

In the Matter of _____ IN THE MATTER OF THE
_____ APPLICATION OF JATO OPERATING
_____ TWO CORP. FOR A CERTIFICATE OF
_____ AUTHORITY TO PROVIDE LOCAL
_____ EXCHANGE SERVICES IN SOUTH
_____ DAKOTA

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
6/30 99	Filed and Docketed;
7/1 99	Weekly Filing;
7/2 99	Certificate of Authenticity from Sec. of State;
8/9 99	Amended Application;
8/27 99	Revised Brief Pages;
9/2 99	Revised Brief Pages;
9/12/99	Order Granting COA;
9/14 99	Docket Closed

TC99-077.
ORIGINAL

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

RECEIVED

JUN 30 1999

WRITER'S DIRECT LINE
(202) 955-9781

WRITER'S E-MAIL
bhughes@kelleydrye.com

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

June 29, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard, Jr.
Executive Director
The South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

**Re: Application of JATO Operating Two Corp. to Provide Facilities-
Based Competitive Local Exchange Services**

Dear Mr. Bullard:

Enclosed for filing with the South Dakota Public Utilities Commission, please find an original and 10 copies of JATO Operating Two Corp.'s ("JATO") Application for authority to provide facilities-based competitive local exchange services in the State of South Dakota. Also enclosed is a check in the amount of \$250.00 to cover the requisite filing fee. In addition, JATO submits a Motion for confidential treatment of its financial statements.

Also enclosed is a duplicate of this filing and a self-addressed, postage-paid envelope. Please date-stamp the duplicate and return it in the envelope provided. Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,


Brian D. Hughes

Enclosures

*Returned check
on 7/1/99.
dk*

TC99-077
ORIGINAL

Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION

Application of
JATO Operating Two Corp.
for Authority to Provide
Competitive Local Exchange
Telecommunications Service
in the State of South Dakota

)
)
)
)
)
)
)

Docket No. _____

**APPLICATION OF
JATO OPERATING TWO CORP.**

JATO Operating Two Corp. ("Applicant"), by its attorneys, respectfully requests that the South Dakota Public Utilities Commission ("Commission") grant it a Certificate of Public Convenience and Necessity to provide facilities-based competitive local telecommunications services in the State of South Dakota. In support of its Application, Applicant provides the following information:

I. Identification of the Applicant

1. Applicant's full name is JATO Operating Two Corp., and it is headquartered at 1099 18th Street, Suite 700, Denver, Colorado 80202. Applicant's principal corporate officers, located at the same address, are:

Brian E. Gast
Leonard Allsup
Bruce E. Dines
Patrick M. Green
Rex A. Humston

President and Chief Executive Officer
Vice President Sales and Marketing
Vice President Operations
Vice President Carrier Relations
Vice President and Chief Technology Officer

2. Applicant is a corporation organized under the laws of the State of Delaware.

A copy of Applicant's Articles of Incorporation is appended hereto as *Exhibit A*. Applicant is in the process of becoming qualified to conduct business within the State of South Dakota as a foreign business entity. A copy of the qualifying document will be forwarded to the Commission, as *Exhibit B*, immediately upon receipt.

II. Designated Contacts

3. The designated contacts for this application are:

Brad E. Mutschelknaus
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 facsimile

4. Copies of all correspondence, notices, inquiries and orders also should be sent to the following person, who is Applicant's initial contact person for all regulatory issues:

David Bryson
Manager, Regulatory Affairs
JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398
(303) 297-8905 facsimile

III. Qualifications of the Applicant

5. Applicant is well-qualified, managerially, technically and financially to provide the competitive local exchange services for which authority is requested in this Application. Although Applicant is a start-up company, the combined technical expertise of its employees is significant. Collectively, its technical staff has designed, managed, and/or operated advanced communications facilities throughout the United States. Furthermore, Applicant's management

team includes individuals with substantial experience in successfully developing, growing and operating telecommunications businesses. The Company's management team has an aggregate of nearly eighty years of development and operating experience in various segments of the telecommunications industry including cable television, wireless CLEC, local exchange carrier, mobile wireless services, and long distance. Applicant's management has a demonstrated capability to operate in start-up, high-growth and mature industries and a history of developing strategies and processes in early-stage telecommunications industry segments that are later broadly adopted by other industry participants. The majority of Applicant's management team has been involved in specific development efforts related to high-speed data networks in the U.S. since early 1997. Brief biographies of the management team, appended hereto as *Exhibit C*, demonstrate Applicant's managerial and technical competence.

6. As a newly formed company, JATO has no substantial financial history. However, JATO, backed by its parent corporation, JATO Communications Corp. ("JCC"), has sufficient financial capability to provide the requested telecommunications services in South Dakota and the financial capability to maintain those services. JCC will fund its local exchange operations in South Dakota with a combination of (i) internal capital, (ii) proceeds from the sale of equity interests, and (iii) capital raised from other sources. JCC's management has had extensive experience in developing and capitalizing start-up companies. Further, it should be emphasized that JATO's initial business plan calls for it to provide primarily high-speed DSL data based telecommunications and telephone services using the ILEC's unbundled network elements in conjunction with its own facilities collocated at the ILEC's central offices, which will not require the extensive outlay of capital that standalone facilities and trunking would require. Appended hereto as *Exhibit D* are JCC's financial statements. Please note, Applicant

submits its financial statements under separate seal and requests confidential treatment of them due to their highly proprietary and competitively sensitive nature. Applicant's proposed competitive local exchange service is economically feasible and in the public interest.

IV. Description of Authority Requested

7. By this Application, Applicant seeks authority to provide a range of facilities-based, high capacity local exchange services, including but not limited to: data services, switched and dedicated trunks, digital subscriber line, and exchange access services. Applicant may also offer local services by utilizing the switching and transport capacity of other existing telecommunications providers pursuant to negotiated or tariffed arrangements.

V. Initial Tariff

8. Petitioner has not yet reached an interconnection agreement with US West, the incumbent LEC. Accordingly, the rates for its South Dakota services are still being developed. However, JATO has prepared an initial tariff and submits it to the commission as *Exhibit E* to this Petition. Petitioner will file a tariff for its services, in accordance with the Commission's procedures, before providing service in South Dakota.

VI. Requested Regulatory Treatment

9. Applicant hereby agrees to abide by all applicable statutes and all applicable Orders, Rules, and regulations entered and adopted by the Commission. Additionally, as a competitive provider of telecommunications services in South Dakota, Applicant respectfully requests that it be subject to the same streamlined regulatory treatment applicable to other competitive carriers.

VII. Public Interest

10. A decision by the Commission to grant Applicant authority to provide competitive local exchange telecommunications services is in the public interest. Applicant is well qualified to operate as such a service provider in South Dakota. Consumers of telecommunications services in South Dakota will receive the benefits of downward pressure on prices, increased choice, improved quality of service and customer responsiveness, innovative service offerings, and access to increasingly advanced telecommunications technology. The market incentives for new and existing providers of telecommunications services will be improved through an increase in the diversity of suppliers and competition within the local exchange telecommunications market. Granting Applicant's Application would enhance this development of competition in the local exchange market and provide the consumers of South Dakota with all of the benefits described above.

WHEREFORE, Applicant respectfully requests that the Commission grant it a Certificate of Public Convenience and Necessity to provide competitive local exchange telecommunications services in the State of South Dakota.

Respectfully submitted,

JATO OPERATING TWO CORP.

By: 

Brad E. Mutschelknaus

Steven A. Augustino

Brian D. Hughes

KELLEY DRYE & WARREN LLP

1200 19th Street, N.W., Suite 500

Washington, D.C. 20036

Its Attorneys

Dated: 6/29/99

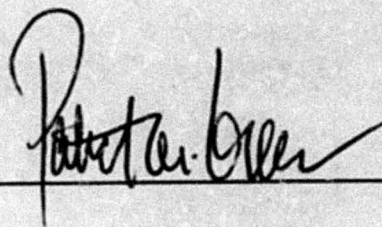
VERIFICATION

State of Colorado

County of Denver

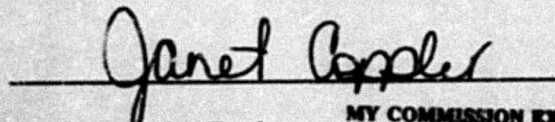
)
)
)

Patrick Green, being duly sworn, deposes and says that he is Vice President –
Carrier Relations of JATO Operating Two Corp., the Applicant in the instant proceeding; that he
has read the foregoing application and knows the contents thereof; that the same are true of his
knowledge, except as to the those matters which are therein stated on information or belief, and
as to those matters he believes them to be true.



Subscribed and sworn to before me this

28th day of June, 1999.



My Commission Expires

MY COMMISSION EXPIRES:
November 4, 2001

EXHIBIT A

ARTICLES OF INCORPORATION

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "JATO OPERATING TWO CORP.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF MAY, A.D. 1999, AT 2 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel
Edward J. Freel, Secretary of State

3044299 8100

AUTHENTICATION:

9751158

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "JATO OPERATING TWO CORP.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF MAY, A.D. 1959, AT 2 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel
Edward J. Freel, Secretary of State

CERTIFICATE OF INCORPORATION[®]
OF
JATO OPERATING TWO CORP.

The undersigned, a natural person (the "Sole Incorporator"), for the purpose of organizing a corporation to conduct the business and promote the purposes hereinafter stated, under the provisions and subject to the requirements of the laws of the State of Delaware hereby certifies that:

I.

The name of this corporation is JATO Operating Two Corp.

II.

The address of the registered office of the corporation in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, 19801, and the name of the registered agent of the corporation in the State of Delaware at such address is The Corporation Trust Company.

III.

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware.

IV.

This corporation is authorized to issue only one class of stock, to be designated Common Stock. The total number of shares of Common Stock presently authorized is one hundred (100), each having a par value of one-tenth of one cent (\$.001).

V.

A. The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the Bylaws.

B. Subject to paragraph (b) of Section 42 of the Bylaws, the Bylaws may be altered or amended or new Bylaws adopted by the stockholders entitled to vote. The Board of Directors shall also have the power to adopt, amend or repeal Bylaws.

VI.

A. The liability of the directors for monetary damages shall be eliminated to the fullest extent under applicable law.

B. Any repeal or modification of this Article VI shall be prospective and shall not affect the rights under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

VII.

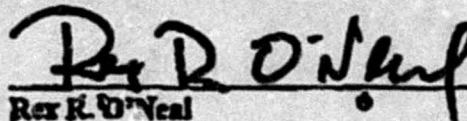
The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

VIII.

The name and the mailing address of the Sole Incorporator is as follows:

Rex R. O'Neal
Cooley Godward LLP
2595 Canyon Boulevard
Suite 250
Boulder, CO 80302-6737

IN WITNESS WHEREOF, this Certificate has been subscribed this 18th day of May, 1999 by the undersigned who affirms that the statements made herein are true and correct.



Rex R. O'Neal
Sole Incorporator

EXHIBIT B

**CERTIFICATE OF
QUALIFICATION**

(To Be Late-Filed)

EXHIBIT C

MANAGEMENT BIOGRAPHIES

**JATO Communications, Corp.
Management Team**

Brian E. Gast, President and Chief Executive Officer, is a founder of the Company and a member of its Board of Directors since its inception. Mr. Gast has over 12 years of experience developing, financing, and operating communications services companies. Before forming JATO, Mr. Gast was President of Formus Communications, Inc. ("Formus"). Formus is a developer of wireless broadband systems outside the U.S. and a minority investor in the largest holder of LMDS licenses in the U.S. Mr. Gast co-founded Formus in 1996, assisted in the development of its original business plan and led the company's original \$50 million first round equity financing. Before forming Formus, Mr. Gast co-founded American Telecasting, Inc. ("ATI"), a publicly traded national operator of wireless cable television systems. ATI was formed in 1988 and Mr. Gast served as its President and Chief Executive Officer from March 1990 until January 1996. Mr. Gast developed ATI from a start-up company to the country's largest wireless cable operator which served nearly 200,000 customers in 38 markets and had an equity market value of nearly \$300 million at the time Mr. Gast left the company in early 1996. ATI completed public and private debt and equity financing totaling \$260 million and completed acquisitions totaling \$160 million under Mr. Gast's leadership. Before forming ATI, Mr. Gast served in various capacities in the venture capital and commercial banking industries, specializing principally in the telecommunications industry.

Leonard Allsup, Vice President – Sales and Marketing, is a founder of the Company and a member of the Board of Directors since its inception. Before forming JATO, Mr. Allsup was Vice President Strategic Alliances of Formus. From July 1995 until forming Formus, Mr. Allsup was an advisor to and investor in several privately owned companies in the cable television industry. From February 1991 until July 1995, Mr. Allsup was President and Chief Operating Officer of KBL-Media, Inc. ("KBL") a subsidiary of KBLCOM, Inc. ("KBLCOM") a diversified telecommunications company serving over one million cable and telephone customers. KBL operated cable television sales organizations in nine major U.S. markets. While President of KBL, Mr. Allsup was a member of the Executive Committee of KBLCOM and an officer of KBLCOM's parent company, Houston Industries, Inc. From January 1989 until February 1991 Mr. Allsup was Vice President of Advertising Operations of KBLCOM. For a 15-year period before joining KBLCOM, Mr. Allsup served in various management positions in the cable television, broadcasting and energy industries.

Bruce E. Dines, Vice President – Customer Operations, is a founder of the Company and former member of its Board of Directors. Prior to the formation of JATO, Mr. Dines was a Vice President of Formus where he directed the development of the company's operational strategies and led a team which evaluated the top 120 markets in the U.S. in terms of demand for high-speed data access, as well as the competitive environment associated with high-speed data access. Before joining Formus, Mr. Dines was a management consultant to companies in personal communications services (PCS), long distance, and electronic commerce industries. From October 1991 to January 1996,

Mr. Dines served in various senior-level operating positions with American Telecasting, Inc. including Vice President- Operations. Mr. Dines was responsible for developing the foundational operations processes and infrastructure to support this rapidly growing communications services company. For an eight-year period before joining ATI, Mr. Dines served in various operating and management positions in the cable television industry.

Patrick M. Green, Vice President – Carrier Relations, will oversee the Company's negotiations and on-going contractual relations with ILECs, along with overseeing JATO's regulatory responsibilities, compliance, and relations. Mr. Green has over 18 years of financial and operating experience in the telecommunications industry. From late 1995 until joining JATO in October 1998, Mr. Green was a consultant to domestic and multinational companies in the local telephony and subscription television industries, including a member of the Board of Directors of the first and most successful local telephony start-up project in Central Europe. Mr. Green has advised his clients on strategic financial, accounting and operational issues related to project analysis, staffing plans, new business development, and mergers and acquisitions. From 1992 until forming his consulting practice, Mr. Green served as Vice President - Finance and Administration of KBL-Media where he managed complex advertising distribution relationships with major cable television companies among other financial and accounting activities. Mr. Green is a Certified Public Accountant.

Alex A. Humston, Vice President & Chief Technology Officer, has over 16 years of experience in developing and managing information systems, data networks, and Operations Support Systems. Most recently, Mr. Humston was Vice President – Information Systems and Technology for Jones International Inc. ("Jones") where he was responsible for the development and operational support of all corporate information systems, applications, networks, and broad band telephony projects of this large operator of cable television systems. From February 1996 until joining Jones in May 1997, Mr. Humston was Vice President and Chief Information Officer of Health Decisions International, Inc., an early-stage company in the teleservices industry. Prior to this, Mr. Humston was Director – Information Services for OneComm Corporation ("OneComm"), a regional wireless telephony services provider where he was responsible for developing all of the company's informational technology infrastructure. Before joining OneComm, Mr. Humston held several information technology positions at US WEST.

(FILED UNDER SEPARATE SEAL)

EXHIBIT D

FINANCIAL STATEMENTS

(FILED UNDER SEPARATE SEAL)

EXHIBIT E
INITIAL TARIFF

**REGULATIONS GOVERNING THE
PROVISION OF DEDICATED SERVICES
FOR CONNECTION TO PUBLIC AND PRIVATE
COMMUNICATIONS FACILITIES WITHIN
THE STATE OF SOUTH DAKOTA**

All material contained herein is new.

Issued:

**Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286**

Effective:

TABLE OF CONTENTS

SHEET NO.

Title Page	Title
Table of Contents	1
Check Sheet	3
PRELIMINARY STATEMENT	5
1. <u>Application of Tariff</u>	6
2. <u>Explanation of Symbols</u>	6
3. <u>Sheet Numbering</u>	7
4. <u>Paragraph Numbering Sequence</u>	7
1. TERMS AND ABBREVIATIONS	8
1.1 <u>Definitions</u>	8
1.2 <u>Abbreviations</u>	14
2. RULES AND REGULATIONS	15
2.1 <u>Undertaking of the Company</u>	15
2.1.1 <u>Scope</u>	15
2.1.2 <u>Shortage of Equipment or Facilities</u>	15
2.1.3 <u>Terms and Conditions</u>	15
2.1.4 <u>Customer Responsibilities</u>	17
2.1.5 <u>Limitations on Liability</u>	18
2.2 <u>Provision of Equipment and Facilities</u>	24
2.3 <u>Non-Routine Installation</u>	24
2.4 <u>Special Construction</u>	25
2.5 <u>Ownership of Facilities</u>	25
2.6 <u>Prohibited Uses</u>	26
2.7 <u>Customer Equipment and Channels</u>	27
2.7.1 <u>General</u>	27
2.7.2 <u>Station Equipment</u>	27
2.7.3 <u>Interconnection of Facilities</u>	27
2.7.4 <u>Inspections</u>	29
2.8 <u>Payment Arrangements</u>	29
2.8.1 <u>Advance Payments</u>	29
2.8.2 <u>Deposits</u>	29
2.8.3 <u>Payments for Service</u>	30
2.8.4 <u>Billing and Collection of Charges</u>	30
2.8.5 <u>Billing</u>	33
A. <u>General</u>	33
B. <u>Late Payment Charges</u>	33
C. <u>Adjustments or Refunds to the Customer</u>	33
D. <u>Unresolved Billing Disputes</u>	34

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

TABLE OF CONTENTS (continued)

SHEET NO.

