4.5.1 Advance Payments**

To safeguard its interests, the Company may require a Customer to make an Advance Payment before services and facilities are furnished. The Advance Payment will not exceed an amount up to two months of estimated monthly usage charges. In addition, where special construction is involved, the Advance Payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The Advance Payment will be credited to the Customer's initial bill. An advance payment may be required in addition to a deposit.

**4.5.2 Deposits**

- A) To safeguard its interests, the Company may require the Customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:
- 1) two (2) months' charges for a service or facility which has a minimum payment period of one month; or
  - 2) the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable.

SECTION 4 - REGULATIONS (Cont'd)

4.5 Customer Deposits and Advance Payments (Cont'd)

4.5.2 Deposits (Cont'd)

- B) A deposit may be required in addition to an Advance Payment.
- C) When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. If the amount of the deposit is insufficient to cover the balance due to the Customer's account, the Company retains the right to collect any amounts owing after the deposit has been applied plus any costs related to the collection of any remaining balance.

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements****4.6.1 Payment for Service**

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

**A) Taxes**

The Customer is responsible for 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 Network Services.

**B) Miscellaneous Rates and Charges**

The Company may adjust its rates and charges or impose additional rates and charges on its Customers in order to recover franchise fees and amounts it is required or allowed by governmental or quasi-governmental authorities to collect from, or pay to others, in support of statutory or regulatory programs. Examples of such programs include, but are not limited to, the Universal Service Fund, Municipal Franchise Fees, Telecommunications Relay Service, and compensation to pay telephone service providers for the use of their pay telephones to access the Company's services.

**4.6.2 Billing and Collection of Charges**

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

A) Non-recurring charges are due and payable within 30 days after the date of the invoice.

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**SECTION 4 - REGULATIONS (Cont'd)**

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
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#### 4.6 Payment Arrangements (Cont'd)

##### 4.6.2 Billing and Collection of Charges (Cont'd)

- B) The Company shall present invoices for recurring charges monthly to the Customer in advance of the month in which service is provided, and recurring charges shall be due and payable upon the first day of the month in which Service is provided; all non-recurring charges are due and payable within thirty (30) days after the date of the invoice. Customer shall be in default if Company has not received payment for all charges within thirty (30) days of the date of the invoice. When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- C) When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have 30 days.
- D) Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the Parties, or if the service or facility does not conform to standards set forth in this Tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.2 Billing and Collection of Charges (Cont'd)**

- E) If any portion of the payment is received by the Company after the date due, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
- 1) a rate of 1.5 percent per month; or
  - 2) the highest interest rate which may be applied under state law for commercial transactions.
- F) The Customer will be assessed a charge of twenty-five dollars (\$25.00) for each check submitted by the Customer to the Company which a financial institution refuses to honor.
- G) If service is disconnected by the Company in accordance with Section 4.6.4 following and later reinstalled, service will be subject to all applicable installation charges. If service is suspended by the Company and later restored, service will be subject to all applicable restoration charges.
- H) Company will be entitled to recover all costs of collection of past due amounts under this tariff, including without limitation, reasonable attorney's fees.

SECTION 4 - REGULATIONS (Cont'd)4.6 Payment Arrangements (Cont'd)4.6.3 Billing DisputesA) General

All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 30 calendar days of the date of invoice. For the purposes of this section, "notice" is defined as notice provided to the Company in writing, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed.

B) Late Payment Charge

- 1) The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount as provided in this Tariff.
- 2) In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge.
- 3) In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.3 Billing Disputes (Cont'd)****C) Adjustments or Refunds to the Customer**

- 1) In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 3) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.
- 4) All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.3 Billing Disputes (Cont'd)****D) Unresolved Billing Disputes**

In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer has up to 90 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business) to take the following course of action.

- 1) First, the Customer may request and the Company will provide an in-depth review of the disputed amount.
- 2) Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Utah Division of Public Utilities  
P.O. Box 146751  
Salt Lake City, UT 84114-6751  
Tel: (801) 530-6652 or (800) 874-0904

- 3) Formal Complaint

Formal complaints are the last resort in the complaint process. The Commission will not permit a Customer to file a formal complaint unless it seems unlikely that a settlement can be reached through the informal complaint process.

