

HAWKEYE TELEPHONE COMPANY

RATES, TERMS AND CONDITIONS

WIRELINE BROADBAND INTERNET TRANSPORT SERVICE

RATES, TERMS AND CONDITIONS

APPLICABLE TO

WIRELINE BROADBAND INTERNET TRANSPORT SERVICE

FURNISHED BY

**HAWKEYE TELEPHONE COMPANY**

FOR SERVICES

AS PROVIDED FOR HEREIN

EFFECTIVE JANUARY 1, 2021

## 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 Hawkeye Telephone Company or "HTC", is an incumbent local exchange carrier ("ILEC"), study area designation 351199 and FCC Form 499 Filer ID 804564, operating in the state of Iowa, and is hereinafter referred to as the "Company."
- 1.1.B The rates, terms and conditions contained within this document, hereinafter referred to as "Rates, Terms and Conditions," are applicable to the Company's provision of Wireline Broadband Internet Transport Service ("WBITS"), hereinafter collectively or individually referred to alternatively as "Service" or Wireline Broadband Internet Transport Service or "WBITS", 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.C The company offers the Services pursuant to the Rates, Terms and Conditions and 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.D The Company offers Services where technically feasible within its incumbent local exchange carrier ("ILEC") exchange boundaries in the state of Iowa. For purposes of interstate services, including permissively detariffed WBITS as is comprehended by the Services, the Company's service area is identified as a study area with a discrete Study Area Code ("SAC"): 351199.
- 1.1.E 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.F 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 website 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.

**1.2.B Company**

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Company refers to Hawkeye Telephone Company & Subsidiary or “HTC”, study area designation 351199 and FCC 499 Filer ID 804564, operating in the state of Iowa.

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. Data-Only WBITS is also commonly called “Naked DSL.”

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 the 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 41 U.S.C 251(h)(1).

- (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 Commissions’ regulations (47 C.F.R. 69.601(b)); Or (ii) is a person that entity that on or after such

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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 kbps

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

1.2.M Mbps

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

1.2.N Multi-Media

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

1.2.O National Exchange Carrier Association (NECA) Tariff FCC No. 5

The National Exchange Carrier Association (NECA) Tariff FCC No. 5 is the interstate access tariff filed by NECA on behalf of members of NECA. The Company is a member of NECA and a participant in the NECA Common Line and Traffic Sensitive Pools. Additionally, the Company is an issuing carrier for NECA Tariff FCC No. 5 because the Company is an issuing carrier, it is pursuant to the rates and regulations of NECA Tariff FCC No. 5 that Customers must order interstate access services provided by the Company, including Special Access or

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ATM-CRS transport required for connection to the Company's WBITS network at the Company's DSL Access Connection Point.

**1.2.P 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.Q 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.R Service**

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

**1.2.S 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.T 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.U 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 Internet Protocol.

**2. Terms and Conditions****2.1 Undertaking of the Company****2.1.A Scope**

The Company makes Services Available to Network Service Providers. Services are described in Section 3 of these Rates, Terms, and Conditions.

Connecting the Customer's network to the Company's WBITS network requires the Customer to order 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 premise and Company's designated DSL Access Connection Point. Special Access and ATM-CRS transport services within

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the Company's serving area must be obtained from the Company under National Exchange Carrier Association (NECA) Tariff FCC No. 5. The Company is an issuing carrier for NECA Tariff FCC No. 5 and bills Customers the rates established in NECA Tariff FCC No. 5 for services ordered pursuant thereto.

NECA Tariff FCC No. 5 regulations and rates respecting Asymmetric Digital Subscriber Line ("ADSL") Access Service, Symmetric Digital Subscriber Line ("SDSL") Access Service or Multi-Line-Virtual Channel Service do not apply to any service provided by the Company. Instead, the Company makes available WBITS on a permissively detariffed, common carriage basis under these Rates, Terms, and Conditions.

**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 provision 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 that 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 in the use of the Company's facilities.
- 2.2.D Dealings with End User Customers
  - (1) The Customer will deal directly with its end user customers with respect to all matters pertaining to the service provided, including marketing, sales,



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ordering, installation, maintenance, trouble reporting, repair, billing and collections. The Customer will not direct its end users to contact the Company for any aspect of the service the Customer provides.

(2) The Customer will submit orders for WBITS to the Company in a format and manner designated by the Company.

(3) The Customer will obtain the appropriate authorization to allow the Company to provision WBITS Voice-Data Service over the Customer's end user's existing telephone exchange service line.

- 2.2.E The Customer shall reimburse the Company for damages to the Company's facilities caused by any negligence or willful act or acts on the part of the customer.
- 2.2.F 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.G 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 Company

Except as stated in the Section 2.3, the Company shall have no liability or 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 Rates, Terms and Conditions applicable to

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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 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 (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 NECA Tariff FCC No. 5. 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 website or delivered to the Customer by United States Postal Service.