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)

2.8.6	<u>Discontinuance of Service for Cause</u>	34
2.8.7	<u>Notice to Company for Cancellation of Service</u>	37
2.8.8	<u>Cancellation of Application for Service</u>	38
2.8.9	<u>Changes in Service Requested</u>	38

2.9	<u>Allowances for Interruptions in Service</u>	39
2.9.1	<u>General</u>	39
2.9.2	<u>Limitations of Allowances</u>	40
2.9.3	<u>Use of Another Means of Communications</u>	41
2.9.4	<u>Cancellation for Service Interruption</u>	41

2.10	<u>Cancellation of Service/Termination Liability</u>	42
2.10.1	<u>Termination Liability</u>	42

2.11	<u>Customer Liability for Unauthorized Use of Network</u>	42
2.11.1	<u>Unauthorized Use of the Network</u>	42
2.11.2	<u>Liability for Unauthorized Use</u>	43

2.12	<u>Use of Customer's Service by Others</u>	44
2.12.1	<u>Resale and Sharing</u>	44
2.12.2	<u>Transfers and Assignments</u>	44
2.12.3	<u>Notices and Communications</u>	44

2.13	<u>Taxes and Surcharges</u>	45
2.13.1	<u>Customer Responsibility</u>	45
2.13.2	<u>Excise Taxes and Funds</u>	45
2.13.3	<u>Sales, Use and Excise Taxes</u>	45
2.13.4	<u>Taxes and Fees Chargeable to Customers</u>	45

3. DESCRIPTION OF SERVICE

3.1	<u>General</u>	46
-----	----------------------	----

4. RATES AND CHARGES

4.1	<u>Rate Categories</u>	48
4.2	<u>Rates and Charges</u>	48
4.3	<u>Individual Case Basis (ICB) Arrangements</u>	48

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202,
1-888-353-5286

Effective:

CHECK SHEET

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

<u>SHEET</u>	<u>REVISION</u>
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original
19	Original
20	Original
21	Original
22	Original
23	Original
24	Original
25	Original
26	Original
27	Original
28	Original
29	Original
30	Original
31	Original
32	Original
33	Original
34	Original
35	Original

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-800-353-5286

Effective:

CHECK SHEET
(continued)

36	Original
37	Original
38	Original
39	Original
40	Original
42	Original
43	Original
44	Original
45	Original
46	Original
47	Original
48	Original

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

PRELIMINARY STATEMENT

This tariff sets forth the service offering, rates, terms and conditions applicable to the furnishing of local services and special services (including high capacity and other private line services) by JATO Operating Two Corp. in the State of South Dakota.

The rates, rules, terms and conditions herein apply for service provided throughout the service area of JATO Operating Two Corp. as defined in this tariff.

The rates and rules contained herein are subject to change pursuant to the rules and regulations of the South Dakota Public Utilities Commission..

This tariff shall be maintained in its currently effective form and made available for inspection by any Customer at JATO Operating Two Corp.'s business office, 1099 18th Street, Suite 700, Denver, CO 80202. JATO Operating Two Corp. shall hereinafter sometimes be referred to as the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

PRELIMINARY STATEMENT (continued)

1. Application of Tariff

This tariff applies to intrastate services supplied to Customers for origination and termination of traffic to and from all Central Office codes within the state.

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

2. Explanation of Symbols

When changes are made on any tariff page, a revised page will be issued canceling the tariff page affected. Changes will be identified on the revised page(s) through the use of the following symbols:

- (C) To signify a changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify an increased rate.
- (M) To signify material relocated from one page to another without change..
- (N) To signify a new rate, regulation or text.
- (R) To signify a reduced rate.
- (S) To signify reissued material.
- (T) To signify a change in text, but no change in rate or regulation.
- (Z) To signify a correction.

In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line in the right hand margin of the page which clearly shows the exact number of lines being changed.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

PRELIMINARY STATEMENT (continued)

3. Sheet Numbering

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

4. Paragraph Numbering Sequence

There are nine levels of paragraph coding. Each level of coding to subsequent to its next higher level:

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS

1.1 Definitions

Certain terms used generally throughout this tariff are described below.

Access Lines: A Telephone facility which permits access to and from both the Customer's premises and the telephone exchange or serving central office.

Add/Drop Multiplexing: A multiplexing function that allows lower level signals to be added or dropped from an Optical Carrier (OC) channel.

Agent: A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the Company, its applicants or Customers.

Applicant: A person who applies for telecommunications service. Includes persons seeking reconnection of their service after Company-initiated termination.

Application: A request made orally or in writing for telecommunications service.

Auxiliary Line Service: Auxiliary line service is additional individual line service furnished to supplement the main individual line service of a Customer.

Building: A structure under one roof and of such a nature that it can in itself fulfill the requirements of a business or residence establishment, or both; or two or more structures that are connected by means of enclosed passageways (overhead bridges, subways, or a ground level) or common basements, permitting access from one building to the other, that are suitable for the routing, placing, and proper protection of inside cable and wire type facilities. In no case can conduit be considered an enclosed passageway.

Business Service: Determination as to whether or not Customer's service should be classified as Business Service will be based on the character or use to be made of the service. The practice of advertising a telephone number in newspapers, business cards, or on trucks shall be a contributing, but not an exclusive factor in determining the classification of service. Service will be classified as Business service where the use is primarily or substantially of a business, professional, institutional, or otherwise occupational nature.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Central Office Area: The area within which Customers' lines are connected to the central office established by the Company to serve that area. More than one central office may be located in the same building.

Central Office: A switching unit in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting Customer lines and trunks or trunks only. There may be more than one central office in a building or exchange.

Channel: A path (or paths) for electrical communication between two or more stations or telephone Company offices and furnished in such a manner as the telephone Company may elect.

Class of Service: The various categories of service generally available to the Customer, such as business, residential, or paystation service.

Commission: The South Dakota Public Utilities Commission.

Company: JATO Operating Two Corp.

Connecting Arrangement: The equipment provided by the Company to accomplish the direct connection of Customer-provided facilities with the facilities of the Company; or facilities of the Company with the facilities of other Companies.

Cost: The cost of labor and materials, which includes appropriate amounts to cover the Company's general operating and administrative expenses.

Construction Charge: A separate nonrecurring charge made for the construction of facilities in excess of those contemplated under the rates quoted in this tariff.

Continuous Property: Continuous property is defined as plot of ground, together with any buildings thereon, occupied by the Customer; which is not separated by public thoroughfares or by property occupied by others.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Contract: The agreement between a Customer and the Company under which service and facilities are furnished in accordance with the applicable provisions of the tariffs.

Customer: A person, firm or corporation which orders service and is responsible for the payment of charges and compliance with terms and conditions of this tariff.

Customer-Provided Equipment: All communications systems, devices, apparatus and their associate wiring, provided by Customer.

Date of Presentation: Postmark date on billing envelope.

Disconnect Notice: The written notice sent to a Customer following billing, notifying him that his service will be discontinued if charges are not satisfied by the date specified on the notice

Tariff: The rates, charges, rules and regulations adopted and filed by the Company with the Commission.

Drop Wire: Wires between an open wire lead, aerial or underground cable terminal and the point of entrance to the premises in which the Customer's telecommunications service is located. The drop wire terminates in the protector or its equivalent.

End Office: The term "end office" denotes the LEC switching system office or serving wire center where Customer station loops are terminated for purposes of interconnection to each other and/or to trunks.

Entrance Facilities: Those facilities from the property line to the point at which the cable enters the premises and terminates at the protector, or denotes the dedicated Local Interconnection Service (LIS) transport facility from another LEC's POI to the Company.

Facilities: Includes, in the aggregate or otherwise, but is not limited to, the following:

channels	lines
apparatus	devices
equipment	accessories
communications	paths systems

which are provided by the Company and utilized by it in the furnishing of telecommunications services or which are provided by a Customer and used for telecommunications purposes.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Facilities-Based LEC: A LEC which directly owns controls, operates, or manages conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

Fiber Optic Cable: A thin filament of glass with a protective outer coating through which a light beam carrying communications signals may be transmitted by means of multiple internal reflections to a receiver, which translates the message.

Individual Case Basis (ICB): A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the case.

Installation Charge: A nonrecurring charge made at the time of installation of Communications service which may apply in place of or in addition to service charges and other applicable charges for service or equipment.

Interface: The term "Interface" denotes that point on the premises of the Customer at which provision is made for connection of other than Company provided facilities to facilities provided by the Company.

Interface Equipment: Equipment provided by the Company at the interface location to accomplish the direct electrical connection of facilities provided by the Company with facilities provided by other than the Company.

Interface Jack: A connecting device provided for use as a point of demarcation between network access service and Customer-owned equipment.

Kbps: Kilobits per second, denotes thousands of bits per second.

LEC: Local Exchange Carrier (LEC) refers to a local exchange carrier in an area also served by the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Maintenance Visit Charge: A charge applied when the location of reported trouble is found to be in Customer-provided equipment.

Mbps: Megabits per second, denotes millions of bits per second.

Mileage: The measurement upon which charges are computed for line extensions.

Minimum Contract Period: The minimum length of time for which a Customer is obligated to pay for service, facilities and equipment whether or not retained by the Customer for such minimum length of time.

Node: Any Company or Customer location that is capable of performing Add/Drop Multiplexing.

Nonfacilities-Based LEC: A LEC which does not directly own, control, operate, or manage conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

Nonrecurring Charge: A one-time charge associated with a specific item of equipment or service. This charge applies to installation and to subsequent modifications.

Non-Sufficient Funds Check: Any negotiable instrument returned by a bank, savings institution or other eligible institution which is returned by that institution with one of the following instructions: non-sufficient funds, uncollectible funds, account closed, account frozen, no account.

Person: A natural person, firm partnership, corporation, association, municipality, cooperative, organization, government agency, real estate trust, or other legal entity.

Point of Demarcation: A point in a Customer's circuit to which the Company is responsible for service and beyond which the Customer is responsible for service.

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Premises: The space occupied by a Customer or authorized user in a building or buildings on continuous property.

Recurring Charge: A monthly charge to the Customer for services, facilities and equipment, which continues for the duration of the service.

Registered Equipment: Equipment which complies with and has been approved within the registration provisions of Part 68 of the Federal Communications Commission's Rules and Regulations.

Residence Service: Service where the business use, if any, is merely incidental and where the major use is of a social or domestic nature.

Service Connection Charge: The nonrecurring charge a Customer is required to pay at the time of the establishment of telecommunications service or subsequent additions to that service.

Service Order: The written request for the Company's services executed by the Customer and the Company in a format devised by the Company. The signing of a Service Order form by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

Serving Wire Center: A serving wire center denotes the wire center from which the Customer designated premises would normally obtain dial tone from the Company.

Standard Network Interface: The point where Company network services or facilities terminate and the Company's responsibility for installing and maintaining such services or facilities ends.

Termination: Permanent disconnection of telecommunications service.

Termination Charge: A charge applied under certain conditions when a contract for service is terminated by the Customer before the expiration of the minimum contract period.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.2 Abbreviations

DSL - Digital Subscriber Line

DSLAM - Digital Subscriber Line Access Multiplexers

ICB - Individual Case Basis

IDSL - Integrated Digital Subscriber Line

ISDN - Integrated Services Digital Network

Kbps - Kilobits per second

LEC - Local Exchange Carrier

LIS - Local Interconnection Service

Mbps - Megabits per second

OC - Optical Carrier

POI - Point of Interface

SDSL - Symmetrical Digital Subscriber Line

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

2. RULES AND REGULATIONS

2.1 Undertaking of the Company**2.1.1 Scope**

The Company undertakes to furnish communications service pursuant to the terms of this tariff in connection with one-way and/or two-way information transmission between points within the State of South Dakota.

Customers and users may use services and facilities provided under this tariff to obtain access to services offered by other service providers. The Company is responsible under this tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases services from the Company and/or services under this tariff, in order to originate or terminate its own services, or to communicate with its own Customers.

2.1.2 Shortage of Equipment or Facilities

- A) The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of a lack of facilities, or due to any other cause beyond the Company's control.
- B) The Company will provide service within 300 feet from the area abutting its transmission facilities as defined within.
- C) The furnishing of all services under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

2.1.3 Terms and Conditions

- A) Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this tariff, a month is considered to have 30 days.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.3. Terms and Conditions (continued)**

- B) Persons desiring to obtain the Company's service may do so by completing the Company's standard Service Order form or forms or by oral agreement.

An Applicant for service must pay all previous indebtedness to the Company for telecommunications services before service will be furnished. Failure to pay for business service shall not constitute sufficient cause for refusal of residence service and failure to pay for residence service shall not constitute sufficient cause for refusal of business service.

An application for service becomes a contract upon the signing of the Company's Service Order form or by oral mutual agreement. Neither the contract nor any rights acquired thereunder may be assigned or in any manner transferred.

- C) Except as otherwise provided, the initial (or minimum) period for all services and facilities is one (1) month at the same location. Customers may terminate service at any time by providing the Company notice, in writing, and all recurring charges shall be prorated to the date of disconnection of service.

The Company may require a contract period longer than one (1) month at the same location in connection with Business Service and special (nonstandard) types of arrangements of equipment, or for unusual construction, necessary to meet special demands and involving extra costs.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.4 Customer Responsibilities**

The Customer shall be responsible for:

- A) The payment of all applicable charges as set forth in this tariff.
- B) Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or authorized user, the noncompliance by the Customer or authorized user with these regulations; or by fire or theft or other casualty on the premises of the Customer or authorized user unless caused by the negligence or willful misconduct of the employee or agents of the Company.
- C) Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the premises of the Customer or authorized user and the level of heating and air conditioning necessary to maintain the proper environment on such premises.
- D) Obtaining, maintaining, and otherwise having full responsibility for all rights of way and conduit necessary for installation of facilities and associated equipment used to provide Service to the Customer or authorized user from the point of entry to the termination point of the Customer's premises. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company provided facilities, shall be borne entirely by, or may be charged by, the Company to the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for service.
- E) Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if harm to the Company's employees or property might result from installation or maintenance by the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.4 Customer Responsibilities (continued)**

- F) Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the Customer or authorized user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company.
- G) Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.
- H) Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's services or from the locations of such equipment and facilities.

2.1.5 Limitations on Liability**Liability of the Company****Service Liabilities**

In view of the fact that the Customer has exclusive control of their communications over the facilities furnished them by the Company, and of the other uses for which facilities may be furnished them by the Company, and because of unavailability of errors incident to the services and to the use of such facilities of the Company, the services and facilities furnished by the Company are subject to the following terms, conditions and limitations.

A) Limitations

- 1) Except as otherwise provided herein, no liability for direct, incidental or consequential damages shall attach to the Company, its agents, servants or employees, for damages or costs arising from errors, mistakes, omissions, interruptions, failures, delays, or defects or malfunctions of equipment or

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability (continued)**

facilities, in the course of establishing, furnishing, maintaining, rearranging, moving, terminating, or changing the service or facilities (including the obtaining or furnishing of information in respect thereof or with respect to the customers or users of the service or facilities) in the absence of willful and wanton conduct, whether a claim for such liability is premised upon breach of contract, breach of warranty, fulfillment of warranty, negligence, strict liability, misrepresentation, fraud, or any other theories of liability.

- a. In the event an error or omission is caused by the negligence of the Company, the liability of the Company shall be limited to and in no event exceed the sum of \$ 100.00.
 - b. The Company will not provide a credit allowance for interruptions of service caused by the Customer's facilities, equipment, or systems.
- 2) The sole and exclusive remedy against the Company for an interruption or failure of service resulting from errors, mistakes, omissions, interruptions, failures, delays, or defects or malfunctions of equipment or facilities shall be as follows:
- a. The Company shall repair or replace any item of its terminal facilities or defective part thereof at its expense. The Company shall have the option to decide whether to repair or replace its terminal facilities.
 - b. Allowances are provided for interruptions in service, as specified for particular services furnished solely by the Company.
 - c. The Company shall allow for interruptions in service of 24 hours or more, not due to conduct of the Customer, an amount equal to the fixed monthly charges for service(s) provided by the Company, multiplied by the ratio of the days of interruption to thirty days. When interruptions continue beyond 24 hours, credit allowance will be given in successive 24-hour multiples. An interruption is deemed to exist from the time it is reported to or detected by the Company. For the purpose of determining the amount of allowance every month is considered to have 30 days.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)****B) Liability**

- 1) The Company shall not be liable for any act or omission of any carrier, Customer or other Company providing a portion of a service, nor shall the Company for its own act or omission hold liable any carrier, Customer or other Company providing a portion of a service.
- 2) The Company shall be indemnified, defended and held harmless by the Customer, against any claim, loss or damage arising from the use of services offered under this tariff including, but not limited to claims by subscribers or Customers to services provided to the Customer, and users of any services provided by or resold by the Customer. Liability of the Company to another LEC, Common Carrier, Reseller or Service Provider resulting from any and all causes, shall not exceed the liability of the Company as stated preceding, and in this paragraph. Specifically, the Company shall be liable only for the service(s) or facility (ies) that it provides and maintains. Such liability shall not exceed an amount equal to the proportionate charge for the service for the period during which the service was affected. In no case shall the Company be liable to another LEC, Common Carrier, Reseller or Service Provider or another LEC's, Common Carrier's, Reseller's or Service Provider's end user, for any indirect, special or consequential damages, including, but not limited to, economic loss, lost business or profits, whether foreseeable or not, and regardless of notification by the other party of the possibility of such damages.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 3) Use of Customer-Provided Equipment - The services furnished by the Company, in addition to the preceding limitations also are subject to the following limitation: the Company shall not be liable for damage arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by or resulting from use of Customer-provided equipment, except where a contributing or concurrent cause is the malfunctioning of a Company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, delay, error, defect in transmission or injury occurs after notice by the subscriber to the Company.
- 4) Unauthorized Computer Intrusion - With respect to any other claim or suit by a subscriber, common carrier, reseller, or any other party for damages caused by, or associated with, any unauthorized computer intrusion, including but not limited to the input of damaging information such as a virus, time bomb, any unauthorized access, interference, alteration, destruction, theft of, or tampering with, a Company computer, switch, data, database, software, information, network or other similar system, the Company's liability, if any, shall not exceed an amount equal to the proportionate charge by the Company for the service for the period during which the service provided by the Company was affected or so utilized.
- 5) Transmission of Data - The Company shall not be held liable for any damage, harm or loss of data caused by the subscriber using the Company's voice-grade telephone access lines and/or facilities for the transmission of data. The Company's liability shall be limited to errors or damages to the transmission of voice messages over these facilities, and the liability shall be limited to an amount equal to the proportional amount of the Company's billing for the period of service during which the errors or damages occur.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 6) Errors or Damages Caused by System Data Limitations - The Company's liability for errors or damage resulting from the inability of the Company's systems to process unusual dates, such as the Year 2000, shall be limited to an amount equal to the proportional amount of the Company's billing for the period of service during which the errors or damages occur.
- 7) The Company is not liable for damages to the Customer premises resulting from the furnishing of a service, including the installation and removal of equipment and associated wiring, unless the damage is caused by the Company's negligence.
- 8) The Company shall be indemnified, defended and held harmless by the Customer against any claim, loss or damage arising from the Customer's use of services offered under this Tariff, involving:
 - a. Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the Customer's own communications;
 - b. Claims for patent infringement arising from the Customer's acts combining or using the service furnished by the Company in connection with facilities, services, or equipment furnished by the Customer or;
 - c. All other claims arising out of any act or omission of the Customer in the course of using services pursuant to this Tariff.
- 9) The Company does not guarantee or make any warranty with respect to its services when used in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from any and all claims by any person relating to such Customer's use of services so provided.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 10) No license under patents (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppel, with respect to any service offered under this Tariff. The Company will defend the Customer against claims of patent infringement arising solely from the use by the Customer of services offered under this Tariff and will indemnify such damages awarded based solely on such claims.
- 11) The Company's failure to provide or maintain services under this Tariff shall be excused by labor difficulties, governmental orders, civil commotions, criminal actions taken against the Company, acts of God and other circumstances beyond the Company's reasonable control, subject to the Credit Allowance for Service Interruptions as set forth in this Tariff.
- 12) Temporary Suspension for Repairs - the Company shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period is necessary, the Company will give the Customers who may be affected as reasonable notice thereof as circumstances will permit, and will prosecute the work with reasonable diligence, and if practicable at times that will cause the least inconvenience.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.2 Provision of Equipment and Facilities

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

2.3 Non-Routine Installation

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.4 Special Construction

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

- A) where facilities are not presently available, and there is no other requirement for the facilities so constructed
- B) of a type other than that which the Company would normally utilize in the furnishing of its services;
- C) over a route other than that which the Company would normally utilize in the furnishing of its services;
- D) in a quantity greater than that which the Company would normally construct;
- E) on an expedited basis;
- F) on a temporary basis until permanent facilities are available;
- G) involving abnormal costs; or
- H) in advance of its normal construction.