Questions should be directed to:  
(801) 530-6716

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.4 Discontinuance of Service for Cause**

- A) Upon nonpayment of any amounts owing to the Company, the Company may, by giving 30 days prior written notice to the Customer and the Authority, discontinue or suspend service without incurring any liability.
- B) Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days prior notice in writing to the Customer and the Authority, 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 the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- E) 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 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.4 Discontinuance of Service for Cause (Cont'd)**

- F) In the event of fraudulent use of the Company's Network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- G) Upon the Company's discontinuance of service to the Customer under this section, 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 (discounted to present value at six percent).

**4.6.5 Notice to Company for Cancellation of Service**

Customers desiring to terminate service shall provide Company thirty (30) days written notice of desire to terminate service.

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**SECTION 4 - REGULATIONS (Cont'd)****4.6 Payment Arrangements (Cont'd)****4.6.6 Customer Overpayment**

The Company will pay interest on a Customer overpayment. Customer overpayment shall mean a payment to the Company in excess of the correct charges for service when caused by erroneous billing by the Company. The rate of interest shall be the unadjusted interest rate paid on Customer deposits or the late payment penalty rate, whichever is greater. Interest shall be paid from the date when the Customer overpayment was made, adjusted for any changes in the deposit interest rate or late payment penalty rate, and compounded monthly, until the date when the overpayment is refunded. No interest shall be paid on Customer overpayments that are refunded within thirty (30) days after such overpayment is received by the Company.

**4.6.7 Cancellation of Application for Service**

- (A) The Customer may cancel an application for service prior to installation of the equipment provided that the Customer immediately pay the Company any out of pocket expenses incurred by the Company plus a cancellation fee of two times the applicable monthly recurring service charge.
- (B) Out of pocket expenses include but are not limited to the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service****4.7.1 General**

- A) A credit allowance will be given when service is interrupted, except as specified below. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a component furnished by the Company under this Tariff.
- B) An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- C) If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.

**4.7.2 Limitations of Allowances**

No credit allowance will be made for any interruption in service resulting in whole or in part from one or more of the following:

- A) Any act, omission or negligence of or noncompliance with the provisions of this Tariff by any person or entity other than the Company, including but not limited to the Customer, contractors, agents and vendors or other common carriers connected to the service of the Company;
- B) Any failure of power, equipment, systems, connections, applications or services not provided by the Company;

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service (Cont'd)****4.7.2 Limitations of Allowances (Cont'd)**

- C) Force Majeure Events;
- D) During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- E) During any period in which the Customer continues to use the service on an impaired basis;
- F) 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) That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- H) That was not reported to the Company within thirty (30) days of the date that service was affected; and
- I) Service outage attributable to the installation of a new circuit.

**4.7.3 Use of Another Means of Communications**

If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service (Cont'd)****4.7.4 Application of Credits for Interruptions in Service**

- A) Credits for interruptions in service that is provided and billed on a flat rate basis for a minimum period of at least one month, beginning on the date that billing becomes effective, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
- B) For calculating credit allowances, every month is considered to have thirty (30) days.
- C) A credit allowance will be given for interruptions in service of 15 minutes or more. Two or more interruptions of 15 minutes or more during any one 24-hour period shall be considered as one interruption.

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service (Cont'd)****4.7.4 Application of Credits for Interruptions in Service (Cont'd)****D) Interruptions of 24 Hours or Less**

<u>Length of Interruption</u>	<u>Interruption Period To Be Credited</u>
Less than 15 minutes	None
15 minutes up to but not including 3 hours	1/10 Day
3 hours up to but not including 6 hours	1/5 Day
6 hours up to but not including 9 hours	2/5 Day
9 hours up to but not including 12 hours	3/5 Day
12 hours up to but not including 15 hours	4/5 Day
15 hours up to but not including 24 hours	One Day

E) Continuous Interruption Over 24 Hours and Less Than 72 Hours. Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each three-hour period or fraction thereof that occurs following the expiration of the initial 24-hour period. No more than one full day's credit will be allowed for any period of 24 hours.

F) Interruptions Over 72 Hours. Interruptions over 72 hours will be credited 2 days for each full 24-hour period that occurs following the expiration of the initial 72-hour period. No more than 30 days credit will be allowed for any one-month period.

G) Notwithstanding the foregoing, credit allowances for EVPLS, EVLAN and EIA shall be as set forth in Section 4.7.9.

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service (Cont'd)****4.7.5 Cancellation For Service Interruption**

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits. Notwithstanding the foregoing, disconnection for service interruption pursuant to Section 4.7.9 below is permitted for EVPLS, EVLAN and EIA only and not for any other service.

