

HOME TELEPHONE COMPANY

RATES, TERMS AND CONDITIONS

WIRELINE BROADBAND INTERNET TRANSPORT SERVICE

RATES, TERMS AND CONDITIONS
APPLICABLE TO
WIRELINE BROADBAND INTERNET TRANSPORT SERVICE
FURNISHED BY

HOME TELEPHONE COMPANY

FOR SERVICES
AS PROVIDED FOR HEREIN.

WIRELINE BROADBAND INTERNET TRANSPORT SERVICE

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WIRELINE BROADBAND INTERNET TRANSPORT SERVICE

1. General**1.1 Application of Rates, Terms and Conditions**

- 1.1.A The rates, terms and conditions contained within this document, hereinafter referred to as "Rates, Terms and Conditions," are applicable to the provision of Wireline Broadband Internet Transport Service ("WBITS"), hereinafter collectively or individually referred to as "Service", by HOME TELEPHONE COMPANY, hereinafter referred to as the "Company", as specified herein. Service is furnished subject to the availability of facilities and subject to transmission, atmospheric and like conditions. By accepting Service from the Company, the Customer accepts these Rates, Terms and Conditions as a binding agreement between the Customer and the Company.
- 1.1.B Under the Rates, Terms and Conditions the Company offers the Services subject to the jurisdiction of the Federal Communications Commission ("FCC") pursuant to Title II of the Communications Act of 1934, As Amended, (47 USC § 201-276) on a common-carriage permissively detariffed basis.
- 1.1.C The Company offers Services where technically feasible within its incumbent local exchange carrier ("ILEC") exchange boundaries in the state of South Dakota. For purposes of interstate services, including permissively detariffed WBITS as is comprehended by the Services, the Company's serving area is identified as a study area with a discrete Study Area Code ("SAC"): 240527.
- 1.1.D The provision of Service by the Company as set forth in these Rates, Terms and Conditions does not constitute a joint undertaking with the Customer for the furnishing of any service.
- 1.1.E From time to time, the Company may at its sole discretion modify the Rates, Terms and Conditions. Modification will be effective thirty (30) days after both posting of revised Rates, Terms and Conditions on the Company's Internet web site and mailing by United States Postal Service a copy of the revised Rates, Terms and Conditions to all customers currently a party to an executed Agreement as described in Section 2.5 following.

1.2 Definitions

Certain terms used throughout these Rates, Terms and Conditions are defined as follows:

1.2.A Application for Service

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

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1.2.B Company

HOME TELEPHONE COMPANY, unless the context indicates otherwise.

1.2.C Customer

Any individual, partnership, association, trust, corporation, cooperative or governmental agency or other entity which utilizes the Services provided by the Company. A Customer, as set forth herein, is responsible for the payment of charges and for compliance with all applicable terms of the Rates, Terms and Conditions.

1.2.D Customer Provided Equipment

Terminal Equipment or facilities provided by persons other than the Company and connected to the Company's Services and/or facilities.

1.2.E Data-Only WBITS

The term "Data-Only" when used in the context of WBITS refers to provision of the service over a line that does not also carry local exchange switched voice telephone service to the customer premises.

1.2.F Digital Subscriber Line ("DSL") Access Service Connection Point

The term "Digital Subscriber Line (DSL) Access Service Connection Point" is a location designated by the Company that serves as an aggregation point for the collection of Company WBITS traffic from multiple Digital Subscriber Line Access Multiplexers (DSLAMs) or comparable packet-mode data modem equipment. Network Service Providers establish connections to the Company's WBITS network at the Company designated DSL Access Service Connection Point.

1.2.G Ethernet

Ethernet is a physical link protocol reflecting the two lowest layers of the DNA/OS1 model. Ethernet networks can generally connect to Asynchronous Transfer Mode – Cell Relay Service ("ATM-CRS") networks at port speeds of 10 Mbps, 100 Mbps and one billion bits per second (1 Gigabit or "Gbps"), subject to availability of port connections at the desired speed. Standards applicable to Ethernet transmission are established by the Institute of Electrical and Electronics Engineers ("IEEE").

1.2.H Incumbent Local Exchange Carrier ("ILEC")

Incumbent Local Exchange Carrier ("ILEC") has the same meaning as Section 251(h) of the Communications Act, as Amended 47 U.S.C. § 251(h)(1).

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(1) DEFINITION.--For purposes of this section, the term "incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that--(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and (B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b)); Or (ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

1.2.I Internet

The Internet is "the international computer network of both Federal and non-Federal interoperable packet switched data networks." 47 USC §230(f)(1). The Internet is also described as "the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information." 47 USC §231(e)(3).

1.2.J Internet Protocol ("IP")

The Internet Protocol ("IP") is the industry standard method or protocol by which data is sent from one computer to another on the Internet.

1.2.K Internet Service Provider ("ISP")

An Internet Service Provider (ISP) is an organization that provides access to the Internet. The ISP provides the username and password to the end user Internet customer.