2.5 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents or contractors. The Customer shall not have, nor shall it assert, any right, title or interest in any of the fiber optic or other facilities and associated equipment provided by the Company hereunder.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.6 Prohibited Uses

- A) The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits required to be obtained by the Customer with respect thereto.
- B) The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and Commission regulations, policies, orders, and decisions.
- C) The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff.

The Customer shall not, without prior written consent of the Company, which consent shall not be unreasonably withheld, assign, transfer, or in any other manner dispose of, any of its rights, privileges, or obligations under this tariff, and any attempt to make such an assignment, transfer, or disposition without consent shall be null and void.

- D) A Customer may not use the services so as to interfere with or impair service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment. The Company may require a Customer to shut down its transmission of signals individually if said transmission is causing interference to others.
- E) Customer use of any resold service obtained from other service providers shall also be subject to any applicable restrictions in the underlying providers' publicly available tariffs.
- F) Customer or authorized user shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of services is jointly with the Company, without the written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels**2.7.1 General**

A Customer may transmit or receive information or signals via the facilities of the Company. The Company's services are designed for the transmission of voice-grade telephone signals, except as otherwise stated in this tariff. A Customer may transmit any type of data signal that is compatible with the Company's equipment, but the Company does not guarantee that its services will be suitable for purposes other than voice-grade telephonic communications except as specifically stated in this tariff.

2.7.2 Station Equipment

- A) Customer provided terminal equipment on the premises of the Customer or authorized user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer or authorized user. Conformance of customer-provided station equipment with Part 68 of the FCC Rules is the responsibility of the Customer.
- B) The Customer or authorized user is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

2.7.3 Interconnection of Facilities

- A) Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Communications Services and the channels, facilities, or equipment of others shall be provided at the Customer's expense.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels (continued)

2.7.3 Interconnection of Facilities (continued)

- B) Communications Services may be connected to the services or facilities of other communications carriers when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carriers, and this Company, which are applicable to such connections.
- C) Facilities furnished under this tariff may be connected to Customer provided terminal equipment in accordance with the provisions of this tariff. All such equipment shall be registered by the Federal Communications Commission pursuant to Part 68 of Title 47, Code of Federal Regulations; and all User-provided wiring shall be installed and maintained in compliance with those regulations.
- D) Users may interconnect communications facilities that are used in whole or in part for intrastate communications to services provided under this tariff only to the extent that the user is an "end user" as defined in Section G9.2(m), Title 47, Code of Federal Regulations (1992 edition).

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels (continued)**2.7.4 Inspections**

- A) Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or authorized user is complying with the requirements set forth above for the installation, operation and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company owned facilities and equipment.
- B) If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm.

2.8 Payment Arrangements**2.8.1 Advance Payments**

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

2.8.2 Deposits

The Company does not require a deposit payment to provide service.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.3 Payments for Service**

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

2.8.4 Billing and Collection of Charges

The Customer is responsible for payment of all charges for facilities and services furnished, including charges for services originated, or charges accepted, at such facilities. Customer responsibility also includes charges associated with the fraudulent use of facilities and services by the Customer or any end users of the Customer's service. All bills are payable at the Company's business offices.

- A) At such time as the Company completes installation or connection of the necessary facilities and/or equipment to provide services, the Company shall conduct appropriate tests thereon. Upon successful completion of such tests, the Company shall notify the Customer that such services, are available for use, and the date of such notice shall be called the "Service Date" and shall be the starting date for billing.
- B) Customer shall pay the amounts as specified in the tariff for the Services. Nonrecurring charges, including construction, are due in advance. Fixed recurring charges shall be billed in advance after the Service date is determined and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Variable recurring charges and other charges shall be billed as incurred, and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Any amount not received within said fifteen (15) day period will be subject to the Company's standard late payment charge specified in Section 4.5.4.E below. Customer agrees to review each invoice promptly and to notify the Company of any discrepancies within thirty (30) days of receipt of each invoice.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.4 Billing and Collection of Charges (continued)**

- C) Any prorated bill shall use a thirty (30) day month to calculate the pro-rata amount. Prorating shall apply only to recurring charges. All nonrecurring and usage charges incurred during the billing period shall be billed in addition to prorated amounts.
- D) Recurring charges for all services are billed monthly, in advance, for one (1) month's minimum charge.
- E) Bills are due and payable on the date of presentation. A late payment charge, as described below, will be applied if payment is not received by the Company on or before the late payment date, which date will be prominently displayed on the Customer's bill. The late payment date will be at least fifteen (15) days after the date of presentation on the billing envelope. The Company shall credit payments within twenty-four (24) hours of receipt to avoid assessing late payment charges incorrectly.

A late payment charge of 1.5% applies to each Customer's bill when the previous month's bill has not been paid in full within fifteen (15) days after presentment of the bill, leaving an unpaid balance carried forward. The percentage late payment charge is applied to the total unpaid amount carried forward and is included in the total amount due on the current bill.

If payment for a current bill is received by the Company before the bill's due date, but for technical or other reasons the payment is not applied to the Customer's account prior to the issuance of a subsequent bill, the Customer shall not be liable for any late payment charge assessed on the payment amount.

A Customer shall not be liable for any Late Payment Charge applicable to a disputed portion of that Customer's bill, so long as the Customer pays the undisputed portion of the bill and enters into bona fide negotiations to resolve the dispute on a timely basis.

- F) Checks presented in payment for services and subsequently returned to the Company from the Customer's financial institution for "Non-Sufficient Funds" or other reasons will incur a nonrecurring charge of \$20.00 per Customer, per check, plus applicable bank fees:

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.4 Billing and Collection of Charges (continued)**

Customer will be placed on a "cash only" basis upon receipt of two (2) returned checks within a twelve (12)-month period of time. "Cash only" is herein defined as cashier's checks, U.S. currency, or money orders.

Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance shall not constitute payment of a Customer's account and the Company will not be required to issue additional notice prior to discontinuance. However, three (3) banking days must be allowed for redemption of such instrument.

G) Notices to discontinue service for nonpayment of bills shall be provided in writing by first class mail to the Customer not less than ten (10) calendar days prior to termination. Each notice shall include all of the following information:

1. The name and address of the Customer whose account is delinquent.
2. The amount that is delinquent.
3. The date when payment or arrangements for payment are required in order to avoid termination.
4. The procedure the Customer may use to initiate a complaint or to request an investigation concerning service or charges.
5. The procedure the Customer may use to request amortization of the unpaid charges.
6. The telephone number of a representative of the Company, who can provide additional information or institute arrangements for payment.
7. The telephone number of the Commission's Telecommunications Division.
8. Local service may not be discontinued for nonpayment of charges for other unregulated competitive services.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-800-353-5206

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.5 Billing****A) General**

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

B) Late Payment Charges

The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount.

C) Adjustments or Refunds to the Customer

- 1) In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 3) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment to the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.5 Billing (continued)****D) Unresolved Billing Disputes**

- 1) In the case of a billing dispute between Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer should request the Company to provide an in-depth review of the disputed amount.
- 2) If after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with the Commission's Telecommunications Division.

2.8.6 Discontinuance of Service for Cause

The Company shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

- A) For the purpose of making permanent or temporary repairs, changes or improvements in any part of its system;
- B) For compliance in good faith with any governmental order or directive notwithstanding such order or directive subsequently may be held to be invalid;

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.6. Discontinuance of Service for Cause (continued)****C) For any of the following acts of omissions on the part of the Customer:**

- 1) Nonpayment of a valid bill due for service furnished at a present or previous location. The Customer(s) of record whose name(s) appears on the bill shall be held responsible for utility service rendered. However, nonpayment for business service shall not be a reason for discontinuance of residential service, except in cases of diversion of service, and service shall not be discontinued for nonpayment of repair charges, merchandise charges, or other non tariff contracted service charges between the Customer and the Company, nor shall notice threatening such discontinuance be given;
- 2) Tampering with any facilities of the Company;
- 3) Fraudulent representation in relation to the use of service;
- 4) Customer moving from the premises, unless the Customer requests that the service be moved to Customer's new location.
- 5) Providing a Company's service to others without approval of the Company;
- 6) Failure to make or increase an advance payment or deposit as provided for in these rules or the Company's tariff;
- 7) Refusal to contract for service where such contract is required,
- 8) Connecting and operating in such manner as to produce disturbing effects on the service of the Company or other Customers;
- 9) Failure of the Customer to comply with any terms and conditions contained in the Company's tariff;
- 10) Where the condition of the Customer's installation presents a hazard to life or property;
- 11) Failure of Customer to repair any faulty facility of the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.6. Discontinuance of Service for Cause (continued)**

- D) Notice of the proposed discontinuance is provided pursuant to the rules listed within.
- E) Service is not initially discontinued on any Saturday, Sunday, legal holiday, or any other day Company representatives are not available to serve Customers.
- F) For refusal of reasonable access to Customer's premises for necessary purposes in connection with rendering of service, including meter installation, reading or testing, or the maintenance or removal of the Company's property.
- G) Notice of Discontinuance

The Customer shall be given a period of at least fifteen (15) days for payment after the postmark date indicated on the envelope in which the bill was transmitted. In the absence of a postmark, the burden of proving the date of mailing shall be upon the Customer. When a Customer mails any payment for the net amount of a bill for service, and such payment is received at the Company's office not more than two full business days after the due date printed on the bill, the Customer shall be deemed to have made timely payment. A public utility may discontinue service for nonpayment of bills provided it gives the Customer, at least ten (10) days written notice of its intention to discontinue. The notice of discontinuance shall not be served until the expiration of the said fifteen (15) day period. A new notice shall be served by the Company each time it intends to discontinue service for nonpayment of a bill except that no additional notice shall be required when, in response to a notice of discontinuance, payment by check is subsequently dishonored. However, in the case of fraud, illegal use, or when it is clearly indicated that the Customer is preparing to leave, immediate payment of accounts may be required.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)

2.8.6. Discontinuance of Service for Cause (continued)

- 1) When the Customer is another provider under the Commission's jurisdiction, the serving provider shall concurrently serve a copy of the notice of discontinuance on the Commission.
- 2) On all notices of discontinuance to residential Customers, there shall be included:
 - (a) A statement that the Company is subject to the jurisdiction of the Commission and the address and telephone number of the Commission.
 - (b) A statement that in the event the Customer is either unable to make payment of a bill or wishes to contest a bill the Customer should contact the Company. The notice shall contain information sufficient for the Customer to make appropriate inquiry.
 - (c) A statement that if a Customer is presently unable to pay an outstanding bill, the Customer may contact the Company to discuss the possibility of entering into a reasonable deferred payment agreement. In the case of a residential Customer receiving more than one service from the Company, the statement shall state that deferred payment agreements are available separately for each Company service.

2.8.7 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide Company proper notice of desire to terminate service. A Customer wishing to discontinue service must give notice to that effect. Notice to discontinue service will not relieve a Customer from any minimum or guaranteed payment under any contract or rate.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.8 Cancellation of Application for Service**

- A) Applications for service may not be canceled later than three (3) days after submission unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.
- B) Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or preparing to install the service that it would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of service ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun.
- C) Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases the charge will be based on such elements as the cost of the equipment, facilities, and material, the supervision, general and administrative expense, other provision for return on investment, and any other costs associated with the special construction or arrangements.

2.8.9 Changes in Service Requested

If the Customer makes or requests material changes in circuit engineering, equipment specifications, service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fee shall be adjusted accordingly.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.9 Allowances for Interruptions in Service**2.9.1 General**

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.9 Allowances for Interruptions in Service (continued)**2.9.2 Limitations of Allowances**

No credit allowance will be made for any interruption in service:

- A) Due to the negligence of or noncompliance with the provisions of this tariff by any person or entity other than the Company, including but not limited to the Customer, authorized user, or other common carriers connected to the service of the Company;
- B) Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- C) Due to circumstances or causes beyond the control of the Company (including, but not limited to, civil disorder, fire, flood, storm or other natural or man-made disasters or elements, or labor problems);
- D) During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- E) During any period in which the Customer continues to use the service on an impaired basis;
- F) During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- G) During any period that occurs or continues due to the Customer's failure to authorize replacement of any equipment, facility or other element of special construction;

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.9 Allowances for Interruptions in Service (continued)

2.9.3 Use of Another Means of Communications

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

2.9.4 Cancellation for Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 24 hours or more, or cumulative service credits equaling 72 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-800-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.10 Cancellation of Service/Termination Liability

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

2.10.1 Termination Liability

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

- A) all unpaid Non-recurring charges reasonably expended by Company to establish service to Customer; plus
- B) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer; plus
- C) all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at a rate determined by the Commission; minus
- D) a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

2.11 Customer Liability for Unauthorized Use of Network**2.11.1 Unauthorized Use of the Network**

- A) Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this tariff; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this tariff, or uses specific services that are not authorized.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.11 Customer Liability for Unauthorized Use of Network**2.11.1 Unauthorized Use of the Network**

- B) 1) The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.
- 2) Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
- 3) Toll Free callers using the Network with the intent of gaining access to a Customer's outbound calling capabilities on an unauthorized basis; and
- 4) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.
- C) Customers are advised that use of telecommunications equipment and services, including that provided under this tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, fraud and/or toll fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorized codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this tariff.

2.11.2 Liability for Unauthorized Use

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.12 Use of Customer's Service by Others**2.12.1 Resale and Sharing**

Any service provided under this tariff may be resold to or shared with other persons at the option of Customer, subject to compliance with any applicable laws or Commission regulations governing such resale or sharing. Customer remains solely responsible for all use of services ordered by it or billed to its telephone number(s) pursuant to this tariff, for determining who is authorized to use its services and for notifying the Company of any unauthorized use.

2.12.2 Transfers and Assignments

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

2.12.3 Notices and Communications

- A) The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- B) The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill. The bill will contain both the mailing address for notices and communications as well as the address to which the payment is to be mailed.
- C) The bill will also contain for purposes of Customer's questions regarding the Customer's bill, a 24 hour Customer service number which is 1-800-462-6823.
- D) The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.13 Taxes and Surcharges**2.13.1 Customer Responsibility**

The Customer is responsible for the payment of any sales, use, excise, access or other local, state and federal taxes, charges or surcharges (excluding taxes on the Company's net income) imposed on or based upon the provision, sale, or use of Company's services.

All such taxes and surcharges shall be itemized on the Company's bills to the Customer.

2.13.2 Excise Taxes and Funds

Company agrees to collect and remit social program excise taxes levied upon all end users of regulated telecommunications services pursuant to the rules of the Commission. Company also agrees to collect and remit relevant federal taxes.

2.13.3 Sales, Use and Excise Taxes

In addition to all recurring, non-recurring, usage or special charges, Customer shall also be responsible for and shall pay all applicable federal, state, and local sales, use, and excise taxes.

2.13.4 Taxes and Fees Chargeable to Customers

In the event a municipality, county or other political subdivision of the State of South Dakota imposes upon, or collects or receives from, the Company, any license, occupation, franchise, privilege, inspection or other similar tax or fee, or collects or receives any payment from the Company based upon an increase in any other tax, fee or assessment ratio, of whatever nature or kind, whether in a lump sum, or at a flat rate, or based on receipts, or based on property value, or based on poles, wires, conduits or other facilities, or otherwise, the amount of such tax, fee or payment, to the extent not included as a part of the cost of furnishing services in the fixing of the rates and charges for such services by the Commission, shall be added to the sales price of the Company's service and billed, insofar as practical, pro rata to the Company's Customers receiving service within the municipality, county or other political subdivision collecting such taxes or receiving such payment.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

3. DESCRIPTION OF SERVICE

3.1 General

JATO DSL (Digital Subscriber Line) services utilize technology over metallic local loop facilities to provide Customers with high-speed data services which utilize the twisted pair copper lines procured from the LEC in the form of unbundled network elements.

JATO DSL services utilize Customer-provided equipment, located at the Customer's premises, and Company-provided equipment, at Company Central Offices, to allow the Company to accept data traffic from the Customer and send data transmissions to the appropriate data networks.

The furnishing of JATO DSL services requires certain physical arrangements of the facilities of the Company and is subject to the availability of such facilities. Data speeds set forth in this Tariff are peak speeds. Actual speeds may be affected by loop length and other technical factors. Data speeds are therefore not guaranteed or warranted.

Applying DSL technology to local loop metallic facilities, JATO DSL services enable home and business Customers the following data transmission speeds:

144 Kbps bi-directional
192 Kbps bi-directional
384 Kbps bi-directional
768 Kbps bi-directional
1.1 Mbps bi-directional
1.5 Mbps bi-directional

JATO may also offer multiplexed derivatives of these service speeds.

A LEC's unbundled network element serves as the access facilities for JATO DSL services from the Customer's home or remote location to their serving wire center.

The Customer must provide and install at the Customer's JATO DSL service site, a compatible modem which must support Customer-selected speeds.

The furnishing of JATO DSL services requires certain physical arrangements of facilities of the Company and is subject to the availability of such facilities. The availability of JATO DSL services is restricted by special plant configuration and material specifications that will not permit deployment to all Customers at all locations.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

3. DESCRIPTION OF SERVICE (continued)

3.1 General (continued)

The Company's deployment of JATO DSL services will be limited to wire centers where, in the Company's determination, sufficient market demand exists, coupled with an adequate level of loops suitable to meet that demand. Deployment will be limited to Customers served by loops, which in the Company's judgment, are suitable for use with this new technology.

The specific limitations applicable to JATO DSL service are as follows:

- a. The loop between the Customer premises and the serving wire center can be no longer than 15,000 feet of 26 gauge copper or 18,000 feet of 24 gauge copper.
- b. The loop must not have any load coils on it.
- c. All bridge taps must be counted in the total loop length.
- d. The maximum length of any bridge tap cannot exceed 2,000 feet.
- e. Total bridge tap length on Revised Resistance Design Loop cannot exceed 6,000 feet.
- f. Total bridge tap length on Carrier Serving Area Design Loop cannot exceed 2,500 feet.

JATO DSL services may be ordered on a month-to-month basis or for fixed periods of one, three, or five years. The initial order of a JATO DSL service must be for either a one, three or five year fixed service period; however, at the completion of the initial fixed period, the Customer may elect the month-to-month option for that service configuration, or may elect any of the fixed service periods.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

4. RATES AND CHARGES

4.1 Rate Categories

SDSL, Symmetrical Digital Subscriber Line, is a Digital Transmission Service furnished by the Company to provide high-speed data services at speeds ranging from up to 192kbps, 384kbps, 768kbps, 1.1Mbps, to 1.5Mbps. This service allows high speed data transmission via permanent virtual circuits between the Customer premise terminating device(s) to JATO's Digital Subscriber Line Access Multiplexers (DSLAMs) and through to other applications such as office to office communications or to the Internet for various communication applications.