**4.7.6 Cancellation of Service/Termination Liability**

If a Customer cancels a Service Order or terminates services before the completion of the term for any reason whatsoever other than a service interruption, Customer agrees to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination and be payable within the period set forth in this Tariff.

**4.7.7 Termination Liability**

Customer's termination liability for cancellation of service shall be equal to:

- 1) all unpaid Non-Recurring charges reasonably expended by Company to establish service to Customer, plus;

SECTION 4 - REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.7 Termination Liability (Cont'd)

- 2) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus;
- 3) all Recurring Charges specified in the applicable Service Order for the balance of the then current term.
- 4) minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

4.7.8 Network Service Outage Exclusions

- A) Network Service Outage will not be deemed to have occurred in the event of a of service interruption resulting in whole or in part from one or more of the following causes.
  - 1) Any act or omission on the part of the Customer, its contractors, agents or vendors, including any refusal to release the circuit to Company or its agents for maintenance, testing or repair.
  - 2) The Customer's applications, equipment, or facilities including any third party equipment.
  - 3) Company or Customer-scheduled maintenance.
  - 4) Force Majeure Events.
  - 5) Service outages attributable to the installation of a new circuit.

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**SECTION 4 - REGULATIONS (Cont'd)****4.7 Allowances for Interruptions in Service (Cont'd)****4.7.9 Credit Allowances for EVPLS, EVLAN and EIA Service Outages**

- A) In the event that the Company is unable to restore a portion of the EVPLS, EVLAN or EIA service as required hereunder, or in the event of a EVPLS, EVLAN or EIA service outage, Customer shall be entitled to a credit against the monthly recurring charges prorated for the affected circuits for all unplanned EVPLS, EVLAN, and EIA service outages in excess of fifteen (15) minutes. The Company will deduct any credit allowances from future charges payable by the Customer. If two more or more outages in excess of thirty minutes occur in a 30-day period, and the cause of the outage is determined to be in Company's Network or System Equipment, such EVPLS, EVLAN or EIA service will be deemed a Chronic Trouble service. If a 3rd outage of thirty, (30) minutes occurs within fifteen, (15) days of the second thirty, (30) minute outage, Customer may disconnect the affected EVPLS, EVLAN or EIA service without incurring Termination Charges.
- B) A EVPLS, EVLAN or EIA service outage begins when the Company is notified or becomes aware of the interruption, whichever occurs first. A EVPLS, EVLAN or EIA service outage ends when the affected line and/or associated Company equipment is operational. Any delay time associated with the Company or its agents' inability to access the EVPLS, EVLAN or EIA service equipment premises at the Customer's site shall not be included in the duration of the service outage. If the Customer reports services or a facility or circuit to be inoperative, but declines to release it for testing and repair, it is considered to be impaired, but shall not be deemed a EVPLS, EVLAN or EIA service outage.

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
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SECTION 4 - REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.9 Credit Allowances for EVPLS, EVLAN and EIA Service Outages

B) (Cont'd)

1) Credit Allowances do not apply to service outages caused by:

- (i) The negligence or acts or omissions of Customer and/or End User or its agents;
- (ii) Failure of power;
- (iii) Failure or malfunction of non-Company equipment or systems;
- (iv) Circumstances or causes beyond the control of the Company or its agents;
- (v) During any period in which the Company or its agents are not given access to the service/equipment premises at Customer site; or
- (vi) Planned service outages, unscheduled emergency maintenance, scheduled maintenance, (alteration or implementation as described herein).

2) Customer must request a credit allowance for a service outage within thirty (30) days after the service outage occurs or any claim for an allowance is waived. Unless otherwise specifically stated, service outages are not aggregated for purposes of determining the credit allowance.

3) EVPLS, EVLAN or EIA Service Outage Credit is calculated per circuit according to the following table:

<b>Metro EVPLS Outage Duration</b>	<b>Credit Per Circuit</b>
15 minutes or less	None
Between 15 Minutes and 1 Hour	2% of Company's monthly recurring charge for the circuit
Each Hour above 1 Hour	An additional 3% of the Company's monthly recurring charge for the circuit, capped at 75% of the Company's monthly recurring charge for any single Metro EVPLS Outage and 100% of the Company's monthly recurring charge for all Metro EVPLS Outages to that same circuit in any month

Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
400 Centennial Parkway, Suite 200  
Louisville, CO 80027

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**SECTION 4 - REGULATIONS (Cont'd)****4.8 Customer Liability for Unauthorized Use of the Network (Cont'd)****4.8.1 Unauthorized Use of the Network**

- A) Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual authority to use the Network, obtains the Company's services provided under this Tariff; or (2) a person or entity that otherwise has actual authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this Tariff, or uses specific services that are not authorized.
- B) For all Services other than EIA, fraudulent use includes, but is not limited to, the following:
- 1) Using the Network to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service;
  - 2) Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this Tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
  - 3) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.
- C) For EIA, unauthorized use is described in the Company's Acceptable Use Policy that is posted on the Company's website.