1.2.L John Staurulakis, Inc. Tariff F.C.C. No. 1.

John Staurulakis, Inc. (JSI) Tariff F.C.C. No. 1 is a group tariff for interstate access maintained by JSI for which the Company is an issuing carrier. The Company's interstate access rates are filed in the Company's company-specific rate section of JSI Tariff F.C.C. No. 1.

1.2.M kbps

Kbps is the widely recognized abbreviation for "kilobits per second", a measure of data transfer speed. The "k" in kbps is lowercase to indicated measurement in decimal, i.e. 1 kbps is 1,000 kilobits per second.

1.2.N Mbps

Mbps is the widely recognized abbreviation for "megabits per second", indicating a data transfer speed of one million bits per second.

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1.2.O MultiMedia

Multi-Media refers to data transport services that include data, text, audio, and visual content through use of Internet Protocol.

1.2.P MultiMedia Virtual Circuit Channel (MM-VCC)

A “MultiMedia Virtual Circuit Channel (MM-VCC) is a pre-defined logical circuit used to route ATM cells carrying MultiMedia between two customer designated premises.

1.2.Q Network Service Providers

Network Service Providers are Internet Service Providers (ISPs) or Multi-Media providers who provide retail services to end user customers based on transmission of data through use of Internet Protocol.

1.2.R Rates, Terms and Conditions

Rates, Terms and Conditions refers to this document as a whole comprising the rates, terms and conditions applicable to the provision of Services to Customers by the Company.

1.2.S Service

The offerings of the Company comprising Wireline Broadband Internet Transport Service (“WBITS”).

1.2.T Telecommunications

The transmission of voice communications or, subject to the transmission capabilities of the service, the transmission of data, facsimile, signaling, metering, or any other form of intelligence.

1.2.U Voice-Data WBITS

The term "Voice-Data" when used in the context of WBITS refers to provision of the service over a line that also carries local exchange switched voice service to the customer premises.

1.2.V Wireline Broadband Internet Transport Service (“WBITS”)

Wireline Broadband Internet Transport Service (“WBITS”) is a high-speed data access service that is made available to Network Service Providers for connection to the Company’s end user customers over existing company local exchange facilities for provision broadband services employing Internet Protocol.

2. Terms and Conditions

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2.1 Undertaking of the Company2.1.A Scope

Under the “Rates, Terms and Conditions,” the Company makes available to Network Service Providers Services as described in these Rates, Terms and Conditions. Services are described in Section 3 of these Rates, Terms and Conditions.

Connecting the Customer’s network to the Company’s WBITS network requires ordering by the Customer Special Access or Asynchronous Transfer Mode-Cell Relay Service (“ATM-CRS”) transport services sufficient to carry the Customer’s data between its premises and the Company’s designated DSL Access Connection Point. Special Access and ATM-CRS transport services within the Company’s serving area must be obtained from the Company pursuant to the regulations and rates provided by the Company under John Staurulakis, Inc. (“JSI”) Tariff F.C.C. No. 1. The Company’s company-specific rates for Special Access and ATM-CRS transport services are listed in the Company’s rate section contained in JSI Tariff F.C.C. No. 1.

2.1.B Limitations

- (1) The services provided pursuant to these Rates, Terms and Conditions are offered subject to the availability of facilities and the other provisions of these Rates, Terms and Conditions.
- (2) The Company does not undertake to transmit communications or messages, but rather furnishes facilities, Service and equipment for such transmissions by the Customer.
- (3) The Company retains the right to deny Service to any Customer which fails to comply with the rules and regulations of these Rates, Terms and Conditions, or other applicable rules, regulations or laws.

2.2 Obligations of the Customer

2.2.A All Customers assume general responsibilities in connection with the provision and use of the Company's Service. General responsibilities are described in this section. When facilities, equipment, and/or communication systems provided by others are connected to the Company's facilities, the Customer assumes the additional responsibilities as set forth in Section 2.2, herein.

2.2.B The Customer is responsible for the payment of all charges for any and all Services or facilities provided by the Company to the Customer.

2.2.C The Customer shall indemnify and save harmless the Company from and against all loss, liability, damage and expense, including reasonable counsel fees, due to claims for libel, slander, or infringement of copyright or trademark in connection with any material transmitted by the Customer using the Company's Services; and any other claim resulting from any act or omission of the Customer to the use of the Company's facilities.

2.2.D The Customer shall reimburse the Company for damages to the Company's facilities

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caused by any negligence or willful act or acts on the part of the Customer.

- 2.2.E In the event a suit is brought by the Company, or an attorney is retained by the Company to collect any bill or enforce the terms of these Rates, Terms and Conditions against a Customer, that Customer shall be responsible for payment of all reasonable attorney's fees, court costs, costs of investigation and any and all other related costs and expenses incurred by the Company in connection therewith.
- 2.2.F The Customer understands that the Services are furnished subject to the condition that there will be no abuse, fraudulent and/or illegal use thereof. Such activity includes, but is not limited to:
- (1) Using the Service for any purpose which is in violation of any law.
 - (2) Obtaining or attempting to obtain Services through any scheme, false representation and/or use of any fraudulent means or devices whatsoever with the intent to avoid payment, in whole or in part, of charges for Services, or assisting any other person or firm in such regard.
 - (3) Using the Services in a manner that interferes unreasonably with the use of Service by one or more other Customers.