IDSL - ISDN Digital Subscriber Line is a Digital Transmission Service to provide high-speed data services for speeds of up to 144kbps for office to office applications or access to the Internet. This service allows data transmission via a permanent virtual circuit between the Customer premise terminating device and the Company DSLAM, then to Company aggregation units and to specific Internet Service Providers or another designated office.

4.2 Rates and Charges

<u>DSL Speed</u>	<u>Monthly Rate</u>
144Kbps	\$ 90.00
192Kbps	\$ 90.00
384Kbps	\$125.00
768Kbps	\$160.00
1.1Mbps	\$195.00
1.5Mbps	\$245.00

4.3 Individual Case Basis (ICB) Arrangements

For special situations, rates for specialized services will be determined on an Individual Case Basis (ICB) and specified by contract between the Company and the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of)	
)	
JATO Operating Two Corp.)	
)	Docket No. _____
for Authority to Provide)	
Competitive Local Exchange)	
Telecommunications Service)	
in the State of South Dakota)	

**MOTION FOR LEAVE TO FILE UNDER SEAL
AND/OR A PROTECTIVE ORDER**

JATO Operating Two Corp. ("JATO"), by its attorneys, hereby files this Motion for Leave to File Under Seal and/or a Protective Order ("Motion"), with the South Dakota Public Utilities Commission ("Commission"), pursuant to the Commission's Rules and Regulations. In support of this Motion, JATO submits the following information.

1. The exact legal name, address, and telephone number of the Movant are:

JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398

2. Correspondence or communications regarding the Motion should be addressed to:

Brad E. Mutschelknaus
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 fax

with a copy to:

David Bryson
Manager, Regulatory Affairs
JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398
(303) 297-8905 fax

3. JATO submits this Motion in conjunction with its Application for Competitive Local Exchange Authority, filed simultaneously. The instant Motion is an important and inseparable part of the Application.

4. The Commission's Rules require telecommunications applicants seeking competitive local exchange authorization to provide proprietary, non-public financial information in support of their application. In conformity with the Rules, JATO has included such information in support of its Application in Exhibit D, which contains a copy of JATO's Financial Statements. JATO is a privately held corporation that is not under any obligation to prepare public financial statements and actively seeks to protect its financial statements from public disclosure. Accordingly, its Financial Statements represent highly confidential and strictly proprietary information, the disclosure of which to the public, including competitors, would result in direct and immediate harm to the competitive position of JATO. The disclosure of this information would provide competitors insight into the financial structure of JATO and its financing activities to date. No other jurisdiction has required JATO to make its financial statements available to the public.

5. Because the information for which confidential treatment is sought in the Motion is private and competitively sensitive, and the direct harm to JATO's competitive position from any such disclosure is real and not speculative, JATO's Financial Statements should be protected from public disclosure.

WHEREFORE, JATO Operating Two Corp. respectfully requests that the Commission grant its Motion for Leave to File Under Seal and/or a Protective Order with regard to the Financial Statements appended hereto and designated Exhibit D to its Application for Authority to Provide Competitive Local Exchange Services in the State of South Dakota.

Respectfully submitted,

JATO OPERATING TWO CORP.

By: 

Brad E. Mutschelknaus

Steven A. Augustino

Brian D. Hughes

KELLEY DRYE & WARREN LLP

1200 19th Street, NW, Suite 500

Washington, D.C. 20036

Its Attorneys

June 29, 1999

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of

JATO Operating Two Corp.

**for Authority to Provide
Competitive Local Exchange
Telecommunications Service
in the State of South Dakota**

)
)
)
)
)
)
)

Docket No. _____

ORDER

AND NOW, upon consideration of JATO Operating Two Corp.'s Motion for Leave to File Under Seal and/or a Protective Order, it is hereby ordered that said Motion is granted. It is ORDERED that JATO Operating Two Corp.'s Financial Statements contained in Exhibit D, referenced in its Application in the above-captioned matter, shall remain under seal and protected from public inspection until otherwise ordered by the South Dakota Public Utilities Commission.

This Order is effective today.

Dated _____, at _____, South Dakota.

I.

CONFIDENTIAL 1

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of June 24, 1999 through June 30, 1999

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact
Delaine Kolbo within five business days of this filing.
Phone: 605-773-3705 Fax: 605-773-3809

ELECTRIC

EL99-012 In the Matter of the Filing by Otter Tail Power Company for Approval of Electric Service Agreement for the Supply of Bulk Interruptible Power between Otter Tail Power Company and Valley Queen Cheese Factory, Inc.

On June 25, 1999, the Commission received a filing from Otter Tail Power Company in accordance with South Dakota Codified Law Section 49-34A and the Commission's previous Order Approving Agreement dated October 23, 1989, Docket F-3837 for an Electric Service Agreement for the Supply of Bulk Interruptible Power between Otter Tail Power Company and Valley Queen Cheese Factory, Inc.

Staff Analyst: Michele Farris
Staff Attorney: Camron Hoseck
Date Filed: 06/25/99
Intervention deadline: 07/16/99

TELECOMMUNICATIONS

TC99-067 In the Matter of the Establishment of Switched Access Rates for the Local Exchange Carriers Association.

The Local Exchange Carrier Association filed tariff sheets implementing the switched access rates necessitated by revisions to its member companies' revenue requirements and switched access minutes of use. There is also one textual correction included in this filing.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 06/28/99
Intervention Deadline: 07/16/99

TC99-068 In the Matter of the Establishment of Switched Access Revenue Requirement for Stateline Telecommunications, Inc.

Stateline Telecommunications, Inc. filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer

Date Filed: 06/28/99
Intervention Deadline: 07/16/99

TC99-069 In the Matter of the Establishment of Switched Access Revenue Requirement for Brookings Municipal Telephone Company.

Brookings City Municipal Telephone Department filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 06/28/99
Intervention Deadline: 07/16/99

TC99-070 In the Matter of the Establishment of Switched Access Revenue Requirement for McCook Cooperative Telephone Company.

McCook Cooperative Telephone Company filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 06/28/99
Intervention Deadline: 07/16/99

TC99-071 In the Matter of the Establishment of Switched Access Revenue Requirement for Sanborn Telephone Cooperative and Sancom, Inc.

Sanborn Telephone Cooperative filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 06/28/99
Intervention Deadline: 07/16/99

TC99-072 In the Matter of the Establishment of Switched Access Revenue Requirement for Golden West Telecommunications Cooperative, Inc.

Golden West Telecommunications Cooperative, Inc. filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger
Staff Attorney: Karen Cremer

Date Filed: 06/28/99

Intervention Deadline: 07/16/99

TC99-073 In the Matter of the Establishment of Switched Access Rates for U S WEST Communications, Inc.

U S WEST Communications filed a switched access cost study "specifically in compliance with ARSD 20:10:27:07....U S WEST Communications is not asking for the Commission to change the switched access rate schedules at this time."

Staff Analyst: Harlan Best/Keith Senger

Staff Attorney: Karen Cremer

Date Filed: 06/29/99

Intervention Deadline: 07/16/99

TC99-074 In the Matter of the Establishment of Switched Access Revenue Requirement for Cheyenne River Sioux Tribe Telephone Authority.

Cheyenne River Sioux Tribe Telephone Authority filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best/Keith Senger

Staff Attorney: Karen Cremer

Date Filed: 06/29/99

Intervention Deadline: 07/16/99

TC99-075 In the Matter of the Establishment of Switched Access Revenue Requirement for Mobridge Telecommunications Company.

Mobridge Telecommunications Company filed a switched access cost study developing a revenue requirement that is included in the revenue requirement used to determine the switched access rates for the Local Exchange Carrier Association. Mobridge Telecommunications Company requests that the Commission allow the use of GVNW's cost study model as opposed to the Commission model for determining Mobridge Telecommunications Company's revenue requirement.

Staff Analyst: Harlan Best/Keith Senger

Staff Attorney: Karen Cremer

Date Filed: 06/29/99

Intervention Deadline: 07/16/99

TC99-076 In the Matter of the Application of CallManage, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Application by CallManage, Inc. for a Certificate of Authority to provide intrastate, interexchange telecommunications services in the State of South Dakota. CallManage is proposing to offer 1+ and 101XXXX direct outbound dialing, 800/888 toll free inbound dialing and travel card service.

Staff Analyst: Dave Jacobson
Staff Attorney: Camron Hoseck
Date Filed: 06/29/99
Intervention Deadline: 07/16/99

In the Matter of the Application of JATO Operating Two Corp. for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

JATO Operating Two Corp.'s (JATO) intends to provide facilities-based and resold competitive local exchange services. JATO requests authority to provide services throughout U S WEST territories.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 06/30/99
Intervention Date: 07/16/99

**You may receive this listing and other PUC publications via our website or via internet e-mail.
You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc/>**

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9800

TC 99-077
ORIGINAL

NEW YORK, NY

LOS ANGELES, CA

MIAMI, FL

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

HONG KONG

AFFILIATE OFFICES

BANGKOK, THAILAND

JAKARTA, INDONESIA

MANILA, THE PHILIPPINES

MUMBAI, INDIA

TOKYO, JAPAN

FACSIMILE

(202) 955-9792

WRITER'S DIRECT LINE

(202) 955-9781

WRITER'S E-MAIL

bhughes@kelleydrye.com

RECEIVED

JUL 02 1999

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION
July 1, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard, Jr.
Executive Director
The South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

**Re: Application of JATO Operating Two Corp. to Provide Facilities-
Based Competitive Local Exchange Services**

Dear Mr. Bullard:

On June 30, 1999, the above-referenced Application was filed with the South Dakota Public Utilities Commission stating that the Applicant would late-file a copy of its authority to conduct business in the state. An original and 10 copies of that late-filed Exhibit are enclosed herewith.

Also enclosed is a duplicate of this filing and a self-addressed, postage-paid envelope. Please date-stamp the duplicate and return it in the envelope provided. Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,


Brian D. Hughes

Enclosures

State of South Dakota



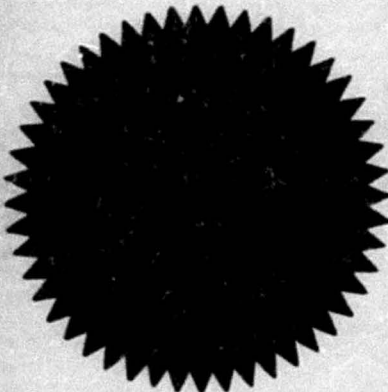
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF GOOD STANDING

FOREIGN CORPORATION

I, Joyce Hazeltine, Secretary of State of the State of South Dakota, do hereby certify that JATO OPERATING TWO CORP. (DE) was authorized to transact business in this state on June 22, 1999.

I, further certify that said corporation has complied with the South Dakota law governing foreign corporations transacting business in this state, and so far as the records of this office show, said corporation is in good standing in this State at the date hereof and duly authorized to transact business in the State of South Dakota. This certificate is not to be construed as an endorsement, recommendation or notice of approval of the corporation's financial condition or business activities and practices. Such information is not available from this office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this June 22, 1999.

Joyce Hazeltine
JOYCE HAZELTINE
Secretary of State

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9800

NEW YORK, NY
LOS ANGELES, CA
MIAMI, FL
CHICAGO, IL
STAMFORD, CT
PARLIPPANY, NJ

BRUSSELS, BELGIUM
HONG KONG

AFFILIATE OFFICES
BANGKOK, THAILAND
JAKARTA, INDONESIA
MANILA, THE PHILIPPINES
MUMBAI, INDIA
TOKYO, JAPAN

TC 99-011
ORIGINAL
Amended App.

FACSIMILE

(202) 955-9792

RECEIVED

AUG 09 1999

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

WRITER'S DIRECT LINE
(202) 955-9781

WRITER'S E-MAIL
bhughes@kelleydrye.com

August 4, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard, Jr.
Executive Director
The South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

**Re: Application of JATO Operating Two Corp. to Provide Facilities-
Based Competitive Local Exchange Services**

Dear Mr. Bullard:

Enclosed for filing with the South Dakota Public Utilities Commission, please find an original and 10 copies of JATO Operating Two Corp.'s ("JATO") Application for authority to provide facilities-based competitive local exchange services in the State of South Dakota. In addition, JATO submits a Motion for confidential treatment of its financial statements.

Also enclosed is a duplicate of this filing and a self-addressed, postage-paid envelope. Please date-stamp the duplicate and return it in the envelope provided. Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,


Brian D. Hughes

Enclosures

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of

JATO Operating Two Corp.

**for Authority to Provide
Competitive Local Exchange
Telecommunications Service
in the State of South Dakota**

)
)
)
)
)
)
)

Docket No. _____

**APPLICATION OF
JATO OPERATING TWO CORP.**

JATO Operating Two Corp. ("JATO" or "Applicant"), by its attorneys, respectfully requests that the South Dakota Public Utilities Commission ("Commission") grant it a Certificate of Public Convenience and Necessity to provide facilities-based and resold competitive local telecommunications services in the State of South Dakota. In support of its Application, JATO provides the following information:

1. Applicant's name is JATO Operating Two Corp., and its address is 1099 18th Street, Suite 700, Denver, Colorado 80202, and its telephone and facsimile numbers are (303) 297-8909 and (303) 297-8905, respectively.

2. Applicant's principal corporate officers, located at 1099 18th Street, Suite 700, Denver, Colorado 80202, are: Brian E. Gast, President and Chief Executive Officer; Leonard Allsup, Vice President of Sales and Marketing; Bruce E. Dines, Vice President of Operations; Patrick M. Green, Vice President of Carrier Relations; and Rex A. Humston, Vice President and Chief Technology Officer.

3. N/A.

4. (a) JATO does not yet have a South Dakota location. The company's registered agent for service of process in the state is CT Corporation System, 319 Coteau Street, Pierre, South Dakota 57501.

(b) JATO Communications Corp. holds a 100% interest in the Applicant.

(c) Applicant was incorporated in the state of Delaware on May 18, 1999. A copy of its certificate of incorporation is appended hereto as Exhibit A.

(d) Applicant's certificate of authority to conduct business in South Dakota is appended hereto as Exhibit B.

5. Applicant has not provided any other services in South Dakota or any other jurisdiction and is not yet operational in any jurisdiction.

6. Applicant's parent corporation is JATO Communications Corp. Applicant's affiliate is JATO Operating Corp. Both entities are located at 1099 18th Street, Suite 700, Denver, Colorado 80202.

7. Applicant seeks authority to provide a range of facilities-based and resold local exchange services, including but not limited to, high-speed data services such as digital subscriber line service.

(a) JATO will serve both business and residential users.

(b) Applicant intends to initiate service as a facilities-based and/or resale provider using the incumbent local exchange carrier's (ILEC) finished or unbundled services, or through the use of Applicant's facilities, or through a combination of unbundled elements and Applicant's facilities. Applicant also seeks authority to provide services as a reseller. Applicant

intends to initiate the provisioning of its services sometime during the 3rd Quarter of 2000, if not sooner.

(c) Applicant's initial configuration will involve the use of the ILEC's unbundled local loops which will connect equipment located at Applicant's end-user locations to Applicant's equipment located at the ILEC's Central Offices. Applicant will transport data from these Central Offices to Applicant's Regional Data Center using leased facilities. Applicant's Regional Data Center will direct data traffic to Internet Service Providers, corporate customer locations or directly to the Internet. Applicant may replace certain of its leased facilities with its own facilities over time and may modify its network to accommodate additional service offerings.

(d) Applicant seeks authority to provide competitive local exchange services, including, but not limited to, high-speed data services.

8. Please see the map appended hereto as Exhibit C.

9. (a) Although Applicant is a start-up company, the combined technical expertise of its employees is significant. Collectively, its technical staff has designed, managed, and/or operated advanced communications facilities throughout the United States. Furthermore, Applicant's management team includes individuals with substantial experience in successfully developing, growing and operating telecommunications businesses. The Company's management team has an aggregate of nearly eighty years of development and operating experience in various segments of the telecommunications industry including cable television, wireless CLEC, local exchange carrier, mobile wireless services, and long distance. The majority of Applicant's management team has been involved in specific development efforts related to high-speed data networks in the U.S. since early 1997. Brief biographies of the

management team, appended hereto as Exhibit D, demonstrate Applicant's managerial and technical competence.

(b) Applicant will utilize the technical quality of the incumbent carrier regarding unbundled network elements and will handle repair and maintenance of its equipment through a combination of its own highly qualified technical/maintenance staff and by entering network maintenance arrangements with Lucent Technologies and other nationally recognized equipment vendors.

10. Initially, JATO intends to provide data-oriented services exclusively, such that the Company's customers will not seek to access traditional dialtone services through the service provided by JATO. Should JATO provide access to dialtone services in the future, it will make the appropriate filings upon the Commission before doing so.

11. (a) As a newly formed company, JATO has no substantial financial history. However, JATO, backed by its parent corporation, JATO Communications Corp. ("JCC"), has sufficient financial capability to provide the requested telecommunications services in South Dakota and the financial capability to maintain those services. JCC will fund its local exchange operations in the State with a combination of (i) internal capital, (ii) proceeds from the sale of equity interests, and (iii) capital raised from other sources. JCC's management has had extensive experience in developing and capitalizing start-up companies. Further, it should be emphasized that JATO's initial business plan calls for it to provide primarily high-speed DSL data based telecommunications and telephone services using the ILEC's unbundled network elements in conjunction with its own facilities collocated at the ILEC's central offices, which will not require the extensive outlay of capital that standalone facilities and trunking would require. Appended hereto as Exhibit E is a copy of Applicant's *pro forma* financial statements;

JCC's financial statements are appended hereto as Exhibit F. Please note, Applicant submits these financial statements under separate seal and requests confidential treatment of them due to their highly proprietary and competitively sensitive nature.

(b) N/A.

12. (a) At present, JATO intends to interconnect with US WEST.

(b) Applicant is currently conducting interconnection negotiations with US WEST. Such negotiations began July 26, 1999.

(c) N/A.

13. Please see Exhibit G.

14. N/A.

15. Applicant's predominate target market will be business users. JATO has not determined exactly how it will market its services, but anticipates that it will use a combination of inbound tele-sales, print, and electronic media advertising.

16. N/A.

17. JATO has pending applications for authority in Alabama, California, Connecticut, Virginia, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, West Virginia, Wisconsin, and Wyoming. JATO has registered to provide local exchange services in Montana. Applicant has not been denied registration or certification in any state and is in good standing in South Dakota.

18. David Bryson, Manager, Regulatory Affairs, 1099 18th Street, Suite 700, Denver, Colorado 80202, (303) 226-8398, and (303) 297-8905 (facsimile).

19. JATO will direct-bill its customers and will seek to ensure that all bills comply with the Commission's rules and regulations.

20. Applicant will comply with the Federal Communications Commission's Part 64 rules, and the Commission's rules to the extent they exceed the Part 64 provisions, regarding the switching of customers' presubscribed carriers.