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**SECTION 4 - REGULATIONS (Cont'd)****4.8 Customer Liability for Unauthorized Use of the Network (Cont'd)****4.8.1 Unauthorized Use of the Network**

- D) Customers are advised that use of telecommunications equipment and services, including that provided under this Tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this Tariff.

**4.8.2 Liability for Unauthorized Use**

- A) Except as provided for elsewhere in this Tariff, the Customer is responsible for payment of all charges for services provided under this Tariff furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- B) The Customer is liable for all costs incurred as a result of unauthorized use of the Network, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive charges.
- C) The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.

SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS

5.1 Dedicated Access Service

5.1.1 High Capacity Service - DS1

A high capacity service is for the transmission of synchronous serial data at 1.544 Mbps or 2.048 Mbps. Intermediate Bit Rate channels in multiple increments of either 56 kbps or 64 kbps up to 1.544 Mbps are also available.

5.1.2 Very High Capacity Service - DS3

A very high capacity service is for transmission of synchronous serial data at 44.736 Mbps or higher.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.2 Individual Case Basis Contracts**

The Company may provide any of the services offered under this Tariff, or combinations of services, to Customers on a Individual Case Basis (ICB). The terms and conditions of each ICB offering are subject to the agreement of both the Customer and the Company. Such ICB 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 ICB arrangements, with respect to services within the scope of the ICB contract.

Rates and terms for services that the company offers to Customers may vary depending on a number of factors, which may include:

- length of circuit(s)
- volume and/or term commitments
- varying equipment types and configurations
- type of service(s)
- cost differences (labor, taxes, fees paid to LEC for interconnection, etc.)
- customer-specific billing arrangements
- other miscellaneous fees and charges (e.g. rights of way charges, franchise fees and building rights of way costs, etc.)
- market conditions and/or competitive considerations
- availability of existing Zayo facilities

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
400 Centennial Parkway, Suite 200  
Louisville, CO 80027

SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
400 Centennial Parkway, Suite 200  
Louisville, CO 80027

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS")**

Metro EVPLS is a common carrier service subject to the regulations set forth in this Tariff. The Company, upon request, shall exercise commercially reasonable efforts to provide Metro EVPLS to Customer pursuant to the terms and conditions of this Tariff.

**5.4.1 General**

- A) Metro EVPLS permits a Customer to extend the range of their Ethernet communication from their local area network ("LAN") to a wide area network.
- B) With Metro EVPLS, Customers' Ethernet transmissions are encapsulated at OSI Layer 2, using standard IEEE 802.3 protocol, and delivered over the Zayo supplied optical backbone network to a designated remote site. Metro EVPLS thus can deliver IP ("Internet Protocol") or other data packets between two (2) specified points using Ethernet frames. Each Ethernet circuit will have a total Bandwidth Profile, which indicates its maximum data throughput. Metro EVPLS is transparent to Layer 3 protocols, including IP, IPX, and AppleTalk. Connectivity is available (initially) at a discrete bit rate from 1 Mbps to 1000 Mbps (in increments of 1 Mbps or 10 Mbps). Metro EVPLS thus permits Customers to transmit any information content of their choosing, and delivers the Customer's Ethernet communications without change in form or content from the Customer's premises to a specified destination (remote site, data center, or other carrier's point of presence ("POP")).
- C) Metro EVPLS is suitable for data transmission and VOIP.
- D) Metro EVPLS provided under this Tariff is available for intrastate service use only.
- E) Metro EVPLS is available at the rates set forth herein where facilities are available. Where special construction is required, additional charges under a Special Pricing Arrangement, as described in Section 5.5 may apply.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)****5.4.2 Metro EVPLS Regulations****A) Explanation of Terms**