2.3 Liabilities of the Company

Except as stated in this Section 2.3, the Company shall have no liability for damages of any kind arising out of or related to events, acts, rights or privileges contemplated in the Rates, Terms and Conditions.

- 2.3.A The liability of the Company for damages resulting in whole or in part from or arising in connection with the furnishing of Service under the Rates, Terms and Conditions including, but not limited to, mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations shall not exceed an amount equal to the charges under the Rates, Terms and Conditions applicable to the specific call (or portion thereof) that was affected. No other liability shall attach to the Company.
- 2.3.B The Company shall not be liable for any failure of performance hereunder due to causes beyond its control, including, but not limited to: (1) acts of God, fires, flood or other catastrophes; (2) any law, order, regulation, directive, action or request of the United States Government, or any other government, including state and local governments having jurisdiction over the Company, or of any department, agency, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority; or (3) national emergencies, insurrections, riots, wars or other labor difficulties.
- 2.3.C The Company shall not be liable for any act or omission of any other entity furnishing facilities, equipment, or services used by a Customer, with the Company's Services. In addition, the Company shall not be liable for any

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damages or losses due to the failure or negligence of any customer or due to the failure of customer provided equipment, facilities or services.

2.4 Application for Service

The Customer must place an Application for Service with the Company to initiate, cancel or change the Services provided pursuant to these Rates, Terms and Conditions. Applications for Services may be either in writing or orally and provide, at a minimum, the following information:

2.4.A Customer's name(s), telephone number(s) and address(es). In the case of a corporation or partnership, a designated officer or agent shall be named as the contact person for such corporation or partnership.

2.4.B Name(s), address(es) and telephone number(s) of person(s) to whom notices from the Company to the Customer shall be addressed, if different from (A) above.

2.5 Executed Agreements

2.5.A Agreement

The Company and the Customer shall execute an agreement ("Agreement") setting forth, based on the Customer's Application for Service, the specific services available under the Rates, Terms and Conditions that the Customer is ordering, the terms and volume commitments the Customer is establishing, the type and volume of transport service the Customer is ordering under JSI Tariff F.C.C. No. 1. The Agreement shall incorporate by reference these Rates, Terms and Conditions. The Rates, Terms and Conditions incorporated by reference into the Agreement should be the current Rates, Terms and Conditions posted on the Company's web site or delivered to the customer by United States Postal Service.

2.5.B Technical Standards Supplement ("TS Supplement")

The Company and the Customer shall agree to the industry technical standards applicable to the transmission of data between the Customer and the Company through use of the Company's WBITS provided pursuant to these Rates, Terms and Conditions and the Agreement. The agreed to technical standards shall be documented in the Technical Standards Supplement ("TS Supplement"). The TS Supplement shall be signed by both parties and incorporated by reference into the Agreement.

The TS Supplement can be amended, from time to time, based on mutual agreement of the Customer and the Company. If an industry standard becomes obsolete or is otherwise no longer supported by vendors associated with the Company's network, any duties with respect to technical standards are vitiated. In the event the Customer and the Company do not come to agreement regarding replacement industry standards, the Company shall choose the replacement industry standard most commonly used by the industry.

2.6 Charges and Payments for Service or Facilities

2.6.A Deposits

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- (1) The Company may, in order to safeguard its interests, require a Customer to make a suitable deposit or provide a surety bond or letter of credit in the amount of the required deposit as a guarantee of the payment of charges. The Company shall have the right to require the Customer to make a deposit prior to or at any time after provision of any Service, not to exceed three (3) months estimated charges. The Company may increase the amount of the deposit to reflect increases to the Customer's annual bill. The Customer will receive a receipt for the deposit.
- (2) Any deposit as referred to in this Section shall be held by the Company to secure the payment of the Customer's bill. At the Company's option, the deposit may be refunded or credited to the Customer at any time prior to the termination of Service.
- (3) Interest will be paid by the Company on all sums held on deposit at the rate established statutorily for customer deposits. The interest will be accrued for the period during which the deposit is held by the Company.
- (4) The fact that a deposit is made does not relieve the Customer from making advance payments or from complying with the Company's regulations for the payment of bills in accordance with the terms herein and does not constitute a waiver or modification of the regulations of the Company providing for the discontinuance of Service for nonpayment of any sums due the Company for Service rendered.
- (5) Upon termination of Service, and assuming deposits of the Customer are not applied as indicated in Section 2.5.A.2, the deposit will be credited to the Customer's account and any credit balance will be refunded after all amounts due the Company have been paid.