21. No "slamming" or "cramming" complaints have been filed against the Applicant at either the state or federal level.

22. Applicant does not seek waivers at this time.

23. Applicant's federal tax identification number is 84-1505609.

24. N/A.

WHEREFORE, Applicant respectfully requests that the Commission grant it a Certificate of Public Convenience and Necessity to provide competitive local exchange telecommunications services in the State of South Dakota.

Respectfully submitted,

JATO OPERATING TWO CORP.

By: 

Brad E. Mutschelknaus
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Its Attorneys

Dated: August 3, 1999

VERIFICATION

State of Colorado

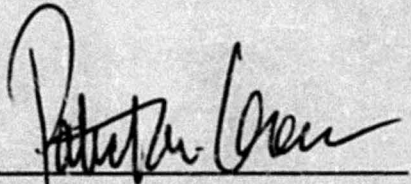
)

County of Denver

) ss.

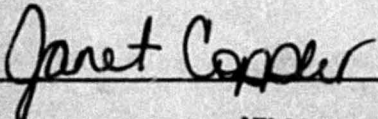
)

Patrick Green, being duly sworn, deposes and says that he is Vice President –
Carrier Relations of JATO Operating Two Corp., the Applicant in the instant proceeding; that he
has read the foregoing application and knows the contents thereof; that the same are true of his
knowledge, except as to the those matters which are therein stated on information or belief, and
as to those matters he believes them to be true.



Subscribed and sworn to before me this

28th day of June, 1999.



My Commission Expires _____ MY COMMISSION EXPIRES:
November 4, 2001

EXHIBIT A

ARTICLES OF INCORPORATION

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "JATO OPERATING TWO CORP.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF MAY, A.D. 1999, AT 2 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel
Edward J. Freel, Secretary of State

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "JATO OPERATING TWO CORP.", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF MAY, A.D. 1999, AT 2 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



Edward J. Freel
Edward J. Freel, Secretary of State

CERTIFICATE OF INCORPORATION^o
OF
JATO OPERATING TWO CORP.

The undersigned, a natural person (the "Sole Incorporator"), for the purpose of organizing a corporation to conduct the business and promote the purposes hereinafter stated, under the provisions and subject to the requirements of the laws of the State of Delaware hereby certifies that:

I.

The name of this corporation is JATO Operating Two Corp.

II.

The address of the registered office of the corporation in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle, 19801, and the name of the registered agent of the corporation in the State of Delaware at such address is The Corporation Trust Company.

III.

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware.

IV.

This corporation is authorized to issue only one class of stock, to be designated Common Stock. The total number of shares of Common Stock presently authorized is one hundred (100), each having a par value of one-tenth of one cent (\$.001).

V.

A. The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the Bylaws.

B. Subject to paragraph (h) of Section 42 of the Bylaws, the Bylaws may be altered or amended or new Bylaws adopted by the stockholders entitled to vote. The Board of Directors shall also have the power to adopt, amend or repeal Bylaws.

VI.

A. The liability of the directors for monetary damages shall be eliminated to the fullest extent under applicable law.

B. Any repeal or modification of this Article VI shall be prospective and shall not affect the rights under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

VII.

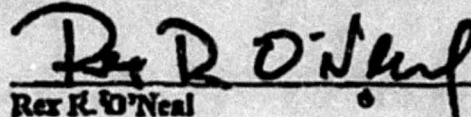
The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

VIII.

The name and the mailing address of the Sole Incorporator is as follows:

Rex R. O'Neal
Cooley Godward LLP
2595 Canyon Boulevard
Suite 250
Boulder, CO 80302-6737

IN WITNESS WHEREOF, this Certificate has been subscribed this 18th day of May, 1999 by the undersigned who affirms that the statements made herein are true and correct.



Rex R. O'Neal
Sole Incorporator

EXHIBIT B

**CERTIFICATE OF
AUTHORITY**

State of South Dakota



OFFICE OF THE SECRETARY OF STATE CERTIFICATE OF GOOD STANDING FOREIGN CORPORATION

I, Joyce Hazeltine, Secretary of State of the State of South Dakota, do hereby certify that JATO OPERATING TWO CORP. (DE) was authorized to transact business in this state on June 22, 1999.

I, further certify that said corporation has complied with the South Dakota law governing foreign corporations transacting business in this state, and so far as the records of this office show, said corporation is in good standing in this State at the date hereof and duly authorized to transact business in the State of South Dakota. This certificate is not to be construed as an endorsement, recommendation or notice of approval of the corporation's financial condition or business activities and practices. Such information is not available from this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this June 22, 1999.

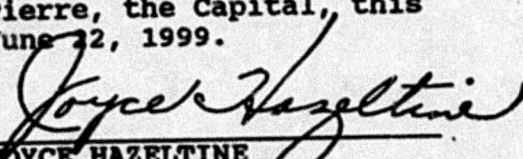

JOYCE HAZELTINE
Secretary of State

EXHIBIT C

SERVICE AREA MAP

START
OF
RETAKE



South Dakota Cooperatives and Subsidiaries

- 201 1st St. N. Rapid City, SD 57701
- 202 1st St. N. Rapid City, SD 57701
- 203 1st St. N. Rapid City, SD 57701
- 204 1st St. N. Rapid City, SD 57701
- 205 1st St. N. Rapid City, SD 57701
- 206 1st St. N. Rapid City, SD 57701
- 207 1st St. N. Rapid City, SD 57701
- 208 1st St. N. Rapid City, SD 57701
- 209 1st St. N. Rapid City, SD 57701
- 210 1st St. N. Rapid City, SD 57701
- 211 1st St. N. Rapid City, SD 57701
- 212 1st St. N. Rapid City, SD 57701
- 213 1st St. N. Rapid City, SD 57701
- 214 1st St. N. Rapid City, SD 57701
- 215 1st St. N. Rapid City, SD 57701
- 216 1st St. N. Rapid City, SD 57701
- 217 1st St. N. Rapid City, SD 57701
- 218 1st St. N. Rapid City, SD 57701
- 219 1st St. N. Rapid City, SD 57701
- 220 1st St. N. Rapid City, SD 57701

Grand River Community Center

Independents
 201 1st St. N. Rapid City, SD 57701

Timberline

Midland



A

**South Dakota Association of
 Telephone Cooperatives, Inc.**

January, 1999

END

OF

RETAKE

EXHIBIT D

MANAGEMENT BIOGRAPHIES

**JATO Communications, Corp.
Management Team**

Brian E. Gast, President and Chief Executive Officer, is a founder of the Company and a member of its Board of Directors since its inception. Mr. Gast has over 12 years of experience developing, financing, and operating communications services companies. Before forming JATO, Mr. Gast was President of Formus Communications, Inc. ("Formus"). Formus is a developer of wireless broadband systems outside the U.S. and a minority investor in the largest holder of LMDS licenses in the U.S. Mr. Gast co-founded Formus in 1996, assisted in the development of its original business plan and led the company's original \$50 million first round equity financing. Before forming Formus, Mr. Gast co-founded American Telecasting, Inc. ("ATI"), a publicly traded national operator of wireless cable television systems. ATI was formed in 1988 and Mr. Gast served as its President and Chief Executive Officer from March 1990 until January 1996. Mr. Gast developed ATI from a start-up company to the country's largest wireless cable operator which served nearly 200,000 customers in 38 markets and had an equity market value of nearly \$300 million at the time Mr. Gast left the company in early 1996. ATI completed public and private debt and equity financings totaling \$260 million and completed acquisitions totaling \$160 million under Mr. Gast's leadership. Before forming ATI, Mr. Gast served in various capacities in the venture capital and commercial banking industries, specializing principally in the telecommunications industry.

Leonard Allsup, Vice President – Sales and Marketing, is a founder of the Company and a member of the Board of Directors since its inception. Before forming JATO, Mr. Allsup was Vice President Strategic Alliances of Formus. From July 1995 until forming Formus, Mr. Allsup was an advisor to and investor in several privately owned companies in the cable television industry. From February 1991 until July 1995, Mr. Allsup was President and Chief Operating Officer of KBL-Media, Inc. ("KBL") a subsidiary of KBLCOM, Inc. ("KBLCOM") a diversified telecommunications company serving over one million cable and telephone customers. KBL operated cable television sales organizations in nine major U.S. markets. While President of KBL, Mr. Allsup was a member of the Executive Committee of KBLCOM and an officer of KBLCOM's parent company, Houston Industries, Inc. From January 1989 until February 1991 Mr. Allsup was Vice President of Advertising Operations of KBLCOM. For a 15-year period before joining KBLCOM, Mr. Allsup served in various management positions in the cable television, broadcasting and energy industries.

Bruce E. Dines, Vice President – Customer Operations, is a founder of the Company and former member of its Board of Directors. Prior to the formation of JATO, Mr. Dines was a Vice President of Formus where he directed the development of the company's operational strategies and led a team which evaluated the top 120 markets in the U.S. in terms of demand for high-speed data access, as well as the competitive environment associated with high-speed data access. Before joining Formus, Mr. Dines was a management consultant to companies in personal communications services (PCS), long distance, and electronic commerce industries. From October 1991 to January 1996,

Mr. Dines served in various senior-level operating positions with American Telecasting, Inc. including Vice President- Operations. Mr. Dines was responsible for developing the foundational operations processes and infrastructure to support this rapidly growing communications services company. For an eight-year period before joining ATI, Mr. Dines served in various operating and management positions in the cable television industry.

Patrick M. Green, Vice President – Carrier Relations, will oversee the Company's negotiations and on-going contractual relations with ILECs, along with overseeing JATO's regulatory responsibilities, compliance, and relations. Mr. Green has over 18 years of financial and operating experience in the telecommunications industry. From late 1995 until joining JATO in October 1998, Mr. Green was a consultant to domestic and multinational companies in the local telephony and subscription television industries, including a member of the Board of Directors of the first and most successful local telephony start-up project in Central Europe. Mr. Green has advised his clients on strategic financial, accounting and operational issues related to project analysis, staffing plans, new business development, and mergers and acquisitions. From 1992 until forming his consulting practice, Mr. Green served as Vice President - Finance and Administration of KBL-Media where he managed complex advertising distribution relationships with major cable television companies among other financial and accounting activities. Mr. Green is a Certified Public Accountant.

Rex A. Humston, Vice President & Chief Technology Officer, has over 16 years of experience in developing and managing information systems, data networks, and Operations Support Systems. Most recently, Mr. Humston was Vice President - Information Systems and Technology for Jones International Inc. ("Jones") where he was responsible for the development and operational support of all corporate information systems, applications, networks, and broad band telephony projects of this large operator of cable television systems. From February 1996 until joining Jones in May 1997, Mr. Humston was Vice President and Chief Information Officer of Health Decisions International, Inc., an early-stage company in the teleservices industry. Prior to this, Mr. Humston was Director - Information Services for OneComm Corporation ("OneComm"), a regional wireless telephony services provider where he was responsible for developing all of the company's informational technology infrastructure. Before joining OneComm, Mr. Humston held several information technology positions at US WEST.

EXHIBIT E

**APPLICANT'S FINANCIAL
STATEMENTS**

(FILED UNDER SEPARATE SEAL)

EXHIBIT F

**PARENT CORPORATION
FINANCIAL STATEMENTS**

(FILED UNDER SEPARATE SEAL)

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of)	
)	
JATO Operating Two Corp.)	
)	Docket No. _____
for Authority to Provide)	
Competitive Local Exchange)	
Telecommunications Service)	
in the State of South Dakota)	

**MOTION FOR LEAVE TO FILE UNDER SEAL
AND/OR A PROTECTIVE ORDER**

JATO Operating Two Corp. ("JATO"), by its attorneys, hereby files this Motion for Leave to File Under Seal and/or a Protective Order ("Motion"), with the South Dakota Public Utilities Commission ("Commission"), pursuant to the Commission's Rules and Regulations. In support of this Motion, JATO submits the following information.

1. The exact legal name, address, and telephone number of the Movant are:

JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398

2. Correspondence or communications regarding the Motion should be addressed to:

Brad E. Mutschelknaus
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 fax

with a copy to:

David Bryson
Manager, Regulatory Affairs
JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398
(303) 297-8905 fax

3. JATO submits this Motion in conjunction with its Application for Competitive Local Exchange Authority, filed simultaneously. The instant Motion is an important and inseparable part of the Application.


4. The Commission's Rules require telecommunications applicants seeking competitive local exchange authorization to provide proprietary, non-public financial information in support of their application. In conformity with the Rules, JATO has included such information in support of its Application in Exhibit D, which contains a copy of JATO's Financial Statements. JATO is a privately held corporation that is not under any obligation to prepare public financial statements and actively seeks to protect its financial statements from public disclosure. Accordingly, its Financial Statements represent highly confidential and strictly proprietary information, the disclosure of which to the public, including competitors, would result in direct and immediate harm to the competitive position of JATO. The disclosure of this information would provide competitors insight into the financial structure of JATO and its financing activities to date. No other jurisdiction has required JATO to make its financial statements available to the public.

5. Because the information for which confidential treatment is sought in the Motion is private and competitively sensitive, and the direct harm to JATO's competitive position from any such disclosure is real and not speculative, JATO's Financial Statements should be protected from public disclosure.

WHEREFORE, JATO Operating Two Corp. respectfully requests that the Commission grant its Motion for Leave to File Under Seal and/or a Protective Order with regard to the Financial Statements appended hereto and designated Exhibit D to its Application for Authority to Provide Competitive Local Exchange Services in the State of South Dakota.

Respectfully submitted,

JATO OPERATING TWO CORP.

By: 
Brad E. Mutschelknaus
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036

Its Attorneys

August 4, 1999

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of

JATO Operating Two Corp.

**for Authority to Provide
Competitive Local Exchange
Telecommunications Service
in the State of South Dakota**

)
)
)
)
)
)
)

Docket No. _____

ORDER

AND NOW, upon consideration of JATO Operating Two Corp.'s Motion for Leave to File Under Seal and/or a Protective Order, it is hereby ordered that said Motion is granted. It is ORDERED that JATO Operating Two Corp.'s Financial Statements contained in Exhibit D, referenced in its Application in the above-captioned matter, shall remain under seal and protected from public inspection until otherwise ordered by the South Dakota Public Utilities Commission.

This Order is effective today.

Dated _____, at _____, South Dakota.

J.

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of)	
)	
JATO Operating Two Corp.)	
)	Docket No. _____
for Authority to Provide)	
Competitive Local Exchange)	
Telecommunications Service)	
in the State of South Dakota)	

**MOTION FOR LEAVE TO FILE UNDER SEAL
AND/OR A PROTECTIVE ORDER**

JATO Operating Two Corp. ("JATO"), by its attorneys, hereby files this Motion for Leave to File Under Seal and/or a Protective Order ("Motion"), with the South Dakota Public Utilities Commission ("Commission"), pursuant to the Commission's Rules and Regulations. In support of this Motion, JATO submits the following information.

1. The exact legal name, address, and telephone number of the Movant are:

JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398

2. Correspondence or communications regarding the Motion should be addressed to:

Brad E. Mutschelknaus
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
(202) 955-9600
(202) 955-9792 fax

with a copy to:

David Bryson
Manager, Regulatory Affairs
JATO Operating Two Corp.
1099 18th Street, Suite 700
Denver, Colorado 80202
(303) 226-8398
(303) 297-8905 fax

3. JATO submits this Motion in conjunction with its Application for Competitive Local Exchange Authority, filed simultaneously. The instant Motion is an important and inseparable part of the Application.

4. The Commission's Rules require telecommunications applicants seeking competitive local exchange authorization to provide proprietary, non-public financial information in support of their application. In conformity with the Rules, JATO has included such information in support of its Application in Exhibit D, which contains a copy of JATO's Financial Statements. JATO is a privately held corporation that is not under any obligation to prepare public financial statements and actively seeks to protect its financial statements from public disclosure. Accordingly, its Financial Statements represent highly confidential and strictly proprietary information, the disclosure of which to the public, including competitors, would result in direct and immediate harm to the competitive position of JATO. The disclosure of this information would provide competitors insight into the financial structure of JATO and its financing activities to date. No other jurisdiction has required JATO to make its financial statements available to the public.

5. Because the information for which confidential treatment is sought in the Motion is private and competitively sensitive, and the direct harm to JATO's competitive position from any such disclosure is real and not speculative, JATO's Financial Statements should be protected from public disclosure.

WHEREFORE, JATO Operating Two Corp. respectfully requests that the Commission grant its Motion for Leave to File Under Seal and/or a Protective Order with regard to the Financial Statements appended hereto and designated Exhibit D to its Application for Authority to Provide Competitive Local Exchange Services in the State of South Dakota.

Respectfully submitted,

JATO OPERATING TWO CORP.

By: 

Brad E. Mutsaers
Steven A. Augustino
Brian D. Hughes
KELLEY DRYE & WARREN LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036

Its Attorneys

August 4, 1999

**Before the
STATE OF SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

Application of

JATO Operating Two Corp.

**for Authority to Provide
Competitive Local Exchange
Telecommunications Service
in the State of South Dakota**

)
)
)
)
)
)
)

Docket No. _____

ORDER

AND NOW, upon consideration of JATO Operating Two Corp.'s Motion for Leave to File Under Seal and/or a Protective Order, it is hereby ordered that said Motion is granted. It is ORDERED that JATO Operating Two Corp.'s Financial Statements contained in Exhibit D, referenced in its Application in the above-captioned matter, shall remain under seal and protected from public inspection until otherwise ordered by the South Dakota Public Utilities Commission.

This Order is effective today.

Dated _____, at _____, South Dakota.

J.

CONFIDENTIAL

2

EXHIBIT G

INITIAL TARIFF

**REGULATIONS GOVERNING THE
PROVISION OF DEDICATED SERVICES
FOR CONNECTION TO PUBLIC AND PRIVATE
COMMUNICATIONS FACILITIES WITHIN
THE STATE OF SOUTH DAKOTA**

All material contained herein is new.

Issued:

**Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286**

Effective:

**REGULATIONS GOVERNING THE
PROVISION OF DEDICATED SERVICES
FOR CONNECTION TO PUBLIC AND PRIVATE
COMMUNICATIONS FACILITIES WITHIN
THE STATE OF SOUTH DAKOTA**

All material contained herein is new.

Issued:

**Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286**

Effective:

TABLE OF CONTENTS

SHEET NO.