- 1) Customer Premises Equipment ("CPE"): Customer supplied equipment used to attach its Ethernet LAN to an Edge Device.
- 2) Edge Device: A Company supplied termination device placed on the Customer's premises that permits Customers to attach their CPE. The Edge Device is part of the Company's regulated network, with the demarcation point (as defined in 47 C.F.R. Section 68.3) being the interface between the Edge Device and the Customer's CPE.
- 3) Ethernet LAN: A type of LAN conforming to IEEE Standard 802.3 (and related standards). Ethernet protocol (CMSA/CD) permits workstations on a LAN to communicate with one another, at speeds starting at 1 Mbps up to 1 Gps. Technical specifications are available from:

American National Standards Institute  
11 West 42<sup>nd</sup> Street  
New York, NY 10036

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
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SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)

5.4.2 Metro EVPLS Regulations (Cont'd)

B) Regulations

- 1) Customer may not suspend Metro EVPLS.
- 2) Metro EVPLS is available 24 hours per day, 7 days per week, except for periods of scheduled maintenance.
- 3) Metro EVPLS is available for lawful use only. Company may suspend Metro EVPLS if it reasonably suspects that (i) unlawful or fraudulent use is occurring or (ii) Customer supplied CPE is interfering with the proper operation or other customers' use of the Company's Network.
- 4) CPE attachment to the Company's Network (at the Customer's side of the Edge Device) is permitted, subject to compliance with applicable Electrical Institute of America or other interface specifications (available from the Company upon request). The Customer is responsible for installation, operation and maintenance of any and all CPE.
- 5) Responsibilities of the Company:
  - (a) The Company's obligations to provide Metro EVPLS are expressly conditioned upon the availability of facilities (including without limitation, services provided by local exchange carriers and access to rights-of-way, poles, conduit, easements, and other carriers' facilities), under economically and technically feasible conditions, all as determined by the Company in its sole, reasonable discretion.
  - (b) The Company will provide the Customer with information regarding the Edge Device specifications as reasonably necessary for the Customer to attach its LAN CPE.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)****5.4.2 Metro EVPLS Regulations (Cont'd)****B) Regulations (Cont'd)****5) Responsibilities of the Company (Cont'd):**

(c) The Company reserves the right to change its equipment vendors should equipment availability, price or technological advantages make such a change attractive or necessary. In such circumstances, the Company will give the Customer as much advance notice as reasonably possible, to allow the Customer sufficient time to make any necessary changes to CPE, and schedule cooperative testing for cutover if required.

(d) The Company will exercise reasonable commercial efforts to timely install Metro EVPLS by either the installation date set forth in a Service Order (defined hereunder) or, if no date is specified therein as soon as practicable after execution of a Service Order, subject to Customer's compliance with all regulations set forth in this Tariff. In the event Company fails to substantially complete such installation within thirty (30) days of the agreed upon installation date in the Service Order, Customer, as its sole remedy, may cancel the Service Order without penalty.

**6) Responsibilities of the Customer:**

(a) The Customer must be prepared to initiate testing of the Metro EVPLS in a timely manner on the negotiated date, providing testing equipment and personnel to support installation requirements, as may be necessary.

(b) Customer will be responsible for selecting its own CPE, which must be compatible with the Company provided Edge Devices.

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SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)

5.4.2 Metro EVPLS Regulations (Cont'd)

B) Regulations (Cont'd)

6) Responsibilities of the Customer (Cont'd):

- (c) The Customer shall be solely responsible for providing at its sole cost, (i) space and racks to house Company supplied Edge Devices, connector panels, splice boxes, media converters and (ii) a suitable power supply to all Company supplied equipment (including any Edge Devices) and for Customer's own CPE connected thereto.
- (d) The Customer shall arrange for, and shall be solely responsible for securing all permits, approval, and for completing all site preparation as required, for Company supplied Edge Devices to be placed on the Customer premises, together with suitable heating, air conditioning and environmental conditions for the Edge Devices as prescribed by and all at no charge to the Company.
- (e) The Customer must obtain a building entrance agreement permitting Zayo to bring its lateral connection or other Network facility into the building, if at the time of placing the Service Order Company does not then have access to the building.
- (f) Customer will be responsible for selecting its own CPE which must be compatible with the Company-provided Edge Devices. Company, upon request and as mutually agreed, may provide CPE to Customer on a case-by-case basis.
- (g) The operation of Metro EVPLS in accordance with the Company accepted Service Order and this Tariff.

SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)

5.4.2 Metro EVPLS Regulations (Cont'd)

B) Regulations (Cont'd)

6) Responsibilities of the Customer (Cont'd):

- (h) The Customer must provide Company with timely access to all Customer location(s) where Company equipment is located for authorized Company personnel and/or its agents to perform routine and emergency maintenance, and/or for removal of Company equipment at the termination, cancellation or expiration of the Service Term.
- (i) The operation of Metro EVPLS in accordance with the Company accepted Service Order and this Tariff.
- (j) Submission of a Service Order to Company for the Metro EVPLS ordered, which Service Order is subject to Company's acceptance.
- (k) The Company's obligations hereunder are expressly conditioned upon Customer, at its sole expense, securing a switched local telephone circuit for purposes of "remote dial-in" and a modem for each Customer location, and making such dial-in line and modem available at all times for the Company's use during installation, maintenance and repairs to the service ordered by Customer. The Company will have no liability whatsoever for (nor will the SLAs apply during the period of) any failure of Metro EVPLS arising from or caused by, directly or indirectly, the operation or failure of said dial-in line and/or modem.

SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)

5.4.2 Metro EVPLS Regulations (Cont'd)

B) Regulations (Cont'd)

6) Responsibilities of the Customer (Cont'd):

- (l) Except as otherwise agreed, Customer is responsible for the installation and all costs for the wiring from Customer's CPE to Company's point of demarcation for the building. Customer is responsible for any and all additional costs that may be incurred by Company due to delays caused, in whole or part, by Customer.

7) Trouble Resolutions

The Company will assist the Customer in resolving any installation or Metro EVPLS problems. However, the Company does not assume responsibility for the compatibility or suitability of the Customer's CPE. Company dispatches of personnel to the Customer premises to resolve problems caused, directly or indirectly, by CPE (or other Customer supplied devices or equipment) will result in additional charges to the Customer, based on the Company's then effective rates on a time and materials basis.

SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)

5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)

5.4.2 Metro EVPLS Regulations (Cont'd)

B) Regulations (Cont'd)

8) Service Orders

Customer may order Metro EVPLS by executing a Service Order. In addition to the Service Order, Customer shall also execute such other documents as the Company may reasonably require. In the event of a conflict or inconsistency between (i) the terms of a Service Order (or of any other document executed by the Customer) and (ii) those of this Tariff, the latter shall govern.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)****5.4.3 Metro EVPLS Service Level Agreement ("SLAs")**

The Company shall undertake commercially reasonable efforts to achieve the following performance goals and to make available the following network capabilities for Metro EVPLS Customers:

**A) Network Performance Goals ("SLAs")**

SLAs will vary, depending upon Customer's network configuration and specific service agreements entered into by the parties. Generally speaking, EVPLS is intended to operate according to the following SLAs:

- 1) EVPLS Availability: 99.5% - 99.99%
- 2) Network Restoration: 200ms – 1000ms

**B) SLA Description Metrics**

- 1) Bandwidth Guarantee: the Company guarantees that for periods when EVPLS is available, full port-to-port Circuit bandwidth is available for the Customer's use at all times.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.4 Metro Ethernet Virtual Private Line Service ("Metro EVPLS") (Cont'd)****5.4.3 Metro EVPLS Service Level Agreement ("SLAs")****B) SLA Description Metrics (Cont'd)****2) Response and Repair Times:**

In the event of an interruption in EVPLS ("EVPLS Outage"), excluding events as defined in Section 4.7.9.B.1, the Company will respond after receiving notification of the EVPLS Outage from either internal network monitoring or Customer. After receiving notification of the EVPLS Outage, the Company shall restore EVPLS on its failed system as follows:

**(i) Electronic Restoration**

In the event of an electronic failure, the Company shall use reasonable commercial efforts to restore EVPLS to the affected electronics within four (4) hours of arrival of maintenance personnel on site.

**(ii) Cable Restoration**

In the event of a cable failure of Company supplied cables, the Company shall begin cable restoral within four (4) hours after the Company is notified about the faulty cable.

**(iii) Emergency Reconfiguration**

If the Customer's network architecture and CPE has the capability to support route reconfiguration to maintain EVPLS, the Company will provide reconfiguration if other means of restoral will not restore EVPLS within the time frames stated in subparagraphs (i) and (ii) above. Reconfiguration will begin one (1) hour after the need to reconfigure is determined. The Company shall maintain a twenty-four (24) hours a day, seven (7) days a week point-of-contact for Customer to report EVPLS troubles.