2.6.B Description of Payment and Billing Periods

- (1) Service is provided and billed on a monthly basis. Service continues to be provided and billed on a monthly basis until canceled by the Customer through notice given to the Company.
- (2) The Company shall establish the start date for monthly bill periods and such monthly periods shall continue through the term of the Agreement.
- (3) Proration of Charges

Adjustments for the quantities of services established or discontinued in any billing period beyond the minimum period set forth for services in other sections of the Rates. Terms and Conditions will be prorated to the number of days based on a 30 day month.

2.6.C Taxes and Other Charges

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In addition to payment for Services, Customer must pay all taxes, fees, surcharges and other charges that the Company bills Customer related to Services. Taxes and surcharges will be in the amounts that federal, state and local authorities require the Company to bill Customer. The company will not provide advance notice of changes to taxes and surcharges, except as required by applicable law. All such taxes and charges shall be separately shown and charged on bills rendered by Company or its billing agent.

2.6.D Payment and Late Payment Charge

- (1) Payment will be due as specified on the Customer bill. Commencing after that due date, a late charge of up to the highest interest rate allowable by state law will be applied to all amounts past due.
- (2) Collection procedures and the requirement for a deposit are unaffected by the application of a late payment charge. The late payment charge does not apply to unpaid balances associated with disputed amounts. Undisputed amounts on the same bill are subject to the late payment charge if unpaid and carried forward to the next bill.
- (3) Service may be denied or discontinued at the Company's discretion for nonpayment of amounts due the Company past the due date as specified in 2.6.D.1. Restoration of Service will be subject to all applicable installation charges.

2.6.E Credit Allowance/Service Interruptions

- (1) Credit for failure of Service will be allowed only when failure is caused by or occurs in the Company's facilities or equipment owned, provided and billed for by the Company. A credit allowance is not applicable for any period during which Customer cannot utilize the Service, except for such period where the Service is interrupted by the Company for access to its facilities for the purposes of investigating and clearing troubles and/or maintenance.
- (2) Credit allowances for failure of Service or equipment starts when the Customer notifies the Company of the failure and ceases when the operation has been restored and an attempt has been made to notify the Customer by the Company.
- (3) The Customer shall notify the Company of failures of Service or equipment and make reasonable attempts to ascertain that the failure is not caused by Customer Provided Equipment or Customer provided facilities, any act, or omission of the Customer, or in wiring or equipment connected to the Customer's terminal.
- (4) Only those portions of the Service or equipment operation disabled will be credited.

2.6.F Service Interruption Measurement

- (1) In the event of an interruption of Service that exceeds the minimum requirements set forth in this paragraph, the Company shall make a credit

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allowance at the Customer's request for a pro rata adjustment of all Service charges billed by the Company for Services rendered inoperative by the interruption. The credit allowance will be computed by dividing the duration of the service interruption measured in twenty-four (24) hour days, from the time the interruption is reported to the Company, by a standard thirty (30) day month, and then multiplying the result by the Company's fixed monthly charges for each interrupted Service.

- (2) A credit allowance will not be given for interruptions caused by the negligence or willful act of the Customer, or interruptions caused by failure of equipment or service not provided by the Company.

2.7 Termination or Denial of Service by the Company

2.7.A The Company may, immediately and without notice to the Customer, and without liability of any nature, temporarily deny, terminate, or suspend Service to any Customer:

- (1) In the event such Customer or its agent: (a) willfully damages the Company equipment, interferes with use of the Company's Service by other Customers of the Company; (b) unreasonably places capacity demands upon the Company's facilities or Service; or (c) violates any statute or provision of law, or any rule or regulation of any state or federal regulatory agency relating to communications; or (d) otherwise fails to comply with the provisions of these Rates, Terms and Conditions or applicable law; or
- (2) In the event a Customer becomes insolvent, is the subject of any formal legal proceeding commenced in a court involving a voluntary or involuntary petition or proceeding in bankruptcy, seeks protection or relief from creditors in a formal legal proceeding after a filing for such relief, or executes an assignment for the benefit of creditors; or
- (3) In the event that the Company determines that any Service is being used fraudulently or illegally, whether by a Customer or its agent.

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2.8 Billing Disputes

If Customer believes Customer has been billed by the Company in error, Customer must contact the Company within sixty (60) days of the date of the bill which contains the disputed charge. Refunds or adjustments will not be issued for any charge that is more than sixty (60) days old at the time Customer notifies the Company. Customer may withhold from payment to the Company the disputed portion of any bill pending resolution of the dispute. Customer must pay all non-disputed charges on the bill by the due date indicated on the bill. The Company will notify Customer of the results of its inquiry, and either adjust the billing, issue a credit, or notify Customer that all or a portion of the disputed amount is still owed. Customer will be required to pay such amount within fifteen, (15) days thereafter, and if Customer fails to pay this amount within the time required, Customer's account will be deemed past due and unpaid and Customer's Service subject to termination under Section 2.6 above. Any payments Customer withholds pending resolution of the dispute may be subject to a late payment charge at the highest interest rate allowable by law applied to past due amounts.