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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 the 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 Facilities2.6.A Deposits

- (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 for Service. 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 for said Service. The Company may increase the amount of the deposit to reflect increases in 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 the discontinuance of Service for nonpayment of any sums due the Company for Service rendered.

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- (5) Upon termination of Service, and assuming deposits of the Customer are not applied as indicated in Section 2.6.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 will continue to be provided and billed on a monthly basis until canceled by the Customer through prior written 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**

In addition to payment of 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 such 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.

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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 investigated 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 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 24 hour days, from the time the interruption is reported to the Company, by a standard 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

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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.

**2.8 Billing Disputes**

If Customer believes Customer has been billed by the Company in error, Customer must contact the Company within 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 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 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 amount.

**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 NECA Tariff FCC No. 5. 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 NECA Tariff FCC No. 5 under regulations at 16.2 therein, Asynchronous Transfer Mode Cell Relay Access Service. Transmission of

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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. In addition to the Ethernet-based NNI Port charge established at Section 17.4.8(B)(1)(b) of NECA Tariff FCC No. 5, the DSL Access Service Connection per Basic NNI Port at Section 17.4.8(B)(4)(a)(ii) applies.

ATM-CRS DSL VCC charges indicated in NECA Tariff FCC No. 5 do not apply to WBITS ordered from the Company. Additionally, Multi-Media rates indicated in NECA Tariff FCC No. 5 do not apply to WBITS ordered from the Company.

**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 Connection Point through Special Access High Capacity Services under regulations at Section 7 of NECA Tariff FCC No 5 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 Customer's designated end user customer premises.

The connection speed or "sync rate" s between the NID at the Customer's designated end user customer premises and the packet-mode data modem equipment. 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 Options**

WBITS is provided by the Company based on available 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.

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- (2) The Customer is responsible for ensuring the continuing compatibility of 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 end user customers.
- (4) The Customer ordering WBITS on behalf of its end user customers 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 Special Access High Capacity Service network where Customer chooses to purchase WBITS. The rates and charges for Special Access High Capacity Service are in addition to the rates and charges for WBITS as set forth in these Rates, Terms and Conditions.
- (6) The Customer will obtain the appropriate authorization to allow the Company's employees or agents to enter the Customer's designated end user customer 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 its 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 user customers and for any claim an end user customer may make concerning unauthorized billing.

### 3.4 Rate Regulations

#### 3.4.A Rate Elements

There are four types of rates and charges applicable to WBITS. These are a monthly connection WBITS access service connection charge, a monthly WBITS line rate, a nonrecurring charge, and a WBITS network reconfiguration charge.

(1) Monthly WBITS Access Service Connection Charge

A single monthly WBITS Access Service Connection Charge applies for each month the Customer connects to the Company's WBITS network. Monthly Access Service



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Connection Charges are based on the volume of WBITS lines provided to the Customer for the month preceding the billing period.

(2) Monthly WBITS Line Rates

The monthly WBITS Line Rate applies each month or fraction thereof for each local exchange service line equipped with WBITS.

For purposes of application of the Monthly WBITS Line Rate, WBITS may be ordered under any of the following options that are offered by the Company as indicated following.

Monthly Rates Without Discount- Customer may order WBITS at a monthly rate without discount. Monthly rates apply without any volume or term commitment. There is no minimum period for WBITS.

WBITS Term and Volume Plan (TVP) Rates- Customers may order WBITS under WBITS Term and Volume Plan (TVP) Rates as indicated following.

(3) Nonrecurring Charges

A nonrecurring charge applies per local exchange service line for the installation of WBITS. For three (3) year term commitments, the nonrecurring charge for connection of the Customer's service to an end user customer does not apply.

A nonrecurring charge also applies to the establishment of a WBITS Access Connection.

(4) WBITS Network Reconfiguration Charge

A WBITS Network Reconfiguration Charge applies when the WBITS Customer's ISP requests the Company to modify the Company's network to accommodate a change in the WBITS Customer's existing WBITS line. A nonrecurring charge applies for each request per WBITS line. The Company will bill the WBITS Network Reconfiguration Charge to the WBITS Customer's ISP. No WBITS Network Reconfiguration Charge shall apply where the change is requested by the WBITS Customer is for an increase in volume and/or term commitment.

All changes to existing WBITS (including but not limited to change of ISP), other than changes involving WBITS Access Network Reconfigurations and administrative activities, will be treated as a discontinuance of the existing service and an installation of new service. A nonrecurring installation charge will apply per WBITS line for this work activity.