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**SECTION 5 - SERVICE DESCRIPTIONS AND TECHNICAL STANDARDS (Cont'd)****5.5 Contract Rates - Special Pricing Arrangements – SPA**

- 5.5.1 In lieu of the rates, terms and charges otherwise set forth in this Tariff, rates, terms and charges, including minimum usage, installation, special construction, maintenance, repair and recurring and non-recurring charges for the Company's services, may be established at negotiated rates on an ICB, taking into account the nature of the facilities and services, the costs of construction and operation, the volume of traffic, the length of service commitment by the Customer, and use of facilities by other Customers. Such arrangements shall be considered Special Pricing Arrangements ("SPA"), the terms of which will be set forth in individual Customer contracts. However, unless otherwise specified, the terms, conditions, obligations and regulations set forth in this Tariff shall be deemed to be incorporated into, and become a part of, said contract, and shall be binding on Company and Customer. Specialized rates or charges will be made available to similarly situated Customers on a non-discriminatory basis. To be eligible for an SPA, a Customer (i) must not be in breach of any Zayo agreement or obligation, nor (ii) have any outstanding past due balances on charges owed to Zayo under such agreement or obligation.
- 5.5.2 In addition to any rate or charge established by Company, the Customer shall pay any applicable taxes, surcharges (including without limitation Universal Service Fund charges or other charges prescribed by governmental authorities), access charges, any recurring or nonrecurring charges imposed by local exchange telephone companies or interexchange carriers incurred by or on behalf of the Customer in establishing and maintaining service. Such charges may be billed by Company or directly by the local exchange company or interexchange carrier, at Company's option.
- 5.5.3 Requests for services available under an SPA must be made in writing and received by Company within the period of availability and must contain evidence that demonstrates, in Company's discretion, that the request is being made by a similarly situated Customer. If a written request is received during the availability period, Company will, subject to the deposit requirements set forth in this Tariff, provide the applicant with a SPA. SPA contracts may not be requested after the period of availability has expired. In order to purchase services under a SPA, the SPA must be signed and returned to Company within fifteen (15) days.

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

Issued By: Peter Chevalier, Associate General Counsel  
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SECTION 6 - RATES & CHARGES

5.5 Contract Rates - Special Pricing Arrangements – SPA (Cont'd)

5.5.4 Each SPA applicant will be required to establish credit. Any applicant whose credit has not been duly established to the sole and exclusive satisfaction of Company may be required to make a deposit, to be held as a guarantee of payment of charge. The deposit must be made by Customer prior to commencement of any services. In addition, an existing Customer may be required to make a deposit or increase a deposit presently held.

The Company will accept Bank Letters of Credit instead of cash deposits. The deposit may be held for as long as the financial condition/credit worthiness of the Customer is considered to be unsatisfactory by Company. A deposit will not exceed the amount permitted by the Commission.

If the deposit is not posted within five (5) days of receipt of deposit notice, service to the Customer may be discontinued without further notice.

5.5.5 A deposit will be returned: (a) if the SPA is not consummated. The deposit will be applied to any charges applicable in accordance with the base service schedules and the excess portion of the deposit will be returned; or (b) upon the discontinuance of all services. The Company will refund the Customer's deposit or the balance in excess of all outstanding charges, including all termination liabilities.

The fact that a deposit has been made in no way relieves the Customer from complying with the regulations with respect to deposits and the prompt payment of invoices.

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SECTION 6 - RATES & CHARGES (Cont'd)6.1 Dedicated Access Services6.1.1 High Capacity Service

<u>DS1</u>	<u>MONTHLY</u>	<u>NRC</u>
1.544 Mbps	\$ 270.00	\$ 682.80
1st Mile	\$ 120.00	
Each Add'l	\$ 60.00	
Multiplexing	ICB	

6.1.2 Very High Capacity Service

<u>DS3</u>	<u>MONTHLY</u>	<u>NRC</u>
44.736 Mbps	ICB	ICB
1st Mile	ICB	
Each Add'l	ICB	
Multiplexing	ICB	

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Issued: January 27, 2011

Effective: \_\_\_\_\_, 2011

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**SECTION 6 - RATES & CHARGES (Cont'd)****6.2 Nonrecurring Charge**

Nonrecurring charges will be charged on a time and materials basis.