3. Description of Service**3.1** General

Wireline Broadband Internet Transport Service ("WBITS") enables data traffic generated by a Customer-provided modem to be transported from the premises of the Company's end user customer to the Company's DSL Access Service Connection Point using the Company's local exchange service facilities. A DSL Access Service Connection Point is an interconnection point designated by the Company at which the customer may interconnect WBITS provided by the Company under the Agreement and Rates, Terms and Conditions with transmission facilities ordered by the Customer under the Company's Special Access High Capacity or Asynchronous Transfer Mode-Cell Relay Service ("ATM-CRS") offerings under John Staurulakis, Inc. ("JSI") Tariff F.C.C. No. 1. The DSL Access Service Connection Point aggregates WBITS data.

3.1.A ATM-CRS Network Ethernet Connections

Customers may connect to the DSL Access Service Connection Point by ordering and maintaining an Ethernet-based Network-to-Network Interface ("NNI") Port as offered by the Company in JSI Tariff F.C.C. No. 1 under regulations at 16.7 therein, Asynchronous Transfer Mode Cell Relay Access Service, subject to charges at the Company's rates at Section 17.4.8.3, Asynchronous Transfer Mode Cell Relay Access Service. Transmission of Multi-Media data requires establishment by the Customer of an ATM-CRS Ethernet Port connection at the Company designated DSL Access Service Connection Point. The Company offers ATM-CRS Ethernet DSL Access Service Connections at 1 Gbps.

3.1.B Special Access High Capacity Connection

The Company offers transport of Network Service Provider traffic between the Network Service Provider's designated premises and the DSL Access Service

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Connection Point through Special Access High Capacity Services under regulations at Section 7 of JSI Tariff F.C.C. No. 1 subject to charges at the Company's rates at Section 17.3.8. Special Access High Capacity connections do not support Ethernet connections to the Company's WBITS network. The Company offers Special Access High Capacity DSL Access Connections at 1.544 Mbps or 44.736 Mbps.

3.1.C Designated End User Premises

The Company's WBITS allows Customers to establish broadband Internet connections to the designated end user premises. The designated end user premises location must be served by an existing Company provided exchange line facility. An exchange line facility is the serving wire center central office line equipment and all of the plant facilities up to and including the Company-provided NID.

The connection speed or "sync rate" is between the NID at the end user's premises and the DSLAM. Actual data transfer or throughput may be lower than the sync-rate due to Internet congestion, server or router speeds, protocol overheads, end user use of multiple applications and other factors that may not be under the Company's control.

WBITS will be provided by the Company subject to the availability and limitations of Company Wire Centers and outside plant facilities.

3.2 Service Classes and Options

WBITS is provided by the Company based on service class and service option.

3.2.A Service Classes

(1) Business Class

The Company will provide WBITS for end user lines serving business customers by Business Class WBITS offerings at indicated Business Class rates. Business customers are customers who are listed in the Company's directory as a business, or customers who meet the definition of business customer established in the Company's local exchange service tariff.

(2) Residence Class

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The Company will provide WBITS for end user lines serving residence customers by Residence Class WBITS offerings at indicated Residence Class rates. Residence customers are customers who are listed in the Company's directory as residence customers, or customers who meet the definition of residence customer established in the Company's local exchange service tariff.

3.2.B Service Options

WBITS is available in the Downstream and Upstream options established by the Company as indicated in Section 4 following. Each option offered by the Company shall specify the downstream and upstream speeds.

3.3 WBITS Provisioning**3.3.A Responsibility of the Company**

- (1) WBITS will be provisioned over existing Company local exchange service lines or copper facilities.
- (2) The Company will determine if the associated local exchange service line or copper facilities are suitable for use with the WBITS option ordered by the customer. Service will not be provided on lines that are not suitable for Wireline Broadband Internet Transport Service or on lines that produce interference with other services provided by the Company.
- (3) The Company will provision and maintain WBITS for the customer between the NID at the end user premises and the customer's ATM-CRS NNI Port or Special Access High Capacity DSL Access Connection Point.
- (3) The Company reserves the right to temporarily interrupt WBITS for wire center or network maintenance, software updates, and in emergency situations.

3.3.B Responsibility of the Customer

- (1) The Customer is responsible for obtaining and installing compatible customer premises equipment (DSL modems and/or routers) used for connection to Company WBITS.
- (2) The Customer is responsible for ensuring the continuing compatibility of

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CPE at the end user premises. The customer and/or end user shall be responsible for any expenses incurred for required changes to customer and/or end user equipment or facilities in order to make such equipment or facilities compatible with Company WBITS.