(5) WBITS Add-On Increments

If the customer orders WBITS Add-On Increment at the same time as ordering the underlying WBITS line, only the nonrecurring charge for the underlying WBITS line applies and the nonrecurring charge for the WBITS Add-On Increment does not apply. If WBITS Add-On Increments are added to an existing WBITS Line, a single WBITS Add-On Increment nonrecurring charge applies without regard to the number of 1 Mbps Add-On Increments added as part of the same customer order.

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For purposes of assessing WBITS Add-On Increment nonrecurring charges, multiple Add-On Increments added at the same time can be Downstream only, Upstream only or a combination of Downstream and Upstream.

**3.4.B Changes**

All changes to existing WBITS (e.g., a change of Network Service Provide 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 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.D Minimum Period**

The minimum period for which WBITS is provided o a Customer and for which charges are applicable is one (1) month.

**3.4.E Moves**

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

- The Point of Termination at the Customer designated end use customer premises
- The Customer's designated end user customer premises

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

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## (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 service termination affected. There will be no change in the minimum period requirements.

## (2) Moves to a Different Building

Moves 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.F WBITS Term and Volume Plan (TVP) Rates

- (1) Description- The WBITS Term and Volume Plan (TVP) allows Customers discounted access rates based upon the volume and/or term commitment. Rates will be based upon the TVP selected by the Customer.

Term plans of one (1) and three (3) years may be available to all Customer at applicable rates set forth herein regardless of when the customer subscription is made for a WBITS TVP arrangement. The Customer must designate on the order the type of payment plan selected. The selected term shall apply to all WBITS access lines ordered by the Customer.

The minimum volume commitment of the TVP selected must be met within six (6) months of initiation of the term and for one (1) year term commitments and within twelve (12) months of initiation of the term for three (3) year term commitments. Volume equals total WBITS access lines for all speed combinations for all study areas comprising the Company.

- (2) Rate Application- Upon expiration of a TVP period, the Customer may choose a new TVP period, convert to month-to-month or terminate service. The month-to-month rates will be those rates that are in effect at the time of conversion. If the Customer fails to make a choice by the end of the TVP period, the WBITS will continue billing at the existing term and volume commitment level rates and a new TVP period will begin based on previously effective term and volume commitment. All terms and conditions, including Termination Liabilities will apply to the new TVP period.

Conversion to a month-to-month or different TVP period will require the Customer to submit a change order. Conversion of existing TVP service to a different TVP period will be allowed without application of any nonrecurring charges.

- (3) Changes in Length of TVP Period

The customer may elect to convert to a new TVP period subject to the following conditions:

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- (a) Credit will not be given toward the new payment period for payments made under the original TVP arrangement.
  - (b) Nonrecurring charges will not be replied for existing service(s).
  - (c) If the new TVP period is shorter in length than the time remaining under the existing TVP, the change to the new TVP period constitutes a discontinuance of the existing TVP service and termination liability charges apply.
- (4) Rate Changes- The Customer may terminate the TVP without penalty or liability should the rates increase during the term of the existing TVP, with the exception of rate changes that may occur as a result of any rate increases resulting from FCC prescription or order that either directly or indirectly affects the cost to the Company of providing WBITS.
- (5) Annual Review- Each Customer's TVP will be reviewed from time to time, including but not limited to, at six (6) months for one (1) year terms and at 12 months for three (3) year terms. The Customer will be notified as to the status of the TVP if the in-service quantity of WBITS access lines falls below the minimum volume commitment. An allowance of up to 3% will be considered as still having met the volume commitment. Where the Customer has less than the volume commitment quantity for a specified discount, charges will be assessed.

If the total number of WBITS lines in service qualifies the Customer for a lower TVP rate, the Customer will have the option of increasing the commitment quantity for the remainder of the plan.

- (6) TVP Conditions- After enrolling in the plan, the Customer may delete or add WBITS rated at the specified term period/threshold level rate at any time during the plan.
- (7) Shortfall Charges for Failing to Meet Commitment- At the six (6) month review or any later review for one (1) year term commitments or the one (1) year review for three (3) year term commitments, if the total volume in service does not meet the volume commitment, a payment equal to the difference between the TVP rate and the highest rate would have been charge for services not under the TVP plan plus 10% will be assessed. The payment will be calculated using the prorated WBITS aggregation quantity at the time of the review. The Customer may choose to increase the volume commitment within 30 days after enrollment to the TVP and continue the TVP arrangement or choose to be billed on a going forward basis under either a different TVP or under the month-to-month rates. If after 30 days, the TVP Volume levels are not met, the TVP will be automatically changed to the standard month-to-month rates.
- (8) Termination Liability- When a TVP service is discontinued prior to the end of the commitment term, termination liability charges will apply at the rate for which the Customer qualified at the time of termination based on committed term and actual volume level for the difference between the term and the actual months of service. If the difference includes a partial month, the portion of the termination liability for the partial month will be determined by proration based

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on the number of days of service relative to the calendar days in the month of partial service.