**6.3 Special Construction****6.3.1 Basis for Rates and Charges**

Rates and charges for special construction will be based on the costs incurred by the Company and may include (1) nonrecurring type charges, (2) recurring type charges, (3) termination liabilities, or (4) combinations thereof.

**6.3.2 Basis for Cost Computation**

The costs referred to in 4.1.1 may include one or more of the following items to the extent that they are applicable:

- (a) cost installed of the facilities to be provided, including estimated costs for the rearrangements of existing facilities. Cost installed includes the cost of:
  - (1) equipment and materials provided or used,
  - (2) engineering, labor and supervision,
  - (3) transportation, and
  - (4) rights-of-way;
- (b) cost of maintenance;

SECTION 6 - RATES & CHARGES (Cont'd)

6.3 Special Construction (Cont'd)

6.3.2 Basis for Cost Computation (Cont'd)

- (c) depreciation on the estimated cost installed of any facilities provided, based on the anticipated useful service life of the facilities with an appropriate allowance for the estimated net salvage;
- (d) administration, taxes and uncollectible revenue on the basis of reasonable average costs for these items;
- (e) license preparation, processing and related fees;
- (f) tariff preparation, processing and related fees;
- (g) any other identifiable costs related to the facilities provided; or
- (h) an amount for return and contingencies.

SECTION 6 - RATES & CHARGES (Cont'd)

6.4 Service Calls

When a Customer reports trouble to the Company for clearance and no trouble is found in the Zayo facilities, the Customer may be responsible for payment of a charge calculated from the time Zayo personnel are dispatched to the Customer Premise until the work is completed.

Service Call Charge Rates

1. Normal Zayo business hours..... \$100.00  
for the first ½ hour  
\$50.00 each add'l ½ hour  
  
(Monday to Saturday 7:00 a.m. to 7:00 p.m., except Zayo holidays)
2. Off-Hour Zayo business hours .....\$300.00  
for the first ½ hour  
\$75.00 each add'l ½ hour  
  
(Monday to Saturday 7:00 p.m. to 7:00 a.m., except Zayo holidays)
3. Sundays and Holiday Zayo business hours ..... \$500.00  
for the first ½ hour  
\$125.00 each Add'l ½ hour

SECTION 6 - RATES & CHARGES (Cont'd)

6.5 Metro EVPLS Standard Pricing

During the course of the service commitment, Customers may increase its aggregate bandwidth in increments up to a maximum of 1000 Mbps for an additional monthly fee to be determined based upon circuit and bandwidth configuration (subject to Zayo agreement on the Service Commencement Date for increased bandwidth).

6.6 Rates

	<u>1 to 9 Mbps</u>	<u>10 to 99 Mbps</u>	<u>100 to 1000 Mbps</u>
<b>Installation MRC</b>	\$3,000.00 ICB based on Committed Bandwidth, Special Construction Costs and Distance between Network Connections	\$3,000.00 ICB based on Committed Bandwidth, Special Construction Costs and Distance between Network Connections	\$5,000.00 ICB based on Committed Bandwidth, Special Construction Costs and Distance between Network Connections
<b>Service Term</b>	ICB	ICB	ICB

SECTION 6 - RATES & CHARGES (Cont'd)

6.8 Termination Charges

In the event that, prior to the end of the period of time for which service was ordered ("Service Term"), Customer terminates service, or in the event that the delivery of service is terminated by Zayo due to a failure of Customer to comply with the Terms of this Tariff, Customer shall pay a termination charge equal to:

One hundred percent (100%) of the monthly recurring charges that would have been incurred for the service for the Service Term.

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SECTION 7 - PROMOTIONAL OFFERINGS

7.1 The Company may establish promotional programs to introduce present or potential Customers to a service not previously received by the Customer. During specific promotional periods, an offer may be made to reduce nonrecurring charges on a nondiscriminatory basis, up to the full amount, for optional products and services, and in addition, an offer may be made to reduce recurring charges. The Company will provide written notice to the Commission of promotions as required by Commission rules.

7.2 Metro EVPLS Ambassador Pricing

Promotional pricing is available to the first EVPLS, EVLAN, and EIA Customers of the Company in each Company market:

- A) One-time installation fee of \$3,000 (nonrecurring charge)
  
- B) Monthly Recurring Charge ("MRC") will be determined based upon, (i) a commitment of service for a minimum of twenty-four (24) months, and (ii) the circuit and bandwidth configuration.