- (3) The customer is responsible for providing the Company with the necessary information to provision the WBITS to its subscribers.
- (4) The Customer ordering WBITS on behalf of its subscriber(s) must obtain and maintain record of a letter of agency authorizing the customer to act as the agent of the end user subscriber. Upon request from the Company, the customer will provide the Company with a copy of the letter of agency.
- (5) The Customer must have connectivity to Company's ATM-CRS or Special Access High Capacity Service network where customer chooses to purchase WBITS. The rates and charges for ATM Service or Special Access High Capacity Service are in addition to the rates and charges for WBITS.
- (6) The Customer will obtain the appropriate authorization to allow the Company's employees or agents to enter the end user customer's designated premises at any reasonable hour for the purpose of installing, inspecting, repairing or removing the NID or drop associated with WBITS.
- (7) The Customer is responsible for providing all customer support, marketing, billing, ordering and repair to and for its end users.
- (8) The Customer is responsible for all dealings with end user customers.
- (9) The Customer shall at all times be the customer of record with respect to all Services purchased hereunder and shall be responsible for payment to Company. Customer retains all responsibility for billing its end users and for any claim an end user may make concerning unauthorized billing.

3.4 Rate Regulations

3.4.A Rate Elements

WBITS arrangements are available in varying options for the applicable service class based on the Downstream and Upstream speed combinations chosen by the customer. Rates include monthly recurring charges and nonrecurring charges due at the time of installation.

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3.4.B Changes

All changes to existing WBITS (e.g., a change of Network Service Provider and restoral of the WBITS following a disconnect for non-payment of charges and/or a disconnect of the associated local exchange service line for any reason), other than changes involving WBITS Network Reconfigurations under Section 16.8.6(C) following and administrative activities, will be treated as a discontinuance of the existing service and an installation of a new service. A nonrecurring installation charge will apply per WBITS line for this work activity.

The following administrative changes will be made without charge to the customer:

- Change of customer designated premises address when the change of address is not a result of a physical relocation of equipment,
- Change in billing data (name, address or contact name or telephone),
- Change of billing account number,
- Change of agency authorization that requires no changes to the Company's network,
- Change of customer contact name or telephone number, and
- Change of jurisdiction.

3.4.C WBITS Network Reconfiguration Charge

A WBITS Network Reconfiguration Charge applies when the WBITS customer requests the Company to modify the Company's network to: 1) accommodate a change in the WBITS end user's existing IP address or 2) limit the data speed delivered over the end user's existing WBITS line. This charge applies for each request per WBITS line. The Company will bill the WBITS Network Reconfiguration Charge to the Network Service Provider.

3.4.D Line Conditioning

Line conditioning is available, at no charge, and may be required if the facility will not accommodate WBITS technology. This may include, but is not limited to, the removal of load coils, bridge taps and/or repeaters. The Company does not warrant that line conditioning will permit the provision of WBITS technology.

3.4.E Minimum Period

The minimum service period for WBITS provided on a month-to-month basis is one (1) month. If the WBITS line is disconnected prior to the end of the minimum service period, the customer will be assessed all applicable monthly recurring rates for the remainder of the minimum service period.

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3.4.F Moves

A move involves a change in the physical location of one of the following:

- The Point of Termination at the WBITS customer designated premises
- The Customer's designated premises

The charges for the move are dependent on whether the move is to a new location within the same building or to a different building.

(1) Moves Within the Same Building

When the move is to a new location within the same building, the charge for the move will be an amount equal to one half of the nonrecurring (i.e., installation) charge for the WBITS affected. There will be no change in the minimum period requirements. This charge is in addition to the Company's Access Order Charge as specified in JSI Tariff F.C.C. No. 1 for services ordered by the Customer thereunder.

(2) Moves To a Different Building.

A move to a different building will be treated as a discontinuance and start of service and all associated nonrecurring charges will apply. New minimum period requirements will be established for the new services. The customer will also remain responsible for satisfying all outstanding minimum period charges for the discontinued service.

3.4.G Term and Volume Discount Plan (TVDP)(1) General Description

The WBITS Term and Volume Discount Plan (TVDP) provides customers WBITS Service at discounted rates based on commitments of minimum volumes (Volume Commitment Levels) over a specific term (TVDP Term Commitments). For purposes of the Customer's TVDP, all of the WBITS access lines without regard to differences in Option or Class shall be aggregated into a single WBITS access line count.

The Company offers term commitments of two years.

Rates applicable to WBITS ordered under a Two-Year TVDP Term Commitment, a nonrecurring charge and monthly recurring rate will apply per WBITS arrangement are set forth in Section 4 following.

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The WBITS Volume Commitments for the TVDP rates are indicated at Section at Section 4 following.

Each of the Volume Commitment Levels has minimum line volumes assigned for each year of the TVDP. The Volume Commitment Level line volumes include all of the in-service WBITS lines provided by the Company to the customer for the committed term, including both Business Class lines and Residence Class lines. For purposes of meeting the Volume Commitment Level under a TVDP Term Commitment, WBITS lines include the aggregate of WBITS access lines for all Downstream/Upstream Speed Options described in the Company's respective rate section.

The service year will begin on the service anniversary date, which is defined as the date on which the customer places its order for a TVDP and designates the commitment level and term. Each service year runs 12 months from its service anniversary date.