Title Page	Title
Table of Contents	1
Check Sheet	3
PRELIMINARY STATEMENT	5
1. <u>Application of Tariff</u>	6
2. <u>Explanation of Symbols</u>	6
3. <u>Sheet Numbering</u>	7
4. <u>Paragraph Numbering Sequence</u>	7
1. TERMS AND ABBREVIATIONS	8
1.1 <u>Definitions</u>	8
1.2 <u>Abbreviations</u>	14
2. RULES AND REGULATIONS	15
2.1 <u>Undertaking of the Company</u>	15
2.1.1 <u>Scope</u>	15
2.1.2 <u>Shortage of Equipment or Facilities</u>	15
2.1.3 <u>Terms and Conditions</u>	15
2.1.4 <u>Customer Responsibilities</u>	17
2.1.5 <u>Limitations on Liability</u>	18
2.2 <u>Provision of Equipment and Facilities</u>	24
2.3 <u>Non-Routine Installation</u>	24
2.4 <u>Special Construction</u>	25
2.5 <u>Ownership of Facilities</u>	25
2.6 <u>Prohibited Uses</u>	26
2.7 <u>Customer Equipment and Channels</u>	27
2.7.1 <u>General</u>	27
2.7.2 <u>Station Equipment</u>	27
2.7.3 <u>Interconnection of Facilities</u>	27
2.7.4 <u>Inspections</u>	29
2.8 <u>Payment Arrangements</u>	29
2.8.1 <u>Advance Payments</u>	29
2.8.2 <u>Deposits</u>	29
2.8.3 <u>Payments for Service</u>	30
2.8.4 <u>Billing and Collection of Charges</u>	30
2.8.5 <u>Billing</u>	33
A. <u>General</u>	33
B. <u>Late Payment Charges</u>	33
C. <u>Adjustments or Refunds to the Customer</u>	33
D. <u>Unresolved Billing Disputes</u>	34

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

TABLE OF CONTENTS (continued)

SHEET NO.

2. RULES AND REGULATIONS (continued)

2.8	<u>Payment Arrangements (continued)</u>	
2.8.6	<u>Discontinuance of Service for Cause</u>	34
2.8.7	<u>Notice to Company for Cancellation of Service</u>	37
2.8.8	<u>Cancellation of Application for Service</u>	38
2.8.9	<u>Changes in Service Requested</u>	38
2.9	<u>Allowances for Interruptions in Service</u>	39
2.9.1	<u>General</u>	39
2.9.2	<u>Limitations of Allowances</u>	40
2.9.3	<u>Use of Another Means of Communications</u>	41
2.9.4	<u>Cancellation for Service Interruption</u>	41
2.10	<u>Cancellation of Service/Termination Liability</u>	42
2.10.1	<u>Termination Liability</u>	42
2.11	<u>Customer Liability for Unauthorized Use of Network</u>	42
2.11.1	<u>Unauthorized Use of the Network</u>	42
2.11.2	<u>Liability for Unauthorized Use</u>	43
2.12	<u>Use of Customer's Service by Others</u>	44
2.12.1	<u>Resale and Sharing</u>	44
2.12.2	<u>Transfers and Assignments</u>	44
2.12.3	<u>Notices and Communications</u>	44
2.13	<u>Taxes and Surcharges</u>	45
2.13.1	<u>Customer Responsibility</u>	45
2.13.2	<u>Excise Taxes and Funds</u>	45
2.13.3	<u>Sales, Use and Excise Taxes</u>	45
2.13.4	<u>Taxes and Fees Chargeable to Customers</u>	45
3.	<u>DESCRIPTION OF SERVICE</u>	46
3.1	<u>General</u>	46
4.	<u>RATES AND CHARGES</u>	48
4.1	<u>Rate Categories</u>	48
4.2	<u>Rates and Charges</u>	48
4.3	<u>Individual Case Basis (ICB) Arrangements</u>	48

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202,
1-888-353-5286

Effective:

CHECK SHEET

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

<u>SHEET</u>	<u>REVISION</u>
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original
19	Original
20	Original
21	Original
22	Original
23	Original
24	Original
25	Original
26	Original
27	Original
28	Original
29	Original
30	Original
31	Original
32	Original
33	Original
34	Original
35	Original

Issued:

Issued By: Patrick M. Gross, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

CHECK SHEET
(continued)

36	Original
37	Original
38	Original
39	Original
40	Original
42	Original
43	Original
44	Original
45	Original
46	Original
47	Original
48	Original

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

PRELIMINARY STATEMENT

This tariff sets forth the service offering, rates, terms and conditions applicable to the furnishing of local services and special services (including high capacity and other private line services) by JATO Operating Two Corp. in the State of South Dakota.

The rates, rules, terms and conditions herein apply for service provided throughout the service area of JATO Operating Two Corp. as defined in this tariff.

The rates and rules contained herein are subject to change pursuant to the rules and regulations of the South Dakota Public Utilities Commission..

This tariff shall be maintained in its currently effective form and made available for inspection by any Customer at JATO Operating Two Corp.'s business office, 1099 18th Street, Suite 700, Denver, CO 80202. JATO Operating Two Corp. shall hereinafter sometimes be referred to as the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

PRELIMINARY STATEMENT (continued)

1. Application of Tariff

This tariff applies to intrastate services supplied to Customers for origination and termination of traffic to and from all Central Office codes within the state.

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

2. Explanation of Symbols

When changes are made on any tariff page, a revised page will be issued canceling the tariff page affected. Changes will be identified on the revised page(s) through the use of the following symbols:

- (C) To signify a changed regulation.
- (D) To signify discontinued rate or regulation.
- (I) To signify an increased rate.
- (M) To signify material relocated from one page to another without change..
- (N) To signify a new rate, regulation or text.
- (R) To signify a reduced rate.
- (S) To signify reissued material.
- (T) To signify a change in text, but no change in rate or regulation.
- (Z) To signify a correction.

In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line in the right hand margin of the page which clearly shows the exact number of lines being changed.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5206

Effective:

PRELIMINARY STATEMENT (continued)

3. Sheet Numbering

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

4. Paragraph Numbering Sequence

There are nine levels of paragraph coding. Each level of coding to subsequent to its next higher level:

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS

1.1 Definitions

Certain terms used generally throughout this tariff are described below.

Access Lines: A Telephone facility which permits access to and from both the Customer's premises and the telephone exchange or serving central office.

Add/Drop Multiplexing: A multiplexing function that allows lower level signals to be added or dropped from an Optical Carrier (OC) channel.

Agent: A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between the Company, its applicants or Customers.

Applicant: A person who applies for telecommunications service. Includes persons seeking reconnection of their service after Company-initiated termination.

Application: A request made orally or in writing for telecommunications service.

Auxiliary Line Service: Auxiliary line service is additional individual line service furnished to supplement the main individual line service of a Customer.

Building: A structure under one roof and of such a nature that it can in itself fulfill the requirements of a business or residence establishment, or both; or two or more structures that are connected by means of enclosed passageways (overhead bridges, subways, or a ground level) or common basements, permitting access from one building to the other, that are suitable for the routing, placing, and proper protection of inside cable and wire type facilities. In no case can conduit be considered an enclosed passageway.

Business Service: Determination as to whether or not Customer's service should be classified as Business Service will be based on the character or use to be made of the service. The practice of advertising a telephone number in newspapers, business cards, or on trucks shall be a contributing, but not an exclusive factor in determining the classification of service. Service will be classified as Business service where the use is primarily or substantially of a business, professional, institutional, or otherwise occupational nature.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)**1.1 Definitions (continued)**

Central Office Area: The area within which Customers' lines are connected to the central office established by the Company to serve that area. More than one central office may be located in the same building.

Central Office: A switching unit in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting Customer lines and trunks or trunks only. There may be more than one central office in a building or exchange.

Channel: A path (or paths) for electrical communication between two or more stations or telephone Company offices and furnished in such a manner as the telephone Company may elect.

Class of Service: The various categories of service generally available to the Customer, such as business, residential, or paystation service.

Commission: The South Dakota Public Utilities Commission.

Company: JATO Operating Two Corp.

Connecting Arrangement: The equipment provided by the Company to accomplish the direct connection of Customer-provided facilities with the facilities of the Company, or facilities of the Company with the facilities of other Companies.

Cost: The cost of labor and materials, which includes appropriate amounts to cover the Company's general operating and administrative expenses.

Construction Charge: A separate nonrecurring charge made for the construction of facilities in excess of those contemplated under the rates quoted in this tariff.

Continuous Property: Continuous property is defined as plot of ground, together with any buildings thereon, occupied by the Customer, which is not separated by public thoroughfares or by property occupied by others.

Issued:

Effective:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 11th Street, Ste. 700, Denver CO 80202.
1-800-333-5266

1. TERMS AND ABBREVIATIONS (continued)**1.1 Definitions (continued)**

Contract: The agreement between a Customer and the Company under which service and facilities are furnished in accordance with the applicable provisions of the tariffs.

Customer: A person, firm or corporation which orders service and is responsible for the payment of charges and compliance with terms and conditions of this tariff.

Customer-Provided Equipment: All communications systems, devices, apparatus and their associate wiring, provided by Customer.

Date of Presentation: Postmark date on billing envelope.

Disconnect Notice: The written notice sent to a Customer following billing, notifying him that his service will be discontinued if charges are not satisfied by the date specified on the notice.

Tariff: The rates, charges, rules and regulations adopted and filed by the Company with the Commission.

Drop Wire: Wires between an open wire lead, aerial or underground cable terminal and the point of entrance to the premises in which the Customer's telecommunications service is located. The drop wire terminates in the protector or its equivalent.

End Office: The term "end office" denotes the LEC switching system office or serving wire center where Customer station loops are terminated for purposes of interconnection to each other and/or to trunks.

Entrance Facilities: Those facilities from the property line to the point at which the cable enters the premises and terminates at the protector, or denotes the dedicated Local Interconnection Service (LIS) transport facility from another LEC's POI to the Company.

Facilities: Includes, in the aggregate or otherwise, but is not limited to, the following:

channels	lines
apparatus	devices
equipment	accessories
communications	paths systems

which are provided by the Company and utilized by it in the furnishing of telecommunications services or which are provided by a Customer and used for telecommunications purposes.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-333-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Facilities-Based LEC: A LEC which directly owns controls, operates, or manages conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

Fiber Optic Cable: A thin filament of glass with a protective outer coating through which a light beam carrying communications signals may be transmitted by means of multiple internal reflections to a receiver, which translates the message.

Individual Case Basis (ICB): A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the case.

Installation Charge: A nonrecurring charge made at the time of installation of Communications service which may apply in place of or in addition to service charges and other applicable charges for service or equipment.

Interface: The term "Interface" denotes that point on the premises of the Customer at which provision is made for connection of other than Company provided facilities to facilities provided by the Company.

Interface Equipment: Equipment provided by the Company at the interface location to accomplish the direct electrical connection of facilities provided by the Company with facilities provided by other than the Company.

Interface Jack: A connecting device provided for use as a point of demarcation between network access service and Customer-owned equipment.

Kbps: Kilobits per second, denotes thousands of bits per second.

LEC: Local Exchange Carrier (LEC) refers to a local exchange carrier in an area also served by the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Maintenance Visit Charge: A charge applied when the location of reported trouble is found to be in Customer-provided equipment.

Mbps: Megabits per second, denotes millions of bits per second.

Mileage: The measurement upon which charges are computed for line extensions.

Minimum Contract Period: The minimum length of time for which a Customer is obligated to pay for service, facilities and equipment whether or not retained by the Customer for such minimum length of time.

Node: Any Company or Customer location that is capable of performing Add/Drop Multiplexing.

Nonfacilities-Based LEC: A LEC which does not directly own, control, operate, or manage conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

Nonrecurring Charge: A one-time charge associated with a specific item of equipment or service. This charge applies to installation and to subsequent modifications.

Non-Sufficient Funds Check: Any negotiable instrument returned by a bank, savings institution or other eligible institution which is returned by that institution with one of the following instructions: non-sufficient funds, uncollectible funds, account closed, account frozen, no account.

Person: A natural person, firm partnership, corporation, association, municipality, cooperative, organization, government agency, real estate trust, or other legal entity.

Point of Demarcation: A point in a Customer's circuit to which the Company is responsible for service and beyond which the Customer is responsible for service.

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

1. TERMS AND ABBREVIATIONS (continued)

1.1 Definitions (continued)

Premises: The space occupied by a Customer or authorized user in a building or buildings on continuous property.

Recurring Charge: A monthly charge to the Customer for services, facilities and equipment, which continues for the duration of the service.

Registered Equipment: Equipment which complies with and has been approved within the registration provisions of Part 68 of the Federal Communications Commission's Rules and Regulations.

Residence Service: Service where the business use, if any, is merely incidental and where the major use is of a social or domestic nature.

Service Connection Charge: The nonrecurring charge a Customer is required to pay at the time of the establishment of telecommunications service or subsequent additions to that service.

Service Order: The written request for the Company's services executed by the Customer and the Company in a format devised by the Company. The signing of a Service Order form by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

Serving Wire Center: A serving wire center denotes the wire center from which the Customer designated premises would normally obtain dial tone from the Company.

Standard Network Interface: The point where Company network services or facilities terminate and the Company's responsibility for installing and maintaining such services or facilities ends.

Termination: Permanent disconnection of telecommunications service.

Termination Charge: A charge applied under certain conditions when a contract for service is terminated by the Customer before the expiration of the minimum contract period.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS

2.1 Undertaking of the Company**2.1.1 Scope**

The Company undertakes to furnish communications service pursuant to the terms of this tariff in connection with one-way and/or two-way information transmission between points within the State of South Dakota.

Customers and users may use services and facilities provided under this tariff to obtain access to services offered by other service providers. The Company is responsible under this tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases services from the Company and/or services under this tariff, in order to originate or terminate its own services, or to communicate with its own Customers.

2.1.2 Shortage of Equipment or Facilities

- A) The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of a lack of facilities, or due to any other cause beyond the Company's control.
- B) The Company will provide service within 300 feet from the area abutting its transmission facilities as defined within.
- C) The furnishing of all services under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

2.1.3 Terms and Conditions

- A) Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this tariff, a month is considered to have 30 days.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.3. Terms and Conditions (continued)**

- B) Persons desiring to obtain the Company's service may do so by completing the Company's standard Service Order form or forms or by oral agreement.

An Applicant for service must pay all previous indebtedness to the Company for telecommunications services before service will be furnished. Failure to pay for business service shall not constitute sufficient cause for refusal of residence service and failure to pay for residence service shall not constitute sufficient cause for refusal of business service.

An application for service becomes a contract upon the signing of the Company's Service Order form or by oral mutual agreement. Neither the contract nor any rights acquired thereunder may be assigned or in any manner transferred.

- C) Except as otherwise provided, the initial (or minimum) period for all services and facilities is one (1) month at the same location. Customers may terminate service at any time by providing the Company notice, in writing, and all recurring charges shall be prorated to the date of disconnection of service.

The Company may require a contract period longer than one (1) month at the same location in connection with Business Service and special (nonstandard) types of arrangements of equipment, or for unusual construction, necessary to meet special demands and involving extra costs.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.4 Customer Responsibilities**

The Customer shall be responsible for:

- A) The payment of all applicable charges as set forth in this tariff.
- B) Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or authorized user, the noncompliance by the Customer or authorized user with these regulations; or by fire or theft or other casualty on the premises of the Customer or authorized user unless caused by the negligence or willful misconduct of the employee or agents of the Company.
- C) Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the premises of the Customer or authorized user and the level of heating and air conditioning necessary to maintain the proper environment on such premises.
- D) Obtaining, maintaining, and otherwise having full responsibility for all rights of way and conduit necessary for installation of facilities and associated equipment used to provide Service to the Customer or authorized user from the point of entry to the termination point of the Customer's premises. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company provided facilities, shall be borne entirely by, or may be charged by, the Company to the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for service.
- E) Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if harm to the Company's employees or property might result from installation or maintenance by the Company.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.4 Customer Responsibilities (continued)**

- F) Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the Customer or authorized user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company.
- G) Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.
- H) Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's services or from the locations of such equipment and facilities.

2.1.5 Limitations on Liability**Liability of the Company****Service Liabilities**

In view of the fact that the Customer has exclusive control of their communications over the facilities furnished them by the Company, and of the other uses for which facilities may be furnished them by the Company, and because of unavailability of errors incident to the services and to the use of such facilities of the Company, the services and facilities furnished by the Company are subject to the following terms, conditions and limitations.

A) Limitations

- 1) Except as otherwise provided herein, no liability for direct, incidental or consequential damages shall attach to the Company, its agents, servants or employees, for damages or costs arising from errors, mistakes, omissions, interruptions, failures, delays, or defects or malfunctions of equipment or

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.1 Undertaking of the Company (continued)****2.1.5 Limitations on Liability (continued)**

facilities, in the course of establishing, furnishing, maintaining, rearranging, moving, terminating, or changing the service or facilities (including the obtaining or furnishing of information in respect thereof or with respect to the customers or users of the service or facilities) in the absence of willful and wanton conduct, whether a claim for such liability is premised upon breach of contract, breach of warranty, fulfillment of warranty, negligence, strict liability, misrepresentation, fraud, or any other theories of liability.

- a. In the event an error or omission is caused by the negligence of the Company, the liability of the Company shall be limited to and in no event exceed the sum of \$ 100.00.
 - b. The Company will not provide a credit allowance for interruptions of service caused by the Customer's facilities, equipment, or systems.
- 2) The sole and exclusive remedy against the Company for an interruption or failure of service resulting from errors, mistakes, omissions, interruptions, failures, delays, or defects or malfunctions of equipment or facilities shall be as follows:
- a. The Company shall repair or replace any item of its terminal facilities or defective part thereof at its expense. The Company shall have the option to decide whether to repair or replace its terminal facilities.
 - b. Allowances are provided for interruptions in service, as specified for particular services furnished solely by the Company.
 - c. The Company shall allow for interruptions in service of 24 hours or more, not due to conduct of the Customer, an amount equal to the fixed monthly charges for service(s) provided by the Company, multiplied by the ratio of the days of interruption to thirty days. When interruptions continue beyond 24 hours, credit allowance will be given in successive 24-hour multiples. An interruption is deemed to exist from the time it is reported to or detected by the Company. For the purpose of determining the amount of allowance every month is considered to have 30 days.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)****B) Liability**

- 1) The Company shall not be liable for any act or omission of any carrier, Customer or other Company providing a portion of a service, nor shall the Company for its own act or omission hold liable any carrier, Customer or other Company providing a portion of a service.
- 2) The Company shall be indemnified, defended and held harmless by the Customer, against any claim, loss or damage arising from the use of services offered under this tariff including, but not limited to claims by subscribers or Customers to services provided to the Customer, and users of any services provided by or resold by the Customer. Liability of the Company to another LEC, Common Carrier, Reseller or Service Provider resulting from any and all causes, shall not exceed the liability of the Company as stated preceding, and in this paragraph. Specifically, the Company shall be liable only for the service(s) or facility (ies) that it provides and maintains. Such liability shall not exceed an amount equal to the proportionate charge for the service for the period during which the service was affected. In no case shall the Company be liable to another LEC, Common Carrier, Reseller or Service Provider or another LEC's, Common Carrier's, Reseller's or Service Provider's end user, for any indirect, special or consequential damages, including, but not limited to, economic loss, lost business or profits, whether foreseeable or not, and regardless of notification by the other party of the possibility of such damages.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 3) Use of Customer-Provided Equipment - The services furnished by the Company, in addition to the preceding limitations also are subject to the following limitation: the Company shall not be liable for damage arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by or resulting from use of Customer-provided equipment, except where a contributing or concurrent cause is the malfunctioning of a Company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, delay, error, defect in transmission or injury occurs after notice by the subscriber to the Company.
- 4) Unauthorized Computer Intrusion - With respect to any other claim or suit by a subscriber, common carrier, reseller, or any other party for damages caused by, or associated with, any unauthorized computer intrusion, including but not limited to the input of damaging information such as a virus, time bomb, any unauthorized access, interference, alteration, destruction, theft of, or tampering with, a Company computer, switch, data, database, software, information, network or other similar system, the Company's liability, if any, shall not exceed an amount equal to the proportionate charge by the Company for the service for the period during which the service provided by the Company was affected or so utilized.
- 5) Transmission of Data - The Company shall not be held liable for any damage, harm or loss of data caused by the subscriber using the Company's voice-grade telephone access lines and/or facilities for the transmission of data. The Company's liability shall be limited to errors or damages to the transmission of voice messages over these facilities, and the liability shall be limited to an amount equal to the proportional amount of the Company's billing for the period of service during which the errors or damages occur.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 6) Errors or Damages Caused by System Data Limitations - The Company's liability for errors or damage resulting from the inability of the Company's systems to process unusual dates, such as the Year 2000, shall be limited to an amount equal to the proportional amount of the Company's billing for the period of service during which the errors or damages occur.
- 7) The Company is not liable for damages to the Customer premises resulting from the furnishing of a service, including the installation and removal of equipment and associated wiring, unless the damage is caused by the Company's negligence.
- 8) The Company shall be indemnified, defended and held harmless by the Customer against any claim, loss or damage arising from the Customer's use of services offered under this Tariff, involving:
 - a. Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the Customer's own communications;
 - b. Claims for patent infringement arising from the Customer's acts combining or using the service furnished by the Company in connection with facilities, services, or equipment furnished by the Customer or;
 - c. All other claims arising out of any act or omission of the Customer in the course of using services pursuant to this Tariff.
- 9) The Company does not guarantee or make any warranty with respect to its services when used in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from any and all claims by any person relating to such Customer's use of services so provided.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 10) No license under patents (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppel, with respect to any service offered under this Tariff. The Company will defend the Customer against claims of patent infringement arising solely from the use by the Customer of services offered under this Tariff and will indemnify such damages awarded based solely on such claims.
- 11) The Company's failure to provide or maintain services under this Tariff shall be excused by labor difficulties, governmental orders, civil commotions, criminal actions taken against the Company, acts of God and other circumstances beyond the Company's reasonable control, subject to the Credit Allowance for Service Interruptions as set forth in this Tariff.
- 12) Temporary Suspension for Repairs - the Company shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period is necessary, the Company will give the Customers who may be affected as reasonable notice thereof as circumstances will permit, and will prosecute the work with reasonable diligence, and if practicable at times that will cause the least inconvenience.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.2 Provision of Equipment and Facilities

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

2.3 Non-Routine Installation

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.4 Special Construction

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

- A) where facilities are not presently available, and there is no other requirement for the facilities so constructed
- B) of a type other than that which the Company would normally utilize in the furnishing of its services;
- C) over a route other than that which the Company would normally utilize in the furnishing of its services;
- D) in a quantity greater than that which the Company would normally construct;
- E) on an expedited basis;
- F) on a temporary basis until permanent facilities are available;
- G) involving abnormal costs; or
- H) in advance of its normal construction.