The commitment level must be reached in accordance with the following schedule:

| <u>Term</u> | <u>Grace Period</u> |
|-------------|--|
| 2-Year | 9 months (From initial service anniversary.) |

At expiration of the TVDP, the customer may choose a new TVDP, convert to the month-to-month rates, or continue with the rates for the applicable commitment level in effect at the end of the expiring TVDP on a year-to-year basis. A conversion to a new TVDP or to month-to-month rates, or discontinuance, will require that the customer submit a service change order.

The minimum service period for WBITS provided under a TVDP is one (1) month. If the WBITS is disconnected prior to the end of the minimum service period, the customer will be assessed all applicable monthly recurring rates for the remainder of the minimum service period.

TVDP customers will be subject to shortfall liability charges for missed annual commitments and/or termination liability charges for early termination as set forth in (3) and (4) following.

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(2) Annual Review

The commitment level is reviewed at the end of each service year on the service anniversary date. A count is taken of all WBITS lines in service provided to the customer under this tariff, as of the last day of the service year. Customers who do not meet the minimum quantity of in-service lines for their commitment level on such date will be notified by the Company.

The commitment levels will be reviewed after the grace period and monthly thereafter. If the commitment levels are not reached within the grace period, the customer shall be assessed a shortfall liability charge.

Customers subscribing to a TVDP Term Commitment who have fewer than the minimum WBITS lines for the applicable Volume Commitment Level will be reassigned to a reduced Volume Commitment based on the number of WBITS lines provided by the Company to the customer at the time of the count. Once the number of WBITS lines reaches the minimum level for a higher Volume Commitment, the Customer will be reassigned to the higher Volume Commitment.

At the end of any service year, a Customer may elect to move to a higher Volume Commitment Level if it has met the minimum line volume for its existing Volume Commitment Level. The election may be for a higher Volume Commitment Level within the Customer's existing TVDP Term Commitment or a within a longer TVDP Term Commitment. The election may be for the next service year and for the remainder of the existing TVDP Term Commitment. However, should the Customer fail to meet the minimum line volume for the higher Volume Commitment Level by the end of the service year following such election, the shortfall liability will be assessed as set forth in (3) following.

(3) Shortfall Liability

Shortfall liability applies to any TVDP Customer that fails to meet the minimum line volumes for its designated Volume Commitment Level. Shortfall liability is based on the difference between the monthly rate for the designated Volume Commitment Level and the monthly rate for the Volume Commitment Level that should have been charged based upon the

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actual quantity of in-service WBITS lines at the end of the service period. The shortfall liability is equal to the difference in monthly rate multiplied by the sum of all lines in service at the end of each month during such service period.

(4) Termination Liability

A customer may terminate a TVDP without termination liability or shortfall liability charges if a Company initiated rate increase causes the customer's rates to increase at any time during the term of the existing TVDP. Subsequent to a rate increase, customers must either elect to terminate the TVDP, or continue the TVDP at the new rate.

If the customer elects to discontinue its TVDP prior to the end of the commitment period, and there has been no rate increase affecting customer's WBITS during the preceding thirty (30) days, the customer will be subject to termination charges.

(a) For Customers electing to terminate a TVDP Term Commitment prior to completion of the term, the termination charges shall be equal to the difference between charges assessed at the month-to-month rate set forth in Section 4 following and charges assessed at the TVDP Term Commitment rate for the applicable Volume Commitment Level for the customer for all months from the beginning of the one-year term to the end of the month in which service is terminated.

3.4.H WBITS Multi-Media Service

Where suitable facilities exist, a Customer that requires the ability to send high-speed video transmission may order WBITS Multi-Media Service as an optional function under WBITS. WBITS Multi-Media Service comprises two paths within the Company's WBITS network. The first path is a Multi-Cast Virtual Path (MCVP) connected to the Company's WBITS network at the DSL Access Connection Point through an ATM-CRS port and continuing through the Company's ATM-CRS network to the Multicast aggregation points at the DSLAM or similar Company broadband multiplexer equipment serving end user customers. The second path is a Virtual Path from the DSLAM or similar broadband multiplexer equipment to the premises of the end user customer.

Customers may order WBITS Multi-Media Service for any WBITS Access Line

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also ordered by the Company. The per line rates for WBITS multi-media service are in addition to the WBITS Access Line Rates

4. Rates and Charges4.1 High Capacity DSL Access Service Connection

| | <u>Monthly Rate</u> | <u>Nonrecurring Charge</u> |
|-------------------|-------------------------|--------------------------------|
| - per 1.544 Mbps | \$ 180.00 | \$170.00 |
| - per 44.736 Mbps | \$1,250.00 | \$555.00 |

In addition to ordering the DSL Access Service Connection, the Customer must order Special Access High Capacity Channel Termination or Channel Mileage Facilities and Termination at the matching speed offered by the Company under John Staurulakis, Inc. Tariff F.C.C. No. 1.

4.2 ATM-CRS Ethernet Port DSL Access Service Connection

Per Ethernet-based NNI* Port equipped

| <u>Port Speed</u> | <u>Nonrecurring Charge</u> |
|-------------------|--------------------------------|
| 1 Gbps | \$1,170.00 |

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4.3 Wireline Broadband Internet Transport Service (WBITS)

Regulations concerning WBITS are set forth in Section 3 preceding.

WBITS Access Line Rates4.4.A Month-to-Month Rates

Per WBITS Access Line

| Residence Service | Upstream Speed – up to: | Downstream Speed – up to: | Residence Month to Month Rate | Business Month to Month Rate | Non-recurring Charge |
|-------------------|-------------------------|---------------------------|-------------------------------|------------------------------|----------------------|
| Option 1 | 64 kbps | 128 kbps | \$15.95 | \$39.95 | \$89.00 |
| Option 2 | 128 kbps | 1.536 Mbps | N/A | \$49.95 | \$89.00 |
| Option 3 | 256 kbps | 1.536 Mbps | \$29.95 | \$69.95 | \$89.00 |
| Option 4 | 512 kbps | 1.536 Mbps | \$49.95 | \$89.95 | \$89.00 |

4.4.B Term and Volume Discount Plan (TVDP) – Two-Year Commitment Rates

1. No Volume Commitment

Per WBITS Access Line

| Residence Service | Upstream Speed – up to: | Downstream Speed – up to: | Residence Month to Month Rate | Business Month to Month Rate | Non-recurring Charge |
|-------------------|-------------------------|---------------------------|-------------------------------|------------------------------|----------------------|
| Option 1 | 64 kbps | 128 kbps | \$14.95 | \$37.45 | \$89.00 |
| Option 2 | 128 kbps | 1.536 Mbps | N/A | \$46.95 | \$89.00 |
| Option 3 | 256 kbps | 1.536 Mbps | \$27.95 | \$65.95 | \$89.00 |
| Option 4 | 512 kbps | 1.536 Mbps | \$46.95 | \$84.95 | \$89.00 |

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2. Volume Commitment of 50 to 100.

Per WBITS Access Line

| Residence Service | Upstream Speed – up to: | Downstream Speed – up to: | Residence Month to Month Rate | Business Month to Month Rate | Non-recurring Charge |
|-------------------|-------------------------|---------------------------|-------------------------------|------------------------------|----------------------|
| Option 1 | 64 kbps | 128 kbps | \$14.00 | \$35.08 | \$89.00 |
| Option 2 | 128 kbps | 1.536 Mbps | N/A | \$44.10 | \$89.00 |
| Option 3 | 256 kbps | 1.536 Mbps | \$26.05 | \$62.15 | \$89.00 |
| Option 4 | 512 kbps | 1.536 Mbps | \$44.10 | \$80.20 | \$89.00 |

3. Volume Commitment of 101 to 500.

Per WBITS Access Line

| Residence Service | Upstream Speed – up to: | Downstream Speed – up to: | Residence Month to Month Rate | Business Month to Month Rate | Non-recurring Charge |
|-------------------|-------------------------|---------------------------|-------------------------------|------------------------------|----------------------|
| Option 1 | 64 kbps | 128 kbps | \$13.10 | \$32.83 | \$89.00 |
| Option 2 | 128 kbps | 1.536 Mbps | N/A | \$41.40 | \$89.00 |
| Option 3 | 256 kbps | 1.536 Mbps | \$24.25 | \$58.55 | \$89.00 |
| Option 4 | 512 kbps | 1.536 Mbps | \$41.40 | \$75.70 | \$89.00 |

4. Volume Commitment of 501 or more.

Per WBITS Access Line

| Residence Service | Upstream Speed – up to: | Downstream Speed – up to: | Residence Month to Month Rate | Business Month to Month Rate | Non-recurring Charge |
|-------------------|-------------------------|---------------------------|-------------------------------|------------------------------|----------------------|
| Option 1 | 64 kbps | 128 kbps | \$12.25 | \$30.70 | \$89.00 |
| Option 2 | 128 kbps | 1.536 Mbps | N/A | \$38.85 | \$89.00 |

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| | | | | | |
|----------|----------|------------|---------|---------|---------|
| Option 3 | 256 kbps | 1.536 Mbps | \$22.55 | \$55.15 | \$89.00 |
| Option 4 | 512 kbps | 1.536 Mbps | \$38.85 | \$71.45 | \$89.00 |

4.5 WBITS Multi-Media Service

Per MM-VCC

| | <u>Monthly Rate</u> | <u>Nonrecurring Charge</u> |
|--|-------------------------|--------------------------------|
| | | \$4.00 |
| - Per 4 Mbps | \$2.50 | |
| - Per 1 Mbps increment up to 12 Mbps (combined maximum of 16 Mbps per M-VCC) | \$1.00 | |

4.6 WBITS Reconfiguration Charge

| | <u>Nonrecurring Charge</u> |
|------------------------------------|--------------------------------|
| Per WBITS Access Line, per request | \$27.00 |