2.5 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its agents or contractors. The Customer shall not have, nor shall it assert, any right, title or interest in any of the fiber optic or other facilities and associated equipment provided by the Company hereunder.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.6 Prohibited Uses

- A) The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits required to be obtained by the Customer with respect thereto.
- B) The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and Commission regulations, policies, orders, and decisions.
- C) The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff.

The Customer shall not, without prior written consent of the Company, which consent shall not be unreasonably withheld, assign, transfer, or in any other manner dispose of, any of its rights, privileges, or obligations under this tariff, and any attempt to make such an assignment, transfer, or disposition without consent shall be null and void.

- D) A Customer may not use the services so as to interfere with or impair service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment. The Company may require a Customer to shut down its transmission of signals individually if said transmission is causing interference to others.
- E) Customer use of any resold service obtained from other service providers shall also be subject to any applicable restrictions in the underlying providers' publicly available tariffs.
- F) Customer or authorized user shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of services is jointly with the Company, without the written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202,
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels**2.7.1 General**

A Customer may transmit or receive information or signals via the facilities of the Company. The Company's services are designed for the transmission of voice-grade telephone signals, except as otherwise stated in this tariff. A Customer may transmit any type of data signal that is compatible with the Company's equipment, but the Company does not guarantee that its services will be suitable for purposes other than voice-grade telephonic communications except as specifically stated in this tariff.

2.7.2 Station Equipment

- A) Customer provided terminal equipment on the premises of the Customer or authorized user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer or authorized user. Conformance of customer-provided station equipment with Part 68 of the FCC Rules is the responsibility of the Customer.
- B) The Customer or authorized user is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

2.7.3 Interconnection of Facilities

- A) Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Communications Services and the channels, facilities, or equipment of others shall be provided at the Customer's expense.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels (continued)**2.7.3 Interconnection of Facilities (continued)**

- B) Communications Services may be connected to the services or facilities of other communications carriers when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carriers, and this Company, which are applicable to such connections.
- C) Facilities furnished under this tariff may be connected to Customer provided terminal equipment in accordance with the provisions of this tariff. All such equipment shall be registered by the Federal Communications Commission pursuant to Part 68 of Title 47, Code of Federal Regulations; and all User-provided wiring shall be installed and maintained in compliance with those regulations.
- D) Users may interconnect communications facilities that are used in whole or in part for intrastate communications to services provided under this tariff only to the extent that the user is an "end user" as defined in Section G9.2(m), Title 47, Code of Federal Regulations (1992 edition).

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.7 Customer Equipment and Channels (continued)**2.7.4 Inspections**

- A) Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or authorized user is complying with the requirements set forth above for the installation, operation and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company owned facilities and equipment.
- B) If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm.

2.8 Payment Arrangements**2.8.1 Advance Payments**

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

2.8.2 Deposits

The Company does not require a deposit payment to provide service.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.3 Payments for Service**

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

2.8.4 Billing and Collection of Charges

The Customer is responsible for payment of all charges for facilities and services furnished, including charges for services originated, or charges accepted, at such facilities. Customer responsibility also includes charges associated with the fraudulent use of facilities and services by the Customer or any end users of the Customer's service. All bills are payable at the Company's business offices.

- A) At such time as the Company completes installation or connection of the necessary facilities and/or equipment to provide services, the Company shall conduct appropriate tests thereon. Upon successful completion of such tests, the Company shall notify the Customer that such services, are available for use, and the date of such notice shall be called the "Service Date" and shall be the starting date for billing.
- B) Customer shall pay the amounts as specified in the tariff for the Services. Nonrecurring charges, including construction, are due in advance. Fixed recurring charges shall be billed in advance after the Service date is determined and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Variable recurring charges and other charges shall be billed as incurred, and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Any amount not received within said fifteen (15) day period will be subject to the Company's standard late payment charge specified in Section 4.5.4.E below. Customer agrees to review each invoice promptly and to notify the Company of any discrepancies within thirty (30) days of receipt of each invoice.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.4 Billing and Collection of Charges (continued)**

- C) Any prorated bill shall use a thirty (30) day month to calculate the pro-rata amount. Prorating shall apply only to recurring charges. All nonrecurring and usage charges incurred during the billing period shall be billed in addition to prorated amounts.
- D) Recurring charges for all services are billed monthly, in advance, for one (1) month's minimum charge.
- E) Bills are due and payable on the date of presentation. A late payment charge, as described below, will be applied if payment is not received by the Company on or before the late payment date, which date will be prominently displayed on the Customer's bill. The late payment date will be at least fifteen (15) days after the date of presentation on the billing envelope. The Company shall credit payments within twenty-four (24) hours of receipt to avoid assessing late payment charges incorrectly.

A late payment charge of 1.5% applies to each Customer's bill when the previous month's bill has not been paid in full within fifteen (15) days after presentment of the bill, leaving an unpaid balance carried forward. The percentage late payment charge is applied to the total unpaid amount carried forward and is included in the total amount due on the current bill.

If payment for a current bill is received by the Company before the bill's due date, but for technical or other reasons the payment is not applied to the Customer's account prior to the issuance of a subsequent bill, the Customer shall not be liable for any late payment charge assessed on the payment amount.

A Customer shall not be liable for any Late Payment Charge applicable to a disputed portion of that Customer's bill, so long as the Customer pays the undisputed portion of the bill and enters into bona fide negotiations to resolve the dispute on a timely basis.

- F) Checks presented in payment for services and subsequently returned to the Company from the Customer's financial institution for "Non-Sufficient Funds" or other reasons will incur a nonrecurring charge of \$20.00 per Customer, per check, plus applicable bank fees:

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.4 Billing and Collection of Charges (continued)**

Customer will be placed on a "cash only" basis upon receipt of two (2) returned checks within a twelve (12)-month period of time. "Cash only" is herein defined as cashier's checks, U.S. currency, or money orders.

Receipt of a subsequently dishonored negotiable instrument in response to a notice of discontinuance shall not constitute payment of a Customer's account and the Company will not be required to issue additional notice prior to discontinuance. However, three (3) banking days must be allowed for redemption of such instrument.

G) Notices to discontinue service for nonpayment of bills shall be provided in writing by first class mail to the Customer not less than ten (10) calendar days prior to termination. Each notice shall include all of the following information:

1. The name and address of the Customer whose account is delinquent.
2. The amount that is delinquent.
3. The date when payment or arrangements for payment are required in order to avoid termination.
4. The procedure the Customer may use to initiate a complaint or to request an investigation concerning service or charges.
5. The procedure the Customer may use to request amortization of the unpaid charges.
6. The telephone number of a representative of the Company, who can provide additional information or institute arrangements for payment.
7. The telephone number of the Commission's Telecommunications Division.
8. Local service may not be discontinued for nonpayment of charges for other unregulated competitive services.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.5 Billing****A) General**

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

B) Late Payment Charges

The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount.

C) Adjustments or Refunds to the Customer

- 1) In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 3) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment to the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.5 Billing (continued)****D) Unresolved Billing Disputes**

- 1) In the case of a billing dispute between Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer should request the Company to provide an in-depth review of the disputed amount.
- 2) If after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with the Commission's Telecommunications Division.

2.8.6 Discontinuance of Service for Cause

The Company shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

- A) For the purpose of making permanent or temporary repairs, changes or improvements in any part of its system;
- B) For compliance in good faith with any governmental order or directive notwithstanding such order or directive subsequently may be held to be invalid;

Issued:

Issued By: Patrick M. Gross, Vice President of Carrier Relations
IATO Operating Two Corp.
1699 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.6. Discontinuance of Service for Cause (continued)**

C) For any of the following acts of omissions on the part of the Customer:

- 1) Nonpayment of a valid bill due for service furnished at a present or previous location. The Customer(s) of record whose name(s) appears on the bill shall be held responsible for utility service rendered. However, nonpayment for business service shall not be a reason for discontinuance of residential service, except in cases of diversion of service, and service shall not be discontinued for nonpayment of repair charges, merchandise charges, or other non tariff contracted service charges between the Customer and the Company, nor shall notice threatening such discontinuance be given;
- 2) Tampering with any facilities of the Company;
- 3) Fraudulent representation in relation to the use of service;
- 4) Customer moving from the premises, unless the Customer requests that the service be moved to Customer's new location.
- 5) Providing a Company's service to others without approval of the Company;
- 6) Failure to make or increase an advance payment or deposit as provided for in these rules or the Company's tariff;
- 7) Refusal to contract for service where such contract is required,
- 8) Connecting and operating in such manner as to produce disturbing effects on the service of the Company or other Customers;
- 9) Failure of the Customer to comply with any terms and conditions contained in the Company's tariff;
- 10) Where the condition of the Customer's installation presents a hazard to life or property;
- 11) Failure of Customer to repair any faulty facility of the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

RULES AND REGULATIONS (continued)**2.8 Payment Arrangements (continued)****2.8.6. Discontinuance of Service for Cause (continued)**

- D) Notice of the proposed discontinuance is provided pursuant to the rules listed within.
- E) Service is not initially discontinued on any Saturday, Sunday, legal holiday, or any other day Company representatives are not available to serve Customers.
- F) For refusal of reasonable access to Customer's premises for necessary purposes in connection with rendering of service, including meter installation, reading or testing, or the maintenance or removal of the Company's property.

G) Notice of Discontinuance

The Customer shall be given a period of at least fifteen (15) days for payment after the postmark date indicated on the envelope in which the bill was transmitted. In the absence of a postmark, the burden of proving the date of mailing shall be upon the Customer. When a Customer mails any payment for the net amount of a bill for service, and such payment is received at the Company's office not more than two full business days after the due date printed on the bill, the Customer shall be deemed to have made timely payment. A public utility may discontinue service for nonpayment of bills provided it gives the Customer, at least ten (10) days written notice of its intention to discontinue. The notice of discontinuance shall not be served until the expiration of the said fifteen (15) day period. A new notice shall be served by the Company each time it intends to discontinue service for nonpayment of a bill except that no additional notice shall be required when, in response to a notice of discontinuance, payment by check is subsequently dishonored. However, in the case of fraud, illegal use, or when it is clearly indicated that the Customer is preparing to leave, immediate payment of accounts may be required.

Issued:**Effective:**

Issued By: Patrick M. Green, Vice President of Carrier Relations

JATO Operating Two Corp.

1099 18th Street, Ste. 700, Denver CO 80202.

1-888-353-5286

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.6. Discontinuance of Service for Cause (continued)**

- 1) When the Customer is another provider under the Commission's jurisdiction, the serving provider shall concurrently serve a copy of the notice of discontinuance on the Commission.
- 2) On all notices of discontinuance to residential Customers, there shall be included:
 - (a) A statement that the Company is subject to the jurisdiction of the Commission and the address and telephone number of the Commission.
 - (b) A statement that in the event the Customer is either unable to make payment of a bill or wishes to contest a bill the Customer should contact the Company. The notice shall contain information sufficient for the Customer to make appropriate inquiry.
 - (c) A statement that if a Customer is presently unable to pay an outstanding bill, the Customer may contact the Company to discuss the possibility of entering into a reasonable deferred payment agreement. In the case of a residential Customer receiving more than one service from the Company, the statement shall state that deferred payment agreements are available separately for each Company service.

2.8.7 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide Company proper notice of desire to terminate service. A Customer wishing to discontinue service must give notice to that effect. Notice to discontinue service will not relieve a Customer from any minimum or guaranteed payment under any contract or rate.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)**2.8.8 Cancellation of Application for Service**

- A) Applications for service may not be canceled later than three (3) days after submission unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.
- B) Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or preparing to install the service that it would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of service ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun.
- C) Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases the charge will be based on such elements as the cost of the equipment, facilities, and material, the supervision, general and administrative expense, other provision for return on investment, and any other costs associated with the special construction or arrangements.

2.8.9 Changes in Service Requested

If the Customer makes or requests material changes in circuit engineering, equipment specifications, service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fee shall be adjusted accordingly.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.9 Allowances for Interruptions in Service

2.9.1 General

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.9 Allowances for Interruptions in Service (continued)****2.9.2 Limitations of Allowances**

No credit allowance will be made for any interruption in service:

- A) Due to the negligence of or noncompliance with the provisions of this tariff by any person or entity other than the Company, including but not limited to the Customer, authorized user, or other common carriers connected to the service of the Company;
- B) Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- C) Due to circumstances or causes beyond the control of the Company (including, but not limited to, civil disorder, fire, flood, storm or other natural or man-made disasters or elements, or labor problems);
- D) During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- E) During any period in which the Customer continues to use the service on an impaired basis;
- F) During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- G) During any period that occurs or continues due to the Customer's failure to authorize replacement of any equipment, facility or other element of special construction;

Issued:

Issued By: Patrick M. Olson, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.9 Allowances for Interruptions in Service (continued)

2.9.3 Use of Another Means of Communications

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

2.9.4 Cancellation for Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 24 hours or more, or cumulative service credits equaling 72 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.10 Cancellation of Service/Termination Liability**

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

2.10.1 Termination Liability

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

- A) all unpaid Non-recurring charges reasonably expended by Company to establish service to Customer, plus
- B) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus
- C) all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at a rate determined by the Commission, minus
- D) a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

2.11 Customer Liability for Unauthorized Use of Network**2.11.1 Unauthorized Use of the Network**

- A) Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this tariff; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this tariff, or uses specific services that are not authorized.

Issued:

Effective:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-822-353-5286

2. RULES AND REGULATIONS (continued)

2.11 Customer Liability for Unauthorized Use of Network**2.11.1 Unauthorized Use of the Network**

- B) 1) The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.
- 2) Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
- 3) Toll Free callers using the Network with the intent of gaining access to a Customer's outbound calling capabilities on an unauthorized basis; and
- 4) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.
- C) Customers are advised that use of telecommunications equipment and services, including that provided under this tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, fraud and/or toll fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorized codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this tariff.

2.11.2 Liability for Unauthorized Use

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.11 Customer Liability for Unauthorized Use of Network**2.11.1 Unauthorized Use of the Network**

- B) 1) The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.
- 2) Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's tariffed charges by either rearranging, tampering with, or making connections not authorized by this tariff to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
- 3) Toll Free callers using the Network with the intent of gaining access to a Customer's outbound calling capabilities on an unauthorized basis; and
- 4) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.
- C) Customers are advised that use of telecommunications equipment and services, including that provided under this tariff, carries a risk of various forms of telecommunications fraud (including, but not limited to, fraud and/or toll fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorized codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this tariff.

2.11.2 Liability for Unauthorized Use

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

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.12 Use of Customer's Service by Others****2.12.1 Resale and Sharing**

Any service provided under this tariff may be resold to or shared with other persons at the option of Customer, subject to compliance with any applicable laws or Commission regulations governing such resale or sharing. Customer remains solely responsible for all use of services ordered by it or billed to its telephone number(s) pursuant to this tariff, for determining who is authorized to use its services and for notifying the Company of any unauthorized use.

2.12.2 Transfers and Assignments

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

2.12.3 Notices and Communications

- A) The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- B) The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill. The bill will contain both the mailing address for notices and communications as well as the address to which the payment is to be mailed.
- C) The bill will also contain for purposes of Customer's questions regarding the Customer's bill, a 24 hour Customer service number which is 1-800-462-6823.
- D) The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202;
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.13 Taxes and Surcharges****2.13.1 Customer Responsibility**

The Customer is responsible for the payment of any sales, use, excise, access or other local, state and federal taxes, charges or surcharges (excluding taxes on the Company's net income) imposed on or based upon the provision, sale, or use of Company's services.

All such taxes and surcharges shall be itemized on the Company's bills to the Customer.

2.13.2 Excise Taxes and Funds

Company agrees to collect and remit social program excise taxes levied upon all end users of regulated telecommunications services pursuant to the rules of the Commission. Company also agrees to collect and remit relevant federal taxes.

2.13.3 Sales, Use and Excise Taxes

In addition to all recurring, non-recurring, usage or special charges, Customer shall also be responsible for and shall pay all applicable federal, state, and local sales, use, and excise taxes.

2.13.4 Taxes and Fees Chargeable to Customers

In the event a municipality, county or other political subdivision of the State of South Dakota imposes upon, or collects or receives from, the Company, any license, occupation, franchise, privilege, inspection or other similar tax or fee, or collects or receives any payment from the Company based upon an increase in any other tax, fee or assessment ratio, of whatever nature or kind, whether in a lump sum, or at a flat rate, or based on receipts, or based on property value, or based on poles, wires, conduits or other facilities, or otherwise, the amount of such tax, fee or payment, to the extent not included as a part of the cost of furnishing services in the fixing of the rates and charges for such services by the Commission, shall be added to the sales price of the Company's service and billed, insofar as practical, pro rata to the Company's Customers receiving service within the municipality, county or other political subdivision collecting such taxes or receiving such payment.

Issued:

Issued By: Patrick M. Gera, Vice President of Carrier Relations
IATO Operating Two Corp.
1099 11th Street, Ste. 700, Denver CO 80202.
1-888-353-5286

Effective:

3. DESCRIPTION OF SERVICE

3.1 General

JATO DSL (Digital Subscriber Line) services utilize technology over metallic local loop facilities to provide Customers with high-speed data services which utilize the twisted pair copper lines procured from the LEC in the form of unbundled network elements.

JATO DSL services utilize Customer-provided equipment, located at the Customer's premises, and Company-provided equipment, at Company Central Offices, to allow the Company to accept data traffic from the Customer and send data transmissions to the appropriate data networks.

The furnishing of JATO DSL services requires certain physical arrangements of the facilities of the Company and is subject to the availability of such facilities. Data speeds set forth in this Tariff are peak speeds. Actual speeds may be affected by loop length and other technical factors. Data speeds are therefore not guaranteed or warranted.

Applying DSL technology to local loop metallic facilities, JATO DSL services enable home and business Customers the following data transmission speeds:

144 Kbps bi-directional
192 Kbps bi-directional
384 Kbps bi-directional
768 Kbps bi-directional
1.1 Mbps bi-directional
1.5 Mbps bi-directional

JATO may also offer multiplexed derivatives of these service speeds.

A LEC's unbundled network element serves as the access facilities for JATO DSL services from the Customer's home or remote location to their serving wire center.

The Customer must provide and install at the Customer's JATO DSL service site, a compatible modem which must support Customer-selected speeds.

The furnishing of JATO DSL services requires certain physical arrangements of facilities of the Company and is subject to the availability of such facilities. The availability of JATO DSL services is restricted by special plant configuration and material specifications that will not permit deployment to all Customers at all locations.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

3. DESCRIPTION OF SERVICE (continued)

3.1 General (continued)

The Company's deployment of JATO DSL services will be limited to wire centers where, in the Company's determination, sufficient market demand exists, coupled with an adequate level of loops suitable to meet that demand. Deployment will be limited to Customers served by loops, which in the Company's judgment, are suitable for use with this new technology.

The specific limitations applicable to JATO DSL service are as follows:

- a. The loop between the Customer premises and the serving wire center can be no longer than 15,000 feet of 26 gauge copper or 18,000 feet of 24 gauge copper.
- b. The loop must not have any load coils on it.
- c. All bridge taps must be counted in the total loop length.
- d. The maximum length of any bridge tap cannot exceed 2,000 feet.
- e. Total bridge tap length on Revised Resistance Design Loop cannot exceed 6,000 feet.
- f. Total bridge tap length on Carrier Serving Area Design Loop cannot exceed 2,500 feet.

JATO DSL services may be ordered on a month-to-month basis or for fixed periods of one, three, or five years. The initial order of a JATO DSL service must be for either a one, three or five year fixed service period; however, at the completion of the initial fixed period, the Customer may elect the month-to-month option for that service configuration, or may elect any of the fixed service periods.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

4. RATES AND CHARGES

4.1 Rate Categories

SDSL, Symmetrical Digital Subscriber Line, is a Digital Transmission Service furnished by the Company to provide high-speed data services at speeds ranging from up to 192kbps, 384kbps, 768kbps, 1.1Mbps, to 1.5Mbps. This service allows high speed data transmission via permanent virtual circuits between the Customer premise terminating device(s) to JATO's Digital Subscriber Line Access Multiplexers (DSLAMs) and through to other applications such as office to office communications or to the Internet for various communication applications.

IDSL - ISDN Digital Subscriber Line is a Digital Transmission Service to provide high-speed data services for speeds of up to 144kbps for office to office applications or access to the Internet. This service allows data transmission via a permanent virtual circuit between the Customer premise terminating device and the Company DSLAM, then to Company aggregation units and to specific Internet Service Providers or another designated office.

4.2 Rates and Charges

<u>DSL Speed</u>	<u>Monthly Rate</u>
144Kbps	\$ 90.00
192Kbps	\$ 90.00
384Kbps	\$125.00
768Kbps	\$160.00
1.1Mbps	\$195.00
1.5Mbps	\$245.00

4.3 Individual Case Basis (ICB) Arrangements

For special situations, rates for specialized services will be determined on an Individual Case Basis (ICB) and specified by contract between the Company and the Customer.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

WRITER'S DIRECT LINE
(202) 955-9667

WRITER'S E-MAIL
msmith@kelleydrye.com

RECEIVED

AUG 27 1999

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

August 26, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard, Jr.
Executive Director
The South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

**Re: Application of JATO Operating Two Corp. to Provide Facilities-
Based Competitive Local Exchange Services – Docket TC99-077.**

Dear Mr. Bullard:

Per Staff request, enclosed for filing with the South Dakota Public Utilities Commission ("Commission"), please find an original and 10 copies of JATO Operating Two Corp.'s ("JATO") responses to the requests contained in Staff's letter dated August 20, 1999. In support of its Application for authority to provide facilities-based competitive local exchange services in the State of South Dakota, JATO provides the following:

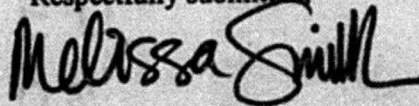
- JATO hereby submits that it does not intend at this time to require advanced payments or deposits from its customers for the provision of service. JATO has amended its tariff accordingly. *Please see attached tariff sheets.* Therefore, JATO is not submitting a bond. In the future, if JATO decides to require advance payments or deposits, it will apply to the Commission for the requisite authority.
- In accordance with ARSD 20:10:32:03(8), JATO hereby submits that it proposes to provide service in the U S West areas/exchanges.
- JATO has amended its tariff to give the customer 180 days to review and dispute billing charges and to include the Commission's address and telephone numbers. *Please see attached tariff sheets.*

KELLEY DRYE & WARREN LLP

Mr. William Bullard, Jr.
August 26, 1999
Page Two

Also enclosed is a duplicate of this filing and a self-addressed, postage-paid envelope. Please date-stamp the duplicate and return it in the envelope provided. Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Melissa Smith", with a stylized flourish at the end.

Melissa M. Smith

Attachments

cc: Keith Senger, Utility Analyst

JATO Operating Two Corp.

South Dakota P.U.C. No. 1
Original Sheet No. 1

TABLE OF CONTENTS

SHEET NO.

Title Page	Title
Table of Contents	1
Check Sheet	3
PRELIMINARY STATEMENT	5
1. <u>Application of Tariff</u>	6
2. <u>Explanation of Symbols</u>	6
3. <u>Sheet Numbering</u>	7
4. <u>Paragraph Numbering Sequence</u>	7
1. TERMS AND ABBREVIATIONS	8
1.1 <u>Definitions</u>	8
1.2 <u>Abbreviations</u>	14
2. RULES AND REGULATIONS	15
2.1 <u>Undertaking of the Company</u>	15
2.1.1 <u>Scope</u>	15
2.1.2 <u>Shortage of Equipment or Facilities</u>	15
2.1.3 <u>Terms and Conditions</u>	15
2.1.4 <u>Customer Responsibilities</u>	17
2.1.5 <u>Limitations on Liability</u>	18
2.2 <u>Provision of Equipment and Facilities</u>	24
2.3 <u>Non-Routine Installation</u>	24
2.4 <u>Special Construction</u>	25
2.5 <u>Ownership of Facilities</u>	25
2.6 <u>Prohibited Uses</u>	26
2.7 <u>Customer Equipment and Channels</u>	27
2.7.1 <u>General</u>	27
2.7.2 <u>Station Equipment</u>	27
2.7.3 <u>Interconnection of Facilities</u>	27
2.7.4 <u>Inspections</u>	29
2.8 <u>Payment Arrangements</u>	29
2.8.1 <u>Reserved for Future Use</u>	29
2.8.2 <u>Reserved for Future Use</u>	29
2.8.3 <u>Payments for Service</u>	30
2.8.4 <u>Billing and Collection of Charges</u>	30
2.8.5 <u>Billing</u>	33
A. <u>General</u>	33
B. <u>Late Payment Charges</u>	33
C. <u>Adjustments or Refunds to the Customer</u>	33
D. <u>Unresolved Billing Disputes</u>	34

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

JATO Operating Two Corp.

South Dakota P.U.C No. 1
Original Sheet No. 29**2. RULES AND REGULATIONS (continued)****2.7 Customer Equipment and Channels (continued)****2.7.4 Inspections**

- A) Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or authorized user is complying with the requirements set forth above for the installation, operation and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company owned facilities and equipment.
- B) If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm.

2.8 Payment Arrangements**2.8.1 [RESERVED FOR FUTURE USE]****2.8.2 [RESERVED FOR FUTURE USE]**

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.8 Payment Arrangements (continued)****2.8.3 Payments for Service**

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

2.8.4 Billing and Collection of Charges

The Customer is responsible for payment of all charges for facilities and services furnished, including charges for services originated, or charges accepted, at such facilities. Customer responsibility also includes charges associated with the fraudulent use of facilities and services by the Customer or any end users of the Customer's service. All bills are payable at the Company's business offices.

A) At such time as the Company completes installation or connection of the necessary facilities and/or equipment to provide services, the Company shall conduct appropriate tests thereon. Upon successful completion of such tests, the Company shall notify the Customer that such services, are available for use, and the date of such notice shall be called the "Service Date" and shall be the starting date for billing.

B) Customer shall pay the amounts as specified in the tariff for the Services. Nonrecurring charges, including construction, are due in advance. Fixed recurring charges shall be billed in advance after the Service date is determined and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Variable recurring charges and other charges shall be billed as incurred, and will be due no later than fifteen (15) days after the date the invoice was presented to Customer. Any amount not received within said fifteen (15) day period will be subject to the Company's standard late payment charge specified in Section 4.5.4.E below. Customer agrees to review each invoice promptly and to notify the Company of any discrepancies within one hundred-eighty (180) days of receipt of each invoice.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
IATO Operating Two Corp.
10799 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.8 Payment Arrangements (continued)****2.8.5 Billing****A) General**

All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within one hundred-eighty (180) days from the date of the bill. For the purposes of this section, "notice" is defined as verbal or written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific terms on the bill being disputed.

B) Late Payment Charges

The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount.

C) Adjustments or Refunds to the Customer

- 1) In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 3) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment to the Customer.

Issued:

Issued By: Patrick M. Orma, Vice President of Carrier Relations
JATO Operating Two Corp.
1699 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

2.8 Payment Arrangements (continued)

2.8.5 Billing (continued)

D) Unresolved Billing Disputes

- 1) In the case of a billing dispute between Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer should request the Company to provide an in-depth review of the disputed amount.
- 2) If after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with the Commission's Telecommunications Division.

South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Building
Pierre, SD 57501-5070
1-800-332-1782 / TTY 1-800-877-1113

2.8.6 Discontinuance of Service for Cause

The Company shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

- A) For the purpose of making permanent or temporary repairs, changes or improvements in any part of its system;
- B) For compliance in good faith with any governmental order or directive notwithstanding such order or directive subsequently may be held to be invalid;

Issued:

Issued By: Patrick M. Green, Vice President - Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.8 Payment Arrangements (continued)****2.8.6. Discontinuance of Service for Cause (continued)**

- C) For any of the following acts of omissions on the part of the Customer:
- 1) Nonpayment of a valid bill due for service furnished at a present or previous location. The Customer(s) of record whose name(s) appears on the bill shall be held responsible for utility service rendered. However, nonpayment for business service shall not be a reason for discontinuance of residential service, except in cases of diversion of service, and service shall not be discontinued for nonpayment of repair charges, merchandise charges, or other non tariff contracted service charges between the Customer and the Company, nor shall notice threatening such discontinuance be given;
 - 2) Tampering with any facilities of the Company;
 - 3) Fraudulent representation in relation to the use of service;
 - 4) Customer moving from the premises, unless the Customer requests that the service be moved to Customer's new location.
 - 5) Providing a Company's service to others without approval of the Company;
 - 6) Failure to make or increase an advance payment for facilities as provided for in these rules or the Company's tariff;
 - 7) Refusal to contract for service where such contract is required;
 - 8) Connecting and operating in such manner as to produce disturbing effects on the service of the Company or other Customers;
 - 9) Failure of the Customer to comply with any terms and conditions contained in the Company's tariff;
 - 10) Where the condition of the Customer's installation presents a hazard to life or property;
 - 11) Failure of Customer to repair any faulty facility of the Customer.

Amend:

Effective:

TC 99-077

2. RULES AND REGULATIONS (continued)**2.1 Undertaking of the Company (continued)****2.1.4 Customer Responsibilities (continued)**

- F) Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the Customer or authorized user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company.
- G) Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.
- H) Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's services or from the locations of such equipment and facilities.

2.1.5 Limitations on Liability**Liability of the Company**

Company's liability for damages arising out of mistakes, interruptions, omissions, delays, errors, or defects in transmission which occur in the course of furnishing service or facilities, shall be determined in accordance with SDCL 49-13-1 and 49-13-1.1 and any other applicable law.

The Company will not provide a credit allowance for interruptions of service caused by the Customer's facilities, equipment, or systems.

RECEIVED

SEP 02 1999

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80122
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)

RESERVED FOR FUTURE USE

Issued:

Issued By: Patrick M. Groom, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-833-333-5286

Effective:

RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)

2.1.5 Limitations on Liability(continued)

B) Liability

- 1) The Company shall not be liable for any act or omission of any carrier, Customer or other Company providing a portion of a service, nor shall the Company for its own act or omission hold liable any carrier, Customer or other Company providing a portion of a service.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.1 Undertaking of the Company (continued)****2.1.5 Limitations on Liability(continued)**

- 3) Use of Customer-Provided Equipment - The services furnished by the Company, in addition to the preceding limitations also are subject to the following limitation: the Company shall not be liable for damage arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by or resulting from use of Customer-provided equipment, except where a contributing or concurrent cause is the malfunctioning of a Company-provided connecting arrangement.
- 4) Unauthorized Computer Intrusion - With respect to any other claim or suit by a subscriber, common carrier, reseller, or any other party for damages caused by, or associated with, any unauthorized computer intrusion, including but not limited to the input of damaging information such as a virus, time bomb, any unauthorized access, interference, alteration, destruction, theft of, or tampering with, a Company computer, switch, data, database, software, information, network or other similar system.
- 5) Transmission of Data - The Company shall not be held liable for any damage, harm or loss of data caused by the subscriber using the Company's voice-grade telephone access lines and/or facilities for the transmission of data. The Company's liability shall be limited to errors or damages to the transmission of voice messages over these facilities.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

2. RULES AND REGULATIONS (continued)**2.1 Undertaking of the Company (continued)****2.1.5 Limitations on Liability (continued)**

- 6) Errors or Damages Caused by System Data Limitations - The Company's liability for errors or damage resulting from the inability of the Company's systems to process unusual dates, such as the Year 2000, shall be limited to an amount equal to the proportional amount of the Company's billing for the period of service during which the errors or damages occur.
- 7) The Company shall not be liable for any defacement of or damages to the premises of a customer resulting from the furnishing of service which is not a direct result of the Company's negligence.
- 8) The Company shall be indemnified, defended and held harmless by the Customer against any claim, loss or damage arising from the Customer's use of services offered under this Tariff, involving:
 - a. Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the Customer's own communications;
 - b. Claims for patent infringement arising from the Customer's acts combining or using the service furnished by the Company in connection with facilities, services, or equipment furnished by the Customer or;
 - c. All other claims arising out of any act or omission of the Customer in the course of using services pursuant to this Tariff.
- 9) The Company does not guarantee or make any warranty with respect to its services when used in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from any and all claims by any person relating to such Customer's use of services so provided.

Issued:

Effective:

2. RULES AND REGULATIONS (continued)

2.1 Undertaking of the Company (continued)**2.1.5 Limitations on Liability(continued)**

- 10) No license under patents (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppel, with respect to any service offered under this Tariff. The Company will defend the Customer against claims of patent infringement arising solely from the use by the Customer of services offered under this Tariff and will indemnify such damages awarded based solely on such claims.
- 11) The Company's failure to provide or maintain services under this Tariff shall be excused by labor difficulties, governmental orders, civil commotions, criminal actions taken against the Company, acts of God and other circumstances beyond the Company's reasonable control, subject to the Credit Allowance for Service Interruptions as set forth in this Tariff.
- 12) Temporary Suspension for Repairs - the Company shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period is necessary, the Company will give the Customers who may be affected as reasonable notice thereof as circumstances will permit, and will prosecute the work with reasonable diligence, and if practicable at times that will cause the least inconvenience.

Issued:

Issued By: Patrick M. Green, Vice President of Carrier Relations
JATO Operating Two Corp.
1099 18th Street, Ste. 700, Denver CO 80202
1-888-353-5286

Effective:

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
JATO OPERATING TWO CORP. FOR A)	CERTIFICATE OF
CERTIFICATE OF AUTHORITY TO PROVIDE)	AUTHORITY
LOCAL EXCHANGE SERVICES IN SOUTH)	
DAKOTA)	TC99-077

On June 30, 1999, the Public Utilities Commission (Commission) received an application for a certificate of authority from JATO Operating Two Corp. (JATO).

JATO proposes to offer facilities-based competitive local telecommunications services. A proposed tariff was filed by JATO.

On July 1, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of July 16, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled September 8, 1999, meeting, the Commission considered JATO's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, and subject to the condition that JATO not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-69 and ARSD 20:10:32:03. The Commission finds that JATO has met the legal requirements established for the granting of a certificate of authority. JATO has, in accordance with SDCL 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota.

The Commission approves JATO's application for a certificate of authority, subject to rural safeguards, and subject to the condition that JATO not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. The certificate of authority for JATO shall authorize it to offer local exchange services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier. In the future, should JATO choose to provide local exchange services statewide, with respect to rural telephone companies, JATO will have to come before the Commission in another proceeding before being able to provide local service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). It is therefore

ORDERED, that JATO's application for a certificate of authority to provide local exchange services, is granted, subject to the condition that JATO not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission; and it is

FURTHER ORDERED, that JATO shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize JATO to offer its local exchange services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier.

Dated at Pierre, South Dakota, this 14th day of September, 1999.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Delaine Kelbo</u>
Date:	<u>9/14/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

CERTIFICATE OF AUTHORITY

**To Conduct Business As A Telecommunications Company
Within The State Of South Dakota**

Authority was Granted September 8, 1999
Docket No. TC99-077

This is to certify that

JATO OPERATING TWO CORP.

is authorized to provide telecommunications services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services

Dated at Pierre, South Dakota, this 14th day of September, 1999.

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:**



James A. Burg

JAMES A. BURG, Chairman

Pam Nelson

PAM NELSON, Commissioner

Laska Schoenfelder

LASKA SCHOENFELDER, Commissioner